

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

VOLUME IX

LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION



Records of the Louisiana Constitutional Convention of 1973: Convention Transcripts

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VOLUME NINE

by

LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION

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

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LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION

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Wednesday, November 14, 1973

Vice Chairman Casey in the Chair

Roll Call

[86 delegates present and a quorum.]

PRAYER

Mr. Conroy Lord, we ask that You endow us with the humility, the love and understanding of one another required to make the product of our work pleasing to You. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADDPTION OF THE JOURNAL

Mr. Poynter On pages 8 and 9 with respect to the adoption of several amendments, and in particular, an amendment sent up by Delegate Alphonse Jackson and a subsequent amendment sent up by Delegate Duval, we've got some scrambled eggs in the Journal. They've been straightened out, but they left out a number of things and got Mr. Duval's amendment out of place in the middle of the adoption of a second amendment. So, I just wanted to point that out. If you're looking at 8 and 9, it's going to be pretty well scrambled up by the time you get through the first roll call there, but all that's been straightened out.

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 7, introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare, and other delegates, members of that committee.

The status of the proposal: the convention has adopted as amended Sections 1 through 4, 6; has voted to delete from the proposal Section 5; presently has under consideration Section 7. Mr. Chairman, there is one further amendment mentioned on yesterday, that offered by Delegate Morris and Delegate Flory, pending at the desk.

Amendment

Mr. Poynter Amendment sent up by Delegate Flory and Delegate Morris as follows:

Amendment No. 1. On page 3, delete lines 21 through 27, both inclusive, in their entirety and all amendments adopted thereto and insert in lieu thereof the following:

"(B) Board membership; terms. The board shall consist of fifteen electors appointed by the governor, with the consent of the Senate, for overlapping terms of six years, following initial terms which shall be fixed by law. There shall be at least one member, and no more than two members, appointed from each of the several congressional districts."

Explanation

Mr. Morris Mr. Acting Chairman, ladies and gentlemen of the convention, the board...the amendment does just exactly what the Clerk says. It sets the membership at fifteen, the method of appointment and the limitations--at least one from each congressional district and no more than two from any one congressional district. I feel this is more representative, and it's a proposal that I have strong feelings about. I hope that you can accept this proposal.

I'll be glad to answer any questions.

Questions

Mr. Juneau Mr. Morris, if we adopted the suggestion which you have in this amendment, wouldn't we end up with an unusual situation with having a Board of Educaiton for Elementary and Secondary Education composed quite differently from higher

education, and what rationale do you have for that, sir?

Mr. Morris Well, Mr. Juneau, several members asked me that this morning, and my answer to them was something like this: that the state board as it affects secondary and elementary education, most of the functions and the duties having to do with curriculum, etc., are prescribed in statutes already. This is not true with higher education. I see no conflict at all, in my thinking or my idea about the education. I might even have been so disposed as to appoint--as long as we have an elective superintendent--support an appointive board at elementary-secondary level.

Mr. Juneau Well, wouldn't it be more consistent for constitutional purposes to have the two boards which are, in essence, representing people, for those boards to be composed on a like basis? Wouldn't that...it just seems to me that we'd have a hard time...

Mr. Morris The only problem I have with that is the fact that it says somewhere in here that the state superintendent may, at sometime, be appointive. As long as that provision is in there. I think that we should have a setup that if he becomes appointive, that we have an elective board.

Mr. Lanier Mr. Morris, didn't you get up before us the other day and argue very strongly for an elected state superintendent of education?

Mr. Morris Yes, sir.

Mr. Lanier Why don't you feel that the people of the State of Louisiana should have a say-so in electing the people who will be in overall charge of higher education?

Mr. Morris Well, there is...I'm probably aware of this as much as anybody in the state--this tremendous competition for the higher educational dollar--and I would hate to see...I would hate to see that board become completely politicalized where everybody was looking out for their own little college without anybody having an overall concept of what was happening in higher education in the State of Louisiana.

Mr. Riecke Mr. Morris, why do you feel that a board appointed by the governor could do a better job in controlling higher education than one elected by the people?

Mr. Morris I didn't necessarily say that, Mr. Riecke. I really...

Mr. Riecke But, that's actually what would happen.

Mr. Morris Well, if...if you follow the rationale that you're...what you're saying, that every office, every board in the State of Louisiana should be an elected one.

Mr. Riecke No, I didn't say that. But, this is a very powerful board. This controls a great part of higher education, and the governor will appoint that? It would certainly be a political board rather than one elected by the people.

Mr. Morris It has to be, and these people have to be confirmed by the Senate, also.

Mr. Stinson Jimmy, I'll ask you a question that I asked yesterday and it wasn't satisfactorily answered. Isn't it a fact that under you bill--your amendment--one governor who serves two consecutive terms will appoint the entire board?

Mr. Morris I said to you sitting over there when you came back to your seat that I thought he would. He has to be...they have to be...particularly, if he served two terms, and it would have to be confirmed by the Senate. I don't see it any

other way.

Mr. Stinson Why not make them for longer terms or something? Don't you think education is too important to have the terms so any one governor-- I don't care who he is--will appoint the entire deal and run the show?

Mr. Morris I do, and I was just trying to follow the outline or the scheme of the original Proposal No. 7. The seventeen man board was knocked out, and this was the closest number--odd number--that I could come up with. I was trying to follow the scheme. I agree with what you said; yes, sir.

Mr. Stinson It isn't the number on the board, it's the length of the term of office that will determine whether one governor could appoint all of them.

Mr. Morris I wouldn't...I personally was opposed to fourteen year terms like the Board of Supervisors had. I wouldn't mind having a longer term. That wouldn't bother me. I hadn't talked to Mr. Flory about it, but it wouldn't bother me at all.

Mr. Stinson I sure think it would help it.

Mrs. Zervigon Mr. Morris, didn't we adopt an amendment that would provide for an elected board, yesterday, by a vote of 69 to 46?

Mr. Morris Yes, ma'am.

Mrs. Zervigon Doesn't your proposal almost--not quite, but almost--to the letter go back to the proposal yesterday as we rejected it, really, by that vote--the main difference being that the committee proposal required two from each congressional district, and yours only allows it? Isn't that correct?

Mr. Morris Yes, ma'am.

Mrs. Zervigon Well, what compelling reason has come up overnight that would...you would ask twenty folks to change their minds on this thing?

Mr. Morris Mrs. Zervigon, I said awhile ago that I felt like that higher education and the competition that would occur on that board--that the best educational systems that we have in the university and college might be reduced to the middle or to the lower end of it, depending upon the politics on that board. I hope that that wouldn't happen, but in my mind it's a real possibility.

Mrs. Zervigon Well, Mr. Morris, has that changed since yesterday?

Mr. Morris No, I voted against the amendment yesterday, and I felt very strongly against it, although I didn't say anything because we were urged unless we had some new...something to say, not just to get up and say, "Me, too." I tried to follow that sort of instructions from our chairman. But, I do feel real strong about this, and education is a field that I spent my lifework in. I feel like I have some knowledge of it, and I feel compelled to have something to say about it this morning.

Mrs. Zervigon Well, Mr. Morris, let me ask you one more quick question. You said that some institution that was at the upper end of the scale in higher education might be moved to the middle or the lower end. Do you really believe there ought to be that much difference among our institutions, or shouldn't each one of them be very good at what it does? They don't necessarily have to all try to do the same thing. But, shouldn't each one of them be very good, just for the good of the state?

Mr. Morris Mrs. Zervigon, what you are saying is very true as far as you go. I don't think every college and every university in the state all should have advanced degrees in every discipline

that they might want. I want to make sure that some colleges do have higher degrees in certain disciplines that are necessary if our state colleges are to advance and our state universities are to advance. I don't want to see every college, everyplace in the state, offering PhD's in every discipline you can think of.

Mr. Bergeron Mr. Morris, I'm just looking at: "the board shall consist of fifteen electors appointed." Why the number fifteen? Any specific reason?

Mr. Morris No, sir, other than that was as close to the proposal as I could stay, Mr. Bergeron.

Mr. Bergeron I'm just looking at the basis of "appointed"..."appointed." Do you remember--well, I don't believe you were here, but in the Executive Article we adopted an amendment which could call for an appointed or an elected superintendent after 1976. Do you realize we could have an appointed superintendent and appointed board for higher education?

Mr. Morris Yes, but I would say to you, Mr. Bergeron, that the state superintendent's vast... the vast part of his work is done in elementary and secondary education rather than higher education, per se.

Mr. Anzalone Mr. Morris, I would like to reiterate a question that you did not answer awhile ago. Why would appointed people be more qualified than elected people?

Mr. Morris If I didn't answer the question, I attempted to, Mr. Anzalone. I said--and I'll say again--that I think that an appointed board would not have the pressures to represent just a single area on them than an elective official would have. If you were elected on that board, you would, I know you would have to, by the very virtue of the fact that you live so close to Southeastern University to do all in your powers to raise...elevate them to a certain degree. That's the way the system generally works.

Mr. Anzalone Well, now, Mr. Morris, in connection with that, would you say that everybody has fared so badly in the past by going before an elected legislature for the tax dollar that you are saying that there is so much competition for?

Mr. Morris I can tell you that they may not have fared so badly, but they haven't received--if you look at what the requests are as opposed to what they receive, you'll see a great difference. The thing I'm saying, Mr. Anzalone, if you don't understand me, is, they request a great deal more, and their wishes are a great deal more than they actually receive--colleges and universities.

Mr. Anzalone Well, Mr. Morris, and high schools and elementary schools and everybody does that. There's no question about that.

Mr. Willis Mr. Morris, to accomplish what you have in your amendment, why don't...and under the operative provisions of our constitution, why don't you make the governor either superintendent of education, a co-superintendent, or assistant superintendent because that will be the result or the consequence or the sequence of your amendment? Isn't that correct, after the glorious year of the two hundredth anniversary of America--1976?

Mr. Morris It is a glorious year; I agree with that, but I don't agree with the other things that you said; no.

Mr. Hernandez Mr. Morris, don't you honestly believe that it takes a special breed to fill this bill on this, to find a man or a woman with the capabilities of performing all the duties outlined in this proposal and, at the same time, has the desire and the willingness to serve and can do that? Don't you think it takes a kind of a special

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breed that needs a highly selective process to determine?

Mr. Morris Yes I do, Mr. Hernandez, I surely do. I think that quite likely you might appoint some people that wouldn't run for the office.

Mr. Hernandez I wanted to ask you if you didn't think that was a distinct possibility?

Mr. Morris Yes, sir.

Mr. Jenkins Mr. Morris, I'm concerned about the real life politics of this and not just the theory. I want to ask you: isn't it true, under this plan, that until the year 1984 Governor Edwards will have appointed, under this plan, a majority of the membership, and they would have control over this board through the year 1984? Isn't that correct?

Mr. Morris Well, Mr. Jenkins, you've asked several questions. One, I said to Mr. Stinson that I did think that this governor, if he serves two terms, would have control of the board, if the Senate confirms that governor's appointments to these boards. I felt the same way under the other proposition--the committee one--and gave a great deal of thought about it and could accept that in my thinking. Yes, I do think--you have evidently worked out the year; I haven't. If you say that, I accept what you worked out because you're a bright young man, and I know that you've done it correctly.

Mr. Jenkins Mr. Morris, under my figuring, here, if Governor Edwards had two terms, he would appoint one hundred percent of the board through the year 1982, sixty-six and two-thirds through the year 1984, and through the year 1986 he would still have one-third of the board who would be his appointees. Now, aren't we as much as we may like Governor Edwards or any governor aren't we giving such a person extraordinary control over the entire higher education system in this state, under this amendment--a type of control which has never existed before?

Mr. Morris I'm sure that is the point, Mr. Jenkins, and due to the term of office I'm sure that this can prevail, as you say.

Mr. De Blieux Mr. Morris, so that we can get something cleared up for the record, someone spoke about an elected superintendent and an elected board. Now, this particular board we are speaking about in this amendment is not the board that governs secondary and primary...elementary education, is it?

Mr. Morris No, sir, it is not.

Mr. De Blieux So, therefore, this has really no connection with the superintendent of education whatsoever; isn't that correct?

Mr. Morris No, it doesn't.

Mr. De Blieux This is to govern our colleges and higher education.

Mr. Morris I think somebody was equating one to the other, one elective and one appointive. But, it doesn't have anything to do with higher education. The...

Mr. De Blieux Well, I just wanted to clear that particular point with you.

Mr. Conino Delegate Morris, you represent education as an appointed delegate; is that correct?

Mr. Morris Yes, sir.

Mr. Conino The name of your organization is Louisiana Teachers' Association; is that correct?

Mr. Morris Yes, sir.

Mr. Conino Is this the wishes of the Louisiana Teachers' Organization, that you have appointed members of the board?

Mr. Morris We have no position on this. The people that I work for--there are numbers of things that I'm voting on that we don't have an official position on.

Mr. Conino But, in other words, this is not the Louisiana Teachers' Association official position; is that correct?

Mr. Morris They have no official position on a number of things, Mr. Conino. I hope I didn't leave that impression, and when I say something up here, it doesn't--and I want to say that right now--that I'm not inferring, and I don't want anyone to think that I'm inferring because I'm making a statement. It's a policy of our organization because we don't have policies on everything in this constitution.

Mr. Conino One more question: have you checked with the association to see if this meets with their approval?

Mr. Morris This hasn't come up at all before our governing board.

Mr. Burns Mr. Morris, I believe you've said in your opening remarks that one of the main reasons you favored this amendment was that it would make a...result in a nonpolitical board. How long have you been in politics?

Mr. Morris Not as long as you, Mr. Burns.

Mr. Burns Well, don't you know that if this amendment passes that there will be a rush on the governor's office--every ward leader, every parish leader in the State of Louisiana will be jammed in there trying to get their favorites appointed to this board whether they can read or write or...

Mr. Morris I assume that to be correct, Mr. Burns.

Further Discussion

Mr. Roemer Mr. Chairman and fellow delegates, I rise to oppose this amendment. I think we clearly demonstrated yesterday in a full day's worth of debate and several votes on this particular issue that we count education at the higher level of the same importance that we do education at the secondary and elementary level. On our board--our State Board for Secondary and Elementary Education--we made it elective by eight people and appointive for three. The attempt--and the successful attempt--yesterday, was to do the same thing for the Board of Regents for exactly the same reasons. That is that education belongs to the people of this state, and not to a governor. Let me repeat that. Education belongs to the people of this state, and not to a governor--any governor. I don't care who he is or who he might be. If we reverse ourselves--and that's what we would do if we adopted this amendment; a clear reversal of yesterday's vote to the tune of 69 to 46--if we reverse ourselves and allow one of, if not the most important board in the state, and certainly the most important board in terms of education to be totally and completely dominated by the picks of one man--regardless of who that man is or might be--then I think that much of the criticism that's been directed toward this convention will be well-founded. That criticism is that we're like the goose. We point to the north in the morning, the south in the afternoon, and we don't really know what direction in which we'd like to fly. What more do we want out of a constitutional convention than unlimited reasonable debate among reasonable men and women, and then a decision to be made and to stick with that decision unless there are some compelling reasons to change? Have you heard a compelling reason yet this morning to change from our clear mandate for an elected board to one that's completely appointed

by the governor? Have you heard a single reason to change? Now, there has been made mention that some people would be appointive that might not run for the office. That is true, but it cuts both ways--some better people and some worse people. You and I can get together in a relatively few moments, point out some appointive people that might not have been elected, and they're doing a good job, and we can praise them. But, we can also point out some appointed people that might not have gotten elected, and they might be doing a lousy job, and wouldn't have been elected. I guess I've gotten the reputation in this convention of being for elected people, and that's true because I think that if you throw the cards up in the air and they come down, some on one side of the fence and some on the other. What ultimately makes up my mind is: number one, the importance of the job in question. There's no more important job in this state than on the Board of Regents, after the way we've got it structured here. Number two, the danger that when people take office they feel that they're responsible to who got them there. If the people got them in office, they're responsible to the people. If a person got them in office, they're responsible to that person. Now, certainly there are people who don't feel that way, and certainly there are times when that doesn't hold true. But, time in and time out, we look back home, wherever home is. If home is the governor's office, that's where we look. If home is the people that elected us, that's where we look. Now, I did not go to L.S.U. or to a state school. I attended a college for seven years outside of the borders of Louisiana. Perhaps I don't know the in's and out's of Louisiana education, although I did attend high school here and elementary school. But, perhaps I got a little bit more objective view than some of you did about education in Louisiana. It's not what it ought to be. One of the reasons it's not, as far as I'm concerned, is because we haven't delineated responsibility among the structure and the powers and the functions. Well, we're doing that now. I think we're taking a great step forward for Louisiana. But, let's don't slide back to the old way, and that is the governor having total absolute control, or the thread of that control over our educational system.

Further Discussion

Mr. Flory Mr. Chairman and delegates, I rise to speak in favor of the amendment, and I recognize at the outset the actions of this convention yesterday, but I go back to a number of years ago when I was privileged to serve on a committee to help write the legislation for the Coordinating Council of Higher Education in this state. It was believed at that time that the...in order to provide for a real coordination for quality education in this state that that board should have been given much greater authority than was granted to it at that time. Politics, being what it was and is, we could not get that through the legislature, and consequently, that board has not had the authority for true coordination of higher education. No one in this convention has more strongly supported the election of public officials than I have, but I suggest to you that if you seek coordination of higher education, if you seek education to higher education levels, one of excellence, and if you speak or seek for equitable distribution of the educational dollar for higher education, then I suggest to you that the only way that that can be accomplished is through an appointive board system. I can tell you from experience that if a person is elected from a congressional district, that college in his district is the one that he's going to protect in order to be reelected to that particular board. When he gets elected, in order to protect that board he's going to make agreements with the other board members--that you protect my college when it comes up--and when yours comes up, I'll protect yours. Nothing wrong with that except that you have a continuation of the present system of higher

education in this state. You do not have coordination nor can you get coordination under that concept. I assure you, perhaps if I were elected from a congressional district, I would be in the same position. I find no fault with those members who have done that in the past because that has been the system and that's the way that they have had to be reelected. But, I think that it's high time that we go about higher education in this state and provide the type of program, and the types of schools in our particular universities that when a person goes to that university; pays his tuition; spends his money to go to that university that when he gets that degree he'll know, and it will say to the world, that he's gotten a degree at a university, one of excellence. I do not believe that we have that in all of the institutions of higher learning in this state. I do believe, that through an appointed Board of Regents with the powers that we have spelled out in this proposal, that you could accomplish that through the appointed board. I do not believe that that could be done under the...what has been adopted yesterday by this convention. I strongly urge you give serious consideration to the appointment of this Board of Regents as proposed in this amendment because I honestly believe that that is the answer to quality education and equitable distribution of the educational dollar for higher education. I'll be happy to answer any questions, Mr. Chairman.

Questions

Mr. Lanier Mr. Flory, you were the sponsor of the amendment the other day that made the superintendent of education elected, is that not correct?

Mr. Flory Absolutely correct, yes, sir.

Mr. Lanier Now, Mr. Morris, who is your cosponsor on this amendment made the statement a little while ago that he felt that if we had an elected Board of Regents, it would politicize higher education. Do you agree with that statement?

Mr. Flory I said, Mr. Lanier, that if you had an elective Board of Regents, I do not believe that you could get true coordination as ought to be accomplished in the field of higher education in this state and I hold to that statement.

Mr. Lanier Do you feel that you can have true coordination of elementary and secondary education with an elected superintendent and an elected board?

Mr. Flory Yes, sir.

Mr. Lanier Then...

Mr. Flory So long as the legislature delineates the authority between the two positions, yes, sir. I must say, too, that you cannot draw the parallel between the Board of Regents and the Board of Elementary and Secondary Education because the schools in elementary and secondary education, by and large, are controlled by the local school boards, and we're not faced with that situation as we are in higher education because they're supported in almost toto with state funds.

Mr. Cannon Mr. Flory, haven't we eliminated the curriculum control of the Board of Regents over the elementary and secondary activities?

Mr. Flory Yes, sir...no provision in the proposals at this time for the two boards to meet and coordinate curriculum.

Mr. Cannon Right. Now, we have in the...as contrasted to higher education where you're educating adults all of which are not citizens of this state as contrasted to elementary and secondary who are...which is the education of the children of citizens of this state. Don't you think that that would have more tendency to be, elementary and secondary, close to the people in elected situations, where maybe the more professional competence

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might be required in the higher education aspect of this?

Mr. Flory Yes, I think that's true, Mr. Cannon.

Mr. Cannon Could the legislature also not remove vocational-technical education and put it under elementary and secondary which I have, you know, tended to favor?

Mr. Flory I think that's true if the facilities under the elementary and secondary education are to be provided in the elementary and secondary schools. But, I think the Board of Elementary and Secondary Education would govern vocational-technical or career education or comprehensive high schools in that particular...

Mr. Cannon Right. Even though the Board of Regents would have supervisory control over that curriculum above...beyond high schools?

Mr. Flory Yes, that's correct.

Further Discussion

Mr. Anzalone Ladies and gentlemen of the convention, we ran the philosophy of appointments over elected officials way back in the Executive Department Article. I think that we satisfied ourselves at that time that by far and in great majority the people of the State of Louisiana are very much interested in electing those who are going to govern them. Once again, we come to the same point. We have heard that now we are in a specialized area whereby locally elected people cannot represent the State of Louisiana as a whole. I find great error in this statement. All of us here have local problems, it's true. But, at the same time all of us are here to represent the State of Louisiana, not necessarily to do what is good for our particular area, but in view of the overall picture to do what is good for the state as a whole. I don't see the sense in saying that we do not trust the people of the State of Louisiana to elect people to represent the State of Louisiana; it just doesn't make any sense. You're running away from the problem rather than facing it head-on. There's no reason in the world why somebody from my congressional district cannot represent Southeastern, McNeese and L.S.U. all at the same time because what you're trying to do is build a darn good educational system. You don't go to a State Board of Education, I don't believe, from an area like Hammond, to increase tenfold the tax dollar coming into Southeastern, and at the same time, take away tenfold the money going to U.S.L. You are saying, "No, we do not want to face the problem head-on." We want to give it to somebody else and let him try to solve it. Then, if he doesn't do a very good job at it, well then we have somebody to blame." I don't agree with that at all. If we're going to set policy for the entire State of Louisiana by any board, governmental agency, legislature, executive department or whatever, I think it is well known in this convention that the philosophy of the people of the State of Louisiana dictate election rather than appointment.

Further Discussion

Mr. Juneau Mr. Acting Chairman and fellow delegates, I don't believe in belaboring a point, but I do believe in putting to rest a point which was put to rest in the Executive Article. I find it extremely ironical that a lot of the people who are supporting this amendment were the strongest advocates in this convention for elected officials. I find it also quite interesting the argument being that if you go to the election of people for higher education, you're going to politicize higher education. But, by the same token those very people would have you turn around and believe that, well, that's all right for higher education, but we're going to politicize lower and secondary education. It seems to me that if you're going to write a constitution, and this is the only one basic point

I want to make--at least--at least be consistent. You were consistent yesterday when you voted to have elected officials who are representing people in the educational field. That is consistent with what we did when we voted on the Executive Article. So, I submit to you, don't be inconsistent when you vote on higher education. We're talking about the same thing and don't be fooled. We're talking about representing people, people who are concerned with education. When we're talking about representatives, what you're talking about is do you want him appointive or elective? If you want an amendment like this which give fifteen boards which con...fifteen members which conceivably could be nominated by one governor, well, then, vote for it. But, I submit to you: examine your record, and examine your conscience when you do that; and ask you these two questions: am I on the one hand going to have a board for the children of this state which is going to be elective, and then, on the other hand, I'm going to have one for higher education which will be appointive? Secondly, I ask you: do you want to rest and can you justify to the people that you represent, that one governor in the history of this state can nominate the entire membership of this particular board? I don't think the people want that. I'll yield to any questions.

Questions

Mrs. Brien Pat, what you think what kind of people would run for this position with no pay?

Mr. Juneau Do I think they would?

Mrs. Brien Yes. I'd like to know, what kind of people would run for this position without salary?

Mr. Juneau My inclination, Mrs. Brien, was that you would get a very high caliber of people or person. It's contrasted--the statement was made, and I think eloquently, by Mr. Burns--contrast with that what kind of doors they are going to beat on the governor's office to have this kind of commitment when you go through an election campaign? I'd rather take my chances at the ballot box.

Mr. Burns Is it not a fact that races for the present State Board of Education are some of the most hotly contested political races in the state?

Mr. Juneau That's right.

Mr. Kelly Pat, with reference to the business about the caliber of people that you're going to have running for election, we have no guarantee. I meant the people have no guarantee as to who's going to be on that board when we leave it to the appointment process, do we?

Mr. Juneau That's the very point, Don. There's no guarantee whatsoever, but by the same token you don have the guarantee when you afford the ability for a people in the district to evaluate the people who are running for office. That's the guarantee I have as an elector.

Mr. Kelly Also, if we want to use the argument of per diem expenses--in other words, we should be appointing the legislature then, shouldn't we?

Mr. Juneau Oh, no question about it.

Mr. Willis Pat, the first three words in our constitution is "We the people," isn't it?

Mr. Juneau That's absolutely correct, Burt.

Mr. Willis Now, don't you think that the people can choose or elect the members of that board as competently as the governor?

Mr. Juneau I would think so, Burt.

Mr. Willis They elected the governor, didn't they?

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Mr. Juneau That's right.

Mr. Willis So, if he feels on the one hand that they can't, then he certainly detracts from what the people did with respect to him; isn't that correct?

Mr. Juneau That's correct. I might add, Burt, that this convention has decided that you want to put into the constitution the structure of education, and if that's the will of this convention, so be it. But, when we do that we've got to be responsible to the people, and I think it's our responsibility to structure how their education is going to be run. That's definitely affected by the appointive versus the elective process.

Mr. Willis That responsibility is echoed by your sentiments to the effect that we should be consistent, isn't that correct?

Mr. Juneau That's the whole point. I find it inconceivable for someone to get up here and say we're going to politicize higher education, but I'm not...that's all right for lower education; that just doesn't make any sense.

Mr. Willis It's just a high grade of politics--that other one, isn't it? One is petit and the other one is grand. Now, under this amendment here, isn't it a fact that the governor could positively control the board in that if whoever can appoint, can unappoint under this amendment? So, if he's got fifteen and three of them are against him, he can just pluck those three out, isn't that correct?

Mr. Juneau I think the authors of the amendment admit that.

Mr. Willis All right.

Mr. Kean Mr. Juneau, isn't it a fact though that there's a substantial difference between the secondary-elementary situation and what we're talking about here with respect to higher education?

Mr. Juneau It's not to me, Mr. Kean, when we're talking about someone who's charged with the responsibility of representing the interest of people in education. To me, I can't appreciate that distinction. No, sir.

Mr. Kean But, isn't it a fact that in the secondary and elementary field we've got school boards in every parish; we've got schools in every community; they are largely financed by local funds, and therefore, you can have a grass roots board which will not be likely to be balancing off one area against another?

Mr. Juneau I think that argument, Mr. Kean, to me, is self-defeating because apparently this committee's decided that they are going to have a grass roots board for governing boards for these schools of higher education. If that's true, there's the buffer zone that you would be applying in higher education; that's how I...

Mr. Kean But, my point is when you then turn to an elective board for higher education, where you've got institutions in different parts of the state who are likely to be competing against each other, won't you then have a different situation with an elective board of higher education than you would with the one with secondary and elementary?

Mr. Juneau I'll put it this way, Mr. Kean, I'm... you have and always will have apparently some competition, be it elective or appointive in the fields of higher education. There's no way in the world we can limit that money.

Mr. Chatelain Well, Mr. Chairman and fellow delegates, I'm going to make my remarks very brief. I don't know what happened last night, but looks like there're some forces at work. I stand in firm opposition to this amendment. One of the authors of this amendment stood before you a few moments ago and told you that an elected member would have a tendency to look out for his own university or college in his area. Now, isn't that a terrible thing? I'd hate to be known as an elected member in south Louisiana and would not be looking out for my own university. Wouldn't this be a terrible day in Louisiana when an elected official could not look out for his people or his area. It seems like to me that one day this business of electing your public officials is a good idea, but the next day the shoe is on another foot, and it's not a good idea. I want you to stop and think for awhile, my fellow delegates, what's happening to us here this morning. I submit to you that a member who would be appointed by the governor of this state would likewise, if he was a decent kind of a fellow, and I'm sure he would be, would have a tendency to look out for his own kind, his own university, or his own people. I want to leave one last thought with you this morning, my fellow delegates, and that is: beware of this move. It's a move; it's an amendment for one purpose is to remain for the great university which I have a great deal of respect for and feel that always shall be the number one university in this state, and I shall fight for the right. But, this is a move by that force, or those forces, to remain...to maintain status quo, and this is not what we want in this convention. This is a convention for the future, not for the past. I say vote this amendment down. Thank you.

[Motion for the Previous Question
rejected: 18-63.]

Further Discussion

Mr. De Blieux We are now talking about a position that carries no salary to it; only per diem, only expenses. We are not talking about a paid salaried job or a job wherein that it will command a lot of money or ability to make contracts or something of that sort; that goes into your elective procedure. As a result of this being the number of elected people we'll have aspiring for this job, I feel very certain we are not going to get the quality of personnel we need to control our colleges and universities, and decide which one of them will grant degrees and not grant degrees. This is a place where we need high type personnel. Somebody brought up the idea about saying that we ought to appoint the members of the legislature. Well, let me tell you the difference between this and the legislature. The legislature is a direct representative of the people. Everybody the legislature represents is not exactly smart. We may have some nitwits, and nitwits are entitled to representation, but I don't think we ought to put them in control of our colleges and universities. You are going to get a much, much, better type of individual to decide your degree programs, etc., for higher education, if those people are appointed than you do if they are elected; I can tell you that. You know that and I know that. I want to point out one other thing to you. If these...I can't get the idea just because a governor appoints somebody that that person is not going to be qualified and it's going to give the governor control and let him run everything; that governor is usually--the governors that I've seen and I've served with even though the may--we have has our disagreements, I think they're just as much interested in the welfare of this state and higher education as anybody else. I can't get the idea through my head that I'm the only one capable of selecting a person to serve on a board or a commission. I think there're other people that are just as capable of making that decision as I am. I feel like

Further Discussion

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that we ought to at least, show that we have some confidence in the people that we elect to offices to perform these functions. Now, there's another point that I want to bring out to you. You know one of the things that's caused us to be here today is a long list of constitutional amendments that we have had, and why? Because those constitutional amendments have been involved with a long list of elected officials. Here we're loading up this constitution with elected officials and after awhile you're going to have a ballot five feet long for elected people. It's going to be very difficult to make a decision and know something about those. So, maybe we'd better allow a few of them to be appointed. So, I ask you to go ahead and go along with this amendment so that we can have a few people appointed to office and lessen the length of our ballot, and get some responsible people exercising the functions which I think they ought to do insofar as education is concerned. We need a good educational system, and I just don't think you're going to get it by trying to politicize that system and let every Tom, Dick, and Harry, or courthouse crowd decide who's going to be on the Board of Education. So, I ask you to go along with the amendment.

Questions

Mr. Riecke Senator, I understood you to say that you would get a much higher type person on the board if they were appointed than if they were elected; is that correct?

Mr. De Blieux I really believe that because the people that ought to serve on this board--I don't think that usually, generally, that they're the type that will get out and make a campaign.

Mr. Riecke Do you believe on this convention here that the people who were appointed by the governor are a higher type people than those of us who were elected.

Mr. De Blieux I feel like they are equally and capably--yes, some of them I do--I think this appeared to some of us who are elected.

Mr. Roemer Senator, you just don't have much faith in the elective process, do you?

Mr. De Blieux Oh, yes, I have a lot of faith in it, but I tell you it's the candidates that's going to run for the job. There's one thing you have got to remember is this, Mr. Roemer, you can't elect a good man to office if he won't run for the job; just remember that. You've got to vote for what you get...you've got to make your choice, but sometimes you can persuade a good fellow to accept an appointment that you can't get to run for an office.

Mr. Roemer Senator, I'm still with you--you say that a good man can't get elected unless he runs. Well, a good man can't get appointed unless the governor wants to appoint him. Isn't that right?

Mr. De Blieux Well, that may be true, but you've got a better chance because I think we've had pretty honorable men serving as our governors, the majority of them anyway, even though we've had our disagreements.

Mr. Anzalone Senator De Blieux, we've heard a great deal about this tax dollar and the competition for the tax dollar. Is not the final determination made on the disbursement of these tax dollars made by a legislature elected from single member districts throughout the state?

Mr. De Blieux Yes.

Mr. Anzalone Well, what in the world is wrong with a little input into the educational system from people who are elected throughout the state?

Mr. De Blieux Well, there's a lot of difference,

Mr. Anzalone. One thing is that we're thinking about our children and their future, and that's involved and the legislature does have some control over it whenever these things get out of line. Now, insofar as your political input and output--but as you well know--every legislator gets elected by what he can bring home to his constituents, how well he does his job insofar as they are concerned. That's the way you elect the members of this board; that's what they're going to be concerned about, that college in their area where they are elected from because they know if that college doesn't get what they want that college to get or the people in that area want that college to get, they've got a small chance of getting reelected.

Mr. Anzalone Senator, is that the way it's done now? Is that why we're in such big trouble?

Mr. De Blieux Well, that's a little bit part of our problem because we've got an elected superintendent and an elected board.

Mr. Anzalone I see. In other words our problem is with elected officials?

Mr. De Blieux With some...with some elected...You know, sometimes you have a better group than you have if you don't--if you have appointed officials than you have if elected ones.

Mr. Anzalone Senator, I want you to know I agree with you. I think a great deal of our problem is with some of our elected officials.

Mr. Juneau Senator De Blieux, in view of the decision which was reached by this convention yesterday, to have elected officials on the Board of Elementary and Secondary Education, is it your opinion, from what you said, that we are telling the people of this state for the State Board of Education you're not going to have qualified people?

Mr. De Blieux No, I'm not saying that.

Mr. Juneau Why not?

Mr. De Blieux I'm not saying that because...but what I'm saying is for this particular board, the Board of Regents, that we ought to have an appointed board in that particular category.

Mr. Juneau You're evading my question, Senator. Tell me about the State Board of Education for Elementary and Secondary Education, which this convention has decided will be predominately elective. Are you telling me and the people of the State of Louisiana, because of that decision they're not going to have qualified people on that board?

Mr. De Blieux I'm saying that you'd probably get better qualified people to run our educational institutions if they were appointed.

Mr. Fowler Senator De Blieux, you made the remark that the Senators and Representatives were not interested in the children or the education of the people of this state. Aren't you a Senator?

Mr. De Blieux I don't think I made that statement, Mr. Fowler.

Mr. Fowler I think if you go back you made one to that effect, and if you feel that way, I think you need to be out of the Senate.

Mr. De Blieux I don't think I made that statement. I'm just saying in most cases you can get a qualified man who will take a position which he would not run for.

[Quorum Call: 98 delegates present and a quorum.]

Further Discussion

Miss Perkins Ladies and gentlemen, I rise in opposition to the amendment on the floor. I rise in opposition to the proposal of my good friends, Mr. Flory and Mr. Morris. First of all, let me point out to this delegation that we've heard a great deal of debate with reference to the individuals that would compose this particular board. I don't feel that this is necessarily a pro-con issue with reference to LSU, in that this board could not only be loaded if we had appointees in favor of LSU, it could also be loaded in opposition to LSU. So, I don't think that that's the basic issue that we have before us. I would like to point out that by the committee proposal, which basically I support, we have three boards for higher education. The two management boards--namely, the LSU Board of Supervisors and the Board of Trustees--will be appointed, that membership will be appointed by the governor. If we allow appointment to this particular board's membership, we will have approximately fifty-one appointees running higher education. We have allowed for a elective board in our State Board of Education to govern primary and secondary education. Supposedly, the youth of this country is the foundation of this country. We felt the necessity to have supervision by elected people at the primary and secondary level, but yet, now, we don't think our elected officials are competent enough to supervise higher education. If they're not competent enough to supervise higher education, I certainly don't think they're competent enough to supervise elementary and secondary education. I'd also like to point out that we're reversing our position from yesterday. Many of you have said that this convention has lost a great deal of time. Ladies and gentlemen, when we defeat a proposal, let's accept that defeat and move on. If you reverse your position and reverse your vote today, you are encouraging this type procedure, not only now, but for the duration of this convention. I'd also like to point out that the people that say that our electorate is not qualified to select qualified people by electing the members of this board. Ladies and gentlemen, one hundred and five people in this convention, and I think a hundred and five high caliber people, were elected by the electorate of this state. If they could choose you, I don't see how you can turn around and accuse them of not being competent to select those people that are going to administer higher education. In addition, I would like to point out as we have very fine appointees in this convention, we have also provided for three appointees on this board for higher education. I strongly urge that you defeat this amendment and that we proceed with the other provisions of the committee report.

Thank you, Mr. Chairman.

Further Discussion

Mr. E. J. Landry Mr. Chairman, ladies and gentlemen of the convention, as the days go by, I appreciate this convention more and more, especially listening to the opposition. My only wish is that more people would listen to the opposition. Unfortunately, in this convention I think one of the great drawbacks is that we do not listen. We're satisfied with our position, and then from then on nothing matters. I think that's wrong. I think one of the most important things that we could learn to do in this convention for the balance of the time is to listen to your opposition. Miss Perkins is strong opposition; Miss Perkins is young. You are now looking and listening to an old man who has seen and heard much on the subject of education in the State of Louisiana over the years. If you had listened carefully to Mr. Flory, who has had experience as a member of a committee that had much to do and much reason to be concerned about what happens in higher education, this is the moment to be inconsistent. Man must not be consistent when there is a reason to be inconsistent. There is no comparison between the two--the

elementary education of the children of this state and the education of the adults in higher education. As you were told--and as I want to repeat before you make up your minds--the organization for elementary education has to do with a board of education in each parish, sort of equally distributed throughout the parishes of this state. That is not true for higher education. There is no comparison whatsoever. That is more the reason for having an appointive system where the right kinds of people can be selected to administer the affairs of higher education. Think of the geographical locations--these smaller colleges--you don't have one college in each parish; you don't have one college in one area. They're all different sizes; they all do different things, and these different representative people can't represent their areas equally, as you have in elementary and secondary education. I urge you most strongly to listen to the fine presentation that was made by a very knowledgeable man a moment ago and to listen to the reason of those who have had experience. This Flory-Morris amendment is really and truly a sound amendment for education in this state at this time.

[Previous Question ordered.]

Closing

Mr. Flory Mr. Chairman and delegates, in closing on this amendment there is very little that I could say at this point in the debate upon an issue that I consider to be one of the most crucial as it relates to the youth of this state. If we believe in coordination of higher education, if we believe in quality education, if we believe in equity as far as the distribution of the educational dollar for higher education, then we have to give serious consideration to the issue before this convention at this very moment, because I truly believe that the future of higher education depends upon the vote that you now are about to cast. If you believe in true, responsible coordination, then I ask you to vote for this amendment, because I believe that this is the way that we could accomplish true coordination of all of higher education into building a better system of higher education for the most valuable asset, and that is for the youth of this state. I know that a great deal of fear exists in the minds of some of the delegates that one governor might appoint a majority of the Board of Regents, or that the existing governor might appoint the total membership of the Board of Regents. I ask you in all fairness to look at the Committee's Proposal No. 30, the transitional article providing for the transition of the Coordinating Council into the Board of Regents, as well as the present Board of Supervisors of LSU into the Board of Supervisors under the committee's proposal. I feel that with the committee's recommendation, this convention will buy Committee Proposal No. 30. It came out of that committee with a unanimous recommendation, and, to come out of that committee unanimous, is an unheard of task, really, as far as that committee in the deliberations that they had. I ask you to really consider the vote that you are about to cast now, and to cast it in the spirit of real coordination for higher education. Cast aside, if you can, political aspirations, political considerations, and give to your vote a true coordinating effort for higher education in the colleges and universities of this state for all of the years ahead that this constitution is to serve. Mr. Chairman, I would ask for a record vote on this amendment.

Questions

Mr. Kean Mr. Flory, you touched on Committee Proposal No. 30. As I understand that proposal, if it is adopted as a transitional measure, the members of the Coordinating Council whose terms have not yet expired would then serve on the Board of Regents until their present terms did expire; would they not?

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Mr. Flory That is absolutely correct.

Mr. Kean So that the governor would not be able, under this transitional proposal, to appoint all of the members of the Board of Regents as has been suggested here today?

Mr. Flory That's absolutely correct.

Mr. Willis Mr. Flory, by virtue of the Duval amendment--put a question mark to this--by virtue of the Duval amendment now there is a divorce between the state superintendent of education, who is elected until '76, and the State Board of Education and the local school boards on the one hand, and the Board of Regents and the Board of Governors for LSU and the trustees for universities on the other; isn't that correct?

Mr. Flory That's correct.

Mr. Willis There is a complete divorce between the two.

Mr. Flory That's correct.

Mr. Willis Now, the thrust of your amendment is to make the governor appoint the members of the Board of Regents, which adumbrates the other two boards; isn't that correct, under the committee proposal in its present posture?

Mr. Flory Only the other two boards: that is, the Board of Supervisors and the Board of Trustees for state colleges.

Mr. Willis And the trustees, yes. The thrust of your amendment is to make the governor appoint the Board of Regents, the membership, which adumbrates or supervises the other two?

Mr. Flory It has budgetary and curricula responsibility over the other two.

Mr. Willis Well, I understand--supervise--I use that word loosely. So that now, if the governor can appoint the members of the Board of Regents, he would not be a superintendent; he would be a super-superintendent, because that would be super education, which is higher education; isn't that correct?

Mr. Flory Mr. Willis, I have great faith in the governors that have served, not only in the past, but those that might...

Mr. Willis We're not talking about faith, hope, and charity.

Mr. Flory Let me finish...that might serve in the future. I believe that they feel as we do that this is one of the most crucial issues before the people of this state, not only now, but in the future as it relates to higher education. I cannot visualize any governor, whoever he may be, appointing people to a system to govern a system, and he would then go down in history as destroying the higher educational system of this state. I can't believe that. I've got too much faith in humanity, too much faith in the people, not only that have served in the past but who might serve in the future as the Chief Executive of this state, to make irresponsible appointments to a board of this stature.

Mr. Willis Mr. Flory, I applaud your faith in the people. I hope that your faith is more in the people than in one of the people. Now, don't you think that the people are as competent to choose who will govern them than one person?

Mr. Flory I have no quarrel with the intelligence of the voters of this state. I just say to you based upon past experience, it has not worked in the best interests of higher education; whereas a man had to run for reelection with a university or a state college in his district in which he had to

be elected, because his prime responsibility--and having to be elected from that district--made it mandatory that he protect the best interests of that particular college or university and not necessarily the overall system of higher education.

Mr. Willis And you mean to tell me that that would not be the same sequela or the consequence if you were appointed and from that district--under this appointment?

Mr. Flory No, sir, not in my judgment.

Mr. Willis You mean to say that he would betray his district by virtue of the appointment and align his allegiance with the governor?

Mr. Flory I believe that if he were appointed and did not have to worry about seeking reelection, he would be in a much better position to take an overall look at the entire system of higher education and make a more qualified judgment as to what was the best interest of the total system, rather than a particular university, even though it may be in the district in which he resides.

Mrs. Zervigon Mr. Flory, your answer to Mr. Kean's question rather puzzles me. You say that because the Coordinating Committee is folded into the new Board of Regents that means that a governor couldn't appoint the entire board within the span of two terms in office. What you really mean is the governor, the present governor, could not. What happens at the end of the expiration of the terms of the present members of the Coordinating Committee? Couldn't a governor appoint all members of the board?

Mr. Flory I believe Mr. Kean's question was directed at the present governor, and the situation in the transitional period under the transitional article in Committee Proposal No. 3D.

Mrs. Zervigon Well, let me ask you a different question. Is it not a fact that future governors, if they were elected to two terms, under your amendment might appoint the entire board--in fact, must, if the terms are six years?

Mr. Flory I haven't worked the mathematics out, but if you say that's true, Mrs. Zervigon, I accept that, only to say to you that again I do not believe any governor would make such irresponsible appointments to destroy higher education, as has been indicated.

Mrs. Zervigon But he would appoint the entire board; a future governor would appoint the entire board?

Mr. Flory As they have in the past to some extent.

[Record vote ordered. Amendment adopted: 62-43. Motion to reconsider tabled.]

Amendment

Mr. Hardin [Assistant Clerk] This is the second Aertker amendment which was passed out. Amendment No. 1. On page 4, line 7, immediately after the word and punctuation "board." insert the following:

"(1) The Board of Regents shall meet with the State Board of Elementary and Secondary Education at least twice a year to coordinate programs of public elementary, secondary, vocational-technical, career, and higher education."

Explanation

Mr. Aertker Mr. Acting Chairman, ladies and gentlemen of the convention, yesterday we adopted an amendment which deleted actually part one of the Section E of the powers of the board. I think that the vote was based on the fact that many people feared that the language that we had in the

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document presented a threat to the control of the curriculum of the elementary and secondary education, but I also recognize the fact that we did create a real problem for developing a coordinated program between elementary, secondary, vocational-technical, career education, and higher education. In an attempt to resolve the matter, we have... I am introducing this amendment, and I think it does take care of the question. I have spoken to Mr. Duval about this amendment, and he has indicated to me that this would not have too much serious objection from him. Unless you have some further questions, I think this would resolve the whole matter. I ask the favorable approval of this amendment.

Questions

Mr. Duval I just want to get something quite clear. Now, what if the Board of Regents and the State Board meet, and they can't agree to coordinate? What happens under this amendment?

Mr. Aertker Mr. Duval, I thought of that, and really one of the reasons why the boards... I would presume they are going to have to establish some ground rules of coordinating, but I really can't understand how people who would be working for common programs--for instance, to give you an example, if higher education has got to find out what they are going to say...what programs they're going to have in order to qualify their people and train them to come into the elementary and secondary area, it seems to me that it isn't a matter of agreement; it's a matter of getting an understanding as to what is needed in their programs.

Mr. Duval I'm merely trying...I just want to establish the intent of your amendment. Am I to understand that the intent is just to ensure a rapport, or at least the chance for a rapport, between the two boards, but, in the event there is a disagreement--because all reasonable men occasionally disagree--would the Board of Regents have authority to compel coordination under this amendment?

Mr. Aertker No, it would not.

Mr. Duval In other words, it's the intent of your amendment that they would merely meet, but the Board of Regents would not have the authority to direct the State Board of Education to do a specific thing. Is that right?

Mr. Aertker And by the same token the elementary-secondary wouldn't be able to dictate to the higher education that this would have to be done. The only thing is that this would be a coordinate and advisory group getting together to discuss their problems.

Mr. Bergeron Mr. Aertker, my question deals with: is this the amendment--you had two of them on our desk--is this the one with "public" in it or is it the other one?

Mr. Aertker The one with "public" is correct; yes.

Mr. De Blieux Mr. Aertker, aren't we getting a little bit far afield for the constitution when we attempt to put the procedure of these boards--you might say--into the constitution? Couldn't this be taken care of by the legislature or by rules of the board, etc.? Do we have to put this in the constitution?

Mr. Aertker Mr. De Blieux, to my knowledge, we haven't had meetings between elementary and secondary and higher education to discuss the coordination of our efforts. As far as I understand, it's been at the discretion of the legislature, and the fact that the legislature has failed to provide and present this opportunity, I just felt that it was necessary to have it in the constitution that these people would meet at least

twice a year. If they just had to meet and say what their problems were to each other, that would be a considerable improvement over what we've been doing in the past years.

Mr. De Blieux Well, where has been the objection to that meeting in the past?

Mr. Aertker The objection has been that nobody has ever bothered to call it, and the legislature hasn't legislated to make anyone call it.

Mr. De Blieux Well, don't you think the legislature would do it if it was brought to their attention?

Mr. Aertker Well, I think that this is going to bring it to their attention by having it in the constitution.

Mr. De Blieux I just wonder about the wisdom of putting procedural matters of these boards into the constitution. I just think...don't you think that ought to be left to the legislature?

Mr. Aertker No, otherwise I wouldn't be proposing it to be included in the constitution.

Mrs. Corne Mr. Aertker, under your proposal, which of these boards would have the final decision on the certification of teachers in elementary and secondary schools?

Mr. Aertker That State Board of Elementary and Secondary Education. That's where they are employed, Mrs. Corne.

Mrs. Corne Would have the final decision?

Mr. Aertker That's correct.

Mrs. Corne Thank you, sir.

[Previous Question ordered. Record vote ordered. Amendment adopted: 79-26. Motion to reconsider tabled. Motion for the Previous Question on the Section rejected: 37-61.]

Amendments

Mr. Hardin Amendment No. 1 [by Mrs. Miller]. On page 3--a technical correction--line 15--not line 5--immediately after the word and punctuation "establishment." delete the words "There is" and delete lines 16 through 20, both inclusive, in their entirety and insert in lieu thereof the following: "There shall be a body corporate known as the Board of Regents of the University of Louisiana, which shall be composed of all publicly supported university systems and all publicly supported universities and colleges now existing or hereafter created. The board shall be responsible for the government, control, and budgetary management of the University of Louisiana and shall exercise such powers and functions, duties and responsibilities for these purposes as are provided by this Section and by law."

Amendment No. 2. On page 3, line 29, delete the ",", comma after the word "Regents" and delete the remainder of the line and delete lines 30 through 32, in their entirety.

Amendment No. 3. On page 5, line 5, immediately after the word "the" delete the remainder of the line and delete lines 6 through 8, both inclusive, in their entirety and at the beginning of line 9, insert the partial word "tion" and insert in lieu thereof the following: "university systems, universities, and colleges governed by it forming the University of Louisiana."

Amendment No. 4. On page 5, delete lines 17 through 25, both inclusive, in their entirety.

Explanation

Mrs. Miller Mr. Chairman, fellow delegates, I am

offering undoubtedly the most noncontroversial amendment that's been offered in this convention, because I anticipate it will be absolutely bombed to the full present delegation, minus my one vote that will probably be in favor of it. I understand I already have two votes; I have three votes. Anyone for four? Anyone for five? I am offering this because we have been...the Education Committee has been discussing for seven months how to set up a system of higher education, Board of Regents, Superboards, Coordinating Council. I'm offering this because I do think the people of Louisiana deserve to know there might be another way; it might not be available right now. Maybe this thing is ten years too early, as one delegate told me; and perhaps it's ten years too late, as another delegate told me. But, we do know we are running out of funds; our colleges are competing for funds. I want you to look at the second page of information--which I think has been distributed to you--which shows what we've been talking about. In regard to the institutions of higher learning, the number of students that we have, we have not been given as a whole convention all the information on the degree programs that are offered at the various schools and colleges. This may sound to my fellow members of the L. S. U. Foundation composed of some four hundred members, and of which I am one--that I'm being a traitor to the L. S. U. system. I am not being a traitor to the L. S. U. system. I am not being a traitor...or being against U. S. L. and McNeese, and I live between these two colleges. I am a graduate of L. S. U. My son is a graduate of U. S. L. I have a daughter working on a master's at McNeese; she was a graduate of Newcomb. I know now that we don't have, sometimes, the old hoo-rah-rah spirit about colleges and universities that we've seen that my good friend, Mr. Ford Stinson, still carries in his heart for L. S. U. We often identify with a college and university that is in the area where we make our living and where we raise our families. But, we all know now; we are competing for funds. I would like to see my daughter be able to get a degree in the performing arts at McNeese. But, I know this is an impossible thing for her to ever get, because she cannot leave her...she can't be given that type of degree at McNeese. She can't leave her husband and child for three years to go and take up residency in Baton Rouge where this particular type degree is offered. But, if you have a unified university system, run with imagination, and you have floating professorships and floating supervision over all your branches, you may be able to offer these degrees at these various institutions without having to maintain full staffs and full degree programs at every institution that thinks it wants to be able to offer master's and doctor's degree in everything that comes up. I say that the idea is workable. I admit that it's workable only if you have a Board of Regents composed of people who do have imagination and foresight and where you have some change in educational principles. But, I believe this is the way we can provide services to our people out in the state. Now, I want you to look at what happens when a teacher at McNeese wants to get her master's and doesn't... she can get it now at McNeese in certain degrees of education--if she runs out there at four o'clock in the afternoon after she's off teaching, and she takes her graduate things at night. This is great. But, sometimes she won't feel that she has a degree that's worth very much except for the extra pay it gives her--the credits it gives her in our present educational system. What we may be able to offer with a unified university system is a degree that will come from a great and fine university program that encompasses the whole state, that this degree program is made available to everyone that wants to take advantage of it in the State of Louisiana. I submit it is a novel idea. I submit that it's been working in some other states. I submit that it is the only way that when we are talking about Board of Regents and Coordinating Councils, what we are talking about is trying to coordinate all these various

systems under one board. This does it without doing violence to the cherished place that L. S. U. occupies in the hearts of some of its alumni or the cherished place that is occupied by U. S. L. in the hearts of some of its people. But, what we are trying to achieve is a higher system of quality education for all of our students, wherever they may be living--to be able to offer degree programs throughout the state, but under a system where you can have quality education. I tell you the truth: it's so new to me. I'm not sure I can answer some of your questions, but I'll be glad to try.

Questions

Mr. Bollinger Mrs. Miller, is it not true that from time and time again we have listened to people from that microphone say that we need a university system in Louisiana?

Mrs. Miller Well, I keep hearing those kinds of things, Mr. Bollinger, but I haven't seen this thing be...I haven't even seen it being really conceived. You know, before an idea can be given birth, you have to have conception; then, you have to have growth and incubation; then, you have to give it birth. I hope in this amendment we can do all these things.

Mr. Bollinger Did you not also hear from the other side of the river, so to speak, from that same microphone, people advocating one board to govern higher education?

Mrs. Miller This is...you're right; this is exactly why I think it's time to offer this amendment. I think this is what we've really been trying to work toward, and we just haven't had the courage to face it.

Mr. Bollinger Does not your amendment establish for Louisiana a university system under one board?

Mrs. Miller That's what it would do. Now, I admit if we do that, then you may want to go back and change the way you select your Board of Regents because this would be an entirely new thing. It might be that some of these other amendments which I have attached to this to show what all we are... we've tried to draft them to show what other changes you would have to make in the committee proposal to make this compatible. But, it might be that if you adopt the system--the idea of a university system for the State of Louisiana--then you will have to go back probably and look at the way you select your Board of Regents, and the management for the total program. I tell you, I think this is what--as Mr. Bollinger says what we have been trying to work toward, and we just... none of us have just had the courage to get up and say, "Well, let's not cherish one institution so much that we can't look at what's good for the whole state and for students scattered all over the state."

Mr. Stagg Mrs. Miller, this isn't meant to be unfriendly, but after you heard all of the debates for the last day on this same subject and have heard the expressions from that microphone from more than forty or fifty people, don't you think your amendment comes a little late?

Mrs. Miller No. I think it comes at the right time. After you've had all that fertilizer put around, then it's time to do the planting.

Mr. Stagg I think you literally express what's been put around.

Mr. Chatelain Mrs. Miller, I don't know how to phrase this question. But, I want you to know this. I think you got a darn good amendment.

Mrs. Miller Mr. Chatelain, I sure appreciate that. That maybe...that makes us five votes now, I hope.

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Mr. Aertker Mrs. Miller, you realize that this amendment that you offer actually will end up destroying, really, the identity of all of the universities and colleges in the State of Louisiana; is that correct?

Mrs. Miller Yes. It will destroy--and I admit this very frankly, and let's have this very clear-- this will destroy the identity of the colleges and universities of this state. The reason...and it's very important that we understand this. But, what we will be establishing is identity for our degree program so that any student from Louisiana can go anywhere in this world and say "I am a graduate of the University of Louisiana," and it will mean something in the academic world. I believe it will mean something in the academic world.

Mr. Aertker I say, I know that you are aware that this has been instituted in other states. But, are you also aware that, to my knowledge, that in no state did they suddenly come as sudden as you've come with your proposal, that they usually had a phasing into and phasing out program to where they gradually incorporated these...yours is just about like having a sudden operation and cutting off the person's head before they found out that he stopped walking.

Mrs. Miller Well, I admit, you know, I've had some...I've had six operations, three of them were emergencies and three of them were planned. It doesn't matter how you do it, when you start cutting on someone, it's traumatic. I admit that if we adopt this, we may have to come back in with an amendment for a phase in-phase out amendment.

Mr. Aertker Mrs. Miller, do you know that I think some people are going to consider this an operation leading to suicide?

Mrs. Miller Well, anytime that you go under the knife--as Dr. Weiss can tell you--there are going to be some dangers.

Miss Perkins Mrs. Miller, wouldn't this, in fact, create a superboard? Is this correct?

Mrs. Miller I think this...yes, Lynn, I think this is what we've been talking about...when we have been talking about Board of Regents and trying to reconcile Board of Regents and the Board of Supervisors for L. S. U., and the Board...Coordinating Committee. This is what the legislature, you know, has been talking about and rolling around for some time. But, I think I'm...

Miss Perkins Excuse me. Wouldn't this, in fact, be in creating a superboard that we defeated the other day, Mrs. Miller?

Mrs. Miller Well, we defeated the superboard in relation to our thinking at that time; and that was, that we were really retaining all the systems the way they are operating now, pretty much, with just a superboard over those that had been under the jurisdiction of the Education Department separate from L. S. U.

Miss Perkins And, you do agree that this amendment would make us lose identity to all colleges and universities?

Mrs. Miller This is what I said before, and I say it very honestly and frankly, that what we are doing is saying "We are not going to have identity as little separate universities. We are going to be the University of Louisiana."

Mr. Bollinger Mrs. Miller, in reference to the question Mr. Aertker asked you and the answer you gave him, is not your amendment similar to the plan of education in California? Do any of these universities lose identity? Aren't they some of the most renowned universities of the country?

Mrs. Miller Well, you're right. I don't think you could ever really kill the school spirit on any one campus. You know there is no more school spirit than you find at the University of California at Berkley. Wherever people--and I'm sure wherever you find Louisiana people--you're going to find they are going to have some way to identify themselves.

[Previous Question ordered. Record vote ordered. Amendments rejected: 34-75. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Alario]. On page 3, delete lines 21 through 27, both inclusive, in their entirety and all amendments adopted there-to and insert in lieu thereof the following:

"(B) Board membership; terms. The board shall consist of fifteen electors. There shall be one elector elected from each congressional district of the state. The remaining members shall be appointed by the governor with the consent of the Senate, provided however, each congressional district shall not have more than one appointed member. The members shall serve for overlapping terms of six years following initial terms fixed by law."

Explanation

Mr. Alario Mr. Chairman, fellow delegates, what I'm trying to do with this amendment is to combine the different ideals we have here today on the floor concerning the membership of the board--combining it in a sense that we are providing that one member shall be elected from each congressional district. The remaining members of this fifteen-member board would be appointed by the governor with the consent of the Senate. It further provides that no congressional district would have more than one appointed, and that's to prevent possibly all of the appointees coming from one particular district, which I think would be totally unfortunate; but, I think we ought to provide for it. I think it would meet the objectives that those of us who believe strongly in having elected officials. It also meets the objectives of those who feel that education is so important that maybe you ought to remove it partially, if not completely, from politics. I don't believe myself, from the experiences I have had in the short while I've been in government, that you remove from politics any board or any commission when they become appointive, because after all, who gets appointed? It's those who have worked in campaigns, worked hard for their candidate, those who have contributed financially, those who are close friends with the person who is doing the appointing. I think we have been fortunate in this state to have good people appointed, and I'm glad for it. But, I just don't know if we ought to trust a high board of this nature to the makeup of an entirely appointed board. At the same time, I can understand the ideals that some of you have in saying that you think they ought to not all be elected, and not all have to run, and all be in politics. I ask that you consider this amendment very highly.

Question

Mr. Jenkins John, this is not something you just dreamed up, is it? It's something that has been over...gone over by the legislature, because actually this is the same basic plan that the legislature adopted, isn't it?

Mr. Alario It is.

[Previous Question ordered. Record vote ordered. Amendment rejected: 47-62. Motion to reconsider tabled.]

Amendment

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

On page 5, line 11, after the word "institution" insert a period "." and delete the remainder of the line and delete lines 12 through 16, both inclusive, in their entirety and insert in lieu thereof the following: "The Board of Regents shall submit proposed budgets for the operational needs on behalf of all post-secondary higher education in the state. It shall submit a capital outlay budget with recommendations on priority needs for capital construction and improvements."

Explanation

Mr. Stovall Mr. Chairman, ladies and gentlemen of the convention, would you be kind enough to get your proposed Article VII and look at it. Under Section 7 you will notice that the Board of Regents...it says on line 17 "The Board shall plan, coordinate, and have budgetary responsibility for all public higher education." Then, if you turn over to page 5, line 11, you will notice again "The Board of Regents shall submit its recommendations on budgets for all institutions of higher education" and so forth. My point is that this language is simply not clear. It really does not indicate who has the responsibility for recommending budgets to the legislature. This amendment is an attempt to clarify the responsibility. In our voting so far, we have indicated that we want a Board of Regents that will have responsibility to coordinate, and we use the terms "budgetary responsibility." Now, my amendment simply says "The Board of Regents shall submit to the legislature proposed budgets for the operational needs on behalf of all post-secondary higher education in the state." This means that the Board of Regents has the responsibility of recommending to the legislature budgets for the different institutions. They, of course, will receive recommendations from the different colleges and universities. Also, "It shall submit a capital outlay budget with recommendations on priority needs for capital construction and improvements." I think the point is very clear: it places the responsibility for budget recommendations on the Board of Regents. The thrust of this amendment, ladies and gentlemen, is whether or not we want coordination in higher education. This amendment gives to us coordination because it provides for the coordination of budgets--operational budgets as well as outlay budgets. I encourage your support of the amendment.

Question

Mr. Jenkins Reverend Stovall, on a technical point, would you mind inserting the word "public" before "post-secondary" in your amendment, so that there's no confusion there, and resubmitting it accordingly?

Mr. Stovall I really don't feel that it is necessary, Mr. Jenkins. I have no objections to it. But, I think that certainly this is...obviously what we are talking about here is institutions, public institutions of the state.

[Previous Question ordered. Record vote ordered. Amendment rejected: 36-71. Motion to reconsider tabled.]

Further Discussion

Mr. Ouval Mr. Vice-Chairman, fellow delegates, I certainly am reluctant to abuse the time of this constitutional convention. However, I think there come a time when we must speak our piece. I arise in opposition to this section; perhaps for different reasons, and some of you might oppose the section. My primary opposition is that you're enshrining a constitutional board with detailed composition, and duties and powers for all time in a constitution, and we don't know if it's going to work or not. But, in our infinite wisdom, we're going to put this in the constitution. In my opinion, one of the reasons we were sent here was to do away with constitutional boards; was to do away with that type of composition and structure

in a constitution. That's one of the reasons why we had Act 2 of 1972. This type of thing is an abrogation of the mandate given us to the people. That's my primary objection. I would prefer to see no boards in this constitution. Everyone has a great fear of the legislature now, but the legislature is going to appropriate the money anyhow. But, let me go on to some more basic objections. I just wanted to get that clear; that's my main one. Here's the basic objection. All of a sudden today we have a divine revelation again. One of these divine revelations that happens overnight when one day we represent the people who elected us, and the next day we don't, because the crunch is put on. Now, doggone it, when the paper publishes that we have decided to elect our Board of Regents which is going to have awesome power, which is going to have budgetary control over education in this state; we decide we're going to elect them so they will be responsive to somebody, and then the next day all of a sudden, we say that wasn't a very good idea. Although we had three appointments, now we're going to appoint them. I didn't hear any great wisdom or logic that really convinced me, and I suggest to you that you remember who elected you. If you go out and ask people what they would want, they would want some responsiveness to them. They would want somebody to respond to their will, rather than a constitutional board which is appointed. That's like having a bunch of federal judges who are totally inviolate. What you're going to have is the same type of kingdom you have in your constitutional boards now. Every governor's race...the big plum is going to be the Board of Regents. That's where it's at, and you're going to have everybody who...that's going to be the plum, and that's going to be the way it's done as to what governor wins, and who puts up the most money, and that's a fact and you ought to know it. At least if the board was statutory, I could certainly go with an appointment. I think there are many valid arguments to appointment in some ways, but if it were statutory. But, now you make it in the constitution and these people aren't answerable to a living, breathing soul, and they have total control over education. Now, you think the people of Louisiana want that? You think they want to put a kingdom in this constitution? Is that why they sent you here? Now, you ask your conscience. Is that why I came here to enshrine a concept to put everything away from the will of the people? We're saying that the people just don't know any better. We can't let the people do this. They don't know. We're so much smarter than the people; that's why they elected us to come up here and isolate education from them for all times. Now, I don't think we really mean that, do we? Now, as you recall, in 1952 we had a lot of constitutional boards. It was a great idea. One of the reasons we're right here is to get rid of those constitutional boards because they haven't worked. We're making a drastic mistake. We are using, in our infinite wisdom, we are using this convention to enshrine concepts which we don't have any idea how viable they really are. We are placing fifteen appointments away from everybody. You're going to have a kingdom; that's practically how it's going to work. If the board was statutory, I would vote for appointment. It's not, it's constitutional, and these people are locked in forever, and if you don't think you have a kingdom, you're either naive or rationalized and it's not going to do...we are all concerned, and I'm sure we are, about the educational system. This is the heart and soul of our future, it really is. I'm not wise enough to tell you how to do it. I certainly am not. I can just...I think we have enough common sense to realize though that if you have a board with the awesome power that this board has, the fiscal power over all colleges and universities, and this board is appointed and not responsive to a living, breathing soul, then what do you have? Who are they going to represent? You think about it for a minute. What's so bad about the election process anyhow? What's so bad about...why is the legislature elected? Why do we want to elect our

judges? Why is this any different? I ask you. We have no qualifications set here at all, not one bit. I suggest to you that you vote against this section if you really want to represent the people.

Further Discussion

Mr. Willis Mr. Chairman, and my fellow delegates, I prefer to wonder and blunder and stumble a thousand times to proclaim that we are not peas in a pod when we have erred in placing an impossible passage in our fundamental law; that we are impervious to reconsideration for improvement; that we do not sit in this weatherproof shroud as shriveled, self-satisfied souls; that we are motivated by the driving power of truth and love to shape the future fundamental rules of government; that we have faith, hope, and charity in every cozy corner of our hearts to ameliorate any imperfection. I proclaim we are able to think, to make the wonderful come true in this awesome thing called life we share together on this relatively insignificant ball of snow, stone, soil, sand, and sea rotating exactly every twenty-four hours, and revolving exactly every solar year in a very small part of the heavens as all other celestial bodies rotate and revolve in similar unison in the universe; the extent to which our minds, finite as they are, cannot realize all of which sufficiently attests to the existence of a divine being. It takes a little bit of doing, but it is worth going all we can give to earn redemption. Our error beckons correction. The beacon to fix our position glows brightly, and we are not, and cannot be oblivious of that high and bright light even in the dark of night. We must not depreciate our high estate or degrade our trust by blinking at this error. We should be able to, and we should, and it should, and it must be corrected. Correction of an error is still a part of life. If we look above, beyond, down under and around, we do work of honest worth, so we must look again and never let our searching cease. Something within me tells me this passage strains and overstretches our document. The urgency of the hour and the flight of time demand we seek a better course. In fact, we should not settle for less than the best way to go. We must look again; it is somewhere; we must uncover it. Every single word we print puts our spirit on parade. If we meet this trying task head-on again, the calendar will mark a year of happy hours, and we will be entitled to the benediction of, "Well done, thou good and faithful servants." Let us open the door and let life in this constitution, prompted by experience and the teachings of our times. Let us give this passage the bath of life it needs. Let us search our souls and stretch our minds until we give this passage oneness by refreshing our communion with it until we are glad of heart and clear of conscience. Oneness or harmony in fundamental or transitory law is achieved when we discard discord. We can harmonize only if we reconsider. To reconsider this section is to disapprove it. I recommend your disapproval of it so we may hold it under advisement, and can later vote for a principle which lasts forever instead of a person who makes his exit and his entrance as he does the one, the other; and so that we can give more faith in the ability of our people to elect their rulers. Let me close with the famous words of Thomas Jefferson in that regard as follows in his letter to William Charles Jarvis in 1820--just one passage--"I know of no safe depository of the ultimate powers of society but the people themselves, and if we think them not enlightened enough to exercise their control with a wholesome direction, the remedy is not to take it from them, but to inform their discretion by education." Thank you, Mr. Chairman.

Further Discussion

Mr. Chatelain Mr. Chairman and fellow delegates, today will mark the first time since I've been a member of this great august body that I will cast a vote against a section. I do it with a great

deal of hesitation, because I've heard a lot of debate as you have heard. That's what we're here for, to debate, and to think, and to listen, and to analyze. I want to speak the few words I have here to those people who have an interest in their heart, Louisiana Tech., Northwestern State University, Southeastern State University, University of Southwestern, that great Nicholls State University, McNeese State University, and yes, some of you who have an interest of Southern University and Grambling. Now, is the time to think. Let's wait a few hours, or perhaps a day or so, and think this thing out, perhaps so we can do as we've done in the past in other sections. Maybe something will develop tonight. Yesterday, we were all happy and contented with a...greatly, the majority of the board being elected. Today it's the reversal of what we had yesterday. Let's give ourselves a few more hours, or perhaps another day, and see if something can't be developed. If it cannot be, then I'll be the first to appear before you and again tell you that I'm going to stick to the business of adopting sections. But, I ask you to please vote down this section, and let's give ourselves a few hours to think about it. I'm sure that we can come up with something that we can all live with. Thank you.

Further Discussion

Mr. Kelly Mr. Acting Chairman, ladies and gentlemen of the convention, I rise also to urge you to vote against this section. My memory is not quite as good as Mr. Chatelain's, and I can't recall whether I voted against sections or not, but I know I haven't made a habit of it. But, we've done something here--and especially when we turned down the Alario amendment earlier--that strikes near and dear to the hearts of most of the people of the State of Louisiana as far as I'm concerned. The actual authors of the amendment that passed this morning, creating a fifteen man appointive board--I heard one of those very authors say from this stand that if there's one thing in the State of Louisiana that he felt like he could feel the pulse of the people on, was that they wanted to elect their officials. Now, that's something we've got to think about. We've done a complete reversal here this morning. I meant the political philosophy that has carried through this entire convention by a substantial majority--in all cases --has always been that we were going to elect these people; that we were going to be accountable to the people of the State of Louisiana, that we were not going to be accountable to a governor, nor to a Senate, nor to anyone else. Let them be accountable to the people. I might add that I think there's some issues that have been drawn into this issue of public versus appointive that have no bearing whatsoever on it. I think those issues have got to be separated; they've got to stand on their own feet. We're not concerned, at this particular point, about LSU, about the state college systems, or anything else. We're talking about a Board of Regents. Apparently most of the people in this convention are agreeable to this Board of Regents--this high and autonomous board and body that's going to set forth the greatest and grandest educational plan in the history of Louisiana. But, yet, because of some in-fighting between different state colleges and university systems that has been drug into the issue of whether or not we're going to have these powerful people--and that's what they will be; don't you ever think they won't--that sat on this particular board, we're going to let them be appointed by one man. Well, I can truthfully say that there is no way, under any circumstance, that I could support this particular section. There's no way! I want a lot of you to think about this--Mr. Duval made this point explicitly--I want a lot of you to think about going back home and telling those people that "Yes, you voted for a fifteen man appointive board right down the line," none elected. We couldn't even get Mr. Alario's amendment passed, which was a fifteen man board, which is my understanding from talking with some

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of the legislators, that was kind of in line with the superboard concept that was adopted by the legislature. We couldn't even get that adopted. No, we've got to go appointive all the way. I could have lived with Mr. Alario's amendment-- eight elected, seven appointed. I mean, if we've got to have some...if we're looking for appointments for racial reasons, if we're looking for it for professional input, for special interest groups and so forth, that could have been accomplished under that particular proposal. Now...well, I think everybody will probably be represented under this particular concept, but what about the people? Well, I'd just like to remind you that we've got to get this complete document passed. We've got numerous alumni from different colleges throughout this state, not just LSU, including LSU, and these people are going to have to be satisfied with this proposal on education. In my opinion, this is one of the most important proposals that we've come to grips with. I mean, we've talked in terms of the legislative, the judiciary, and everything else, but we're talking about the future of the children, the young people of this state; and what have we done with it? We've done one thing: We say, "Well, we're going to run it, and we're going to outlay you a grand educational plan, and here's how it's going to be done. We're going to have fifteen people appointed by the governor of the State of Louisiana."

Further Discussion

Mr. E. J. Landry Mr. Acting Chairman, ladies and gentlemen of the convention, it's very difficult for me to reappear so often after having not appeared over such a long period of time. But, there comes a time in a man's life when he has to speak, and I feel that this is one of the most important times in my lifetime to speak. Had not I accumulated a lot of experience in this area, I would not be here speaking to you. I can appreciate the opposition trying their level best to resurrect something that has been, in my opinion, buried. That part of the system I appreciate. Now, if there was one man that you defeated in this section, I was that man, and it wasn't too long ago. You spoke to me in no uncertain terms that you did not like the unique proposal or amendment that I gave to you; that was on the Board of Education. You told me that I was wrong. Now you've told these opponents that they were wrong. Just because they don't like one part of the section really doesn't mean we should kill the whole section. Now, I'm going to sell this constitution to the people in my area even though some of them may not approve of some parts of it. That's what I'm dedicated to do, and that's what you and I are dedicated to do in the consideration of a section. All together we have spoken in loud and clear voices. I represent the people of my area; each one of you represent the people. My people don't know what happened here. You often speak about the people. Really and truly, you and I are the people. We heard the discussions; we know what transpired; and we decided. Ladies and gentlemen of this convention, do not change your mind because of the pressure tactic. We have a good section. I spoke to my chairman a moment ago. I said, "Mr. Chairman"--the chairman of the proposal--I said, "Mr. Aertker, I only reserve a position in order to have an opposing point of view. Will you speak?" He says, "You go ahead, you present the proposition in simple terms." Why I present it in such simple terms is this: Last night I read a constitution. I read one of the most...the simplest constitution that could be written. It is a constitution governing the lives of millions, and millions, and millions of people in the world. It is the constitution dealing with the spiritual lives of millions of people all over the world, and the language is so simple a fifth grade student could read it, and that is why I think that we should speak in simple language so that we can all understand. Now, I'm asking you at this stage of the game, after you've heard all of these arguments, stick

by your section. I can sell the section; you can sell it. A good majority of the people in this audience have decided. Don't change your mind. That's all I want to say.

Mr. Casey Will you yield to a question, Mr. Landry, of Mr. Jenkins? We have time for only one question.

Mr. Landry I'm always afraid to listen to questions from these brilliant young men.

Question

Mr. Jenkins Mr. Landry, what I'm concerned about, don't you think that people in a lot of areas of the state, say, around McNeese State College and Southwestern, and Northeast and Northwest, are going to feel cheated by this provision, because right now they have the right to elect a member on the State Board of Education which controls their own campus, and under this plan they're not going to be able to directly elect or choose anyone to govern higher education?

Mr. E. J. Landry Mr. Jenkins, let me answer you this way: I'm not afraid of anything that the elected and appointed delegates of the people have decided in this convention, and I'm dedicated to propose anything that I might have been against. Even though I lost a vote in this convention, I am going to go all out to sell the constitution. That's my position as a representative of the people. I may be opposed to something, but when I leave here, I am going to sell even the objectionable features in my own personal opinion.

[*Previous Question ordered on the Section. Quorum Call: 107 delegates present and a quorum.*]

Closing

Mr. Aertker Mr. Acting Chairman, ladies and gentlemen of the convention, I'll try to be as brief as possible, but I do believe that I ought to just refresh the memories and the minds of all of us as to just what this proposal is and what it represents. It represents six months of input from every person in this entire state who had an interest in the matter of higher education. It represents the listening to and the hearing of all of the many diverse elements that are represented throughout our educational process. It represents, certainly, the considered judgment and the thinking of the entire committee that will compose not only of people in education, but people from all walks of life. You all are familiar with the composition of our committee. You recognize that we don't have one particular interest, or any particular special interest. We represent, I think every walk of life and every type of occupation that is of any prominence in this particular state. I think there are certain statements that are made here that really do need speaking to. For instance, the statement that this doesn't belong in the constitution. My only answer to that is, is that if this doesn't belong in the constitution, why is the State Board of Education is [in] the constitution? Why is the Coordinating Council for Higher Education in the constitution? Why is the Board of Supervisors in the constitution? For very good reasons: because we have recognized in this state that inclusion in the constitution gives it a status that the people of this state want. They want something that is going to be...that they can count on and rely on. They claim that, of course, we are locking in people by a six year term. This is rather difficult for me to figure out how you're going to lock somebody in on a staggered term that every two years about one third of the membership will be going off of that. I say to you that appointment, election or anything else, that the tide of politics in the State of Louisiana is such that when a governor comes into power, generally speaking, those people who support him

in his belief--in his platform--follow him into office, and you can follow that pattern throughout there. So, we would have certainly a board that would have influence on those proposals and those things, but the people would be speaking to the man that does this appointing. So, I state to you that we have a proposal here that I think is a marked improvement over what we presently have in our present educational operation. But, I leave you with one final comment, and that is: just remember, this proposal that we have had written into it, the final answer to everything, and that is that even though this Board of Regents has budgetary powers, it can't budget anything unless the State Legislature goes and approves that budget, unless this State Legislature gives them the money to operate with, unless the State Legislature agrees that the program that this master board is coming up with merits in their estimation and in their judgment the proper funding; and remember, I still believe that we have...still have our legislative elective, and, so therefore, the people do speak to it, and the people do answer in the final analysis on the whole operation. So, I submit to you that this proposal represents something better for education in the State of Louisiana, and I ask your favorable adoption.

Questions

Mr. Anzalone Mr. Aertker, it would seem that we've had a great deal of input on this committee that you've talked about for the last six months from educators--obviously from some other interested groups of the state. I ask you sir, do you believe, in your infinite wisdom, that with what we have here that we can sell it to the ordinary voter who must approve this thing?

Mr. Aertker Repeat the last question.

Mr. Anzalone Do you think we can sell this mess to the ordinary voter.

Mr. Aertker Mr. Anzalone, I think that this ordinary mess--to use your words--is so much superior to this garbled mess that we have presently in operation that I don't have the slightest doubt that we in education...this represents the things that we in education feel is a decided improvement on it. This isn't from my infinite wisdom; this is just from my background, because I have no infinite wisdom.

[Section passed: 74-38. Motion to reconsider tabled.]

Recess

[Quorum Call: 85 delegates present and a quorum.]

Motion

Mr. Aertker Mr. Chairman, in the interest of time, it seems that the last two sections that we've discussed, that we have had considerable dialogue, and just continued discussion as far as the merits or demerits of the LSU Board of Supervisors...What I think would be, perhaps, repetition of what we've already heard. If we go into Section 8 at this time--I would like to move at this time that we pass over eight and move on to nine with the understanding as soon as that is over, we will revert back to Section B with the hope that this would dispose of all of the questions and answers relative to the matter of the Board of Supervisors. We could, then, resolve the matter in that fashion.

[Motion adopted without objection.]

Reading of the Section

Mr. Poynter Section 9. Board of Supervisors of Louisiana State University and Agricultural and Mechanical College

Section 9. (A) Creation; Powers.

[Motion to waive reading of the section adopted without objection.]

Explanation

Mr. Cowen Mr. Chairman, delegates, we have the Board of Regents, you wisely, I think, were put into the constitution. As I said when I explained the Board of Regents, I was going to explain 7, 8, and 9, the Board of Regents, Board of Trustees, and the Board of Supervisors, because I considered that they came into a package. For this thing to work adequately, we need the three boards for higher education; one for planning and coordination, two boards for the day-to-day management of their respective institutions. There are two systems in Louisiana. We have the LSU State University, that represents the system...or the state system, the state university system. Then we have the Board of Trustees to represent the second system of colleges and higher education. The LSU System, its components are, of course, LSU in Baton Rouge, New Orleans, Shreveport, Eunice, Alexandria, the Medical School in New Orleans, and Dentistry. I don't know that it's necessary to go over all these reasons why. You've heard them, just like to explain to you that in Section 9, that there is created this Board of Supervisors, Louisiana State University and Agricultural [Agricultural] and Mechanical College...subject to the powers that are vested in the Board of Regents. This Board of Supervisors shall supervise and manage the day-to-day affairs of LSU and its system. The committee came up with a seventeen man appointed board--appointed by the governor, in any vacancy occurring prior to the expiration of the term shall be filled for the remainder of the term by the appointment by the governor.

This, in the main, is Section 9. I think that you've heard plenty of discussion in the past. I have no other explanations.

Questions

Mr. Roemer Delegate, could you address a few remarks for our benefit as to why the Board of Supervisors for LSU-A&M needs to be in the constitution. You said that the board just managed the day-to-day affairs of LSU, and that, in effect, it was subservient to the Board of Regents which we've already put in the constitution. Why do we need to put this board in the constitution?

Mr. Cowen Mr. Roemer, traditionally it has been in the constitution, which tradition has been since 1940, and I think the people want it in there. They voted the Coordinating Council as a constitutional board. I think that this will help to make a more stable situation for the state university. Like I say, we'll have two systems, the state university and the other colleges. We feel that to have more stability, it should be necessary to put it in the constitution.

Mr. Roemer All right. Now you say the people want this? Is that a fair statement?

Mr. Cowen I would think so...

Mr. Roemer If the people want the governor to appoint all fifteen members of the Board of Regents?

Mr. Cowen This is not an unusual situation, and we think that that's the way it should be.

Mr. Roemer Oh, you think the people wanted the governor to point all fifteen?

Mr. Cowen I think so.

Mr. Alario How many members are on the Board of Supervisors for LSU?

Mr. Cowen Fourteen.

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Mr. Alario So, in effect, you are increasing that to seventeen. Is that right?

Mr. Cowen Right.

Mr. Alario Now, as I understand the article as it stands now, we would have fifteen members for all the other colleges, and then seventeen for LSU. Is that right?

Mr. Cowen There are seventeen for the other... for the Board of Trustees. There are also seventeen, Mr. Alario, as we have it written and proposed at this time.

Mr. Alario Well, what about the Board of Regents? How many did we specify on that?

Mr. Cowen Well, of course this is changed. We had seventeen--we proposed seventeen, also.

Mr. Alario Well, this would be an additional seventeen besides those seventeen, or besides the fifteen?

Mr. Cowen Mr. Alario, you have now, of course, fifteen on the Board of Regents. We are proposing seventeen on the Board of Trustees, and seventeen on the Board of Supervisors.

Mr. Alario Well, why couldn't one board take care of all of these functions? Have you thought of that?

Mr. Cowen Mr. Alario, we think that it is physically impossible for one board to take care of all these things by the very reason...that I've outlined. I wish I had them here to show you the day-to-day affairs that come up in the Board of Supervisors. The last four meetings, there were some hundred and eight different...relatively speaking...significant details important to the state university itself, that the Board of Supervisors took up. We think that these are not things that the Board of Regents should be handling, when they should be thinking about planning and coordination, and thinking about some curriculum, or degree, or school, or something ten years hence, for example, and getting the money for it.

Mr. Roy Mr. Cowen, isn't it a fact that before 1940, when the amendment was adopted making LSU a constitutional board, that it was controlled by the legislature, and that the Board of Supervisors was under the direct control of the legislature?

Mr. Cowen That's true.

Mr. Roy Now, maybe Mr. Roemer, in his junesse[sic] doesn't remember, but isn't it a fact that since 1940 there have been three attempts to amend the LSU Board of Supervisors and modify--reduce--its powers, submitted to the people of the State of Louisiana in '58, '62, and '70. All of them were just overwhelmingly defeated by the people of this state?

Mr. Cowen That's correct.

Mr. Roy Wouldn't that lead you to believe that the people of this state are, in fact, insisting upon the state--the Louisiana State Board of Supervisors--being a constitutional board and being independent of the legislature?

Mr. Cowen There's no doubt in my mind or that of the committee.

Mrs. Zervigon Mr. Cowen, you say that the LSU Board of Supervisors needs to be in the constitution for stability, and because it's been there traditionally, and because the people feel confident in it. Are you aware that those are the exact same arguments that were used to keep into the constitution the Board of Liquidation, City Debt of New Orleans, the Sewerage and Water Board of

New Orleans, the Board of Commissioners of the Lake Charles Port, the Board of Commissioners, South Louisiana Port, the Fresh Water District of Lafourche and myriad other districts that would sort of like to be in the constitution because they've sort of always been in the constitution, and because they've been subjected to scandal sometime in the twenties, thirties, or forties?

Mr. Cowen That's true, Mrs. Zervigon. But, we feel that education, and higher education is such an emotional issue that these things come up, and as Mr. Roy pointed out, they've come up time after time. We feel that they will no longer be the case if we put them in the constitution.

Mrs. Zervigon Well, can you explain to me why this is more important, or more liable to attack than the port commissions, which are the second industry of the state, and make lots and lots of money, and have, in the past, been forced to hire bunches of deadheads and that sort of thing--have had their treasuries raided? Why we can trust the legislature less, as far as higher education is concerned, than we can as far as the money that the ports produce, for example, is concerned?

Mr. Cowen I can't really explain it. I...think I voted, in most cases, for those to be constitutional boards. Perhaps they should be. But we... can only go in education to what has actually happened in the past. There is every indication that this is...would be a more stable situation if it should continue in the future.

Mrs. Zervigon Are you aware that by name, and as far as their detailed composition is concerned, not a one of these boards has come before the floor of the convention so that it would have been hard to have voted for them? None of them have come up on the floor.

Mr. Juneau Mr. Cowen, as I appreciate what you're telling this convention for stability in education, it's an absolute, total necessity that we have the management boards in the constitution. It cannot be a legislative board. Is that right?

Mr. Cowen We think this is...

Mr. Juneau O. K. All right. You say the reason why we want to have...this in is because the people want it. Is that right?

Mr. Cowen We think this is true.

Mr. Juneau All right. Then let me ask you this question, Mr. Cowen. If I present an amendment and tell you that the people of a university that is of the size of twelve thousand students, wants a management board, and they want it in the constitution, more specifically, the University of Southwestern, would you vote for that amendment, Mr. Cowen?

Mr. Cowen No, I couldn't, Mr. Juneau.

Mr. Juneau Why not, Mr. Cowen?

Mr. Cowen Because, well, as we come up under the Board of Trustees, and I will attempt to explain it at the time...

Mr. Juneau Let's get into it because it affects this section, Mr. Cowen.

Isn't it true under the committee amendment on the Board of Trustees, that the only way that any university in this state, other than LSU, can have its own separate management board, is to have a legislative board which you say is bad? Isn't that correct?

Under the Board of Trustees, Mr. Cowen, under Committee Proposal 7, if the University of Southwestern and the Louisiana Tech wants its own management board--which you recognize they can get--the only way they can get it is through the... through an act of the legislature, which would be

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a legislative board. Isn't that correct?

Mr. Cowen That's true.

Mr. Juneau All right, then, Mr. Cowen, what protection does Louisiana...does University of Southwestern, or Louisiana Tech have with regard to a management board if they've only got a legislative board, and you're telling this convention that the only...that to have a board that has any authority, it's got to be constitutional, how can you support that?

Mr. Cowen Of course we've been through this many times, haven't we, Mr. Juneau?

Mr. Juneau Well, I just want an answer, Mr. Cowen. That's all I want.

Mr. Cowen The Board of Trustees, of course, is the second system, or the first system that I discussed so far as other colleges and universities are concerned we have the two systems--LSU System and other colleges' system--USL comes under that of the undergraduate institution as a part of the Board of Trustees. Now, we have made provisions under the Board of Regents, any time that they deem it necessary, and that it should be done, they can create by two-thirds vote of the legislature, and within one year's time, a legislative board for USL. We consider at that time that if this is done, and this plan is followed, then there should be no reason why you would ever be disturbed or should be and could be disturbed later on.

Mr. Juneau All right. Last question, Mr. Cowen, you're telling this convention that "to have a management board", it's got to be in the constitution. Isn't that right?

Mr. Cowen We think so.

Mr. Juneau All right. How in the world does these other state universities under your proposal--the committee proposal--get a constitutional board? How do they do that, Mr. Cowen?

Mr. Cowen By amending...the constitution at some later date. That's the only way they can get it. If we don't think...we didn't think in our consideration that they could...and needed a constitutional board unless the Board of Regents...I mean the...yeah...the Board of Regents, thought that it was necessary and made provisions for it.

Mr. Champagne Mr. Cowen, would you not agree some of these questions about why the ports and the river section, and this port, and that board was not in the constitution, would you not agree that a lot of those especially...especially local in nature, while the LSU is statewide in nature... It's a statewide...

Mr. Cowen This is the reason for it.

Mr. Champagne Correct.
Now, would you also agree that...the Board of Trustees for all other universities other than the LSU System are, in fact, taken care of by the committee proposal?

Mr. Cowen They are.

Mr. Champagne In other words, we are, in this case, are you not, raising these institutions to the same caliber that the LSU now enjoys? Is that right?

Mr. Cowen That is true. That is true.

Mr. Champagne Thank you.

Mrs. Corne Mr. Cowen, in speaking to Mr. Juneau just now, you referred to USL as an undergraduate college, did you not?

Mr. Cowen In the main respect, yes, ma'am, I did.

Mrs. Corne Do you know that USL has a large graduate college?

Mr. Cowen I didn't under...your voice is low.

Mrs. Corne Do you know that USL has a large graduate college?

Mr. Cowen Yes, ma'am. I realize that.

Mr. Stagg Mr. Cowen, isn't the contrast that needs to be made in answer to Mr. Juneau, something like this...that the Louisiana State University System operates on six campuses scattered throughout the state, has forty thousand seven hundred and sixty-eight students, and two hundred and nineteen graduate programs within that university system. While no one denigrates the University of Southwestern Louisiana, it is on one campus, it does have forty-six degree programs and eleven thousand students. Isn't that a contrast that could be made in answer to Mr. Juneau?

Mr. Cowen That's a very good...very good answer to Mr. Juneau. Thank you, Mr. Stagg.

Mr. J. Jackson Mr. Cowen, I understood you to say by your remarks that there exists within the State of Louisiana only one system. Have you ever heard, and any brochures, any testimony by myself or any delegates, or even by the administration of the State Board of Education, any reference to the Southern University System?

Mr. Cowen I have heard of it, Mr. Jackson. Yes.

Mr. J. Jackson Well, then, it's not exactly true when you say that there is only one system per se.

Mr. Cowen That's true.

Mr. Bergeron Mr. Cowen, someone brought out that LSU has constitutional protection because they have over forty thousand students. Let me ask you this. When did LSU gain constitutional protection?

Mr. Cowen In 1940.

Mr. Bergeron 1940. Did they have forty thousand students at that time?

Mr. Cowen No, they did not. It was just a few thousand.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Leithman]. On page 6, delete lines 20 through 32, both inclusive in their entirety, and on page 7, delete lines 1 through 8 both inclusive in their entirety.

Explanation

Mr. Leithman Mr. Acting-Chairman and members of the delegation, it may be repetitious, many facets of what you're going to hear because this is getting down to, I think, the dividing fact of this constitution. I think we are on the verge, in Louisiana, of making complete asses of ourselves. All of the states are looking at us. I can tell you this--all of the states, all of the legislatures around the country are. Admittedly, we have not all had the opportunity to meet with these people and discuss what is taking place in education. I wish you would have been there in my place, or I wish that I would have the power to convey to you what is taking place in education around this United States. Apparently, I have not been successful, nor the people who have progress in education have been successful. But, some things have been brought out, and I wish to relate them to you.

One...you've heard many, many comments about past years, the scandals, and how this four-board concept will save us from scandal. I have here--

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and each of you have it--a newspaper from the LSU campus here in Baton Rouge. On this first page, it relates to "the Board of Supervisors will not be prosecuted for violation of the law." I'm not judging whether they are guilty or not. But, this certainly isn't preventing any scandals if the scandals were to be done--having four boards. Cause here is the LSU Board of Supervisors, apparently their own newspaper, on their own campus, feels some law has been broken and it has been stated that they will not be prosecuted. I'm happy for this. But, apparently, something was going on behind closed doors. You heard it. We're not going to go into this, but something that happened this morning--and I wish to relate it to you--last week, or earlier this week, I read the comments verbatim from a member of the State Board of Education. I was questioned as to how he derived these figures; were they true, or were they misleading? I couldn't say. I merely quoted to you figures that the State Board of Education member deemed fit to put into public press.

Today, the Committee on Higher Education, formed by the state legislature, both Houses--House and Senate--are fully informed of this article and what is going on. As a prime undertaking--a prime undertaking of this joint legislative committee, will be a complete--a complete--review of the finances, not only of LSU, but our entire system around the state. But, we want to go into these campuses now, open the books, and let's see what's happening from top to bottom, how these universities are being funded. Perhaps at some future date, after this investigation is complete, maybe I will be able to go into this and say first hand these are Ken Leithman's figures, and not reading from the State Board or accept them from someone else. To you folks on other campuses around the state I have a letter, and this is going to follow on your behalf, or to you from local campus. Here is a letter and a resolution passed by LSU-New Orleans. You know what this letter says, and this resolution passed by that university in New Orleans? I hate to use New Orleans because this is from my area. I wish I could have the resolutions that will be passed by you at Northeast, and you at Southeastern, and Nicholls State, throughout the state.

The tuition is going to be increased at N.O. You know what the increase will be? It will be a larger increase than that to be effected here on the Baton Rouge campus. Why? Relate this subject matter. Relate this. If there's an increase around the state, I don't think it should be done at one campus and not the other. But, there will be a differential, believe me. It's in this letter, and you all, I'll be glad to show it to you. It's from the...university in New Orleans. I'll read... I picked out the line here. "Although there is a pro rata formula, LSU-N.O. is paying a forty-five dollar increase while LSU-Baton Rouge is paying less--a ten dollar difference. A ten dollar difference is the figure I was looking for. I don't know what your campus is going to be increased. But, because of inequity in funding, your people and your universities will be paying a larger increase. As far as people supporting a single board, there have been questions pro and con. I wish I could have gotten the governor. Mr. Michot has consented to appear before you and say the same words. But you have a document from Governor Edwards. You've read it, I hope. The first paragraph is all that you have to go. It merely reads this: "After careful consideration of various proposals advanced by the governance of education in Louisiana, and after deliberating with pros and cons..." and it goes down to say, "in the best interest of the citizens of Louisiana, a single board to govern education would be the best way." This is by Governor Edwards and the Superintendent Michot. Of course, the same letter would be furnished you by Mr. Michot...by Jesse Bankston and the State Board of Education. Why a single board? We have arguments for a single board. You have this on your desk right now. This was put out by Mr. Staggs, and I appreciate it.

You have...just a mass of release of programs...

graduate programs throughout this state. Many of these are duplications. Why duplications? Because you don't have any coordination at the present time. I don't see any in the future. You have some universities with twelve master programs; McNeese has thirty-four; Nicholls State, thirteen; LSU-Baton Rouge, a hundred; LSU-New Orleans, twenty-nine. There's duplication of master degree programs here in the state. We are trying in the legislature to cut these things back and create some coordination. Apparently, the majority of us here don't favor that.

Who's behind the single board concept, or improving education? You have all of this on your desk. This is a resolution passed by your universities around the state--the eleven of them--calling for a single board concept. It's right here in front of you. You are turning your back on those people. Who else are we turning our backs on? You have a letter from the Alumni Association. I don't know if you read it. It's signed by Stafford...James Stafford who is the president of all the alumni associations; Mr. Willis from Louisiana Tech; Mr. Dowel from Northeast; Mr. Soileau of USL; Mr. Thompson of Grambling; Mr. Quinn of SLU; Mr. Collier, LSU-N.O.; Mr. Wiggins, Northwestern; Dr. Merrick, Southern; Paul Arceneaux, McNeese; Frank Pertini, Delgado; LaRose from Nicholls State. These people have asked you for a single board concept. It's right in front of you. Are we going to turn our backs on the Alumni Association, also?

I have here a letter signed by the director of the National Association of State Boards of Educators--the National Association of State Board of Educators--urging this delegation, urging this convention, to go with a single board concept. This man, Mr. Ironsgard, the executive secretary, has offered to appear before this body and impress on you the importance of a progressive type of education. This is...it deals with virtually every state board in the United States. I'm not going to go through this, you well know that throughout the United States, the fifty states in the union, we have but twenty boards in constitutions--twenty--here today Louisiana, the progressive state is going to ask for four more, moving the total up some twenty percent.

In closing, on this proposal...what we now are doing, we've already, just before lunch, asked for some seven--fifteen appointments was it--all by the governor? Do you know what you're asking for here in this proposal? Seventeen more appointments, all being made by a governor. Not Governor Edwards, but all governors for the future of the state. Give it to the governor. Let one man rule. You're talking about politics taking over, when one man, the governor of the state, can call the shots on all educational boards from here to eternity, I say that is strong-arm politics. Gentlemen, I certainly would move that you consider the adoption of this resolution.

Questions

Mr. O'Neill Mr. Leithman, Mr. Willis asked the question one time, and it stuck in my mind. I'm going to ask you the same question.

Wouldn't you have us write this section with an eraser rather than anything else?

Mr. Leithman What was that? I didn't hear the question, Mr. O'Neill.

Mr. O'Neill Wouldn't you rather us write this section with an eraser rather than anything else? I've seen amendments on my desk by you several times to just delete entire sections.

Mr. Leithman With this? Yeah, I think this is what a constitution is all about. I don't think a constitution is to build up a volume of things that can't be changed. I think it's got to be flexible. I think we've got to look for ten years, fifteen and twenty years from now. To...delete this section you'd wind up with two boards; one for higher education, and one for elementary.

I think this is...this could well do the job.

Mr. O'Neill Are you going to attempt to eliminate the Board of Trustees?

Mr. Leithman If this section is deleted, I would most surely vote and support an amendment to eliminate the Board of Trust...Yes, I would.

Mr. D'Neill Now you mentioned--which I think the argument's totally irrelevant and not germane to this section--but you mentioned fee increases that are about to take effect. Let me ask you as a legislator, have you done anything to stop these fee increases from taking place? Do you intend to?

Mr. Leithman Yes, sir. Everything that we have done in the legislature trying to coordinate things, bring things under one board to control this, is about to be redone. That was our purpose in coordinating the...eliminate the duplication and coordinating education in this state. But, it looks like what the legislatures's tried to do by a majority of the legislature, is about to be undone and permit this sort of thing to continue.

Mr. Aertker Mr. Leithman, you mentioned that LSU's Board of Supervisors--evidently we have a bunch of criminals down there--don't you think it would be of interest to this convention if you would explain what heinous crime they just committed, that they should be punished for?

Mr. Leithman Mr. Aertker, for the past six months--that comment, I can well expect you to say--going back, my comments were this. I read it from the first paragraph of the LSU paper. I read verbatim from that paper that...whatever was done, they will not be prosecuted. I'm just saying something was done, apparently wrong, and I didn't put down on anyone at all, Mr. Aertker. But, I can appreciate your comment. I read from the newspaper out there. Whatever was wrong, they decided not to prosecute. The investigation may turn it up that nothing was done wrong. However, if you read the front paragraph of that item, you will see that they will not prosecute.

Mr. Aertker Mr. Leithman, I was so impressed by all of the information you are presenting to this because I saw you present similar information like this. But is it not a fact that you have presented information to our Committee on Education, and that that information has later on been completely repudiated as being erroneous?

Mr. Leithman None of this has that I presented to you today has been. None of it.

Mr. Aertker Mr. Leithman, you wouldn't object, then, for some of the members of this committee to explain to us...to this convention, then, the information you gave us relative to the University of Tennessee and its operation and the statements that we got from the president in which he was quoted two days before that. He completely repudiated the information two days after that. You'd have no objection to that?

Mr. Leithman No, not at all. I had nothing to do with that article. I merely presented an article that was written in a newspaper. It was repudiated by the University of Tennessee. I don't see where this has any bearing on what we...

Wait...let me finish, Mr. Aertker.
I didn't mention the University of Tennessee in my argument, whatsoever. I was wrong when I mentioned that I thought Notre Dame was going to be upset by a ball club. You can bring that out, also, if you think it's relevant.

Mr. Aertker Mr. Leithman, you stated that you all are going to solve all the problems of education by the legislative committee that you serve on--going to make a complete study of all of the finances, etc., of the State of Louisiana. I

have a question in my mind. What has the development, or what has the incorporation of the LSU Board of Supervisors, or the continuance of the LSU Board of Supervisors in the present constitution, as they presently are, in the proposed constitution? What would that have to do with the study that you are going to make? How would that interfere with it or affect the study if you are studying the finances of the operation when this convention has already adopted a proposal that is going to provide the finances and the budgetary powers in the Board of Regents?

Mr. Leithman None. No interference.

Mr. Aertker All right. Then the final question I have is that you showed concern about having seventeen members appointed. How do you think the present LSU Board of Supervisors is appointed, and by whom do you think they are appointed, and what apparent change are we making other than increasing the number from fourteen to seventeen?

Mr. Leithman Well, to answer all the questions, the LSU Board now, Jimmie Davis, and McKeithen's brother, and the whole line, are now appointed by the--I don't have anything against these people--they are now appointed by the governor. By what you have in this amendment, for the eternity of this document, or until it can be changed, those persons, all seventeen, will be appointed by this governor, or future governors. So, there's virtually no change at all. I would say a regression, if anything.

Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I seriously ask, if no more than the rest of this convention, that you attempt to listen to what I'm trying to say. I rise in support of the Leithman amendment, but not for the reasons--and I want to make that very clear--not for the reasons that I'm anti-L.S.U. or I'm anti-L.S.U. Board of Supervisors. Like most of you--and you know, I'm kind of shameful to even admit it--but most of you ought to recognize what has occurred by us moving over Section B and going to Section 9. You see, the whole question of the Board of Trustees for everyday management of the university's operations was supposed to be discussed in Section 8. So, it puts a lot of delegates who are not necessarily anti-L.S.U., but for their particular universities, in an awkward position of voting against Section 9 because we are only discussing one Board of Supervisors, and I hope that does not negate the argument that I have been fostering for a couple of days now--that there are, existing within this state, colleges and universities in another system that ought to be given the same amount of consideration for a Board of Supervisors if you're going to allow that for one university. I suggest to you that the Leithman amendment--although I rise in support of it--that the Leithman amendment attempts to bring us back to Section B because what if in Section B that it is the feeling of this convention that they do recognize that other state universities ought to have individual boards of management, or that at least another system ought to have the same Board of Supervisors? In Section 9, we've already done spelled it out what the Board of Supervisors is going to be for one section. If you wanted one for your university, you're going to have to try to adopt a whole section. I would suggest very seriously that either you do two things: either you, one, support the Leithman amendment, and we can come back there and explain comprehensively what should be the functions and duties of all Boards of Supervisors, if such is the case; or that, if this amendment fails, that we get a motion to revert back to Section 8 so that we can talk about a state system of board management not separate for one university, but in light of all the aspirations and desires of not only L.S.U., Louisiana Tech, Northeast, Northwestern, Southeastern, Southwestern, Nicholls State,

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McNeese State, Southern and Grambling. I congratulate the proponents of the L.S.U. Board of Supervisors for their move, but I suggest to you that for those individual delegates who really want to fact this question square on the head and don't presuppose that we're only going to have just one Board of Supervisors, that you ought to give some very serious consideration why we passed over Section 8. For those reasons, I rise in support of the Leithman amendment. I'm not necessarily anti-L.S.U., but that we can handle this problem head-on. I yield to any questions.

Questions

Mr. Roemer Johnny, if we don't pass the Leithman amendment and thereby keep this section as it now reads, are you telling us that you're going to try to put in the constitution--in the same way that L.S.U. will be put in this constitution--a management board for a similar system that operates in this state?

Mr. J. Jackson I suggest to you, Mr. Roemer, ~~that my~~ personal position is--and make it very clear to everybody--that I don't see how, since we're talking about Boards of Supervisors are going to run just the everyday affairs of the university, how you're going to set it up for one and don't even consider setting it up for the other one. Personally, I would like to just see one, but I do not see--and I will fight very strong--I do not see we, not only proposing one and letting all the other ones go under another one, at the same time negating deliberative and constructive debate on a section where we could determine that in one issue rather than saying we do 9 so we can't go back and undo 9.

Mr. Roemer Right, but the point I'm trying to make for our information is you're going to give us the alternative, I hope, that if we can't take these boards out, then we're going to put all legitimate boards in. Is that correct?

Mr. J. Jackson I will give you an alternative... I have a couple of alternatives. That would be one, Mr. Roemer. Another one would be that we ought to at least give consideration to all the other universities, particularly since we're just talking about boards of management and operations.

[Motion to suspend the rules to allow additional time adopted: 67-9.]

Mr. Aertker Mr. Jackson, when I got to this mike and explained to the delegates that the reason why we were passing over Section 8 and moving on to 9 was because I felt we would hear the same arguments, the same conversation, etc. It was my impression that the Chair asked if there were any objections to that. Why didn't you object to that?

Mr. J. Jackson I respond to that, Mr. Aertker. I was there at my desk when the question was asked, and I did--and I will say this very sincerely--I attempted to get recognition. But, after it was done, I just stayed there, you know, I didn't argue, I didn't push the point. But, I'm just saying that I think a lot of delegates in this convention did not recognize the true implications of what was being done by passing over Section 8.

Mr. Aertker Well, Mr. Jackson, you really don't believe, then, that we have to resolve the question of the L.S.U. Board of Supervisors to perhaps maybe even more intelligently decide on what follows in the consideration of the Board of Trustees for higher education?

Mr. J. Jackson Mr. Aertker, I suggest very strongly that we ought to resolve the question of one, L.S.U. Board of Supervisors, a Board of Trustees, individual boards of management. I don't think you can resolve that by just dealing on

just the L.S.U. Board of... 'cause it puts me, personally, as a delegate, to say that, look, I'm not anti-L.S.U. to have a Board of Supervisors. But, I suggest very strongly that I ought to have the consideration to have a Board of Supervisors, also. I think all the other universities feel very strongly since it's just a management board and since that we do not have--even if we got it--we do not have the constitutional status. Secondly, since that we're going into detail in Section 9 to decide what's going to be the composition. Let's say... I'll word it like this: If we were all to get a Board of Supervisors, that we've extended another university system a Board of Supervisors, then you're going to have to come back with another section as you do in 9 to explain now, what's going to be their functions. I'm saying if that is the case, then we can do it in a general provision that says board of management and supervisors should have such and such a function.

Mr. Aertker But, it actually is a fact, Mr. Jackson, you'd probably have the same problem if we would have gone to 8 instead of 9, too. Wouldn't you?

Mr. J. Jackson I would not have that problem, Mr. Aertker, because I think what we will be doing would be discussing the thing in a... in my opinion, in an arena where everybody is involved rather than necessarily isolate and negate, that possibility.

Mr. Aertker In other words, this is one of those cases, again, where it depends on who recognizes where the horse is and where the wagon is, and we really don't really know where it is.

Mr. J. Jackson Well, I don't wish to put it like that, but I'm just saying that I did compliment the movers of that motion and their tactics. But, I just think I wanted to raise the question to all persons who are interested about their university to recognize what you are doing.

Further Discussion

Mr. Segura Thank you, Mr. Chairman.
Mr. Chairman, fellow delegates, I rise in opposition to this amendment, and in support to this section. I sat on the Committee of Education; I sat on the Subcommittee of Higher Education. I don't want to feel that I sat there for months to do no good. I sat there and I went into it open-minded. If this--and I want to pass on to you the benefits of what I have learned--if this amendment is passed, it would, in a way, undo what we did this morning by the passing of Section 7. The intention of the supporters of this amendment is to go back to the one-board system. I want to tell you why I've learned that we shouldn't have a one-board system. It sounds good--one board system. Everybody will be created--everybody will be equal; everybody will be treated equal. I've sat at the State Board of Education meetings many times. I've seen these elected board members who do a fine job try to handle budget, curriculum, and manage eleven state colleges and universities. They can't physically do it; it's just too much for them to do. In the wisdom of this Education Committee, we have set this thing up to where a Board of Regents would rule over curriculum and budget for all schools because everyone--everyone who is pushing for a one board system will give you that as the reason--that the curriculum should be decided on an equal basis; the budget should be decided on an equal basis. That's why the Board of Regents governs L.S.U. and governs all of the state colleges--equally. But, I've sat at these board meetings at the Board of Education and seen that they can't physically do all of that. The Education Committee also agreed when they said that these colleges and universities and L.S.U. should have management boards. Now, whether... now, the question is also whether L.S.U. should be divided from the other colleges or whether they should be alone. You have already decided that.

You've decided that by an overwhelming vote of 74 votes "for," this morning, when you passed this section. Now, it was also mentioned about L.S.U. N.O., and it keeps bringing up that L.S.U. N.O. should be divided and taken out of the L.S.U. system. I don't know if that's right or wrong, and I'm not here to say it's right or wrong. L.S.U. N.O. was not created by this constitution--by the delegates. They should not throw that decision on our backs. They should go to the people that created them and take that problem where it deserves to be taken. It's unfair to come to us and try to make us make that decision. So, I ask you to go along with what you decided this morning. I'm not saying that you should be limited to only one board for all the state colleges. That decision I think you will make when you get to Section 8. What I'm asking you to do is you've already decided to separate L.S.U., and let's defeat this amendment and go on and vote for the section as it is. Thank you.

Further Discussion

Mr. Hernandez Mr. Chairman, ladies and gentlemen of the convention, I rise in vigorous opposition to the Leithman amendment. It's another attempt to completely abolish the L.S.U. Board of Supervisors, and frankly, just to skin and gut this entire concept of governance of higher education. It's just another one of those attempts. Back in 1921, the constitution authorized the legislature to set up the Board of Supervisors of L.S.U. L.S.U. prospered, did well, and finally, all of you know about the scandals in 1939. So, in 1940, the L.S.U. Board of Supervisors was put in the constitution in reality. Since that time, there have been three attempts to change this Board of Supervisors of L.S.U. and take it out of the constitution. That was in 1958, 1960, again in 1970. Every time the people of the State of Louisiana had an opportunity to voice their opinion, they were, in a big majority, opposed to any change in the L.S.U. Board of Supervisors. So, it can easily be said, and I think, said without fear of contradiction that the people in the State of Louisiana definitely want an L.S.U. Board of Supervisors. Now, it should be--there should be an L.S.U. Board of Supervisors. We keep talking about the systems, but L.S.U. is a system that operates all over the State of Louisiana. It's not an institution located in Baton Rouge or any other section of the state. It operates over the entire State of Louisiana. I would like to add, quickly: just stop and be fair. It is a university and a university system that we should all be proud of. L.S.U. is something that has been built up. It's widely known; it's accepted as being a great university, and I think that every person in the State of Louisiana should be proud of it. It's not just a local issue at all. Now, it has, in addition to the university in Baton Rouge, it has L.S.U. in New Orleans, a four-year institution with graduate and research programs, L.S.U. Medical Center with two campuses in New Orleans and in Shreveport, and certainly we should be proud of those medical schools; L.S.U. in Shreveport which will next year become a full-fledged four-year institution; L.S.U. at Alexandria, a two-year community college; L.S.U. at Eunice, a two-year community college. The center for agricultural sciences and rural development headquartered on the Baton Rouge campus and made an autonomous unit of the system by the Board of Supervisors. It operates home demonstration agents and county agents in every parish in the State of Louisiana. There are fourteen agricultural experiment stations that are scattered all over Louisiana. There is an observatory in Clinton. Now, another great accomplishment of L.S.U. is the center for wetland resources: that is the sea grant program. Now, I would like to read from this production, here: "L.S.U. operates a unique center for wetland resources which, under a February, 1971 wetlands charter, is charged with the responsibility for developing the manpower and technology necessary for optimum use of Louisiana's wetland re-

sources, the present importance and natural potential of which are unexcelled anywhere in the world. Among the center's major responsibility is the development of a sea grant program funded, substantially, by the federal government. Among the center's direct contributions to the state have been the research and recommendations of L.S.U. staff members from several departments which have played a leading role in locating a Superport in Louisiana, and in presenting the state's concern for such a facility." Now, listen to this carefully--I hope I'm not disturbing this conversation back over here, Mr. Chairman. "The economic importance of wetlands can hardly be exaggerated since forty-five percent of Louisiana consists of coastal and floodplain wetlands..."

[Rules Suspended to allow additional time.]

Further Discussion continued

Mr. Hernandez Thank you very much. If you don't listen to anything else, please listen to this: "The economic importance of wetlands can hardly be exaggerated since forty-five percent of Louisiana consists of coastal and floodplain wetlands which contain eighty percent of the state's population, and eighty percent of its manufacturing capability. Moreover, more than fifty percent of Louisiana tax revenues come from coastal or marine related businesses. Louisiana's wetlands are a tremendous source of food, the most important of which are shrimp, crayfish, crabs, and oysters. Actually, all the common species of fish and shellfish in Louisiana are dependent on at least part of their life cycle." Ladies and gentlemen, I plead with you in all sincerity, please consider the fact that this L.S.U. system was not developed overnight. It's a development over a long period of time for the entire State of Louisiana. Louisianians must be proud of that institution. They have supported this concept three times that the people have had a chance to vote on it. Won't you please give that your consideration, and for God's sake, let's keep this L.S.U. Board of Supervisors so that we can maintain one of the greatest universities in the United States. Thank you so much.

[Previous Question ordered.]

Closing

Mr. Leithman Gentlemen, just in sixty seconds I ask that we really consider what we are about to do. I just feel that the constitution in toto is up for jeopardy. We have over a hundred thousand alumni people behind this amendment from the independent universities and sixty thousand students. Two-thirds of the state's students are endorsing this concept. I certainly hope we don't turn our backs on our constituents. I think I may have been as guilty as anyone. I think, perhaps, being down here the way we have, well, maybe we have lost touch, and maybe we're just not voting the way our people are asking us to vote. So, I would certainly ask that you pass this amendment, and in the legislature, if there is a board that need be created to take care of L.S.U., I will certainly be the first person to support it. Thank you.

[Record vote ordered. Amendment rejected: 40-71. Motion to reconsider tabled.]

Motion

Mr. J. Jackson I move that we revert back to Section 8.
 Mr. Chairman, ladies and gentlemen, I'll be very brief. I think everybody understands basically why we skipped over Section 8 and went to 9. I'm saying that 8 comes before 9, and it allows just consideration of all universities and colleges within this state. So, I ask your favor-

able support of the motion.

[Motion rejected: 39-64.]

Amendment

Mr. Poynter Mr. Stinson sends up amendments at this time. It's going to be difficult for you to distinguish at a moment's glance the difference between the two amendments. It's the longer of the two Stinson amendments. You can determine it by counting the number of lines in Paragraph (A). The amendment that he is going with has six lines in Paragraph (A) as opposed to five lines in the amendment he's not going with. It was the second one that was distributed.

Amendment No. 1. On page 6, delete lines 22 through 32, both inclusive, in their entirety and on page 7, delete lines 1 through 8, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 9. (A) There is created a body corporate, known as the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College which, subject to the powers vested in the Board of Regents, shall direct, control, supervise, and manage the Louisiana State University and Agricultural and Mechanical College.

(B) The board shall consist of the governor, as ex officio member, and fourteen members appointed by the governor, with consent of the Senate. The appointive members of the board in office on the effective date of this Section shall continue to serve until the expiration of their respective terms. Thereafter, the members shall serve twelve-year overlapping terms. The legislature shall provide for the terms of two members to expire on June first of each even-numbered calendar year. At least one member shall be appointed from each congressional district, but at least seven appointive members shall have been students at and graduates of Louisiana State University and Agricultural and Mechanical College. No person shall be appointed to the board who would attain the age of seventy years prior to the expiration of his term. The board shall elect, from its appointive members, a chairman and a vice-chairman, and it shall elect a secretary, who need not be a member of the board.

(C) A vacancy occurring prior to the expiration of the term shall be filled for the remainder of the unexpired term by appointment by the governor, with the consent of the Senate."

Explanation

Mr. Stinson Fellow members of the convention, so that there won't be any confusion--the amendment that was withdrawn--all these were prepared yesterday. This body has yesterday said that they want L. S. U. to be under the Board of Regents. I do not believe in forcing continuous votes on the same matter, so I've withdrawn that amendment. The only difference is the one I present to you today will place L. S. U. under the Board of Regents. Now, the changes that I have made are those that have been discussed and brought up at different times in the legislature. I will take them in the order, not necessarily of importance, but as you come to them on the amendment and explain the difference between this and the committee proposal and also tie it with our present law. Under our present law, we have fourteen members. The committee proposal, as I read it, would provide for seventeen members. Under the present law, the governor is ex officio member, and I continue that, I think the governor should be. I also, as I said, keep fourteen members as it is in the present law. Now next, of course, in my proposal and that of the committee to be appointed by the governor subject to the consent of the Senate-- Now, mine provides for twelve-year overlapping terms. Under that, no one governor could control the board--could appoint all the members. Under the committee report, six-year terms, any governor serving two years would control the board and make all of the appointments. That's one feature that

we have got to keep; any one governor from controlling the board; it gets rid of temptation--even the good governors have temptations--and a lot of the graduates and other people in the state like to serve on that board. So, let's make it... reduce it from fourteen years in the present constitution, to twelve years. Now, I would like to tie-in while I'm speaking of that term. One of the criticisms of the present law is that some are appointed and by the time they go off the board, they are too aged. I've talked with different ones, and we felt that in their days, seventy years is not too advanced an age and it provides in mine that "no one will be appointed who will exceed seventy years of age when he finishes his term of office." The present committee proposal doesn't have that limitation and a man could be on there at a hundred years old. Also, I provided this: that at least seven will be L. S. U. graduates. The committee does not have any requirement as to graduates of L. S. U. I certainly feel that it is not out of line to continue, as in the present law, seven of the appointees will be graduates of L. S. U. Also, the present law-- I don't believe--requires any congressional district to have any. My amendment says that "each congressional district shall have at least one appointee on the board." That covers the changes that I have proposed in this amendment. I would like to urge you...that I believe this is for the betterment of L. S. U., and the betterment of the state, and our entire educational system than that of the committee. I'm not criticizing. I'm just making my observations. I hope that you agree with me. The main point that I think in the committee proposal is six-year terms and any one governor serving two years will control one hundred percent of the board. Mr. Jenkins, in figuring it out on the other board, it will mean that that governor will control the board up until, I believe, 1984, even, almost ten years, even after he serves his term. I don't think that's proper. I would like to urge you to go along with this amendment. I think it improves on that of the committee. If there are any questions, I'll be happy to try to answer them.

Questions

Mr. Lanier Mr. Stinson, I believe we have previously in this convention approved terms of ten years for the Louisiana Courts of Appeal and the Louisiana Supreme Court which are elected offices. Why do you think we should give twelve-year terms to these people who are under the Board of Regents and are appointed?

Mr. Stinson Mr. Lanier, due to the fact that that is the best term of office that we could allow that, that no governor would control the board. As you know, the judges are elected and these people are not elected, so no governor could control the courts because they are elected for their terms of offices. I think it's possibly a little different matter to be considered. I'm trying to keep the control of this board from anyone, except the people and the board itself.

Mr. Jack Mr. Stinson, I noticed in here you provide "no person shall be appointed to the board who would attain the age of seventy years prior to the expiration of his term."

Mr. Stinson Mr. Jack, that is so that they won't appoint old people like you on the board.

Mr. Jack I'm getting to that, Mr. Stinson. I got more hair than you, and I'm younger in some ways. I just dyed this hair white, you know, to give me dignity. I'm really black haired.

Mr. Stinson Mr. Jack, I always heard that hair and brains didn't mix, I understand why you have so much hair.

Mr. Jack All right. Let me ask you the question.

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Mr. Stinson Yes, sir.

Mr. Jack How old are you?

Mr. Stinson Thirty-nine.

Mr. Jack Now, Mr. Chairman, I want him to answer the question seriously, honestly, if he can.

Mr. Stinson Mr. Jack, in answer seriously, I am fifty-nine. I would be too old to be appointed, because if I figured correctly, I would be seventy-one if I served twelve years.

Mr. Jack All right. Well, I want to try to find out what reason do you pick that age, most of us at...past fifty-eight are very active. You're losing a lot of good brains if you do it. I'm trying to figure why you are against people over fifty-eight if they are in good health and smart like a lot of us.

Mr. Stinson Mr. Jack, at that age your health is not certain and especially a mental lapse that could happen. Everybody says that we old folks should move aside and let the younger ones in and this is an opportunity to do that.

Mrs. Corne Mr. Stinson, your proposal contains the fact that a member of this board should be a graduate of L. S. U.

Mr. Stinson Seven of the fourteen.

Mrs. Corne Would you agree to the same for the other state colleges, for the board that would control the other state colleges?

Mr. Stinson If we had a board controlling the other ones, yes, ma'am. I certainly think there should be.

Mrs. Corne Therefore, some of us would be eligible for both boards, would we not, if we are graduates of L. S. U. and also of one of the other state colleges?

Mr. Stinson If they had such a board, it would seem so, yes, ma'am.

Mrs. Corne Yes. Thank you, sir.

Mr. Stovall Mr. Stinson, under your proposal of members being appointed for twelve years--would it not be possible for appointed board members to control the L. S. U. system? You hesitated to stick to the six-year period, because you were afraid the governor would control. Would it not be possible for appointed members to build up a power block and control the L. S. U. system?

Mr. Stinson I'm glad you asked that, Brother Stovall, you're all out for this Board of Regents. I was not and everybody knows the Board of Regents is going to control L. S. U., this board and everything else educationally. So, you've already gotten your cake, and you have a chance to eat it by helping L. S. U. now even though they are under your Board of Regents.

[Previous Question ordered.]

Closing

Mr. Stinson Thank you. I would appreciate it, and L. S. U. would appreciate it if we could go along with this. It will cure some of the complaints and objections in the past and make it overall better. I would appreciate it if you could vote for it. Thank you.

Questions

Mr. Hayes Mr. Stinson, do you realize I couldn't serve on that board?

Mr. Stinson What was that?

Mr. Hayes I couldn't serve on the board at L. S. U., because I didn't finish from the school.

Mr. Stinson No, this is only seven...there are seven appointees that do not have to be graduates.

Mr. Hayes Well, I would be too old to serve, then, wouldn't I?

Mr. Stinson Well, you're a lot younger than I am. How old are you? You know also, Jerry, the way you sleep you might be categorized as Rip Van Winkle, and you come back a lot younger over there.

Mrs. Zervigon Mr. Stinson, you didn't put in there--in your seven that must have graduated in the L. S. U. system--that there must be one from each campus, or that they may not all be from one campus, or anything like that; did you?

Mr. Stinson No, ma'am. It just said that "a graduate of L. S. U."

Mrs. Zervigon Can you tell me why you didn't specify that other campuses must be represented on the board?

Mr. Stinson The reason on that, Miss Mary, is that I was tracking the present law on that appointment.

Mrs. Zervigon How many of the present board members are from campuses other than the one in Baton Rouge or graduates...undergraduates from other campuses?

Mr. Stinson I do not know.

Mrs. Zervigon I don't believe there are many. I don't believe there are any. Is that correct?

Mr. Stinson I don't know. But, it doesn't say you have to be from Baton Rouge campus, in other... it could be from New Orleans, or Shreveport, or Eunice, or Alexandria, or those places.

Mr. O'Neill Well, Mr. Stinson, it's not likely that very many of them are because most of them are pretty old fellows and those colleges weren't even created when they graduated from college. Isn't that about right?

Mr. Stinson That's right and, Gary, I don't put a minimum age. So, I think you could qualify.

[Record vote ordered. Amendment rejected: 22-84. Motion to reconsider tabled.]

Amendment

Mr. Hardin [Assistant Clerk] Amendment No. 1 [by Mr. Abraham]. On page 7, line 1, after the word and punctuation "law," delete the remainder of the line and delete lines 2 through 4, both inclusive, in their entirety and insert in lieu thereof the following: "The board shall consist of thirteen members, with at least one member, and no more than two members, appointed from each of the several congressional districts into which the state is divided."

Explanation

Mr. Abraham Ladies and gentlemen, the only purpose of this amendment is to bring this board in more in conformity with the Board of Regents. We have already provided that the Board of Regents will be fifteen members. The committee proposal, as it stands now, would allow seventeen members. I do not think that it would be right to have this managing board larger than the Board of Regents. I have cut it back, actually, to thirteen, which will be two less. But, I have also provided that "at least one member, and no more than two members" would be from each of the...appointed

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from the congressional districts, the same as we have the same language we have with the Board of Regents--that's the only purpose of this amendment.

[Previous question ordered. Record vote ordered. Amendment rejected: 32-72. Motion to reconsider tabled.]

Amendments

Mr. Poynter Next amendment sent up by Delegates Juneau, Corne, and Johnny Jackson.

Amendment No. 1. On page 6, at the end of line 21, after the word "College" add the following: "and Board of Governors for State Colleges and Universities"

Amendment No. 2. On page 6, between lines 29 and 30, insert the following:

"(B) Board of governors of state colleges and universities; creation and powers. There is created bodies corporate, known as the Board of Governors of Southern University and Agricultural and Mechanical College, the Board of Governors of Northeast Louisiana University, the Board of Governors of Grambling College, the Board of Governors of Louisiana Tech University, and the Board of Governors of the University of Southwestern Louisiana, which subject to the powers vested in the Board of Regents, shall supervise and manage their respective colleges and universities."

Amendment No. 3. On page 6, at the beginning of line 30, change "(B)" to "(C)"

Amendment No. 4. On page 6, line 30, after the words "of the" and before the word "shall" delete the word "board" and insert in lieu thereof the words "respective boards"

Amendment No. 5. On page 7, line 1, after the word "members" and before the word "shall" insert the words "of each board"

Amendment No. 6. On page 7, at the beginning of line 5, change the Letter "(C)" to the letter "(D)"

Point of Order

Mr. Kean I rise to ask the ruling of the Chair, as to whether or not this amendment is germane to Section 9, which is under consideration at this time.

Ruling of the Chair

Mr. Casey Mr. Kean, I would have to rule as Acting Chairman that the amendment is germane. The section establishes a board of supervisors. The amendment extends this to a board of governors for other colleges and universities. I would have to rule that the amendment is germane.

Explanation

Mr. Juneau Mr. Chairman, fellow delegates, I will tell you in all candor the exact amendment which is now before you, I had originally prepared that amendment for Section B. You will recall the discussion earlier why...why not we went from "G" to "B". The reason is because you took it in the order that you did, I deemed it germane and to clearly put the issue before this convention, I put the amendment in Section 9. Very simply what this amendment does--and it's not complicated--I have not changed the Board of Regents one iota. I have not changed the L. S. U. Board of Supervisors one iota. What I have done, and what this amendment very simply does is, is give it to the other state universities in this state who want to have a constitutionally created management board the right to have such a board. You might recall the discussion earlier when Mr. Cowen was up here, the question was arisen as to how these other schools, these other universities in the future be they have twenty thousand, fifty thousand, or a hundred thousand students. How do they get a management board? The response was, they have to go to the legislature, they have to get a two-thirds vote of the legislature and what they have is a legislative board. The next question was, "Well, Mr. Cowen, is a legislative management board a good concept?"

The unequivocal and consistent answer throughout the deliberations in this convention is, "Gentlemen, if you put it in the legislature, you're going to ruin education." So it seems to me that we have ended up in a rather ridiculous situation. You are telling these universities that have over...some of whom have over twelve thousand students, "Yes, gentlemen, you can have your management boards. But, the only way you're going to get it is through a Legislative Act," which according to the discussions in this convention isn't worth the paper it's written on. I want you to explain that logic. I'll go further to tell you the point was indicated to me earlier, and I might as well bring it forward. There are a couple of universities which are deleted from this amendment, and I'll tell you why. Since several of us were offering these amendments, we thought it appropriate to contact the presidents of all of those universities and find out what their feelings were. There was some degree of hesitation or unsureness, or not sure what position the universities--Northwestern, for example, and Southeastern, and McNeese--wanted to take. So, I didn't think it was for me to put them in the amendment. By the same token, these universities--Southern, U. S. L., Grambling, and Louisiana Tech--they have said unequivocally "We want a constitutionally created management board. We think it's a good concept. We think we would have to have it. We think we're asking to do nothing more but to have a buffer zone in a constitutionally created board, which is the only way we can get it." Very simply, that's what we have done. Now, gentlemen of this convention, let me just put it to you frankly. If you get up here and say in answer was, "Well, we're giving them a board. We're giving them a Board of Trustees." But, that's all of you people get into the swimming pond, and you all fight for the fish. If you want to segregate, and if you want to get out by yourself and have your own management board; well, then you take the guillotine approach. You go get your legislative board, which admittedly is bad. I just frankly do...I say to you that is not fair. I say to you in all candor, and I say this to the L. S. U. system, which I have supported throughout my lifetime. I tell you that what they are doing in this amendment, if you vote against it, what you're saying is, "We're not interested in L. S. U. necessarily--which I thought was the original intent--but we want to squash the opportunity for another school to have the right to have a constitutionally created board." Let me offer for you this practical consideration. Gentlemen, when we get through with this convention, we've got a problem. We've got a problem in selling this constitution. I'm not asking for the bonanza. I'm only asking for a crumb. You've got to tell these people in northeast Louisiana, and in south Louisiana, and in the Southern system, "Gentlemen, at least you have a constitutionally created board, and we have not deprived you of that opportunity." That practically--and this is addressed to the L. S. U. system--what is wrong in giving the delegates of this convention and the people of those schools some status in this constitution. I fail to see that logic. So, what I'm asking and pleading with you to do is only to give us status, and it doesn't harm the structure of Committee Proposal No. 7--is to give them the same right--from a management standpoint--as you have afforded to the L. S. U. system. I will yield to any questions.

Questions

Mr. Stinson Mr. Juneau, you have already answered part of my question and that was why all were not included. I was especially concerned about Northwestern because so many from my parish go there, but, of course, if they don't want to and Mr. Kelly doesn't want them in there, I can understand why they are not. But next, don't you fail to set out the composition and so forth of the board, how they will be appointed, and what terms and all? Don't you think that's necessary?

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Mr. Juneau No, sir. I haven't failed to do that, Mr. Stinson, at least, I don't think I have. I think the language provides, in essence, that the composition of the board will be composed exactly as the Board of Supervisors of the L.S.U. system would be. That, of course, is the latter amendments which are on this sheet--two from each congressional district.

Mr. Bollinger Pat, in light of everything we have done so far today, I think your amendment is very appropriate. But, I was wondering why you left out Nicholls State University. I realize, possibly, they may not have wanted to be in there, but my question arises from this: If your amendment is adopted, we are going to lock in these universities with a board of governors. Any additional university created or anyone who changes administration and decided to come under this board of governors, will need a constitutional amendment; is that correct?

Mr. Juneau If they want a constitutional status, Mr. Bollinger, that's correct. Let me further answer your question this way, Mr. Bollinger. If the delegates from that area, and the representatives from Nicholls State University say, "That's what we want," I would stick them in the amendment. I just don't have the authority to do that. I don't think that's my position. If it be the consensus of that delegation after the passage of such an amendment, I would vote for it; no question about it.

Mr. Bollinger Well, do you think we are writing a constitution for today and for the administrations of the colleges today; or, are we writing a constitution with regard to education for years to come?

Mr. Juneau I came down here, Mr. Bollinger, in answer to your question...to write a constitution for the next three hundred years. I supported the initial amendment, which was to take all these boards out; I didn't think that was appropriate. I didn't make that decision, Mr. Bollinger; this convention has made that decision. Since it has been made, I'm only asking for fairness and justice to the other universities of this state.

Mr. Newton Pat, have you checked with the presidents of all of these colleges and universities that you have in your amendment?

Mr. Juneau Each of the presidents of the universities indicated in this amendment have been contacted. Yes, sir.

Mr. Newton And, they all have to have a constitutional board? Have you contacted anybody else besides the presidents, I mean, have the alumni associations of these schools come out...the delegates from those areas, the faculties, the student bodies? Has anybody else indicated that they wanted a constitutional board?

Mr. Juneau Have I personally? No, sir.

Mr. Burns I believed you answered this generally. But, did you contact Southeastern Louisiana University at Hammond?

Mr. Juneau I spoke to the delegates in this convention who are from that...some of those who are from that area...I see Mr. Newton, I talked to Mr. Fayard, I talked to Mr. Anzalone, and some one else. They told me they discussed the matter with Southeastern. As I appreciate the answer which they gave, they wasn't sure that that's what they would want to do. So, I didn't think it was appropriate to put it in my amendment.

Mr. Roemer Mr. Juneau, some delegates seem to be concerned that you've taken heretofore the position that we ought to eliminate such boards from the constitution and that's true; is it not?

Mr. Juneau That's correct. That's the original amendment which I filed, Mr. Roemer.

Mr. Roemer Isn't it also true that this deliberative body is a process--it's not a single act--and that in this process, this debate that's going on at this moment, you feel that we've lost the opportunity to clean up and write a concise constitution in regard to these boards? Isn't that right?

Mr. Juneau In my humble opinion, that's absolutely correct, Mr. Roemer.

Mr. Roemer So then, my third question is: in view of that defeat in laws then don't you think it's appropriate that we should give the same board management representation to all the universities and colleges of this state, as we do to L. S. U.?

Mr. Juneau This convention has apparently made the decision; they want to put management boards in, Mr. Roemer. Since they have, I'm merely asking for fairness, that's all.

Mr. Anzalone Mr. Juneau, at the time that the L. S. U. Board was formed some years ago, there were approximately five thousand students in the L. S. U. system. Is that correct?

Mr. Juneau I think it was...in 1940, I think it was less than five thousand, or it wasn't very many more than that, if it was.

Mr. Anzalone And the real reason was because this was a big university, and they needed a board to manage its affairs. Wasn't that correct?

Mr. Juneau That's right. That's my understanding.

Mr. Anzalone Well, now I see down here that the University of Southwestern Louisiana now has eleven thousand six hundred and twenty-five students in it. Don't you think that's big enough to have its own management board?

Mr. Juneau They think so.

Mr. Cowen Mr. Juneau, we are talking about numbers, it seems. Don't you think, then, that with twenty-three thousand now with L. S. U. Baton Rouge, that L. S. U. Baton Rouge under your proposal should have a board of its own and let each one of the other institutions whenever they reach a certain amount, LSUNO and so forth?

Mr. Juneau I'll put it to you this way, Mr. Cowen, I can't visualize in God's green earth of L. S. U. ever wanting to do that.

Mr. Cowen No, but I agree with you. We don't think that we would, or the L. S. U. system would do that. But, what I'm saying is, don't you think it's just as reasonable? You say that...don't you think...to put it in a form of a question... Mr. Juneau, the opponents of the committee proposal have consistently said and made statements on how we are destroying the other colleges and universities in the state. We don't think this is true. Those of us who worked on this committee proposal think that we have upgraded the other colleges and universities by giving them a Board of Trustees or one that would manage all of them, just as the L. S. U. system. There are some seven institutions in the L. S. U. system under the Board of Supervisors. There are some...over forty thousand students in that system with sixty thousand in the Board of Trustees or other colleges. Don't you think that we are really upgrading the other colleges and universities by the virtue of giving them a Board of Trustees of their own?

Mr. Juneau Well, Mr. Cowen, you made the statement that this is what you thought was best for these universities. You know, the only problem

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with that, they just don't happen to agree with you. I might further add, Mr. Cowen, in response to your question about the L. S. U. system, I have no objection if you want to provide the flexibility for the L. S. U. system to break down internally however they may do it. But, as a practical matter, that will never occur. In conclusion, and in answer to your question, the paramount question in this thing is, Mr. Cowen, you know, someone made the argument to me a minute ago, they said, "You know you are creating more boards." I didn't create all of these boards. I presented the original amendment to knock them all out. You want them in? All right. If you want them in, I'm going to give them to you. The only thing that I'm telling you, if you are going to give them, be fair about it, because you can't justify rationally to say, "Hey, all you, sixty percent of the college students in this state, we are going to put you in a fish bowl and divide you up." They don't want to be there. They want their own management board. They will concede and be under the Board of Regents; what's unfair about that?

Mr. Roy Mr. Juneau, I don't understand your logic. Is it your statement that you have decided against your conclusion previously that there should not be administrative boards constitutionalized since a bunch of students came to you and/or some college presidents? You are now for constitutionalizing administrative boards?

Mr. Juneau I'm not for constitutionally creating management boards; you are, Mr. Roy. Let's talk about logic in answer to your question. As I recall the early discussion in this convention, Mr. Roy, you came to me and told me, "You know one of the great amendments we ever charted in this constitution--and I can name several others--is to take them all out." But, then we change and we are going to put them all in. So, what I'm telling you, Mr. Roy; I'm only asking for fairness. If you want to put them in and these people want them, give it to them. What's wrong with that?

Mr. Roy Did you make that determination based upon your own intelligence or because a few students came in and talked with you, and you talked to some college presidents, that's my question?

Mr. Juneau It is not a unilateral determination, Mr. Roy. It is a determination that was made only after the delegates from the areas involved--and not me personally--contacted the presidents of those universities and made that ascertainment. I say to you, Mr. Roy, that my own personal opinion--and this is purely personal--not based on a Gallup poll. If you would poll the alumni who have unilaterally voted and passed out amongst you a resolution for a single board, is there any doubt in your mind that they would want their own constitutionally management board?

Mr. Roy My question is then, that your decision to go with this amendment is contrary to what you reached yourself. But, you are now making the decision because some students and some college presidents asked you to go that way?

Mr. Juneau The effect of students had no bearing on this decision, Mr. Roy. My decision was based upon what I consider the illogical decision of this convention to put the boards in. You wanted to put them in, so I said put them all in.

Mr. Riecke Pat, this is a friendly question so keep your blood pressure down now and don't get excited. You have on here Grambling College, which is a small university. Don't you think that two members from each congressional district for a small college like that would be too much, especially from all over the state? Would you be willing to amend that later, if this passes, to revise the boards? I don't think that people from all over the state would be interested, particularly in Grambling, rather than a regional area maybe.

Mr. Juneau Well, I'm not particularly wed to that, Mr. Riecke, and I'm, of course, open to that. I might tell you that that point was addressed to the people who were involved in these universities and there was consensus to have a really effective board--which the L. S. U. Board, I think, does have--that you have to have a broad representation. It's for that reason and for the reason of conformity and uniformity, that I left the same language which applies to the other boards--that's the only reason I added it. The point I'm making to you, I'm not absolutely wed to that, I'm just telling you what the concepts were.

Mr. Riecke I see. One other question--you mentioned Southern University in your list here. Now, there are two Southern Universities: one at Baton Rouge and one at New Orleans. Would it be proper to put both in there? Wouldn't it be...

Mr. Juneau It refers to the entire, as it's written, as my appreciation, Mr. Riecke, refers to the entire Southern University system--you know, be it Baton Rouge or in New Orleans--it's all under one system.

Mr. Riecke Well, that would be one board for both colleges?

Mr. Juneau For the entire system, as does the L. S. U. system have.

Mr. Riecke Thank you.

Mr. LeBleu My question was, first, why wasn't McNeese included in your amendment?

Mr. Juneau Well, the same reason indicated, Mr. LeBleu. I talked to, I think it was Mr. Planchard. I think I talked to Mr. Abraham. I just went to the delegates and I said, "Look, you know, would you contact the president of universities?" In essence, as I appreciate, they weren't sure that that's what they would want to do, if I'm correct in that regard. It's only for that reason some were sponsoring the amendment, Mr. LeBleu. I didn't think it was appropriate for me to put them in unless I had at least some indication from the head of that university indicated.

On the contrary, if an amendment like this would pass, and McNeese would want to put it in, I'd vote for it.

Mr. LeBleu Well, did you know that McNeese is in my legislative district?

Mr. Juneau Yes, sir.

Mr. LeBleu Do you further know that I didn't contact the president of McNeese, or any member of the student body or anyone else? But since the appointive Board of Supervisors out at LSU is so efficient in the operation of LSU, that I want the same privilege for McNeese. I would ask you, if you would temporarily withdraw your proposal... your amendment, and insert McNeese in it, and then resubmit it.

Mr. Juneau I would have no objection to doing that, Mr. LeBleu. The only indication--let me just be very candid with you--I don't know what the reaction of the entire...you know your delegation from Calcasieu. Whatever you want to do is fine with me. The only point is, I think the more proper way to proceed--would be my opinion--is to vote on the amendment and prepare the amendment inserting McNeese, which I would, of course, wholeheartedly endorse. I think, for procedure-wise, that would be the better way. You know, I don't have a hang-up one way or the other.

Mr. Kean Mr. Juneau, none of these institutions have boards which have constitutional status at the present time, do they?

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Mr. Juneau Unfortunately so. That's correct, Mr. Kean.

Mr. Kean The LSU Board is in the present constitution, is it not?

Mr. Juneau That's absolutely correct.

Mr. Kean Now, if we adopt your amendment, and if we put McNeese in, and whatever other schools that you have indicated you are happy to have join the crowd, then I assume that we might as well dispense with the Board of Trustees that's in Section B of this particular proposal. Would it not be proper to reach that assumption?

Mr. Juneau If...every university...if it would be the conclusion that every university in this state should be in, I think that'd be correct, Mr. Kean. The only reason I didn't delete it, Mr. Kean, because I didn't have them all included in this amendment.

Mr. Kean Well, wouldn't it be preferable then, to simply have an amendment which would say that any college, university, or institution of higher education in this state that wants to have its own board could have that board? That would give it this constitutional status that you're seeking. Then we'd simply do away with the Board of Trustees and let it go at that.

Mr. Juneau Matter of semantics. It all depends how you want to approach it. I just took this particular approach, Mr. Kean.

Mr. Kean Well, isn't it, by taking some and leaving some out, you've got to keep the Board of Trustees. So, we've now got a whole new series of institutions which are dealing with management and supervision. We've still got the Board of Trustees. Wouldn't it be better to simply say they can all have the board and take out the Board of Trustees?

Mr. Juneau Well, as I explained to you, Mr. Kean, when this amendment was originally drafted, I'd put them all in.

Further Discussion

Mr. Roy Mr. Vice Chairman, ladies and gentlemen of the convention, naturally I am opposed to this amendment. I just think that it...we've reached the stage where either we're going to sit down and get to the task of writing this constitution, or we're going to make it the laughingstock of the whole state. I have never talked about what will kill the constitution and what won't. Now, I am not going to say that anything will or will not right now. But, I will tell you that with these types of amendments coming in, and with delegates getting up here--who've been elected to represent the entire people of this state--to get up here and to argue that they fundamentally feel one way, and that there's no question about it but that something is wrong, and to turn around and then sponsor a provision which is inconsistent with their political and personal philosophy, I just think is not representing the State of Louisiana as it should be represented. We're not legislators here. I have a brother who is on the State Board of Education. I happened to have graduated from LSU. I've got no colleges in my area. I don't care about further political office if it means that I've got to stand up here and start participating in the derogation of this particular article for the sole purpose of satisfying a bunch of people back home who feel that they should be constitutionalized, even though they don't know why. It's just absurd to me that a person would say the students at a particular school, or the president, would call me, and even though I'm against this philosophically, I'm going to go with it and get us in the entanglement that we've now reached where, instead of us deliberating this matter, it's becoming a personal issue of the Louisiana State University versus other colleges and universities.

My brother called me and asked me to be for a particular matter, and I told him that I wouldn't even though he felt one way about it and felt very strongly. I just think that we ought to--whether you agree with me or not--whether you agree that LSU is a system and these other schools are land-locked schools, the University of Southwestern Louisiana is a fine school, but it doesn't extend beyond the confines of the present campus. It has no extension program anywhere. So, some of you all are going to get up and say, "What about Southern?" because you want to appeal to some other group because Southern is called Southern University System. Well, it just so happens--as a matter of fact--that Southern is not the system of LSU. We have LSU on our hands. We've had it since 1940. The people of this state have beaten down on three occasions, and recently, any attempt to modify the LSU Board of Supervisors because it's constitutionalized. What do you want us to do? Say it's not present? We've tried to do the best we can with a Board of Trustees that will govern these other colleges. They can get out of it if they want. The fact of the matter is, as my brother tells me--and others--is that they have enough time to deal with the other colleges and universities. You don't need management boards to operate a college that operates in...one particular town. LSU is like an octopus in its size. Below LSU, you've got six other...campuses; below the other campuses you've got sixteen experimental stations--scientific experimental stations--below that, you've got LSU in sixty-four parishes through the county agents' offices. Naturally, that's a system. Naturally it's got to be treated differently. But even if there's no philosophical reason for saying that LSU should be in the constitution, and other colleges not--as it presently is to some extent--the fact of the matter is that the people of this state who went through the 1939 scandals at LSU are not going to tolerate that particular board being taken out of the constitution and subjected to the whim and the caprice of the legislature, even though we've got a great legislature.

You can ask all the questions you want. I'm going to yield to any questions you have. But, I just think that it's time for us to stand up as men and women. If something is not particularly popular in your area, to have enough guts to say that you're not going to back it. If it is a good thing, whether it's popular or not, to go with what is good for this state and this particular section. I yield to any questions.

Questions

Mrs. Warren Mr. Roy, I know from this you realize that it wasn't this question that I wanted to ask you specifically.

Mr. Roy Yes, ma'am.

Mrs. Warren I am wanting to ask this question. On page 5, Section 8, we say "there is created a body, cooperatively known as a Board of Trustees for state colleges subject to the powers invested in the Board of Regents by this article, and shall have so forth and on..." which goes right on over on page 6, beginning at line 22, it says "created powers there is created a body corporate known as the Board of Supervisors of Louisiana...for LSU, subject to the powers vested in the Board of Regents, shall be subject...subject to the Board of Regents." I'm trying to find out now what is the difference in the Board of Supervisors and the Board of Trustees if they are going to have the same thing according to the proposal?

Mr. Roy The only difference is, Mrs. Warren, they're going to have the same powers and what have you...equally right now. But the state...the Board of Trustees will supervise all other colleges but the LSU System. You see, in the LSU System there is LSU, then there are six universities or colleges under it, then all these "ag" stations and all these experimental stations. That'll be under one pyramid. The other pyramid will be the

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other state colleges and universities. Let me say this, that I'm...the reason I support that concept is because presently, the Board of Trustees is not constitutionalized...the State Board of Education today.

Mrs. Warren One more question.

You've made a statement up there concerning a system. You refer to Southern. Now, what do you... you said that LSU...we're stuck with it, in other words. This is what you inferred. Now, as far as I'm concerned, you're stuck with Southern, unless you want to flush it down the toilet. Now, you tell me what you want to do with it.

Mr. Roy Well, first of all, Southern has been governed for the...for many, many years by the State Board of Education. There's been no problem there with respect to the administration of Southern nor any of the other colleges and universities. I say that if...if after you weigh everything, you come up with the conclusion that there should be nothing in this constitution with respect to college boards and what have you, you still have the problem that LSU has been a Constitutional Board, and in my judgment, the people of this state have manifested on three different, separate occasions, that they will not tolerate the LSU Board of Supervisors being tampered with by the legislature when they defeated every constitutional amendment since 1940 that sought to do anything about LSU.

Mrs. Zervigon Mr. Roy, you are saying that this has been in the constitution for a long time because of the scandals. You are saying that there were a lot of people who were interested in it and afraid if we take it out. You are saying that the constitution is the only way to protect the LSU Board. Is that not correct?

Mr. Roy I didn't say, Mary, that the constitution was the only way to protect LSU. I said that in the scandals of 1939, that the people who went through them, I don't think are at all predisposed to making any change because they associate the 1940 constitutional amendment with the protection of LSU.

Mrs. Zervigon Well, may I ask you why you didn't stand up and make those arguments in favor of an amendment, sticking the Board of Commissioners of the Port of New Orleans in?

Mr. Roy Because I think that the particular problem about New Orleans, which is just for that city, is located there. I'm not for constitutionalizing all of New Orleans' real peculiar problems. I think we did a good job in doing that, incidentally.

Mrs. Zervigon Yes, sir.

Are you aware that the Port of New Orleans covers three parishes, and economically impacts the entire state, but that they are willing to forget about past scandals, to trust the voters of Louisiana, and to trust their...the legislature with the two-thirds vote?

Mr. Roy Yeah...yes, I'm aware of it. So, what?

Mrs. Zervigon Pardon me. You are aware of that?

Mr. Roy Yes.

Mrs. Zervigon How does this amendment setting up boards--constitutional boards--for other universities and university systems, impact the LSU System and its Board?

Mr. Roy Well, anyone that tries to say that this is not an effort to ultimately cause the collapse of this whole section, I think, is foolish. But, I think, secondly, that we don't need these particular boards for the other colleges and universities. There has not been manifested any need for them other than a few students and a few college presi-

dents calling a bunch of delegates over here.

Mr. Leithman I forgot the question...

Mr. Roy...yes or no...did you make a statement that Louisiana is about to be the laughingstock of these United States?

Mr. Roy No, I didn't make that statement.

Mr. Leithman You didn't make that statement, Mr. Roy?

Mr. Roy I said the way that we are conducting ourselves may lead to that. I didn't...I don't know if I made that particular statement.

Mr. Leithman With the offering of this amendment, you did not make a statement that with the offering of this amendment, that we are about to make a laughingstock of ourselves?

Mr. Roy I said of the way we've been deliberating this issue, yes, I think so.

Mr. Leithman All right. I think my next question is this.

With this amendment that we are offering now, which puts all universities on an even keel, all we are doing is...we're not really affecting the status of Louisiana, did you...and I'm asking you, did you know this...in the eyes of the other fifty states, because right now, with the way the article reads at this moment, we're the second worse--we're the second worse. Do you know if this amendment is adopted, we still don't take over number one spot. I'm talking in terms of number one and two. I think this is how LSU understands this. But, with the adoption of this amendment, do you realize that we're still only number two...from the bottom, as far as number of boards and constitutions. We still won't catch Arkansas, which is at the bottom. We'll still be number two; we're number two now, with the four boards. So, did you know that we really won't worsen our position in national standings? Did you know this?

Mr. Roy Well, if your premise--your original premise--is right, you'd be true if you're basing everything on just numbers of boards.

Mr. Leithman Number of boards in national...constitutions of the fifty states is my premise.

Mr. Roy You just want to make sure that we almost overdo Arkansas.

Mr. Leithman I don't think we really hurt...I'm asking you. I don't...do you think we've hurt ourselves if we give every...university an even status in the state when we really, by doing this, don't worsen ourselves worse than Arkansas. We'll still have forty eight states that are better than Louisiana with the adoption of the amendment the way it is--or article the way it is now.

Mr. Roy I think that's a very compelling reason to vote for this amendment, Mr. Leithman.

Further Discussion

Mr. Segura Mr. Chairman and fellow delegates, I'm not rising for or against this amendment, because I don't think this amendment belongs in this section. When we passed Section 7 this morning, Section 7 specifically spells out that the...there is a Board of Regents, there is a Board of Supervisors for LSU, and there is a Board of Trustees for the state colleges and universities. I'm saying this amendment should not be considered under this section. This amendment, if Mr. Juneau or any other delegate wants to bring an amendment like this up, it should be brought in the next session...section...which is Section 8. Let's not muddy the waters, let's go ahead and defeat this amendment here, and then give it true consideration later on. Let's move on and pass this section as it is.

Further Discussion

Mr. Velazquez Mr. Chairman, fellow delegates, this is a good, good, good amendment. It merely extends the good idea a little further. If any institution wants this concept, they can now do it without going to the legislature and getting what we have been told is an inferior legislative board. Or, they don't have to amend the constitution itself. What is good for the goose, ought to be good for the gander. I'm not against LSU. But I don't think we ought to have a system with a purple and gold giant in the tinned walls. Let us remember that when LSU was given a Board of Supervisors, it had in the range of five thousand students. All of these institutions have reached the historical LSU minimum, or they will soon reach it. The graduates of these institutions have taken the history, and they've taken the pride of Louisiana all over this country, and all over the world. The historical pattern with the LSU branches is that when they reach a certain size, they split and they go their own way. I've been told this is what happened to McNeese--that at one time it was part of the LSU System--it has now gone its own way. In the New Orleans area, people have told me that LSU-N.O. will, one day, go its own way.

Delegate Juneau has contacted directly, or indirectly, the presidents of the colleges. If he had more time he would have contacted the faculties, the student bodies, the alumni association, and even the janitorial staffs. But, he has only had a limited amount of time. He has not tried to put institutions out. He has tried to include as many institutions as told him through these various means, that they wanted this particular concept.

For those who point out the various specialized services and the great burden that LSU bears, let them ask themselves a simple question that, if LSU decides to drop the experimental stations, if LSU decides to drop the county agents, the other schools in this state would fight like hell to pick them up. Don't the other colleges of Louisiana deserve the same level of protections as LSU?

I ask you to vote for this amendment.

[Previous Question ordered. Record vote ordered. Quorum Call: 105 delegates present and a quorum. Amendment rejected: 46-64. Motion to reconsider tabled.]

Amendment

Mr. Hardin [Assistant Clerk] Amendment No. 1 [by Mr. Stinson]. On page 6, line 32, immediately after the word "of" and before the word "years", delete the word "six" and insert in lieu thereof the word "twelve".

Motion

Mr. Stinson Mr. Chairman, I would like to withdraw that in favor of the next one that is offered by the two ladies. I coauthor them. Mine provided for twelve years, and theirs is ten, and I join them and withdraw mine, please.

[Amendment withdrawn.]

Amendments

Mr. Hardin Amendment No. 1 [by Mrs. Zervigon and Miss Perkins]. On page 6, line 32, immediately after the words "terms of" and before the word "years" delete the word "six" and insert in lieu thereof the word "ten"

Amendment No. 2. On page 7, line 1, immediately after the word "law" and before the word "Two" change the period "." to a comma "," and add the following:

"provided that no member shall be eligible to succeed himself."

Explanation

Mrs. Zervigon Mr. Acting Chairman and delegates,

[2370]

it has been asked time and again on this floor whether or not one governor who serves two terms, could appoint an entire board if the terms of that board are six years. That answer has been that Governor Edwards couldn't because the Coordinating Council would be folded into these boards. However, after the terms end of the Coordinating Council Boards, and the LSU board members, any governor in the future could appoint the entire board. As a matter of fact, there would be no way for any governor in the future to avoid appointing the entire LSU Board. If the LSU Board is worthy of protection--as I believe this body has decided--and if the LSU Board needs to be insulated from the whims and changes of the times--as I believe is one of the main arguments for it--then the terms must be longer than six years. The main argument against long terms is that people become old and stale on the job after serving two or three of these long terms. So, the second amendment that Miss Perkins and I are suggesting is that, in view of the fact that if Amendment No. 1 passes, the terms would be ten years long, we should provide that no person may succeed himself of the Board. This would help keep people from getting stale on the board.

I served on a city board at one point where the terms were nine years. My experience was that in the middle of the second term, very often, people became jaded, tired, bored with the job, and we had a little bit of difficulty getting a quorum.

So, I urge the adoption of these amendments.

[Previous Question ordered. Division of the Question ordered. Record vote ordered. Amendment No. 2 reread and adopted: 62-47. Motion to reconsider tabled. Record vote ordered. Amendment No. 1 reread and rejected: 42-65. Motion to reconsider tabled.]

Amendment

Mr. Hardin Amendment No. 1 [by Mr. J. Jackson]. On page 6, delete lines 20 through 32, both inclusive, in their entirety and on page 7, delete lines 1 through 4, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 9. Board of Supervisors of Louisiana State University and Agricultural and Mechanical College; Board of Supervisors of Southern University and Agricultural and Mechanical College.

Section 9.(A) Creation; Powers. There is created bodies corporate, known as the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College and the Board of Supervisors of Southern University and Agricultural and Mechanical College, which subject to the powers vested in the Board of Regents, shall supervise and manage the institutions and statewide agricultural and other programs administered through the Louisiana State University and Agricultural and Mechanical College and the Southern University Agricultural and Mechanical College system.

(B) Membership; terms. The members of each board shall be appointed by the governor, with the consent of the Senate, for overlapping terms of six years following initial terms which shall be fixed by law. Each board shall be composed of two members from each of the congressional districts into which the state is divided, and one member shall be from the state at large."

Explanation

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, to a large degree based on the arguments that I have heard, I would suggest to you that not only is my amendment a technical amendment, it is indeed, a just amendment. I don't want to stand here--and it has been raised to me--that Johnny, basically what you're doing...I will attempt to explain to you my rationale for introducing this amendment to provide that the Southern University system shall be entitled to a Board of Governors as that of the present L.S.U. Board of Supervisors. One: I'd like to make it perfectly

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clear and--Mr. Cowen, I believe, said in his remarks before this platform, when I raised the question, that he considers Southern University a system, and would he correct his statement by saying that there is only one system in the state--he did in fact correct himself by acknowledging the fact that Southern University is a system. I suggest to you that for the very same arguments that you have heard proponents of maintaining a Board of Supervisors for the L.S.U. system that I personally felt and voted that: one, other colleges should have the same rights and privileges and particularly Southern ought to have it in fact, that it is indeed, a system. I suggest to you that the major components of Southern University consists of three campuses, so in effect we do have an octopus effect throughout the state. We have a campus in Baton Rouge; the state provides the campus in New Orleans, and there is a campus in the Shreveport-Bossier City area. So, like L.S.U., Southern is an 1890 land grant institution with research in agricultural involving twenty-four extension agents and aids operating--not in Baton Rouge, not in Orleans, not in Shreveport--but statewide. We've heard the arguments that: but we have sixteen extension programs. I'm suggesting to you the similarities of the two systems. Thirdly, Southern University is authorized to provide continual education and extension not in Baton Rouge, not only in Shreveport or Orleans, but in every part of this state. Fourthly, like another system that exists within the State of Louisiana, we have a law school, a graduate school, a college of engineering, college of art and humanities, colleges of the sciences, colleges of business administration, colleges of agriculture, and colleges of home economics. One thing that Southern does have, and I suggest seriously why you ought to give consideration to allowing Southern to have a Board of Governors is, in fact, that unlike other colleges or like one other system, we have--or Southern has--the responsibility to administer two state schools, Louisiana State School for the Deaf and Louisiana State School for the Blind. Sixthly, the university offers military training through Army ROTC and Navy ROTC. Now, I suggest to you, ladies and gentlemen of the convention, that the question is not whether you are against the L.S.U. system or you are against the Board of Supervisors, but the question really is: are there, in fact, in the State of Louisiana another system with branches throughout this state? I've heard questions says where Southern is not as large as L.S.U. Southern doesn't have the enrollment--we have enrolled in the three branches over twelve thousand students--and, Mr. Jackson, I would ask for a suspension of time if you would pass that motion because I want to answer some questions. When I raised the question to the proponents of a Board of Supervisors as opposed not allowing other colleges the only answer was given to me was that L.S.U. was the system, and that there was no other system throughout this state. If we are going to be fair and concerned about it you can see that that does not hold merits in light of the information that I have presented to you. Now, what I'm about to say here in my next statement, I wish that you candidly listen to because to me this is a crux [sic] of some consideration that you ought to be aware of.

[Quorum Call: 82 delegates present and a quorum.]

Explanation continued

Mr. J. Jackson I'll try not to get emotional, fellow delegates, but I want to suggest to you that on November 16th of this week, that it may not be a pleasant thing for people here to understand, but on November 16th, there are memorial services for two black students who died on the university campus. One of the points that was brought out during that whole medley was that there are some peculiar problems, aspirations and desires that exist upon the Southern University campus and throughout the system that's not prevalent in all universities and colleges throughout this state.

One of the recommendations, and this is an effort, not of the students, but of the administration, the student body, the alumni, and the parents, but one of the recommendations was that if we're talking about the day-to-day management operation and supervision of the universities then this was one of the key recommendations as offered and has been resolved over a year of trying to work out the difficulties that existed on that university. Now, I suggest to you that I'm not prepared to go back and say that I know that L.S.U. is a system; and I know that we're a system, too; I know that we've got branch colleges; I know that we've got extension programs that range over seven million dollars; I know that we've got, if not as com...if not as equal, at least comparable, an analogy to most aspects of the present system that we have jsut recently approved. On behalf of the administration, on behalf of the alumni, and behalf of the student body, and on behalf of many graduates, and people throughout the State of Louisiana who are concerned about it we're going to give constitutional status to one system then we ought to...if we see that there are comparable reasons as to why we ought to extend that, that we ought to allow that to another system within the state. I suggest to you that my amendment just attempts to do--is to be fair--just to be fair. I will yield to any questions from members of the floor, but I do want you to recognize that this is not a frivolous amendment; I have constantly--just by the mere fact--by speakers up here have constantly implied that we have been, and the university has been, the stepchildren by the fact that there is not still recognition that the Southern University is a system. I'm attempting to correct that. I'm saying that if we recognize it then we ought to be able to deal with it on a very favorable basis.

Question

Mr. Rachal Mr. Jackson, I'd like to ask a question that was asked before of a...when a similar amendment was made and that is, have you been in contact with the persons at Southern, and have they indicated to you that they want what you are proposing in this amendment?

Mr. J. Jackson Mr. Rachal, on yesterday, I took personal privilege and acknowledged the president of, not only the president of the system, but each president and vice-president of the different branches and the alumni associations and the student associations, so, that...and they have said and they have helped prepare for this convention the information that I am using to argue the point for acknowledgment of the Southern system.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, it's not too difficult for me to support this amendment. As long as we are going to have a Board of Supervisors for L.S.U. whether they have several campuses, I think the only thing that we can do is to allow the Southern University to have the same setup. Personally, I'd rather see both systems under one Board of Supervisors, but I doubt very seriously I could get that done. Since they are not...they are going to have one for L.S.U., I think it's only fair and square they have one for the Southern system, too. I'm going to ask you to go along with the amendment.

[Previous Question ordered.]

Closing

Mr. J. Jackson Mr. Chairman, I would like to believe that silence would mean consent. I'm not going to stand here and attempt to suggest that the reasons why we have not heard any opposition would mean that--well, I don't want to get in and say because you haven't heard any opposition that there aren't any on the floor--but I say to you that when I came up here and spoke for fair treat-

ment of all universities I had no problems saying to anyone whether I had opposition against him or not. I would hate very seriously because this is very crucial, for folks to say that, well, I understand what you mean. I'm saying that you recognize that there is another system. If you suggest that one system ought to have a Board of Supervisors then you ought to extend that privilege and right to another system. I don't come up here to try to make wishful arguments and say that this doesn't have a basis because I think we all recognize it, because if someone didn't recognize it, then I challenge him personally to come on the platform and say why not. I'm not concerned to the extent to say that our university ought not be given adequate consideration, but I am concerned when I, as a delegate of a constitution, ... of a delegate to this convention, writing the constitution that's designed for all the people of the state... that's designed to afford equal opportunities and treatments to all universities and all colleges and for some reason or another we haven't given constitutional sanctity to another system. Am I to conceive that is a continuation of the step-child attitudes of philosophy to the university? Am I to have to, as a legislator and someone concerned about a university, have to go back another year because there's some problems on the university and that there will be a board that possibly won't have representation on it to address themselves to the peculiar aspirations and desire of the predominant student body of their university? Do I have to constantly go before the courts and argue the question of merger and the dissolution of black universities that affect predominantly black institutions that affect the lives of individuals? I say that we can correct all of that right here and now. I just ask you very seriously, and I hope if... I hope I've not offended any single delegate in this convention, but I seriously think, and I seriously feel strongly, that if you're going to allow a Board of Supervision not to control the money, but just to run the everyday affairs of the university to determine student curriculum, determine professors, to determine student activities--who's going to be hired--who's going to be fired--you know, what film can be used, what speakers can come on the campus. It seems to me that you ought to recognize that there's truly a need here. I ask your favorable adoption of this amendment.

[Record vote ordered. Amendment adopted: 61-47. Motion to reconsider tabled.]

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, on behalf of the president of Southern University system, the students, alumni, and all the people of the State of Louisiana, I thank you for your vote.

Amendment

Mr. Hardin The Perkins amendment which was passed out earlier has incorrect instructions in light of the adoption of the Jackson amendment so that it would now have to be... its instructions would have to be drawn to the Jackson amendment. The effect of the Perkins and Zervigon amendment is to add "of which there shall be at least one member representing each of the several campuses within the systems who has attended the university at the campus represented for at least one year."

Explanation

Miss Perkins Ladies and gentlemen of the convention, what this amendment does is initially leave the L.S.U. Board of Supervisors as set up by the committee proposal, that is, two appointees per congressional districts and one at large. What this amendment provides for is that among these appointees, we shall have an appointee representing each of the branches within the L.S.U. system, namely: L.S.U.-N.O., Shreveport, Eunice, and Alexandria. You will note that Alexandria and

Eunice are two-year schools so we haven't said graduate, but rather, that the individual appointed shall have attended that particular branch college for at least a year. The purpose of the amendment, ladies and gentlemen, are that these schools are within the L.S.U. system. If they are within the system and a part of the system then certainly they should have representation of the system's board. It would provide that these appointees could go to the L.S.U. Board of Supervisors and present those problems of their representative campuses, which are unique. These individuals could not get control of the board; all they would be doing is allowing the branch colleges the opportunity of having their unique problems presented to the board for their consideration. Ms. Zervigon and I feel that this would provide for uniformity in administration and uniformity in policy. If the branches are to be considered within the university system, I do not see how the delegates of this convention could possible vote against this amendment. If we're part of the system, then let us have a voice in the system. I'd appreciate your support and consideration of this amendment.

[Previous Question ordered.]

Closing

Miss Perkins Ladies and gentlemen, I've talked to several of the L.S.U. people that say that they have no objection to this amendment, and I didn't have time to encourage the support of this amendment by these people. I don't see how you can squarely look any branch of L.S.U. in the eye if you vote against this amendment. We're part of the system; let us have representation in the system.

Point of Information

Mr. Kean Mr. Chairman, I have a question of the Chair.

If I understand the status of 9 (B), as a result of the Jackson amendment this... it has to some kind of a technical change on this proposed amendment that's being offered by Miss Perkins in order to make it fit because it's different as I understand it.

Miss Perkins I think the Clerk is working on that, Mr. Kean.

Mr. Casey Mr. Kean, I think your point is well taken.

The Clerk is working on it right now trying to collate the two amendments.

If you don't mind, we'll continue yielding to questions until the Clerk can clear it up.

Questions

Mr. Bergeron Ma'am, this amendment would ease the problem we have such as L.S.U.-N.O. which is a branch of the L.S.U. system which is the second largest university in the state with the student attendance of twelve thousand, two hundred and sixty-nine am I correct?

Miss Perkins I assume you are; I don't have the figures in front of me, Mr. Bergeron.

Mr. Bergeron This would more or less ease the problem that we're having at the present time--the grant representation--etc?

Miss Perkins Yes, but you know sometimes if you can get a little bit you don't ask for the whole barrel at one time. All we're asking is for a voice. That's all we're concerned with, so as far as the number of students or which campus, we're not concerned with that. We just want to give N.O. and every other campus a chance to present their problems to the board.

Mr. Pugh I don't object to your concept, but I

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assume you're aware of the fact that we've just been fortunate enough to have L.S.U.-S up our way for a very short period of time; that necessarily means that the board member from there would probably be somewhere in the neighborhood of twenty-two or twenty-three years old. Were you aware of that?

Miss Perkins Yes, sir. Well, if a delegate was appointed to this convention to represent youth I have no objections to a young person being on this board.

Mr. Pugh I don't have any objections to a young person being there either. I'm just saying were you aware of the fact that some of these systems had not been in existence for a very long time?

Miss Perkins Yes, sir, but I don't think that that's any real problem, Mr. Pugh.

Mr. Pugh If they create a new one, and they hadn't served...hadn't been there a year, what are we going to do?

Miss Perkins Well, Mr. Pugh, I assume that they would have the opportunity to have representation as well on the board. I can't see how you can have a school that's within the system--now that includes budget, it includes courses--you know what we've given..well, I'm sorry, that's in the Board of Trustees, basically say policy and management. I don't see how you can manage a school that you don't even have any idea what their problems are. I think something could be worked out. I don't have the exact answer at this time.

Mr. Smith Miss Perkins, do you think a detail like this should be frozen into the constitution?

Miss Perkins Normally, I would say no, Mr. Smith, but the only way we're going to be part of that system is if you let us be part of that board we're establishing.

Mr. Smith Don't you think this will lead to a lot of confusion though in trying to pick out the people who to vote for on these different campuses?

Miss Perkins No, sir. No more confusion than the selection of any other member to serve on the board.

Mr. Burson Miss Perkins, of course, I represent the district in which L.S.U.-E is located, and I would hope that someone from our area eventually would get on the L.S.U. Board. But, do you think that this is the best way to go about governing a great university by providing for a quota system instead of trying to get the best individuals available at a particular time for an appointment?

Miss Perkins Yes, sir, because you'll have another person from that congressional district that can be appointed. The only way this board is going to be aware of the unique problems at their branch is by having representation on that board.

Mr. Burson Well, how would you differentiate your support for this concept from objections previously voiced about quota systems in other respects?

Miss Perkins If you'll state it in particular, Mr. Burson, I'll be glad to discuss it with you at a later date. That's not under issue right now.

Mrs. Corne Lynn, do the regulations provide that all people who have been faculty members of L.S.U. and its branches, must have been graduates of L.S.U. and its branches?

Miss Perkins I'm sorry, Mrs. Corne, I didn't understand what you were asking me.

Mrs. Corne Do you have a regulation in the LSU system that all people who serve on the faculties must be graduates of LSU or of the system?

Miss Perkins No, not that I know of.

Mrs. Corne No, you do not. Okay. Then, if you have a very fine member of the faculty who may be retired or removed from that faculty for reasons of his own, then do you not think that maybe he would be a very excellent board member and could represent that institution on the board? Yet, he's not a graduate; he has served only as a faculty member.

Miss Perkins Yes, ma'am. Well, that could possibly be true, but we didn't use the term "graduate"; we said "attended that college or branch for at least a year." We didn't say attended in what capacity. I mean I'd have no objection to it being someone that has served on the faculty for a year.

Mrs. Corne Well, usually when you attend a university, you're a student in that university and not a member of the faculty.

Miss Perkins Yes, ma'am. I realize that.

Mrs. Corne Would that also preclude an ex college president from serving on the board to represent that institution.

Miss Perkins As written, that's possibly true.

Mrs. Corne I think you would be skipping some very fine members of the board, wouldn't you?

Miss Perkins Yes, ma'am, but we skip some fine people with anything we do around here.

Mr. Roemer Lynn, in answer to a question that Bob Pugh put to you about the relatively youthfulness of some of the board members from these new branches of LSU, I don't know whether you know or not, but I teach physics at LSU. I have forty-three members in my class, and ten of them are over thirty.

Miss Perkins Thank you.

Mr. Stinson Lynn, I notice you say "who attended there for at least one year. Shouldn't you have said "one school year, because you're going... this means twelve months, and they could go there one school year, and then have to go at least..."

Miss Perkins I wouldn't mind another amendment, if we can get this one through, to that effect. All we were attempting to do is because two of these branches are not four year schools. It would make it certain that they had to attend for a designated period, not just a semester; that's the reason it's worded that way.

Mr. Stinson Also, you don't say, but do they have to make passing grades or not? You don't say this. They can go there and flunk out, and then be appointed?

Miss Perkins No, but I tell you what, we didn't say on a lot of these board members. We don't say what kind of academic record they have to have had either, so why should we do it with these?

Mr. Stinson In other words, if they flunk out, they'll know more what's at fault than those that passed, maybe then, wouldn't they?

Miss Perkins They could come within the eligibility of the other appointees.

[Amendment reread with correction.]

Mr. Poynter As I appreciate the status, the amendment has had--because of the adoption of the Johnny Jackson amendment--to be redrafted to read as follows: "On page 7, in the language added by Convention Floor Amendment No. 1 proposed by Delegate Johnny Jackson, at the end of the last line of the language added thereby immediately

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after the word and punctuation "large." insert or add the following: --strike out the words "of which"--"There shall be at least one member representing each of the several campuses within the system who has attended the university at the campus represented for at least one year."

Point of Order

Mr. Fontenot I'm not exactly sure. I wish there was a speaker up there I could ask this to, but, Mr. Chairman, in your interpretation of this, would the LSU Medical School be counted as one campus, where the LSU-NO campus would be another campus?

Mr. Casey Mr. Fontenot, I would have no idea.

[Record vote ordered.]

Point of Order

Mr. Stinson Another point of order similar to the one from over there. Also there's a medical school campus at Shreveport...

Mr. Casey Now, wait just a minute, Mr. Stinson. Let's not debate...

Mr. Stinson I'm just asking a point, so we'll know how many designated ones we're going to vote on.

Mr. Casey Mr. Stinson, I really don't think that question is appropriate. I can't answer substantive matters on the amendment at all, because I really don't know.

Mr. Stinson Thank you for your information.

Mr. Casey Thank you, Mr. Stinson. I appreciate it.

[Amendment adopted: 59-50. Motion to table reconsideration rejected: 44-58.]

Chairman Henry in the Chair

Further Discussion

Mr. Stinson Mr. Chairman, fellow members, I tried to bring out my point by a question. You know, as I count them, there are seven campuses at LSU. There are two medical schools: one at New Orleans and one in Shreveport. There is LSU here, LSU in Shreveport. In other words, they've got two tied down from Shreveport right there, and that takes all from that congressional district: one from the medical school and one from LSU in Shreveport. No one else can be appointed in the Fourth District--not just Shreveport, all the entire Fourth District. That stretches all over North Louisiana under the present law. Then we've got one at Eunice and one at Alexandria. Actually, that ties down, of the seventeen, seven members on that board. I think we're making a serious mistake. If we want to get the thoughts of the young people and the students, why not say maybe from two of the campuses or something; don't say it from each one of them. I'd like to...consider this, because it's going to be very harmful.

Questions

Mr. Roy Mr. Stinson, can you tell me what type of input a student would have...a person would have who attended LSU-A, let's say, in 196D and twenty years later--for only one year--and twenty years later was up for appointment, could he have any information, do you think, that would be current about LSU-A that could really give some input to the board that requires this type of legislation?

Mr. Stinson None whatsoever. If the limitation is in there, if they're appointed within five years or while they're attending or something,

there'd be some thought of getting a student. I would be more in favor of, say, appointing a student at that time than saying someone...that's from there on, not just the next few years. I think we're making a terrible mistake tying it down.

Mr. De Blieux Mr. Stinson, don't we have really three campuses of LSU in New Orleans? Don't we have the dental school, the medical school, and LSU-NO?

Mr. Stinson I beg your pardon, and I think they also have a veterinarian school, too. That ties in some more. Also, it will certainly cut off any portion of the state in the future that wants to get a branch of LSU in that area if it's needed and we continue growing, because the board will be taken up.

Mr. Champagne Mr. Stinson, is it not true that this is an unworkable amendment, that it would be impossible to have anybody actually representing LSU-Baton Rouge, because if you got two from the Eighth District, which includes Eunice and Alexandria, and you had to have one from each of the campuses, then you could never have one representing Baton Rouge from the Eighth District?

Mr. Stinson I would think so...

Mr. Champagne Actually...and do you not agree that possibly some of the great support this amendment got was from those people whose intention is to destroy the LSU system?

Mr. Stinson Well, I think you have misguided thoughts, and I know it wasn't intentional.

Mr. Champagne Isn't that quite obvious that that is some of the great support this amendment got from the people who wanted to...

Mr. Stinson Yes, sir, and also, further, in New Orleans there may be a nursing school--I don't know--connected with the hospital there.

Mr. Alexander Mr. Stinson, is it not true that a faculty member or graduate may be on the campus of any one of the LSU campuses, but he may hail from Farmerville in Union Parish, or Calcasieu, or any other parish, which means that his appointment need not be from the parish in which the school is located? Isn't that correct?

Mr. Stinson That's a very important point that we hadn't thought of. This person would be appointed from the Eunice School, and he may be from New Orleans--or she may be from New Orleans--and is taken from the district, and we're going to have all kind of confusion. That's a good thought...

Mr. Alexander Or he may be from Jonesville.

Mr. Stinson That's right. I think...I wish we'd reconsider...

Further Discussion

Mr. Stagg Mr. Chairman and fellow delegates, I didn't rise to talk about this because I didn't think it would help too much when it was under debate. The two charming ladies that offered it have a lot going for them, but I'd like to reply to one thing that Miss Perkins said--that this Board of Supervisors for LSU and the Board of Supervisors for the Southern University system, it is said, would not have any way of knowing about the peculiar problems of the other elements of the system, if those elements of the system were not a member of the board. I really think that needs to be answered. It cannot possibly be contended by Miss Perkins that the Board of Supervisors of a major university is not at all cognizant of what goes on or what the peculiar needs are of the campus at Alexandria, or at the medical school. This Board of Supervisors at LSU and the new

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Board of Supervisors with Southern University, I hope, will be composed of people selected for their merit, for their knowledge of education, for their understanding of the needs of the university systems of this state, and not because they happen to have attended for one year at one or another of the branches. I do request that you consider to vote yes on the question: "Shall this be reconsidered and, upon reconsideration, to vote no."

Further Discussion

Mr. Segura Mr. Chairman, fellow delegates, although I can see the reason that Miss Perkins and Mrs. Zervigon suggested this amendment--and in a lot of ways I think it's good because these people would have the feeling of these schools, and you would sort of get a cross section--but I don't think it can work. I don't think it would be good for the state, and I have two reasons. First, the mechanics of actually implementing it--you would limit in a lot of ways the people that could be appointed and could serve justly. Also, you've got a lot of good businessmen, and a management board--and remember it's a management board--is not all education. There's a lot of business to it. I know some excellent businessmen who have never had a day of college. You'd be passing up the possibility of getting a person of that caliber appointed to that board. I wish Senator Rayburn were here so he could speak on this, because I think he is a prime example of someone with a superior education and superior knowledge in a lot of affairs and has never had a day of college. I think he'd be a prime member of any board, or a member--I'm using him as an example, because I know we all know him, but I think we should reconsider this. I think it should be defeated, although I think the thought was awfully good. But, I think it would limit the board, the appointments, too much and would not end up with the best possible board to govern these two universities.

I thank you.

Further Discussion

Mrs. Zervigon Ladies and gentlemen of the convention, I rise to urge you to stick by your former decision. There are some vast misconceptions being foisted upon you that I would like now to rebut. I can rebut it best by speaking about the two schools in my area--because they're the ones that I know the most about--but I'm telling you that they apply equally to every other school in the LSU system. First, let me speak about LSU-NO. The students at LSU-NO, while they are attending LSU-NO, live in three different congressional districts, at the least--three different districts. Because LSU-NO is situated in the First Congressional District does not mean that the person appointed to represent LSU-NO must live in the First Congressional District--by no means. LSU-NO has graduates living all over the southern part of the state, at least. The LSU Medical School in New Orleans is even more widely represented in residents in other congressional districts in the state. There cannot be one of the eight congressional districts that doesn't have a graduate of LSU Medical School living there. That would be an impossibility. You have been told that perhaps some of these colleges might not have folks that are qualified within the constraints of this article to be appointed to the LSU Board of Supervisors. Ladies and gentlemen, if there are not graduating people who are qualified to serve on the LSU Board of Supervisors, they should be abolished. There should be at least eight people having attended a school for one year on each of these campuses that is qualified to serve on the LSU Board of Supervisors. There is no conflict between the district requirement and the requirement that someone has gone to a certain campus--no conflict whatsoever, because the two overlap and interweave, and it is possible to be fair both in geography and in the attendance of the schools. Let me answer one more point that's been raised. Can someone who went

to LSU-A twenty years ago have current knowledge of the situation at LSU-A? He can. Does he necessarily? Not necessarily, but he's got as much knowledge of the situation as someone who went to LSU-BR or to Harvard--at least as much. In addition to that, when he is appointed to represent LSU-A, you can bet that what that person will have is concern for that campus, and that person will get himself over to that campus to find out the current problems tout de suite, if you understand my language, Mr. Willis, because pretty soon that person will be called upon to answer for the problems of that campus on the board. So, I urge you stick by your former decision. It was a good decision. Don't let your minds be clouded with people throwing up smoke screens. This is a good, fair amendment, and you voted for fairness in the Jackson amendment; I'm only asking you to vote for fairness one more time.

Thank you, Mr. Chairman.

Questions

Mr. Tapper Mrs. Zervigon, I have two questions; they're very short. I don't know whether the answer will be short. But, isn't it a fact that under your amendment it's possible that all of these members could reside in one city or one parish?

Mrs. Zervigon Is that a fact? No, sir; that's not a fact.

Mr. Tapper Is it a possibility?

Mrs. Zervigon No, sir. The article already requires that there be two from each congressional district. These two things must be read in concert, not separately.

Mr. Tapper I see. The second question is: I'm a graduate of USL, but I live in Arabi in St. Bernard Parish. I could not, under your amendment, represent or be a member representing LSU-NO; could I?

Mrs. Zervigon You could not be a member representing LSU-NO, but you could be a member of the LSU Board of Supervisors. I think you'd be a good one. I don't think you'd vote against the concerns of LSU-NO, necessarily, but I think it would be a good idea to have someone there specifically to vote for it.

Mr. Tapper Thank you.

Further Discussion

Mr. Jack Mr. Chairman and members, I'm in favor of reconsideration. Now, I voted for this amendment when it was up originally. There's been a lot of noise and confusion; today is one of the worst days I've seen, and I don't mind stating when I think I've been wrong. I was wrong. Now, upon listening and further reading on page 7, at the top of line 1, "two of the members shall be residents of each of the congressional districts into which the state is divided, and one member shall be from the state at large." Now, in Caddo, we have a branch of the medical school and a branch of the undergraduate; so both of ours would be--as I interpret this--having to attend it at least one year. This seems to me to be a bad system because it cuts out people unless they attended it. Now, we have people in Caddo that never had their foot in a college, that have given more money to colleges than many of the people that got a pretty much of a free ride and a free education. I just think we should reconsider it, and I'm man enough to get up and say in my opinion I made a mistake when I voted for this amendment. We've got lawyers in Louisiana that didn't graduate, that came in as special students when they used to allow it, were excellent. I don't think that it's a good idea to place a majority of the people, or all of them on these boards because they went to a particular college or university. I think we're on dangerous ground. So, I am for reconsideration.

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[*Previous Question ordered.*]

Point of Information

Mr. Burson Would you please explain the purpose of the vote that we are now taking?

Mr. Henry Well, Miss Perkins had offered up amendments which had been adopted by a majority vote of the delegates. Miss Perkins then moved to reconsider the vote, and lay the motion to reconsider on the table. The delegates refused to table the motion to reconsider. Upon which, Miss Perkins asked that the reconsideration take place now. Therefore, ... Miss Perkins, you'll have a right to close on this. Therefore, when you vote, if you are satisfied with the Perkins amendment, you will vote no. If you want another shot at voting on them all over again, you'll vote yes. That's what it boils down to.

Closing

Miss Perkins I waive the right to close, Mr. Chairman, but I would like a record vote.

[*Record vote ordered. Motion to reconsider adopted: 67-39. Motion to take up other orders rejected: 50-53.*]

Mr. Henry We're now in the position of debating the amendment again, and it's been thoroughly debated, but is there any further discussion on the Perkins amendment?

Reconsideration

Further Discussion

Miss Perkins Ladies and gentlemen, I'll make this brief. I know you're tired, and I've also been around here long enough to recognize the political moves. I still urge the support of this amendment as I think it's a good, fair amendment. For those of you that feel that this amendment was used or will be used to defeat this section, let me assure you that the people that are going to vote against this section, are going to vote against it with or without this amendment. To the LSU people, I hope that I have not jeopardized your board, but let me also say that we are supposed to be part of this university. For those of you that are using as an excuse that this is going to overload this section, the people that are going to vote against it will vote against it anyway. Those of you that voted for this amendment to attempt to overload the provision, I congratulate you because I think you've done a good job and you've helped out part of LSU. So, I'll leave you to make what I hope will be a conscientious decision on the merits and not on the politics of this convention. Thank you.

Questions

Mrs. Zervigon Miss Perkins, are you aware that this amendment would make it possible for me and for some of the other LSU-NO partisans to vote for this section? I would vote for this section if this amendment passes. Are you aware of that?

Miss Perkins Thank you, Mrs. Zervigon, because I was also told that Orleans was voting for it to overload this section, and I appreciate you making a public statement otherwise as to your individual vote.

Mr. Velazquez Delegate Perkins, isn't it possible with just a slight amendment later on to correct all these problems everybody sees in overloading the people from any one congressional district? Isn't it possible to handle this with just a small ... a slight, technical amendment tomorrow?

Miss Perkins Yes, sir. This is certainly possible, and all it would say is that only one within a congressional district would have representation.

[2376]

We can cure any problems brought forth by some of the delegates that fought this provision, even though I question whether their true question of the provision was as stated. I think they had other motives.

Mr. Fulco Miss Perkins, can you give us the present situation on the composition of this board?

Miss Perkins Well, I probably could come pretty close, but since you're standing there with the piece of paper in your hand, I assume you're going to give it to me.

Mr. Fulco No, I don't know whether that part has been amended or not, I've forgotten, but the proposal calls for "two of the members shall be residents of each of the congressional districts into which the state is divided, and one member shall be from the state at large."

Miss Perkins Yes, sir; I'm sorry. I thought you were talking about the current constitution. I didn't realize you were talking about the proposal, Mr. Fulco.

Mr. Fulco No, I'm talking about the proposal now, and I'd like to know: what is the status of the composition of the board at this time?

Miss Perkins Two per congressional district; one at large. Of the two per congressional district, one to represent the school within that district.

[*Previous Question ordered. Amendment rejected: 44-58. Motion to take up other orders adopted without objection.*]

Announcements

[*I Journal 811*]

[*Adjournment to 9:00 o'clock a.m., Thursday, November 15, 1973.*]

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Thursday, November 15, 1973

ROLL CALL

[76 delegates present and a quorum.]

PRAYER

Mr. Abraham Our Father, we thank Thee for this beautiful day. We ask that You watch over us today and guide us in our efforts. Direct us in the things we do. May the things we do be for the benefit of the people of the State of Louisiana for Your benefit. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

REPORTS OF COMMITTEES

[I Journal 812]

[Motion to work Thursday, November 15, 1973 through Wednesday, November 21, 1973 except for morning of Sunday, November 18, 1973. Substitute motion to work Thursday, November 15, 1973 through Wednesday, November 21, 1973 except for Sunday, November 18, 1973. Substitute motion rejected: 31-54. Motion adopted: 68-18.]

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 7 introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare, and other delegates, members of that committee:

A proposal which makes provisions for education, necessary provisions with effect thereto.

The status of the proposal: the convention has adopted the first four sections as amended, deleted Section 5, adopted Sections 6 and 7, passed over Section 8, still has under its consideration Section 9. Mr. Chairman, there is still one amendment pending to said Section 9.

Amendment

Mr. Poynter [Amendment by Mrs. Miller and Mr. Gauthier]. On page 7, between lines 8 and 9, add the following Paragraph:

"(D) Merger and consolidation; establishment of university system. The legislature, by two-thirds vote of the elected members of each House thereof, may provide for the merger or consolidation of the Board of Regents, the Board of Trustees for State Colleges and Universities, and the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College into a single board and may vest in said board the coordination, government, supervision, control, and budgetary responsibility for all publicly supported university systems, universities, and colleges and such other powers, duties, responsibilities, and functions with respect to education above the secondary level as it shall determine. In such case the legislature shall establish a university system for the state composed of all publicly supported university systems and all publicly supported universities and colleges now or hereafter created, and may vest in a single board herein authorized all responsibility for the government, control, and budgetary management of the university system."

Explanation

Mr. Gauthier Mr. Chairman and members of the delegation, we offer this amendment in hopes that some day we will put this state in a position that they can move forward. We don't intend this amendment to kill any particular section or to do damage to anyone's personal interest. On the other hand, we recognize that there is a need for, at one point, to say that something can be done in the field of

education to leave some flexibility, to leave some room to move forward. The amendment, in basic terms, simply states: by a two-thirds vote of the legislature you can go to a state university system, which includes all colleges that are supported by public funds. I think, at this point, we need this in the constitution; we need it desperately. If we continue in the same line that we have gone, we have tied up what I consider could be a hopeless situation. Yet, I don't know. Who knows? We may have done very good work here. We may have created some good boards in a good system that will work-- maybe. But, can anyone in this audience say for sure that what we have done is good, and say for sure that it will work? Then, if so, we would withdraw this amendment. But I can tell you that no one can say certainly that it will work. This amendment is designed to allow the legislature, only by two-thirds vote, to go to a state university system in hopes of achieving something better for education in this state.

I ask you, please, to be reasonable before you vote. I am not an expert by any means on this subject, nor do I claim to be. There are many in here that know a lot more about it than I. But I think any reasonable person in this delegation can see that we need some room for a change, if a change is necessary. I ask you to please support this amendment.

Questions

Mr. Roemer Wendell, you don't have in your amendment the board that we set up yesterday for Southern. I guess you'll make that technical change?

Mr. Gauthier Yes, we would agree to make that amendment, Mr. Roemer.

Mr. Roemer O.K. The second question is: isn't this what we did in terms of the statewide elective offices--that is, allow the legislature at some future date to consolidate or eliminate, if they saw fit, by a two-thirds vote?

Mr. Gauthier That's correct. In that particular instance, I think the delegation realized that at one point change may be necessary, realizing, also, that we're here with a mandate from the people saying, "Don't lock everything in, and don't force us to vote on constitutional amendments." It does provide the "if." I emphasize, if a certain system isn't working, there is room to go to another system.

Mr. Roemer The point I'm trying to bring out: do you agree that there is some precedence already in this convention for doing just what you're trying to do with education?

Mr. Gauthier Yes.

Mr. Abraham Wendell, in the merger and consolidation, does this give the legislature the authority to reduce the size of this board? Because when you...if you simply merge all of these together, you've got a sixty-six man board. The way I read this, I'm not sure as to whether it would allow them to reduce that.

Mr. Gauthier Yes, it does...yes, it does, Mack.

Mr. Kean Mr. Gauthier, as I read this, the legislature could merge them by a two-thirds vote, but I suppose they could unmerge them by a majority vote. Is that correct?

Mr. Gauthier You are correct, Mr. Kean. They could...

Mr. Kean So, we'd simply have no stability in our university system in this state at all, because from legislature to legislature, we'd be hanging by the hair as to whether we are going to be merged or unmerged, wouldn't we?

Mr. Gauthier ...If I may answer. Gordon, that goes back to the same problem as to how much

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stability and how much flexibility you want. Believe me, we are not allowing room for a lot of flexibility here. We are only saying that in the event that what we've established in this constitution isn't working after a number of years, there's at least one system to go to.

Incidentally, I'm glad you brought up what you did. I just realized that what you say is correct, Gordon. This allows us to change to another system, then, if it's not working, then go back to the old system. You made a very good point. Thank you.

Mr. Kean In other words, you'd just have your university systems in a state of constant change and turmoil waiting to decide which is the best system?

Mr. Gauthier I don't believe that's correct, Gordon.

Mr. Stagg Mr. Gauthier, do you know the vote in the House and in the Senate by which the superboard bill passed last year?

Mr. Gauthier I'm not aware of the figures, Tom, to be honest with you; I know it passed by a good majority.

Mr. Stagg Would you then not expect those in this convention who are members of the legislature--for instance, the gentlemen from Jefferson Parish or from Caddo Parish--who are supporting the superboard concept, to at each recurring annual session of the legislature to bring back up the superboard bill until they get a two-thirds vote on it? Then we are, as you would well understand, constantly putting these college administrators in legislative committee meetings as Mr. Kean put it, completely unstabilizing higher education in this state.

Mr. Gauthier Well, I think that's a little dramatic--"completely unstabilizing", Tom. Let me finish answering your question.

Mr. Stagg I'm not going to go away.

Mr. Gauthier If I...could foresee the future, I wouldn't even be here, but, I can tell you this; we provided for a change in some other cases. Many times, many cases, people such as Chris Roy and other delegates have taken the stand and said "a two-thirds vote is almost impossible to get. Why do you want to lock it in with a two-thirds vote?" I'm telling you we recognize that a two-thirds vote is very difficult to get. I'm also telling you that in the event that we realize there's a need for a change, and it's a very desperate need, that a two-thirds vote can be mustered.

Thank you, Tom.

Mr. Dennery Mr. Gauthier, Section 7, Subsection (E), (C), dealing with the right...the powers of the Board of Regents, contains the provision that--seems to me--covers exactly what your amendment tries to do. I think we have already adopted it. Do you see any necessity for this amendment, as well as what's in there?

Mr. Gauthier Yes, I do, Tom.

Mr. Dennery Well, where is the distinction, Mr. Gauthier?

Mr. Gauthier I feel that we have to explicitly give the legislature this power, if need be, to establish a state university system. Now, I may not be reading it as well as you do, Moise, but I feel that it is necessary.

Mr. Tobias Wendell, isn't it true that somewhere in the Legislative Proposal--I was trying to locate it--that there is a provision that when we require, in another part of the constitution, that a two-thirds vote would be necessary to enact something, it would require the same vote to repeal that act? Do you recall?

Mr. Gauthier Yes, that's right, that's right. Gordon, that would answer your question.

Further Discussion

Mr. Kean Mr. Chairman, fellow delegates, I have listened now for almost a day and a half to the discussion about the structure of higher education and particularly the concern that some members of this delegation seem to have about the L.S.U. system. I have not heard one single argument advanced which would suggest that we need to change the present structure of the L.S.U. system. In my humble opinion the L.S.U. system has achieved a stability over the years. I see no reason to change that structure simply in the interest of change. I think the time has come for us to face up to the issue and that is, whether we want to have a management board for the L.S.U. system similar to that which is now in existence, with the exception of the coordination and budgetary control which we have given to the Board of Regents. Contrary to establishing or continuing stability, amendments of this type simply strike at the very heart of the stability that the L.S.U. system enjoys. If the legislature can change it by a two-thirds vote, they can change it back to something else at a later time. If that doesn't work, as Mr. Gauthier has indicated, they can change it again. It seems to me that the net result of a proposal such as this could have no other effect than that of constant change and turmoil in the higher education systems of this state, contrary to the best interest of those systems and the state as a whole. I think that the fact that the people of this state have rejected efforts to change the L.S.U. system three different times indicates that they support that system and desire its continuance. I would like to see us complete this section, approve it, so that the management board for the L.S.U. system is fixed in the constitution and we know that the stability of that system is assured. Then, if we want to argue about other boards--the other duties of the Board of Trustees--we can do that until our time runs out. But, I suggest to you, that amendments of this kind can have no other effect than destroying the L.S.U. system and the stability that that system has enjoyed over the years. I urge your rejection of this amendment and all similar amendments, so that we can adopt this section and move on with the business of this delegation.

Further Discussion

Mr. Aertker Mr. Chairman, ladies and gentlemen of the convention, I rise in opposition to this amendment. I don't believe I have to tell you that this is the exact same thing that was run by you yesterday and that failed to get...it's just a little different wording and a little different form. There are some things that I would like to point out to you about this whole proposal. One is, of course, that they have the magic figure of two-thirds in it. I think all of us are practical, or know enough about practical politics, to know that it doesn't take any governor with a great amount of popularity to achieve a two-thirds vote on some matters in education. I think Act 712 is a sterling example of it because it passed just about by that vote, even though it didn't require that. This is just a subterfuge and a coverup to let you think that this is going to be quite a difficult thing to do. But, secondly, is that the proposal that we have given to this convention contains the very authority that is necessary to create anything. It has the authority to create new institutions; it has the authority to create new programs. I venture to say, when the rest of the universities in this state suddenly find out what's happening to them under this setup, they are going to find out that they are not so happy with this entire setup because it's going to have to continue to pronounce the operation of the state university as it. On this direction, I think that we ought to give some thought to the fact that some of us just won't face up to one fact of life, and that is, is that L.S.U. is the state university for

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this state. L.S.U. is the university that has the extensive programs, that has the research programs, it has the many, many programs that other institutions have for one...other institutions don't have for one simple reason--this state can't afford to support more than one state university. As a result of that when you keep watering this thing down, as we keep trying to water this down, there is only one thing that I can see that will result in this state and, that is, that you will pull down a great state institution to a level of just a mediocre university. One of the things that is holding back education really, in the State of Louisiana right now, is the fact that the legislature on the recommendation of the Coordinating Council got here and has created more universities than this state can possibly maintain in university fashion. I say to you, that if we don't stop and take a look at higher education and give this Board of Regents--which is being given all of the budgetary matters, all of the financial control, all of the control over curriculum, all of the control over programs--if you don't let this operation just take a couple of years to review and see what's going on in higher education and go...instead go into something like this, you are fixing to throw education--higher education--into the biggest turmoil that you've even seen. I urge you to give serious consideration before you move in this direction. I urge the defeat of this amendment.

Further Discussion

Mr. Graham Mr. Chairman, fellow delegates, I rise briefly to oppose this particular amendment. In addition to several of the words in opposition that have already been expressed, I think there are a couple of things that would more or less drift us into the twilight zone if we would go along with an amendment of this type: (1) the amendment provides no way to reduce the number of members that are or will be serving on the respective boards. Consequently, we could very easily end up with one board that was made up of sixty-six or more people. I think that you will agree that that's far too many and would be entirely unwieldy. Another reason that I do oppose this particular concept--and to me this is a most important reason--is that in doing this we would be combining the coordination and budgetary functions with the supervisory functions of the board. I think that this is one of the problems that we have had in the past...giving power of supervision and the coordination and budgetary authority to the same board. I do sincerely request that you join me in opposing this amendment. Thank you.

[Previous Question ordered.]

Closing

Mrs. Miller Mr. Chairman, ladies and gentlemen of this convention, we address this amendment to your imagination. Now, yesterday when I first brought it up, someone said, "Why didn't you bring it up two days before, so we could have had more time?" Yesterday I had at least a dozen people come and say, "Mrs. Miller, I didn't realize at the time you brought it up that you were earnest, because it was such a far-reaching idea and a new idea." Now, last night I went in and read the book, The Importance of Being Earnest. Today, I am very earnest about this. Mr. Aertker brought up several points that I think we need to reconsider. One is, that this is not the same amendment at all that went by you yesterday morning. This is leaving to that legislature, in which we have reposed so much confidence, the ability to deal with all of this school system when the money gets short--which it's going to do--when the academic programs have just proliferated to the point where we've had an explosion. We are saying, "We think that the people of Louisiana will have elected to the legislature intelligent people who can deal with this." We are giving them the flexibility to do with it. Now, I voted against a great many things that came up when it said, "leave it to the integrity of the legislature."

Those of you in the legislature have finally convinced me that you have some integrity. Now, I want to see it exercised. I believe if you really mean what you are saying, you will have to go along with this and leave some flexibility, because we are building a steel rod into the spine of this constitution when we lock into all...into the constitution what we have done in the last three days; because you will never get the people of Louisiana to pass a constitutional amendment changing some of these things you've done the last few days that maybe needed to be changed under court orders and for economic reasons. We're running out of money; we all know we're running out of money. There's going to be more and more competition among...between the Board of Regents and the L.S.U. Board and something is going to have to give. What I am saying is, that under this amendment, you are giving to the educators of this state the opportunity to exercise some imagination in planning programs and curricula. Is it asking too much to have educators exercise a little imagination? Is it asking too much to have educators exercise some integrity? If it's asking too much, then you'll have to vote this thing down. But, if educators have imagination and the legislators have integrity, then this amendment is not going to do any violence at all to the educational institutions of this state. Yesterday it was asked, "Mrs. Miller, will the schools lose their identity?" I had not really turned that over in my mind and yesterday I said, "Well, perhaps they would and possibly would." Since then I have been reminded by many delegates that you do no more fiercely self-oriented schools than you do in the school systems of California--like the University of California at Berkley--they are intensely loyal to their own school systems. This is not running by you the amendment of yesterday. This is coming back and putting the flexibility with the legislature to act in the future. I am proud of McNeese University. I am proud of the University of Southwestern Louisiana. I am proud of Northeast where one of my sons graduated; Southwestern where one son graduated. I am proud of McNeese where my daughter is seeking her master's. I am proud of Northwestern where many of my aunts got their teacher's degree. I am proud of South-eastern where I have had many friends. I am proud of Nicholls College, which deserves to be stronger and have better programs. I am proud of Southern University, and Grambling, and Louisiana Tech. We're not seeking to damage these or L.S.U. But, we are seeking to say we have to work together. The only way we can do this is to give the legislature the flexibility it's going to need to cope with the multitude of problems that are going to be upon us within a very few years. Thank you.

[Quorum Call: 100 delegates present and a quorum. Record vote ordered. Amendment rejected: 29-76. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Bergeron]. On page 7, in Floor Amendment No. 1 proposed by Delegate Jackson and adopted by the Convention yesterday, at the end of the last line of said floor amendment change the period "." after the words "at large" to a comma "," and add the following: "of which there shall be at least one member representing each of the several undergraduate campuses having a student enrollment of at least four thousand, who has attended the university at the undergraduate campus represented for at least one year."

Explanation

Mr. Bergeron Mr. Chairman, fellow delegates, I rise before you to make a statement which may surprise many of you. That statement is that I believe the L.S.U. system is a very good system. It has worked well in the State of Louisiana for many years. I would like to see that system continue. What I am trying to do with my amendment is just let the branches of L.S.U. have a voice in the operation

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of their system. Now, this amendment does not talk about medical school, or dental school, or law school--if you look at the enrollment of these schools, you will see that clearly. This amendment simply talks about undergraduate campuses: for instance, LSUNO which has a student enrollment of over twelve thousand, which is the second largest university in the State of Louisiana, only second to L.S.U. in Baton Rouge. LSUNO is in a peculiar situation, fellow delegates; it's situated where it handles three parishes--we're talking about Jefferson, New Orleans, and St. Bernard. Why shouldn't the second largest university have a voice within the L.S.U. system? Why shouldn't the needs of the students be known on the L.S.U. Board of Supervisors? Shouldn't the branches have a voice in the operation? Well, I say that they should. I'm not trying to change it radically at all. I'm just saying that we would like to have a voice in what L.S.U. does. Now, we're talking about one member right now--we're talking about a member represented from L.S.U. in New Orleans. In future years, maybe the other branches will join. But, at the present, we're talking about one out of seventeen members. I don't think that this is too much to ask for, ladies and gentlemen. We're talking about representation. We're talking about what is fair. This is what we have been striving for all along. We're not striving to throw out the L.S.U. system--as I said "It's a great system." We're simply striving for a voice in the L.S.U. operations. Now, as I mentioned before, look at the medical center; you're talking about fifteen hundred students. Look at the law school; you're talking about under a thousand--nine hundred and forty-three. So, you're not talking about the dental, the medical, or the law school. You're simply talking about undergraduate campuses. I would just ask you, since much of this has been discussed previously, to simply consider the amendment. Just look at what the amendment says, and please give the other branches of L.S.U. a voice in the operations of their government; let them have a say. I would just urge that you adopt this amendment, ladies and gentlemen. Thank you very much.

Questions

Mr. Velazquez Delegate Bergeron, I'm generally in favor of what you're trying to do. But, I see a problem with this four thousand number you have there. It seems to me that you effectively disenfranchised L.S.U. in Alexandria. You've disenfranchised L.S.U. in Eunice. You've disenfranchised L.S.U. in Shreveport...none of which institutions yet have reached the level you're talking about and probably won't reach it for a certain amount of time. In our own Southern University system, you've disenfranchised two-thirds of the schools in the system. I don't think it's your intention. I think that what you have is a good idea. But, you've got to write it up a different way than the way you've got it written up now.

Mr. Bergeron Well, Tom, let me say this right now. It's not the intent to disenfranchise the other branches. I felt, and many others felt, that four thousand was a nice size university; it was sufficient enough to have representation. If you would like to come back with an amendment after this amendment is adopted, fine. But, this will also clear up any arguments we have about the medical, the law, or the dental school in New Orleans; although, we are talking about undergraduate schools. As I say, it was not the intent to disenfranchise other universities. I just had the feeling from most of the delegates that a four thousand enrollment in any university was large enough to have a voice in the government of that university system.

Mr. Velazquez Wouldn't it be possible to do what you want to do by operating on a limitation on a congressional district basis, similar to what Miss Perkins was trying to do yesterday? Only, she ran into the problem that, where there was more than

one institution in a congressional district, giving participation to the institutions in that district would effectively destroy the total of two available from that district. Wouldn't the answer to your problem be to solve the problem that she developed yesterday, rather than to start a new problem?

Mr. Bergeron Tom, I don't know. Miss Perkins passed out her amendment yesterday, and she wasn't very successful. I just see this as the only possible means thus far. If you can come up with another answer, show it to me.

Mr. Kean Mr. Bergeron, I'm really asking the same...had the same inquiry that Mr. Velazquez had...you...the four thousand, as I understand it, would only take care of LSUNO, would it not?

Mr. Bergeron Well, I have the statistics right here in front of me, Mr. Kean; you're correct. But, if you also look at L.S.U. in Shreveport, they have close to twenty-five hundred students. I think that in not too long a period they will also reach the four thousand mark. But, at the present, it only considers and it only takes care of LSUNO which--and let me specify at this time--has over twelve thousand students, that's twelve thousand three hundred students.

Mr. Kean If I follow your argument, and we adopted this concept and in order to be fair to the other institutions who might have less than four thousand and who we wouldn't want to disenfranchise--as Mr. Velazquez has suggested--we would simply be right back where we were yesterday afternoon with the Perkins amendment, which we reconsidered and then finally defeated, would we not?

Mr. Bergeron No, I don't think so, Mr. Kean. I think that any time you have a university of four thousand--now, you're talking about four thousand students--that is sufficient to have representation. Now, as I said, L.S.U. in Shreveport, L.S.U. in Alexandria at one time, I'm sure in the very near future, will reach the four thousand mark. But, if you look at the universities in the L.S.U. system, you will see that many of the others will reach it in the future, I'm sure. But, presently, this will only pertain to L.S.U. in New Orleans; yes sir.

Mr. Kean Well, I don't quite follow your point that this would give some representation to a particular university campus because, as I read it, you could have someone who attended LSUNO for one year and then went to L.S.U. in Baton Rouge and graduated from L.S.U. in Baton Rouge and under those circumstances could be designated to the board and would qualify under this particular amendment, would he not?

Mr. Bergeron Yes, sir, he would be.

Mr. Conroy Mr. Bergeron, as I understand your amendment, it's designed to guarantee that an institution that has thirty percent of the total enrollment of the L.S.U. system will have at least one out of seventeen representatives on the board. Is that correct?

Mr. Bergeron That is correct.

Mr. Conroy Thank you.

Mr. Bergeron David, I don't think that's too much to ask for if you look at the facts. Thank you.

Mr. Cowen Mr. Bergeron, you realize, of course, that under the proposal there will be two appointed from each congressional district which, in essence, we'll give six from New Orleans anyway and more than likely you would have somebody represented from LSUNO.

Mr. Bergeron That may be correct, Mr. Cowen. But if, as I mentioned before, you're talking

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about the university which is situated in three parishes--Jefferson, St. Bernard, and New Orleans. We're just trying to guarantee that we have one member on the board--just one out of seventeen. I don't think that is...who has graduated from that campus...who has graduated from that university... excuse me, who has attended that university for one year.

Motion

Mr. Fontenot Mr. Chairman, I think this is a very similar amendment to the Perkins amendment we had yesterday. At this time, I don't think we ought to waste any more debate on it. I move the previous question.

[*Motion for the Previous Question rejected: 22-71.*]

Further Discussion

Mr. Tobias First, let me thank the delegates for allowing me the opportunity to speak on this amendment. I want to tell a funny little story. Back in April the Composite Committee toured this state. I made the tour with them, and I made all, I believe it was seven stops. At each stop we were met by a member of the L.S.U. Alumni Federation who spoke in favor of a proposal that their federation came up with. We all received copies of that proposal. I had questions for the members of the L.S.U. Alumni Federation at each stop. The questions went something like this: How many members of the study panel graduated from a school other than L.S.U.? The answer was none, they all graduated from L.S.U. Next question: How many members of this study panel graduated from a school other than L.S.U., Baton Rouge? The answer was none. My third question was: Then, will you please explain to me how you can have an independent study--and this is what they started off their speeches with--how you can have an independent study of the L.S.U. system by L.S.U. graduates, who graduated from only L.S.U., Baton Rouge--that's ridiculous, it's utterly ridiculous. If you've been examining my vote on this article, you will note that I have been opposed generally. I have been opposed to anything spelling out any board with respect to education in this state. I'm especially opposed to those who may think that I'm in favor of Tulane University being in this constitution. Let me assure you, I am not. I have an amendment sitting up there on the stage right now to delete Section 17. There is no reason for a private university to be in the constitution. But, the same nearsighted, myopic viewpoint as expressed by the L.S.U. Alumni Federation in their so-called independent study carries over to the Board of Supervisors. L.S.U. in New Orleans has not one member on the Board of Supervisors, yet they have thirty percent of the students of the L.S.U. system--thirty percent. Is that fair? Is that reasonable? I suggest to you that it is not. Four thousand members of this...four thousand students as this proposal would set a...set as a minimum number of students before a member would be required, is a reasonable number. This guarantees that any school, any branch of the university of L.S.U. system--of the L.S.U. system that has that many students would at least have some representation on the board; it's a reasonable number of students. As time goes on, you will have more schools with four thousand students besides L.S.U. in New Orleans. But, is it asking too much to have one member of seventeen members on the L.S.U. Board, is it unreasonable, to represent L.S.U. in New Orleans? I urge, please, adopt this amendment.

Questions

Mr. Fontenot Max, you mentioned something about how could...you asked the question: How could you have an independent review of the L.S.U. system if you have just people from L.S.U. of Baton Rouge looking at the whole system? Well, by the same token, if you're going to require people from the congressional area to have to attend either L.S.U.

in Eunice or L.S.U.--let me finish the question, now--you're stating that you have to have a person that attended L.S.U. in Eunice or attended L.S.U. in Alexandria, if and when the time comes, and there are over four thousand people. So, the problem is, there, you're saying exactly the same thing. A person who didn't attend one of these colleges and universities, say, in the future that have over four thousand people, you're going to keep somebody from being on the Board of Supervisors because he hasn't attended. Now, you're going to force the board to accept somebody who has attended one of these universities. Now, how are you going to get an independent review?

Mr. Tobias That was more or less a statement. I don't understand your question.

Mr. Fontenot No, I'm saying isn't that inconsistent with your opinion saying that how are you going to get an independent review if you have just L.S.U. in Baton Rouge people on the board? Well, how are you going to get an independent review if you have just people from L.S.U. in Alexandria or L.S.U. in Eunice if they ever get big enough?

Mr. Tobias I think that all segments of the L.S.U. system should be represented on the board, if they're going to have someone from those systems. It's just...it's fair.

Mr. Fontenot Okay, well, let me ask you this, now: Are there present...on the present Board of Supervisors of L.S.U., to your knowledge, do you know of anybody that hasn't attended the L.S.U. system at all?

Mr. Tobias No.

Mr. Fontenot In other words, all of them have attended L.S.U.?

Mr. Tobias All of them have attended L.S.U., Baton Rouge.

Mr. Kean Mr. Tobias, don't you think that with the enlargement of the L.S.U. Board and the shortening of the terms of those members that the governor, who's got to make those appointments with the consent of the Senate, would take into consideration the points that you've made here today? Aren't what you are arguing is something that ought to be addressed to the appointing authority, not to this convention?

Mr. Tobias Mr. Kean, based on what I saw with the Composite Committee, touring the state, and the statements that the L.S.U. Alumni Federation made saying that this was...their study was an independent study--that type of myopic viewpoint--I can never believe that they would not, without some force and mandate in the constitution, do it.

[*Previous Question ordered.*]

Closing

Mr. Bergeron Brother and sister delegates, it just upsets me sometimes when I hear people throwing issues into the arguments, which really don't belong. Now, let's look at the facts. Let's just sit aside and look at the facts. We're talking about L.S.U. in New Orleans, who has a student body of over twelve thousand--twelve thousand--who do not have one representative on the board. Now, is that right? Is that right? Thirty percent of the L.S.U. system in New Orleans, and they don't have one representative. I feel that in order for a person to know the needs of the students at that particular campus, he has to have gone to that campus; he has to know the needs and work with the faculty, etc. That's all we're asking for. We're asking for one--one--representative out of seventeen.

I feel that the L.S.U. system is a good one, as I've said. I feel that L.S.U. in New Orleans is growing, and it's continued to grow. It hasn't

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hasn't been in existence for a very long time, but they do cover three parishes; they do have certain needs; and they do want a voice in the student government. Now, why should not they have that voice? You know, we've been talking about equality throughout this whole convention. What's right? What do the people want? Well, I'm not saying that I'm speaking for twelve thousand students; I'm not going to tell you that. But, I do say if you want to do what's right and you want to do what's equal, why not give them that one representative? That's the issue; that's the issue that's before us with this amendment. I would simply ask you to consider this amendment, and if you can find it in your heart, please vote with it.

I'll yield to questions, Mr. Chairman.

Question

Mr. Alexander Mr. Bergeron, would you consider temporarily withdrawing your amendment, and reducing the qualifying number from four thousand to two thousand so that the other campuses could be represented?

Mr. Bergeron Reverend Alexander, if the amendment passes, I would have no objection to going with two thousand. As a matter of fact, I'll endorse it and speak on it. But, I would like to see this amendment pass. In answer to your question, no, I don't have any objections to that.

[Record vote ordered. Amendment rejected: 42-63. Motion to reconsider tabled.]

Amendment

Mr. Poynter The next amendment is sent up by Delegates Alexander and Toca.

Amendment No. 1. On page 6, line 20, in Floor Amendment No. 1, proposed by Delegate Johnny Jackson and adopted on the 14th, delete line 21 in its entirety and insert in lieu thereof the following:

"shall be composed of two members, one of whom shall be a professional educator, from each of the congressional".

Explanation

Mr. Alexander Mr. Chairman and delegates, this amendment simply stipulates that one of the two persons who will be appointed by the governor from each congressional district will be a professional educator. Now, we define professional educator to be one who has been involved either in secondary or higher education for five or more years. This assures representation by the various campuses because these professional educators, of course--it's assumed--will have graduated from one of the colleges here in Louisiana. This amendment, in effect, eliminates people like me, for example, because I am not a professional educator. I think, there again, we find that we are not talking about the selfish point of view because it is my opinion that politicians as such--that is, someone who is solely interested in the political aspect of the thing--should not represent education in Louisiana. For that reason, I am calling on you to adopt this amendment so that we can include professional educators on all of our boards. Thank you.

I'll yield for questions.

Questions

Mrs. Warren Reverend Alexander, are you inferring that professional educators are not politicians?

Mr. Alexander Not necessarily so, and not always so, suppose I say, Mrs. Warren.

Mrs. Warren Then you said this would assure that it would be nonpolitical?

Mr. Alexander No, I said this will assure the fact that there will be professional educators

included on the board.

Mrs. Warren Well, I took you up on the statement because you said they would be nonpolitical. I wanted to say to you that some of the greatest educators are also political.

Mr. Alexander That may be correct.

Mr. Slay Reverend, I'm not trying to pick your amendment apart, but you say, "one of whom shall be a professional educator." Now, our other shortage in there is money, so we should say the other one should be a banker? Wouldn't that make as much sense?

Mr. Alexander We are assuming that the other individual will be someone selected by the governor from the public at large. He may be a baker; he may be a candlestick maker--or anyone, for that matter.

Mr. Smith Reverend Alexander, why do you think an educator will make a better member than a non-educator?

Mr. Alexander Well, for the same reason, Mr. Smith, that most boards in Louisiana that represent trades or professions are made up of persons who come from those trades and professions. Could you imagine a board--a medical board--being made up of persons other than doctors, or no physicians, etc., and on down the line? How about a plumbers' board with no plumbers? That's what I have in mind.

Mr. Smith Do you think this is a good thing to put into the constitution, something like this? Like you say, somebody else will come up here with an amendment saying you've got to be a banker or a lawyer or a doctor. I mean, I think this is a rather ridiculous thing to put into the constitution.

Mr. Alexander But, we are discussing education; and, for example, since you mentioned bankers, the board that controls bankers is made up predominately of bankers, and on down the line. That's just a fact of life, and I think we should do it in education. I don't think persons who have been elected to the Senate or the House of Representatives or someone who has political clout in a community, just because he has that political clout, should be a member of the Board of Education to control the colleges.

Mr. Stagg Reverend Alexander, would you say that in each of these college campuses controlled by these boards, the president of those universities or colleges is a professional educator?

Mr. Alexander In most cases, he is; he's come up through the ranks, in most instances.

Mr. Stagg All right, and the deans of those colleges, and the other administrative heads of these colleges, are professional educators by... practically by definition?

Mr. Alexander I would say they are, Mr. Stagg, because usually they come up through the ranks; and where there are exceptions, it's rare.

Mr. Stagg All right, then, when you have a management board, is it not the duty of that management board to make policy with respect to the management of this institution, as well as to the educational quality of it?

Mr. Alexander Yes, he may, but I would think that the persons who would be on this board would be men who have retired, for example, and persons who had been employed in some way and possibly had gone out of education, or persons in that category.

Mr. Stagg In other words, you don't think a board should be on... what you are proposing is that, on both sides of the boards, the employees of the

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board as well as the board itself should be composed in great part of professional educators. What you are doing is cutting in half the possibilities of management brains and administrative brains other than those possessed by educators; is that not correct?

Mr. Alexander In effect, that is my intention, Mr. Stagg.

Mr. Stagg Do you know that I oppose your amendment for that reason?

Mr. Alexander Yes, Mr. Stagg, that's obvious.

Miss Wisham Reverend Alexander, you began your interpretation of a professional educator by saying that they were individuals that had been involved in secondary education and higher education. Why did you skip over elementary education?

Mr. Alexander I didn't categorically exclude elementary education. Suppose I'll say all education, both above a pre and subsequent to the college level, and that will...

Miss Wisham Well, you do...

Mr. Alexander I know many elementary teachers who have Ph.D.'s, Miss Wisham, so I would not exclude them. It will be the prerogative of the legislature, of course, to determine and define a professional educator, as you know.

Miss Wisham Well, good, because an elementary educator is a professional person.

Mr. Alexander Thank you. I'm sorry I didn't get the last question. That's all right.

[Previous Question ordered. Amendment rejected: 27-74. Motion to reconsider tabled.]

Amendment

Mr. Poynter Delegate Stanwood Duval sends up amendments at this time.

Amendment No. 1. On page 7, between lines B and 9, add the following paragraph:

(D) Merger and Consolidation. The legislature, by a two-thirds vote of the elected members of each house thereof, may provide for the merger or consolidation or restructure of any of the boards created in this article into a single board or a lesser number of boards and may vest in said board or boards the coordination, government, supervision, control and budgetary responsibility for all publicly supported university systems, universities and colleges and such other powers, duties, responsibilities and functions with respect to the education above the secondary level as the board or boards shall determine."

Explanation

Mr. Duval Mr. Chairman and fellow delegates, I was...a couple of people have said, "Stan, I wouldn't...why are you going to introduce this amendment? It's just taking up the time of the convention." Well, let me tell you, I think, in my own humble opinion, that this is the most fair and equitable amendment that we've come up with yet, for the following reasons--I might point out I feel pretty strongly about it, and I generally don't like to waste time, but this is an issue that I just feel very firmly about. We have--as has been said here--we have structured the system of education from time immemorial in this constitution, and you understand, of course, you have alienated a great segment of the population. You do understand that, I am sure, in your infinite wisdom. You understand you created an appointed Board of Regents. Everybody is afraid of the legislature. You've got an appointed Board of Regents; you ought to be afraid of them because they're not answerable to anybody. At least, at least, an elected board

is answerable to the people. An elected board can play politics, but only to such a point as is within the bounds of reason; an appointed board that is inviolate from everyone cannot. What this amendment does is to allow true flexibility. If everybody is not...if everybody here who's been talking about flexibility, and not a rigid document that is going to have to be amended, then this amendment allows it. It's what we've done in other instances. It allows by a two-thirds vote, not necessarily to go to a single board system, but a two-thirds vote to restructure the boards. If the composition... we are not...we, who are so...all of us geniuses here have decided how they are going to be composed. But, if it doesn't work--if it doesn't work--it allows a two-thirds vote of the legislature to change the composition of the board. By a two-thirds vote of the legislature, they can pass a tax. They ought to be able to change the composition of a board that doesn't work. What if this doesn't work? Has anybody thought about that? What are we going to do? Has that crossed your mind? Has any degree of introspection entered into your thought process here? This allows at least a restructuring. It allows that it be, perhaps, three boards or two boards. It allows that. It doesn't say there will be, but it gives the flexibility that we have. I defy anyone of you to say that you know everything about the educational system, and you know that this system is going to work. I defy any and anyone of you to say that. If you say it, it's going to really mystify me how you know this--and I want to see your crystal ball--how you know the Board of Regents is going to work, how you know it's going to operate properly, how you know the composition is exactly correct? This at least allows an out. It at least allows two-thirds of the legislature--and hopefully they're going to be reasonable men representing the people of Louisiana; hopefully they're going to be reasonable; if they are not, we're in trouble anyhow--it allows them to cure some of the mistakes we might have made in this constitutional convention.

I'll yield to any questions.

Questions

Mr. Stagg Stan, as I read this amendment, I'm confused by the words "board or boards" in the last line. The thrust of the article is--or the proposal is--that the legislature may provide for the merger and consolidation, and that the legislature may vest in said board or boards, the coordination, supervision, and control. Then drop down to the next to the last line, "and functions with respect to education above the secondary level as the board or boards shall determine." Shouldn't that be "functions with respect to education above the secondary level as the legislature shall determine"? Is that an error, or do I just read your proposal incorrectly?

Mr. Duval Well, the purpose of the amendment, Mr. Stagg--and you may have...the purpose of the amendment, of course, is to allow--is to allow--the legislature to consolidate the boards by a two-thirds vote, or to lessen the number of boards, or to restructure the boards. Now, in the event that there was a consolidation, the functions would be delineated under the...by the legislature; that's correct.

Mr. Stagg Well, in line 5...6, if you put the word in front of the word "may vest," if you merely interline there, what you mean to say is that "the legislature may vest in said board or boards coordination," etc. How do the boards or boards determine it when it's supposed to be the thrust of the sentence that the legislature shall determine it?

Mr. Duval The purpose of the amendment...the purpose of the amendment is to merely allow flexibility, to allow the legislature to restructure or consolidate the boards we in our infinite wisdom have done here. Now, if the board...it may well be "as the legislature shall determine." It

may well be in error.

Mr. Kean Mr. Duval, will you explain to me what the difference is between your proposal and the Miller-Gauthier proposal that was rather soundly defeated?

Mr. Duval I would be very delighted to do that, sir. The Miller-Gauthier amendment mandated a single board, in my opinion. This amendment does not mandate a single board. It could be...it says, "lesser boards." It also allows any board to be restructured, which the Miller-Gauthier amendment did not. In other words, if our composition, here-- I know we know everything, but if we composed a board that is in poor composition--the method of composition is wrong, then it allows the legislature, by a two-thirds vote, to change that. I think it's a substantially different amendment than the Miller-Gauthier amendment.

Mr. Kean But, it still has the fault of--as I suggested before--of lending towards instability because you could still do it, change it. If you didn't like it...if you didn't like seventeen, you could make it nine. If you didn't like nine, you could make it forty, or whatever two-thirds of the legislature might decide, from time to time.

Mr. Duval That's right, Mr. Kean. It also allows errors to be corrected. It allows that type of flexibility rather than instability. I think we all use the words that suit us best, of course, but I think flexibility is the key word in this amendment--not instability. We were going to enshrine a...we can enshrine a bad concept; and for the sake of stability, we perpetuate mediocrity. I don't think that's a very good idea, Mr. Kean; do you?

Mr. Kean Well, as I understood your argument, Mr. Duval, you were much concerned about the Board of Regents--this inviolate group who can't be touched by anybody, etc. Yet, you're injecting this amendment in the section dealing with the L.S.U. management board, aren't you?

Mr. Duval Well, look. I realize that the L.S.U. system is what is concerning many of us now, but I think it is not as...what makes it more inviolate than anything else? I'm saying that there ought to be flexibility for the entire system of education, also. That's the general thrust of this amendment.

Mr. Cowen We keep talking about time and trying to get ahead as much as possible. A point of order, Mr. Chairman. I say this is the same thing that we have beat back three or four times in the past.

Mr. Henry Mr. Cowen, it's not the...it's not identical to other amendments that we've considered. Of course, it's been customary to go ahead and to let them beat themselves to death on them if that's what they want to do.

Mr. Hernandez Mr. Duval, would you agree that it requires long-range planning in any institution of higher learning to keep your program going to build up universities in this state? Are you convinced of that?

Mr. Duval Certainly, it requires long-range planning, but I'm sure that there are long-range plans that change as the times change, also.

Mr. Hernandez Yes, sir, but how in the world could any university or college plan, or do any long-range planning, when year to year this can be just torn asunder--the entire board changed up, restructured, and everything else? That can be done at every session of the legislature. How could they plan in the future?

Mr. Duval As you know, sir, in every session of the legislature, under what we've done, they can change all the agencies and consolidate and un-

consolidate them. Hopefully, we're not going to have a bunch of raving maniacs in the legislature, but people who are trying to do reason.

Mr. Hernandez There are different men to come to the legislature with different ideas, and that would just tear asunder any long-range plans.

Mr. Duval It requires two-thirds...I just want to replace "board or boards" with "legislature" to make it technically correct.

[Amendment withdrawn and resubmitted with correction.]

Closing

Mr. Duval Fellow delegates, I realize the sense of this convention. I just want to please remind you again that it's so important to have flexibility in a constitution. Do you understand that one of the reasons we are here is because of the inflexible constitution we're living by now? Let's at least give two-thirds of the legislature the right to correct some of the errors that we may have made. Now what makes us so dadgum much smarter than two-thirds of the legislature? What makes us so infinitely wise that we can predetermine how the educational system is supposed to work from now and forever more? What makes us so smart? Why are we so smug to say we can't make an error? Why can't we give this document the flexibility that it sorely needs? That's the reason we came up here, to have a flexible document. You look into your own conscience and your own intellect. You think perhaps, maybe, you can make a mistake, and perhaps this is one way to change it without hurting the LSU System.

I went to LSU for seven years and think very highly of the LSU System. LSU may find out it doesn't like the way the Board of Regents is composed. LSU may find out it doesn't like the powers of the Board of Regents. LSU may dadgum well want a constitutional amendment. They may rue the day that they didn't allow any flexibility in this particular proposal. Our children may rue the day that we...that the Constitutional Convention of '73 didn't give us any way out of this proposal... no way out at all, and we have to live with it. Now, you think about that for awhile, fellow delegates, and then vote.

Thank you.

[Record vote ordered. Amendment rejected: 40-66. Motion to reconsider tabled.]

Amendments

Mr. Poynter Amendment No. 1. *[by Mr. Roy]*. On page 6, line 20, delete Floor Amendment No. 1, proposed by Delegate Johnny Jackson, and adopted by the Convention yesterday.

Amendment No. 2. On page 6, delete lines 20 through 32, both inclusive in their entirety, and on page 7, delete lines 1 through 4, both inclusive in their entirety and insert in lieu thereof the following:

"Section 9. Board of Supervisors of Louisiana State University and Agricultural and Mechanical College

Section 9. (A) Creation; Powers. There is created a body corporate, known as the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, which subject to the powers vested in the Board of Regents, shall supervise and manage the institutions and statewide agricultural and other programs administered through the Louisiana State University and Agricultural and Mechanical College system.

(B) Membership; Terms. The members of the board shall be appointed by the governor, with the consent of the Senate, for overlapping terms of six years following initial terms which shall be fixed by law. The board shall be composed of two members from each of the congressional districts into which the state is divided, and one member shall be from the state at large."

Point of Order

Mrs. Zervigon Mr. Chairman, as I read this, it's only a reconsideration of the Jackson amendment of yesterday. I'd like a ruling of the Chair on that.

Ruling of the Chair

Mr. Henry All right. Mrs. Zervigon, I had looked at this earlier, but, the Jackson amendment deleted the provisions, as I appreciate it, that were in Section 9 at that time, including some additional amendments which had already been added to that section which, in effect, would make this a different amendment.

It deletes some amendments that...the Jackson amendment of yesterday deleted certain amendments... which had already been adopted to Section 9, including repealing or deleting some language which was presently then in Section 9. Your amendments, according to this Journal, and some other amendments...

Mrs. Zervigon But, Mr. Roy has not reinserted my amendment, as I read it.

Mr. Henry That's right. That's what makes the amendment acceptable at this time.

Mrs. Zervigon The Jackson amendment deleted...

Mr. Henry It's not the identical amendment...

Mrs. Zervigon I appeal the ruling of the Chair, Mr. Chairman.

Appeal from Ruling of the Chair

Point of Information

Mr. Stovall Could we get the amendment from yesterday? Could you give to us any specific differences that might be there?

Mr. Henry All right. As I appreciate it, there was a floor amendment introduced, according to the Journal, by Delegate Jackson. Amendment No. 1 was on page 6, delete lines 20 through 32, both inclusive in their entirety. On page 7, deletes lines 1 through 4 both inclusive in their entirety, and delete convention Floor Amendment No. 2 proposed by Delegate Zervigon, et al, and adopted by the convention on November 14, 1973, and insert in lieu thereof the following: So, as I appreciate this, what is being offered by the Roy amendment is to delete a portion of what was adopted in the Jackson amendment, and not to just completely undo the Jackson amendment.

[Previous Question ordered. Chair sustained: 84-16.]

Explanation

Mr. Roy This amendment nullifies the results of Mr. Jackson's amendment which was to give to Southern University a board similar to the LSU Board of Supervisors. Now, of course, I'm sure you all know how I basically feel about certain things philosophically. But I must, in good conscience, oppose Mr. Jackson's amendment which was proposed yesterday, about which I and a lot of others did not speak, because maybe we felt it would not pass. But there are just certain things that...in it that are just detrimental to what maybe he thinks the good will be accomplished from it; one of which is that it's impossible for me to conceive that a separate board for Southern University will, when it presents itself to the Board of Regents, competing for budget and what have you against the LSU Board of Supervisors, and the Board of Trustees of other state colleges and universities, will not be in some sort of a detrimental position with respect to the competition among other schools. Now, that may or may not be something that the people want to look at, but, it's an important fact of life and you all know, as delegates here, how it

would be if you sat on a Board of Regents and had the request made from the Board of Supervisors of LSU, and the Board of Trustees, and then a small board like Southern's, what may be the result.

The other thing that I want to bring to your attention, and to be perfectly honest about it, is that Mr. Segura has an amendment which addresses itself to Section 8, and which provides that when a college essentially reaches a ten thousand student level, it may petition or seek to be...to have a separate Administrative Board. I don't believe in not being frank and honest, and I don't think I would, maybe support that. I'm not sure. I haven't heard any argument on it. But if we are going to get to the issue, then that's the place where this matter ought to be discussed. We have the fact that since 1940 LSU has been in the constitution of this state. That's a fact. We can't overlook it. We've got to accept that. We've got to deal with it. Section 9 is supposed to be dealing with LSU, and not the other state colleges and universities which previously have been operating under the State Board of Education.

So, in closing, I'd like to urge the adoption of this amendment. I think it's exactly what the committee proposed. I think it's good. I think, notwithstanding, it's laudible to have blacks be able to say we've got a separate board for Southern. I don't think that's in their best interest, and I would urge your support for this amendment.

Question

Mr. Dennery Mr. Roy, on yesterday afternoon, by a vote of 62 to 47, there was added to the original section, before Mr. Jackson's amendment, a provision that no member should be...would be eligible to succeed himself. I notice that you voted against that amendment. Is that the only reason you didn't put this in?

Mr. Roy No, I am opposed to preventing a member from succeeding himself, especially since we have only a six year term. Mr. Jackson's amendment did take that out of the amendments that had been passed. I am for a board member being able to succeed himself.

Mr. Dennery Thank you.

Vice Chairman Casey in the Chair

Question

Mr. Kelly I said the crux of your amendment is really to delete Johnny Jackson's amendment yesterday afternoon. Have you talked with Johnny about this this morning?

Mr. Roy No, Johnny is not here. I haven't seen him, and...you know, I told him yesterday how I felt. So, it's nothing new.

[Motion to table the amendment rejected: 41-59.]

Further Discussion

Mrs. Zervigon Mr. Chairman and delegates, I very much object to the tactics that are being used here today. This is a reconsideration and I believe that Mr. Roy, over these microphones was frank to tell you that it is a reconsideration. I'm being told that, "The blacks don't want it." Well, I have yet to see any one group of people that can be categorized that way vote all together on an issue every time. There may be some blacks that want it and some that don't, but Mr. Jackson who originally introduced that amendment, who cannot be here today because of pressing business in New Orleans, would like his amendment to stand. Early on, one of the first actions this convention took was to create the Composite Committee. The Composite Committee toured the state and heard people come to talk to them. We didn't hear everybody in any area. Those who would get themselves away from their T.V. sets or the dinner hour were

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the people who felt very strongly on an issue. We only heard those people who felt very strongly on an issue. In Alexandria, we had representatives from the Southern Alumni Association. They told us that they would like a board. They are a system. They are not only one little teeny tiny college, they are a system similar to the LSU System, smaller, newer, weaker, and for that reason, they may need constitutional protection more than the LSU System. It is apparent here that the LSU System, alumni and all, when they get cranked up, can swing considerable clout. That's a little difficult for the smaller, newer universities. But ladies and gentlemen, we passed this thing yesterday. No new, compelling reasons have arisen why we should repeal it. Representative Jackson would like it to stand. The Southern Alumni Association has voted in favor of it. I beg you, stand by your actions of yesterday. Do not be blown back and forth in the wind like a willow tree.

Thank you very much.

Further Discussion

Mrs. Warren Mr. Acting Chairman and delegates, he that has eyes, let him see, and he that has ears, let him hear. This morning we debated that whether we wanted to work on Sunday because that was the Lord's Day. I'm wondering right now if I didn't make a mistake in voting that we work on Sunday, because evidently, some of us need to go to church and get refueled before we come back to this convention. I am reminded now of a man that was dissatisfied with himself. He spoke out loud one day and he said, "If I die and I could come back into this world in any form that I'd like to come, I'd like to come back in the form of an elephant."

Some of his friends heard him, and they pulled a joke on him. So, while he was sleeping, they put an elephant suit on him and stuffed it. When he woke up the next morning, he was so heavy, and he couldn't hardly move, he said, "Of all things, I planned to go shopping today and buy me a new suit, so, I'm going to go on out of here, anyway, and see if I can't buy that suit."

When he went downtown to his favorite store, he couldn't find a suit to fit him. So he said, "I changed my mind. If I could come back in any form that I could want to come back, I'd like to come back in the form of a rat." He said, "In that way, I could squeeze in any hole I'd like to go into." I'm saying to you, this is a dead horse. This rat is trying to squeeze into a hole. Let's don't let this rat squeeze in this hole. Let's let justice prevail. Mr. Roy made it very plain that he wanted to squeeze Southern out; that he wanted--and I asked the question yesterday, "Do you want to flush them down?" He's coming right back this morning. He just wants to plain eliminate them. I'm asking you, look into your hearts, search your minds, and make up your minds. Ask yourselves are you ready to stoop to these kind of tactics to get what you want? It's alright to grow big so long as you don't step on that next person trying to get big.

Let's vote this amendment down, and let's let justice prevail. I'll answer any questions from anybody.

Questions

Mr. Stagg Mrs. Warren, let's try to see where we are with reference to the setup of the various boards. When the Jackson amendment was adopted yesterday, that set up a seventeen person board for the Southern University system. It requires that a certain number of those board members have attended Southern University. Therefore, the make-up of that boards would be, most likely, predominantly black. Is that not correct?

Mrs. Warren I imagine you are right.

Mr. Stagg Let's feed into that computation that we also in this week have adopted an amendment or a proposal of the committee that there be a Board

of Regents which would have the effective budgetary and other controls over all of education in the higher levels, and that we had a lot of arguments about how many of those people might be predominantly representing the predominant minority of the state. Is that not correct?

Mrs. Warren Right.

Mr. Stagg If the board for Southern University persists in the form of the Jackson amendment, would not some future governor, having made seventeen appointments of prominent black citizens to the board of Southern be somewhat off the hook on the number of people he might, then, feel, therefore, feel necessary or appropriate to appoint to the Board of Regents of Higher Education which is really going to be the control valve of higher education in this state? Are you not in danger, therefore, of losing sight of the higher objective in order to achieve the lower objective?

Mrs. Warren I don't think so, Mr. Stagg. I didn't...didn't write the amendment. One amendment came before this floor--Mr. Alphonse Jackson submitted it--that was to give representation for blacks. I have stood at this podium, and I've said to you, as far as the color of a man's skin is concerned it doesn't matter one way or another with me, but evidently, it didn't work out that way the other day. I said if people want to see what you do, instead of hearing what you say. Now, the point that I'm raising here is not the number of people on the board. It is a fact that he wants to erase Southern completely. This I disagree.

Mr. Stagg Well, you did hear the governor's comments, I presume you did, on the news last night...

Mrs. Warren No, I didn't, Mr. Stagg. Maybe you'd like to tell me.

Mr. Stagg Well, the HEW has...

Further Discussion

Mr. Rayburn Mr. Acting Chairman and fellow delegates, I was not here yesterday and did not vote on the particular amendment either way. But in a sense of fair play, since the delegate that proposed the amendment is not here, I would suggest of Mr. Roy that he withdraw the amendment at this time and then if he so desires, when the delegates is here, represent his amendment. I would certainly hope that he would withdraw it in this time...at this time, due to the fact that the person that authored the amendment that is involved is not here. In a sense of fair play, Mr. Roy, I hope you would withdraw the amendment at this time.

Further Discussion

Mr. Chatelain Mr. Chairman and fellow delegates, I, too, want to rise and ask that Mr. Roy please withdraw his amendment. It would make it much better for many of we delegates to try to rationalize after two days of real hot debate. I think in all fairness, I join Senator Rayburn that he should withdraw...it temporarily and come back at a later time with it.

Questions

Mr. Roy When is Johnny Jackson coming back?

Mr. Chatelain Sir?

Mr. Roy When's he coming back?

Mr. Chatelain I understand he's due back tomorrow, sir.

Mr. Roy Now, look. I...certainly I would withdraw it if we could consider it that way. I don't want to bamboozle anybody. But...

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Mr. A. Jackson Mr. Chairman, I just spoke with Representative Jackson, and he is presently appearing before the City Council in New Orleans and will be leaving shortly to return to Baton Rouge.

Mr. Casey It's anticipated he will return in the next couple of hours, then. Is that correct, Mr. Jackson?

Mr. Chatelain We would appreciate it if you would withdraw it, Mr. Roy.

Mr. Roy Yeah...sure...I'll do that. Look, I didn't know that Johnny was going to be here or not be here today.

Mr. Casey Mr. Roy now moves to temporarily withdraw his amendment with the understanding that you'll have the right to resubmit it, Mr. Roy.

Mr. Roy Right. That the whole section will not be considered and voted on before...

[Amendment withdrawn. Motion to revert to Section 8 previously passed over adopted: 91-3.]

Chairman Henry in the Chair

Reading of the Section

Mr. Poynter Section 8. Board of Trustees for State Colleges and Universities...

[Motion to waive reading of the Section adopted without objection.]

Explanation

Mr. Segura Thank you, Mr. Chairman. Mr. Chairman, fellow delegates, in this section it's called the Board of Trustees for State Colleges and Universities. It creates the management board for all state colleges and universities not under the LSU system. We have been discussing Section 9, which is the management board for the LSU system. This board is...and the way the proposal is prepared, it's one board, as the Board of Education is today, that would have management control over every state college and university and all the vocational and technical schools that are now under the State Board of Education. As you know, this constitution has already adopted Section No. 7, which is the section which creates the Board of Regents. There has been much debate and much question amongst the delegates and amongst the people of the State of Louisiana as to whether we should have a one board system, a two, three, four board system. I want to tell you under this proposal we have only a one board system. You might think I'm mistaken, but let me explain it to you. All curriculum and all budget for all higher education institutions--LSU and all others--are under one board, the Board of Regents. In its wisdom, this committee in this proposal saw that to put management of these under the Board of Regents, also, would be too much to do. So, they separated curriculum and budget from management. Section 9 explained the LSU system, and when you voted to adopt Section 7, the Board of Regents, you individualized LSU. I'm not saying it's right or wrong; I'm saying you, yourselves, decided LSU should be divided; so LSU was under Section 9. Now, you're covering the management boards of all the other colleges. It is composed very much in the same way as was the boards we've been discussing for the last day under Section 9. It is composed of two members from each congressional district and one member at large, all members to be appointed to serve staggered terms of six years each. I would like to ask you and urge you to support this section and vote favorably for the section.

I'll answer any questions.

Questions

Mr. Lanier Mr. Segura, I noticed both in this

section and in Section 9 we're changing the present terms all to six years. I'm assuming you have either proposed or will propose a scheduled provision dealing with those who are in office that have terms longer than six years. What is your committee proposal on how to handle those people who are presently in with more than six years to run?

Mr. Segura We have another committee proposal, and it's either 11 or 30--30? It's Proposal No. 30. It's another committee proposal which deals with all of the boards that are now existing, how they will be phased into this system for the balance of their term. I think if you'll study that, you'll answer that question, and I thank you for asking that question.

Mr. Drew Perry, I wonder if you could give me a little of the feeling of the committee on this subject. I notice that post-secondary vo-tech training is listed under the section on Board of Regents and under the section on Board of Trustees. It is not mentioned under the Board of Education. The reason I ask this: the tendency is to increase the vo-tech training at the secondary level, high school level. Here it looks like we have it divided to where, possibly, your Board of Education might have some control up until graduation, and then you've got your Board of Trustees having control.

Mr. Segura As I understand it--and I wish Mr. Aertker would correct me if I'm wrong; in fact, maybe I should yield to Mr. Aertker to answer that question. I see he's standing. If you don't mind, I will let him...

Mr. Henry Well, no...

Mr. Segura Well, I'll be glad to answer it.

Mr. Henry Go ahead because you have the floor...

Mr. Segura Okay. Well, there is vocational education before you get out of high school. That is under the board we have adopted for elementary and secondary education. Once all vocational training after that is under this Board of Trustees. That's the management. The Board of Regents still controls the budget and the curriculum for all...

Mr. Drew I understand what...your answer you're giving me, Perry. The point I'm making is: aren't you dividing the supervision or jurisdiction of vo-tech training to where, maybe, it would be better if it were all under the Board of Education?

Mr. Segura Mr. Drew, I'm sorry. I can only hear about half of your question, but it is under the high school program. Mr. Aertker just corrected me. It is...

Mr. Drew That's the point I'm making. You are dividing the jurisdiction of the supervisory jurisdiction over vo-tech training into two sections--your secondary education and your post-secondary. Now, don't you think it would be more advisable to have it all under the Board of Education because it is more or less of a continuation of secondary education.

Mr. Segura I tend to agree with you, but that is not the way it is set up.

Amendment

Mr. Poynter The first amendment is sent up by Delegate Alphonse Jackson.

Amendment No. 1. On page 6, line 3, after the word and punctuation "College," add the following: "Board of Governors of Southern University and Agricultural and Mechanical College,"

Explanation

Mr. A. Jackson Mr. Chairman, ladies and gentlemen of this convention, this is a rather simple amend-

ment--technical in that we have already adopted an amendment on yesterday by Delegate Johnny Jackson, which established a Board of Governors for the Southern University system. If you will note on the page that's indicated by way of this amendment, you will see that the Board of Supervisors of the Louisiana State University system is excepted from control of the Board of Trustees. My amendment simply excepts the Board of Governors of the Southern University system that was established on yesterday so that it will now have the authority to control and manage the affairs of the Southern University system in a like manner as is provided for the LSU system. I ask for the adoption of this amendment.

Questions

Mr. Roy Alphonse, in view of my pulling the amendment that I had to Section 9, I'm wondering if it wouldn't be better if we just--if you would pull your amendment until we decide the issue of whether Southern will be a constitutionalized board or not?

Mr. A. Jackson Well, I don't really think that it would make a lot of difference Delegate Roy, because if your amendment prevails, then that would certainly remove the need for this amendment. But, if not, if we go ahead and adopt the section without this amendment, I think we've got a problem relative to the way the Southern University Board would operate.

Mr. Roy But, wouldn't we have to come back, if my amendment later passes, we'll have to hold B open to come back and take this out, because we certainly couldn't have this language in Section B without Southern University being a constitutional board under Section 9.

Mr. A. Jackson Well, I think you're right. I think we'll be wasting time if...until we decide the question, I think that you're right. I'll withdraw it until that time.

[Amendment withdrawn.]

Amendment

Mr. Poynter This time Delegate Drew sends up amendments, Mr. Chairman. It reads as follows: Amendment No. 1. On page 6, delete lines 5 through 8, both inclusive, in their entirety.

Explanation

Mr. Drew Mr. Chairman, ladies and gentlemen of the convention, this amendment is a follow-up on the questions that I asked Mr. Segura while he had the floor a few moments ago. If you will revert to Section 4, you will see that that does provide that "the board shall have other specific powers, duties, and responsibilities as provided by law," which means the legislature can enlarge upon their jurisdiction. Now, what we have at this time: we have a reprogramming of high school education to try to get more vo-tech training in high school. The purpose is this: there is no need for a student who does not intend to go to college to spend four years getting a high school diploma, and then have to spend the next two or three years in a vo-tech school if that's what he desires. The movement is to put more vo-tech training in high school. What we have under the present proposal would be a split jurisdiction between the Board of Education and the Board of Trustees, although it could be changed by the legislature under this Subsection 2. I think that what we need is one board in charge of vo-tech training, and by doing this, it would permit the legislature to put the entire authority at the next session after the constitution is adopted, to put this authority in the State Board of Education where it belongs, rather than having the State Board of Education handling part of it, the Board of Trustees handling part of it. I think you would have a more...a better continuity in your program. You would have a better saturation of vo-tech training in high school. I ask for the adoption of the

amendment.

Questions

Mr. Aertker Mr. Drew, this then, actually, would result in our adding still one other board, though to the boards that we have proposed in...

Mr. Drew No, sir. This would not...under the Subsection 2 I think you would be more apt to have another board than under deletion of 2, Mr. Aertker, because what this is doing is permitting the legislature to put the total jurisdiction under the Board of Education. It is not intended to create a new board.

Mr. Aertker Well, the question I have is: you don't think it would be better for us to see just what problems we're going to encounter in view of the fact that the structure and the approach to vocational education and career education is in such a state of, really, transition right now that, really, most people don't know whether it's fish or fowl, even, half the time. Most of them don't know whether it's going to end up with the prominence being placed at the secondary level or at the post-secondary level. Wouldn't it perhaps be better if we would leave this language that we have in there, and then the legislature in their wisdom after seeing it in operation for about a year would be able to then create whatever board would be necessary, even, after...or designate specific responsibilities into the Board of Education or the Board of Regents?

Mr. Drew The reason I have offered this amendment, Mr. Aertker, is the experience and the information that we received in the legislature in dealing with vocational-technical schools is that the better purpose was to put a heavier saturation in your secondary education. I think by dividing it under two jurisdictions would be making a bad mistake. I think this is the proper place for vo-tech training is under the Board of Education. I'm hoping that by doing this we will have a heavier saturation in high school to where those who do not intend to go to college will not waste their years getting a diploma that's worthless.

Mr. Aertker Well, Mr. Drew, you don't think that we could actually accomplish that just as we are because, for instance, most school systems right now are getting a heavier saturation of it without any urging from the board of Vocational Education or even the Board of Education? It's actually being included as a part of the formula, as a part of the curriculum?

Mr. Drew That's the reason that I think that this amendment is necessary, Mr. Aertker, because it is becoming a heavier part of the high school curriculum. I move for the adoption of the amendment.

[Previous Question ordered. Amendment rejected: 41-57. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Segura and Mr. Pugh]. On page 5, delete lines 26 through 32, both inclusive, in their entirety, and on page 6, delete lines 1 through 15, both inclusive, in their entirety and insert in lieu thereof the following:

"Section B. Board of Trustees for State Colleges and Universities

Section B. (A) Creation; powers. There is created a Board of Trustees to supervise, manage, and govern all public institutions of vocational-technical training and career education together with all colleges and universities, not otherwise provided for in this constitution. As each such institution reaches an initial student enrollment of twelve thousand it shall have a separate Board of Trustees.

(B) Board membership; terms. The members of each board of trustees created pursuant to this section shall be appointed by the governor with the consent of the Senate for overlapping terms of

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six years, following initial terms which shall be fixed by law. The board shall be composed of seventeen members, two from each of the congressional districts into which the state is divided, and one member shall be from the state at large."

Explanation

Mr. Segura Thank you, Mr. Chairman. Fellow delegates, as I explained to you a few minutes ago when I explained the section, the committee felt it necessary to split up the work of controlling education in this state by having one board, the Board of Regents, to control curriculum and financing for all universities and state colleges, whether it be LSU, Southern, USL, Nicholls, McNeese, or any other. Then they created a management board for LSU, and then one management board for all the other state colleges and universities and the vocational and technical training. I contend that pretty soon this will be too much for one management board to control, and the workload will be too much. All of the eleven state colleges and universities are not going to be able to have enough time devoted to them by this management board in order to do fair and justice to them all. So, I'm asking you, whenever a university or a state college reaches a certain size, certainly their problems get greater. Whenever it does, this amendment would automatically create a management board for them. I researched the figure that I should use, and I debated with a lot of delegates, and I got advice from a lot of people. I settled on the figure of twelve thousand students because I feel that that's the size that, when a university gets that size, it has more problems than can be handled all by one board, and it deserves another board of management. You've got two universities right at that stage right now: that is, Southern University in its entire system and the University of Southwestern Louisiana.

I ask you for favorable consideration on this amendment. I do want to say this is the very first amendment that I have brought to this floor, and I have thought about it, and I think it's a good one, and I'd like for you to consider it.

I'll answer any questions.

Vice Chairman Roy in the Chair

Questions

Mr. Aertker Perry, under the first section that you have there, you say it shall have a separate board. You don't even give them any choice? It means the minute they hit twelve thousand that's where they get a Board of Trustees whether they want it or not?

Mr. Segura That's correct, sir.

Mr. Aertker In other words, they would be forced to take it even though they would be happy with their relationship with the present Board of Trustees that we've set up to manage that; you'd just say, "Get out and fly by yourself."

Mr. Segura That's one point I really didn't look at because I didn't think anybody...I thought anybody...any school would have been happy to have its own board. I did discuss this with the president of Southern University. I did discuss this with the president of the University of Southwestern, which are the two schools that's knocking at the door with that right now. They both were happy and would be satisfied to be under a separate board under this section.

Mr. Aertker Did you know that I spoke of the same question with the president of Southeastern, and he indicated to me that he did not want a separate board to govern his...to operate his--so this was my concern here?

Mr. Segura I did not speak to him because his enrollment was not near this, but I would be receptive to an amendment to this or a change on this, because I think it's a good point.

Mr. Aertker One other question then, Perry. This means then that this Board of Trustees would have the identical powers that the present Board of Trustees that we're putting into the constitution...

Mr. Segura Yes, sir.

Mr. Aertker Which would mean then that it would be possible in the future for...with population growing--and this is the concern that I have with numbers in something that might be around fifty years from now--it might be possible that if all of these universities grow as they seem to be all growing, that it could be possible that the Board of Regents would actually have maybe twelve or thirteen Board of Trustees coming to them with a budget for each institution, right?

Mr. Segura It is possible, but, you know, one thing--in my profession I'm an architect, and one of our specialities is hospitals--the one part of the hospital that has been decreasing is the obstetrics department, because the population is ceasing to explode like it had been. I feel that there will still be a population growth in Louisiana, because, let's face it, a lot of people are coming into Louisiana because it is a good place to live, and so these schools will grow. But, I don't think it will grow at the same rate that it has grown in the past. I think that if everyone of these universities get to that size then they deserve a board because it's too much work for all to be under one board.

Mr. Aertker You're not telling me though that they're just reproducing outside of Louisiana, and that we've quit reproducing, are you?

Mr. Velazquez When LSU in Baton Rouge was given its Board of Supervisors down back in 1940, how many students did they have?

Mr. Segura I did not research that. Maybe you can answer that for me.

Mr. Velazquez I've been told they had in the neighborhood of five thousand students. I've been told this is the neighborhood. How come the neighborhood has gotten so expensive since then?

Mr. Leithman Mr. Segura, I don't know if you know how we came about this career education, but, we worked on this thing for about--almost a year, and we utilized professional people--that's professional educators--in creating career education, which is a concept of elementary and secondary. I see here that you are about--on this amendment under Section (A), as I read it--you're indicating that we should disengage career education from our elementary and secondary concept. Now, career education isn't something that you say, "This is career education." Career education is a concept that we work into our elementary from grade kindergarten on up. Primarily, career education has to do with our high school...in our high school and elementary years, and I just wondered if you fully understood what our concept of career education is, because what we're about to do here, as I see it, is just ruin something that we feel we've done a good job on, and in the legislature and with our professional educators. Did you know this?

Mr. Segura No, Mr. Leithman, I've got to answer in all honesty. I'm not that familiar with the program on career education. I do want to say this: I just took the wording that was out of the committee proposal as relating to career education and inserted it in this section, because this language would replace it. I would be wide open and receptive to an amendment concerning that, or a suggested change on this. Of course, if it is a controversial subject, then it should come as an amendment of its own.

Mr. Conroy Mr. Segura, LSU-ND is presently the only institution in the state, other than LSU in Baton Rouge, that has more than twelve thousand

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students. But, as I read your amendment, you still wouldn't do anything to help out LSU-NO, is that correct?

Mr. Segura I'm real glad you asked that question. Whether LSU-NO deserves a board of its own, whether it deserves to be on its own away from the LSU system, or whether it belongs under the LSU system is not a decision that I think I am qualified to make. I don't think that we at this convention ought to make that decision. LSU-NO is created, as I understand, by the LSU board and the state legislature. I think this is a complete different problem, and I don't want to get into the middle of that debate.

Mr. Conroy But, I'm correct then that your amendment does not in any way assist LSU-NO in correcting those changes?

Mr. Segura It does not help it or hurt it.

Mr. Flory Mr. Segura, your amendment would not affect LSU-NO, or any branch of LSU, would it?

Mr. Segura No.

Mr. Flory Doesn't your amendment really only affect the possibility of one state college or university at this time?

Mr. Segura It affects two; University of Southwestern and Southern University when each one of those reach twelve thousand, and I'm not sure if they have twelve thousand. I've seen some figures that give them both above twelve thousand. I saw some figures yesterday that give them both right below twelve thousand, but they will be at twelve thousand pretty soon.

Mr. Flory How would your amendment affect Southern University, because the institutions that I'm looking at--one has eight thousand three hundred, the other twenty-five hundred, and one eight hundred? You're not talking about systems now, you're talking about facilities.

Mr. Segura I think--let me read--but, I think I've said, "in its branches."

Mr. Flory You say, "as each such institution reaches an initial student enrollment."

Mr. Segura Well, it could be that I might have gone out with the wrong amendment, but I had covered that yesterday, because...let me ask Mr. Pugh who is a coauthor on this.

Mr. Roy Mr. Segura, you can't ask Mr. Pugh. He doesn't have the floor.

Mr. Flory My real question, leading up to it now, Mr. Segura, is: if the enrollment at Southwestern is now eleven thousand six hundred and twenty-five, and in the next school year they hit twelve thousand, and a board statewide is appointed, you take them out from under the jurisdiction of the Board of Trustees, and at mid-term or during the school year, dropouts drop and forces the enrollment to drop below twelve thousand, do you then abolish that Board of Government?

Mr. Segura No. No, this Board of Government, under this amendment, once it is created it stays under that Board of Government.

Mr. Willis Mr. Segura, I thought you were discussing your amendment, and I had questions to that one, but now I see twelve thousand--you had ten thousand as yours--take this for an instance. Suppose USL is at eleven thousand five hundred at the present time, and it would--if the Board of Regents would allow it to--go up to thirteen thousand and qualify for a Board of Governors, don't you see? But, the Board of Regents decide that, well, "We ain't going to let it go that far; we'll clip it at eleven thousand five hundred; we won't

give them these extra courses of study." Isn't it possible that the Board of Regents could do just that and clip off USL?

Mr. Segura I don't think the Board of Regents has that kind of control.

Mr. Willis Has USL got twelve thousand students now?

Mr. Segura I don't see how they can control the number of people that want to go to that school.

Mr. Willis You answer that question. Has USL got twelve thousand students now? Yes or no?

Mr. Segura Did you ask me if it has twelve thousand students now?

Mr. Willis Yes. Would it qualify for a separate board under your amendment? Yes or no?

Mr. Segura I'm not sure, because I saw two sets of figures. One set of figures showed twelve thousand; the other set of figures showed right below twelve thousand.

Mr. Willis Yes. Well, if you had used your ten thousand dollar figure, it would qualify; would it not?

Mr. Segura Well, but, I think it would bring...

Mr. Willis Well, yes or no!

Mr. Segura Yes, it would qualify.

Mr. Willis Yes, it would qualify, but under twelve thousand you don't know, and it's probably that it won't qualify.

Mr. Segura I feel that it will qualify very shortly...

Mr. Willis Eventually, unless the Board of Regents clip it; isn't that correct?

Mr. Segura I don't think the Board of Regents has one bit of control over that.

Mr. Sutherland Perry, this is a question in regard to what Toca had been asking you earlier. In connection with public institutions of vocational-technical training and career education, you said you picked up the committee proposal and adopted them into yours.

Mr. Segura That was my intention.

Mr. Sutherland But, the committee proposal said that that would only be at the post-secondary level, and your amendment does not say that. It just says "all institutions," so I do think you have a conflict and you may have to change this up.

Mr. Segura I agree with you, and I think I will have to ask for a suspension of the rules in order to make that change. Thank you very much.

Mr. Dennery Perry, if an institution such as Delgado gets...if Delgado gets over twelve thousand students, as I understand your proposal, we would then have a Board of Trustees which would have to be composed of people from each of the eight congressional districts; is that correct?

Mr. Segura That's correct.

Mr. Dennery Well, isn't Delgado basically a community-type institution? Why would it be desirable even to have trustees from all over the state in that type of institution?

Mr. Segura I'm not that familiar with Delgado, but, don't students go there from all over the state, or is it only limited to a certain area?

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Mr. Denny It's basically a community institution with regards from about three or four parishes.

Chairman Henry in the Chair

Questions

Mr. Stovall Mr. Segura, aren't these matters that really should be handled by a Board of Regents that would be responsible for control and coordination in the best interest of higher education, rather than our trying to make these detailed decisions here in a constitutional convention?

Mr. Segura I don't think that should be, because I think these boards deserve constitutional status, and unless we do it now, I don't see how it can have constitutional status.

Mr. A. Jackson Delegate Segura, wouldn't the powers of the Board of Regents prevent the growth of any of these universities and colleges to the level called for by your amendment?

Mr. Segura I don't feel that it has any type of control over the growth of the school in enrollments, that's why I picked enrollments.

Mr. A. Jackson Are you aware, sir, that the Board of Regents will have the power under this proposal to revise and eliminate programs to approve and disapprove, and that if this is the case that there will be no chance for growth?

Mr. Segura Well, I would think that the Board of Regents is going to be composed of a group of men who are going to be for the betterment of all schools and all the people of the State of Louisiana, and in doing so, not do anything to try to hurt any one institute or university.

Mr. A. Jackson Isn't that their responsibility? Isn't that the responsibility of the Board of Regents?

Mr. Segura It is their responsibility, but that's only...it is their responsibility, but if they control curriculum, that's only for the betterment of the state for the cost to the people, and for bringing about a better education, and a better overall system for all of the students.

Mr. A. Jackson But, in effect, won't your amendment freeze the level of enrollment as it is now?

Mr. Chatelain Delegate Segura, you and I both are from the Southwest Louisiana area in which the University of Southwestern is located in Lafayette; is that correct sir?

Mr. Segura Yes, sir.

Mr. Chatelain Alright. Would you consider amending your amendment to ten thousand instead of twelve thousand?

Mr. Segura I'd consider amending it to eleven thousand, but I think you would defeat the purpose of this amendment if you went down too low, because if you get too low...the real reason for this is to split up the work, and not to put too much work load on any one board. Don't forget that. It's not to give a board to this school or that school. It's to split the work load to where it can be done efficiently so...and it's hard to deal with numbers. I debated with myself with whether to come with this amendment because I had to use a number...but I would go down to eleven.

Mr. Chatelain Would you explain to me in as simple a term as you possibly can, exactly why you came with this amendment?

Mr. Segura I came with this amendment because in my own mind, I have sat at the State Board of Education meetings many, many times, and I've seen these men do as good a job as they could, but could not

do justice to all the problems at all the schools under their jurisdiction. There's just too much. So, what I'm saying: when the work load increases, and as the schools increase--as the schools increase, the work load will increase--so then you should split up the work, and that's the primary purpose.

Mr. Chatelain In other words, as you split these boards, one would be equal to the other. Will they be coequal?

Mr. Segura Yes, sir. They would no longer be under the jurisdiction of the central board.

Further Discussion

Mr. Kelly Mr. Chairman, ladies and gentlemen of the convention, I, with reservation, rise to oppose this amendment, and my opposition is centered completely around one word. That's in the last sentence of the first paragraph. It shall have a separate Board of Trustees. This leaves no flexibility whatsoever. In other words, if a particular college happened to reach a student enrollment of, say twelve thousand, and they really desire to remain under the State Board of Trustees, they would not have this choice. They would automatically be cast over to the side with a separate Board of Trustees. Quite frankly, as a delegate from Natchitoches Parish, and speaking primarily in behalf of Northwestern State University, we're not in favor of this at this particular time, and this, regardless of what the...it leaves no local option. In other words, we couldn't do what we wanted to. It would be an absolute mandate, and I'm not really in fear of us reaching a student enrollment of twelve thousand within the next few years, but this might apply to other schools. I'd ask that you defeat the amendment.

Motion

Mr. Pugh Mr. Chairman, fellow delegates, Mr. Segura wants to withdraw this amendment for the purpose of reentering it by the application of two words, "post-educational..."

[Amendment withdrawn.]

Amendment

Mr. Poynter Alright. The gentlemen resubmits amendments with the following changes--both changes occur in Paragraph (A)--I'll read that: "Creation; powers. There is created a Board of Trustees to supervise, manage, and govern all public institutions of vocational-technical training and career education"--here's the first change--insert "at post-secondary levels together with all colleges and universities not otherwise provided for in this constitution. As each such institution reaches an initial student enrollment of twelve thousand it--strike out "shall" insert "may"--may have a separate Board of Trustees."

Explanation

Mr. Pugh Mr. Chairman, and fellow delegates, yesterday Mr. Segura discussed with me at my desk, an amendment of this type. The purpose of this amendment is to allow such schools or universities as reach an initial twelve thousand student enrollment to have their own board. I would be the first to acknowledge and admit that publicly I have stated I have some reservations about having a board placed in the constitution. However, it has been apparent to me from the last two days that Louisiana State University--of which I am a graduate from law school--will undoubtedly appear in the constitution. I have no quarrel with that. As a result, yesterday, of Delegate Jackson's amendment, we now have Southern named in the constitution. At the time this amendment was drafted, it was drafted at twelve thousand with the realization that both Southwestern and Southern would shortly be to the twelve thousand student criteria. As a matter of fact, since eight appears before nine, LSU could easily come within

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this amendment, because it also has more than twelve thousand students. Now, I've got no quarrel with boards; all I say is: What's good for the goose is good for the gander; that if you're going to create a board for the benefit of one of these institutions, then as the other institutions reach a certain enrollment level, whatever it was that caused a board to be created for LSU when it had five thousand students justifies the creation of a board when a school gets twelve thousand students. Whatever it is that justifies LSU or Southern, either one, being in this constitution, ought to be equally applicable to one of these other schools when it reaches a certain plateau. The plateau we suggest to you for your consideration is twelve thousand. I believe, based upon the accuracy of the information given here, that two schools will be at that level before this constitution is even adopted by the people, that of Southern, and that of Southwestern. In days to come it may well be that the other fine institutions throughout the state--Tech, Southeastern, Northeast, all that we have--may someday reach this level. All I say: if it's good enough for one, it ought to be good enough for the other. I ask your favorable consideration of this amendment. I'd be pleased to submit to any questions.

Questions

Mr. Dennerly Bob, as I read your proposal, you have wiped out the board which presently exists which manages the Delgado Junior College in New Orleans. Now, was that the intention of this?

Mr. Pugh No, I was not familiar with your Delgado situation until you asked Mr. Segura about it, frankly.

Mr. Dennerly Would you have any objection to adding an amendment which would add a third subsection which provides that any such institution which presently has a Board of Managers shall continue to have such Board of Managers?

Mr. Pugh I certainly would not have an objection to that, and, as far as I know, Mr. Segura would not either. It's a particular problem you were kind enough to bring to our attention.

Mr. Velazquez Delegate Pugh, are you trying to tell us that it takes twelve thousand students at some other institution to equal five thousand students at LSU? Is that your idea of equity?

Mr. Pugh I'm not trying to tell you that. I said what was good for five certainly ought to be good for twelve.

Mr. Velazquez You know, yesterday I said that what's good for the sauce was goose, was good for the gander, and the whole convention didn't think much of that idea. But, getting back to this mention that you have there of institutions. Southern University isn't an institution; it's a system. So, in effect, you really wouldn't be helping us in any kind of way on this thing.

Mr. Pugh I interpret the word "institution" as used there to cover the Southern system. In my opinion, as a lawyer, I believe that Southern--when it reaches twelve with its three campuses--would be entitled to a board.

Mr. Velazquez Did you know that the other lawyers that I spoke to said that may be your specific interpretation but I don't think the courts would go that way? Did you hear your compadre in this piece of material state that Dr. Netterville of Southern University had approved of this thing?

Mr. Pugh Did I hear him say that?

Mr. Velazquez Did you hear your associates say that?

Mr. Pugh No, I had to be absent for a minute.

Mr. Velazquez Well, let me tell you that he did say it, and we've checked with Dr. Netterville, and this thing was never submitted to him in the form that which it's been presented now. Another question: You've pulled this thing down twice, haven't you, to make slight technical amendments?

Mr. Pugh No, I haven't pulled it down twice.

Mr. Velazquez You and your associates, between you, have, haven't you?

Mr. Pugh No.

Mr. Velazquez Didn't you pull it down once just now and make a little amendment--make a little technical change?

Mr. Pugh That's once, not twice.

Mr. Velazquez I think your associate pulled it down once and made a little technical change.

Mr. Pugh He may have drafted this a dozen times for all I know.

Mr. Velazquez Don't you think that if this thing has been so poorly written that you've had to change it twice, it might be just worthwhile to pull it out altogether and...

Mr. Hayes Mr. Pugh, didn't you change "shall" to "may"...you changed "shall" to "may" have a board, didn't you? You said you changed that word to "may?" Is that right?

Mr. Pugh That's correct.

Mr. Hayes Now, when you change "shall" to "may" then who will make the decision at this point?

Mr. Pugh The school.

Mr. Hayes The schools. The administration will decide whether they will have a board. That means the faculty of whoever runs the school, the president? I'm just trying...I'm asking strictly for information at this point.

Mr. Pugh Well, as I understood, there was one school whose name escapes me, indicated he didn't want to be in the constitution.

Mr. Hayes That's the president, or something like this?

Mr. Pugh If that's the way he feels about it...I thought I answered you.

Mr. Leithman Mr. Pugh, is there any doubt in your mind that this would make LSU-NO eligible for their own board? Is there any doubt in your mind under this section?

Mr. Pugh No, I don't think it would make them eligible for their own board.

Mr. Leithman You do not think so?

Mr. Pugh You're talking about LSU-NO?

Mr. Leithman Yes.

Mr. Pugh I look at it as a system.

Mr. Leithman You look at it as a system?

Mr. Pugh That's correct. I don't think it's a separate university.

Mr. Leithman O.K. USL is right at the twelve thousand. Of course, there's no question; they would become eligible for a board. Delgado Trade School...you agreed that we would give them their board?

Mr. Pugh Yes. Whatever Mr. Dennerly wants to do

about Delgado is perfectly alright with me.

Mr. Leithman O.K. Do you know now, as of yesterday we had five boards in the constitution? With the two that we're contemplating now, we'll have seven. Is there any doubt in your mind that we will catch Arkansas for the fiftieth spot in the nation as far as boards in constitutions?

Mr. Pugh I have read their corporate laws. I've never read their constitution, quite frankly.

Mr. Leithman Well, they have nine, and we're at seven now, and I just ask you: don't you think there's a good possibility that we will be able to take over the number one spot in the nation?

Mr. Pugh There's always a possibility.

Further Discussion

Mr. Drew Mr. Chairman, ladies and gentlemen of the convention, it appears that most of the interest of the convention has been on the portion pertaining to separate boards. But, let me call your attention to the first sentence in Section (A) as this amendment is written. Now, under the committee proposal, at least, and at least I'd say that the committee proposal does not lock into the constitution. Under Subsection 2, it says, "unless and until the legislature shall provide otherwise, supervision and management of all public institutions of Vo-Tech training and career education at post-secondary level." At least it is not locked in. Now, what this amendment is doing is locking into the constitution, the supervision and control of post-secondary Vo-Tech training in the Board of Trustees where it does not belong. I ask that you defeat this amendment. We are dividing one of the most important aspects of education between two systems two jurisdictions, and if you adopt this amendment, you are locking it into the constitution, and I hope you will oppose it.

[Previous Question ordered. Record vote ordered. Amendment rejected: 32-77. Motion to reconsider tabled.]

Recess

[Quorum Call: 88 delegates present and a quorum.]

Amendment

Mr. Poynter The amendments read as follows: Amendment No. 1 [by Mr. Toca]. On page 5, delete lines 27 through 32, both inclusive in their entirety and on page 6, delete lines 1 through 15, both inclusive, in their entirety and insert in lieu thereof the following:

"versities; Board of Trustees for Public Institutions of Vocational-Technical Training and Career Education

Section 8. (A) Creation; Powers. There is created bodies corporate, known as the Board of Trustees for State Colleges and Universities, and the Board of Trustees for Public Institutions of Vocational-Technical Training and Career Education which, subject to the powers vested in the Board of Regents by this Article, shall have the following specific powers:

(1) The Board of Trustees for State Colleges and Universities shall have supervision and management of all state colleges and universities except those included under the management of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and Board of Supervisors of Southern University and Agricultural and Mechanical College, and any other board hereafter created pursuant to this Article.

(2) The Board of Trustees for Public Institutions of Vocational-Technical Training and Career Education shall have supervision and management...

[Motion to waive reading of the Amendment adopted without objection.]

Explanation

Mr. Toca Mr. Speaker, fellow delegates, this amendment is a little bit different from the rest of the amendments that have been proposed on the floor for a separate board for each university. We're talking about approximately sixty-four vocational-technical schools right now in the State of Louisiana. We're in a...we have a program to build approximately twelve more in the near future. I think this amendment is justified on account of the schools that we have now in existence.

So, I'll ask you for a favorable report on this amendment. Right now, we have approximately forty thousand enrolled in the State of Louisiana. In my school alone, we have six thousand enrollment, and a seventh thousand waiting list. We don't have enough vo-tech schools in the state right now to take care of the people that want this kind of an education. Our budget in '72-'73 was eleven million dollars. Proposed budget '73-'74 will be approximately twelve million. So you can see, readily see that vo-tech training will be the coming thing in the United States in the future.

I ask for a favorable vote.

[Previous Question ordered. Record vote ordered. Amendment rejected: 30-62. Motion to reconsider tabled.]

Amendment

Mr. Poynter The amendment [by Mr. Velazquez] reads as follows:

Amendment No. 1. On page 6, line 3, after the word and punctuation "College," add...or need a change that the staff indicates for clarification... probably be better if that reads insert the following:

"Board of Supervisors of Southern University and Agricultural and Mechanical College,"

Explanation

Mr. Velazquez I hate to say this, but this is purely a technical amendment. It doesn't do anything to anybody; doesn't hurt anybody; doesn't cost anybody a nickel; shouldn't require any extensive changes in anything. It merely says that... it merely inserts "the other board of supervisors" that we set up yesterday in a spot where that we neglected to put it yesterday so that it would then read that "supervision and management of all state colleges and universities except those included under the management of the Board of Supervisors of the Louisiana State University and Agricultural and Mechanical College, and the Board of Supervisors of Southern University Agricultural and Mechanical College, and any other board hereafter created pursuant to this article."

It's purely one hundred--one thousand percent--technical. We urge your favorable vote on it.

Questions

Mr. Roemer Thomas, all this does is put in line today what we did yesterday. Right?

Mr. Velazquez That's exactly correct, Delegate Roemer.

Mr. Stinson You know I voted for this yesterday, and I'm going to vote today. But, different people have been coming around spreading rumors that Southern doesn't want this. That is not correct, is it?

Mr. Velazquez I spoke to the gentlemen, some people from Southern University today at lunch time. They told me their position today is the same position it was yesterday. They wish they had had a Board of Supervisors in 1920.

Mr. Stinson Thank you.

Further Discussion

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Mr. Roy I didn't want to ask Tom any questions because it's such a technical amendment that it just precludes our discussing, Section 9, and particularly my amendment. Now, I think that the convention ought to know that if you vote for this amendment which is an identical one that Alphonse Jackson pulled earlier, what you are saying is that you want to lock in the Board of Supervisors for Southern University, and, of course, will make moot any discussion in Section 9 of the amendment which I have which is to take away that particular provision that was passed yesterday.

Now, let me say in all sincerity that I talked with Johnny Jackson this morning at about ten thirty. He is supposed to be on his way here--in fact, should have been here--I just, I hate to say that we should go on and move on. But, I guess we're going to just have to. Well, we all know what the issue is. Either you are for a separate branch or Board of Governors for Southern University, or you're not. I think it's bad; I think we ought to vote it out; I think we ought to vote down this particular amendment.

[Previous Question ordered.]

Closing

Mr. Velazquez I just want to say this is purely technical. It was purely technical before the gentleman in opposition spoke. It's still purely technical. I urge your favorable acceptance of it.

[Record vote ordered. Amendment adopted: 64-46. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 88-20. Motion to table reconsideration rejected: 18-87.]

Motion

Mr. Stovall I move we continue to pass over this section until Mr. [J.] Jackson is present.

Substitute Motion

Mr. Kean Mr. Chairman, fellow delegates, we have now concluded, hopefully, Section 8. We've taken a second vote--what amounts to a second vote--with respect to the Southern Board. That's the only amendment which is now pending to Section 9. I see no reason to skip over Section 9 for any...or delay it any further. I suggest we move on with the final consideration of Section 9. If Mr. Roy wants to insist upon his consideration of his amendment, we'd do it. But, I don't see any reason at all to wait further to conclude Section 9. I think all we are doing is unnecessarily delaying the conclusion of this matter.

[Previous Question ordered.]

Closing

Mr. Stovall Mr. Chairman, members of the convention, as Senator Rayburn said so effectively this morning, he just felt that since this had been presented by Mr. Jackson yesterday, and Mr. Jackson will be back shortly, that we should wait until he returns to consider it. It's on that basis that I made the motion that we pass over this until he returns.

Further Discussion

Mr. A. Jackson Mr. Chairman, I don't want to consume the time of the convention. But I think in all fairness to the members of this convention, I think we...I would be happy to handle the amendment, because I think we have waited. I don't think it's fair to continue to hold up the convention. I would advise that we would proceed, and I will handle the amendment.

Well, now, what I mean is that I will defend opposition.

Point of Information

Mr. Jenkins In all fairness to Mr. Jackson...Mr. Johnny Jackson...Mr. Chairman, if someone is going to defend his position, shouldn't it be someone who agrees with his position?

Mr. Henry Well, I don't know who do and who don't right now, Mr. Jenkins. So...why do you rise, Mr. Roy? If Mr. Roy doesn't go with his amendments, that will resolve a lot of...

Mr. Roy Well, I just don't know. I...talked with Mr. Jackson, and he was supposed to be here two hours after I talked with him, which was about 10:30. I've got some business, you know, myself, that I'd like to get on with.

[Record vote ordered. Motion to temporarily pass over Section 9 rejected: 41-70. Motion to waive reading of the Roy Amendment adopted without objection.]

Explanation

Mr. Roy I've been reminded that this is number 175. Anyway, everybody knows what the issue is. I simply want to remove Johnny Jackson's amendment. I don't think it's wise; I think it's bad. If there are no further speakers, I move the previous question.

Questions

Mr. Jenkins Mr. Roy, in other words your amendment would delete from this constitution the board for Southern University. Is that correct?

Mr. Roy That's right, Mr. Jenkins.

Mr. Jenkins Now, why do you want to delete it?

Mr. Roy Well, first of all, it's not needed. Secondly, I said yesterday, and I frankly feel that we have the LSU Board in the constitution because since 1940 it's been there and the people have voted three times not to tamper with it. Therefore, we have to meet the issue head-on. Southern University does not need it. Now, yesterday, Mr. Jackson spoke of the extension service. I want to tell you now that Mr. Jenkins has got me going on it, that all land grant and/or A & M colleges have three functions to perform: 1. They must teach; 2. Experiment; 3. Disseminate the knowledge of the teaching and the experimentation to the people of the state like LSU does with its extension program. Southern, contrary to what was indicated, does only one of those. It teaches. In fact, it does not experiment at all; does not disseminate information, and as a matter of fact, LSU has had to take in Southern employees for the purposes of doing some extension work in certain fields. So, it's not needed. There is no comparison between the two systems. Now, that's it in a nutshell. I think...

Mr. Jenkins But, now, isn't it true that Southern University is a system, just as LSU is a system? Whereas none of our other colleges and universities are truly systems. They are independent institutions.

Mr. Roy Southern is a "system".

Mr. Jenkins Also, don't you think that Mr. Johnny Jackson was correct when he said yesterday that perhaps some of the problems that we've had at the Southern campuses, both in Baton Rouge and New Orleans, might have not occurred if we had had governing boards that were for Southern, and that paid more attention to the interests of Southern?

Mr. Roy No, I don't believe that. What I do believe is that if you have a separate governing board, some of those college presidents in the future at Southern, with a separate governing board are going to have a hard time in any event, staying where they are. I don't think it's needed.

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It was never needed in the past because, except for one occasion, Mr. Jenkins.

Mr. Jenkins Now, one more question, Mr. Roy. On this question of boards for higher education, this convention has flip-flopped on several occasions. In one issue of a paper, on one day the people have read we've done one thing; the next day they read we've done something else. How much longer are we going to continue to do that?

Mr. Roy How much longer are we going to continue to do what? Flip-flop?

Mr. Jenkins Flip-flop.

Mr. Roy Well, hopefully, we won't do it any more, Mr. Jenkins.

Vice Chairman Casey in the Chair

Mr. Juneau Chris, yesterday we were talking about the other state universities. You asked me the question, did I know what the faculty, the students, and the university wanted? In this particular case, are you aware, and I'm informed--I don't have personal knowledge of it--but that the faculty, the university, and the alumni all feel that they should have a Board of Supervisors?

Mr. Roy Yes, I'm aware of that. I'm aware that that's what they say.

Mr. O'Neill Well, Chris, that was my same question, only I want to know what they really think--not just what they say they think.

Mr. Roy I think they are saying that "Give us a black board because with black faces in high places we'll be somewhere." I think that's fallacious. I think in the end that they will be...their position will be hurt, and in the future, Southern will rue the day that we gave them a board of its own.

Mrs. Miller Mr. Roy, I'm a little bit confused about things in the State of Louisiana right now. The governor made the statement last night--didn't he, and it was in the papers this morning--that he would do without all federal funds for this state rather than to sacrifice Southern and Grambling Universities? Now, don't a majority of the funds for this Agriculture Experiment Station that we have through the Agricultural and Mechanical College...isn't the largest percentage of that money provided by the federal government on the Agriculture Experiment Stations?

Mr. Roy I would think so. I just have no...I don't see the connection about...

Mrs. Miller Well, you have just gotten through saying that one of the things the great university like LSU has to do is to conduct...these...to have research and experimentation. We're going to lose all that; so LSU isn't going to be so big. So, we're going to have Southern saved. We're not going to have federal funds for LSU's Ag Experiment Station so that's going to decrease the size of the university. We're going to bring them down to equal sizes. So, don't you think they should have equal boards?

Mr. Roy No, I don't think the governor said that, Ruth. If you'll notice he...

Mr. Miller Wait. I want to understand. You don't believe the governor meant what he said last night?

Mr. Roy He said that, and he will continue in that position until the Supreme Court of the United States tells him something different. I would think he would abide by that. You didn't read the rest of his statement apparently.

Mrs. Miller We got the message pretty clear.

Mrs. Warren If I told you I'm totally confused

on what is going on here backwards and forwards, you would believe me, wouldn't you?

Mr. Roy I probably would, Mrs. Warren.

Mrs. Warren You can. I want to ask you one question, maybe two in one. When you spoke to Mr. Jackson this morning, where was he?

Mr. Roy He was in New Orleans.

Mrs. Warren And he didn't say nothing to you, but he would be here, and was...there was no other discussion?

Mr. Roy He asked me to pull my amendment, and he informed one of his other friends who talked with him that he would be here in a couple of hours.

Mrs. Warren Thank you.

Mr. Stovall Mr. Roy, you want to eliminate the Southern Board of Supervisors; is that right?

Mr. Roy No, that's not what it says, Reverend.

Mr. Stovall That's the essence of it.

Mr. Roy Yes, you know that's what it says. I mean we've gone through this for two hours.

Mr. Stovall Would you favor eliminating LSU system Board of Supervisors?

Mr. Roy No, I don't.

Mr. Stovall Is that consistent?

Mr. Roy Yes, it is.

Further Discussion

Mr. A. Jackson Mr. Vice-Chairman, ladies and gentlemen of this convention, I want to make it perfectly clear, which is not a very good term for me, that as the past president of the Southern University Alumni Federation, that I support the Southern University system completely, and I've told Mr. Jenkins about getting into our business. On a serious note, I want to address myself to the proposition before this convention. First of all, I want to say to you that I am in disagreement with the proposition as offered by the amendment by Delegate Roy. I want to point out to you, ladies and gentlemen, that the Southern University system is the largest predominately black university in the world. I also want to point out that, contrary to the remarks made by Mr. Roy that the Southern University system is not meeting the criteria for a land grant college, that this is in complete error because the Southern University system is engaged in extensive research to the tune in excess of some seven million dollars, that the Southern University system engages in agricultural extension work all over this state. The Southern University system is a teaching enterprise that is making a great contribution to all of the people of this great nation in which we live. So, I refute the argument that the Southern University system does not meet the requirement of a land grant college. But, the central question before us and the question that you, ladies and gentlemen must consider--is whether or not the Southern University system ought to be afforded the same equity that is afforded the LSU system. That's the central question. You've already made the decision; you've already decided that it is fair for the LSU system to have a management board, and that it's fair for the Southern University system to have a management board. I would suggest to you that that decision was proper, and I do not believe that we are going to recant on that decision at this time. Now, what does this mean? It simply means that people are going to have a voice in the affairs of the Southern University system. Now, Mr. Roy would suggest by way of his explanation here that the people at the Southern University system would be desirous of having an

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all black board. That is not true. The Southern University Alumni Federation has said repeatedly, the administration has made it known from all of the places from which they have spoken, that we are not interested in having an all black board because the Southern University system serves all of the people of Louisiana. Because it is serving all of the people of Louisiana, certainly we want all of the people to have a voice in the decision-making process and to do otherwise would be reverse racism of which we would have no part. Ladies and gentlemen, I would urge you to defeat this amendment because I think we will all rue the day that we would turn away from an important consideration--a consideration that would suggest that there ought to be justice, a consideration that would suggest that there ought to be involvement, a consideration that would suggest that there ought to be sensitive and humane people concerned about a large segment of the people in this state in which we live. I think these suggestions would motivate all of us to do what is right and do what is in the interest, not of black citizens, not of white citizens, not of red or brown, but of all citizens of this great state. So, ladies and gentlemen, I would urge you to vote against this amendment, and let's move on with the business of the people.

Questions

Mr. Brown Representative Jackson, I'm concerned about what the governor said in his press conference yesterday. He quoted a figure, and I was there, and I heard the amount--\$60,000,000 that we get for higher education in this state from federal funds. He further said that unless we dismantled the Southern system as it stands right now, and do so in the fairly near future, the state is going to lose \$60,000,000. This has been handed down from HEW. They said this very strongly, and he's not sure just what to do about it. What is the overall value in losing that kind of money to support our higher education system that so desperately needs funds and its relationship with keeping the Southern system?

Mr. A. Jackson Well, I think that's a rather serious problem that we have to consider as citizens of this state. I simply would like to state that the Southern University system is a vital part of a unitized system of higher education that must be maintained. I think that it would be in the interests of all of the people in this state, including the members of this convention, for us to come together and to see if we can't solve on a reasonable and rational basis a way to meet the guidelines of HEW in a manner that would not affect the mission and role of any of the segments of the higher education systems that we have in this state. I think that the problem is that we have not addressed ourselves to how we can solve the problem. I think that we need the money; I think we have to find a way to meet the guidelines, and I think it is urgent that we would address ourselves to this serious and crucial and critical problem at this time.

Mr. O'Neill Representative Jackson, various people lobbied us on this amendment saying that you actually were for the amendment, but that you would speak against it, and you would vote against it. Is there any truth to that claim?

Mr. A. Jackson I'm sorry; I...

Mr. O'Neill People have lobbied us on this amendment and said that you're actually for it, but that you would speak against it, and that you would vote against it. Is there any truth in that claim?

Mr. A. Jackson That is not true. I have steadfastly made my position known. I have voted consistently with my views. When you watch the board, I think that you will see that I am steadfastly in favor of a management board for the Southern University system.

Mr. Haynes Delegate Jackson, isn't it true that

institutions like West Virginia State at Institute, West Virginia, like Bluefield, like Lincoln in Pennsylvania, all formerly all black schools have met all of the guidelines that HEW has set up. Isn't it true that these institutions, formerly all black, are thoroughly integrated today?

Mr. A. Jackson That is correct, Mr. Haynes. I think that that suggests to us that we need to give full attention to how we democratize higher education in this state, and if we give full consideration to it, I think that we can devise a plan that will utilize all of the units that we have in this state for the people of this state.

Mr. Stinson Delegate Jackson, someone mentioned about federal dollars. Actually, all that's our money coming back to us; isn't it?

Mr. A. Jackson Yes, sir, Mr. Stinson. That certainly is our dollars, and I think that contrary to a belief that used to be around when everybody was talking about the tainted federal dollars, I think the only thing tainted about it is it "taint" enough, and we ought to find a way to get all we can.

Mr. Stinson I'm glad we agree on that. Now, isn't it a fact that when you're right, you shouldn't let dollar signs influence you to vote wrong?

Mr. A. Jackson Well, I would agree.

Mr. Guarisco Mr. Jackson, I just want to ask this question...in the effort for you to clear up, maybe, a misconception. We just were passed out a statement that the State Board of Education is unalterably opposed to the multiplicity of boards, and secondly, that it's in favor of one board and, alternatively, the present three constitutional boards. Since this seems not to be your particular position, your name appears on the bottom, and I understand that this is not your position. The reason that your name is on the bottom is simply that a delegate had to sign this in order for its passing out.

Mr. A. Jackson Well, let me explain that. A friend of mine on the State Board said that it was important that this statement would get before the convention. He asked, to comply with the rules, would I sign it. I said, "Sure, I would sign it." That's simply all that happened.

Further Discussion

Mr. Alexander Mr. Chairman and delegates, I arose to speak on this question because I think there have been some erroneous opinions expressed here. May I say to you that there are some of my friends out there who said to me, "When all of your black delegates parade to the podium, you give to an amendment, or whatever question you are supporting, the kiss of death." For that reason, I have stayed away, but I've discovered that whatever is going to happen is going to happen. Now, these are the questions I have in mind. Previous speakers have said there are persons in the black community who don't want this separate board. Originally, I came to the convention with the intention of supporting one all-powerful board to govern education in the State of Louisiana. But, the delegates to this convention have repeatedly stated by their votes that they're not going along with a superboard or any kind of board of that kind. Now, let me answer one or two questions. First someone has said there are officials at Southern who don't want this. During the lunch hour I spoke with the president of Southern University and the vice-president of Southern University, and both of them said they're behind the Jackson amendment. Now, will the opposition tell me who their persons are, or officials are, from Southern? Secondly, the Alumni Association of Louisiana--of Southern University, rather, is behind this amendment. Now, I want to know also of them: who are those other persons? Name the persons in the black community who are against this proposition. Now, I say to you that the perpetuation

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of the Jackson amendment does not mean necessarily an all black board. In fact I'm opposed to any all black board, just as I know most of you are opposed to any all white board. So, it does not mean that; it does not mean, even, the perpetuation of Southern and its system because that still could be changed if necessary. But, for the sake of the blacks of this community, for the sake of harmony in this state, for the sake of having three million, six hundred thousand people work together as one unit, I am asking you to vote against the Roy amendment.

Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the committee, first of all I apologize to you being late. I did not intentionally want to be absent today, but I had to appear before another deliberate body concerning the aspirations and desires of a particular community. As I appreciate it, the amendment as proposed by Mr. Roy, it, in effect, removes or reverses the action that this convention took on yesterday. Let me say, so there are no uncertainties among some delegates, that I and other delegates, the alumni association, the presidents of student bodies are in favor of the amendment of the section which presently includes a board for Southern University. I did have the occasion this morning, however, in talking with Mr. Roy concerning his amendment, and he suggested to me that...what he say, "I think that this is going to hurt you." I say, Roy, say, "I can appreciate your concern, but I'm reflecting the concerns; I'm reflecting the direction; I'm reflecting the attitudes and aspirations of the student body over at Southern University." On this question of HEW with separate boards and such, I suggest to you that that problem is going to be resolved. But, my question still says we, presently under the old set-up, had one board for LSU and a separate board governing other colleges. Does that make it more the less a threat to a higher education system? I can't reiterate much of what I...more than what I told you on yesterday, except to let you know that there are over \$7,000,000 worth of research projects. Southern University's system administers Louisiana State School for the Deaf, Louisiana State School for the Blind. In addition it has a School of Law. I don't want to...I think that I cannot say no more than I said yesterday, and I'm very confident that the delegates in this convention do recognize that Southern is a system and that for every criteria that you set out to say that one system deserves a Board of Supervisors, you've got to apply that to the Southern system. So, I'm going to ask that you reject the Roy amendment, and that we proceed on about the business of this convention. I say to Mr. Roy that I understand what he's trying to do, and I don't think he has no malintent, but, I do not believe, and I do not possess, and I do not embrace the kinds of reservations that he has. If more I embrace--and I want to suggest to you that there is a national concern going around the country about what's going to happen to predominately black institutions. I suggest to you that the provision as adopted on yesterday allows Southern University, LSU...Southern University to deal with its day-by-day administrative and management problems. I, again...I just want to reiterate that they are unique problems of the student body that's predominately black--and I want to make this point clear: I'm not asking for a totally black board for Southern University. I don't see how that got mixed up in the argument, because if that was the case then I point to you, very seriously, look at the composition of the LSU Board. I suggest to you that they are thirty percent population of black students over at LSU. But, that is not the point. The point is that does this system...is this system based on the three colleges, its research programs, and its administration of the other schools deserve a Board of Supervisors? Mr. Chairman,...

Questions

Mr. Velazquez Delegate Jackson, did you know that HEW has threatened every southern state at one time

or another over various questions that no southern state has yet lost any money from...through the efforts of HEW?

Mr. J. Jackson Not only that, I think the governor in his press conference today reaffirmed the position that predominately black institutions like Southern and Grambling do have a meaningful purpose in the state higher education system.

Mr. Velazquez Delegate Jackson, do you think our Louisiana Congressional delegation will allow Louisiana to lose any money, or do you think that they will have a special act passed to take care of us this year, another special act next year, and every other year that we require a special act to get the money we need?

Mr. J. Jackson Mr. Velazquez, I don't think that our delegation will, whether it's higher education or any other program, will allow our state to lose money. I think that's why we've got a delegation, but I think the key question here is that we ought to recognize that Southern University is a system and treat it accordingly. I ask for your rejection of the Roy amendments. If there are no other speakers, I move the previous question, Mr. Chairman.

[Motion for the Previous Question withdrawn.]

Further Discussion

Mr. Chatelain Mr. Acting Chairman and fellow delegates, this is the most momentous day of my life. I don't know of a delegate who's fought harder than I have in the last two or three days for a single board concept for higher education in the State of Louisiana. Fellow delegates, I have fought long and hard in the last two or three days to try to bring about a single board concept for higher education in the State of Louisiana. I still contend that it would be the best concept. But, my fellow delegates, we have reached an impasse in this convention. Certainly, I voted for Johnny Jackson's amendment yesterday. I still thought we had hopes of at least bringing in other universities. We tried it this morning; we failed. I say to you that even though I hate to do this--principally because of the great delegates that I've worked with from Lafayette Parish, two of the finest delegates I know of. It's been a pleasure having their confidence and friendship throughout this convention, and many others in my area, but I think that like a bunch of kids, we've played the marble game. We should pick up our marbles, as it were, and go about the business of writing this constitution. I feel that the thing that we did with reference to Southern University is a disservice to them as well as a mockery to many of other people in this state. We have fought the powers of LSU, and I can say to you right now I didn't know until the last two or three days how far the tentacles of that great university spreads out in this state. I find that the farm experimental stations all over this state is a factor that brought the farmers together with them. That's one of the greatest powers they have. They have joined forces with the AFL-CIO, an organization that is side by side with them; the farmers are with them; the governor, I'm told, is with them, and we have reached an impasse. We may as well borrow...bow to the pressures that be. I don't know who's right, and I don't know who's wrong. I was all wrapped up in the idea of a single board concept, and I'm a hardheaded Frenchman, and it's pretty hard for me to change my mind. But, in all honesty, my fellow delegates, in all sincerity, I think that some of us are going to have to change our mind and act like grown people. I know that I was sent here from District 45--some of the most independent people in the State of Louisiana. I have the former head of the Republican Party that lives down the street from me. I represent about twenty-five percent of the black people in my parish, and I know that I feel in my fifty-eight years of life that I have a feeling for the people of this state, and secondly, for the feeling of

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the people in District 45 whom I represent.

But, I say, delegates, that we're going to have to get off from dead center and go in some direction. I say that the Roy amendment is a good amendment. It's an amendment that will get us off from this dead center we're on now and go about the business of writing a constitution.

Yes, I'll yield.

[*Motion for the Previous Question rejected: 19-77.*]

Further Discussion

Mr. E. J. Landry Mr. Acting Chairman, ladies and gentlemen of the convention, one time in my life I'm going to ask you to listen to a simple man tell a simple story. One time, please. I'd even sing you a song to get your attention; I would. If you'd only listen just a minute, I promise that I'll keep away from this microphone, and you'll not see me in this position for a long time--on my word of honor, if you'll just listen once--one time, please.

Whatever it takes for a simple story, then make up your mind--a simple story from a simple man who has worked his whole lifetime trying to keep from undoing what you might let happen to you today. I've been busy all day talking to the blacks, talking to the whites. I was busy in the committee working with the blacks, working with the whites. I've spent forty-five years of my life working with the blacks, working with the whites in education. If there's one thing you need to think about at this moment, it is the broad concept of education that does not promote, in any manner, shape, or form, a division that takes us back to where we were when I began forty-five years ago. Forty-five years ago I watched little black children in the Hahnville High School walking on the sides of the road--three months of school, poor school situation, cast-off books, broken down desks delivered to their schools, poor facilities. I saw white children ride by coming to my school in big new busses. I saw the lag develop; I became concerned. Then later I saw the attorney for the blacks walk into the School Board Office. I was present. I saw the request for equal facilities granted--beautiful schools for the blacks, inferior schools were still there for the whites, but the blacks had more than equal facilities in my school situation. Later, I saw the request for equal all the way. I became part of the movement; I was involved in community action programs. You're looking at the man who started for the first time in a white school without the cooperation of the School Board, an integrated faculty, and an integrated student group in the Headstart Program--not through the forces of the schools of this state, but through the black LEA Teachers' Organization here in Baton Rouge. How did we do it? We telephoned directly to the President of the United States to get the funds. Now, I tell you these things to let you know that you're looking at somebody who doesn't want to go backwards. That's what I've been telling all of my black friends today, and I can't understand for the life of me why at this time we want to set up in the constitution two systems--two systems which will promote just the opposite of what I've been trying to do all of my life. I want to work with; I want to be a part of my brother; I do, sincerely; and I want to in no manner, shape or form become part of two systems of education constitutionalized in this constitution. I certainly...if you think right at this moment, you'll realize that this amendment will do what I've been trying to tell you. I voted no yesterday, and I told all my black friends why. I think you'll realize that we're writing a constitution, not for the immediate, not for the dollars that are coming in now, but we are writing a constitution for my grandchildren and for your grandchildren so that they can carry out the dreams, the great dream that Martin Luther King expressed. I believe in his dream; I subscribe to his dream, but what we did yesterday in confusion, what we did yesterday when some of you were prejudiced and you voted just to be against

something, you weren't voting for something; you weren't voting for that broad concept of a single university. You--some of you--were voting against something. Now, I'm imploring with you: today think about it, and vote for something. That's the one concept of a tremendous university that will include, I hope, in a very short time all of the blacks. I want people to be together. I want that, and this does not--that is the concept that we voted on yesterday, the Jackson amendment, will not do that. But, this Roy amendment will put us back into position. I sure hope that at this stage in my life you think carefully before you vote.

Questions

Mr. Derbes Mr. Landry, I think this is an important question. As I understand it--or as Mr. Willis says, put a question mark to this--have we, in fact, constitutionalized a separate system of education based on race?

Mr. E. J. Landry I didn't get the first part of your question.

Mr. Derbes In other words, do you find anywhere in our product to date--that material that we have adopted thus far--the constitutionalization--including the Jackson amendment--the constitutionalization of a racially separate system of education, per se?

Mr. E. J. Landry I do.

Mr. Derbes You do? It seems to me--and I again question you on this--it seems to me that all we are doing is constitutionalizing the administration of facilities which don't necessarily have to be separate, or racially discriminatory. Don't you see a difference?

Mr. E. J. Landry I don't.

[*Previous Question ordered.*]

Closing

Mr. Roy Mr. Chairman, ladies and gentlemen of the convention, I just want to make one clarifying remark to Mr. Alphonse Jackson, in case some of you misunderstood. I didn't say that Southern didn't have any grants and didn't do any experiments. I said that they have no experimental stations in the extension work, and that's what I meant by that. I was not trying to be sneaky or anything, that's just a matter of fact. I'm not going to yield to questions. Everybody knows what the issue is. In deference to the time and all, I would like to read something that manifests my feelings about what I think...how important I think this is. In the end of the play in *Cyrano*, when he talks about fighting the age-old enemies of man--compromise, prejudice, cowardice and folly--Rostand says this: "Mourn not the dead that in the cool earth lie, dust unto dust, the calm sweet earth that mothers all who die, as all men must. But, rather mourn the apathetic throng, the coward and meek who see the world's great anguish and it's wrong, and dare not speak." I am not nearly what *Cyrano* was, but I see right here and now something that is basically wrong, and I'm going to speak, whether I speak one time or one million times, if anybody wants to write it down. Thank you.

[*Record vote ordered. Amendment rejected: 44-71. Motion to reconsider tabled. Previous Question ordered on the Section.*]

Closing

Mr. Aertker Mr. Acting Chairman, ladies and gentlemen of the convention, we have been discussing this section--in and around it--for the last several days. I just thought that I would just give you just a few brief words as to why I, who have spent my life in education, feel as strongly as I do

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about the inclusion of the university system into this article. I could tell you not the fact that they are in the constitution, not the fact that they were put in there because we had scandals in the 30's, etc. I support and have worked for the inclusion of the university system into this article--into this section--because I happen to serve on the Southern Accrediting Association for Universities and Colleges. I have the privilege and the pleasure, I might add, of reviewing every university and every college in eleven southern states. I have been doing this for eleven years, now. I am totally familiar with what is the composition of just about every university and every college. I serve on there representing the secondary schools of the south along with the superintendent from Dade County in Miami. Incidentally, in that...on that committee of twenty-one people, happens to be Dr. Mary Deichman from the University of Southwestern, and Chancellor Taylor from the Louisiana State University. But, I think that you would be interested in knowing the prestige that the Louisiana system has as far as the southern states are concerned, as far as people who recognize what degrees are and what quality is. I can tell you that this system with the personnel that they have, the investment that this state has into this system, that it would have been a real tragedy if we would not include them and guarantee them some constitutionality so that we would always preserve the investment that we have and the prestige and heritage that it has because this university is--it not only ranks high in the area of athletic accomplishments--I can tell you that in educational accomplishments it is recognized as being one of the leading institutions in this...in the entire south. I think that the final moment that we have approached here has been worth all of the efforts and all of the time and the sweat and the tears that we have put into the inclusion of this. I, certainly, at this time, ask for your favorable approval of this entire section.

[Section passed: 92-27. Motion to reconsider tabled. Motion to reconsider Section 8 tabled without objection.]

Reading of the Section

Mr. Poynter "Section 10. Minority Representation Section 10. An appropriate number of citizens from the predominant minority race of the state shall be included on the State Board of Elementary and Secondary Education, the Board of Regents, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Trustees for State Colleges and Universities, and any other board created pursuant to this Article."

[Motion to waive explanation of the Section adopted without objection.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Juneau]. On page 7, delete lines 9 through 16, both inclusive, in their entirety.

Explanation

Mr. Juneau Mr. Chairman and fellow delegates, this amendment deletes the entire section. I'll answer any questions.

Further Discussion

Mr. Haynes Mr. Acting Chairman and members of this delegation, we concur in Delegate Juneau's amendment. We have voted in this constitution a Board of Regents that will have coordinating responsibilities for all of the higher education. We have voted for management boards for Louisiana State University and Southern University and likewise, we have voted for a board to govern elementary and secondary education with certain coordinating provisions with all of the other boards. While it is

implicitly our view--and we believe that it's a view that permeates the one hundred and thirty-two delegates to this Constitutional Convention and the people of the State of Louisiana that all of these boards should reflect the ethnic population of this state. It's in this view, Mr. Chairman and members of this distinguished delegation, that we concur in the Juneau amendment, and we ask that you will vote favorably on this amendment. Thank you very much.

[Previous Question ordered. Amendment adopted without objection.]

Reading of the Section

Mr. Poynter The next section is Section 11, Mr. Vice-Chairman. It reads: "Boards; Dual Membership Prohibited

Section 11. No person shall be eligible to simultaneously serve on more than one board created by or pursuant to this Article."

Explanation

Mr. Aertker Mr. Acting Chairman, ladies and gentlemen of the convention, the explanation is quite simple. The committee felt that with the creation of these boards that it would be certainly improper, and I think wielding undue influence for a person to hold membership on more than one of these boards. It's the recommendation of the committee that this be restricted to membership on one single board.

Questions

Mrs. Zervigon Mr. Aertker, as a professional educator, are you aware that you have split an infinitive in this section?

Mr. Aertker Mrs. Zervigon, I really didn't check the grammar on the thing.

Mrs. Zervigon "To simultaneously serve."

Mr. Aertker Your point is well taken, so we will correct it--"to serve simultaneously."

Mr. Dennery Mr. Aertker, I don't...I can't put my finger on it right away, but didn't we adopt a proposal about dual officeholding which would cover this, or was I away on that day?

Mr. Aertker Well, no, this dual officeholding, I don't believe, would, perhaps, maybe cover this. We just felt that this would make sure that we didn't have one on two boards.

Mr. Tobias Mr. Aertker, would this apply to ex officio members of a board, for example, the governor?

Mr. Aertker No, of course not.

Mr. Tobias Why not?

Mr. Aertker Well, if he'd be ex officio, we just feel that since he wouldn't be able to vote that this wouldn't be any undue influence.

Mr. Tobias Do you know that the law is confused on that point whether an ex officio member has a right to vote on a board?

Mr. Aertker I know that we don't have the governor serving on any of the boards that we've created, Mr. Tobias.

Mr. Tobias What about the Board for Secondary and Elementary Education?

Mr. Aertker The governor is not on that one.

Amendments

Mr. Poynter The amendment [by Mr. Wall] reads as

follows:

Amendment No. 1. On page 7, line 17, after the word "Prohibited" insert a semicolon ";" and add the following:

"Student Membership Authorized".

Amendment No. 2. On page 7, line 18, after "Section 11." and before the word "No" insert the letter "(A)".

Amendment No. 3. On page 7, between lines 20 and 21, insert the following:

"(B) The legislature may provide for the membership of one student on the Board of Trustees for State Colleges and Universities, one student on the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and one student on the Board of Supervisors of Southern University and Agricultural and Mechanical College whose terms shall not exceed one year. No student member shall be eligible to succeed himself. A student member shall enjoy all of the privileges and rights of other board members except the right to vote."

Explanation

Mr. Wall Mr. Chairman, fellow delegates, first, I want to point out that this does not, in itself, put any members on the Board of Trustees or the Board of Supervisors of L.S.U. nor the Southern Board. It provides that the legislature may. I'd like to point out to you that to be able to be appointed to a board--let's just face reality--you don't generally get appointed to the board unless you're a man of means or you've made your political mark sometime or another. To do this, in most instances, it's about twenty years after you were in college. Most of us, twenty years after we've left the college campus, we can't really envision all of the problems that confront the students at these colleges and universities. A student spends from four to six years of his life at the college or university; he lives there from four to six years. He is part of that community; he is...the students are that community. I don't think that if students are sent to the university to get an education that they should say what the curriculum is for, or they should do the teaching, or they should do the governing. But, I do think that when they are governed by people that are appointed--that you might say they have nothing to say about who is appointed and by people much older than they are, and peoples that doesn't really realize the problems that they are confronted--that they need...their voice needs to be heard. What this amendment does, it provides that the legislature may provide membership on the Board of Trustees for one member, not to exceed one year, and he cannot succeed himself--he or she. The same thing for L.S.U. One member on that board for one year that cannot succeed themselves, and also for the Southern board. These individuals would have all the rights of board members except to vote, for one year. I think this is very important. Now, I don't say this is how it would be done, but let's just say that the Board of Trustees, it could rotate from one college or university each year, but the students would have the same view--they would have the same problems--and they would have someone that would be their spokesman. Now, this doesn't set this up; it provides the legislature may. I think this is very important. An educator that's a member of this convention told me that he deals with young people. He says, "If we don't give these young people a voice, they will assert their voice of the problems that the older people don't understand." In the past six years, two college presidents have told me, said, "Shady, so and so needs to be done where the students are right," but said, "If I went down and told that State Board of Education that they should do this, I wouldn't have a job when I got...before I...my job would be eliminated--me, for the position--before I got back to my college." So, I think this will be very important. It will help, when and if it's done, and this is not doing it; it's making it permissive.

I yield to a question.

Questions

Mr. Burns Mr. Wall, I've served on quite a few Board of Directors of Boards during my lifetime, and I can't conceive of what rights any board member has, if they couldn't vote. They have no authority or...

Mr. Wall Yes, now, Mr. Burns, I can tell you exactly here. The thing is the problems of the university students, where these young people live four to six years, they need to be able to make that position known. They don't have to vote, but they still need to be there as full-fledged members so people can't go in executive session and pull the wool over their eyes. They don't have to vote, but they need to be in an official position to make their problems known because many times when these people are appointed, and they have been out of college from twenty, to thirty, to forty years, the college president can't go and tell them that the young people today, it's a different problem, it's a different world. The legislature may do this. This doesn't set it up; it's strictly permissive.

I further yield to Mr. De Blieux.

Mr. De Blieux Mr. Wall, in view of the fact that this is permissive legislation, do you know anything that we have in this constitution that would prevent the legislature from doing that if this provision was not in the constitution?

Mr. Wall Mr. De Blieux, you are smarter than that, and you know that if we create a constitutional Board of Supervisors, that the legislature could pass an act setting up something, but it--the State Board--under their constitutional authority, could eliminate these members at executive sessions or any other time. They'd let them come in and sit a little while. But, they could, under their constitutional authority, they wouldn't keep them in all the time if they didn't want to.

Mr. De Blieux If the legislature passed an act setting forth what you have here in this provision, is there any way that the board could keep them out if the legislature passed an act to that effect?

Mr. Wall Pardon me?

Mr. De Blieux I said, if the legislature passed an act to that effect, even without this, wouldn't they have a right to sit in?

Mr. Wall No, the Board of Supervisors have ignored things that the legislature has done that they disapprove...that they didn't approve of.

Mr. De Blieux Well, since this would be permissive, the legislature would have to act on it anyway. What good would it do to put it in if the Board of Supervisors will ignore it?

Mr. Wall Oh, no, if it's in the constitution, the Board of Supervisors can't ignore it, Senator De Blieux.

Mr. De Blieux Isn't this just window dressing, Mr. Wall?

Mr. Wall No, Senator De Blieux. If you want to make a speech, you can make a speech--get the floor.

Mrs. Zervigon Have you ever spoken to a member of a Board of Trustees of a university that has student representation on the board?

Mr. Wall Mrs. Zervigon, there hasn't been any in this part of the country, but...

Mrs. Zervigon Would you say yes or no?

Mr. Wall Well, look, if you want the question answered, would you please be quiet a minute?

There's not any in this part of the country, but there are several colleges and universities

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that do have student representatives, and I have read where it was very successful, and the boards really approved it, and they contributed to it.

Mrs. Zervigon Are you aware that one of the fine side effects of this, that you did not mention in your talk, is that the students see what the difficulties the board has, how onerous the budgetary responsibilities are, and go back and inform their fellow students that managing in a university is not all that easy? Are you aware of that side effect?

Mr. Wall I think you are absolutely correct, Mrs. Zervigon.

Mrs. Zervigon There is one such university in New Orleans now, a private university, that has student representation on the board; and they found this to be so. Are you aware of that?

Mr. Wall I'm having difficulty understanding you, Mrs. Zervigon. I'd ask the Chair to get order.

Mr. Alexander Mr. Wall, there have been several amendments, and, of course, the original sections adopted which stipulate the number of persons who will serve on these various boards. Would your students be supplementary, or may the legislature increase the numbers of persons to serve on these boards?

Mr. Wall Reverend Alexander, this would be an additional member, but since they won't vote, it doesn't really upset the balance of the board since they don't have a voting authority. It will be an additional member.

Mr. Alexander It will be an additional member?

Mr. Wall Yes.

Mr. Alexander Well, may--under the terms of some of these amendments, since it will be constitutional--may the legislature exceed the authority given it in the constitution and increase the number?

Mr. Wall Well, Reverend Alexander, there's laws to cover that in case they do exceed that authority, and there's a court to take care of it--declare it unconstitutional--which has been done in the past. I'll say this: the students, it's been said now, if the students don't get an opportunity to properly voice the problems they are confronted with, they need this just as much as black people need to get in the mainstream of American life and be a part of it. The students need to be a part of the university life.

Mr. Tobias Mr. Wall, why did you say that "the legislature may" rather than "the legislature shall," since the person in your amendment doesn't have the right to vote? Why would you just make it permissive instead of mandatory?

Mr. Wall Mr. Tobias, I couldn't get enough support to pass it by saying "shall" and by giving them the right to vote. The main thing is, I think, the fact that they can sit there and be there and make the official position of the students known, plus, like Mrs. Zervigon pointed out, learn the problems of the board to take back to the student government. That's the main thing, have an official position where they can't be excluded in executive session. It will accomplish what I really want accomplished without the benefit of vote. I couldn't get the support; I wouldn't have a chance of passing it if they could vote.

Point of Order

Mr. Duval Mr. Chairman, this has nothing to do with the merit of Mr. Wall's amendment, but the rules do say that amendments have to be germane, and I'm just wondering, perhaps, like a ruling from the chair as to whether this is germane to dual

officeholding.

Ruling of the Chair

Mr. Casey Mr. Duval, you bring up a good point. The only...about the only way that we can...as a Chairman I can intelligently rule on this is that Mr. Wall--and I so ruled yesterday, made a similar ruling--that where the title is amended and membership, in this case, student membership is included in the title, I think I would have to rule that the amendment is germane.

[Previous Question ordered. Record vote ordered. Amendments adopted: 77-35. Motion to reconsider tabled.]

Amendment

Mr. Hardin [Assistant Clerk] Amendment No. 1 [by Mr. Tobias]. On page 7, between lines 20 and 21, in Floor amendment No. 3 proposed by Delegate Wall and adopted by the convention on November 15, 1973, on line 8, after the word and punctuation "himself," delete the remainder of the line and delete lines 10 and 11 in their entirety.

Explanation

Mr. Tobias This is a rather simple amendment. It deletes the last sentence of Amendment No. 3 that we just adopted. It would allow a member--a student member of the various boards listed in Amendment No. 3--to vote. There are seventeen members that we've established for each board. This would allow the eighteenth member, and it would allow this person to vote and become a part of the system,--a student member. Considering the history in this country in the recent past of the problems that some universities have had with respect to the deaf ears upon which administrators have...how deaf administrators have been to the student affairs of this...of various universities, and have not allowed students to have some voice in the administration of universities in this country, I think that this is an appropriate and necessary step to allow some representation to the various boards by the students. Bring the students into the system. As Mary Zervigon has mentioned, students--once they become aware of the financial situation and the various situations governing a college--can better express and better understand the problems that a board has. There is no better person to explain to students exactly what is happening at the university than the student himself,--to explain it to other students. I yield to any questions.

Questions

Mr. Derbes Mr. Tobias, haven't we, in fact, in the Elections Article accorded persons over the age of eighteen, or eighteen years or older, the right to vote?

Mr. Tobias Yes.

Mr. Derbes Can you think of any reason why student members of the boards as provided in Mr. Wall's amendment should not be accorded a similar right?

Mr. Tobias None whatsoever.

Mr. Arnette Max, I think you've got a good idea there, except one thing bothers me a little bit. Do you think that the legislature would be a little less likely to grant this privilege of having a student on the board if he automatically had the right to vote?

Mr. Tobias It's possible.

Mr. Avant Max, don't you think that if the legislature had the right to create such a membership with the right to vote, that they would automatically have the right to create the membership

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without the right to vote, if that's what they wanted to do? They wouldn't have to give the right to vote. Couldn't they?

Mr. Tobias In other words, if they could create the membership and not to give him the right to vote.

Mr. Avant Or give him the right to vote, as they wanted.

Mr. Tobias I think that's...this is flexible enough to do that, yes.

Mr. Avant So, that wouldn't be any objection to the amendment then--the fact that the legislature might be less willing to do it?

Mr. Tobias I would think so.

Mr. O'Neill Max, I'm not sure in the amendment whether or not these students would be paid expenses and per diem as other members would be. Do you know from reading the amendment whether they would be or not?

Mr. Tobias No, I do not.

Chairman Henry in the Chair

Mr. Stovall Max, isn't it rather insulting and condescending to ask someone to serve on a board of this kind and not give them the right to vote?

Mr. Tobias I would think so.

Mr. Flory Mr. Tobias, isn't it true that if you delete that last sentence that you create problems on what's already been adopted by this convention with the Board of Supervisors, etc.?

Mr. Tobias Why?

Mr. Flory As to the numbers provided for in those articles...in those sections?

Mr. Tobias I see no problem for this reason: There are a hundred and thirty-two members of this convention which is an even number of members.

Mr. Flory No, I'm not talking about that; I'm talking about increasing that...those sections provided for specific numbers on those boards.

Mr. Tobias Right.

Mr. Flory Here you say that the legislature may provide.

Mr. Tobias ...for an additional member who would be a student member. I see no problem, no conflict.

Mr. Flory But, if you delete that last sentence, don't you think, in effect, what you're doing is killing this provision?

Mr. Tobias I don't think so.

Mr. Dennery Mr. Tobias, I probably should have addressed this question to Mr. Wall, but I failed to do so. Possibly you can enlighten me on it. What is a student? Is it necessary for a student to be a resident of the State of Louisiana? Does he have to be a student...can an L.S.U. student serve on the Board of...Southern University's Board?

Mr. Tobias I think it applies to "a student." I don't think it has to be specified, and I think it would be left to the legislature under the amendment.

Mr. Dennery You think the legislature could do this? In other words, what is a student? That's what I'm trying to find out. A student is one who studies. Is a student...

Mr. Tobias who is attending the college or university--a college or university in the state for those that would not apply to, for example, the Board of Trustees for the State Colleges and Universities. It would be a student who's attending a state university, as I would interpret it.

Mr. Burns In other words, Max, it could be a student from Mexico or Hong Kong or Australia, or...

Mr. Tobias It could; it's conceivable.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, I'm sorry I didn't say anything about the Wall amendment because I think that's where we made a mistake. But, be that as it may, since this is permissible legislation, we certainly should adopt the Tobias amendment because you would have--if the legislature ever wanted to create a student member of the Board of Supervisors or any of these boards--they would have to create that position without a right to that person to vote or have any other right, other than the right of just sitting in, as you might say--a...an auditory member. I think that might not be what the legislature would want. It might create the leg...prevent the legislature sometime from creating that position. At least if they wanted just an auditory member, they could do so. If they wanted a voting member, they could do so--that is, with the Tobias amendment. Without this amendment you might have a situation that the...might not ever get a student member of the various boards. I certainly think that, since this is merely permissive legislation to start with, that we don't need to tell the legislature it can do something because it already has the authority. As I've said time and time again, we should enact laws here to tell the legislature "you shall do something" or "you shall not do something." Don't tell them they may do something, because they can do it whether we tell them they may or may not.

Further Discussion

Mr. Jack Mr. Chairman and members, I rise against this amendment. I voted against the Wall amendment. I was surprised that it passed. I believe that all students should have a right to appear before boards. I do not believe it would place the students in a position of better representation to have one student on each of these boards. The one they might have might be elected by them, if the election was weighed by one vote--and they vote poorly like grown people--so, you might have a person elected, say, out of a possible vote of a thousand that beat his next opponent by one vote, and the two of them got three hundred votes together. If I was a student back in school--and I've kept up with it since I was there--and I was educated from coast to coast: part in North Carolina, part in southern California, part in New Orleans, part in Shreveport, in colleges and universities. So I say, furthermore, we shouldn't have passed the Wall one; I voted against it, but it is not mandatory, but permissive. Now, here is how ridiculous the Tobias amendment is--and I don't like to use that word often--but, it...the Wall amendment which it follows just uses the word "student". It does not even provide whether he's from Louisiana; he could be a correspondent school student; he could be there--just entered the place; he could be from Russia; he could be from Communist China; he could be from anywhere. Certainly, we don't presume governors would appoint those kind of people, but it just points up how ridiculous it is. The fair thing is for a board to permit students to air their grievances; that is the whole purpose. I say this is a dangerous type of amendment. I know somebody is trying to humor somebody. But, the time for humor is over, as many people have realized, and get down to hard work. While I am on that, just count up. I believe, today, about two good amendments have passed and, all the rest of the times have failed. Now, I suggest we defeat this amendment since that Wall one has passed, and it's not mandatory. The legislature can in their

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wisdom, or lack of wisdom, decide what to do with that. Thank you.

Further Discussion

Mr. Wall Mr. Chairman and fellow delegates, you know, really and truly, people that have been around a long time--like Mr. Jack got a little bit ridiculous then. This is permissive to the legislature. Don't you think that when you're spelling something out in the constitution, that you should give the legislature some latitude and they will tie it down. That's what we're trying to do is to give the legislature the latitude as to say--and which they will say--students from that particular group of colleges and universities under the Board of Trustees or a student from the L.S.U. system or a student from Southern. So, it doesn't pin it down, but the constitution is leaving that to the legislature. Now, on this amendment I really... there's some people in the different systems that went along with my amendment on the basis that they would not be permitted to vote. I just want to say this: the main purpose that I want is these people to be in an official position, and that their voice can be heard, and that they will remain...they can't be put out in executive session where that they will know what's going on; they will better understand the functions of the board; it will educate the board as to their problems, and they can in turn go back and educate the students. I don't think they have to vote in order to do what I really want to accomplish, and we would be upsetting the balance of the board. So, that's my position.

[*Previous Question ordered. Amendment rejected: 39-72. Motion to reconsider tabled.*]

Amendment

Mr. Poynter Amendment No. 1 [*by Mr. Dennery and Mr. Casey*]. On page 7, delete lines 7 through 20, both inclusive in their entirety, and all floor amendments thereto.

Explanation

Mr. Dennery This...the purpose of this amendment is to delete Section 11 in its entirety. The reason for that is that under the dual officeholding provisions the legislature has the right to provide for dual officeholding or to prohibit dual officeholding. The Wall amendment says that the legislature "may" and that type of language is certainly not necessary unless we prohibit the legislature from doing something, the legislature may do it. So, I believe, and I think Mr. Casey agrees with me, that everything we are putting in here is purely legislative in nature, is not necessary in the constitution, and, furthermore, is not desirable in the constitution. I, therefore, ask that you vote in favor of this amendment which would delete Section 11. I'd be pleased to answer any questions that I'm able to.

Question

Mr. O'Neill Mr. Dennery, you believe that this prohibition against serving on two boards would be enacted by the legislature under a code?

Mr. Dennery Yes, sir. I certainly do, sir.

Further Discussion

Mr. Flory Mr. Chairman and delegates to the convention, I rise in strenuous opposition to this amendment. Now, the Education Committee in the eight or nine months of work that we had went into this...in the structure of the governance of education to a great extent. When the proposals are... as it stands now the way that the convention has adopted it, they've adopted the concept that this Education Committee submitted to you. But, let me suggest to you here that you read carefully and

study carefully the prohibition against dual officeholding in this particular capacity, because what you're doing if you don't contain a provision here saying that no member shall serve on but one board, what you could have, if the legislature does not act, is you could have the superboard--you could have the superboard--by merely having members serve on more than one board. Theoretically, if you delete this, they could serve on each board so that the Board of Regents would control the entire structure and governance of higher education. That's the value of this particular section. Now I have...I voted for Mr. Wall's amendment, even though I did not believe that it did everything that it purported to do in the way of giving to the students what they asked for. But, I tell you we need the prohibition contained in Section 11 prohibiting dual membership on the governing boards of education. If we need anything in this constitution, we need the prohibition against dual officeholding for the boards of governing higher education. I ask you not to delete this section, and not leave it to the will of the legislature--not that I don't trust the legislature, but I know that when the people adopt this and provide for the prohibition against dual officeholding, then the legislature has to live with that decision. We take no chance whatsoever of a member serving on two, and perhaps three, or even four boards. I don't believe that was the wishes of this convention, but that's what we're about to do if we delete this section. I ask you to vote against the amendment and leave the section as it is. Let's adopt the section in its final analysis.

Questions

Mr. Dennery Mr. Flory, we adopted a provision which says "the legislature shall enact laws regulating and prohibiting dual officeholding in state and local government." Now, don't you think that covers this?

Mr. Flory No, sir. I don't believe that it necessarily does, and I don't believe that it harms a thing in the world to say here what we mean as far as that no person shall serve on more than one board.

Mr. Dennery In other words, you don't believe that a board service is officeholding?

Mr. Flory Mr. Dennery, I'm not a lawyer and you are. I'm a layman, and I know--when I read Section 11--I know exactly what it means. When I go back to the dual officeholding that you're reading there, I don't know what's going to happen in the interim period between the time that the legislature takes action and when this board comes into being.

Mr. Stinson Mr. Flory, there's no shortage of good people in Louisiana to fill them without having to double-deck them, are there?

Mr. Flory Based on the conversation in this convention in the last several days, I think we have an abundance of intelligent people willing to serve on the boards governing higher education.

Mr. Stinson With reference to the question asked before me, isn't it usually been interpreted that when you have a position with a per diem, that it's not necessarily dual officeholding, hadn't it? There's a possibility of that anyway.

Mr. Flory I know that that's been the cases...in some cases in the past, Mr. Stinson.

Mr. Fulco Gordon, isn't this about the seventh time that we've tried to create a superboard?

Mr. Flory Well, I don't know. I didn't count them Mr. Fulco, but I just tell you that in the final analysis, if you delete this section you can wind up with a superboard by all its members serving on one board, the Board of Regents, and then simultaneously serving on the other two boards.

Further Discussion

Mr. Avant Mr. Chairman and fellow delegates, I want to emphasize the point that Mr. Flory made. The reason that I want to do it is because of the questions that Mr. Denny asked. I certainly respect Mr. Denny's legal ability, but if you will recall, the original committee proposal on dual officeholding specifically excluded from it those persons serving on boards, commissions, and other instrumentalities performing solely policy-making or advisory functions. Now, this convention in its wisdom didn't adopt that, but simply said that the legislature shall enact laws defining and regulating dual employment and defining, regulating and prohibiting dual officeholding. Now, certainly under that provision the legislature could, if it saw fit, in its definition of dual officeholding, eliminate from that definition "serving on these boards," taking a position which would be similar to the original committee proposal saying that since there's no salary and no pay, and only some per diem and expenses--and then only if the legislature sees fit to give per diem and expenses--that they could very well eliminate from the definition of dual officeholding "serving on these boards of higher education." The only reason I got up here is because of the remarks of Mr. Denny, who I respect and who I know you respect. But, I do want to point out that I think Mr. Denny very definitely is wrong, and if you will read the dual officeholding proposal and read these provisions relating to these boards, I think that you will agree in my interpretation of it. For that reason I ask you to reject this amendment.

Questions

Mr. O'Neill Mr. Avant, how long do you think it might take the legislature to enact a comprehensive code of dual officeholding?

Mr. Avant Oh, Mr. O'Neill, I have no idea.

Mr. O'Neill Well, can you envision it taking a year or perhaps two, and in that...

Mr. Avant Well, I think it would take, at least, maybe two sessions of the legislature.

Mr. O'Neill These initial appointments could be made, and one person could be appointed to three boards, and there would be no code to govern it; is that right?

Mr. Avant That is correct.

Further Discussion

Mr. Wall Mr. Chairman and fellow delegates, this section is absolutely necessary from two viewpoints: first, as to dual officeholding on these boards, it could be specific, and it is specific, so we should retain this section and, second, as to the amendment that was passed by you a few minutes ago dealing with students and their representation. Now, I have introduced legislation in the past, but each time it had to be a constitutional amendment because everyone--the legislative counsel and all the legal counsel that I could get in Baton Rouge, said that if you're going to do anything with these constitutional boards--if you're going to tamper with these constitutional boards--it has to be a constitutional amendment. So, the work that we just done would be of no effect if we don't retain this section, plus the fact we need it as far as dual officeholding is concerned. I ask you to keep this section just like it is. Thank you.

Further Discussion

Mr. Casey Mr. Chairman and delegates, I can only point out to you that we have...will have something in the new constitution that we do not have today, and that is a mandate from this convention and, if adopted by the people, a mandate from the people that the legislature shall enact laws--and I have

the wording of Proposal No. 23 right here--the mandate that requires the legislature to enact the laws defining and regulating dual employment, and defining, regulating, and prohibiting dual officeholding in state and local government. I would submit to you delegates that Section 11 is not necessary. I would also submit to you that those who believe that student representation is certainly worthy of consideration on the Board of Trustees and the L.S.U. Board of Supervisors, the legislature would have a right to do that anyway--to offer the possibility for student representation on those boards. It is certainly not prohibited. I would submit to you that under the dual office holding requirement that this convention has already adopted, I think we have duplication here and Section 11 is absolutely unnecessary.

[Previous Question ordered. Record vote ordered. Amendment rejected: 33-80. Motion to reconsider tabled.]

Amendment

Mr. Poynter Further amendments sent up by Delegates Derbes and Gravel.

Amendment No. 1. On page 7, between lines 20 and 21, delete Floor Amendment No. 3 proposed by Delegate Wall and adopted by the Convention on November 15, and insert in lieu thereof the following:

"(B) The Board of Trustees for State Colleges and Universities, the Board of Supervisors of L.S.U. and Agricultural and Mechanical College, and the Board of Supervisors of Southern University and Agricultural and Mechanical College shall each include one student elector"--now there's several changes in this next line--"shall each include one student elector of Louisiana from"--strike out the word "each"; insert the word "the"--the institution--pluralize "institutions"; insert the words "governed thereby". Make "institutions" plural; then add the words "governed thereby, whose terms shall". So, it would read: "shall each include one student elector of Louisiana from the institutions governed thereby, whose term shall not exceed one year. No student member shall be eligible to succeed himself."

Explanation

Mr. Derbes Ladies and gentlemen, what I am attempting to do here is to constitutionally require the membership of one student, who is an elector--defined elsewhere in this constitution as a person who is eighteen years of age or older--and who would, of course, have to fulfill certain residency requirements. I'm providing that that person shall be appointed to each of the various boards from the areas governed by each of the various boards. For example, one student from Southern University would be appointed to that board from the student population of Southern University, provided that he is an elector of the state, and one person from the student populations of the other institutions governed by the Board of Trustees for State College and Universities would likewise be appointed. The provision is a requirement rather than permissive language. It's clear; I think it satisfies the objections raised by some of the delegates on the debate on previous amendments that the student appointed might not be a resident of the state and possibly might not be old enough to vote. I think it satisfies those requirements and makes the appointment mandatory. It also continues in effect...it continues in effect the requirement that no student member may be eligible to succeed himself and continues the period of the appointment for one year. So, I think this is a clear and definitive requirement on the appointment. I urge you to adopt the amendment.

Questions

Mr. Smith Mr. Derbes, will the member here have a right to vote--the student?

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Mr. Derbes Yes, sir. He would become a member of the board just like any other member, and he would have a right to vote.

Mr. Smith How old would he have to be?

Mr. Derbes He would have to be an elector, which in turn would require that he be a resident of the state and would require that he be eighteen years of age or older. I think if he can vote in the general elections of this state, he ought to be able to vote, if this convention in its wisdom determines that he should be permitted to serve.

Mr. Pugh Does the fellow run for office, or he gets appointed or what?

Mr. Derbes His appointment would occur in the same manner that the appointment of the other individuals would occur, Mr. Pugh. This is just a requirement for appointment.

Mr. Pugh Well, you understand under Mr. Casey's ruling that all you had to do was amend the title and you could then put anything in a section. We now have a section that refers to dual membership and, I take it, for a student member, but I don't see anything in this section relating to appointment or election or anything.

Mr. Derbes Well, I respectfully suggest to you that the selection process for these various boards is mentioned elsewhere in this article, and all this is, is a restriction on the appointment or on the selection process. It merely provides that when the governor is making such...when the appointing body is making such appointments, that one of the appointments must come from the student populations of the various institutions.

Mr. Pugh In other words, he's going to use this as one of his appointments?

Mr. Derbes Yes, sir.

Mr. Pugh O.K.

Mr. Derbes Yes, sir. It won't change the overall population of the boards. It will not disturb the ratios and selection methods. It would just require that one of the persons be appointed from one student population.

Mr. Shannon Mr. Derbes, through your amendment are you trying to mandate that the governor appoint this seventeenth member which is his member-at-large, as a student?

Mr. Derbes Mr. Shannon, I'm not disturbing the selection process of the various boards I'm merely saying that of those persons who are appointed, the person should come from these various student populations.

Mr. Sandoz Mr. Derbes, when you say one student elector for each institution, now in the L.S.U. system if you have five...

Mr. Derbes May I clarify it?--and I'm glad you brought that up again because the language of the amendment has been changed, Mr. Sandoz, I don't mean to cut you off. It now says, "from the institutions governed thereby." So, the Board of Trustees for State Colleges and Universities with five-member organizations, or five organizations, under their governance would have one member from those...from that student population--all of the five institutions, in other words.

Mr. Sandoz There would just be one for the L.S.U. system, then?

Mr. Derbes Yes, sir.

Mr. O'Neill Jim, didn't we provide that certain of these members had to be from certain congressional districts?

Mr. Derbes I'm merely specifying, Mr. O'Neill, that in addition to any other requirements already provided for in this article, that one member from each of the affected institutions...of the board's governing each of the affected institutions must be a student in those institutions. That's all I'm saying.

In closing, let me say, ladies and gentlemen, without a lot of Fourth of July rhetoric, that I was in college in law school during a lot of the student unrest in this state, and I certainly believe that one of the ways to solve the problems is to give the students some voice by way of vote and by way of participation in the governance of their own institutions. This to me is a very minor compromise and a very minor way of including these people in the affairs that affect them so personally. Thank you.

Further Discussion

Mr. Wall Mr. Chairman, fellow delegates, this problem of the students having a voice in their university life is one that I have been familiar with since 1950 when they wouldn't let the girls receive telephone calls after 9 o'clock. So, this is a question that I have been familiar with; I know something about it; I know something about the legislative process; I know that we have to have this amendment in the constitution, or we can't do it. I know there's not enough support for any stronger amendment than the one that I have given you. Now we can put a person--and let their voice be heard--on these different governing bodies through the legislature. You've got to have a procedure. There's a big--look, I've introduced several constitutional amendments on this--there was a lot of thought process as to just how this student representative be selected and where he would come from. So, this is a legislative problem as to how he will be selected. But, he should have the voice.

Now, there's a lot of people that went along, and they believed that the students should have a voice. But, they won't go any further than what the amendment that you approved earlier that was submitted to you. They are not going any stronger than that. So, I'm opposed to this amendment. I'm opposed to the forced membership at this time. This makes it some question as to whether you're going to have a member from each institution. He deleted my entire amendment, which deleted the title, which doesn't make it germane; but that's alright. But, I'm going to ask you to vote this amendment down.

Thank you.

Questions

Mr. Tobias Mr. Wall, your last remark was that this deleted the title. Isn't it true that your amendment--this amendment--would only delete the third amendment of your three amendments and would keep Amendments No. 1 and 2?

Mr. Wall I believe you are correct, Mr. Tobias.

Mr. Tobias O.K. That's one question.

My second question is this: you personally agree that there should be at least one...a student should be on the board, whether he is a voting or nonvoting member? In philosophy you believe in that?

Mr. Wall Yes, but Mr. Tobias, we have to accept what's best under the circumstances. Many people went along with this, without giving them a vote; and they've got some strong arguments there. I'm going to have to support that position, because I think I have to support that position in order to keep the amendment here so that we can gain...that much ground.

Mr. Flory Mr. Wall, isn't it true, as I read the amendment, that the LSU Board of Supervisors would have nine students on it out of the seventeen; the Board of Trustees would have ten or eleven students

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out of a board of seventeen--which would be a majority; and the Southern Board would have three out of seventeen under this amendment?

Mr. Wall Well, Mr. Flory, I'm going to tell you what. This...Mr. Gravel left a lot of things unanswered in this. This is one of his poorest legal documents that he's ever drafted.

Mr. Flory Well, he didn't leave that unanswered. It reads that way when you say "each include one student elector of Louisiana from each institution."

Mr. Wall Well, he amended that "from the institution." But it still leaves it in doubt to what they could be--five or nine.

Further Discussion

Mr. Smith Mr. Chairman, fellow delegates, I think this is a bad amendment--one of the worst I've seen. I voted against the Wall amendment. I didn't think it...thought it was rather ridiculous. I think this is worse. I don't think that students have a right or are mature enough to be on these kind of boards. I don't know what they are trying to do--get the youth vote or what? But I think we ought to get down to business and cut out these ridiculous amendments. I hate to call them that. But that's what they are. I wish the Wall amendment hadn't passed. At least it's permissive, but, this would be mandatory; and I don't know what reason it has here. But, I say I'm not looking for any votes. So, you all go along, and let's vote this thing down.

Question

Mr. Stovall Mr. Smith, you don't think that the students would be as mature and competent as we are here--we who are older--in this Constitutional Convention, then?

Mr. Smith That's right, sir.

Further Discussion

Mr. Hernandez Mr. Chairman, ladies and gentlemen of the convention, this sounds good on the face of it: a student has a right to be there. But, I just want to call your attention to the fact, so that it will not be overlooked, that on your Board of Trustees you will have eight students. That is almost enough to control this Board of Trustees. It's departed from the thing of just giving a little input to a board which was first intended, because they can very easily be in control of one of these boards and vote a majority. Then, on the LSU Board, there would be five students on that. That is just too many students on one of these that...you have departed completely from the original concept of giving them input. They would...they could too easily get control of this. So, for that reason, I ask that you disapprove this amendment. Thank you very much.

Question

Mr. Tobias Mr. Hernandez, if we were to delete the one phrase that says "the LSU Board of Supervisors," would you be in favor of this amendment?

Mr. Hernandez No, sir. You would still have eight on the Board of Trustees, which is, by far, too many students on this board. So, I think that wouldn't...that would help it very little, Mr. Tobias.

[Previous Question ordered.]

Closing

Mr. Derbes I regret having to appear before you again. I'll be brief.

I want to say that, although I respectfully disagree with some of the philosophical differences of opinion that have been advanced in objection to

my amendment, I must say by way of clarification that the grammatical objections, in my opinion, are not well taken. Let me explain.

The amendment as it is currently proposed says that each of the various boards shall include one student from the institutions governed thereby--not from each of the institutions governed thereby, but from all of the institutions governed thereby. I am not suggesting to you, it is not my intention, and I do not believe that a clear and fair interpretation of the phraseology indicates that I am expanding the membership of any of these boards or requiring more than one student on any of these various boards. All that this amendment tries to do is to require one student on each board--nothing more, nothing less. To answer Mr. Wall's charge, the amendment was drafted by me. I take full credit for it. Mr. Gravel's name appears on it, but I am responsible for it. Thank you.

Questions

Mr. Fulco Mr. Derbes, we have four or five branches, I guess--LSU branches. Would that mean that each student from each of those branches would serve on the board? That's the way your amendment reads. I wish you'd check that. I want to vote for your amendment.

Mr. Derbes Thank you. I'm just going to...can't turn on my recorder again and say the same thing, Mr. Fulco. That's that my amendment requires the appointment of one student from each...I should say my amendment requires the appointment of one student from the entire student population governed by each of the boards. In other words, if there are five colleges and universities governed by one board, the appointment...there is required the appointment of one student from the entire population of the five schools. If there is one college and university governed thereby, the same requirement. There is no more than one student appointment required to each of these boards.

Mr. Fulco I didn't have your recent copy of the amendment. The way it read originally, it was "shall include one student elector of Louisiana from each institution."

Mr. Derbes Yes, sir. From each...from the institutions governed thereby.

Mr. Fulco Yeah. But my amendment doesn't read that way.

Mr. Derbes Again I reiterate--in defense of the criticism levied against the amendment, the grammatical criticism--that the amendment should read on the 1, 2, 3, 4, 5, 6, 7th line, "of Louisiana from the institutions governed thereby." The previous language has been deleted. "From the institutions governed thereby"--one student from each student population governed by each board--not from each institution, but from the entire student population governed by the board.

Thank you. Please vote for the amendment.

[Record vote ordered. Amendment rejected: 35-78. Motion to reconsider tabled. Pending Amendment read. Previous Question ordered on the Section: 63-48. Section passed: 100-18. Motion to reconsider tabled.]

Reading of the Section

Mr. Poynter The next section is Section 12. Parish School Boards; Parish Superintendents

Section 12. (A) Parish School Boards. The Legislature shall create parish school boards and shall provide for the election of the members of such boards.

(B) Parish Superintendents. Each parish board shall elect a superintendent of parish schools. The State Board of Elementary and Secondary Education shall fix the qualifications and prescribe the duties of the parish superintendent, who need

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not be a resident of the parish in which he serves.

Explanation

Explanation

Mr. Aertker Mr. Chairman, ladies and gentlemen of the convention, this wording pretty well tracks the present constitution. I think we all recognize that this would be necessary for the operation of the school system. So I recommend to you its adoption.

Questions

Mr. Pugh What's the reason for the provision that he doesn't have to live where he's going to work?

Mr. Aertker Because there was a provision at one time that stated that he had to. So, we decided we wanted to clear that out--that he didn't have to.

Mr. Pugh In other words, the old constitution says he has to live there.

Mr. Aertker That's correct, and he'd have to get it waived.

Mr. Pugh So, this isn't exactly like the old constitution, is it?

Mr. Aertker That's correct.

Mr. Morris Mr. Aertker, would this allow the superintendent of the city of Monroe or the city of Bogalusa to live in those parishes, rather than in the city, today?

Mr. Aertker Yes, it'd allow...yes, it would.

Mr. Morris In the years gone by, we had other city school systems in which this did present something of a problem. Isn't that right?

Mr. Aertker That's correct.

Mr. Burns Mr. Aertker, what was the reasoning on the part of the committee to remove...to add that requirement...that is, that exclusion that the superintendent did not have to be a resident of the parish in which he serves?

Mr. Aertker We felt that he...in order to allow the school systems to go out and make a choice to give you an example: If a school system that would desire to get someone from, say, from out of state to come in as superintendent--or one would want to, they say, who lived in another parish, to come in and be superintendent this was the reason why we would put that provision in there.

Mr. Carmouche Mr. Aertker, did you know that the old constitution did have a provision that the superintendent did not have to be a resident of the parish?

Mr. Aertker Yes, actually, it was the State Board of Education that finally had to put a waiver in there for those coming out of state, Mr. Carmouche.

Mr. Tate That's apparently to continue to permit, for instance, when the superintendent of St. Landry Parish is hired by Plaquemines Parish, so that they could free Plaquemines Parish to choose an educator from other parts of the state?

Mr. Aertker That's correct.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Jenkins]. On page 7, at the end of line 24, add the following: "School board members shall be elected from single-member districts at the first and each subsequent regular election for school board members after publication of the results of the 1980 decennial federal census."

Mr. Jenkins Mr. Chairman, delegates, this is to follow up the precedent we set in the Legislative Article with regard to single-member districts. You'll notice that it provides that it would apply only after the 1980 decennial census. This really is to make sure that we don't have any problems with regard to implementation of this whole plan. Since people serve for six-year terms in most of these school boards, we didn't want to, in any way, infringe on the terms of people who might be elected in the 1974 elections; and, also, because school boards operate on staggered terms, we didn't want to create transitional problems there. Also, a number of school boards have been reapportioned in recent years, and we didn't want to create a situation whereby the adoption of this amendment would cause them to have to reapportion again. This would give them time to prepare for it and make an orderly transition. If there were some court orders that provided another means for apportioning school boards, then naturally the court would have to accept this plan before it would have any effect in that particular parish.

The purpose for having single-member districts in this constitution is that single-member districts represent the fairest means of electing people to public office when they serve in legislative or quasi-legislative capacities. I think if you look around the state, you'll see all sorts of inequities that exist because of multi-member districts. Sometimes they are rural-urban problems; sometimes they are black-white problems; sometimes it's Republican-Democrat. There are all sorts of things that arise that don't allow people to be represented properly. Let me give you an example.

There's one town that I know of that is surrounded by a rural area. On their school board they have four or five members from that particular district. Invariably, the town outvotes the rural areas and elects all the members from that district, even though there is a very substantial rural population. You look at a particular ward in East Baton Rouge Parish--Ward 2--where we have three board members. This district is at least forty percent black, and you would think at least one-third of the members of this...of the three would probably be black. But, almost invariably, the election in that district, because there tends to be a black and a white in the runoff tends to be some sort of racial contest; and people tend to vote along racial lines. That doesn't promote the selection of the best school board members. I think it would be much better to have three single-member districts there where people in the particular districts, regardless of what their sentiments might be, could vote for the people that they chose to represent them.

I know in East Baton Rouge Parish, to take another example, we have one area of the city that traditionally votes Republican. There is a Republican state representative from that area; there's a Republican city councilman from that area, but because the ward in which that particular area is established is not predominately Republican, there is no Republican member of the school board, etc. One of the best things about single-member districts is that it tends to breed responsibility on the part of public officials, directly to a group of people who elected them. So often when you have multi-member districts and you go to a particular school board member, or councilman, or representative--whatever it may be--and there are other legislators or members from that district, you find that no one is particularly interested in helping you because there's such a dispersion of power that there's no real responsibility.

Another important thing is campaigning. When you have to run in a multi-member district, sometimes it even gets ridiculous. It gets to the point of having to run in an area, for a relatively minor position, that involves a hundred thousand, two hundred thousand, six hundred thousand people in a given district, to run for the school board. That means that too much money has to be spent to elect people. Also, it means that the average

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voter cannot possibly know his particular member on a school board. We have single-member districts that allows person-to-person campaigning. It cuts down on campaign expenses because it just doesn't cost nearly as much to run in a single-member district. I thought long and hard on this amendment about attempting to exempt Orleans Parish because some of the delegates from Orleans wanted it that way. Other delegates from Orleans did not. The argument in favor of exempting Orleans was that there's maybe some special circumstances there: the fact that they have five members of their school board elected at large from the whole parish; the parish coincides with the city; they have nonpartisan elections; their school board members are elected at the time of the general election, etc. It was charged, perhaps, that this would politicize the Orleans Parish School Board, if we had them run by single-member districts. But, after thinking about this a great deal, I think that that argument is fallacious for the reason: There's nothing in the nature of single-member districts that would change the basic structure of the Orleans Parish School Board. People would still be elected on a nonpartisan basis. They would still run in the general election; there would still be five members of that board. I see nothing that would any way hurt Orleans Parish School Board. I think it would help it by making it more representation. So, I'd urge the adoption of this amendment.

Questions

Mr. Lanier Mr. Jenkins, as you and I previously discussed, is it not true that, at the present time, the Lafourche Parish School Board is under an order of the Federal district court for the United States District Court of the Eastern District of Louisiana, under Docket No. 68-1702 in the case of A. J. LeBlanc v. John J. McKeithen, et. al. to have multi-member districts in the parish of Lafourche, to have his school board members elected by division?

Mr. Jenkins Well, I'm not sure if your numbers are correct, Mr. Lanier; but I assume you're correct otherwise.

Mr. Lanier I have shown you the orders and the judgments; is that not correct?

Mr. Jenkins I think that's correct, Walter; and let me say that, obviously, by this constitution, we can't override a federal court order. But, I think what would happen if we adopted this, and it were still in effect after the 1980 census, is that the school board would make an effort to have the court amend its court order to encompass this particular concept. If the court agreed to it, well, then it would; and if they didn't, it wouldn't. But, we're still going to be decided by the federal court, and nothing we here do is going to change that or affect that in any way.

Mr. Lanier Well, would you agree that if this amendment passes, it could create a conflict between this judgment--which I understand to be a final judgment in the federal court--and the provisions of the new constitution?

Mr. Jenkins No, I don't think it will be a conflict because you have to look at the legal order of priorities. The federal court order in regards to Lafourche Parish is going to take precedence, and so it won't be a conflict; it will just be a question of that being imposed. But, I really think that if Lafourche Parish School Board is apportioned on a single-member district basis--or an attempt is made to--and that's submitted to the court, and they find that it's a fair system, I don't think there will be any problem of having that judgment amended.

Mr. Lanier Under your amendment, is it not true that all members of the school board will have to run in 1980?

Mr. Jenkins No. In fact, it would be impossible for them to run in 1980 because this provides that at the first election after the results from the 1980 census are obtained, single-member districts would be...those board members elected after that time would have to be from single-member districts. So, that means that in the 1982 elections, those elected that year would have to be from single-member districts.

Mr. Lanier Mr. Chairman, I've got some very serious problems that...

Mr. Jenkins Let me finish answering by saying this: in other words, this doesn't require that everyone in 1982 be in a single-member district. It requires that everyone who's elected in 1982--and that will probably be one-third of the board, unless there's some transitional measure enacted by the legislature--that those elected would have to be from single-member districts, and all those subsequently elected would be.

Mr. Lanier O.K. Would it then be your interpretation of your amendment that, in accordance with the court order that I showed you that provides that our school boards will complete their six-year terms, and that one-third will be elected every two years, this part of the court order would not be in conflict with your amendment as you intended. Is that correct?

Mr. Jenkins That's correct.

Secretary Denny in the Chair

Mr. Slay Mr. Jenkins, under the Federal Election Act that was passed here a few years ago, it says that the Justice Department has to approve any changes that are made in our voting procedures here in the state. Now, once we adopt this, the Justice Department will have to approve it; and so, regardless of what the courts have said, I believe that if this is approved, and the Supreme Court has said that that election law was valid, then we could follow this amendment, once the Justice Department approves it. So, that would answer all the questions that've been raised.

Mr. Jenkins I think this is the way it would work, Mr. Slay, and remember, it's not going to apply just to this amendment. All of our election law that we put into this constitution--including the Election Article--is going to have to be submitted to the Justice Department under the 1966 Voting Rights Act. Now, the Justice Department, if it approves that plan, will then validate subsequent elections held under it, if they're held in accord with those laws. Now, I don't think that Justice Department approval would supersede a federal court order, however. That's why the federal court order in that particular instance would be amended. But, I can't really see that if any of this is approved by the Justice Department that we're going to have any trouble with the federal courts. I really don't because I think that would satisfy.

Further Discussion

Mr. Newton Mr. Chairman, fellow delegates, I rise in support of this amendment. There are many reasons to urge you to support it. I'd like to point out two. I supported the concept of single-member districts for members of the legislature for the reason that it cuts down on the cost of campaigning. I think that that is, in itself, is enough reason to have single-member districts for school boards. I'd like to point out--Mr. Shady Wall's been talking about an inequity in his parish in Monroe--well, there's an inequity in my parish that I'd like to clear up, and I think this would go a long way to do it. My district comprises the Seventh and Eighth Wards of Tangipahoa Parish. Now, the Eighth Ward does not have a single-member on a nineteen-man school board, and they don't have a single police juror. I think that

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this amendment would go a long way to alleviating that situation and similar situations in other parishes throughout the state. Thank you.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, I rise in opposition to this amendment. Now, let me tell you, you're looking at the fellow who introduced into the legislature an act for single-member districts of the legislature. I believe in single-member districts. But, yet on the other hand, I can see some time maybe in the future where we might want to have maybe one district that would have multiple members from that district. If you passed this amendment, it would be impossible to do that. I just don't think this is the type of legislation which should go into our constitution. At the present time, we are trying to solve all of our problems in today's conditions. That we should not do. I don't believe any of us here has enough foresight that we know that what's going to happen in the future. One of the reasons we have a great United States Constitution is because those framers of that constitution did not believe they knew all the answers. I think that what we are trying to say here that we know what's going to happen in the future. So, therefore, we're going to solve the problems for the future by cluttering up our constitution with a lot of solutions on today's problems. What we are doing is creating situations which we will have a lot of amendments in the future, as we have had in the past, by putting matters like this into the constitution. I think that this is not what we want. The legislature can provide for single-member districts. So, let's let the legislature do that. If the occasion should arise when we need a multiple district, as least we won't be locked in to where we can't do it without a constitutional amendment which would make a local issue for some local school board that we ought not to have in our constitution. Therefore, people will be voting upon something that pertains to only one school board rather than something that pertains to statewide election. I just think this is bad to put into the constitution, even in spite of the fact that it has fifty-five coauthors to it. I ask you to reject...to consider your position and reject this amendment. It's not going to eliminate single-member districts. It just provides that if the occasion should arise and the legislature did want to have one, it would have the right to do so. I ask you to reject the amendment.

Questions

Mr. O'Neill Senator De Blieux, you didn't vote for single-member districts in the constitution for legislators, did you?

Mr. De Blieux If...to put it in the constitution? No, I did not for the same reason I gave you here.

Mr. O'Neill Senator De Blieux, I think you did.

Mr. De Blieux Wait. I introduced a legislation in the legislature to provide for single-member districts for legislators, as you well know.

Mr. O'Neill Well, I think you voted to put it in this constitution as well.

Mr. De Blieux No, I did not.

Mr. A. Landry Senator De Blieux, is there anywhere in this proposal where terms...years of terms for the school board is set out, to your knowledge?

Mr. De Blieux In this constitution?

Mr. A. Landry Yes. In the proposed constitution--the proposed article that we are considering now--is there anywhere that sets out how many years a school board member shall serve?

Mr. De Blieux I think we've got six-year terms; I'm not sure.

Mr. A. Landry I'm not too sure that I see it. I was just wondering whether you knew about it or not. I don't think we've set out terms at all, so far.

Mr. De Blieux Maybe we haven't gotten to that particular section yet.

Mr. A. Landry If we haven't set it out, then, wouldn't we be, in Lafourche Parish, in a terrible situation where the court has ordered us that the election of 1976, that five of our members shall be elected for six years?

Mr. De Blieux I think you would be. Yes.

Mr. A. Landry You feel that this might be better left up to the legislature instead of being put in the constitution? Is that right?

Mr. De Blieux Yes, I do, certainly; much better.

Mr. Lanier Senator De Blieux, do you agree with Mr. Jenkins' interpretation of this amendment that commencing in 1982, that one-third of each school board would come up for election?

Mr. De Blieux Well, that all depends upon what would be the provisions in our law at that particular time, Mr. Lanier. If we did not provide for staggered members for school boards, that would not happen. They all would be elected.

Mr. Lanier Secondly, since we're under a court order in Lafourche Parish to have multi-member districts set up in divisions, would it be your opinion that the only way that we could comply with the new constitution would be to go back into federal court and ask for an amended judgment in order to bring ourselves in compliance with the state law?

Mr. De Blieux That's my interpretation, Mr. Lanier. You'd have to do that.

Further Discussion

Mr. Sutherland Mr. Acting Chairman, fellow delegates...Mr. Acting Chairman, I rise in opposition to this amendment. The Orleans Parish School Board presently consists of five members who are elected from the parish at large for six-year terms with one, two and two coming up every two years. The members of this board are elected on a nonpartisan basis. They cannot have political support. They run in the general election; they are not in party primaries. The people of New Orleans appear to be well satisfied with their members and the way that they are elected. It is my understanding that there are other boards that are elected in the same manner. I can tell you that the Louisiana School Boards Association--I've talked to their executive secretary--they've informed me that there are at least forty-eight other boards who have multi-member districts in this state. They have been involved in litigation--many of them have been--and the multi-member districts have been approved by federal court. Now, what are we trying to do? At the present time, the legislature is the one who determines the composition of these boards, fixing their terms and the membership. In the last session of the legislature, attempts were made to change the terms and the conditions, the composition of the Board of Orleans Parish. There was widespread opposition to it in our city. We do have race represented...all the races represented. In Orleans Parish, it's an unusual situation, where they attempt to have people qualify who represent different religions, different races, and different geographical sections. But, we run from the city at large. There is no district. Now, if you put this amendment in and force upon Orleans a district that means that we will then have to divide the city up into districts, we will have one member elected from each district; and they will be competing, then, for schools for that district which

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we have not had. We have been interested in schools for the city at large. I have served twelve years on this board. I had, many times, people ask me from the district which I run...which I come from, where I reside: "Why don't you do more for the citizens of Algiers? Why don't you get more schools for Algiers?" I had to tell them, "Look, I am not representing Algiers; I'm representing the city of New Orleans, and I have to do what is best for the entire city, not for my particular area." Mr. Riecke served on the board with me at the same time that I did. He represented the Gentilly area. He was elected from a geographical area, but he had to represent the city of New Orleans as a whole. We had members from the uptown area, from the downtown area. I think that this would be a mistake to attempt to force this upon us. Now, Mr. Jenkins said that he talked to me, and he thought about it, and he understood that we had problems. But, he doesn't think that this is any problem. Well, I have to disagree with Mr. Jenkins, and I think the people of New Orleans will disagree with him. I think that other districts...if you will check with your school boards, you'll find there is opposition to this type of thing. I would urge you sincerely to defeat this amendment and leave it as it is now, with the legislature, where the flexibility can be put into it, if it's necessary to do so. I'll yield to any question.

Further Discussion

Mr. Casey Mr. Chairman and delegates, I urge you, with every bit of convictions and ability that I have to convince you, to vote, absolutely and positively without a doubt, no, no, no on this particular amendment. I submit to you, delegates, that it's awfully difficult to oppose apparent good government, apple pie, and motherhood. But, I must do so in this case. The school board of the parish of Orleans, for instance--and, I know, many other school boards who represent...have parishwide representation rather than single-member districts--we have the finest school board, as far as I'm concerned, in the State of Louisiana. Our school board, I feel, because of parishwide election, avoids much of the sectional interest and bickering that could occur from single-member district representation. We have five members of our school board: we have one black; we have one lady, and three other members of our particular school board. During the difficult days when segregation and integration was an issue, our school stood up and was counted. I feel that they were able to do that because of the parishwide representation, because of being elected from Orleans parish rather than from a particular area of the city of New Orleans. It was so difficult at that time. Two of our delegates, Mr. Sutherland and Mr. Riecke, were addressed out of office by the legislature because of a stand that they took during the days of integration. I would submit to you, delegates, that this can easily be left to the legislature. Let the legislature decide if certain parishes wish to elect their school board on a parishwide basis or a single-member district basis.

An attempt of this type was made similarly in the legislature to apply, however, only to the parish of Orleans. After hearing much testimony, after hearing many witnesses, it was soundly defeated in the House of Representatives. I must strongly urge you to positively defeat this amendment.

Question

Mr. Mire Mr. Casey, did you know that I was an author on this? But, you have convinced me--you and other speakers--that this is a bad amendment, and I'll vote against it. For the records, I'd like to state that I'm against it.

Mr. Casey Thank you very much, Mr. Mire.

Further Discussion

Mr. Slay Mr. Chairman and fellow delegates, first

I want to say that I'm impressed with what the committee has proposed for school boards. I think that the school board is probably the most important public body that we have in the State of Louisiana. I say that because I served on the school board in Rapides Parish for twenty-five years, and I know what those people go through with. I would also like to rise in support of this amendment. We have about sixty-four different methods of electing school board members. I would like to see it done statewide, and have one system for the whole state. I think single-member districts is the only way that it can be done. In Rapides Parish we have three different systems. North of the river, if you live there, you run in one way. In Alexandria and the surrounding area, you have another way to run. If you live south of Alexandria, you run in an area that's about forty or forty-five miles long, representing four wards. Now, two people have to live on one end. Two have to live on the other. But, the people on one end have the votes to elect them on both ends. Now, that doesn't make sense. The people don't know what's going on there, and once we get single-member districts over the whole state, then, we can settle down and go about the business of running schools, and we'll know what's going on. As I say, I have served in all kinds of methods. We have been reapportioned three times in Rapides Parish. I would like to see it settled one time. Let the Justice Department come in and approve this method. Then we can settle down and be about our business. I urge your support of this amendment.

Further Discussion

Mr. Jack Mr. Chairman and members, I rise in support of this amendment. I'm in favor of single-member districts for legislators, schools board members, police jurors, and any office of similar nature. Here is the reason for it, if you'll give me your attention: when you have, let's say, you elect five candidates for a certain office parishwide. There's fifteen running; you have to vote for five of them. Now, you don't even know who your opponent is in that race. Now, if you have a block vote against you, you are doomed. But, if you have single-member districts, then you can create the issues, and you know who your opponents are, and you know who's getting that block vote. Now, let me tell you I can't--let's forget New Orleans a minute; Mr. Casey was talking about it; I can't say where his five members that run in that parishwide come from--but in Caddo, over the years, beginning 1940, my memory serves me correctly--and I was elected for twenty-four years in it--but, it wasn't a fair thing. Every representative and senator, during the time 1940 up until single-member districts in the House and the Senate, came from Broadmoor area and at least the area east of Fairfield, with the exception of one representative; and that was me--or "I," I should say--and I lived on the west side of Fairfield. From there west and south and north, but keeping that parallel line, no representative or senator was elected. That was not fair. The fairest method is the broad section of the people, and that's the way you get it by the single-member district. Another thing: I saw the time when you had to vote for two out of three candidates for a certain office. I did not want to vote for two of them. There was only one of them I wanted to vote for. So, for me to vote for one man out of that three that I wanted, I had to vote for one of the two men, neither of those two men did I want to vote for. That's another trouble with this business of having to vote in a district where they run at large, and you have to vote for two or more people. The fair thing is single-member districts. It's fair in New Orleans. Mr. Casey says vote against, against, against. I say vote yes, yes, yes. There's a many a person here, if you didn't have single-member districts, would have never been elected here. I don't know that I would. I doubt seriously I would. If you stay in politics a long time, there are little block votes, little block votes there. I was in a head-on race--thirteen of us running. Then when

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it came down to the final thing, in the runoff, there were issues, and I won it. I say single-member districts in everything. Thank you.

Questions

Mr. A. Landry Mr. Jack, you mentioned a multiple district. Do you realize that the federal court has ordered Lafourche Parish five different districts, and that in one district we have five members of the school board to be elected? Do you know that the federal court designated them as seats A, B, C, D, and E, and you don't have to qualify against all five; you can pick your candidate?

Mr. Jack I don't have any respect much for federal courts to begin with, but I like single districts... single-member districts. I do not approve of sections. I don't think it's good at all for this kind of thing.

Mr. A. Landry Do you realize, Mr. Jack, that we did not set single-member districts for police jurors?

Mr. Jack I didn't understand you.

Mr. A. Landry I said, did we in this convention set single-member districts for police jurors?

Mr. Jack Well, you just get an amendment up there, and I'll sure be for it.

Further Discussion

Mr. Nunez Mr. Chairman and ladies and gentlemen of the convention, single-member districts might be the greatest thing that ever happened to this state. But, I don't believe this is the way to do it. There are many of our parishes, and I just had the occasion to have one of my parishes to adopt a plan submitted to the Justice Department or the courts, or what have you, that comes back approved. There's four different districts in a five board district. They run from one, two and three members. They run A, B, and C. But, I think if you adopt single-member districts for school boards, you're going to also have to come back and do it for police juries and other governing authorities because most of our school board lines... most of your school board lines trans...are on the same lines as police juries run in. If you do this, I don't believe that you should do it for one and not the other. Why should we say there should be single-member districts for school boards? I don't believe this is the way to do it. I think it's bad. I think that we should allow our parishes and the school board authority, through the legislature, to run the way they think it's best for them to run, and that is with the sanction of the federal courts. I think we're going too far. I think the courts have realized, in telling us what they've done over the past ten years, that they have gone too far, and I think they are coming back. They're coming back to the moderate side. They're coming back to what the people want rather than stuffing it down our throats. I don't think we should go ahead and pass this whereby the constitution...we put in the constitution after 1980 that all school board members, all school board districts shall be single-member districts. I think we're just tampering with our school system a little too far. So, because there are so many coauthors on here, I would ask you coauthors to look at this again, and look what you're doing to your school boards throughout the state, and if you reconsider what you've done. I ask you to vote against it. Thank you.

Question

Mr. Tapper Senator, I guess you realize my name is on that amendment, but did you know that I had it taken off?

Mr. Nunez Well, would you take Mr. Tapper's name off, please? I'm glad to see you taking your name off, Mr. Tapper. Would you agree we open the

machine for coauthors now? It's up to you, Mr. Toca. I'm against the amendment.

Further Discussion

Mr. Hayes Ladies and gentlemen, I don't know whether I could say any more than has been said already. But I fully endorse these single-member districts. Had it not been for the single-member districts, I am sure--I am positive--I wouldn't be at the Constitutional Convention today.

Here in East Baton Rouge Parish, in the school system, we have the multi-member districts. We have never been able to elect anyone to the school system. I think if we had the single-member district, we would have at least three members on the school board. I fully endorse the single-member districts throughout the parish. This, in my opinion, would mean more than the school board...I mean the board that they have just given Southern University a few minutes ago. This would really mean something to the people in the State of Louisiana. So, help us adopt a single-member district for the entire State of Louisiana.

[Quorum Call: 93 delegates present and a quorum.]

Further Discussion

Mrs. Warren Mr. Acting Chairman, ladies and gentlemen of this delegation, I had not planned to come up here to say any thing. I was just going to sit there and listen and vote my convictions and save time. But I find that I must.

Mr. Casey made a statement. He said we have on the board, in the city of New Orleans, one black, one lady. True. And you've got one you can catch up with, and he ain't black. I am not going on a racial issue. I would like to see some of them on there black; but, personally, I could not care less. I want somebody on that board that I can communicate with. All these fine gentlemen that are telling you about the school board, and keep it like it is--I have missed one school board meeting since I have been coming to this convention, and I haven't seen any of them there. You tell me how interested they are in the children. I want to say, for here and now, I'm not only interested in the children in the city of New Orleans; I'm interested in every child in the State of Louisiana. I'm not going to be satisfied until the communication gap is closed. I think it can be closed with this amendment. Yes, I...am actively working in P.T.A. I support P.T.A., not for a board. As I said once before, a board is not the thing that is holy and sanctity to me; it is the education and the welfare of our children. I am going to ask you to forget about these little petty things. I want to ask you to look into your heart and vote for a single-member district where we can get some communication and not a lot of air.

Thank you.

Further Discussion

Mr. Weiss Mr. Acting Chairman and fellow delegates, I'd like to speak because I was one of those who are coauthors in this amendment, and I'd like to clarify my position after hearing the arguments. I am going to vote against this floor amendment, and I'll tell you why.

First of all, I've never considered issues of racism. I do not think this is a black-white issue, and should never be. These are not issues we are voting on in this convention. It's quite obvious that the black and white race are equal. I think that we have maintained this in our Declaration of Rights. We understand and appreciate that always in this constitution. This is not an issue at this time. I would like to point out, however, that I was not aware of the complications which this floor amendment brings forth.

There are two factors here that were not understood by me when I coauthored this floor amendment initially. One is that the committee proposal already allows for single-member district operations.

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In other words, it is optional for the legislature to establish single-member districts within the school board operation. Secondly, the floor amendment makes it mandatory. Now, I think that where indicated, we have, and have acted as a body to make situations mandatory that deserve that they be mandatory. However, I believe that there has been sufficient expression here to indicate there would be too much confusion in certain areas of the state to make this mandatory. Furthermore, the mandatory nature of this comes close to home; nothing is more personal than the educational process to the people of our state.

But, secondly, and that which disturbs me most, is the defining of the school board districts. Now, this is a real problem. I think that the legislature has this prerogative at this time. But if it is made mandatory, it will create havoc. Specifically, what will become of police jury districts? What will happen to council districts in the charters of New Orleans and in other cities? Are we going to have single-member council members to local government? Are we going to have single-member districts police jury members running? This creates a real problem. It is my belief that we had best leave this, as an optional procedure, to the legislature and adhere to Section 12 of the committee proposal as outlined, rather than accept this floor amendment. Therefore, I am voting against this amendment. Of course, you, the delegates, will do as you see fit. But I wanted to explain why the change from a coauthor to currently voting against this floor amendment, as I appreciate the problem now.

Questions

Mrs. Warren Dr. Weiss, I hope you understood what I said.

Mr. Weiss I believe you were speaking of black and white. I get turned off when you say that, Mrs. Warren...

Mrs. Warren No...no, no, no. You've got to be wrong. I thought that's what you thought. Mr. Casey was the one that mentioned it. Not I. I quoted what he said.

Mr. Weiss What did you say, Mrs. Warren? The question?

Mrs. Warren I said it didn't make any difference with me. I said the one that we can catch up with is not black. I don't go on no racial issues, and you ought to know it since you and I have been here so long.

Mr. Weiss Are you for or against this amendment?

Mrs. Warren I'm for the amendment. I'm saying I'm not going...

Mr. Weiss Why? Why are you for it?

Mr. Dennery Dr. Weiss, you are supposed to be answering questions--not asking them.

Mr. Weiss Well, I was waiting to get a question.

Mrs. Warren If you had been listening, Dr. Weiss...

Mr. Weiss What is the question, Mrs. Warren?

Mrs. Warren You mentioned--and I wanted it clarified: the only way I could clarify it was by asking you a question--you said the racial issue came up after I came to the mike. I did not bring the racial issue up. Mr. Casey mentioned it.

Mr. Weiss Well, what is the question?

Mrs. Warren You said it was a racial issue. It's not a racial issue.

Mr. Weiss No. I say what is your question?

Mrs. Warren Is that the reason that you are changing your vote, because you believe it's a racial issue?

Mr. Weiss I think I specified that specifically in my discussion.

Mrs. Warren Well, who do you think made the racial issue?

Mr. Weiss Because so many people have come to this microphone and made it a racial issue...

[Previous Question Ordered. Record vote ordered. Amendment rejected: 40-66. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 104-7. Motion to reconsider tabled.]

Chairman Henry in the Chair

[Motion to take up other orders adopted without objection.]

Report of the Secretary
[I Journal 824-828]

[Quorum Call: 86 delegates present and a quorum. Adjournment to 9:00 o'clock a.m., Friday, November 16, 1973.]

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ROLL CALL

[76 delegates present and a quorum.]

PRAYER

Mr. Riecke Bless us, O Lord, and these actions we take today, and make them pleasing in Thy eyes. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

REPORTS OF COMMITTEES LYING OVER [II Journal 829-830]

Mr. Poynter Delegate Proposal No. 32. Introduced by Delegate Drew.

A Proposal to provide with respect to the courts of appeals circuits and districts. The proposal has been reported without action by the Committee on the Judiciary.

[Motion to withdraw Delegate Proposal No. 32 from the files of the Convention. Substitute Motion to engross and pass the Proposal to its third reading.]

READING OF THE PROPOSAL

Mr. Poynter Delegate Proposal No. 32.

A Proposal to provide with respect to the courts of appeals circuits and districts. Provide an additional Section 9.

Explanation

Mr. Drew Mr. Chairman, ladies and gentlemen, what this proposal does is grant permission to the legislature to district the various circuit courts of appeals. As it is presently set up, we have three districts in each circuit, and all additional judges that have been added run at large from the entire district. I will give you an example of the Second Circuit which is composed of twenty parishes. You have three judges who are elected from specified districts to--one of them has seven parishes, one of them has less, and then one of them has quite a number less than that, I think is the way it works out. Then we have two judges who have to run from the entire twenty parish district. You have that same situation in every circuit court of appeals district. This is nothing mandatory. It is permissive for the legislature to create districts for those judges. Some of the districts it may be an impossibility. In other districts, it would straighten out the problem of having three judges run from small districts; two or more judges running from extremely large districts. It would do no harm to the court of appeals. You would probably have better representation from the smaller districts, and like I say, it is permissive legislation...permissive matter that the legislature can look into and do when it is determined that it is to the best interest of the people. I ask that you give me a favorable vote in passing this on to third reading.

Questions

Mr. Tobias Harmon, didn't the convention pass on this exact issue that this delegate proposal has?

Mr. Drew I don't believe so, Max. I could be wrong, but I don't believe they did.

Mr. Tobias Well, I think we did, and that's why this whole thing arose.

Mr. Tate Mr. Drew, was it not...the committee had originally recommended retaining the present system of giving at large, judgeships, letting the legis-

lature create, at large, judgeships, rather than re-district? Without much discussion, a floor amendment was adopted which took away the option of the legislature to create additional judgeships by at large method, and the reason--if I understand it--that you are reintroducing this is that the fifty-eighth study of the Judicial Council had recommended this as a method of avoiding a politicalized fight every time you have a new district. So, as I understand it, you want the opportunity--in the event we get time, which we probably won't--for the convention to reconsider this matter. Is that right, sir?

Mr. Drew That's correct. It would be something that has to be studied. At the time that they needed additional judges, the expedient way at that time was to let additional judges run at large. It's something that, I think, will in the future give us the flexibility to make it a more workable system on the circuit court of appeals.

Mr. Weiss Delegate Drew, did you know I agree with Delegate Tobias that I think the convention has already expressed itself in this regard. But, you mentioned that this was permissive legislation, and I read the first line of your section proposal, "as each circuit shall." Now, my understanding is this is mandatory legislation. Why do you say that it's permissive?

Mr. Drew I don't have it right here before me, I don't believe, Doctor, but, I mean...

Mr. Weiss I'll read it for you then. It says: "Each circuit shall be divided into at least three districts." This is your Delegate Proposal No. 32, is that correct?

Mr. Drew Well, that is the situation we have now, Dr. Weiss. You have three districts in the circuit now.

Mr. Weiss With at least one judge elected from each?

Mr. Drew Correct, and then all other additional judges are elected at large. That's what we're trying to rectify, possibly, in the future.

Mr. Weiss It says "each circuit or retains subject to change by two-thirds vote of the legislature."

Mr. Drew That's correct. But, right now, you have your three districts, and then when they needed additional judges, instead of dividing the districts, they created at large judgeships. In the Second Circuit is a good example. You have three districts, and one judge is elected from each district. You have two additional judges that are elected at large from the entire twenty parish circuit. That is the law today that you have three districts, see.

Mr. Weiss I thought we did away with the judges at large.

Mr. Drew What?

Mr. Weiss We did away with the judges at large, didn't we?

Mr. Drew No, sir, we have not done away with the judges at large.

Mr. Warren Mr. Drew, one thing you said when you started speaking hasn't brought me to this microphone. You said it would be probably better representation if we had the district rather than at large. So, what's the reason for wanting at large district judgeships?

Mr. Drew What is the reason for the at large...

Mr. Warren Why? You said it would probably be better vice versa. Why would you want it any other way than to have better representation? Do you have

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any other reason that you would rather have...do away with better representation, in other words? This is what I'm trying to say.

Mr. Drew Well, the thing is, Mrs. Warren, I don't think it's fair--and let me continue to use the Second Circuit as my example--to have three judges running from rather small districts, seven parishes on down; and then to have two judges who are obligated to run from a twenty parish--the entire circuit; they are elected from the entire twenty parish area. To get the additional judges we needed, that was the only way at that particular time that they saw that they could add the judges without a great deal of turmoil.

Mrs. Warren Well, right along now, we can fix it up like it is, and it won't be no problem. I mean, unless you just don't want to change.

Mr. Drew I didn't understand you.

Mrs. Warren I say at this point it appears that it is already settled, and we could go on with it like it is, and we wouldn't have any problem, unless you just don't want to change.

Ms. Zervigon Mr. Drew, I'd like to be clear in my mind exactly what we're debating. We're not debating right now or voting on the merits of your proposal, are we?

Mr. Drew No, ma'am.

Ms. Zervigon We're just voting on whether or not to reconsider this question. We could easily vote it down on the floor when it comes up at that time, couldn't we?

Mr. Drew You're correct, Mary. We're merely discussing now, the question of presenting it to the convention. That's what it amounts to.

Ms. Zervigon If we continue to say to ourselves we've decided that already, we won't think about it anymore, it may well be that we've made terrible mistakes that we won't turn over; isn't that correct?

Mr. Drew I think we've made quite a few, and have rectified quite a few, Mary, during the time we've been here.

Ms. Zervigon But, we don't want to make it so that we can never rectify anymore; isn't that correct?

Mr. Drew That's right.

Mr. De Blieux Mr. Drew, so that we can understand this situation: there is no district at the present time that has less than three judges; is that correct?

Mr. Drew That's correct.

Mr. De Blieux Therefore, some of the judges run at large, and some of them run by districts.

Mr. Drew Right.

Mr. De Blieux This would give the legislature the flexibility to make the adjustment as needed?

Mr. Drew That is correct, Senator De Blieux, and it's going to take an extensive study because of your overlapping periods of the terms, and if you had an at large judge from the same parish, say, that a judge from a district was elected...I mean, it's going to take a long time. It's nothing that we can do overnight, but it's something that will provide us the flexibility to do it in the future.

Mr. Arnette Mr. Drew, I think that you told Dr. Weiss that we had not done away with at large judgeships. Did you say that or not?

Mr. Drew As it is now set up, we are leaving the courts as they are...the courts of appeal as they are.

Mr. Arnette Well, Mr. Drew, I'd like to read to you from the adopted Judiciary Article which says, "after January 1, 1975, no judge shall be elected at large from within the circuit," which means we have done away with at large circuits after 1975. Your proposal seems to be exactly the opposite of that. Am I incorrect, or not?

Mr. Drew My recollection was that that was deleted, Mr. Arnette.

Mr. Arnette Well, I'm reading from the first enrollment.

Mr. Drew Are you talking about the courts of appeal?

Mr. Arnette I'm talking about the courts of appeals, Section 9. Courts of appeal, circuits, and districts--from the judiciary...this is the adopted first enrollment, which says we have done away with at large judgeships. So, is your idea entirely against something we've adopted, or not?

Mr. Drew My idea...I would be very much against that Mr. Arnette, for the reason that I don't think there's any way humanly possible to do it by 1975. There's no humanly way possible to do it.

[Motion to table the Substitute Motion rejected: 23-62.]

Further Discussion

Mrs. Miller Mr. Chariman, and ladies and gentlemen of the convention, Mr. Drew's proposal is a proposal to reopen the section on the courts of appeal. I think this is something that addresses to your very careful attention, because when you open that section, you can do violence to a great many things. But, the thing you will do the greatest violence to, under the Drew proposal, is the equal hand of justice in the State of Louisiana. Now, we are not bothered with this problem down in Orleans--the people in the Orleans Circuit. You now have before you, I think, a map of the State of Louisiana--has that been passed out by the pages? Alright. On that map, you see the four circuits of Louisiana: The First Circuit, Second Circuit, Third and Fourth. You only have the problem of judgeships at large in two of the circuits; that's up in the Shreveport area which is your circuit number two. You have the problem in the Third Circuit which you see on your map which is all the center section of Louisiana. You do not have any at large judgeships now in the Baton Rouge area. In fact, in Baton Rouge, you all specifically rejected the concept of judges at large. In Orleans Parish, you do not have any at large judgeships, and the concept of judges at large has been rejected. So, you're talking about only three judgeships where you have at large judges in the Third Circuit, and up in the First Circuit around Shreveport, you have five judges of whom two run at large. Now, Judge Tate told me that he's been approached by several judges who wanted to change this section. Well, I haven't been approached by but one judge who wanted to change the section, and I have been approached by one who knows...who has run at large. Both of these who've approached me have run at large. They know that when you give a judge in twenty-one parishes an at large judgeship, you've given him a life term, because who's going to take him on after he's been in there for ten or twelve years, and run against him? This convention saw fit to limit these judgeships to ten years so they will have to stand again for reelection, and I say when you run in twenty parishes as you...what I think the number is up in the Second Circuit--when you run in the Third Circuit in twenty-one parishes, and get a ten or twelve year term, you pretty well have it for life, because the judge would have to do something awfully unpopular

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for anyone to raise a quarter of a million dollars to run against him, and give up a district judgeship probably in the process. You're talking about only five judgeships at large. You're not going to really hurt anyone. The newest judge on the Third Circuit will go in January in a twelve year term. Surely, in twelve years he can make himself popular enough either in his own district or wherever he would have to run to seek reelection. You're not doing violence to anyone's term of office. Now, I've heard Judge Tate say that it gives the court stability; stability is the word I hear him use in the committee thing, to let these judges run at large because it kind of creates continuity. I'm saying you're giving him a life term, and this is exactly the concept that we have rejected for the Supreme Court judges, the district judges, and for all judges, is that we want them to stand and face the people every so many years. Now, I've heard the argument that it's easier to create judgeships when you let them at large. It was easier when the first one was created back when Judge Tate ran for it, because you did have a unique situation. But, when Judge Tate ran for it out in the Third Circuit, they didn't have twenty-one parishes, and the campaign cost was not as great. Now, we heard Mr. Jenkins yesterday talk about one of the problems on these districts that he was talking about yesterday, are campaign costs. It is a terrible burden for anyone to run in a third of the State of Louisiana. When you run in a third of the State of Louisiana, you either have to be very wealthy, and able to bear the campaign costs yourself, or you have to raise money--and I'll tell you, they don't give money for judges races like they do for congressional races and legislative races, because what can a good judge do for you in return--so the money comes from two sources, plaintiff attorneys, and defense attorneys. Do you want your judiciary to have to sell out to raise campaign funds, or do you want him to have to mortgage all his salary for his twelve year term of office...ten year term of office in order to meet the expenses. I think the Drew amendment is going to open up this Judicial Section again, and now is the time to kill it. I ask that you vote against the Drew amendment. I'll answer questions.

Questions

Mr. Weiss Delegate Miller, isn't this just rehashing what the constitution has been over in regards to single member versus multiple districts for election of judges?

Mrs. Miller You're entirely right, Dr. Weiss. This would just open that up all over again, and here we are with very limited time to even do the work that's still before us.

Mr. Drew Ruth, speaking about the cost of campaign--and we were speaking of the second circuit there--do you think it's fair to require two judges to foot the cost of the campaigning in twenty parishes, and three in much smaller districts?

Mrs. Miller I think it is very unfair. Like on the Third Circuit, you have three judges who run in districts to six parishes, and you have three judges that run in twenty-one parishes, so you have three judges that may can do a campaign on twenty thousand dollars, and you've got three judges that have to mortgage their souls and life and income away, or they either have to raise the money from the bar to do it. So right on the Third Circuit alone, it's gross inequities that you have three judges that only have to run to six or seven parishes, and three that have to run for twenty-one parishes.

Mr. Drew Well, Ruth, you say that we would rehash a single member district. Doesn't this actually only give the legislature the right to look into it, and if it is feasible and advisable, then to go ahead and do it to adjust these inequities?

Mrs. Miller You will note under the committee proposal as it's been adopted by this convention, you've

given the legislature a great deal of flexibility. You're not saying that you cannot combine two or three districts within the circuit which almost comes to the at large situation if they thought it was desirable. But, you are preventing them from creating such massive and huge circuits that it would be unfair to the people, because the people of Louisiana...they know in a campaign you cannot get to know people in a five or six weeks campaign period over twenty-one parishes unless you pour a massive amount of money into the campaign. In the Third Circuit you're talking about, right now, six T.V. stations, fifty small dailys and weeklys, six major newspapers, and over fifty radio stations, and all of those things have to be used, because if you leave one out, someone else gets mad at you. So, you're talking about a massive amount of money, and you're talking to somebody that's been through that game, and I know the name of the game.

Mr. Drew You're speaking of your at large judges there when you're speaking of all of that area, aren't you? You're referring to the at large judges from the Third Circuit; is that what you're referring to?

Mrs. Miller Well, and it's the same thing. Of course, now, on the Second Circuit, you only have two major cities with presently...with probably only two or three major T.V. stations, and fewer newspapers, of course. But, I just don't see how we can create unequal type judgeships. This has been something this convention overwhelmingly voted for, was to try to keep even handed justice and equal judges in the State of Louisiana.

Mr. Drew Well, just one more question, Ruth. I mean, to let judges run from similar size districts, you say that is unfair; that we're creating unequal areas, unequal judgeships, by giving them similar areas to run from?

Mrs. Miller Well, I definitely think when you have at large judgeships...the man that runs at large is not on the same footing with a man that runs in the district. He's not on it financially; he's not on it in any way.

Point of Information

Mr. Asseff Mr. Chairman, my questions are directed to the Chair.

First, I think we'd all like to know this, Mr. Chairman, as they are coming up. One: To what extent will a delegate proposal reopen the section? Two: Will it be necessary to suspend the rules, or will the adoption of a delegate proposal simply amend the section? Three: Will a delegate proposal require sixty-seven votes, or only a majority as it will be amending a section?

Mr. Henry Dr. Asseff, yes, sir, I would think so.

Mr. Asseff Sir? You may hold it up, Mr. Chairman. We sooner or later, we will need a ruling from the Chair.

Mr. Henry Well, all the proposals are going to have to have sixty-seven votes. Now, these delegate proposals, as they come in, will be treated as a proposal that will be adopted. Then I would assume we're going to let you people on Style and Drafting come up with some idea as to where they will be placed in the order of the proposal that we find a complete...the overall proposed constitution, sir.

Mr. Asseff Mr. Chairman, please don't leave it to Style and Drafting.

Mr. Henry Well, I've given that a great deal of thought, Dr. Asseff.

Further Discussion

Mrs. Miller Thank you. I hope you will defeat the Drew proposal.

Further Discussion

Mr. Leigh Mr. Chairman, ladies and gentlemen of the convention, I rise in support of the motion to pass the Drew proposal to a third reading. The proposal...I'm not debating the merits of the proposal at the present time. I'm simply asking you to let this come to the convention and be voted on. It is necessary to discuss, just briefly, to let you know what the group proposal provides, and it would be particularly applicable to the Second Circuit where I reside. We have, as I understand it, we have frozen three separate districts into each of the courts of appeal circuits. But, in the Second Circuit we have two judges running at large, and they run over the entire twenty parishes that comprise the second circuit. Now, all that the Drew proposal will do would make it permissive to the legislature to redistrict that circuit, or any circuit, if necessary, so that an at large judge would be running from a district rather than from the whole circuit. In ours, for example, the Shreveport Circuit...the Shreveport district is the most populous district, and a judge running at large... the two at large judges will normally be elected from that particular area. It denies, as it is set up at the present time, it really denies equal representation to all residents of the circuit. I strongly urge that we pass the Drew amendment to third reading, and at least discuss the matter when the proper time comes. I ask you to support the Drew amendment by passing it to third reading. Are there any questions?

Questions

Mr. Jenkins Mr. Leigh, after listening to your argument, it would seem that you would be against Mr. Drew's amendment, because Mr. Drew's amendment allows the continuation of at large districts, and would allow one area to dominate others. Whereas, the way we have it written, we have, in effect, single member districts mandated after 1975; don't we?

Mr. Leigh I don't understand that. Frankly, Mr. Jenkins, I don't recall exactly the way the proposal was adopted in our previous work. But, I do think that all of the circuits should be districted and should have a separate district for each judge who is running in the circuit if that can be worked out by the legislature. My understanding of the proposal was, as adopted is that we mandate at least three districts, and the others would run at large. That's my understanding.

Mr. Jenkins No, sir. Do you realize, Mr. Leigh, that what we adopted says that after 1975, no judge shall be elected at large, so that requires that all new judges be elected from districts? Whereas, Mr. Drew's proposal would leave it up to the legislature, and we could continue to have at large elections for other than the first three judges.

Mr. Leigh Mr. Jenkins, I have to say to you very frankly that I have not reread the proposal that you are speaking of. I am strongly in favor of having separate districts within the circuit for each judge that's running within the circuit. This amendment...this proposal--as I have read Mr. Drew's proposal--would permit the legislature to establish that. Now, as far as I'm concerned, when the matter comes up, if we have adopted a proposal which mandates separate districts for each court of appeals judge, I would be in favor of that. But, I'm not clear on that, and I would like to see this at least brought to the floor again in order that we can make sure that that is the fact.

Further Discussion

Mr. Arnette Well, I just want to make two points. It seems that Mr. Drew has offered this particular proposal so that the legislature will be allowed to make separate districts for these at-large judgeships. But, we have already adopted a section in

the Judiciary Article that mandates--not allows, but mandates--separate districts. All you have to do is read your first enrollment of the Judiciary Article, Section 9, and it contains the sentence, the second sentence of Section 9 says "after January 1, 1975, no judge shall be elected from at-large within the district." It's very simple. It just says you can't have at-large judgeships at all, and I think this is what the convention wanted. We voted very much in favor of this, which brings me to my second point. If we're going to sit here and hash over and hash over these things over and over, and over again, something that not only the convention has already rejected, but the committee that the delegate proposal went to, submitted it back to this convention...reported it back without action, and then we're going to fight it on the floor today and then fight it on the floor tomorrow when it's brought up for its third reading, we're going to waste time, and waste time, and waste time. So I urge you to vote against this, and don't replot this same ground. It's getting into pretty late November now; we've got to get finished with this thing. If there are no speakers, I move the previous question.

Further Discussion

Mr. Tate Mr. Chairman, brother and sister delegates, I will speak very, very shortly and sit down, but I want to point out to you and ask you to consider what we are asking you to do. We are simply asking you to pass on Representative Drew's amendment on to third reading so that if and when the convention can get to the delegate proposals on the calendar, you will have the opportunity to restore to the legislature the option they have now of adding new judgeships to the Courts of Appeal by adding them at large. I would just have to tell you this: in the convention's deliberations, without much discussion, we provided only that the legislature can have at large judges. We didn't say that they can have twenty parish judges. We didn't say that they must have single-member districts; there can be two or three to a district. We didn't say a lot of things. All we said is that we took away from the legislature the option--when you have a new judgeship needed for a Court of Appeal circuit--we took away the option of providing that he be elected at large through the entire circuit so that everybody would have a chance to vote for that new judge rather than either adding him to a district--one of the districts which would have a population imbalance, for instance, Lafayette has four hundred thousand, I believe; Lake Charles, three hundred thousand; Alexandria, three hundred thousand. You add two judges to one of those districts, there's disproportionate representation. It's true we don't need proportionate representation, but simple fairness does that. You have that alternative either to give one district more judges than its people...the number of people are entitled to, or two, you set off a political cat and dog fight. What sort of district are you going to create? The district you create--the legislature creates--now is out. Everyone else in the circuit, but only those favored people in that parish have the opportunity to adopt a judge--to elect a judge. Now, all we're asking is to preserve that option. The legislature has had that option since '58. They adopted it because after two years of study by the Judicial Council and the Law Institute they found that was the only way that they could meet the objections of redistricting that were involved when they found out they needed five judges instead of three. In the long run I anticipate--just as in the First Circuit and in the Fourth Circuit--eventually the judges were passed into the district. But, this just gives the legislature the option. All we're asking you is to give yourselves the option, if and when you have time--if and when you have time after we finish the committee proposals--to reconsider a matter that we think needs study.

Questions

Mrs. Miller My good friends, Justice Tate, isn't

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it true that under the at large judgeship system when we were going to redistribute this population imbalance we ended up with three judges on the Court of Appeal from the Lake Charles area? Answer that, Judge Tate, please.

Mr. Tate My good friend, Mrs. Miller, I'd be glad to. The majority of the million people in the circuit chose...

Mrs. Miller You didn't answer my question, Judge Tate.

Mr. Tate Choose three judges, including your husband and Judge Watson, later, from the Third Circuit--from the Lake Charles area. But, that was a million people who thought they were the best men. They looked at who was the best man, and your husband, incidentally, is a very great judge.

Mrs. Miller You were talking...weren't you talking about and you were mentioning that the reason for the at large judgeship is to give flexibility so that the population imbalances can be adjusted, yet, with the at large judgeship you ended up with three judges from Lake Charles area--my husband, Judge Savoy, and Judge Hood. Then, when the people had another opportunity to vote on an at large judgeship, they didn't solve the population imbalance; they still ended up with three from the Lake Charles area--Judge Miller Judge Watson, and Judge Hood, now. So, your argument is wrong.

Mr. Tate Well, in answer to your question...

Mrs. Miller I hate to contradict a Supreme Court Justice.

Mr. Tate In answer to your question, Mrs. Miller, I'm just speaking as a man who served as an at large judge for ten years. For the good of the system--I have no personal interest in the thing--but for the good of the system, I think we should give the legislature the option, if and when we can get to it.

[Previous Question ordered. Record vote ordered. Substitute Motion to engross and pass to its third reading adopted: 71-27. Motion to reconsider tabled.]

Mr. Poynter One more, Mr. Chairman. Also, from the committee, Delegate Proposal No. 43, introduced by Delegates Johnny Jackson, Gauthier, et al.

A proposal for providing for juvenile courts having exclusive original jurisdiction with the exception for offenses of murder, aggravated kidnapping, armed robbery, or aggravated rape.

Comes from the Committee on the Judiciary. Reported without action.

[Motion to withdraw Delegate Proposal No. 43 from the files of the Convention. Substitute Motion to engross and pass to its third reading.]

Explanation

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, as you recall, approximately a little over a month ago we discussed the...in the Judiciary Article constitutionality of juvenile courts. As a result of the close vote of this convention by four votes--four or five votes--an amendment failed that would have given constitutional sanction to the juvenile courts as we have given it to the district courts, courts of appeal, and the Supreme Court, and to some degree, to mayor's courts and justice of the peace courts. So, as a result of that, a delegate proposal which was just the same amendment--and we're right at the deadline--was introduced as a delegate proposal and sent to the Committee on the Judiciary. Because of the problems that the committee had had--particularly on the final hearing of that delegate proposal--because of the problems that they had, and

they couldn't get a quorum. On Wednesday they accommodated me by saying, "We'll let your proposal out without recommendation." The feeling was that the committee would possibly never get a quorum, and ultimately, any sort of fair hearing to attempt to address themselves to the reservations by the delegates of this convention and some delegates on that Judiciary Committee would not materialize. So, therefore the committee, in order to accommodate, asked that it come out to the floor, and asked me would I take my chances on the floor. I agreed. I would like to suggest to you that I did pass out before you a letter from the judges of the Orleans Parish Juvenile Court which states very clearly their reservations concerning our present provisions as they deal with juvenile court. Now, I'm not asking you here this morning to argue the merits or demerits of Delegate Proposal No. 43. But, I do feel that so crucial an issue which is going to affect a large segment of our population--and particularly the future generations of this state--ought to have at least as much debate, criticism, and concern as we have given every article and delegate proposal. So, I'm not asking you, here, by your vote now, to say that you are for retention or you are against it. I'm saying that allow us to pass this on to the third reading, to allow us not to have this proposal to be withdrawn from the files of the House. I do not understand, and I cannot envision any proposal--whether I like it or don't like it--failing to get as much consideration as possible because we cannot maintain various quorums. I think this is a very cruciary, [sic.] and you know that I have, for the longest, attempt to relate to you my concerns--not about maintaining juvenile offenders who commit heinous crimes, but I want you, on this vote, to think about those youngsters which is in...which are in the majority who do not commit heinous crimes like murder, aggravated rape, or robberies; but those who may get in a fight and decide...and will be...and as a result would be subject to criminal courts and all the kinds of ramifications therefor. So, I ask that you allow this delegate proposal to be passed on to its third reading, at which time when it comes up for debate--and I think it will come up at a time where we can best attempt to address ourselves to this problem--then you can vote your conscience, one way or another, whether you're for the retention or you're against the retention. I ask your favorable adoption.

Further Discussion

Mr. Dennis Mr. Chairman and fellow delegates, I rise in opposition to the substitute motion to pass this to third reading. I urge you to vote against that motion, and to let this proposal be withdrawn from the files of the House. You will recall that the Judiciary Committee, in its committee proposal, recommended to you a very simple proposition with regard to juvenile courts. We recommended that you adopt a section which simply said that "The juvenile and family court shall have such jurisdiction as the legislature shall provide by law." You adopted that simple statement. The reasons we recommended that simple statement to you--as I told you when we were presenting the Judiciary Article--is that there are many differences of opinion as to how old a person ought to be when he is treated as a juvenile. We are in a period of great social change in our society. Some people think that incorrigible juveniles ought to be referred to the adult courts; others think that they should not be. There are all kinds of differences of opinion, and things are changing from day to day. So, we felt it best to leave this type of decision in the hands of the legislature so that they could study it and treat it in a detailed and thorough fashion, and be able to change it and not have it frozen in the constitution. You will also recall that Delegate Johnny Jackson attempted to amend this on not one, but several occasions. One of the amendments he attempted to get you to pass was the same thing as this delegate proposal. He had other amendments which were, I believe, even more damaging to the Judiciary

Article in that they interfered with what we had done in enabling the legislature to work toward a uniform and consistent court system. He has just said to you on this microphone that if you pass this to the third reading, he's going to seek to amend this delegate proposal in the same fashion that he sought to do on the floor, which I would be even more opposed to because it will interfere with the big thing we have done in this Judiciary Article: that is, give the legislature the power to work toward a more comprehensive, consistent court system, and perhaps do away with the crazy quilt work of local courts that we have in this state, at some time in the future. The convention...the Judiciary Committee has considered this on not one, but three occasions. We recommended a simple statement to you. It was debated fairly and fully and for a long period of time on the floor, and you saw fit to sustain the committee and to adopt this statement leaving the juvenile jurisdiction to the legislature. I ask you to do this again this morning, and let's go on with our business. Vote against passing this delegate proposal on to third reading because you will only reopen the matter that we have already debated, considered and decided.

Questions

Mr. Lanier Judge Dennis, did I understand Delegate Jackson correctly when he said that this is the identical amendment that we previously voted on?

Mr. Dennis I didn't hear everything he said because someone was talking to me, but it is, I believe, identical to one of the amendments he offered. He offered more than one while we were debating this on the floor. One of them did just this. Another one did this, plus, in my estimation, interfered with the scheme that we had come up with for court structure. So, I'm opposed to both of them, and the latter even more than the first one.

Mr. Lanier But, what I'm getting at is...

Mr. Dennis Yes, sir, I believe you are right. Yes, sir.

Mr. Lanier Would it be correct to say that we have voted on this thing already, and it's been decided?

Mr. Dennis Yes, sir; that's my point.

Mr. Jenkins Judge Dennis, in other words, you want us to go ahead and kill this particular proposal because it's been dealt with, as I understand it? Is that correct?

Mr. Dennis That's right, sir.

Mr. Jenkins Now, let me ask you one other question, too. In the legislature this last session, the legislature tried to deal with the juvenile problem, but because of the stringent constitutional provisions with regard to jurisdiction, we were unable to. The governor vetoed our bill on constitutional grounds. Wouldn't the committee proposal, as it stands, allow the legislature to deal with the juvenile problem, sufficiently, without all these burdensome provisions in the constitution?

Mr. Dennis That is our intention. I am not familiar enough with the legislation you passed to know whether this actually removes the particular constitutional objection that he used for the basis of his veto. But, the general idea here is to leave this problem to the legislature because the committee felt that it was extremely complicated in an area of great social change, and that we were not competent enough to freeze something in the constitution detailing the juvenile jurisdiction of the court, and that we ought to leave this to the legislature.

Further Discussion

Mr. Pugh Mr. Chairman, fellow delegates, I abide

by your wishes to expedite the matters of this convention. I shall speak briefly and to the point. Judge Dennis sits on the district court, and the district court's jurisdiction is spelled out in the constitution. Justice Tate sits on the Supreme Court; his jurisdiction is spelled out in the constitution. Mrs. Miller's husband sits on the court of appeal, and his jurisdiction is spelled out in the constitution. There's no justification for not spelling out the jurisdiction of the juvenile courts. It's not going to hurt the district courts because under the constitution, they sit as a juvenile court. They're going to have to do that work anyway, but the protection that we will afford by a specific constitutional amendment or a provision is to allow the Orleans Juvenile Court and the Caddo Juvenile Court to continue. It's not going to affect the other district courts because they've got to handle the problem regardless of their age, one way or the other. They sit either as a juvenile court or as a district court. I ask your favorable consideration to Delegate Jackson's proposal, to allow it to remain open for your further consideration. I appreciate the time and the indulgence you've given me to make these remarks.

Questions

Mr. Dennis Bob, I know you didn't intend to mislead anyone, and I'd just like to ask a question in clarification. You are aware, aren't you, that in Section 15 of the Judiciary Article--which is a different section than we are dealing with here--we said that "the district, parish, magistrate, city, family, and juvenile courts existing at the time of the adoption of this constitution are retained"? You are aware that that does take care of the juvenile courts and retains them as they are now?

Mr. Pugh It gives them absolutely no jurisdiction, and you know it, and I know it. All it allows them to do is the same judges will continue to sit. Insofar as the juvenile courts are concerned, if the legislature shall decide we won't have them, then you won't have the judge to go with it because he won't have an office to run to. Nothing in...

Mr. Dennis Then I'd like to ask you this, Bob: are you aware that the Judiciary Committee intended by this and is of the opinion that this retains every one of these courts intact with its present jurisdiction and powers? That is the reason we put this in here. If it doesn't do that, then all of these other courts have not been retained.

Mr. Pugh Are you trying to tell me, Judge Dennis, that you didn't spell out the jurisdiction for the district courts? Are you trying to tell me you didn't spell out the jurisdiction for the courts of appeal and for the Supreme Court?

Mr. Dennis We didn't spell out the jurisdiction of the parish, magistrate, city, family and juvenile courts because we did not intend them to be constitutional courts. We intended the district, court of appeal and Supreme Courts to be the only constitutional courts in the constitution. The rest of it we intend for the legislature to be able to merge into the three level court system, if it wants to in the future. This is the point I've been trying to make, over and over and over. This is the big thing we have done in this Judiciary Article, and if you come back and undo it, you're undoing the only real reform step we have made. Do you understand what I'm saying now?

Mr. Pugh I understand that you're saying that you want to put it in the posture where the legislature can abolish the juvenile courts--I got that message.

Mr. Dennis Do you understand I'm not saying that we will abolish the juvenile court function, just like I, now, sit as a juvenile judge? By the way, I want you to be aware that I do juvenile work; I sit as a juvenile judge. I'm not...

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Mr. Pugh Judge Dennis, I've written two books on this subject. I know...

Mr. Dennis I just want to ask this question: do you realize, Bob, that we are not leaving it open for the legislature to do away with juvenile court functions? These can be performed by district courts, just as I, as a district judge, perform juvenile court functions. We are simply saying that if the legislature wants to, in the future, it can establish a consistent three level court system and have divisions of the district court which do juvenile work, family work, criminal work, civil work, and all kinds of work. Do you understand that, sir?

Mr. Pugh Yes, Judge Dennis, I drew the acts by which you sit as a juvenile court.

Mr. Jenkins Isn't it true, Mr. Pugh, that under Delegate Jackson's proposal that if a person one day under the age of seventeen committed the crime of attempted murder, that the worst that could happen to him under this provision is that he'd be sent to L.T.I. or some similar provision until about his eighteenth birthday and then would be released?

Mr. Pugh There is that possibility.

Mr. Jenkins Isn't that a certainty, not a possibility?

Further Discussion

Mr. Jack Mr. Chairman and members, we debated this issue thoroughly already. The reason we didn't spell out the jurisdiction in the proposal for juvenile courts was with this day and time, it may be we would want to lower the age limit below seventeen. There's so much crime in this country today that's committed by people under seventeen, so many robberies where people are not killed in them, but are ruined for life. There's been connections by juveniles in mass killings that a murder charge would not stand up, but they played a big part in the robberies and the other connected things that wouldn't make them a principal and guilty of murder that we thought it best to make this flexible and leave it up to the legislature to set the jurisdiction. It's not lowering the importance of the juvenile court at all. Now, the material that was laid on our desks about juvenile judges--talking about the clause in the proposal that was adopted that they could be abolished--I agree with them. If Mr. Jackson had his proposal cut down to where they couldn't be abolished by the legislature, I'd support that. But, I cannot support his proposal as is to set in the constitution, to use the fancy words, "lock it in there, close the door", for this flexible change of time that's going on. So, I say, it's not a question of a courtesy to be extended to allow these bills in. Now, if it's something that is a delegate proposal that hadn't been here before, that's a different matter. But, this took up a lot of our times. I remember, definitely, numerous people talking on it, so, I'm going to vote against this.

[Previous Question ordered.]

Closing

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I am deeply regretful of the fact that we are attempting to discuss the merits and demerits of Delegate Proposal No. 43. I said very clearly when I got up here on the platform: I'm saying whether you're against it or for it--I'm not asking you to vote your convictions here today--I'm asking you to allow us to pass it on to the third reading. If there was a quorum in the Judiciary Committee on Wednesday, we could have settled it there. There were ten members, but they did not...they could not stay to hear the whole proposal, even the members that we had planned to introduce to reserve whatever objections that people had. I'm not asking you to stay here and

say you're for juveniles who commit armed robberies, but I do want to say this in response to those kinds of arguments that have attempted to cloud the issue: what about that ninety percent of youngsters that don't commit those crimes? Even in the delegate proposal, if you're concerned about armed robberies, I'll put it in there, and it was not in the prior constitutional provision; it was a statutory law. I'm saying to you that the juvenile court system--and I just found that out recently--is America's only contribution to the judicial system of the world--America's only contribution--and here we are not willing to allow us to debate it. I'm saying to you very clearly, I wouldn't even come back to you with this issue if the convention wasn't so closely divided. If the committee would have finalized this hearing on it, I wouldn't 'cause they could have voted it out unfavorably, or they could have tabled it in the committee so you wouldn't have to do it. If they would have met, you probably wouldn't discuss...be discussing this. As Mr. Pugh said, I passed to you a letter from my judges. My judges have said very emphatically their position on legislative action. But, see, that comes down the road when we discuss the merits of the delegate proposal as proposed to be amended. But, I also want to say, you know, when I'm talking about this is that on Wednesday I met with representatives--black youngsters and white youngsters--from the Baton Rouge area--from Valley Forge High, Catholic High, Istrouma, etc. Mr. Lowe gave me, this morning, a class project which includes numerous letters expressing concern. The letters don't say, "Mr. Lowe, I want you to vote for Delegate Proposal No. 43." It says very clearly, "Mr. Lowe, would you vote to pass it on to its third reading?" Mr. Lowe...well, in talking to the youngsters, themselves, they are concerned because they recognize that they may be subjected whether they get in a fight at school, they may be subjected to going before district court, having a record, and being charged with aggravated battery because they were fighting at school. In closing, I say to you very clearly, I'm not asking you here to vote your convictions on the juvenile court. I'm just merely asking you to give fair consideration of it. I suggest to you that there are too many people--not only bad, but good--can be affected if this proposal--this last opportunity--is withdrawn from the files of the House. For those who are interested in what the legislature did last year, I've got all the acts here. I would like to point out to you that Act 36 that did not pass... said that all juvenile records will be open to the public, not for court purposes, not for D.A. purposes, but just to let somebody come in there and criticize or castrate [sic.] youngsters, no matter what...

[Record vote ordered. Substitute Motion adopted: 57-49. Motion to reconsider tabled.]

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 7, introduced by Delegate Aertker, Chairman on behalf of the Committee of Education and Welfare, and other delegates, members of that committee.

Mr. Chairman, the status of the proposal the convention has adopted, as amended, Sections 1 through 4, 6 through 9, and 11, and 12. Next section will be Section 13... additionally has voted to delete from the proposal, Sections 5 and 10, respectfully.

Reading of the Section

Mr. Poynter "Section 13. Recognition of Existing Boards and Systems; Consolidation.

Section 13. (A) Recognition of Boards and Systems. Parish and city school board systems, in existence on the effective date of this constitution, by virtue of special or local legislative acts or previous constitutional provisions, are hereby recognized, subject to control by and supervision of the State Board of Elementary and Secondary Educa-

tion and the power of the legislature to enact laws affecting them.

(B) Consolidation. Two or more school systems may be consolidated under procedures enacted by the legislature, subject to approval of a majority of the qualified electors voting in each system affected in an election called for that purpose."

Explanation

Mr. Hernandez Mr. Chairman, ladies and gentlemen of the convention, the title of this section pretty clearly describes the provisions. It...to go into detail a little bit, it clearly provides for the recognition of the parish and city school board systems in existence on the effective date of this constitution, whether by virtue of a special or local legislative acts or previous constitutional provisions and are subject to control by and supervision of the State Board of Elementary and Secondary Education and the power of legislature to enact laws affecting them. It has...this pretty well tracks the present provisions of the constitution. You will recall that in a previous section it has been previously established that the state board shall have no control over the business affairs, or the selection, or the removal of officers or employees--that is in Section 4 (A). Now...for... this "13 (B)" provides for consolidation of two or more school systems, which may be brought about by...under procedures enacted by the legislature, whereby the majority of the qualified electors voting in each system affected is necessary to accomplish that purpose.

Mr. Chairman, I will be happy to answer any questions or get to answer any questions.

Vice Chairman Casey in the Chair

Amendments

Mr. Poynter The first...the Wall amendment that's being offered at this time is a group of two amendments--Amendment No. 1 and Amendment No. 2--Wall, Ginn, Kilpatrick, Henry, and Warren.

Amendment No. 1. On page B, between lines 6 and 7, insert the following:

"(B) Ouachita Parish and Monroe City School Systems. The territorial jurisdiction and the ad valorem taxing jurisdiction of the Ouachita Parish School Board shall be the parish of Ouachita excluding the area within the city limits of the city of Monroe as existing on the effective date of this constitution. The territorial jurisdiction and the ad valorem taxing jurisdiction of the Ouachita Parish School Board may be changed only by the legislature or by the separate majority vote of each of the following: (1) electors within the jurisdiction of the Ouachita Parish School Board is defined herein and (2) electors within the territorial and ad valorem taxing jurisdiction of the Monroe City School Board, which encompasses the area within the city limits of the city of Monroe as existing on the effective date of this constitution.

The provisions of this Paragraph shall be operative notwithstanding anything in this constitution to the contrary."

Amendment No. 2. On page B, between lines 6 and 7, insert the following:

"(B) Ouachita Parish and Monroe City School Systems, board membership. Only persons residing within the jurisdiction of the Monroe City School Board shall be eligible to vote for or be members of the Monroe City School Board. Only persons residing in that portion of Ouachita Parish outside the jurisdiction of the Monroe City School Board shall be eligible to vote for or be members of the Ouachita Parish School Board. Any member of either board...

[Motion to waive reading of the Amendment adopted without objection.]

Point of Information

Mr. Kean Just a question of the Chair. Both of these Subsections (B) are on page B, between lines

6 and 7. Are they supplementary to each other? If you adopt Amendment No. 1 and reject Amendment No. 2, you end up with something different or what? I don't understand the way it's drawn.

Mr. Henry The alternative proposition, as I appreciate it...we're going to have a division of the question on this, as I appreciate it, Mr. Kean.

Mr. Wall, now you're going to have trouble every time somebody asks a question, if you've got to run out individually and explain it to them.

Explanation

Mr. Wall Mr. Chairman, fellow delegates, this is a constitutional issue. This is one that we must settle in this convention and must be settled in this constitutional convention and this instrument that we're going to draft. We've had these injustices going on in the city of Monroe and parish of Ouachita for many, many years. The first one has to do with the boundaries of the parish and city school systems. Presently, when the city of Monroe expands its boundaries, the school board even though it's a separate entity and a separate body, it automatically expands with it without regard to the parish school system. Now, what makes this really bad is the thing that my second amendment corrects. We have a city school system that has six members, they are all elected from within the city. They don't elect any of them from out in Ouachita Parish. Outside of the city the people don't go to the city school system. Outside of the city, the people don't pay the ad valorem tax to the city school system, and they don't vote on the members of city school board; they shouldn't vote on them and they shouldn't be elected from out in the parish on the city school board. But, here is where the catch is, the parish school board is also made up of six members. You know where half of that board comes from? The city of Monroe where for years and years these people that serve on that board and they dominate the parish school board, their children do not go to the parish schools. Their personal, their own children, the one that they clothe and feed and shelter do not go to the parish school system yet, they tell the rest of the parish how they are going to run the parish schools. Furthermore, the people that elect them, their children do not go to the parish school system. Furthermore, the people that elect them, taxes don't go to support the parish school system. Now, tell me how, tell me how, tell me how a person that will not send his children to a system, the people that elects him don't send their children to that school system, and the people that elect him don't pay the taxes to support that school system--how can he have the same interest in that school system as a person that where he personally sends his children to the school system he represents and the people that elect him send their children to that system. The people that elect him pay taxes to support that system. You have three people on the parish school board from the city of Monroe. Their interest...I don't say they are not good people, I don't say they haven't contributed to education. But, they can't have the same interest as the person in the parish has in that school system. So, three people, all they've got to do is to deal with one of those members from out in the parish and say, "We'll give you the principal you want at such and such a school," and they have four votes. They dominate the president of the school board. They dominate the spending of the money. They dominate all the things for all the people out in the parish that are paying the way--sending their children to the schools--yet, the people who elect them have none of these things in common. Mr. Chairman and fellow delegates, I'm going to have more to say in closing on this. But, this has to be corrected by this body. It's a great injustice, and I plead with you to help correct this injustice. I'll answer any questions.

Questions

Mr. Hayes Mr. Wall, you said only persons that

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appear here that were residing in the city of Monroe at the time the constitution was adopted. Now, I wonder what would happen if they would extend the city limits of Monroe just a few feet. Would you need a constitutional amendment for these people to participate?

Mr. Wall I don't quite understand you, Mr. Hayes.

Mr. Hayes As I understand here, it says "electors within the territorial and ad valorem taxing jurisdiction of the Monroe City School Board, which encompasses the area within the city limits of the city of Monroe as existing on the effective date of this constitution." Would you explain that... whatever that means?

Mr. Wall It says...it means just exactly what it says, Mr. Hayes. I don't see how it could be any plainer that...

Mr. Hayes Well, I'm saying that they could move the city limits of Monroe. Do you follow me now?

Mr. Wall Yes. They could move the city limits of Monroe.

Mr. Hayes ...and, what happens then?

Mr. Wall Well, when they moved the city limits of Monroe legally, they move the city limits of Monroe...the limits are extended.

Mr. Hayes But, it would not be as existing at the time you adopt the constitution; this is what I can't overcome.

Mr. Wall No, it wouldn't be the same as at that time.

Mr. Hayes As it existed when...

Mr. Wall But, the city limits of Monroe could be extended.

Mr. Hayes Right.

Mr. Wall ...and, this was not affect...has no affect on the extension of the city limits of Monroe...but to no affect. But, for the school board to extend their city limits, they would have to go through a procedure of getting the people to vote to go in, or either to...it would have to be specific as to the city school board, would have to get a vote or either get the legislature.

Mr. Hayes The school board could not extend with the city limits of Monroe, it would have to stay the same.

Mr. Wall Yes, they could...but, it wouldn't be automatic.

Mr. Hayes I see.

Mr. Wall They could, but it would not be automatic. Nothing prohibits them from it, but it would not be automatic.

Mr. Womack Mr. Wall, was you really serious when you came down and suggested that we don't ask the speaker any questions on this that we hold all of them for you?

Mr. Wall Thank you, Mr. Womack.

Mr. Abraham Shady, is it necessary that we spell all of this out in the constitution? Doesn't Paragraph (B) of the committee proposal place this in the hands of the legislature and could it not be handled statutorially?

Mr. Wall No, it can't be handled statutorially, Mr. Abraham.

Mr. Abraham Why not?

Mr. Wall There are many reasons, I'll give them to you on my closing.

Mr. Abraham Well, but...but, constitutionally does not this provide...the proposal provide that the legislature can handle this type of thing--in about four lines it says the legislature can merge school systems?

Mr. Wall Mr. Abraham, there's several reasons it can't be handled by the legislature. One of them is: we don't know all the provisions that will be in this constitution, or the present constitution that cannot be handled by the legislature because of the provision that where municipality has over so many...a certain percentages of the voters they have representation. Another thing, is the practical matter of the north side of Monroe is the rich people and they dominate the situation...the financial power structure, political power structure and it would be impractical to try to get it through both houses of legislature; they would dominate the Senate where it would never get through there.

Mr. Burns Shady, we're sent up here supposedly to draw a short, concise constitution. Can't you do what you want to do without putting a whole page in the new constitution?

Mr. Wall No, I can't Mr. Burns. It's specific that when you have special districts like New Orleans has some, and like Washington Parish has a special school board, you have to have a provision for it in here, Mr. Burns.

Mr. Lanier Mr. Wall, I got two amendments on my desk here. One that's sponsored by you and others who, I believe are from Ouachita Parish or have Ouachita in their district. Another one by Judge Dennis and two others who, I believe, live in Monroe. They don't appear to be the same. Would it be correct to say that you all are having a family squabble up there?

Mr. Wall I wouldn't exactly say that. We just have a political problem, an injustice that we have to get corrected, Mr. Lanier. Thank you.

Further Discussion

Mr. Dennis Mr. Chairman, fellow delegates, I rise in opposition to both of these amendments. I am unalterably and strenuously opposed to Amendment No. 1. Amendment No. 2, I'm also opposed to but not nearly as strongly as No. 1. I would like to address most of my remarks on No. 1 at this time. However, both amendments, there is nothing in either amendment that could not be handled statutorially. Both amendments present to you what I think is a local problem that could be dealt with by the legislature. Amendment No. 1, aside from being statutory material, is an unfair amendment. It is a bad amendment even if it were in the legislature, I could not vote for it because what it does, ladies and gentlemen, is, it freezes the taxing jurisdiction of the city of Monroe--not the city school board--it freezes the taxing jurisdiction of the city of Monroe for purposes of financing the schools in Monroe. Now, I'll have to bore you with a little history. Monroe, the city Monroe, got its charter back in about 1900 and in that charter it was authorized to operate, finance, and own a school system. In 1948, the operation of the school system was taken out of the city of Monroe and put in the Monroe City School Board. But, the financing, the power to tax and to issue bonds, and to do all of the financial things that are required to finance a school system were left in the city of Monroe. So, that if you pass this amendment which makes it...going to make it very difficult for the city of Monroe to use its full tax base to finance its schools, you are, in effect, going to strangulate, and I predict, ultimately kill what is now a viable school system within the city of Monroe. The Monroe City School System and the Ouachita Parish School System are

both good systems, and they have flourished through competition--healthy competition--because they have both been healthy enough to carry on a good school system. But, if you say to the city of Monroe, that for purposes of running the schools there, "You can't grow like you would normally grow with the rest of the city." You are restricting the schools to one portion of the city for its tax, ad valorem taxes. If the property in that area deteriorates, which some of it has already deteriorated, like most of our downtown centers, the Monroe downtown area is going down, down, down. We're trying to correct it with urban renewal, but if that doesn't work, and we can't let the tax base that supports this school system grow out into the other commercial areas that are being established out along the interstate highway. You're going to end up with a weak, underfinanced court system...excuse me, school system in the city. You're going to have a strong system out in the parish. This is unhealthy, and I predict will lead to the ultimate death of the Monroe City School System. During the period while it's dying, there are going to be a lot of people, a lot of children--black and white--we have a fifty-fifty system in the city of Monroe. You're going to have a lot of children, black and white... because of this underfinanced weaken condition. Now, on Amendment No. 2, I will be the first to admit that perhaps there is an injustice in allowing the citizens of Monroe to elect one-half of the Ouachita Parish School Board. But, I believe, that this solution that Mr. Wall has could be accomplished statutorially and it could be accomplished in a better manner than he's done it. He has given you the most simple solution. But, it still leaves some injustices because while most of the people in the city of Monroe send their children to the Monroe City School System, there are twenty-five hundred children from Monroe who go to the parish system. My point is that the people of Monroe while they do not have as direct an interest in the parish school system as the people who live out in the parish. They do have an interest, because they do send some of their children to it. They do pay taxes to protect through fire and police some of the parish school buildings, which are located in the city. All of us in the parish pay sales taxes which finance both of these systems. Most of the sales taxes are collected in the commercial centers in Monroe. So, I don't know what the answer on No. 2 is. It is my position that that should be dealt with statutorily. But, maybe there is an injustice there, but that it could be corrected by the legislature. But, on No. 1, that wouldn't be good anywhere; that would be unfair. It would deal a death blow to the Monroe City School System and not allow for a consolidation of it or anything else. In other words, you would have to go through a weakened...dying period before anything would ever be done to finally correct the solution. So, I ask you to vote against both of these amendments, but especially Amendment No. 1.

Questions

Mr. Lanier Judge Dennis, I'm looking at these two amendments that I have here; its got yourself, Mr. Leigh, and Reverend Stovall. I believe you all live inside the city of Monroe; is that right?

Mr. Dennis Yes, sir; that's correct.

Mr. Lanier ...and, I'm looking at these folks who are on this other amendment. I believe they live outside the city of Monroe; is that right?

Mr. Dennis Yes, sir. The delegates on Mr. Wall's amendment, except Mrs. Warren, represent basically the areas outside of the city limits in Ouachita Parish. They don't all live there, but their delegate areas represent most of the area outside of the city limits of Monroe.

Mr. Lanier Apparently there is a squabble going on up there between the people in the city of Monroe and the people outside the city of Monroe in

Ouachita Parish, is that right?

Mr. Dennis Well, there are hard feelings by people out in the parish about these members...about half of the school board being elected from within Monroe and Monroe having a competing school system. There are hard feelings and, as I said, I would be the first to admit that that is problem. On Amendment No. 2, I don't say it doesn't have some merit. I'm saying that it's statutory material. But, on Amendment No. 1, I think that is unfair wherever you put it--in the statutes, or ordinance, or in the constitution--because it's going to weaken and kill a viable school system, the Monroe City School System. It's going to say "Monroe City School System, you are divorced from the city of Monroe. You can no longer grow with it. You cannot plight your future with it. You cannot project your future with it. You can't depend on the tax base of the city of Monroe to support you any more. You are going to be crammed into whatever district you now live in."

Mr. Lanier Would you agree with Mr. Abraham's observation that this squabble could be settled by the legislature pursuant to the Subparagraph (B) of Section 13?

Mr. Dennis I haven't looked at it carefully, Mr. Lanier, to give you a specific section. But, as I said earlier, I think both matters could be done statutorily, but, I would not be in favor of No. 1 being done anywhere.

[Amendment withdrawn.]

Amendment

Mr. Poynter The gentleman [Mr. Wall] sends up further amendments. What he has in effect done, withdrawn and stricken Amendment No. 1 on that page and made Amendment No. 2, Amendment No. 1. So, what he submits is, in effect, that second amendment on the printed sheet as the sole amendment--deleting the first paragraph there and setting forth the old Amendment No. 1; old Amendment No. 2 becomes Amendment No. 1 and the only amendment.

Explanation

Mr. Wall Mr. Chairman, fellow delegates, this amendment is what was Amendment No. 2. It corrects the greatest injustice being done in Ouachita Parish and it has to be corrected here. So, I withdraw Amendment No. 1. I also have another amendment up there that I'm not going to bring it before the convention. This is the only one that I plan on bringing before the convention as to correcting the situation there. I want to point out one thing, when you have special school districts--like Bogalusa, and like Monroe City School System, and Ouachita Parish and city--you have to spell out and call it by name because if we didn't, if we said something--just school boards--it would effect Bogalusa, so, it has to be Ouachita Parish just like you have a special district in New Orleans or Bogalusa schools; it has to be spelled out. I'm just going with the No. 2 Amendment on your sheet.

Further Discussion

Mr. Dennis Fellow delegates...Mr. Chairman, fellow delegates, it's understanding now that Mr. Wall has withdrawn this amendment. I understand from conversation that he will withdraw his other amendment that he has--not in this one, there's a separate amendment on the tax boundary, freezing the tax boundary of the city of Monroe. As I told you earlier, that is the main source of my opposition to him. I appreciate, very much, his and the other coauthors withdrawing this amendment, because I think it would have been devastating to the Monroe City School System. I still cannot personally join in supporting his other amendment because, first of all, I have a very high personal regard for the three citizens of Monroe--Mr. Clem Toastum, Mrs. Marie Louis Snellings, Dr. Henry Hammonds, who are

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...serving on the Ouachita Parish School Board, so, I cannot vote for this amendment or support it for that reason and for the reason that I told you earlier that it is statutory and could be dealt with in the legislature. However, in fairness to Mr. Wall and the other delegates, I will admit that there is a problem. I simply don't think it should be dealt with here or in this manner, because I do think that while the citizens of Monroe don't have as direct an interest in the Ouachita Parish School System, as the people outside of Monroe, they do have an interest, as I explained to you earlier. This improves immeasurably Mr. Wall's proposal, and I want to admit that frankly, it does not...I simply, personally cannot vote for it or support it. I would ask you to search your conscience and ask yourself whether this ought to be in the constitution.

Questions

Mr. Bollinger Judge Dennis, do you think under the law there would be any prohibition whatsoever with the legislature enacting a law similar to this, if this was not in the constitution, I mean?

Mr. Dennis One just like this? I don't think so, but I haven't really researched the law from a constitutional standpoint.

Mr. Bollinger Don't you think one of the greatest problems this convention has made for the past months is we have been legislating, rather than constitutionalizing?

Mr. Dennis At times we've done that; at times, we've done very well; at times you have to make compromises. I would not make this one, personally.

Mr. Henry Would you yield to a question from Mr. Ginn?

Mr. Ginn Judge, I'm a little bit concerned here. Can we really handle this in the leg...could this be statutory?

Mr. Dennis This right here could be...

Mr. Ginn How could it be handled?

Mr. Dennis Statutory...I don't know how you could...I'll have to admit, frankly, I don't know how you could draft a statute that would give representation to the people in Monroe on the parish board and still comport with the one man-one vote principle and diminish the representation. Here's what I'm saying--there is...Mr. Wall's proposal has merit in that Monroe is now electing three of six board members and perhaps that's giving too many to Monroe because, generally, the people of Monroe send their children to the city school system and generally they do not pay any property tax. This is the inequity he's talking about. I thought about trying to come up with something that would give Monroe one vote out of six. But, then you run into the problem of...does that...will that pass muster under the one man-one vote principle of the U.S. Constitution. So, I frankly have to admit to you, I don't have the answer for a statute in the legislature. But, I would rather pass it to the legislature and let them grope with the problem, because I think they have more time. But, I frankly, I'll have to admit to you, I don't have the answer, Mr. Ginn.

Mr. Leigh Mr. Dennis, I just simply wanted to ask --you are aware that I concur in what you have been saying from the podium there?

Mr. Dennis Yes, sir. As I understand it, you and I were pretty much of the same view that Amendment No. 1 was a real bad amendment and that it would have been detrimental to the Monroe City School System and that reasonable men could disagree on the latter. But, we think it's statutory and Mr. Wall thinks it has to be dealt with in the constitution.

Mr. Leigh Thank you.

Mr. Chatelain Delegate Dennis, wouldn't Section (B) under committee proposal...wouldn't it have a tendency to take care of this, sir--Section (B) Consolidation?

Mr. Dennis No. Section (B) enables two school systems to consolidate. Now, what Mr. Wall is attempting to do is not consolidation but to actually make a cleaner separation of the two systems. It is not the same thing, no. I hope we keep (B) in there, because I would like for the possibility to remain that if these two systems want to consolidate in the future, they can.

Mr. Chatelain Well, the second...the third sentence...

Mr. Dennis As I understand it, he's not taking (B) out. He's just adding a section to it.

Mr. Chatelain Yes, sir. But, I was just concerned because this is hard for us to figure out. It says "Any member of either board at any time not satisfying the requirements of this Paragraph shall vacate his position." It's involved in some things I can't understand; I don't mind telling you, that's the reason I was trying to clear it.

Mr. Dennis Well, that means that if you live in...out in the parish now, and you get elected to the parish school board, if you move into the city of Monroe and out of the jurisdiction of the parish school board, you have to get off the board and vice versa.

Mr. Chatelain Thank you.

Mr. Womack Judge Dennis, wouldn't you think it would be quite an injustice if all of the...or at least, half of the school board members of the city system came from out in the rural areas that basically had no children or tax interest in the city system?

Mr. Dennis Yes, sir. I'd have to admit...

Mr. Womack Well, then, you would have to admit, then that when you reverse it and put the city people on the parish school board where they pay no taxes, is also an injustice, wouldn't you?

Mr. Dennis Yes, sir, except that I do believe the people in Monroe have an interest in the system. Now, how much, and how you represent it on the board is a difficult problem to deal with, and I'll be the first to admit that.

Further Discussion

Mrs. Warren Mr. Chairman and fellow delegates, I know that some of you are wondering why I'm on this amendment, and I'm so far removed from Ouachita Parish and Monroe. I am not as far removed as you would believe. I'm not speaking for PTA. I'm speaking for me. But, PTA believes in justice and believes in education for all children. I'm on the State Board of Management, and my chairmanship is Community Responsibility. I'm not an expert on the legal matters which was in Amendment No. 1. The thing that struck me most--and if you see it on my amendment--was in No. 2, where we had the board members in Monroe representing the people in the parish. I don't but feel that children's education should be taken lightly; while adults bicker over this and that, our children must have an education. So, I wanted you to know that I was not dabbling in family affairs. My only concern is that every child in the State of Louisiana has a chance for an education. Thank you.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, I don't reside in the city of Monroe now. I'm speaking more upon the principle involved here rather

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than the problem that's involved. This is not a situation which you might say, that I have no connection with, in view of the fact that I graduated from Ouachita Parish High School, which at the time that I was there, was situated right in the heart of Monroe. I still have relatives living there. But, I have yet to have one of those relatives tell me that we should solve this by the Constitutional Convention. This is not the place to solve these types of problems. That's the trouble with our convention right now. I think Mr. Bollinger hit the nail right on the head a few minutes ago. We are trying to solve all the problems of our state in this Constitutional Convention. Those problems should be solved in the legislature, not here in this Constitutional Convention. If Judge Dennis cannot present a worthwhile statute in the legislature, I don't see how in the world we could have a worthwhile provision in this constitution to solve that problem. I just ask you, let's leave out these problems because they are only going to bring back and require constitutional amendments. I tell you that right now. I think it's better. I'm talking about the principle. I'm not in the sense of the word, for or opposed to the solution which he has suggested. I'm opposed to putting that proposed solution in this constitution. It has no place. Therefore, I ask you to vote against this amendment and any others like it.

Questions

Mr. Weiss Delegate De Blieux, this gives me an opportunity to ask you, do you know if the legislature had solved all these problems that you're talking about, we probably wouldn't have to meet here now; don't you think?

Mr. De Blieux That's probably right. But, sometimes those problems have never been presented to the legislature.

Mr. Weiss The second thing is that there are special interest groups involved here. Do you think that we should try and pass upon this decision?

Mr. De Blieux I certainly do not because this is not the place for it.

[Previous Question ordered.]

Closing

Mr. Wall Mr. Chairman, fellow delegates, I would like to point out that Reverend Stovall told me he was going to vote for this one because he feels like that it is an inequity and injustice that needs to be corrected. I'd like to point out that even Judge Dennis admitted that it would be injustice if the people outside of the city of Monroe composed half of the city school board. So, he admits there's an injustice, and he also admitted that he didn't have the...even though he said it could be taken care of by the legislature, he didn't have...it would be difficult to draft a statutory provision to properly take care of this under the law, the one man vote, and so forth. This will solve the biggest problem, and I'm going to ask your favorable vote. Now, Delegate De Blieux over here, as usual, he has problems understanding many things...we can explain to him, but we can't understand for him. We've always had that problem with him around, and he doesn't live in the city of Monroe now, and if he was up there...well, I'll quit with that. But, I will ask a favorable vote. This corrects an injustice, and I think it's one that we're entitled to. It has to be corrected here. When you have like the Ouachita Parish School Board has to be spelled out. Thank you.

[Record vote ordered. Amendment adopted: 91-18. Motion to reconsider tabled. Previous Question ordered on the Section.]

Closing

Mr. Hernandez Mr. Chairman, if there are no further questions, I move the adoption of Section 13, as amended.

Questions

Mr. Weiss Just a technical thing. Aren't there two Section B's or Subsections now, that one should be B and one C, that will be taken care of by Style and Drafting--the consolidation?

Mr. Hernandez I'm sure the Clerk has already taken care of that, Dr. Weiss.

[Section passed: 103-5. Motion to reconsider tabled.]

Reading of the Section

Mr. Poynter Next section:
"Section 14. Boards.

Section 14. The legislature shall appropriate funds for the operation and administrative expenses of the boards created pursuant to this Article.

Explanation

Mr. Aertker Mr. Chairman, ladies and gentlemen of the convention, I think this is self-explanatory. Certainly, the funds are necessary in order for the boards that have been created by this article to operate, and so I ask the favorable consideration...for the approval of this section.

Amendment

Mr. Poynter Amendment by Delegate Juneau, Leithman, and Mrs. Corne reads as follows:

Amendment No. 1. Page 8, delete lines 12 through 15, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 14. Appropriations.

Section 14. Appropriations by the legislature for educational purposes shall be made to and administered by the appropriate board, agency, or authority and shall be used solely for the operations of the institutions for which designed in the appropriations."--excuse me, "for which designated in the appropriations."

Explanation

Mrs. Corne Mr. Chairman, delegates, "the appropriations by the legislature for educational purposes shall be made and administered by the appropriate board." I think this is very self-explanatory. It means just exactly what it says. It's very short, clear-cut. There is an addition here that the funds will be used solely for the purpose for which they were appropriated. Mr. Chairman, I don't think that there needs to be any explanation to this proposal. I would move the adoption.

Vice Chairman Casey in the Chair

Questions

Mr. Bollinger Mrs. Corne, reading from the amendment, you said, "or authority and shall be used solely for the operations of the institutions for which designated in the appropriations." Would this prohibit the use of any public funds to aid private institution in bussing, textbooks, lunches, or any other manner?

Mrs. Corne These funds will be used solely for the purpose for which they were appropriated; whatever the appropriation that's made by the legislature.

Mr. Brown Mrs. Corne, I don't understand what your amendment is trying to do. Section 14 as is written in the committee proposal, mandates the legislature to appropriate funds for the operation of the of the various boards. It says, "they shall appropriate funds." Your amendment does not do

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that, as I read it. I wish you'd tell me if I'm wrong. Your amendment merely says that the funds appropriated, if any are ever appropriated, shall be administered by the appropriate board. But, it doesn't say the legislature has to appropriate any funds. Do you see what I mean? I wondered if that was your intention. In other words, the committee proposal dictates that funds be appropriated. Your amendment does not do that. Your amendment does not dictate to the legislature that they've got to appropriate any funds, whatsoever. It looks to me like your amendment, maybe, should have been after the original section, itself. Would you comment on that?

Mrs. Corne The...

Mr. Brown I don't know if that was your intention, and I wanted to point that out.

Mrs. Corne The intention was, of course, that the Legislature would appropriate funds...

Mr. Brown Your amendment doesn't say that.

Mrs. Corne ...but that these funds that are appropriated would be so administered.

Mr. Brown Well, I see what you're trying to do, but Section 14 of the committee proposal says, "they shall appropriate funds." You're deleting that, and you're not saying that there shall be any funds appropriated.

Motion

Mrs. Corne Mr. Brown, I think your point is very well taken. I will move then, to withdraw the amendment and see if we can't clean it up. Mr. Chairman, I so move.

[Amendment withdrawn.]

Amendments

Mr. Poynter Delegate Morris sends up amendments as follows:

Amendment No. 1. Page 8, line 12, at the line, add the punctuation and word "; Prohibitions"

Amendment No. 2. Page B, line 13, immediately after the number and punctuation "14." and before the word "The" insert "(A)"

Amendment No. 3. On page B, between lines 15 and 16, insert the following:

"(B) No appropriation of public funds shall be made to any private or sectarian school, but nothing in this Paragraph shall be construed to prohibit the supplying of free school books, school lunches, school bus transportation or other goods and services which were provided from public funds to children in private or sectarian schools and handicapped persons as of January 1, 1972. The legislature may enact appropriate legislation to permit institutions of higher learning which receive all or part of their support from the state of Louisiana to engage in interstate and intrastate education agreements with other state governments, institutions of higher learning of other state governments and private institutions of higher learning within or outside state boundaries."

Point of Order

Mr. Kelly I'd like to raise a question at this time as to whether or not the amendment would be germane to Section 14. From what I read about the amendment, I can very well see where it might go into Section 16. But, I'm not sure whether it's germane to Section 14, or not.

Ruling of the Chair

Mr. Casey Mr. Kelly, I appreciate your question. I can see why you raised the point. However, Section 14 deals with appropriations of funds for school purposes. The paragraph that Mr. Morris

intends to add is on that subject matter. The Chair would have to rule that the amendment is germane. I think it would be appropriate to bring it up in this section.

Appeal from Ruling of the Chair

Mr. Abraham I'd like to question the ruling of the Chair because Section 14 deals with appropriations for the purpose of operating the boards and not for the operation of the schools.

Explanation

Mr. Morris This amendment has application to both Section 15, and Section 16. Particularly, for the elementary, secondaries, the monies are appropriated to the Board of Education. I do think it's germane to 14. I do think that it is germane to both 15, and 16...

Questions

Mr[s]. Brien Don't you think when it comes to all our children of the state, we shouldn't lock something in the constitution that might have to be changed in the future for the welfare of our children? So, don't you think it would be better to go on with the committee proposal?

Mr. Casey Those asking questions and those arguing the point, as to whether this would be germane to Section 14, let's stick to the question of that; as to whether the subject matter is germane, rather than arguing the substantive nature of the amendment itself.

[Previous Question ordered. Chair sustained: 76-26.]

Point of Information

Mr. Avant Mr. Chairman, if I'm in order, I would ask that the question be divided. Now, the first two amendments appear to be technical in nature. What I'm interested in dividing, really, is Amendment No. 3. Now, I realize, I may have to ask for a suspension of the rules to do that under the way the Chair has previously been ruling, as I understand the position that the Chair has taken. But, on Amendment No. 3, although it is one amendment, it very definitely contains two entirely separate and unrelated concepts. Therefore, by the rules of logic, if not by the rules of the convention, I respectfully submit, should be divided. So, if I'm in order, I ask for a division of the question, particularly in order to divide Amendment No. 3, so as to consider first the sentence which ends with the language "January 1, 1972," and then, after we vote on that, to consider the second sentence which... second part which begins "the legislature may enact." Do you understand what I'm asking?

Mr. Casey I see exactly what you're requesting, Mr. Avant.

The Clerk is our parliamentarian. We'll ask him to express his opinion on that request for a division.

Mr. Poynter Mr. Avant, I think you're about a thousand percent correct. You're right. The amendment, as drawn, is not divisible. The way you suggested, technically, it can be done, I suppose, under a suspension of the rules. Quite frankly, if Mr. Morris has no objection, might be easier for instruction purposes if he would want to withdraw it and resubmit it with four amendments, adding that other one. I don't know whether Mr. Morris is going to want to do that. If he doesn't, you would certainly, as you indicate, you could ask for a suspension of the rules for the purpose of dividing Amendment No. 3, so as to vote first on the proposed first sentence of the language to be added by Paragraph B, and secondly, the second sentence. As I said, maybe Mr. Morris would want to withdraw it so that you could do that without a suspension. But, otherwise, you would need a suspension,

in my opinion.

[Motion to withdraw amendment adopted:
82-12.]

Personal Privilege

Mr. Stovall Mr. Chairman, ladies and gentlemen of the convention, I'm going to have to leave in just a few moments for a funeral in New Orleans. I simply wanted to make one brief statement for the record. I realize that the amendment which is being presented here will get into the question of aid to private and parochial schools, the matter of separation of church and state. I want to say that basically, I believe in the separation of church and state. However, I am in favor of the present level of services to the private and parochial schools. I would not be here to vote possibly on this. But, I do hope that this will be handled in such a way that these services can be maintained, and at the same time, that we can maintain our historic tradition of the separation of church and state. I simply wanted to say that for the record inasmuch as I possibly will not be here at the time that the vote is cast. Thank you.

Chairman Henry in the Chair

[Quorum Call: 78 delegates present and a quorum.]

Amendments

Mr. Poynter All right. In light of Mr. Avant's request, Mr. Morris has resubmitted the amendments in exactly the identical form that they were originally presented with this change: After the first sentence to be added by proposed Amendment No. 3 insert this:

Amendment No. 4. On page 8, immediately after the language added by Amendment No. 3, add the following sentence:--It would add then the proposed second sentence identical as it is set out presently in Amendment No. 3. So, the effect would be that the question would be divisible as between Amendment No. 3 and Amendment No. 4, or to the point as between amendment...the first sentence and the second sentence of the text proposed by proposed Paragraph (B).

Explanation

Mr. Morris Mr. Chairman, ladies and gentlemen of the convention the amendment makes the exact...is the exact language that's in the present constitution with the exception which says that the services that are being provided to private and sectarian schools...and handicapped persons as of January 1, which is an arbitrary date will continue. I do think that this is a constitutional question. I think that it should be...it's appropriate, that it be voted on by this convention. I have a great deal of admiration for the people who represent the opposite thinking. I have worked with them on matters and against them on matters, and I certainly understand their position. I understand your position, should it be different than my own. However, I do think this prohibition belongs in the constitution that's being proposed, I would hope that you agreed with me. That's about the extent of my remarks. If there are any questions, I would attempt to answer them for you.

Questions

Mr. Abraham Jimmy, the way this reads, it says that they will provide various services to the children who are in school as of January 1, '72. I assume that you want that to mean that they will provide the same services that were provided as of January 1, '72? Is that the intent of it?

Mr. Morris That's the intent. That's the understanding that I had that when this amendment was drawn, that that's what it accomplishes. If new,

nonpublic schools are established, they would be accorded the same services that the present ones are receiving.

Motion

Mr. Tobias Mr. Chairman since this appears to be a rather controversial issue and since we're frequently inclined to debate things ad nauseam, I now move that we limit debate on this amendment to one hour.

[Motion adopted without objection.]

Questions

Mr. Champagne Don't you think perhaps that this is the kind of thing that you can't make anybody happy with that...you know those that don't want to give them a pencil they'll be unhappy because they're getting a pencil, and those who want everything, they're unhappy because they're not getting enough, etc? Don't you think that we're asking for it whenever we go into this kind of thing?

Mr. Morris Mr. Champagne, if this were omitted from the constitution you'd still have that problem I'm afraid.

Vice Chairman Casey in the Chair

Mr. Jenkins Mr. Morris, you know a number of innovative new programs are being tried in other states such as the voucher system, which is under consideration in New Hampshire and California. Don't you think that this amendment would prohibit the State of Louisiana from ever even experimenting with or attempting the voucher system?

Mr. Morris There's certainly that possibility, Mr. Jenkins.

Mr. Chatelain Delegate Morris, I'm having quite a bit of problems trying to figure out exactly what you're trying to do as opposed to the committee proposal. Can you explain to me for instance, why the cutoff on January 1, 1972?

Mr. Morris It's an arbitrary day, Mr. Chatelain, that was selected simply because it was the first of the year, and it simply says that any nonpublic school that's receiving a certain amount of support will continue to receive that support. But, no additional support above what they're receiving today. This is an attempt to say to the people in the state--I saw a letter, I saw a telegram saying--please, don't take away what we're getting today. This amendment, that's what it does.

Mr. Chatelain In other words, any person or any school...that were receiving certain benefits such as, books, etc., on January 1, 1972, will continue to get it if this...if your amendment is enacted?

Mr. Morris Yes, sir. That's my understanding of my amendment. Further, if there are additional new public schools established, they would still get the same level of support that the nonpublic schools are receiving today, but no more.

Mr. Chatelain Thank you.

Mr. Burns Mr. Morris, did I understand you to say that the wording of your amendment was the same as the present constitution?

Mr. Morris With the exception, Mr. Burns, of saying that the children of this state that are now receiving the goods that they're receiving, the services they're receiving will continue to get that at the level at which they're receiving as of January 1, 1972. That's the only difference.

Mr. Burns I should have looked this up myself, but this is the part that I mean, is this in the constitution--present constitution---"no appropriation

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of public funds shall be made to any private or sectarian schools except, "etc.?"

Mr. Morris The present constitution reads like this "no appropriations of public funds shall be made to any private and sectarian schools."

Mr. Burns That's all I wanted to know.

Mr. Morris Yes, sir. Before you say that, if I misled you in any way, Mr. Burns, I apologize. The intent is exactly the present language of the constitution.

Yes, sir, Mr. Juneau, excuse me.

Mr. Juneau For point of clarification...for simplification, Mr. Morris, tell us what you are trying to do by this amendment which is distinguished from the committee report so we can get the philosophies separated?

Mr. Morris Very simply, to maintain the level of support for nonpublic schools at the level it's on today--no more, no less, and prohibit any additional support. For instance, paying the rent, utilities, etc., of any nonpublic schools.

Mr. Juneau What is it about the committee report so that I can understand the thrust of your amendment that you don't like about the committee proposal?

Mr. Morris Well, I love the committee report--I said that up here several times, the one other time I was up here--I think the committee report is great except that it doesn't mention this at all.

Mr. LeBleu Mr. Morris, I believe it was in 1972, the legislature granted a certain amount of tax exemption from income taxes for parents who had children in private and parochial schools.

Mr. Morris Yes, sir.

Mr. LeBleu Now, I don't know whether this has been tested in court or not. It seems to me that it has been, but I can't remember the outcome of it. But, no matter...

Mr. Morris Can I give you just what I know about it real quickly?

Mr. LeBleu Well, my question was: no matter what the outcome would be, your amendment would prevent anything else like that from taking place in the future; would it not?

Mr. Morris No. The attorney for the association for which I work says that's not so. The state is under an injunction from the...what circuit it is, I'm not sure...to...they are disallowing this at this time. However, should the federal government rule in favor of the State of Louisiana, they will be able to receive that write-off on their state income tax; so I'm told. I'm a fifth grade teacher, and I'm not an attorney, and I want to be sure that I make that difference, Mr. LeBleu.

Mr. LeBleu But, what I was talking about, Mr. Morris, if we specify January 1, 1972 as a cutoff date for those goods and services that those students now receive, no matter what would happen in the future in the legislature, if the legislature wanted to grant an additional goods and services, they would not be allowed to under your provision; would it?

Mr. Morris But, the act that you specifically mentioned that deals with the income tax write-off--so our attorneys say--are not affected by this amendment if they're allowed, that this will not prohibit the parents from receiving that.

Mr. Toca Delegate Morris, I can't understand your position on this. What is the benefit of this in your amendment? I just don't understand it. Do

you want to give them free books and free school lunches, but you're trying to lock this in it. If we ever come up with other benefits, they won't be entitled to it according to your amendment; they'll be locked in just what they're getting now?

Mr. Morris That's correct. Let me tell you this, Mr. Toca, I'm a great believer in public schools, I believe that the thing that makes our country different from other countries is...that we...everybody gets to go to school.

Mr. Toca Delegate Morris, you haven't answered my question. I asked you why are you so interested in this amendment?

Mr. Morris Well, I don't know how to amplify on it. I thought that I did. I have no desire, or it's not our desire, to penalize any children from receiving the services that they are receiving. However, we would like it confined to the services they're now receiving.

Mr. Arnette Jimmy, just one quick question. I'd like to ask you a couple, but I know I don't have time. But, it seems like you're limiting these things to school books, school lunches, and school bus transportation, etc., the things that have been allowed by the Federal Constitution. Hasn't everything else practically been disallowed by the Federal Constitution?

Mr. Morris In...I'm not positive about that, Mr. Arnette. If I said yes, I would just be...it would be supposition on my part.

Mr. Arnette Well, in other words, what I'm saying is I don't see any possible use for having this language in here since it's already been decided by the federal courts according to the Federal Constitution.

Mr. Morris Well, there aren't...it's my understanding, for instance, there are a number of things that have not been decided by the federal courts.

Further Discussion

Mr. Comar Mr. Chairman and ladies and gentlemen of the convention, I know we've already limited the time on this thing to an hour so I'll try to be as brief as possible. But, I think we should know what we're talking about on this particular amendment. The committee proposal that you have before you is silent on the question of what aids shall be provided, and which shall be disallowed when we talk about those aids which go to nonpublic school children. We would like for the committee proposal to remain silent, and to let the legislature determine what aids shall be provided. Knowing full well, that the courts of this state and of the country have put very strict interpretations and have limited aids to what we call minimal assistance. Those minimal assistance would have been jeopardized, we feel, by the original proposal that was discussed by the Education Committee. However, the Education Committee in its wisdom, amended after many weeks and months of debate on its proposal, decided indeed that it would be better to leave the question up to the legislature, and were convinced that this would be the best thing to do, as I say, knowing full well what the courts have already decided in this area; the limitations have been placed on by the court and need not be placed upon by this Constitutional Convention. Now, let's see what we're looking at when we look at the amendments, the four sections of this amendment, and I would suggest that we oppose all and stick with the committee proposal under Section 14. It says "no appropriation of public funds shall be made to any private or sectarian school, but nothing in this paragraph shall be construed to prohibit the supplying of free textbooks, lunches," etc. If this amendment is adopted as it now stands, you would not be...the

legislature would not be free in the future to grant any additional aids to nonpublic school children, and those aids we all might like to have somewhere down the line. For example, a simple thing like driver education may be dictated by the legislature for all school children to provide safety and health...safety on the highways for our people, that this amendment were adopted, that... even that type of aid could not go to children in nonpublic schools. There may be other things like health programs, dental programs, which are mandated for public school children in the future, because we know not what will happen in the future, and those would be denied under this. Further, there is a very serious problem with regard to the handicapped in this state. There are not enough public or private institutions to take care of handicapped children. The state again in this field provides some assistance to the nonpublic schools which take care of retarded, and those would be forever frozen at the level of 1972 if, indeed, this amendment or series of amendments were adopted. Further, we believe, and I, like Jimmy, I have also talked to the attorneys on this because I am not an attorney. But, further we believe that there would be a serious blow to the current lunch program of the nonpublic school children. As you know, this program is operated by the nonpublic schools in cooperation with the State Department of Education. Several years ago, the legislature did provide some assistance to the lunchroom workers because of the...nonpublic schools could not provide a low cost lunch...and, at the same time, provide the necessary salaries to take care of these employees. In 1972, six months after the cutoff date of this...the legislature expanded those aids to the nonpublic school lunchroom workers, and those would be endangered. I urge that you oppose these amendments and any other amendments which would change the committee proposal. Let's leave it up to the legislature.

Chairman Henry in the Chair

Further Discussion

Mr. Sutherland Mr. Chairman and fellow delegates, I appear before you to try to explain what is the purpose behind this amendment as it has been introduced. Originally, the committee proposal had a provision in it which was supposed to be identical to the present constitutional provision--"no appropriation of public funds shall be made to any private or sectarian school." This was deleted and, from the committee, on the basis that the committee was told this could have an effect on future appropriations, and that it also might deprive the students of the aid they were presently receiving. Well, it seems to me that if this language is in the present constitution, and if the courts in interpreting that constitution allowed these aids, certainly that language being in there will not deprive the schools of this aid. But, C.E.F. circulated some literature around the state indicating that the committee was trying to deprive the school children of aids which they were presently receiving, and because of this fact, Mr. Robertson, when he was on the committee, introduced this amendment to show that we did not intend to deprive them. Nobody on the committee intended to take away any of the aids which were presently being received by parochial or private school children. But, because of this misinformation this amendment was introduced in committee, and I voted for it in committee because nobody--I repeat nobody--on that committee wanted to deprive them of any aids which they are presently receiving. Now, it's a different story as to whether or not they want additional aids; because this language was removed from the constitution, another amendment was introduced by Mr. Segura, which took out references in there to public education in many instances. Now, when you say the legislature shall appropriate funds, and you don't say for what purpose, then you leave it entirely up to the legislature. Now, if you're in favor

of additional aid to parochial and sectarian schools, you should vote against this amendment. If you're in favor of not having any additional aids other than what they're having now, or which the courts will permit under this language which is the same language that was in the present constitution, then you would vote for this amendment. But, whatever you do, I don't want them to be a misconception and a twisting of the facts as to what we're talking about...we're not talking about...You may have received, and I received a whole flock of letters and little mimeographed paragraphs from people in Lafayette, saying please, don't take away our present aid; please don't take away our token aid. There's no intention to take away any of that aid. The whole thing has been twisted around--do you want additional benefits--and that's the issue. I like it to be clear where we stand on this matter.

Questions

Mr. Roemer Matt, I didn't know much about the law in this area, and still don't...I was surprised quite frankly to find out that public funds are used for private institutions to the extent that they are: that is, the lunches, and the books, and the trans...that was a shock to me. Now, aren't by this amendment...aren't we insuring that that's going to continue in the future?

Mr. Sutherland Buddy, I think that when you say you were surprised to know it, this language is in the present constitution: "no appropriation of public funds shall be made to any private or sectarian school."

Mr. Roemer Right.

Mr. Sutherland Despite that language, the courts have held that the aids such as transportation, such as school books and lunches, are not aid to the schools, but are aid to the children, and therefore, it is permissible under this language. Now, I told you why this other language was added here to get away from this misconception that we were trying to take away the present aids.

Mr. Roemer Well, what in your opinion, Matt, would be the legal circumstance if we didn't have...we didn't add this particular language in the constitution; we would in fact leave it up to the legislature, right?

Mr. Sutherland If you had nothing in there?

Mr. Roemer Right. Other than what we have in our present constitution; that is, a prohibition against aid to private and sectarian schools.

Mr. Sutherland If you had the same prohibition that you have in the present constitution, I don't think you would need...I don't think you need this language. I think that that language would be interpreted the same way it has been interpreted.

Mr. Roemer So, I'm to understand now, you are opposed to the amendment; you're saying it's not needed? Is that what you're saying?

Mr. Sutherland All I'm saying...no, I'm saying that the reason why this language--several questions were asked as to why this language is in here the second part of that--and it only is to alleviate any of the fears that those people may have that, by putting the language which is in the present constitution, you'd be taking something away from them.

Mr. Roemer You wouldn't be doing that in your opinion?

Mr. Sutherland We would not be doing it, and I don't think that...I think this clarifies that we don't even have any intention of doing it.

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Mr. Juneau Matt, I agree a hundred percent with what you say about the amendment, but I don't necessarily agree with what I thought you indicated with regard to the committee proposal. If I were to vote for the committee proposal, I do not construe that as being a vote necessarily for private aid to public schools; do you?

Mr. Sutherland Not necessarily vote for it, but there's no prohibition in here...

Mr. Juneau I understand that, but in other words, if I...if I in my judgment say that I don't have the wisdom to decide what we might want to do in the year 1959, I haven't said that by voting yes, that I'm voting for aid to private schools; you will agree with that?

Mr. Sutherland I don't know; that would be subject to interpretation, I think, Pat.

Mr. Segura Mr. Chairman, if there are no other speakers, I'll waive, if anybody else will waive.

[Previous Question ordered.]

Closing

Mr. Morris Mr. Chairman and ladies and gentlemen of the convention, this is the sort of the issue I know that everybody probably has their mind made up on. I won't prolong any talk on it. Again I'll say that I think that it is proper that this be in the constitution, and everybody has to vote their own conscience, represent their own people. But, I do think it's proper that it be in the constitution. That's why it's offered. I appreciate your time. Thank you.

Questions

Mr. LeBleu Mr. Morris, last year the legislature appropriated, I believe it was three hundred and fifty thousand dollars to Tulane for...to assist seventy medical students in the medical school at Tulane. Now, as I read this, "the legislature may enact appropriate legislation to permit institutions of higher learning which receive all or part of their support from the State of Louisiana."

Now, wouldn't this language cut out any further appropriations to Tulane in support of their medical school?

Mr. Morris Mr. LeBleu, if my memory serves me correctly, and it may not, but that was...I understood...that that was a direct grant to the students because we did not have facilities to take them into medical school. It was not to the college itself, but to the individuals in medical schools. Now, whether it prohibits it or not, I don't know. I wouldn't think so. I would hope not.

Mr. LeBleu Well, wasn't it granted to the students because there was no other that they...the legislature could appropriate it to Tulane. They had to appropriate it to the students.

Mr. Morris But, there's a big difference in my way of thinking, Conway. This was a...this was a grant to accommodate some people for a necessary service which we couldn't provide. The same thing occurred at Oklahoma A & M, Texas A & M, and Auburn, before we had a school of veterinary science. Those were accommodations because we didn't have those schools. I wouldn't think there'd be a prohibition, but, I don't know. I'm not an attorney. Just like you, I'm a lay person.
Yes, sir.

Mr. Aertker ...Isn't it a fact that actually, in the present constitution there is much stronger language relative to this matter than what you have in your proposal?

Mr. Morris Well, I personally think that it's

much more stringent in the present constitution, Mr. Aertker. But, I could be wrong. I've been wrong about a lot of things.

Mr. Aertker Well, Mr. Morris, as you read it, don't you read that this reads strong and that this really represents more of a compromise in the direction, because the...doesn't the constitution state that no direct aid of no public funds can be used for private or sectarian school? Isn't that the wording of it?

Mr. Morris That is true. I think this is an attempt to accommodate people, children, if you will, to assure them of the things that they are now receiving.

Mr. Aertker The purpose of your amendment, then, is really to see that--not that the present things that are being provided private and parochial schools are taken away from them--but actually, you are concerned that no more further direct aid is given to private or sectarian schools. Isn't that correct? Isn't that the issue involved here as to whether you...?

Mr. Morris That's exactly right. My attempt--I'd rather see it this way--it's an attempt to see that people receive exactly what they are receiving today, and put a cut-off date on it now so that the next thing the public treasury won't be paying heating and electricity and taxes and what have you, or whatever it might be.

Mr. Aertker Actually, Mr. Morris, doesn't this really boil down into a basic issue of whether you believe in separation of church and state? If you believe in that, then you would vote for your amendment. If you didn't, then you'd vote against it. Is that correct?

Mr. Morris Mr. Aertker, you and I see eye-to-eye on a lot of things. Some of our colleagues may not agree with your statement...with your questions.

Mr. Gauthier Mr. Aertker--Mr. Morris--were you aware in about 1970 the legislature passed an act saying, in essence, that every student in the state would have to take driver education when and if it became available to all schools in the state?

Mr. Morris Yes, sir. I'm aware of it.

Mr. Gauthier Were you also aware that at that time the Department of Public Safety, under the direction of the Department of Education, launched a long-range plan to make driver education available in every school in the state?

Mr. Morris They provide drive simulators on every campus throughout the state, I understand. I do not believe that this would be a prohibition against that.

Mr. Gauthier You do not believe that it would be a prohibition? Can you assure me...

Mr. Morris No, sir.

Mr. Gauthier ...that they could appropriate funds?

Mr. Morris No, sir. I couldn't assure you that at all.

Mr. Gauthier Well, don't you understand that it's...

Mr. Morris I understand what you're saying, I understood your point.

Mr. Gauthier Then you do understand that this amendment could curtail, if not bring to a halt, a program...a long-range program that has been launched by the State Department of Education?

Mr. Morris I would say, in answer to that, I

don't...I don't believe that it would. No, sir. It might prohibit future programs, Mr. Gauthier.

Mr. Gauthier It might prohibit them from appropriating funds for offering driver education. Is that correct?

Mr. Morris Not driver education. No, I don't agree with that. I think the state will continue to provide...

Mr. Gauthier But how would they offer it in the private and parochial schools?

Mr. Morris The same way they are doing it today.

Mr. Gauthier But today, the state isn't paying for it in those schools. So, under your amendment, if, in the future, they could not appropriate these funds, they would have to drop a program that they started some three years ago.

Mr. Morris Well, I personally disagree with you about that. I would be very hopeful that it didn't do it.

Mr. Gauthier But, if you can guarantee me that this will not apply to that phase, I might reconsider.

Mr. Morris Yes, sir. I couldn't guarantee this.

Mr. Gauthier You couldn't?

*[Division of the Question ordered.
Record vote ordered. Amendments Nos.
1, 2, 3 reread and rejected: 28-79.
Motion to reconsider tabled. Motion
to suspend the rules to withdraw
Amendment No. 4 adopted without ob-
jection. Previous Question ordered
on the Section. Section passed: 100-
9. Motion to reconsider tabled.]*

Reading of the Section

Mr. Poynter "Section 15. Appropriations; Higher Education

Section 15. Appropriations for the institutions of higher education and post-secondary vocational-technical training and career education shall be made to their respective managing boards. The appropriations shall be administered by the managing boards and used solely for the operations of the institution for which designated in the appropriations."

Explanation

Mr. Aertker Mr. Chairman, ladies and gentlemen of the convention, we feel that this amendment... this section certainly has to follow. All it does is state that the appropriations that would be made to these various managing boards, that it would be their responsibility, of course, to see to it that the expenditure of all the appropriations were given to the proper institutions. As a further follow-up, this section does imply that it would be the responsibility of the managing board to see that these funds were expended in the manner for which they were specified in the appropriation. That's the purpose of this entire section.

I recommend the adoption.

Questions

Mr. Bergeron Mr. Aertker, under what we've done in Section 7 dealing with the Board of Regents, do we have any conflict at all between this section and Section 7 which says, "the board shall plan, coordinate, and have budgetary responsibility for all public higher education?"

Mr. Aertker I don't believe. This section really deals with the...seeing to it that the ex-

penditure funds are handled in a proper manner. In Section 7 when we were talking about budgetary matters, we were really having reference to the fact that all of the colleges and universities would have to submit their budget to the Board of Regents; they in turn would analyze and talk with the different institutions to see whether their requests were in order. Then, after they reviewed the matter, then their responsibility would be to go to the legislature with the budget. I would have to state...feel that this budget, as it was presented to the legislature, would have, certainly, line items for different institutions. Then, after it was approved, it would come back and they would have the responsibility for seeing that it was...

Mr. Bergeron O.K. Let's look at the picture. The money comes down from the legislature. They appropriate so much money. Where does this money go first of all?

Mr. Aertker I didn't hear the questions.

Mr. Bergeron When the legislature appropriates money, where does it go first of all? Where would it come down to? To which boards?

Mr. Aertker It would go back to the Board of Regents.

Mr. Bergeron To the Board of Regents. They, in turn, would appropriate the money to various boards?

Mr. Aertker That's correct.

Mr. Bergeron And you don't think just the Board of Regents, alone, could take care of this problem?

Mr. Aertker We think so. This is what the State Board does at the present time. It goes into the state legislature and gets the appropriation, and then distributes it to the sixty-six parish school systems.

Mr. Bergeron Thank you.

Mr. Rayburn Mr. Aertker, if I understand this language right, the appropriation by the legislature will go to the managing board?

Mr. Aertker That's correct.

Mr. Rayburn How will they distribute that money, Mr. Aertker, to vocational schools, for instance. Will it be distributed on the...need basis, or on the amount of pupils, or the amount of courses, or how will that money be distributed?

Mr. Aertker Well, in the...if you will recall, in the section it stated that there would have to be developed a formula for the distribution of funds. I would have to presume that the budget that would be submitted to the legislature would be in conformance with the formula that was developed by the Board of Regents. That would include vocational education, also.

Mr. Rayburn Would that be the Board of Regents formula?

Mr. Aertker Yes, the Board of Regents.

Mr. Rayburn Supposing we could only implement it eighty, or seventy, or sixty percent. What would happen then? Their formula--which has happened in the past. You know the State Board votes for everything. They've never turned nothing down since I've been in the legislature. But they've never supplemented or had a P.S. at the bottom as how to implement their request. They just vote yes on everything. Now, how would that formula be devised, and how would it be supplemented?

Mr. Aertker If the appropriation committee submitted it back to them as a lump sum, then, of

course, I would have to presume that if they just approved eighty percent, that that would mean a twenty percent reduction across the board for all institutions.

If they resubmitted it back on the basis of institutions and on...areas, then, of course, I would presume they would have to see to it that that amount was given to that institution. In other words, if they appropriated "X" number of dollars for Southwestern, or "X" number of dollars for Grambling, I would have to presume that that would have to be distributed. The intent of this section is to see that if it is distributed, that the managing board would have the authority and the responsibility of seeing that it was disbursed in the manner that the budget had been requested for.

Mr. Rayburn I'm reading here where it says "the appropriations shall be administered by the managing board and shall be used solely for the operation of the institution for which they deemed the appropriation is necessary," which means the legislature could send them "X" number of dollars and they can do what they please with it? Is that what this language reads?

Mr. Aertker If it was not in violation of the formula that required them to do certain things.

Mr. Rayburn I don't see any reference here as to the formula, Mr. Aertker.

Mr. Aertker Well, the reference to the formula is in the powers of the Board of Regents. That was a requirement in Section...I believe Section 7, that stated the Board of Regents must develop a formula for the distribution of funds--pretty close to the minimum foundation formula.

Mr. Dennery Mr. Aertker, in Section 15, the last sentence says that "the appropriations shall be used solely for the operations of the institution." Suppose that LSU in Baton Rouge, or any of the other state institutions of higher learning, determine that they wanted to have a television program for their use in their schools. Could they contract with the Louisiana television authority in order to provide such a program?

Mr. Aertker Mr. Dennery, unless they had that stipulated as part of their budget request, and that they had some fund that would take care of that, that would be the operation of any school system, unless they had something in their budget that would allow them to do that, I don't presume they could do it.

Mr. Dennery No. But, I'm suggesting that many state institutions have contractual relationships with noneducational institutions to provide this, that, and the other. I just want for the record to show that if it's...in the budget, there would be no prohibition against another state agency contracting with the institution of higher learning.

Mr. Aertker I don't see where that would be any problem as far as this is concerned.

Mr. Dennery Thank you.

Mr. Juneau Bob, I'm just trying to get an understanding. I'm really confused in the Board of Regents article, we used the word "budgetary responsibility." Now, let's first try to define that word. What does that mean--budgetary responsibility?

Mr. Aertker It means to me that all of the budgets for all of the institutions will be the responsibility of the Board of Regents to see what budgets they are going to operate under.

Mr. Juneau Now, does that mean that they have a veto power over the budget that's submitted by

any board?

Mr. Aertker By any institution. They have the power to review any budget that is submitted to them and that is one of their responsibilities to see whether their requests are agreeable or in line or not. Yes.

Mr. Juneau All right. Let's assume that the Board of Trustees submits budgets for eight of the state colleges and universities and the Board of Regents determines, "Well, we don't like the budget that is submitted for Louisiana Tech." Which budget goes to the legislature as being the proposed budget of Louisiana Tech?

Mr. Aertker Whatever the Board of Regents submits for.

Mr. Juneau All right. Now, in that connection, in going to the section that we now have under discussion--this is the part that bothers me--it's very clear to me that the appropriation that's going to be made by the legislature, is made to the respective management board. That seems to me a direct channel and is a complete contravention, or obviation of the Board of Regents. That's what it says. It says "the appropriation shall be made to the management board." It doesn't say one iota about the Board of Regents.

Mr. Aertker But the Board of Regents' responsibility is the review of the budget that is submitted to the legislature before the appropriation is made. The responsibility of the Board of Trustees is to see that the expenditures are carried out in conformance with what the budget said that they were going to spend it for. To make sure that they don't--well, misappropriate--or that they don't misuse it, or they don't spend it in the direction for what they said they were going to spend it.

Mr. Juneau All right. So, purposes of intent, so we'll have this clear on the record, it is the absolute and complete authoritative control of the Board of Regents to veto the LSU system, the Southern system, and the Board of Trustees system with regard to what they submit as a budget. In other words, they have overriding responsibility with regard to the presentation of the budgets. I'm just trying to establish a record in that regard.

Mr. Aertker Yeah. I would prefer to use the word "modify" a budget request, I mean, because I believe you would recognize they'd have to...agree to some budget so...so they'd have modification--

Mr. Juneau But, the point is they would have the supreme power to modify.

Mr. Aertker That's right.

Mr. Bergeron Well, Mr. Aertker, in other words, you want under this section, you want the money to come straight from the legislature to the managing boards. Am I correct?

Mr. Aertker That's correct.

Mr. Bergeron You wouldn't want it any place in between?

Mr. Aertker No.

Mr. Bergeron O.K. Thank you.

Further Discussion

Mr. Womack Mr. Chairman, members of the convention, I don't know, yet, exactly what I want. I know I don't want this. I'm going to tell you why I don't want this. If you are going to fund the money from an appropriation, naturally it

goes into the state treasury. If the state treasury is going to transfer it then to a superboard, the superboard to the managing board, and then the managing board to the institution, you could lose as much as two, three, four or five days' interest. That you can't afford to do.

Now, the second thing is, in the past, the legislature very wisely has line itemed this appropriation. What I mean by line-item, means that you set up "X" number of dollars to pay personnel with; you set up "X" number of dollars to pay utilities; you set up "X" number of dollars to pay insurance, repairs, maintenance, equipment, all of these categories. You may say, "Why is that so important?" It's important to this extent. If you give these people a block, lump sum amount of money, they're going to take it then and let your buildings go without paint; they'll do without repairs; they'll do...go ahead and spend enough money--and we have had them to budget themselves into a deficit--we feel like budgeted themselves into a deficit on purpose. We know that it's going to take a certain amount of money to keep all of these categories going. Any day that you don't maintain your repairs, your equipment, etc., you're going bankrupt and don't know it. So, this money has got to be line itemed. We want either one thing, either delete the section, or let's put a clause in there. I think Senator Rayburn is getting an amendment now that would do that, to go ahead and line item this money and put it, and put it...add in there to be spent and handled in accordance with the appropriation of the money. If you get that, then, I think we'll be in good shape. So, I would like for us to hold up just a minute on this until we get this amendment out. Then I think we'll have something we can go with. But, under no circumstances do I want to accept it in this category, because you are just going to lose control of it and you can't afford to.

Questions

Mr. Bergeron Mr. Womack, I had talked to you just a little while ago. You had kind of answered some of my questions dealing with the Board of Regents. There's just one question that's puzzling me. Looking at Section 7, it says "the Board"... we're speaking about the Board of Regents..."shall plan, coordinate and have budgetary responsibility." Now what are we talking about by "budgetary responsibility"?

Mr. Womack I don't know what "budgetary responsibility" to them. If "budgetary responsibility" to them means the same thing that "budgetary responsibility" has meant to the State Board of Education has meant in the past, that they have come in and stamped whatever was presented to them. The money--several years ago--and I'll answer it this way. Some six, seven or eight years ago, the money went direct to the institution and the institution had no strings on it. We woke up with one institution a million four hundred and forty thousand dollars in the red, kiting checks. We would up with other institutions that had spent their money down on personal services to where along about March or April, they didn't have enough money to pay the light bill. For that reason, you have got to budget this money, and it's got to be handled on a line item basis. The legislature has very wisely appropriated the money direct to the institutions in that manner. If you keep it along that category, then you're not going to have any trouble with it. It will go where it looks like it's needed best. By the same token, you are going to be able to maintain the full operation.

Mr. Bergeron O.K. Well, in view of the money you just said, is this why you'd want the money to go straight to the boards from the legislature?

Mr. Womack If the money is going to go to a board--and assuming that you're talking about

literally going to a board--then the board would draw warrant on the state treasury. Then by the time they got the bookkeeping work done, then they would wind up turning it back into the institution, whatever it might be. If you lose as much as two or three days interest there, when you figure on the total amount of education, you've lost a many, many a thousand dollars within the period of a year. Everything we are doing now is designed to draw exactly the amount of money. The way it's operated right now--and it's very successful and very efficient--is that the actual amount of money needed to pay the exact bill that's due that month is all the money that the institution is going to draw out. They get that on their warrant directly from the state treasury. There's no loss of time, no loss of motion. They get only enough money to do the job.

Amendment

Mr. Poynter The amendment would read as follows: Amendment No. 1 [by Mr. Rayburn]. On page 8, line 21, after the word "solely" delete the remainder of the line. Delete line 22 in its entirety and insert in lieu thereof the following: "as provided by law."

Explanation

Mr. Rayburn Mr. Chairman, fellow delegates, for the past several years we have had various formulas in the legislature. We have never been able to adopt a hundred percent formula to finance all of education's purposes. We have, in the last few years, been able to up the percentage and have come from a low of sixty percent of the formula, to roughly today in some colleges, eighty-five percent of the formula, and in some educational categories. We still have one or two educational institutions in this state that are operating at a hundred and five or a hundred and seven percent of the formula. The way I read Section 15, it would leave it to the Board of Regents. This amendment solely...only says..."as provided by law," which means that if we can appropriate eighty-five or ninety percent of their needs, and we say that in the appropriation bill, then that's what the Board of Regents will have to follow. If you leave this broad language the way I read it, we could appropriate "X" number of dollars in the legislature, and as long as the Board of Regents spent those funds for educational purposes whether it was vocational education or otherwise, they could ignore a formula, or, they could spend more under one institution than they could others. The only thing this amendment does, it says, "as provided by law", which says that if an appropriation bill, appropriates a million and a half dollars, and those funds can only be spent in accordance with law; that's the only thing I'm trying to do. If we say they shall be supplemented eighty-five or ninety percent of the formula.

Questions

Mr. Casey Senator Rayburn, I'd consider you as an expert in the area of appropriations since you are chairman of the Senate Finance Committee; do you feel that this section is necessary at all?

Mr. Rayburn I do not, but since we've got it, I'm going to try to do what I can to minimize it. I don't see the need of it. I really--it scares me. I'm not going to stay in the legislature and appropriate forty-two percent of our state monies to education and let a Board of Regents spend it the way they see fit, if I can help it. If they want to adopt a formula and spend according to the formula, that's good. But the way I read this, it gives them a free hand. I'm opposed to it. I would be for deleting the entire section.

Mr. Casey So, in other words with your amendment, the legislature...with your amendment, if it's adopted, that section would be the same whether

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we had the section or not. The legislature would have the authority to do whatever is necessary in the area of appropriations.

Mr. Rayburn That's true, Representative Casey. That's the way I think it should be.

Mr. Sutherland Senator Rayburn, in connection with the amendment--I don't have a copy of it--but I heard you saying that you wanted...I thought you said after the word "use solely for the operations" that that would be taken out and it would be "as provided by law." Is that correct?

Mr. Rayburn After the...on line 21, if you follow me...

Mr. Sutherland Right.

Mr. Rayburn ...where it says, starting on 20, "the appropriation shall be administered by the managing boards and used solely." My amendment takes over there: "as provided by law."

Mr. Sutherland Now, let me ask you this question. I hear you saying the Board of Regents would handle this appropriation, and the Board of Regents has a budgetary authority under Section 7. But, what we're talking about here in this Section 15, we're talking about management boards. Now, that's the Board of Supervisors for LSU...

Mr. Rayburn I'm sorry. I should have said managing boards in the place of Board of Regents, I'm sorry.

Mr. Sutherland So the Board of Regents would be setting the budgetary requirements to the legislature. The legislature would be appropriating it to the management boards. It would be up to the legislature and the Board of Regents to see that it was used the way it was budgeted. Is that correct?

Mr. Rayburn If the law so provides, yes, sir. That's why I wanted to put the language in there, "as provided by law."

Mr. Sutherland Senator, I think the reason why it's in here the way it is, "used solely for the operation of the institution for which designated in the appropriation" was to avoid the management boards from using it for other purposes. Would it be possible to have after "which designated in the appropriation by law"? Would that do it?

Mr. Rayburn It probably would. But, if you notice here, you use the word "higher education, post secondary, vocational-technical training, and career education." In my opinion, that covers a lot of them. I just want to really be safe in saying that this board can only administer those funds as provided by law.

Mr. Sutherland I would like to say...

Mr. Rayburn I would not want to sit in the legislature and appropriate ten million dollars to a managing board and not know what they were going to do with it.

Mr. Sutherland I would agree with you, Senator. That's why I say this was intended that it would go to the institution. I'm in favor of what you're trying to do. But I would think that if you said it would go to the sole institution as provided by law, we might be better off, make sure they get it.

Mr. Rayburn Yes, sir. That's what I'm trying to do.

Mr. Dennery Senator, do you know I agree with your fears of what could happen if you don't appropriate by a line item. I further agree that you should take out "used solely for operations"

because it's quite possible that some of that money may have to be for capital improvement and not for operation. So I agree with your amendment.

My question, though, is in Section 7 (A). It provides that "the Board of Regents shall plan, coordinate and have budgetary responsibility for all public higher education and shall have such other powers, duties and responsibilities as are provided by this section and by law." Do you not agree that the legislature should also adopt some laws telling the Board of Regents how they should prepare these budgets and that they should be line item budgets, etc.?

Mr. Rayburn Mr. Dennery, let me make an honest confession here today. I have no quarrel with the State Board. I have been chairman of the Finance Committee for many, many years. I have my first time to see the State Board deny any request from any institution under their authority that they sent to them. They approve it, and then send their request to the legislature for us to work it out the best way we can. I have my first time to see the State Board deny a request was made by a vocational school; they say, "Yes, we think you should have it." I think that in most cases they are right. But, the legislators happen to be on the other end of the train. They have got to put the coal in the caboose to make the engine run. They're not riding in a pullman car. If the engine don't run, they don't ride.

Mr. Dennery Well, Senator, I agree with you.

Mr. Rayburn That's why I think that we should have some provision "as provided by law."

Mr. Dennery I agree with you, I'm only pointing out to you, sir, that don't you think the language that I read about the Board of Regents gives you and the legislature an opportunity, for the first time, to tell this board, don't just approve everything with a free hand. Look at it carefully, etc.

Mr. Rayburn We've tried that in the past. At one time we had a member of the Senate Budget Committee, Mr. A.D. Smith, who is now deceased, who was on the Budget Committee. The first week that we met, he realized what the State Board had been doing. We attempted to have a meeting with the State Board, and with a Subcommittee of the Budget Committee. Mr. A.D. Smith had an accident, he was about to get it worked out, and he wasn't with us very long, and we never did get through what we were trying to get through. But, all I'm trying to do is say that these funds, Mr. Dennery, and I think you are exactly right, should be spent in accordance to the way the legislature appropriated the funds.

Mr. Bergeron Senator, I just want some clarification. Is this Section 15, Appropriations for Higher Education, in the present constitution?

Mr. Rayburn The way I read it, it means all educational functions. If you read...you're talking about Section 15?

Mr. Bergeron Yes, sir.

Mr. Rayburn Yes, sir, it says, "for the institutions of higher education, post-secondary vocational training and career education." Pretty broad language, in my opinion.

Mr. Bergeron Mine too, sir. Thank you.

Mr. Rayburn Mr. Chairman, if there's no further questions, I now move the adoption of the amendments.

Further Discussion

Mr. Flory Mr. Chairman and delegates, I rise in opposition to the amendment, and let me state why.

Certainly, Senator Rayburn knows far more about the appropriating process of monies for the state than I do, but let me give you the rationale behind the language now in the proposal. I think Senator Rayburn may be under the misapprehension that this money was intended to go to the Board of Regents. I think you have to read Section 15 in conjunction with Section 7(A), and the powers given to the Board of Regents for budgetary control and curriculum, etc. Now, when you put the amendment in that he has suggested, what you are doing is--and I certainly have no objection to line item appropriations, don't misunderstand me. I think that's inherent in the committee's recommendation to this convention. What it does under Senator Rayburn's amendment, when you say, "and used as provided by law," what you are doing is allowing the Board of Regents, by the power given to them in this...by this proposal, to have budgetary control and program control to tell a university that, let's say, that you've appropriated a half a million dollars by line item to L.S.U. for a sea grant program. Then, the Board of Regents comes along after that money is appropriated to that university, and the Board of Regents says, "You no longer can have a sea grant program because it could be better utilized in another facility." Okay, the legislature has appropriated the money; the Board of Regents has told L.S.U., "You can't do it," so then L.S.U. loses the money. It goes back to the general fund of the state under the budgetary process that we now have in state government because they would have generated a surplus because they can't use it for that purpose; it has to go back to the general fund. Now, if you read the language of the proposal as it is, the managing board would receive the funds, distribute it to that institution as appropriated by line item by the legislature. Now, the Board of Regents has told that institution, "You have to close a particular program." The managing board could juggle the funds, appropriate it to that institution in order to conform with the Board of Regents' instructions. They could not take one penny away from that institution's appropriations because the legislature had appropriated by line item to that institution. But, if you adopt Senator Rayburn's amendment, you take all of the budgetary authority away from the Board of Regents in changing programs, etc., within a fiscal year, within each institution. So that what you are doing is destroying the whole concept and the whole effect of the proposal that's now before the convention. I would ask you, and I'd ask Senator Rayburn to seriously consider the amendment that he has proposed. I don't think that's what he intends to do, but I think that is the net effect of his amendment. On that basis, I ask you to reject the amendment.

Questions

Mr. Womack Mr. Flory, as I see it, you're worried about the Board of Regents taking the money and spending it, finally, or not being permitted to spend it as they saw fit after the legislature has appropriated it. Is that right, primarily?

Mr. Flory No, sir, Mr. Womack. My understanding of the budgetary process at the present time, by line item, you appropriate "X" number of dollars to each university and college in this state. The State Board, then, after you appropriate that money to them, based upon a budget submitted to you, they then go back to the State Board, and they then approve--based upon the appropriation on a line item basis--each item in that budget. The only way that that budget can be changed at that time, after that, is with the approval of the Budget Committee, or with the Division of Administration.

Mr. Womack Both of them. All right, now, what you are saying, you're going to put the Board of Regents into the administration after they once get the money. What this will do will let the

Board of Regents go ahead and set up the curricula, set up the fact that they need fifty thousand dollars to repair building "X", and that they need a new automobile for such and such a position and those kind of things, and it will put the Board of Regents to do their managing and help work the problems out of the institution prior to the appropriations. Then, when the legislature appropriates the money, according to Senator Rayburn's amendment, it would go direct to the college or the university, and they would take it, then, and do what was spelled out in the appropriation bill. There would be no need for the Board of Regents to come in and say, "Yes, you can buy the car," because they approve it before it comes to the Budget committee.

Mr. Flory I don't accede to what you have said that I should, Mr. Womack, at all.

[Previous question ordered.]

Closing

Mr. Rayburn Mr. Chairman and fellow delegates, I hate to disagree with Mr. Flory, but the law today provides before any institution can take money out of 101 category, which is personal services, to pay the wages of the people they say they need to run that institution, they've got to submit that request to the Division of Administration, and they have to approve it. Likewise, the Budget Committee has to approve it because the law so states that. Many years ago in this state, we found where our institutions would spend thirty percent of their funds the first six months, and to be sure they didn't have anything left over, seventy percent the last six months where they could come back the next year and ask for additional funds and show they'd spent them all. The only thing I'm trying to do is to say that these funds shall be spent in accordance with the law. We further found in this state where we would appropriate money to give the state employees a salary increase, and later on in the budget we'd find out where they took that money and bought automobiles, office furniture, and didn't give those workers an increase. They can't do that anymore because we won't approve it. When I say we, I'm talking about the Budget Committee nor the Division of Administration. That's the law today. All I'm trying to do and trying to say with this little simple amendment: these funds shall be spent in accordance with the law. I think that's good language, and I think it's right. I don't want to have to vote taxes and appropriate a lot of money and let a Board of Regents or no other board spend their funds--those funds--and not comply with the law. All my amendment says, "in accordance with the law." Now, if you're against the law of this state or this land, vote against my amendment. I think it's a good amendment.

Questions

Mr. Weiss Delegate Rayburn, aren't you just saying that you want to prevent misappropriation of funds and maybe keep some people out of the penitentiary, like happened years ago in the state?

Mr. Rayburn Dr. Weiss, I don't want to talk about the penitentiary. I'm one of the best friends they've ever had. I always vote for their appropriations. The only thing I'm saying is this: if this constitution, if you delegates here today, along with myself, write something in the law, I think it should be carried out to that effect. I'm saying if the legislature appropriates funds, they should be spent in accordance with the law. That's all I'm saying; it's just that simple.

Mr. De Blieux I don't know where you get that De Blieux stuff from, Mr. Chairman.

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Senator Rayburn, wouldn't this amendment also prevent the institutions from submitting budgets for one thing and then turning around and spending them for something else?

Mr. Rayburn It certainly would, Senator De Blieux, because my amendment simply says these funds shall be expended in accordance with the law. That's all I'm trying to do because I have seen the time in this state when funds that I helped provide were not spent in accordance with the method that I voted for them to be spent. I'm just trying to correct that. I think it's a good amendment, and I hope you adopt it. I move the adoption thereof.

[Record vote ordered. Amendment adopted: 112-6. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 112-6. Motion to reconsider tabled.]

Reading of the Section

Mr. Poynter The next section, Mr. Chairman, is: "Section 16. Funding; Elementary and Secondary Education; Apportionment.

[Motion to waive reading of the Section adopted without objection.]

Explanation

Mr. Aertker Mr. Chairman, we have a rather extensive section here that we believe that if you would just let us have about five minutes to regroup our forces, here, that we might be able to cut out about three and a half pages of this four page deal here, and come back...

Recess

[Quorum Call: 90 delegates present and a quorum.]

Amendments

Mr. Poynter Amendments sent up by Delegates Zervigon, Aertker, Roemer, Burson, and Delegate Conroy adds his name.

Amendment No. 1. On page 8, delete lines 25 through 29, both inclusive, in their entirety.

Amendment No. 2. On page 8, delete lines 30 through 32, both inclusive, in their entirety and on page 9, delete lines 1 through 13, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 16. (A) The legislature shall appropriate funds to supply free school books and other materials of instruction prescribed by the State Board of Elementary and Secondary Education to the children of this state at the elementary and secondary levels."

Amendment No. 3. On page 9, delete lines 19 through 23, both inclusive, in their entirety.

Amendment No. 4. On page 9, delete lines 24 through 26, both inclusive, in their entirety.

Amendment No. 5. On page 9, delete lines 27 through 32, both inclusive, in their entirety and insert in lieu thereof the following:

"(B) The legislature shall appropriate sufficient funds to insure a minimum program of education in all public elementary and secondary schools."

Amendment No. 6. On page 10, delete lines 6 through 17, both inclusive in their entirety.

Amendment No. 7. On page 10, line 18, at the beginning of the line, delete "(C) Local Funds." and insert in lieu thereof "(C)."

Amendment No. 8. On page 10--and there's a change here in the instructions. It's kind of important--On page 10, delete lines 21--and it should be through 32--delete lines 21 through 32, both inclusive, in their entirety and insert in lieu thereof the following:

"First: Each parish school board, the parish of Orleans excepted, shall levy annually ad

valorem maintenance tax of five mills, or as much thereof as is necessary, on all property subject to such taxation within the parish or city in the manner prescribed by law."

Page 2.

Amendment No. 9. On page 11, line 13, at the beginning of the line, delete the word "Third" and insert in lieu thereof the word "Second."

Amendment No. 10. On page 11, line 23, at the beginning of the line, delete the word "Fourth" and insert in lieu thereof the word "Third."

Amendment No. 11. On page 11, line 31, immediately after the word and punctuation "legislature." delete the remainder of the line and delete line 32, in its entirety and on page 12, delete lines 1 through 3, both inclusive, in their entirety.

Amendment No. 12. On page 12, delete lines 4 and 5 in their entirety.

Amendment No. 13. On page 12, delete line 6 in its entirety, and insert in lieu thereof the following:

"(D) For the".

Amendment No. 14. On page 12, delete lines 13 through 17, both inclusive, in their entirety.

Explanation

Mrs. Zervigon Mr. Chairman and delegates, when I read Section 16, I became very concerned. It's four pages, and I really thought we could state it in a briefer manner. The reason these amendments appear to be so complicated is that when one comes before this body, one can never tell in advance what will be controversial. This is an attempt, not to be controversial, which may in itself be controversial. So, I really ask your indulgence. Let me tell you what I've attempted to do, and if any of these amendments become controversial, we can sever them and vote up or down on one amendment or another and vote the rest as a package, it seems to me. I presented this to Mr. Prescott of the School Boards Association, Mr. Porter from the New Orleans school board, and several other people interested in education; they agree to them. These also track Mr. Robinson's amendments which he had tried to present to the committee earlier when he was on the committee. The committee ran out of time at that meeting and was unable to consider it. The committee is in agreement that it needs some cleaning up, although the details of the cleaning up that I've attempted to do, of course, may not please everybody. If you will look at your yellow copy of the bill, I will tell you what I have done. I've deleted the first paragraph--that's what Amendment No. 1 does. Amendment No. 2 allows to remain on page 9, lines 6 through 9, allowing the legislature to appropriate money for school books and other materials of instructions for elementary and secondary school children. That would allow the legislature to appropriate monies for these things for private and parochial schools, as well as for public schools. I was told that this is something near and dear to the hearts of private and parochial school people. The people who operate these schools feel that they can't get along without these services. The rest of that page 9 goes down to the second to the last line, and what remains is the mandate to the legislature that they provide a minimum... sufficient funds for a program of minimum education which shall be distributed in accordance with the formula and procedure set up by the Board of Elementary and Secondary Education. We've established that board already, and this would be their primary duty, as I understand it. Then the rest of this page goes down to line 18 which begins a description of the local funding. I've left in there the authority for local school boards, except New Orleans, to levy five mills. They don't have to levy them all, but they may levy them if they need them. I've taken out the second paragraph, there, which I don't fully understand, but Mr. Prescott says is no longer necessary because of later paragraphs in this article. I've left in the authorization for Orleans to levy the mill-

age which they presently levy--which is thirteen. I can't possibly explain to you how it's different from parish to parish, but with Orleans, it ordinarily is. For that, I apologize. It's no change in the present law. I've left in the paragraph allowing a raise of millage by a vote of the people, and the requirement that the amount, duration, and purpose of such taxes shall be in accord with any limitations imposed by the legislature. I've taken out the final section of that paragraph: "No such tax shall be levied for a period of longer than ten years," because the legislature could set that prohibition in there, if they would like. It will give more flexibility to the local school boards. I've taken out the next paragraph which says that the legislature may provide additional sources. The legislature, as I understand it, may do anything not denied them. They would be able to do that anyway. I've left in the paragraph which declares, "city school boards shall be treated as parish school boards." They feel--Mr. Prescott and the school boards of those two city systems--feel that that is very necessary to clarify their position under the law. I've taken out the provisions on Ouachita Parish. I was told that both the city of Monroe school board and the Ouachita Parish school board feel that it is not necessary.

I'll yield to any questions, although I don't promise to be able to answer them all in detail.

Questions

Mr. Shannon Mrs. Zervigon, there was two sheets of paper passed out with your amendment...

Mrs. Zervigon Yes, Mr. Shannon, that would be what would remain if all of my amendment should pass.

Mr. Shannon This would be Section 16 in its entirety?

Mrs. Zervigon That'd be it.

Mr. Shannon Thank you.

Mrs. Zervigon Only if they all pass, of course. But, it was just to give you some idea of how the section would read. I personally find it easier to follow the deletions on the yellow sheet. Apparently, that isn't so with everybody. They kind of want to know what's left after surgery is completed.

Mr. Shannon But, if your amendment passes, this would be Section 16?

Mrs. Zervigon Yes, sir.

Mr. Shannon Thank you.

Mr. Kean Mary, I'm looking at your sheet that you say is what it would be if we adopted all of your amendments.

Mrs. Zervigon I haven't proofread that, Mr. Kean.

Mr. Kean Under your local funding, first, I'm sure that this is designed to permit each parish school board to levy annually five mills or so much thereof, as is necessary without any kind of vote. But, it goes on to say they'll do it "in the manner prescribed by law." Then, when you get into the second, where you're talking about the same thing for the Orleans Parish School Board, it doesn't contain that same language. I'm wondering whether or not you shouldn't have a period after "city" in that first paragraph so that it simply would be with the vote of the school board. It seems to me, when you say "in a manner prescribed by law," it leaves some question as to whether or not you had to have a vote in order to carry out that particular section.

Mrs. Zervigon Mr. Kean, I took that language

from Mr. Robinson's amendment. I hated to change it. Since he wasn't here, I couldn't ask him why he had put it in. I would support such an amendment, if you come along behind mine; I agree with you.

Mr. Lowe Mrs. Zervigon, I just wanted to make sure we understood that the features on rollback and rollup apply to this five mills that we are referring to for maintenance purposes.

Mrs. Zervigon Yes, sir. That's taken care of in the Revenue, Finance, and Taxation Article, as I understand it. It's true of all millages presently levied across the board.

Mr. Lowe Well, that's the way I appreciated it also. But, I want it in the record that we both understood that it would apply to the five mills.

Mr. Jenkins Mrs. Zervigon, don't you really think that both your amendment and the committee proposal contains a lot of material that's really statutory? Don't we really only need to maybe establish a basic tax rate and say that the people can vote to increase it, which we could do in about one paragraph?

Mrs. Zervigon Mr. Jenkins, I've tried to cut it to a great extent that I thought would be possible, without becoming terribly controversial. If you want to come behind it, and cut it further, I think that might be justified. I really don't know. But, I can't see voting against these amendments which cut it on the grounds that you think it can be cut further than these. It seems to me that supplementary amendments would be the way to do that; don't you agree?

Mr. Jenkins Could be. Let me ask you, too, that with regard to this minimum program that you have in here, both here and in the committee proposal, is it really a wise policy to say that the legislature's going to fund something, and that level of funding is going to be established by the state board? You're going to have people establishing a level of funding which they're not responsible for meeting.

Mrs. Zervigon It doesn't say that as I read it. It says that the legislature sets the level of funding, but, it is distributed in accordance with a formula set by the state board, which is the case at present.

Mr. Jenkins It says "the legislature shall appropriate sufficient funds" for the program...the minimum program will be established by the state board. So, it appears that the state board is setting the level of funding; doesn't it?

Mrs. Zervigon Well, this tracks the present law, Mr. Jenkins. If you want to change that, that's O.K., too. I think what's on the floor right now is the various deletions, not a discussion of what would remain after the various deletions. If someone wants further deletions, that would be extra amendments later on, after these would be voted upon.

Mr. Duval Mary, I certainly agree that you've done a fine job in deleting some of the bulk in the committee proposal. This really goes to something that was in the original committee proposal. But, I need to know what the interpretation is on this formula business. Would the legislature be bound by the distribution formula promulgated by the board? Or, would this formula be sacrosanct since it's constitutionally authorized?

Mrs. Zervigon To this extent, Mr. Duval, as I understand it, for the minimum program, the legislature appropriates the money, and it is distributed in accordance with this formula. Above that, of course, the legislature may do anything it likes that's not prohibited. We have not any

place in this proposal prohibited the legislature from appropriating additional funds for education. If the legislature feels that that formula is faulty in some way, or if an emergency arises in some particular parish, the legislature, of course, could come in with special or general appropriations for a special program, for special problems in any one parish, and that sort of thing. Also for private or parochial schools if that should later become possible under federal court decisions, the legislature could also provide money for that because the legislature may do anything not denied it.

Mr. Dennis Mrs. Zervigon, could I ask you a question, please?

Mrs. Zervigon I'll answer you from the great fund of my knowledge about education.

Mr. Dennis Well, this question pertains to whether or not the Monroe City School situation is adequately dealt with. On page 10, line 21, where it says, "each parish school board," etc., "shall levy a tax." In order to cover the Monroe situation, and I assume the Bogalusa situation, shouldn't we say "each parish and city school board"? In other words, shouldn't we include the city or cities of Monroe and Bogalusa, or their school boards there, some way or another?

Mrs. Zervigon I think, perhaps, to be absolutely clear, you might want to come behind me with such an amendment, but, it seems to me that on page 12, lines 6 through 12, that says that city school systems are treated as parish school systems would cover that, in case you don't get a chance to bring an amendment such as that.

Mr. Dennis Well, I know that. But, it says over there that they are treated as parishes, not parish school boards.

Mrs. Zervigon I understand that, Judge, and I wasn't on that committee, and I didn't compose that part of it. My amendments are only deletions. I'm really not here to defend every word of what remains. But, I do believe you're safe under the 6 through 12 on page 12, which says you are a parish, in essence.

Mr. Dennis All right. Thank you.

Further Discussion

Mr. Rayburn Mr. Chairman and fellow delegates, I had planned to ask the author of this amendment a few questions, but, since time did not allow it, I will now bring my objections, or at least the reasons that I'm not clear on what the language says under Section (B). I would ask that all delegates get the proposal and look under Section (B). It says that "the legislature shall,"--shall, if you please--"appropriate sufficient funds to insure a minimum program of education in all public elementary and secondary schools." Then, it further states that "the minimum program for education to be maintained in all parish and city school systems shall be established by the State Board of Elementary and Secondary Education." That don't bother me too much. But, the language in the first paragraph does bother me, where it says, "we shall appropriate sufficient funds." Then, it says down in the last paragraph under (B), "the board shall adopt formulas, procedures for the distribution of these funds to the several school boards." I can see where maybe the legislature might want to appropriate "X" number of dollars for adult education. If the board disagreed with them, and did not have a formula for those expenditures, then we could not carry out the program that we were willing to fund and willing to carry out, if I read this language right. If we further wanted to adopt special appropriations in some other field of education, and the board did not agree with us, then our hands would again be tied, if we did not

have a formula and procedure for the distribution of those funds. Maybe I'm wrong; maybe I'm reading this language wrong. But, I do not think that this convention wants to tell the legislature that we shall appropriate sufficient funds to insure a minimum program of education. Then, maybe, we feel a minimum program is one way, maybe this board would feel it's another way, and they do not have the proper formula or the proper procedure for distribution of the funds that we appropriate. For that reason, I'm at a loss as to really know what this provision really means.

Questions

Mrs. Zervigon Mr. Rayburn, what you have reservations about is what would remain if my deletions passed.

Mr. Rayburn I can't hear you, lady.

Mrs. Zervigon Man, that's what they always say. You are worried about the language that would remain if my deletions pass. You are not quarreling with my amendments which delete, but only with what would remain. Is it not the case that perhaps the best course for you would be to follow me with an additional amendment?

Mr. Rayburn Well, I don't know because I'm still not really convinced what some of your other amendments is. If this is a cleaning up program, it must have been awful dirty to start with, and that scares me.

Mrs. Zervigon Yes, sir. Have you looked?

Mr. Rayburn Now, the committee must have presented us an awful dirty proposal if it takes two pages and fifteen paragraphs to clean it up. That's what scares me a little. I just happened to read this bill; I can't understand it, Mary. Maybe you can enlighten me.

Mrs. Zervigon You're not speaking against any one of the amendments "to delete."

Mr. Rayburn No, ma'am. I'm just trying to define what you're trying to do under (B).

Mrs. Zervigon Thank you.

Mr. Roemer Sixty, aren't what you're really saying...I mean your intent of your message is that perhaps we'd be better off without (B) altogether. Isn't that true?

Mr. Rayburn I certainly feel that way because I would hate to see the legislature placed in the position of providing money, finding additional revenue to try to do something for the schools or for the educational program of this state, and then, the state board didn't provide a formula, or didn't provide a procedure to carry it out. If I read this language, they could easily do that.

Mr. Roemer I agree with you, and I just want you...to know if you understood that the purpose of the amendment that we're on here is to try to delete as much as possible. Perhaps we didn't delete enough. I agree with you on this point.

Mr. Rayburn Maybe so.

[Previous Question ordered.]

Mr. Poynter Mr. Chairman, it is my understanding with respect to...Mrs. Zervigon, look and kind of check me and make sure I'm right...with respect to Amendment No. B, the intention of Amendment No. B was to strike out the first and second under (C); the following first and second sources. It does not go all the way. It'd be my understanding that, in addition to the one correction that's been noted, it needs to read "on page 10, delete lines 21 through 32, both inclusive, and on page 11,

strike out lines 1 through 12 in their entirety, and insert in lieu thereof the following: "Am I right about that?"

Mrs. Zervigon Yes, Mr. Clerk.

Mr. Poynter O.K. Mr. Chairman, make that note.

Closing

Mrs. Zervigon Mr. Chairman, I'll make my closing remarks very brief. If you'll look at me for just a second, delegates, what you're voting on is this: a list of deletions. What would remain is this: if you think this is too much, come with your own deletions, but, we are not discussing what would remain; we are discussing only the deletions. I urge the adoption of the deletions.

Questions

Mr. Tate Mrs. Zervigon, if I understand what you have done--you and Mr. Aertker and Mr. Burson, and so on--have simply boiled down, without changing the substance, the present committee proposal. After we've finished these amendments, if we adopt them, then we can vote on the merits of the philosophy expressed. Is that my understanding?

Mrs. Zervigon Very good point, Justice Tate. This is the first time I've come to the mike without something controversial, I think.

Mr. Duval Mrs. Zervigon, do you know that the way you wave those amendments, I thought I was coming in for a landing on an aircraft carrier. Did you know, I agree with your amendments?

Mrs. Zervigon Mr. Duval, I've never been on an aircraft carrier.

Mr. Burson Mrs. Zervigon, isn't the basic purpose of this amendment so that we can have something remaining that all of the delegates can read and understand in a few minutes without having to wade through the long proposals that they would have to worry about amending otherwise?

Mrs. Zervigon Yes, sir. That was the point, and the committee had intended to do that originally, itself. But, like some of the other committees, ran out of time.

Mr. Burson Isn't it true that even the committee proposal recommends a substantial shortening of a very voluminous section of the present constitution, which goes on and on and on about the equalization formula, and how the money is to be appropriated for elementary and secondary education.

Mrs. Zervigon Not only shortening, but a considerable modernization of the language.

Mr. Burson Finally, doesn't your amendment, pre-terminating the question of the relationship between the legislature and the state board which Senator Rayburn has raised about Section (B). Other than Section (B), doesn't the section on local funds track exactly what the present law is, as far as the alimony tax is concerned?

Mrs. Zervigon Yes, it does, and what Senator Rayburn was talking about is the only part my amendment doesn't touch. My amendment touches everything else.

Mr. Weiss Delegate Zervigon, you mentioned that this was not controversial, but, aren't you changing substance when you make these recommendations? For example, the committee has recommended dedicated funds. Now, what other changes are you making in your recommendation that are not argumentative?

Mrs. Zervigon Well, the committee has agreed to take out "dedicated funds," though, Dr. Weiss.

Mr. Weiss That's one of your deletions. What else are you deleting that is substantive?

Mrs. Zervigon Well, Dr. Weiss, that's why I gave you both the deletions and what would remain so that you could read it and judge that for yourself. One can never tell what will seem controversial to someone else. But, the committee was willing to take out the dedication, and so was Mr. Prescott of the School Board Association because they knew that it was coming up in the Revenue, Finance and Taxation Article later on, to have no dedications whatsoever. They're agreeable to that. That never was a whole lot of money to start with.

Mr. Weiss The section, then, is rewritten, as distributed by you in these two pages. Is that correct?

Mrs. Zervigon That's what would remain.

Mr. Munson Well, Mary, I'm trying to understand this. You have this sheet with all the deletions and the amendments.

Mrs. Zervigon Yes, sir.

Mr. Munson You have Amendment No. 2. On page 8, delete lines 30 through 32, and then you've got Section 16. Right?

Mrs. Zervigon Yes, sir, because I had deleted that...

Mr. Munson "The legislature shall appropriate funds"

Mrs. Zervigon Pardon me.
Yes, sir.

Mr. Munson But, then, on this other sheet of paper here, distributed by Delegate Zervigon, you've got another Section 16, which is these two pages.

Mrs. Zervigon The thing that says "distributed by Delegate Zervigon" is what would remain if all of the deletions passed. The paragraph you read is in the committee proposal. All I did was capitalize the "T".

[Record vote ordered. Amendments adopted: 76-42. Motion to reconsider tabled.]

Motion

Mr. Gravel Mr. Chairman, this...the adoption of these amendments by Mrs. Zervigon has, in effect, rewritten this section. As a consequence, those of us who had amendments--I know, I for one--have some problem now in fitting in any concepts that we want to fit into the section, as amended. In view of this, I'd like to ask for a ten-minute recess so we can see where we stand.

Further Discussion

Mr. Womack Mr. Chairman, fellow delegates, as I understand this--and I'm sure I do because I've gone through her amendment and struck out and reworded and written in and placed in--and I come back with exactly what has been distributed here on this sheet where you've underlined. It says this: that the minimum program of education to be maintained in all parish and school systems, shall be established by the State Board of Elementary and Secondary Education. It gives no guidelines. They can set up one so rich you can't afford it. There is nothing in the world there that says what kind to set up. Then, it goes back and says also that the legislature shall appropriate enough money to carry out this program without regard to what it costs. There ain't no way for me to buy it. I don't believe that the delegates of this delegation here...I don't believe the membership of this delegation really understand what

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that says. What it says is that if our present system is costing four hundred million a year, and that state board decides that they want a program twice that rich, the legislature is mandated to appropriate eight hundred million dollars to carry it out. That's what it says in this proposal.

Mr. Henry Wait, now. We're not going to get into a debate on this.

Recess

[*Quorum Call: 123 delegates present and a quorum. Motion to temporarily pass over Section 16 adopted without objection.*]

Reading of the Section

Mr. Poynter Section 17. Tulane University
"Section 17. The Tulane University of Louisiana, located in New Orleans, is hereby recognized as created and to be developed in accordance with provisions of the Legislative Act No. 43 as approved July 5, 1884."

Explanation

Mr. Aertker Mr. Chairman and ladies and gentlemen of the convention, this section is included in here because the constitution has it at the present time, and it seems that there is included in this provision some tax exemption grant to Tulane University. They felt rather than get involved in it one way or the other or maybe threaten it in some way that they felt that that should be left in there and included in the present constitution.

Questions

Mr. O'Neill Mr. Aertker, does this have anything to do with the legislative scholarships that are given from Tulane?

Mr. Aertker I don't believe. I believe that this actually...states actually...is that the Tulane University is recognized and created to be developed in accordance with the provisions of the Legislative Act No. 43 approved July, 1884.

Mr. Sutherland Mr. Aertker, do you recall in our committee on a subsequent proposal that this provision as regarding Tulane was taken out on the advice of several people who had contacted the Tulane administrators and decided that they did not want to be in the constitution?

Mr. Aertker I had heard something to that effect, and so I don't...I really don't know whether that was the...I know it was reported out this way, and so I'm just reporting it to the convention.

Mr. Sutherland Right. But, I think that subsequently after we reported this out, it came to our attention that it was not to be in there, and I think there is an amendment to take it out, that's...

Mr. Aertker I think there is, too, that's why I'm not speaking...

Mr. Juneau Mr. Aertker, just following up on the point of Mr. Sutherland; as I recall, I attended the committee meeting and when a subsequent proposal was brought up that same provision was in, and Mr. Dennery had checked with Tulane University, and as it developed they found out the necessity for having that provision there was because of some contracts with the state. But, those contracts have expired and there's no problem legally, and Tulane University as I understand, has no objection to that language being deleted from the constitution. That's what I recall from the meeting. I just wanted to point that out.

Mr. Aertker So, we have an amendment coming to delete, which should take care of it.

Mr. De Blieux Mr. Aertker, do you know that that's Act No. 43 of 1884, it's the one that provides for the legislative scholarships to Tulane University undergraduate school? Do you know that?

Mr. Aertker No, I didn't know that.

Mr. De Blieux So, that's the only authority for that Act...for those scholarships?

Amendment

Mr. Poynter Amendment No. 1 [*by Mr. Tobias*]. On page 12, delete lines 18 through 22, both inclusive, in their entirety.

Explanation

Mr. Tobias Mr. Chairman, fellow delegates, this amendment purely and simply deletes Section 17. Act 43 of 1884 goes on for page after page after page. This would be the second time in the constitution where we would be adopting by reference a legislative act complete. The provision would be...the legislative act is in direct conflict with the revenue and tax exemption provisions... the Revenue and Tax Proposal. You've heard the statements which have been made that Tulane University agreed that this provision may be deleted. I move its favorable adoption.

Further Discussion

Mr. Dennery Mr. Chairman and delegates, since it was mentioned that my...a statement was made by me--it was repeated at the committee meeting when this came up--I would like to clarify the situation. I have talked to the people at Tulane. They do not want formally to argue one way or the other, as far as this is concerned. They would like...they asked me to please point out to the delegates, as was mentioned by Senator De Blieux, that Act 43 of 1884 does provide for the legislative scholarships. Based upon that act, there is a contract between the State of Louisiana and Tulane University which created the Tulane University of Louisiana. It was an amalgamation at that time of the old University of Louisiana, which was a medical school in New Orleans, and the Tulane University, which had been founded by the bequest of Paul Tulane. This provision has been in the constitution since 1921. Unless there is a reason to delete it, I would see no reason to adopt the amendment proposed by Mr. Tobias. I don't know that there is a reason to delete it, but I don't think it makes a heck of a lot of difference one way or another, since we do have a situation where there is a contract between the university and the State of Louisiana. I would be glad to yield to any questions.

Questions

Mr. Riecke Mr. Dennery, if this omitted from the constitution, will that mean that a lot of young people will not receive scholarships from Tulane University?

Mr. Dennery I don't believe so, Mr. Riecke, because I think there is a contract in existence. This merely confirms the existence of that contract.

Mr. Riecke In other words, if we leave it out, it will not invalidate that contract--these kids will still get these scholarships?

Mr. Dennery To the best of my knowledge they will, Mr. Riecke.

Mr. Riecke I wouldn't want to do anything that would endanger that.

Mr. Tobias Mr. Dennery, in connection with your statement that this was a contract, is it not true that Act 2 of 1972, which created this convention, prohibited us from impairing the obligations of contracts?

Mr. Dennery Yes, sir. I said I didn't think it would affect the contract. But, I think this merely confirms the existence of the contract; and, therefore, I saw no objection to it.

Mr. Weiss Delegate Dennery, in the projet, which I'm reading from--a copy of which I'm reading from--it points out that to remove this from the Louisiana Constitution may be unconstitutional from the United States law, in that it's contrary...a violation of contract.

Mr. Dennery Well, there is some question about that, Dr. Weiss. Frankly, I don't think it would affect the contract. This is the reason that I suggested we leave it in, so that no question would arise on it.

Mr. Weiss In other words, it's far better...

Mr. Dennery I don't think it hurts anything being in the constitution, and it conceivably could hurt being taken out.

Mr. Weiss It would enhance the statue...the people of Louisiana to rely...to uphold their contracts, even though it's a hundred and fifty or a hundred and sixty years old, then?

Mr. Dennery I would think so.

Mr. Lanier Mr. Dennery, you indicated that prior to 19...that this has been in our laws since 1921.

Mr. Dennery It may have been in there before, Walter; I'm not sure.

Mr. Lanier If all we're doing here is ratifying a statute, is it your opinion that the ratification of a statute could be done by statutory law?

Mr. Dennery You mean by the constitution?

Mr. Lanier No, by just reenacting the statute, putting it...

Mr. Dennery Conceivably, it could be--conceivably. I don't know that there is any necessity to ratify the statute. I think the statute was the basis of a contractual arrangement, an obligation between the state and the university...

Mr. Lanier Well, that was the point I was getting to...

Mr. Dennery Thank you, Senator.

Further Discussion

Mr. Smith Mr. Chairman, fellow delegates, I went to Tulane on a legislative scholarship in the '20's. I enjoyed it very much. I think if you take it out, it may have some...endanger the scholarships that we're getting. I don't know whether it does or not; it don't hurt to be in there. So, as a alumnus of Tulane, I ask you all to defeat this amendment and leave it like it is.

Questions

Mr. Vesich Jasper, I've heard you speak. I've heard Moise speak. What you're trying to say is that if it's out, you're not sure; but if it's in, you're sure. Is that correct?

Mr. Smith I think it ought to stay in there. It may do away with the scholarships and it may not. But, I don't think it hurts us to recognize Tulane; it is a school, and it may eat L.S.U. week after next.

Mr. Tobias Mr. Smith, do you believe that we should incorporate by reference a statute which extends over pages and pages and pages, and over four thousand words in the new constitution?

Mr. Smith I don't think it hurts.

Mr. Planchard Mr. Smith, if this convention makes the mistake of taking this out of the constitution at this time, can't you imagine the headlines tomorrow that the L.S.U. delegates axed Tulane?

Mr. Smith What I think, Tulane is in a minority and I feel like the L.S.U. people ought to help us keep it in there.

Further Discussion

Mr. De Blieux Mr. Chairman, ladies and gentlemen, although I'm an L.S.U. graduate, I'm willing to recognize Tulane. I know that there are some people that don't consider that it's a great university, but yet, nevertheless, I do. I like to see them win, except whenever they play us. I don't know whether this would have any effect upon taking the scholarships out of Act 43 of 1884 or not, if we did not put this in the constitution. But, we've put a lot of other stuff in this constitution I think we should have left out. I don't feel like these few words is going to make that much difference. So, therefore, I ask you to let's recognize Tulane and reject this amendment.

Questions

Mr. Womack Senator De Blieux, hasn't one of the problems with the 1921 Constitution been the continuous need for amendments?

Mr. De Blieux That's true.

Mr. Womack Well, to your knowledge, has this section ever been amended since it was put in there?

Mr. De Blieux Not that I know of.

Mr. Womack It hadn't been a problem?

Mr. De Blieux It hadn't created any problem for me since I've been in the leg...

Mr. Womack If it's not a problem, there's no reason to mess with it; wouldn't you say?

Mr. De Blieux That's right; just let it stay.

Mr. Hayes Senator, do you consider this aid to private schools in any way?

Mr. De Blieux Well, no, I kind of feel like Tulane is a little bit kind of public. I feel like even though it is considered a private school, I think it's public property. At least, we take them over when we go down there.

Mr. Hayes Well, then, you're ruling then that it is not...Tulane is not a private school; you're saying it's kind of public.

Mr. De Blieux It's privately endowed.

Mr. Hayes So, any other school like Tulane that would...you could classify like this could get this aid, you're saying. Students could use this type scholarship to go to other schools...

Mr. De Blieux We made a little contribution to them last year in getting them to take in about seventy of our medical students.

Mr. Hayes Do you think...if you don't...I'm not really so much against this, other than you think this would cause you to lose the game. But, if you don't think it would lose the...you would lose the games, you would take this out, I would be

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willing to vote against it.

Mr. De Blieux No. I think they need more than this act in the legislature to win a football game.

Mr. Burns Senator, just for the sake of these three short lines--and if there is any question whatsoever about the legislative scholarship, don't you think it's worth three lines to keep it in there?

Mr. De Blieux Yes. I do.

Mr. Burns I don't want Jasper Smith to say that he's an alumnus of Tulane, and me sitting there and say, but he'd say, "Are you ashamed?" I'm not ashamed; I'm an alumnus, too.

Mr. Mauberret Senator De Blieux, what does Tulane get in return for these hundred and forty-four scholarships that they give out?

Mr. De Blieux They get some darn good students.

Mr. Mauberret Isn't it a fact that they get five million dollars of free assessments in the parish of Orleans for these hundred and forty-four scholarships, other than school properties?

Mr. De Blieux Not being an assessor down there, Dr. Mauberret, I don't know.

Mr. Schmitt Does this also apply to Xavier, Dillard, and Loyola University?

Mr. De Blieux No, only to Tulane.

Mr. Schmitt Why does it only apply to one of them?

Mr. De Blieux Well, because the legislature only passed that act and that agreement when Tulane... whenever they gave them their charter.

Mr. Schmitt So, in other words, if we can introduce an amendment, right now, and extend it to the other private universities in the state, also?

Mr. De Blieux Well, I don't know about that, Mr. Schmitt.

Further Discussion

Mr. Jack Mr. Chairman and members, this is a serious thing, like the Speaker said here--the Chairman. Apparently, most of you don't know the situation. Back in 1880, they wanted to create Tulane University. This land down there, part of it was owned by the state, which as I recall--I'm not going to answer questions, Bob, now--was the University of Louisiana. They passed these laws, and the city of New Orleans, as I recall reading in the old dark statutes, so that they would deed this land to this Board of Supervisors--some such thing created by Paul Tulane's will and that started Tulane University. Now, in consideration of doing that forever and eternally, each member of the Louisiana Legislature would receive one scholarship to Tulane. They later made that scholarship could be used at Newcomb. That's a hundred and forty-four girls and boys in Louisiana continuously can have a scholarship to Newcomb or to Tulane. Now, Dr. Weiss, you're always asking about legal opinions. Now, if I was you, I would vote against this amendment. Why take a chance? Here are a hundred and forty-four scholarships. You're only going to have four lines in this constitution to keep those hundred and forty-four. By leaving it out, it might be construed that we no longer want to hold Tulane or Newcomb to that agreement they made. Now, as to those talking about getting out of taxes, no college that's a nonprofit college--which none of them are--has to pay taxes on the land anyway. So, we got the best of that deal. When Dr. Harris was president of Tulane--I had gone to the law school there when he was dean--it looked like at

that time it might be unfair to keep holding them. I asked him. Much to my surprise he said, "Well-born, we like that because it makes it possible to have students at Newcomb and Tulane from all parishes in the state, and it does cost a lot to go to Tulane and Newcomb. Those hundred and forty-four scholarships today are worth probably fifteen or sixteen hundred dollars a year. So, I say, let's defeat the amendment. If you've got a "goody", let's quit...let's put it and keep it in the constitution. I don't want this thing cut off on me today.

Mr. Brown Mr. Jack, I see this was 1884. Were you a coauthor of that bill in 1884?

Mr. Jack I was a freshman down there then.

Further Discussion

Mr. Riecke Mr. Chairman, ladies and gentlemen, what I wanted to say has been said before by some of the others; so, I won't be repetitious. I'm in favor of...against this amendment and in favor of keeping the four lines in the constitution in order to protect the two-thousand-dollar scholarships that these boys and girls have. I urge your approval. If there are no other speakers, Mr. Chairman, I move the question.

[Previous Question ordered.]

Closing

Mr. Vick Mr. Chairman, fellow delegates, I rise reluctantly. I sat through, I trust with silence and indulgence, throughout the debate on this amendment. I am incredulous, absolutely incredulous. This is a private school; it has no business in this constitution. Why not leave the road map of 1930 in the constitution? The five million in assessments that Mr. Mauberret was talking about include, among others, Brennan's Restaurant--or the land that it's located on and the buildings--not to mention other vast land holdings in the city of New Orleans. I'm not aggrieved, I'm incredulous. I urge you--I don't believe, I don't believe that the scholarships are in jeopardy; vote for this amendment and take this legal anachronism out of the constitution. I move the question.

Questions

Mr. Pugh Mr. Vick, I've been trying to ask a question because it's been some time since I looked at my 1884 acts. I note that there's a reference under the Tulane University provision in the '21 act to 1845, 1852, 1864, and 1866 acts. Do you have any idea what those...I mean, constitution. What did those constitutions say, if anything. If we are now trying to put something about an 1884 act in, what was in the 1845 Constitution about Tulane; do you know?

Mr. Vick Sorry, I don't. You might check with one of the alumni.

Mr. Pugh Well, do you know whether or not Tulane is a private foundation?

Mr. Vick It's a private institution, Mr. Pugh. I think that's a matter of public record; it's not state supported.

Mr. Pugh No, sir. I had reference to a private foundation to determine whether or not we have already created a tax exemption for it; that's all.

Mr. Vick I don't know, don't know, Mr. Pugh.

Mr. Pugh I see. O.K.

Mr. Lanier Mr. Vick, if we follow the rationale of the opponents to this amendment that we've got to keep this in here in order to protect these scholarships, would it, therefore, have to follow

that, if and when we write the constitution of the year 2200, we're going to have to ratify and incorporate by reference this act of 1884?

Mr. Vick In perpetuity, there's no doubt.

Mr. Lanier We could never get it out of any constitution, at any time?

Mr. Vick Never, it's indelible.

Mr. Lanier Do you really believe that's the law, Mr. Vick?

Mr. Vick Never.

Mr. Burns Mr. Vick, in this discussion...a lot of people, I think, in this delegation have got the impression that we're giving Tulane something. As a matter of fact, this is a terrific financial burden on Tulane. They are the ones that are giving a hundred and forty-four scholarships to boys and girls throughout the state in return for the original grant that they got. I'm not concerned as much about the law, the legal part of it, as I am about depriving those hundred and forty-four boys and girls throughout Louisiana.

Mr. Vick Mr. Burns...

Mr. Burns ...or, the possibility rather.

Mr. Vick Mr. Burns, I really don't think those scholarships will be in jeopardy. But, the quid pro quo is as Dr. Mauberret said: it's five million dollars in free assessments.

Mr. Flory Mr. Vick, everybody's talking about scholarships to Tulane. Isn't it true that the legislature doesn't get scholarships now to state institutions?

Mr. Vick Not that I know of, Mr. Flory.

Mr. Flory Didn't the legislature abolish the program of legislative scholarships to state colleges and universities?

Mr. Vick Yes. I think they did that some years ago.

Mr. Weiss Delegate Vick, as one of the assistant attorney generals for the state, you've defended many people in the state, I'm sure, as well as those on federal constitutional issues. I would like to read from you the projet and ask your opinion as to this concept of other renowned legal scholars, perhaps before your time. It says as follows: "The transfer has been completed, and the action of the legislature has been ratified and approved by all of the constitutions since 1888, and the act constitutes a contract, any violation of which would be contrary to the United States Constitution." Would you please interpret that for me, please, sir?

Mr. Henry I'm sorry, Dr. Weiss, but he doesn't have time to because he has exceeded his time.

[Record vote ordered. Amendment rejected: 38-71. Motion to reconsider tabled. Previous Question ordered on the Section. Quorum Call: 111 delegates present and a quorum. Section passed: 88-22. Motion to reconsider tabled.]

Mr. Henry Do we have the amendments, Mr. Clerk?
Read the amendments.

Amendment

Mr. Poynter Amendments sent up my [by] Delegates Burson, Comar, and Gravel.
Amendment No. 1. On page 8, delete lines 23

through 32, both inclusive, in their entirety and on page 9, delete lines 1 through 32, both inclusive, in their entirety and on page 10, delete lines 1 through 32, in their entirety and on page 11, delete lines 1 through 32, page 12, delete lines 1 through 17, both inclusive in their entirety, and delete Floor Amendments Nos. 1 through 14, proposed by Delegate Zervigon and adopted by the convention today and inserting in lieu of all of that the following:

"Section 16. Funding; Elementary and Secondary Education; Apportionment.

[Motion to waive reading the amendment adopted without objection.]

Explanation

Mr. Burson Mr. Chairman, fellow delegates, this amendment, although the instructions state, "delete the floor amendment of Mrs. Zervigon," actually is the floor amendment that Mrs. Zervigon was the lead author on with the exception of a change of the language of Section (B) to meet the objections raised by Senator Rayburn and Representative Womack, Munson, and others with regard to the minimum program formula. Section (A) simply constitutionalizes a mandate to the legislature to prescribe free school books and materials to the children of this state and all schools. Of course, this has a historic meaning in Louisiana of great significance. It may not be constitutional in the strictest sense of the word; but I think if you leave it out, you certainly would give anyone who wanted to oppose the constitution a big weapon to oppose it with. It also, by the language used, guarantees to children in nonpublic schools the right to receive these materials. Section (B) where we have changed the language, we did make a change as follows: The second sentence says: "Such funds as the legislature appropriates"--that is, appropriates for the minimum program of public education--"shall be equitably allocated to the parish and city school systems according to formulas adopted by the State Board of Elementary and Secondary Education and approved by the legislature prior to the time such appropriation is made." This makes it plain that the legislature must approve the formula which is adopted or promulgated by the State Board of Elementary and Secondary Education. Otherwise, you leave open the possibility that the legislature might be mandated in the first sentence to appropriate money to meet a formula for which the funds are simply not available. You also make it plain that the legislature has, as it were, an approval to insure that the funds are equitably distributed in the formula to all schools across the state. The purpose of having a minimum program at all is to insure that there are certain minimum standards in public education, met in all the school systems across the state and that the four parishes do not suffer a lack of adequate public education. Section (C), which provides a general statement regarding other funds, is again primarily...was in the original committee proposal to take care of the fact that, historically, parochial and private schools in Louisiana have received some state allocation primarily in the form, for instance, of lunch money and so on. We want to be sure that we are not precluding that in anything that we adopt here. We want to provide for the allocation of funds other than the minimum program. We would do that in Section (C), which had been a separate amendment offered to this...to the committee proposal by Delegates Comar and Gravel. It makes it plain again that the terms of the law appropriating or governing such funds would govern their allocation. Section (D) simply establishes alimony, the present constitutional alimony rates. Under the present constitution, all parish and city school boards, except Orleans, have a five mill alimony for maintenance. Now, I note in looking at the section here that we've still not meet the objection raised by Mr. Kean in a question he asked Mrs.

Zervigon. We probably should have a subsequent amendment to do that and to meet that objection. Orleans, under the present constitution has a thirteen-mill alimony authorization for public schools; that is retained. The third section under (D) gives to the parish or city school districts the right to levy other ad valorem taxes as are approved by the people living in the district. Section (E) deals with the Monroe, Ouachita Parish, and Bogalusa special situations--making it plain that they ought to receive this authorization, also. I'll answer any questions.

Questions

Mr. Rayburn Mr. Burson, I'm looking here under (B) which was supposed to be the amendment that I had agreed upon that was the language that I had prepared. I see here where you say "the legislature shall appropriate sufficient funds to insure a minimum program of education in all public"--and I had "public elementary, and secondary schools." The word "elementary" does not appear in this amendment.

Mr. Burson This is a typographical error. It's just been pointed out to me by one of the staff, and I think we ought to ask permission to withdraw the amendment and put that missing word in there. You're correct, Senator.

Mr. Rayburn I know, because that word was in there when I agreed upon it. It was in my amendment. Now, that clarifies (B). Now, let me ask you this about (C). I really can't make my mind up exactly what this language intends to do. You say "Other Funds"; then you say "any funds for the education and benefit of the school children of Louisiana from any other source shall be distributed." Am I correct in assuming that if the legislature complied with Section (B) and they appropriated the minimum amount of money for the public elementary, and secondary schools, and then they decided to make another appropriation--where it says here that "any funds for the education for the benefit of the school children of Louisiana from any other source shall be distributed in the manner determined by the State Board of Elementary and Secondary Education, subject, however, to the terms of the laws appropriating or governing such funds"--now, I'm of the opinion that that can mean additional state funds, federal funds, or local funds; am I correct or incorrect in my interpretation of this language?

Mr. Burson Senator, I do not think it would include local funds, because I think that Paragraph (D) deals with local funds; however, you may need some clarification there.

Mr. Rayburn What funds would it deal with then, in your opinion, and what is the purpose for that language?

Mr. Burson Senator, I'll be frank with you. That language is not mine; that was contributed by the other coauthors of this amendment, and I would prefer to let them tell you what they mean by it.

Mr. Rayburn I can understand the language as far as federal funds are concerned, but I can also interpret it in my feeble way that it would mean even state funds over and above the funds provided in Section (B), which were provided for the minimum cost of the program for public elementary and secondary schools. Then, if we wanted to come back with an additional appropriation, and spell out how it would be used--which the legislature would be the governing authority--that you could very easily do that under this language.

Mr. Burson I think so, because it says it's subject...everything you do would be subject to the terms of the laws appropriating or governing those funds. So, the only thing that the State Board would have to do is just administer it, but the

conditions would all be established by the law that would appropriate the money.

Vice Chairman Casey in the Chair

Mr. Duval Jack, I'm just wondering about the mechanics of your amendment. In Section (B) where it provides "such funds as the legislature appropriates shall be equitably allocated to the parish and city school systems according to formulas adopted by the State Board of Education and Secondary Education, and approved by the legislature prior to the time such appropriation is made," now, what...how does the legislature approve the formula?

Mr. Burson Well, the way it's been done in the past, Stan, as I understand it, is that the legislature--at least on one occasion--actually included the formula in the appropriation legislation; and this, I assume, would be the way that they would customarily approach it.

Mr. Duval This would mean then, as I understand your amendment, that in the event the legislature disagreed with the formula promulgated by the State Board, then the legislature could change its formula and put it in the appropriation bill; is that correct?

Mr. Burson I don't think there's any question but what they certainly have the power then to suggest additions or deletions before they would approve it, and that's the reason it's stated this way.

Mr. Burns Mr. Burson, will you explain to me what the purpose of Section (C) is? I mean, what is it supposed to cover, because Section (A) takes care of the free school books, the transportation, and other materials to all of the children of the state; Section (B) takes care of the public schools, and secondary schools? Now, what is the purpose of Section (C)?

Mr. Burson Mr. Burns, frankly again, this is a sort of an omnibus amendment to combine amendments that we had pending to put on the floor before you in one form, a short version to work on. Section (C) was the product of Mr. Comar and Mr. Gravel, and I understand that the intent was to cover funds other than what would be provided in Section (A) which might be allocated by the State Board of Elementary and Secondary Education, say, to all school children in the state. The only other funds I know of in that category would be something for transportation and lunches, let's say.

Mr. Burns One more question. Under Section (C), would it not be possible for...

Mr. Burson This is in the committee proposal, by the way...

Mr. Burns Well, I'm asking you about this one. Under Section (C), would it not be possible, if the money was available, to give direct financial aid to private schools?

Mr. Burson Well, I think that that would presume, first of all, that such a law would be constitutional--which, as I understand the federal law at the present time, it definitely would not be--and in the second place, I think it would assume that the State Board of Elementary and Secondary Education would determine to administer that.

Mr. Burns Well, if that were not possible, what would be the purpose in having (C) in there?

Mr. Burson Again, Mr. Burns, the only reason that was given to me was to take care of the situation of other miscellaneous expenditures such as have been discussed earlier today; driver education, school bus transportation, lunches, and so on.

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Mr. Burns Well, that's taken care of in Section (A).

Mr. Arnette Jack, Section (B) kind of worries me a little bit because I think some parishes have taken advantage of other constitutional provisions kind of like this, saying revenue and taxation have to do with homestead exemption, or something like that. You say that "the legislature shall appropriate sufficient funds to insure a minimum program of education in all public elementary and secondary schools," which means if a parish chose to appropriate no money whatsoever, or a local school board gave no money whatsoever, the state would have to supply all the money for that school system; is that not true?

Mr. Burson No, I don't think that's true, Greg. I think "minimum program" means just that: a minimum...a state minimum program. A state minimum program as established by the legislature might not at all be a minimum program necessary to operate a school system. Historically, the meaning has been simply that this terminology and device has been used as a sort of equalization formula for distribution of state funds for public education. It has nothing to do with what the local people want to establish as their minimum program.

Mr. Arnette Well, I understand what you're saying, Jack, but the language doesn't say that. It says that you will do that in all public elementary and secondary schools.

Mr. Burson Greg, I will refer you to the language of Article XII, Section 14, of the present constitution, and you will find there, in that very long article, set out that one quarter of the money other than certain enumerated dedicated funds which the state has for public education shall be distributed according to a formula by the State Board of Education for a minimum program. What I'm trying to tell you there is that this has a historical meaning that I think the legislators here and the school people here know, and to go beyond that historical meaning means we would wind up here with an article just as long as what's in the present constitution, and we're trying to avoid that here.

Mr. Roemer Jack, in Paragraph (D) under the subheading "Second" it talks about the thirteen mills to be levied by the Orleans Parish School Board. Now, is that mileage--just for our information--is that subject to the same rollforward and rollback provisions under the revenue and taxation?

Mr. Burson Buddy, I think since we've defined school boards as local political subdivisions, it definitely would be; there's no question about that.

Mr. Roemer In your opinion, it will be?

Mr. Burson Yes, sir. I think we used in the rollback provision--I don't have it here--but, as I recall, we used the same terminology so as to be sure to include school boards.

Mr. Pugh Mr. Burson, there are two things that concern me about this amendment. You've addressed some of your conversation to the word "minimum." Frankly, that word disturbs me more than any other in this amendment. Who's going to decide what a minimum is? I can go with this paragraph if you'll take out the word "minimum."

Mr. Burson Well, I think, obviously, the legislature decides what the minimum program is going to be just as the legislature has always decided what the minimum program was going to be with the suggestion of the State Board of Elementary and Secondary Education. It's got to be a cooperative enterprise, and that is why we changed the

language to make it plain that this is something that is worked out in conjunction by the legislature and the State Board of Elementary and Secondary Education, as historically, as I understand it, it always has been worked out together.

Mr. Pugh Perhaps you misunderstood me...the reference I had. You say "the legislature shall appropriate sufficient funds to insure a minimum program." Now, that's the first thing they've got to do, is decide what a minimum program is. Is that it?

Mr. Burson Yes, sir.

Mr. Pugh Well, what does that mean--certain courses to be taught, or so many buildings, or what does it mean?

Mr. Burson Mr. Pugh, again, I've got to say that this is a term of art which is well defined under the present law. I believe that anybody who would have to interpret it would have plenty of law available to interpret what those words mean. But, if we go further than an interpretation of them in here, we would wind up with legislation.. I think it would be appropriate just to refer to the term of art which as plenty of legislation, plenty of history to define it up till now.

Further Discussion

Mr. Comar Mr. Chairman, ladies and gentlemen of the convention, during a rather lengthy break, I got together with Mr. Burson, Mr. Gravel, Mr. Rayburn, and others, and see whether we could put into some form which was understandable all of the various amendments that we had with regard to the section. I had Ms. Zervigon go over it after it was finished, and she agrees that it's a correct interpretation of her amendment. But, I wanted to come to the microphone to explain one position, and one only. I voted against the original amendments by Ms. Zervigon this morning only because there was confusion, I thought, of what they did. I was in agreement the language should be cut down, as most of you were as evidenced by that vote, but I did see one problem which has now been corrected. Section 16 (A) adequately protects, I believe, the free textbooks program which has been in effect in this state since 1930. However, there was nothing in here which would assure us that we were not saying, in effect, that all other aids would be cut off from nonpublic school children. Thus, we developed the language in (C) which is essentially the same as that in the committee proposal itself--in the original yellow committee proposal. So, I would ask that you support this amendment--I'm sure there will be further amendments after this, but support this amendment so we can have a working document--and to support, in particular, the position which eighty of you took this morning that we did not want to constitutionally prohibit the children from the nonpublic schools from receiving those aids which they have received, or those minimal aids which we foresee in the future. I'll answer any questions.

Questions

Mrs. Warren Mr. Comar, you answered several of my question in (C), so I'll start down at...I guess that's (D). In the third paragraph where it says "Third" you have on the second...third line "subschool districts," and on the seventh line you have "subdistricts." Would you explain that to me, please?

Mr. Comar I'm afraid you'll have to go to those people who drafted the original proposal for that explanation. You're talking in the area of the Orleans Parish School Board proposal?

Mrs. Warren I really don't know, but since you are coauthor...that language, I was trying to get it explained from anybody. It really doesn't

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matter; I just want to know what it's all about.

Mr. Comar Well, I'm sure that one of the other authors can do that. As a matter of fact, as I said, these are the amendments as proposed by Mrs. Zervigon, which is a restructuring of the committee proposal itself. So, I would ask, maybe, that Mr. Aertker might answer that question for you.

Point of Information

Mrs. Warren Mr. Casey, I direct this to you. I am in earnest. Would you ask, when you find out who can give me this answer, would you give me a chance to ask a question?

Mr. Casey Ms. Warren, I would suggest that you address your questions--and I think she's available--Mrs. Zervigon handled the amendment that I put this information in, and I think Mr. Comar is merely using, as a basis, that information that Mrs. Zervigon has; so I would suggest that you contact her, Mrs. Warren.

Questions

Mr. Singletary Mr. Comar, can you tell me why Paragraph (B) and Paragraph (D) use the word "public schools," but Paragraph (A) and Paragraph (C) do not use the word "public"?

Mr. Comar Paragraph (A) does not use the word "public" because free school books are provided to nonpublic as well as public school children at the present time, and the present textbook law of the state reads that way. Paragraph (C) doesn't refer to it because, in that instance, I think what I've said before is very true: Unless we have some indication in this constitution that we do not want to cut off the aid which the nonpublic school children now receive, that the courts will interpret our action that way.

Mr. Singletary Under Paragraph (A), as I read it, it not only permits the legislature to supply free school books and materials, but it mandates them to do it.

Mr. Comar That's the way the private law now reads.

Mr. Singletary Is it in the constitution?

Mr. Comar It's in the statutes right now. As far as I'm concerned, my group had no real interest in placing this particular language in the constitution. This was done by the committee itself. I don't think it hurts it to be there, but we were doing well under the present statute arrangement before.

Mr. Lanier Mr. Comar, I am very, very concerned about your Section (C) here. This says "other funds," and I must read that in conjunction with (A) and (B) which refers to funds appropriated by the legislature. Now, it says "any funds from any other source," and this is for the education and benefit of school children. Would this not, in fact, refer to revenues from Sixteenth Section lands that go to local school boards?

Mr. Comar I don't think you could place that interpretation on it at all. As a matter of fact, I think in (A) and (B) you're telling the legislature that they must do something, that they shall appropriate. In Section (C) you're permitting them to do things. For example; in 1972 the legislature, from the general appropriation fund, provided the money I talked about this morning to assist in the payment of salaries of lunchroom workers in nonpublic schools who come under total control of the state.

Mr. Lanier Now, wait a minute, Mr. Comar. This thing says "any funds for the education and benefit of the school children of Louisiana from any

other source." Now, how can you construe that as not applying to revenues from Sixteenth Section lands?

Mr. Comar Well, I think it would apply to any funds that the state legislature, in its wisdom, would decide should go into these programs we're now talking about.

Mr. Lanier This is not limited...would you agree that this is not limited just to legislatively appropriated funds? It says "any funds from any other source."

Further Discussion

Mr. Aertker Mr. Acting Chairman, ladies and gentlemen of the convention, I rise in opposition to this amendment, and I'll be specific and to the point with my reason, and the reason is contained in the (C) Section of this proposal. It is just as obvious as anything that this opens the door to aid, grant-in-aids, to any type of aid. It's an avenue that's so broad in language that except for the basic appropriation to public education, any other type of appropriation...any type of funding could be made. In fact, as I appreciate and read this, I could even see where federal funds coming into this, which would be any other funds other than that, could actually be siphoned off into the direction of private schools. I think that the very fact that we have changed the wording on this thing from "public" to "all school children" is quite obvious. I think a word of explanation about the committee proposal: It is true, the language in the committee proposal did come out of the committee, but like many of the things that came out of the Committee on Education, it came out of there on a split vote; and when this proposal, Section 16 came out, the author of that proposal at that time...When this committee report came out with Section 16 in it, it was pointed out to the committee at that time that there would be an attempt made on this floor to eliminate much of the wording of this entire section. This was the purpose of getting together with delegates in here who had interest in the educational program and who had some knowledge about the educational problems that we had in the state. This was the reason why we did not go into the full four pages of Section 16. Our attempt was to do it by the amending process just as we've done on all the other sections. But, this Section (C)--if this is passed--just opens the door for the very thing that we are talking about trying to keep out of this constitution, trying not to be an issue involved in this so that...because if this is in the constitution, I can tell you that we have created just mass opposition to this entire document throughout this state, because the material that I got through the mails indicated that the people in parochial schools and private schools were interested in maintaining those things they presently have: textbooks, free lunches, and certain materials that they... and the bus service that they get. This we have repeatedly stated that we have no desire to take from these individuals or from these operations. We are just as adamant, though, in the other direction that we do not intend or do not wish to open the door to other types of grants other types of expenditures of public funds in the direction of private and sectarian operations; and this part (C) here definitely opens the door, and I urge you to defeat this amendment.

Further Discussion

Mr. LeBleu Mr. Chairman, fellow delegates, I want to ask you to vote against this amendment, basically on the wording of Section (C). I'm in complete agreement with Mr. Lanier when he requested one of the speakers here in reference to proceeds and revenues from Section Sixteen school lands. As I understand this section, the state would consider one hundred percent of the revenue

from school sections, whereas now they are taking fifty percent of it. I have an amendment which would prevent the state from considering any of the revenues from school Section Sixteen lands. I believe when you understand a little bit more about these school sections, that you'll go along with my amendment. If we adopt this whole amendment, then that will completely do away with mine; so please vote against it.

Point of Information

Mr. Riecke I rise for some information from the Chair. Is there any reason why we can't consider this amendment as we have all the others in the past by a paragraph at a time?

Mr. Casey If you're asking for a division of the question, Mr. Riecke, which I think you are, the Clerk advises--I don't have a copy of the amendment before me--but the Clerk advises that it's not divisible. It looks like it's all in one amendment, and the...

Mr. Riecke Well, now wait a minute, Mr. Chairman...

Mr. Casey Let me just finish. The Chair has consistently ruled that we are not able to divide one amendment paragraph by paragraph. Now, you could in the case of Ms. Zervigon's amendment where she had Amendment Nos. 1 and 2, etc. That's why we specifically suggested, when Mr. Avant brought up that idea before about dividing one of the paragraphs, that the gentleman--whoever it was in the Morris amendment--withdrew his amendment, redrafted it, so that the question could be divided. So I have to be consistent and say that we cannot divide the amendment.

Mr. Riecke Well, Mr. Chairman, on the original No. 16, we were going to vote on them paragraph by paragraph, and this isn't any different from that.

Mr. Casey Mr. Riecke, I'll have to take issue with you. I don't think we were going to vote on it paragraph by paragraph.

Motion

Mr. Avant Mr. Chairman, I move for a suspension of the rules so that this amendment may be considered paragraph by paragraph.

Mr. Poynter Mr. Avant, you might want to wait. I think Mr. Burson is going to withdraw this amendment right now and make a few changes, and maybe you'll still want it after he does it. But, for the time being, I think he does want to withdraw it and make a few changes anyway.

Mr. Avant Well, I'll wait then.

Motion

Mr. Burson I'd like to move to withdraw the amendment, not with the consent at this time, as far as I know, of any of the coauthors. But, I am convinced by some of the debate here that there's one section in there that I personally do not wish to sponsor, and I would like to withdraw it for the purpose of dividing the question in the manner that's been requested.

[Motion to suspend the rules to withdraw the amendment adopted without objection.]

Amendment

Mr. Poynter The amendment [by Mr. Burson] is resubmitted with the following changes: first, with respect to Paragraph (B), on Paragraph (B) after about the fifth word "minimum," insert the word "foundation." So, it would read: "The legislature shall appropriate sufficient funds to

insure a minimum foundation program of education in all public"--and previous correction--"elementary and secondary schools."

The second change is that Mr. Burson is submitting the amendment deleting present Paragraph (C). Just strike it out altogether--(C) comes out altogether. The only two other changes are technical in the sense that old (D), change it to (C)--change the letter in parenthesis to (C). On the second to the last line, change that one and make it (D)--the second to the last line. Those are all the changes. (C), again, has been deleted altogether. After the word "minimum" on the second line of Paragraph (B), the word "foundation" inserted. Previously noted, after the first word of the third line in (B), the word "elementary" inserted--"public elementary and secondary schools."

Explanation

Mr. Burson I think that the deletion of this section will remove the...all the question that were directed at this amendment, and questions which, frankly, aroused my interest, too, in the end. That was the reason I asked to have it resubmitted in this form.

Questions

Mr. Jenkins Mr. Burson, with regard to Section (A), don't you think that we have the same problem with (A) that we had with (B) before because isn't (A), first of all, saying that the State Board of Education has sole authority to prescribe whatever books and materials it wants without...regardless of any acts of the legislature? Second, that whatever they do prescribe without limitation, the legislature shall appropriate funds to pay for them?

Mr. Burson Well, Mr. Jenkins, I can see where, if you stretched this language to the ultimate, you might reach such a conclusion. But, frankly, I think we have to sometimes in these proceedings presume a minimum of good will and intelligence on the part of the people who will hold the offices that we are constitutionally creating. As I understand it, (A) is simply a restatement of what the present law is: that is, that the Board of Education prescribes those materials which will be taught in our schools, and the legislature provides the money to pay for them. I don't think that changes the status quo in any substantial manner.

Mr. Jenkins Now, second, isn't it true, really, that (A) and (B) are wholly statutory in nature and have no business in this constitution?

Mr. Burson Mr. Jenkins, the only answer I can give you there is that Sections (A) and (B) are in the present constitution, only in much, much lengthier form. Section (B) relates to a minimum foundation program of public education which, restated, means simply that no parish in the state will be allowed to have less than a certain minimum for public education. This is to insure some sort of equalization of educational opportunity throughout the State of Louisiana, to insure, for instance, of teacher pay. I think that this is a laudable and a worthwhile aim and deserves constitutional status for that reason. It's in another form in the present constitution.

Mr. Comar Mr. Burson, are you aware of the fact that during that last brief recess I was able to meet with a couple of attorneys and agree with you on the deletion of Section (C)? As I understand--and I'd like for you to clear this up--as I understand, the intent now of this amendment would be to specifically remain silent, as we voted this morning on the question of whether or not there shall be aid to the nonpublic school bill.

Mr. Burson Yes, sir, Mr. Comar. I think it was

the overwhelming verdict of this convention that this constitution should not be either pro or con any state aid to private schools beyond what we know has traditionally been given--which is covered by the language that we have--but that we would leave the constitution in a neutral position, as it were, on this topic. I think that that's the net effect of what we do here.

Mr. Womack Mr. Burson, while...when I first read Section (A), I had some reservations about the wording--but, when you tie (A) and (B) together--that any unusual request or requirement made in Section (A) would be controlled, or Section (B) would be a deterrent toward anything happening in (A) that would be out of line, because it's all coming out of the same fund, anyhow. In view of that, don't you think that Section (B) will tend to control any unusual factor that would be in Section (A) and that both of them together would be all right?

Mr. Burson Yes, sir, Mr. Womack, because you couldn't buy the books without an appropriation to buy them with. I think that's true.

Mrs. Corne Mr. Burson, I'm looking at your Section (A) which says "The legislature shall appropriate funds to supply free school books." If you would substitute the word "free" there for the word "necessary"--naturally the school books are free if it's appropriated by the legislature--and if you would have the word "necessary," you would have a limit as to the money that is spent for the textbooks. It would be necessary for a minimum program of education, would it not?

Mr. Burson Yes, ma'am; yes, ma'am. The only reason I think the term "free school books" was used is because it has a historical meaning in Louisiana; and "free school books" has meant, I think, historically, "necessary school books." If you want anything more than what's necessary, then it's up to the local boards to provide that themselves. They can, and they are free to provide more enrichment programs, if they have the means to do it.

Mrs. Corne Right, but then the appropriation would be for "necessary school books" in order to carry out the program of education?

Mr. Burson Yes, ma'am; I think that's correct.

Mr. Singletary Jack, I disagree. If I understood what you said to Mr. Comar, I disagree with you in that if you do not use--in Paragraph (A)--if you do not use the word "public schools," then you are mandating--not simply allowing, but mandating--in this constitution that the legislature provide free books to both public and private schools. Would you comment on that?

Mr. Burson Mr. Singletary, I would answer you there again by saying that, as Justice Holmes said, "A page of history is worth a volume of logic." The history of this state, the former Governor Huey Long argued the case before the United States Supreme Court--in which, as I recall, the then Chief Justice Taft said he made the most eloquent argument he had ever heard--in which the U.S. Supreme Court sanctioned the use of public funds for providing free school books to all children in the State of Louisiana. This has been the practice ever since that time. I think we've got a clearly defined historical situation that we don't need to torture by nit-picking in this constitution.

Mr. Singletary I don't think I'm nitpicking. Isn't it true--you speak of the history of this state--hasn't it been in the prior constitution in Article XII, Section 13...wasn't it prohibited...wasn't aid to private schools prohibited?

Mr. Burson Yes, sir, that's correct.

Mr. Singletary Haven't we deleted that prohibition from this 1974 Constitution?

Mr. Burson The Education Committee did not see fit to report out a proposal with that in it. If I might say so, I think they exercised good judgment in that regard. Personally, I am a proponent of--I serve on a board, a public school board. But, I think that the citizenry of this state--the last poll I saw showed forty-three percent of the people in favor of aid to private schools, forty-two percent against, or vice versa; and either way you took a stand on this, you were going to come out behind. I think that the federal law, in the end, is going to govern, and what the United States Supreme Court says can be done in this area is all that can be done, no matter what we say in this constitution. I think that the approach adopted by the committee to be neutral on the issue is wise.

Mr. Singletary Let me...I don't think we're being neutral, but let me say this: if we insert the word "public schools" in Paragraph (A), but there's no prohibition against giving textbooks to private schools--if the legislature is not prohibited--then couldn't they give them free textbooks?

Mr. Burson Mr. Singletary, I suppose that would be true, but I'm satisfied with it in the form that it's in. I think that fairly represents the present law, and I don't think anybody in here wants to change that. Nobody has...

Mr. Singletary Well, I believe I do.

Mr. Rayburn Mr. Burson, Representative Jenkins raised a question about the language in (A) where it said, "The legislature shall appropriate funds to supply free school books." I'm of the opinion that that does not mandate the legislature to appropriate the entire amount of funds that might be prescribed by the State Board. Do you share my views?

Mr. Burson Yes, sir, absolutely.

Mr. Rayburn If it would say that we shall appropriate sufficient funds as prescribed by the board, then it might be binding. But, I'm of the opinion--and I want to know how you feel about it--if the State Board should say that we needed a million dollar figure for school books, and the legislature says we can get by with eight hundred thousand, and we appropriated eight hundred thousand, I think we'd be in compliance with this language.

Mr. Burson I don't think there's any question, Senator. The power of the purse belongs to the legislature. What this language says is simply that the "what books" and "what materials" would be prescribed by the State Board, but the amount, certainly, has got to be decided by the legislature.

[Previous Question ordered. Record vote ordered. Amendment adopted; 97-17. Motion to reconsider tabled.]

Amendment

Mr. Poynter This is the LeBleu amendment which was distributed, originally; it was drawn to go to the original printed proposal. Mr. LeBleu wants to, in effect, make this a new Paragraph (E) to be added onto the end of the language contained in the Burson amendment. So it would go:

In Convention Amendment No. 1 proposed by Delegate Burson and adopted by the Convention on today, on page 2 of said amendment, at the end of the language added thereby, add the following paragraph: (it would read)

"(E) Revenues derived from Sixteenth Section lands shall not be used in any manner in determining the apportionment of state funds for the support of public schools to parish school boards."

Explanation

Mr. LeBleu Fellow delegates, for those of you who are not familiar with the Section Sixteen lands that belong to the school boards, let me see if I can give you just a brief explanation. Somewhere around 1800 the federal government, when Congress authorized the survey of lands in the United States, they also, at the same time, gave the local school boards each Section Sixteen in each township. In some cases, they gave Section Sixteen as well as Section Thirty-six. Now, there are thirty-six sections in each township. Down through the years, some of the school boards in the state have disposed of their school sections, which they are allowed to do under the law by a vote of the people. In some other cases, the school boards were relieved of their school sections through...by the state, say, in awarding veterans land grants, etc. But, in those cases, the federal government made up to the state, in cash, the value of those school sections, and that money has stayed on deposit with the state down through the years. The school boards are authorized to collect the interest each year. Some years ago, the State Board of Education decided that they would take fifty percent of the proceeds of the revenues collected by the school boards in figuring the state equalization formula. Most of the parishes in south Louisiana have retained these school sections, since many of them are located out in the marsh and inaccessible areas. But, they have become valuable down through the years through gas and oil production, hunting leases, trapping leases, in many cases agricultural leases. In other areas of the state, the school boards still retain some of these school sections from which they derive some proceeds from the timber. Actually, the state doesn't take half of the revenues from the school sections, but when they reimburse the parish for its amount, according to the equalization formula based on per educable, the amount that is sent to the parish is discounted fifty percent--fifty percent of that revenue. So, in effect, the state is docking the school board in that amount. In Cameron Parish, in particular, the school board in the past has used what they had left for the construction of new schools. In one instance, they run a school bus up to McNeese and Sowela Tech to provide further education for some of the children in Cameron Parish. But, in no case, if we pass this amendment, would it deprive any parish of the amount that it would normally receive from the state, because the state would have to make up the difference. In some cases, it would be just as profitable for a parish to sell or dispose of its school section because they're going to get the same amount of money from the state, anyway. If we pass this amendment which would allow the school boards to retain all of the revenues from the school section lands, it would allow them to have enrichment programs, etc. In another instance in Cameron Parish, what has happened, by the state taking so much of this money, the school board now finds itself in a position--last year they had to go to the State Board of Education and borrow forty thousand dollars to complete the school year--now, they are faced with the problem of having to ask the voters to pass an ad valorem tax bond just to operate and maintain the schools. I appeal to you on this amendment strictly on the basis of being fair. It really isn't fair the way the state has done it, and that's the only reason why I'm asking you to pass this amendment.

Chairman Henry in the Chair

Questions

Mr. Kean Mr. LeBleu, as I understand it at the present time, proceeds from the Sixteen Section lands are included in the equalization formula, are they not?

Mr. LeBleu Yes, sir.

Mr. Kean Therefore, if we adopt your amendment, we would completely have to revise the present equalization formula?

Mr. LeBleu Well, it would just be a simple matter of subtraction, Mr. Kean, because all they do is discount the amount that they send back to the parish on the per educable basis.

Mr. Kean But, if we kept the same equalization formula, and we didn't take into consideration the proceeds of the Sixteen Section lands, then those parishes which had the tremendous amounts of money coming from the Sixteen Section lands would be getting that money in addition to what they got from the equalization formula, wouldn't they?

Mr. LeBleu Yes, sir, that's right; and as I understand what we just passed, that's the way it's supposed to be.

Mr. Aertker Mr. LeBleu, you realize that if this amendment were passed that we would have to completely restructure the equalization formula that we presently have, since this is an integral part of it? It's the basic philosophy about that if you have so much money at the local level that you ought to be expected to share that, while the lesser and less fortunate areas would not have that. You recognize that?

Mr. LeBleu Yes, sir, I'm completely willing for Cameron Parish to share its revenues with less fortunate parishes. But, let me tell you how we share. On the severance tax, for instance, we get...the school board gets back one hundred thousand out of thirteen million dollars. Those royalty funds--they get maybe fifty or sixty thousand dollars a year. Under this equalization formula, they're taking about seven hundred thousand away from Cameron Parish. So, to me, I think charity begins at home, and if we're allowed to keep this money, we can help ourselves without going to the state to have to do it.

Mr. Aertker Do you realize, then, that what you would be doing here is the rich would be getting richer and the poorer parishes would be getting poorer under this formula?

Mr. LeBleu Well, you don't really want me to answer that, Mr. Aertker.

Mr. Hayes Mr. LeBleu, while Mr. Aertker might have asked that question, I couldn't hear what he was saying. But, I was wanting to say is that you said some of this land wasn't worth very much--some of the Sixteen Section land wasn't worth very much. Therefore, in the revenue sharing they would make up for some of this in redistributing the money. Now, when this same land starts producing oil, then that will be put back into the revenue sharing, wouldn't it?

Mr. LeBleu That's right.

Mr. Hayes So, then we could redistribute this money to the other parishes where it was needed. Isn't that correct? So, if we would adopt this amendment, we couldn't do that, could we?

Mr. LeBleu Yes, sir, that's right. Let me say this: during the depression, during the depression, the Cameron Parish school board paid its teachers in script--can you imagine? I.O.U.'s? But, they wouldn't sell their school sections, so we're penalizing the school boards for being good business people and looking out for the welfare of their parish. Is there anything wrong with that?

Mr. Hayes I don't know, but I was...I have been told--I'm not aware of it--but I understand they did that in quite a few places. I'm not quite old enough to understand all about the script, but I understand they used it in quite a few places.

Mr. LeBleu Well, Mr. Hayes, if you look at that

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schedule that I passed out yesterday, it tells on there exactly how much each parish is involved in the Section Sixteen proceeds.

Mr. Slay Mr. LeBleu, of course, did you know that I think you've got a good amendment? Now, if Cameron Parish just wanted to, they could just turn around and sell all of that land now and get the money, and the state wouldn't benefit from it anyway, after you drew that one big check--if you wanted to do the state like that--but, you haven't done that. Now, the other parishes of the state had their lands, and they traded it off to the railroads; they took the rich plum when they could. Cameron Parish and Rapides and some of the others had to hold some of this old land, didn't they? So, now, you were stuck with that land back in about 1800, and now that the benefits are coming up, you're deprived of half of what it would bring to your parish. I think you've got a good amendment. I think you know that, and I would hope it is passed.

Mr. LeBleu Thank you, Mr. Slay, and you're perfectly right because the school board had the privilege of retaining these school sections or disposing of them by a vote of the people...

Mr. Lanier Mr. LeBleu, in line with what Mr. Slay said, the way this system is set up right now, aren't the parishes that showed good land management being penalized now for their good management practices in the use of their lands?

Mr. LeBleu Not only for the good management of it, Mr. Lanier, but also for actually holding onto it.

Mr. Lanier But, really, you wouldn't mind helping out a poor little old parish like East Baton Rouge Parish that Mr. Aertker comes from, would you?

Mr. LeBleu If I look at my figures correctly, I believe East Baton Rouge comes in pretty good on this...

Mr. Winchester Conway, did you know that St. Mary Parish's amount of assessment was twenty or twenty-five percent; and, therefore, on the equalization fund, we were penalized for doing a good job? We were also penalized for doing a good job by retaining our Sixteen Section. I'm for your amendment 'cause I don't think that we should be penalized for doing a good job in assessment purposes and also a good job for having retained our Sixteen Section. I'm for your amendment all the way.

Mr. LeBleu Thank you, thank you, Mr. Winchester. Let me say this: I wanted to thank Mr. Winchester for his remarks, but we're not really considering money in this convention. We're considering what is right and what is wrong, and what we want to straighten out while we have the opportunity. That's all. Nobody should be concerned about the money, here.

Mr. Rayburn Conway, maybe I don't understand what you're attempting to do, but...in a lot of the wealthier parishes in this state where they have oil wells on Sixteen Section land, I'm of the opinion--if my memory serves me right--that they retain, I believe, the first two hundred thousand dollars, or up to two hundred thousand, of those revenues on a local level. Any amount of money over the two hundred thousand--and I could be incorrect about that figure--that goes back into the equalization fund, and it is distributed according to the amount of students in those poorer parishes. Now, am I right or am I wrong?

Mr. LeBleu No, sir, you're wrong, Mr. Rayburn. The two hundred thousand dollars is the limit that's presently set on the severance tax that's collected within a parish.

Mr. Rayburn That's right.

Mr. LeBleu That two hundred thousand dollars generally goes back to the various taxing districts within a parish. The police jury gets a portion...

Mr. Rayburn Well, now you're talking about the interest that's only received from the Sixteenth Section lands--the interest only--and has nothing to do with the oil revenues?

Mr. LeBleu No, sir. The interest that I was talking about was...came from the money that the federal government paid the state and is now on deposit in a perpetual loan in the parish in which those school sections were disposed of without the consent of the people. That parish is now eligible to draw that interest, or I believe it's fifty percent under this equalization formula.

Mr. Rayburn Well, you're talking about roughly about a hundred and sixteen thousand dollars a year? I'm looking at some figures here where the amount of interest is derived from state lands or local owned lands. Acadia Parish gets thirty-two thousand, and your parish of Cameron, I believe, Cameron Parish--I believe you get about two thousand, two hundred and forty-one dollars. Are those the figures you're talking about?

Mr. LeBleu Apparently that's the interest.

Mr. Rayburn That's what I'm talking about; that's the interest.

Mr. LeBleu If you look on one of those other pages, it will give you--under the column that's marked with an asterisk--the proceeds from the Section Sixteen lands.

Mr. Rayburn What I'm trying to find out, Conway, is what are you talking about in actual dollars and cents that if we in this constitution take away from the other parishes, what will we have to make up out of the general fund, or what...who's going to get this money--get to keep this money--and who's going to make up the difference? Where is it coming from? I'm not against your amendment; I'm just seeking information and trying to figure out what we're talking about in dollars and cents. Where are these funds, if your school board is allowed to keep these interest funds and they have been charged against your school board--which I assume I'm correct in saying? But your amendment is going to say, in the future, that your school board or any other school board that now produces these funds will be able to keep them, and they will not be charged in the money that the state provides in their distribution back to the local school boards.

Mr. LeBleu Yes, sir.

Mr. Rayburn Do you follow what I'm trying to find out?

Mr. LeBleu Those school boards who still own their school sections can lease them for agricultural purposes, hunting, trapping, have oil production leases. Any of the proceeds from the school sections lands will remain in the possession of the school board that owns them. That school board will not be discounted fifty percent in the money that they receive back from the state to operate the schools.

Mr. Rayburn But, today it is; those funds are discounted, and they have to assume...

Mr. LeBleu Fifty percent.

Mr. Rayburn How much are we talking about that we're going to have to make up out of the general fund, if your amendment passes?

Mr. LeBleu We're talking about around two mil-

lion dollars. But, let me say this: the state has got to do it. It's just like a question was asked while ago--Mr. Slay. What would happen if the school board would go sell these school sections? The state would take half of it, I suppose. I don't know what they would do with it, the way the states operate. But, anyway, in the future, there would be no proceeds because they would sell them to some individual who would reap the benefits of the proceeds. All I'm trying to do is let the school board who owns those school sections that were given to them by the government a hundred and fifty years ago retain the revenue that's derived from the leases, etc., on those school sections.

Mr. Rayburn I'm for you doing that, but in the past these funds or a percent of these funds has been figured in the equalization fund. Now, they will not be anymore; and then, if they're going to be able to retain these, then we'll have to supplement the amounts that are now being derived in these funds--the legislature will have to appropriate money to supplement that--if they're not going to charge the parishes for receiving those funds anymore. Am I correct?

Mr. LeBleu Yes, sir; yes, sir, you're right, Senator Rayburn. The closest figure that I can give you is about two million dollars, statewide.

Mr. Rayburn You know...let me just say this in closing: some of those poorer parishes had to sell that Sixteenth Section land, years ago, to survive.

Mr. LeBleu You didn't hear me say that Cameron Parish had paid their teachers and school employees in script, did you, Mr. Rayburn?

Mr. Weiss Delegate LeBleu, wouldn't you say this is a technical amendment in the real sense of the word in that we've already--in the wisdom of the convention, and I think very wisely--deleted "dedicated funds for state severance tax for educational purposes"? It's time we get it out of the equalization program and that's all it does, is take the severance tax out of the equalization formula.

Mr. LeBleu Well, I'd say in one sense you're right, Dr. Weiss, but, we're not talking about severance tax. Severance tax is something else.

[Previous Question ordered. Record vote ordered. Amendment adopted: 63-46. Motion to reconsider tabled.]

Amendment

Mr. Poynter- Delegate Landrum sends up amendments at this time. This amendment has been previously passed out. However, the instructions of it need to be altered in light of the adoption of the amendment proposed by Delegate Burson.

Amendment...instructions would read as follows: In Convention Floor Amendment No. 1 proposed by Mr. Burson and adopted by the convention on today, at the end of line 15 of the text, add the following:

"Funds appropriated under such formulas shall include monies for travel purposes related to educational and learning experiences."

Now, that line 15 is the last line of Paragraph (B).

Explanation

Mr. Landrum Mr. Chairman and fellow delegates, this amendment is designed to help our young people to grow up to be fine citizens of the State of Louisiana. We have dealt with the universities, and the structures of the boards. We had, also, the different incentive programs. I believe young people need an incentive today. I believe that they need an incentive to remain in

school, that they may learn and become productive citizens of this state. Traveling, in my opinion, is one way of teaching young people to become good citizens. I think we could learn a great deal through traveling. Many of our people, are born, reared, and die in one area of the state, or a town or village, without ever getting to see any other part of the earth. I believe that we should be able to let our young people see something in the course of a lifetime, and no better way of doing this than through the educational process. Right in our own state, there are many things that young people can learn in Louisiana; that they could learn about Louisiana by going to different places right here in the state. I believe that the time will come when traveling will be a part of the curriculum of education. That's what I'm hoping that this would...amendment with your help...would accomplish.

If there are no other questions, I have no question: I ask for a favorable vote.

[Amendment reread. Record vote ordered. Amendment rejected: 34-68. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Leigh]. On page 10, in Floor Amendment No. 1 proposed by Delegate Burson and others and adopted by the convention November 16, delete lines 25 through 29, both inclusive of said floor amendment in their entirety and insert in lieu thereof the following:

"First: Each parish school board"--now that constitutes in Paragraph (C), after the initial language, the paragraph if you will, in its literal sense of the word designated first--"First: Each parish school board, the parish of Orleans excepted, and each municipality or municipal school board actually operating, maintaining, or supporting a separate school system of public schools, shall levy annually an ad valorem maintenance tax of five mills, or as much thereof as is necessary, on all property subject to such taxation within the parish or city, as the case may be, in the manner prescribed by law."

Explanation

Mr. Leigh Mr. Chairman, ladies and gentlemen of the convention, it may be wishful thinking, but I feel that this is a technical amendment which I hope you will adopt. In the floor amendment--in the floor amendment adopted first as submitted by Mrs. Zervigon and resubmitted by Mr. Burson and adopted by the convention--about the middle of the page there, it provides that "each parish school board, the parish of Orleans excepted, shall levy annually an ad valorem tax, etc., on property situated...on all property subject to taxation within the parish or city in the manner prescribed by law."

Now, I'm sure you are familiar with the situation which exists in Monroe and in Bogalusa where there are city schools in addition to the parish schools. I am afraid that this provision, as drawn and as adopted, does not afford authority for the levying of the tax by the city school board, or the municipal school board. So, I am adding to that, the language "each parish school board, the parish of Orleans excepted, and each municipality or municipal school board actually operating, maintaining, or supporting a separate school system, shall levy an ad valorem maintenance tax of five mills, or as much thereof as necessary, etc., on all property subject to taxation within the parish or city, as the case may be."

I think the amendment is self-explanatory. I understand that there is no objection from Mrs. Zervigon to it, or to Mr. Burson. I don't think it's controversial. I would like to urge the adoption of the amendment.

I yield to questions.

Questions

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Mr. Abraham Tom, if this amendment passes, well, wouldn't that, in effect, make it possible to delete Paragraph (D) from the Burson amendment?

Mr. Leigh I don't think so, Mr...Mack, because the Paragraph (D) gives them the authority of a parish school board. This gives them the taxing...the right to tax--a parish school board. I don't believe that the two sections are conflicting.

Mr. Rayburn Mr. Tom, aren't you only attempting to clarify and include municipal school boards? You're not having anything to do with the limit of millages or nothing, are you?

Mr. Leigh Not a thing in the world...just simply to give them the right to tax--just give them the authority...

Mr. Rayburn I mean under the same provisions the parish school board has.

Mr. Leigh The same provision the parish school board has.

Further Discussion

Mr. Dennis Mr. Chairman, fellow delegates, I just wanted to briefly second which...that which Mr. Leigh said. We felt like that the committee and Mrs. Zervigon attempted to take care of this, but it was not absolutely certain that you were giving the cities of Monroe and Bogalusa the authority to impose this five mills within the city for their schools. Also, in Monroe, we have the peculiar problem, that the city school system runs the schools, but the city of Monroe imposes the taxes and issues the bonds. So, we...we've attempted to frame the language so that we can continue to finance and run the schools in the same manner. It does no violence to the rest of the provision, and I'd ask for your favorable report.

Questions

Mr. Stinson Jim, they, under the present law or the present constitution, have that authority now, don't they?

Mr. Dennis Yes, sir.

Mr. Stinson It's just questionable whether or not the last amendment continued the...the committee did not allow that, did it?

Mr. Dennis Sir?

Mr. Stinson The committee report did not give you that right, did it?

Mr. Dennis Yes, they did. Mrs. Zervigon's amendment has chopped out the particular language that made it absolutely clear that we could do that. We are trying to restore it in less words, in a more succinct fashion here.

Mr. De Blieux Judge Dennis, unless I misread the Zervigon amendment, in looking at it...according to this handout it's supposed to have been the provision as adopted in that amendment. If you will notice in Paragraph (C), the first paragraph, it says, "each parish school board, the parish of Orleans excepted, shall levy annually an ad valorem tax of five mills."

You turn over to Paragraph (D) of that section, you'll notice it says, "For the effects and purposes of the provisions of this entire section, the municipalities of Monroe, in Ouachita Parish, and Bogalusa in Washington Parish, and no other, shall be regarded and treated upon the same basis and shall have the same authority as if they were a separate parish..."

Mr. Dennis Separate parishes.

Mr. De Blieux ...instead of municipalities.

Mr. Dennis Separate parishes. That's the point. This provision requires a parish school board to levy a tax. Then it says that Monroe and Bogalusa are going to be treated as parishes; it doesn't say parish school boards. We don't think that that is a clear enough grant of taxing authority. Now, you had a very clear one in there that Mrs. Zervigon's amendment took out. We would like to put it back in there just as clearly as it was before. We are only adding just a few words to do it. So, I ask you, please, Senator De Blieux, let us be sure that we can continue to run the schools in the city of Monroe and Bogalusa.

Mr. De Blieux Well, let me just be sure that I understand you. Are you deleting Paragraph (D) and putting your amendment in?

Mr. Dennis No, sir. No, sir, we are simply adding some words to this paragraph marked "First" to make it clear that not only a parish school board, but any municipal school board or municipality, which runs its own school will levy a tax to support the schools. That's all we're trying to do.

Mr. Conroy Judge Dennis, as I understand the situation, both Bogalusa and Monroe had gotten specific statutory authority to levy the tax that they presently levy, isn't that correct? Isn't that specific constitution...

Mr. Dennis No. They...had constitutional authority, and Mrs. Zervigon's amendment took out some of the language that granted that authority. We are trying to restore it.

Mr. Conroy All right, they had...but they got specific constitutional authority to do what they are doing. Wouldn't your amendment open up the possibility of any city...

Mr. Dennis No, sir, they do not. They are named in one place, but in another place, they were referred to in the same manner that the committee proposal referred to them: "as any municipality actually operating, maintaining or supporting a separate school system."

Mr. Conroy You mean as of the date of this constitution, or any time? Couldn't a city later establish and maintain a school system and then it would have automatically this authority to levy the five mills?

Mr. Dennis I suppose so, Mr. Conroy. But, that's the way the constitution reads now. That's the way the committee proposal had it. You took it out in the Zervigon amendment.

Mr. Singletary Jim, would this allow the creation of new municipal school boards throughout the state?

Mr. Dennis I don't believe it would. It says each one that's operate...actually operating and maintaining support in a separate school system of public schools. There are only two of them at the present time.

Mr. Singletary So, you intended to apply to only those in present existence?

Mr. Dennis We're intending...yes, sir, we're intending to restore the committee language that was taken out by Mrs. Zervigon's amendment. I'm afraid if you don't let us do it, that you may cast some doubt upon our right to levy taxes to support these schools.

I ask for your favorable vote, please.

Further Discussion

Mr. Rayburn Mr. Chairman and fellow delegates,

I rise in support of this amendment for this reason. If you will get your amendment that was just adopted a few moments ago and look at the bottom of Section (B) where it says "First:", it says, "each parish school board," and we omitted city school boards. All this amendment does is just add back the language of "city school boards" where they can levy the tax just like a parish school board. If I understand the amendment correctly, and Mr. Tom has assured me that that's all it does, it just adds back like we've done in previous language, "parish or municipal school boards." I certainly don't want to have to go back home and be in a position of leaving my little school board where they can't raise any revenue. I've done enough mistakes. Please don't put no more on me.

[Previous Question ordered. Record vote ordered. Amendment adopted: 112-3. Motion to reconsider tabled.]

Amendment

Mr. Poynter Mr. Burson sends up an amendment which reads as follows:

On page 10, in Convention Floor Amendment No. 1, proposed by Delegate Leigh and adopted by the convention today, in line B of said floor amendment, place a period after the word "be" and delete the remainder of line B and delete line 9 in its entirety. That goes to the Leigh amendment just adopted.

Explanation

Mr. Burson This is really in the nature of a technical amendment, but it is a technical amendment with substantive consequences. Mr. Kean pointed out on a question on the original amendment that the words "in the manner prescribed by law" implied that you would need additional legislative authority to exercise the alimony tax. This has never been required. I don't think it was anyone's intent to require it here. I have asked Mr. Leigh if he had any objection to deleting these words. He said that he did not.

[Amendment adopted without objection.]

Further Discussion

Mr. Jenkins I'll be very brief, Mr. Chairman. But, I do want to say that what we have done in this section is to start to legislate. We did that when we started putting the minimum foundation program in there. If you look at that provision, you'll see that it accomplishes nothing whatsoever. If the parishes were given one dollar per pupil, per year, it would satisfy that provision. It accomplishes nothing.

The thing that starting to legislate did accomplish, though, was the amendment that my good friend, Mr. Conway LeBleu, put...put on. I think before you vote for this section, you better find out more about what Mr. LeBleu's amendment will do to the finances of your own local school board. I understand from the figures that have been given me that it will cost the East Baton Rouge Parish School Board about two hundred and fifty thousand dollars a year; Orleans Parish, half-a-million a year. The purpose of the minimum foundation program, as I understand it, is to assure that in even poor parishes there will be a minimum program granted to people. But in determining the amount that each parish is to receive, the income of that parish is taken into consideration. The income from sixteen section lands is just as valid a portion of that income as anything else and ought to be considered when determining how much income each parish receives. It seems to me that this convention is going far beyond our scope of authority and our reasonable purpose when we start legislating in technical areas like this where we don't have fiscal notes, we don't have budgetary information or anything else because we're not

talking here about basic principals, we're talking about technicalities of the law. I certainly think before this section's adopted, we ought to think twice.

Further Discussion

Mr. LeBleu Mr. Chairman, fellow delegates, I believe what Mr. Jenkins told you is incorrect. When I offered this amendment, I certainly intended to do nothing of the sort. I didn't intend to beat either Baton Rouge out of two hundred thousand dollars or Orleans out of five hundred thousand. As I understand the equalization formula, in no case--in no case--will that happen because the state bases an equalization formula on the number of students at a certain time of the year. That's how the school boards are reimbursed from the state. All my amendment would do would be to allow the school boards to keep the income that is there. There is no divvying up ad valorem tax that a school board imposes on its taxpayers within their districts--that is not considered. I can see no reason why this should be considered. I think it's only fair. It belongs to the school boards who retain their school sections. I ask you to adopt this section.

Further Discussion

Mr. Rayburn Mr. Chairman, fellow delegates, I just rise to set the record straight. I've got all the respect in the world for my good friend, Conway LeBleu; and I'm glad he was successful with the adoption of his amendment. But, the roughly two million, eight hundred thousand dollars is going to have to come out of the general fund. It's going to have to come from all the other parishes or from some other funds that we now have in the general fund. I just hope some of you people that are putting additional burdens on the legislature, when we have to pass additional taxes to do some of things you are all mandating us to do, please don't bring a rope down to the legislature and try to hang us; please don't.

Questions

Mr. Weiss Senator Rayburn, I see here you are one--including East Baton Rouge--of the ten parishes that would not benefit monetarily from the LeBleu amendment. Isn't it true?

Mr. Rayburn Yes, sir, I will. I got one parish that will give five dollars and forty cents, and another one will get two hundred and thirty-four dollars. I'll benefit out of it. I'll get half of that amount. I'll get two and a quarter in one parish.

Mr. Weiss In looking to the future, though; isn't it true that we may have a reduction of twenty percent of the school children in the State of Louisiana according to the latest census figures in The State of the State of Louisiana booklet. So, we don't have to worry too much about expecting more expenses. We might even have less in education; don't you think?

Mr. Rayburn I have never seen that time come since I have been in legislation.

Mr. Weiss Well, we're looking forward to it.

Mr. Rayburn Let me say this, Dr. Weiss, if we're going to adopt a formula like this, in the next session we may have a formula to let all parishes that are now receiving severance tax--because they happen to be all well in that area--let them keep all that money. When they do, these little parishes like St. Helena and some of your smaller parishes have had it, because they have no local revenue. The equalization fund is made up today over the wealth that survived from the richer parishes. They have been in the past helping the poorer parishes. If you're going to

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operate on a theory of letting them keep what they produce, our school system is gone--in my opinion.

Mr. LeBleu Senator Rayburn, in setting the record straight, do you know--just off the cuff--how much the state revenue increase from the severance tax on gas that was increased in the last session and comes primarily from the coastal parishes?

Mr. Rayburn We're having a little decrease on our rentals and royalties from our oil and our severance, Mr. LeBleu--compared to what we've been having. We are having a slight decrease every year over and above what we had the previous year.

Mr. LeBleu That's from total production. I'm talking about from the additional tax that the legislature imposed at the special session.

Mr. Rayburn I don't have it in dollars and cents, but I can tell you one thing: the school systems of this state or the educational systems are receiving thirty-seven percent today of all the revenues that are coming into this state. If we're going to let this type of formula apply, somebody help the poor parishes. The reason of the equalization fund is because it more or less distributes the wealth. We've got a lot of timber. We pay a lot of severance tax in my area. Some parishes don't have a stick of timber. But, they participate in the expenditures of those funds derived from that severance tax.

Mr. Velazquez Senator Rayburn, the way educational expenses are going these days, don't you think that even if the student population decreased twenty percent tomorrow, the expenses per student would still continue to rise and that education costs more and more each year?

Mr. Rayburn The cost of operating your schools and every other phase of state government. We were told the other day at the Budget Committee that all of our hospitals are going to face a huge deficit because of the tremendous increase in food. We are already saddled with a lot of burdens. So, I don't guess it would hurt to put a few more on us.

[Previous Question ordered on the Section. Section failed to pass: 57-53. Motion to reconsider on next Convention day adopted without objection.]

Amendment

Mr. Poynter Mr. Juneau sends up amendments as follows--copies of amendments are to be distributed at this time:

Amendment No. 1. On page 12, line 23, add the following:

"Section 18. Right to Preserve Linguistic and Cultural Heritage.

Section 18. All people have the inherent right to preserve, foster, and promote their respective historic linguistic and cultural heritage which still exists in substantial form among the people."

Explanation

Mrs. Corne Mr. Chairman, delegates, I will not take up very much time on this amendment. I think this is a nice amendment. I'm sure that it will not be controversial. In our State of Louisiana, we have a melting pot of people who come...whose heritage is linked with the various European countries. No state in our Union is richer in bilingualism and biculturalism than ours. This new section is not a mandate. So, before you ask me why I would place it in the constitution, let me answer the question. For many years, not realizing the injustice that we were doing to our people, we attempted to suppress every vestige of this rich heritage. Thank goodness we have become more sophisticated and more world conscious. Today, we notice a rekindling of interest and of

respect for the different peoples who make up the population of our state. We have come to realize the advantages that our bilingual and our bicultural heritage can afford our citizens in order to enter world markets, world travel, and any other type of communication. As I said, this is not a mandate, but a permission and an encouragement. And to translate: I pray that you will give us the right to protect and encourage the beautiful heritage that is ours. Thank you.

Questions

Mr. Hayes Mrs. Corne, is this right now being denied in any form in the state?

Mrs. Corne I don't think that it is. But, I know that in the past it has been.

Mr. Hayes Repeat.

Mrs. Corne I said, I don't know that it is now. But, I do know that in the past it has been.

Mr. Hayes And, the only thing you want is this would be assured? You're not trying to get it into education in any kind of way?

Mrs. Corne What I want is an encouragement to promote this bilingual and bicultural...

Mr. Hayes Do you think just putting it in the constitution is going to do that for you?

Mrs. Corne I believe so, Mr. Hayes. If you know that in our schools sometimes children who spoke a foreign language were prevented from speaking that language, instead of encouraging them to learn a little bit more about this language.

Mr. Stinson Mrs. Corne, now I was on the Bill of Rights Committee. We did everything we could to help--and Jimmy Di Maggio is a personal, wonderful friend of mine--but what I'm afraid of this: if one parish said "Well, we are going to have French taught and not English," don't you think under this that they could do that?

Mrs. Corne I don't believe they would, because we have set curriculums in English, and this would be used as an enrichment.

Mr. Stinson I know, but it says that they can...

Mrs. Corne It would not necessarily be French; it could be Spanish or German, or any other language that wants to be preserved. I think that we are sadly lacking in teaching our children the culture of other countries and in preserving the culture that we have. This is only an encouragement to the people. I would like to see it in the constitution; it's not a mandate to any parish to teach any language besides, of course, our formal English language.

Mr. Stinson Well, don't you think it should be worded that the people are urged to preserve it, instead of saying "an inherent right to have it"? You don't think that they could require that to be taught and used, instead of the English language?

Mrs. Corne My amendment is more of a nature in not preventing the people from doing...from preserving this culture, which has been done before in previous years.

[Previous Question ordered. Amendment rejected: 65-36. Motion to table the motion to reconsider rejected: 37-59. Motion to limit debate to ten minutes adopted: 83-10.]

Further Discussion

Mr. De Blieux Mr. Chairman, ladies and gentlemen

of the convention, I'm going to make my remarks very, very brief. I'm of French descent, and I believe in the French culture as much as anybody in this chamber. But, I certainly feel like that we are putting too much into this constitution which has no business there. The legislature can take care of this particular item. I just don't see the necessity of sticking it into our constitution, because we have to go with the times and the progress of our people, and the legislature can do that. Why should we hamper the legislature one way or the other in exercising its affairs and business? So, I just ask you to reject the section.

Further Discussion

Mr. Fulco Mr. Chairman, fellow delegates, this won't hurt anything being in the constitution; it's going to take up a few lines. I might want to see the Italian language preserved. I haven't asked you for anything. Let me tell you, I had to teach Jasper Smith something in Italian during the former legislative session. He was angry with some governor and he said, "Frank, tell me something in Italian to tell that governor." I said, "Jasper, tell that governor "Wa etta mare, Tu e tutto to paese!"

Questions

Mr. Smith Mr. Fulco, I'll answer you. Tutto bono e beneditto!

Mr. Fulco You see how well he learned.

Mr. Stinson Mr. Fulco, what did Governor Earl Long tell you in English when you told him that?

Mr. Fulco Go jump in the lake!

[Previous Question ordered. Motion to reconsider adopted: 63-36.]

Reconsideration

Mr. Kean Mr. Chairman, fellow delegates, the hour is late, and I have the greatest interest in seeing the French heritage protected and preserved and encouraged in southwest Louisiana. But this section, in my opinion, could have a much far-reaching...much more far-reaching effect than has been indicated by the authors of the amendment. It says that "All people shall have the inherent right to preserve, foster, and promote their respective historic linguistic and cultural heritage." I think we are giving by this section, we're giving the people a right to insist upon this, even though the school system, for example, didn't offer it. I think we are simply putting something into the constitution which is not constitutional material. We are putting something in which could create some serious problems as I see it. I sincerely suggest that you reject this, not in the interest of preventing the fostering of the cultural rights of the people in southwest Louisiana or any other part of this state, but to avoid having something in the constitution which could have some serious consequence and isn't needed in the constitution in the first place.

Further Discussion

Mr. Weiss Mr. Chairman, fellow delegates, we won't waste time, but this is a serious issue. We have so far created a good constitution. A lot of people are trying to muddy the water now, because we have a complicated article. But, we had this issue before the Bill of Rights; it was extensively discussed. If it's a right, it ought to be in the Declaration of Rights. Now, let's not put it in here; it doesn't belong here; and it does create considerable confusion as Mr. Kean, an excellent attorney, explains to you. This is a serious problem. I don't think we ought to mess up the constitution with things that are of stat-

utory nature. I suggest you reject this floor amendment.

[Previous Question ordered. Amendment rejected: 45-50. Motion to revert to other orders. Substitute Motion for Previous Question on the Proposal.]

Point of Order

Mr. Tapper Don't we have a section that is up for reconsideration in this proposal?

Mr. Henry But, if he moves the previous question on the entire subject matter, which includes that, then that motion is in order, Mr. Tapper.

Mr. Tapper Further point of information then. If that happens and the article is adopted, then the section that is under consideration is out?

Mr. Henry Gone, that's right.

Point of Information

Mr. Burson Mr. Chairman, just as an inquiry. If we pass the previous question on the entire article, would that mean then that we would be forced to vote on an Education Article without a section establishing the alimony tax for public schools?

Mr. Henry If the motion on the previous question on the entire subject matter is adopted, it would mean that the Section 16, which was not adopted, would be deleted. All right.

Mr. Burson ...and, that is the section providing for alimony for public schools?

Mr. Henry Don't discuss it now, Mr....

[Record vote ordered. Quorum Call: 101 delegates present and a quorum. Substitute Motion rejected: 26-79. Motion rejected: 38-66.]

Motion

Mr. Flory I now move that we reconsider the vote by which Section 16 failed.

Mr. Henry To pass.

Mr. Flory Failed to pass.

Point of Order

Mr. LeBleu As I understood it, it was supposed to be reconsidered on the next legislative date.

Mr. Henry Mr. LeBleu, the Chair, I think, was confused on that. I think if the proposal had failed to be adopted, much as a bill in the House, that it would lie over, and would have to have a rules suspension.

Mr. Clerk, if I am correct...Mr. Clerk, you straighten me out on that, but I don't think it has to lie over.

Mr. Poynter I think that would certainly be a fair ruling of the Chair, Mr. Chairman. It...the rules say that a motion to reconsider lie over until the next legislative day. I think the context of that is, that a proposal would lie over. We have let sections lie over in the past, and I know nothing in the rules that would prohibit it. On the other hand, I would know nothing that would prohibit going ahead and reconsidering on the same legislative day with respect to a section. I think that would be open to whatever the convention has done. Twice previously, because no one has insisted on the motion, at least to my memory twice, we have let it lie over a day, and I think that's permissible, but I don't think it's mandated.

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Mr. Henry I think we've gone both ways, quite frankly...I mean each way.

[Previous Question ordered: 74-30.]

Closing

Mr. Flory Mr. Chairman, delegates, I believe that the matter before us is so serious that we ought to reconsider now the vote by which Section 16 failed, because I believe involved in that section is the financing of the local public school systems. I think that it merits the immediate consideration of this convention. Unless we do that I would think that perhaps this whole proposal might be in jeopardy. I would ask sincerely that you consider voting to reconsider the vote by which that section failed and let's consider...reconsider that section and dispose of it in fashion which would be beneficial to the local school systems of this state. I ask for your favorable vote on this motion.

Questions

Mr. Lanier Mr. Flory, perhaps this question should be directed to the Chair. But, what would be the effect of the convention voting to reconsider? What would be the effect to Section 16 if the convention voted not to reconsider?

Mr. Flory If the motion to reconsider is adopted, then as stated by the Chair, it will be open for discussion as any other section has been in the past, and then, will be up for final adoption by this convention. It can be...further amendments can be offered.

Mr. Lanier The other part of my question was: If we vote not to reconsider, what happens?

Mr. Henry If you vote not to consider then it can come up again today or tomorrow on reconsideration, Mr. Lanier.

[Record vote ordered.]

Point of Information

Mr. Abraham Mr. Chairman, a point of information. Would I be in order in asking whether or not these amendments that are pending apply to the section or apply to the article, and what they are?

Mr. Henry Well, Mr....it would be in order, I guess. I think we've got some amendments up here that just apply to anything. I think some of them might apply to this business. So, if we don't, then we may have some and certainly if we reconsider, then we can have some in any event. But, it's just a new ball game once we vote to reconsider.

Point of Information

Mr. Thompson The amendments to this section that we have adopted that are in there now--not the ones pending--I think those are the ones...or those are the ones that I'm interested in. There's some confusion as to whether Mr. LeBleu's amendment is still in there or not.

Mr. Henry That amendment right now is a part of that section, and when we reconsider...or if we reconsider Section 16 that amendment will remain in there unless it's taken out because it's become a part of, and attached to, that section.

[Motion to reconsider adopted: 90-15.]

Recess

[Quorum Call: 87 delegates present and a quorum.]

Reconsideration

Mr. Aertker Ladies and gentlemen of the convention, as I previously explained to you when we presented this section, that this represented something coming out of committee that, of course, was controversial to say the least. I further explained to you that we have attempted to delete those provisions which we felt were certainly objectionable to the majority of the delegates. We presented those...we deleted those things that we felt that certainly were going to cause too many problems in too many areas. I just want to point out to you that sometimes, in opposition to some things, that we let our better judgment get...get clouded up. I'm asking you--before you decide what you're going to do on this section here--just remember that if this thing goes down, you have told every school board, every person in education, that we're going to give you something, but we're not going to give you any way to get financed, any way to get any money to operate your entire system. You, of course, will have something that--it will be impossible for those of us who are in education to give any support to. Now, if that's the game that some of you want to play in an attempt to say that you defeated something, then, all I have to say is, "you have to live with it," and all I can say is, "you will live with it" because you will see the results of it when this constitution is presented to the people--especially those people who are involved in public education, especially those people who are involved in education--and that includes everyone who has anyone in education. Now, all I'm asking you to do is just to be...give this a fair evaluation, and decide whether you want something to come out of this convention that will just completely paralyze, that will just have nothing in it, that will offer any hope for any education in this state. I just ask you to let your conscience be your guide as we deliberate the rest of the afternoon.

[Motion to recess for one and a half hours. Substitute Motion to adjourn to 9:00 o'clock a.m., Saturday, November 17, 1973. Substitute Motion adopted: 87-10. Adjournment to 9:00 o'clock a.m., Saturday, November 17, 1973.]

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Saturday, November 17, 1973

ROLL CALL

[91 delegates present and a quorum.]

PRAYER

Mr. Heine Our dear heavenly Father, we thank You for this day and for all the blessings that Thou hast given us. Lead, guide and direct us now in everything that we do and watch over us and forgive us of our many sins. For Christ's sake, Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 7, introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare and other delegates, members of that committee.

"A proposal making provisions for education and necessary provisions with respect thereto."

The status of the proposal...the convention has adopted all the sections of the proposal with the exception of Sections 9 and 10 which were deleted and also Section 16 which failed to pass on yesterday and was reconsidered on yesterday. The motion to adjourn on yesterday occurred after the insistence on the motion to reconsider and Section 16 being brought before the convention. In addition, several amendments pend at the desk to add a proposed additional section.

Point of Information

Mr. LeBleu Mr. Chairman, I just wondered if it would be possible if we could postpone this until Monday. I tried to get some information from the Department of Education relative to my amendment that we adopted yesterday and, of course, the state offices are closed over the weekend and I think that I could get some information that might clarify the whole matter and kind of cut...

Mr. Henry You could make such a motion to temporarily postpone the determination or for any further discussion of this proposal, if you desire. Then, return it to the calendar.

Motion

Mr. LeBleu I move that we return the section to the calendar until Monday.

Mr. Henry The section, now, or the proposal? You want to move to temporarily pass over this and let's work on the other sections, and then if we get through, you want to make a motion then to return it to the calendar, Mr. LeBleu?

Mr. LeBleu That's all right.

Further Discussion

Mr. Aertker Mr. Chairman and ladies and gentlemen, I don't know what information Mr. LeBleu has reference to, but when we start talking about passing over this until Monday I have as many complications as he has. I happen to have an LTA convention going on in New Orleans and an LEA convention going on in Monroe and I have got to be present at both of those conventions Monday by being there in New Orleans Monday during part of the day and flying to Monroe to be at a meeting there, so I think that my problem is just as acute as his, and I would have to object to deferring this for several more days. I think we ought to make up our mind one way or the other what we are going to do about education in the state of Louisiana and quit making all of these little maneuvers

that we are doing. We ought to get in the road with it, so I object to the motion.

[Previous Question ordered. Motion rejected: 28-61.]

Amendment

Mr. Poynter Amendments sent up by Delegate Rayburn as follows:

Amendment No. 1, on page 8, delete lines 23 through 32 both inclusive in their entirety, and delete pages 9, 10, and 11, both inclusive in their entirety, and on page 12, delete lines 1 through 17, both inclusive in their entirety and delete all floor amendments adopted thereto and insert in lieu thereof the following: "Section 16. Funding; Elementary and Secondary Education; Apportionment Section 16 (A). The legislature shall appropriate funds to supply free school books and other materials of instruction prescribed by the State Board of Elementary and Secondary Education to the children of this state at the elementary and secondary levels.

(B). The legislature shall appropriate sufficient funds to insure a minimum foundation program of education in all public elementary and secondary schools. Such funds as the legislature appropriates shall be equitably allocated to the parish and city school systems according to formulas adopted by the State Board..."

Picking up the second sentence in Paragraph (B). "Such funds as the legislature appropriates shall be equitably allocated to the parish and city school systems according to formulas adopted by the State Board of Elementary and Secondary Education and approved by the legislature prior to the time such appropriation is made.

(C). The local funds for the support of elementary and secondary schools shall be derived from the following sources: First, each parish school board, the parish of Orleans excepted, and each municipality or municipal school board actually operating, maintaining or supporting a separate system of public schools shall levy annually an ad valorem maintenance tax of five mills or as much thereof as is necessary on all property subject to such taxation within the parish or city respectively. Second, the Orleans Parish School Board shall levy annually a tax not to exceed 13 mills on the dollar on the assessed valuation of all property within the city of New Orleans assessed for city taxation and shall certify such fact to the governing authority of the city. The governing authority shall cause said tax to be entered on the tax rolls of the city and collected in the manner and under the conditions and with the interest and penalties prescribed by law for city taxes. The money thus collected shall be paid daily to the Orleans Parish School Board. Third, for giving additional support to the public elementary and secondary schools, any parish school district or subschool district or any municipality which supports a separate city system of public schools may levy ad valorem taxes for specific purposes when authorized by a majority of the electors voting in the parish, municipality, district or subdistrict in an election called for the purpose. The amount, duration and purpose of such taxes shall be in accord with any limitations imposed by the legislature.

(D). For the effects and purposes of the provision of this entire section the municipalities of Monroe in Ouachita Parish and Bogalusa in Washington Parish and no other shall be regarded as and treated upon the same basis and shall have the same authority as parishes."

Explanation

Mr. Rayburn Mr. Chairman and fellow delegates, the amendment that is now before you makes some changes in the proposal that was adopted yesterday. It maintains the amendment that was adopted yesterday relative to the municipal school boards. It does delete the word "school" and retains the words

"separate system." It also deletes some language on the bottom of the page of the amendment. It deletes the words "though they were separate systems" instead of "municipalities" and puts the words "be the same as parish systems." It also deletes the amendment that was offered by my good friend, Conway LeBleu, and let me say here and now, I'm in a rather awkward position this morning to have to come to this microphone and oppose a man that I have the respect for like Conway LeBleu. No, Conway, I'm not trying to cut your throat, and believe me, I'm not. That amendment, though, is going to take from the school systems of this state over 2 1/2 million dollars. Maybe, if the amendment stands, the money can be found from some other source, but I feel that I owe the people of this state and particularly the school system and I've always been a staunch supporter of education, because I, as one, have realized my limitation because I did not have a formal education, or do not, rather. But, I feel that it is my duty and my responsibility, particularly since I am chairman of the finance committee of the Senate to tell you exactly what that amendment does. I'm not going to stand here and tell you that that reduction will have to be made in equalization funds. I don't know. I'm not going to stand here and tell you that the legislature cannot find the money from some other place. But I can tell you this: when you go to look around for 3 or 4 million dollars, it's not easily found. I'm not standing here trying to take one thing away from anybody. I'm merely here trying to say "Leave us alone and let's keep the language that we now have and keep our finances as they are now allocated." If this amendment stays in this section it's going to mean that if the equalization formula stays the same or if the per educable stays the same that we are going to have to find some additional funds. That's my reason for asking you to adopt this amendment, and let's keep our school system in the same fashion, financially speaking, that they've been operating under and the same formula that they've been operating under for many, many years. There comes a time when we should refer back to the Scriptures where it says, "We shall be our brother's keeper." I think those words are appropriate this morning. Certainly, I understand that some of you are deeply concerned over this amendment because it does mean some financial aid to your community. On the other hand, a lot of us are likewise concerned because it could mean that we are going to lose some financial aid. For those reasons outlined, I now move the adoption of the amendment.

Questions

Mr. Weiss Delegate Rayburn, the House of Representatives of which both you and Delegate LeBleu are members passed the LeBleu resolution, however, in the previous sessions, have they not?

Mr. Rayburn I don't recall; if you say they did, I'm sure they did.

Mr. Weiss The House did; the Senate refused it, if you recall in the Appropriations Committee. That's what happened to it. It was killed in the legislature, but let me ask you this question. You claim that 2 1/2 million dollars is being taken away. I beg to...you explain to me this equalization formula, because it seems to me if the severance taxes for which that portion is subtracted from the total course cost as it sits before me here, it looks as though that those parishes that will receive more severance tax by the LeBleu formula will also receive less in their equalization formula and therefore it will balance out. So, I don't see what you mean by 2 1/2 million dollars less being given to education. I think you'd have to explain to the convention and to me the equalization formula a little more in detail, because it looks to me like it balances out pretty well.

Mr. Rayburn Dr. Weiss, let me just say this. If

the amendment stands as adopted you're going to take at the present time these funds that we are talking about--amounts to \$5,425,478.50. Half of those funds are used in the formula now by the respective school boards that receive those funds. They receive half of this amount. That amount is used in making up the formula. Now, if you delete that amount then the state treasurer is going to have to make it up or the formula is going to have to be reduced.

Mr. Weiss But you're not taking into consideration, are you, the equalization formula that will balance out that other two and a half million?

Mr. Rayburn The equalization formula, Dr. Weiss, is also monies that have to come from some place. So, if you increase the equalization formula, I mean if you...you're just going to have to supplement this amount of money from somewhere. You just can't reach up and find it hanging or floating. It's got to come from somewhere.

Mr. Weiss The point is that that money which is returned to the parish is included in the equalization fund and therefore the state will pay less to that parish according to these figures as I understand them.

Mr. Rayburn Well, that's what I'm telling you.

Mr. Weiss Therefore, the state will not have to come up with the 2 1/2 million to that degree.

Mr. Rayburn Well, it's either coming up to hold the thing status quo or each parish is going to lose.

Mr. Weiss Well, now you're right. The status quo will be changed and that's what we're trying to do with this constitution.

Mr. Rayburn That's right. The state has got to come up with the money or your equalization formula is going to have to be reduced. So, somewhere down the line, someone has got to give. It's got to come from somewhere if you keep the equalization formula the same as it is now. If you don't supplement this 2 1/2 million then the equalization formula is going to have to be reduced which is going to hit all the parishes in the state.

Ms. Zervigon Senator Rayburn, I just want to be certain what exactly it is we're working on. You drew our amendment from the Burson amendment; isn't that correct?

Mr. Rayburn That's true.

Ms. Zervigon And Mr. Burson had inserted the word "foundation...minimum foundation program" before it was passed; isn't that so?

Mr. Rayburn That's true.

Ms. Zervigon The only other change I find, which I don't find to be a change in substance but I just wanted you to say the same, is that at the end of your amendment you say that Monroe and Bogalusa shall be treated upon the same basis and shall have the same authority as parishes instead of saying as though they were separate parishes instead of municipalities. You don't intend that to be a change in substance do you; you just shortened that?

Mr. Rayburn No, ma'am. I just deleted that language because I thought it was unnecessary.

Ms. Zervigon And Mr. Burson had deleted his Section (C) before he passed his amendment; isn't that correct?

Mr. Rayburn That's correct; yes ma'am.

Ms. Zervigon So, the major change is to delete

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the LeBleu amendment, the full financial effect of which we didn't understand when we passed it; isn't that so?

Mr. Rayburn That's true.

Ms. Zervigon And Senator, isn't it correct that when the Board of Education sets that formula, subject to the review of the legislature which we have in this amendment, they could take Mr. LeBleu's concerns into account on a little bit more information than we have here; isn't that right?

Mr. Rayburn That is correct; yes ma'am.

Mr. Lanier Senator, I'm noticing something in this amendment in the Burson amendment for the first time. In the last sentence of Paragraph (C), almost at the bottom there right where it comes to (D) it says, "the amount, duration and purpose of such taxes shall be in accord with any limitations imposed by the legislature." Doesn't this mean, Senator, that except for the 5 mill alimony tax, or 13 mills in Orleans, that the legislature has absolute control over all finances of school boards?

Mr. Rayburn We have to appropriate the money; yes, sir.

Mr. Lanier If the legislature wanted to, could it not pass a law saying that there shall be no other taxes?

Mr. Rayburn Well, I guess if it wanted to and had the votes, Mr. Lanier. I think you're an attorney and I think you know the answer to that question, but I'll answer it for you to try to better inform you. Certainly, if they've got the votes they can pass any bill that they can get the votes to pass.

Mr. Lanier Well, what I'm getting to, Senator, doesn't this put this section in direct conflict with Section 34 of the Local Government Article dealing with sales taxes?

Mr. Rayburn I wouldn't think so.

Mr. Lanier Well, doesn't that one say that the school boards and other units of government get up to 3% on the sales tax and this says that the legislature can impose whatever limitations it wants, doesn't it?

Mr. Rayburn Well, yes, sir. I says that, but I don't see where it would put it into conflict with the Local Government provision because it plainly states there what they can do--just what taxes they can levy.

Mr. De Blieux Senator Rayburn, actually right now isn't it true that all of the parishes actually retain all of the money they get from their sixteenth section land, but only 50% of it is charged against their minimum...

Mr. Rayburn That's correct, Senator De Blieux; in other words, the 50% of what they retain is charged against the state money that they receive out of the formulas, yes sir.

Mr. De Blieux And therefore, if none of this is charged against them under the LeBleu amendment, those parishes who receive a large sum of funds would be having a decided advantage over the others in that extra funds would have to be made up by all of the rest of the parishes or else by the legislature; isn't that right?

Mr. Rayburn That's exactly right, and that's why I'm here trying to remove the amendment, Senator De Blieux, because it's going to have to come from some place.

Mr. De Blieux And as a result of that, if these school boards are to get the minimum amount without

consideration of what they get from the sixteenth section lands, it would mean that the legislature would have to come up with in excess of something over 2 1/2 million dollars for them to meet their minimum standards in excess of that; isn't that correct?

Mr. Rayburn That's correct. They would either have to come up with that amount or reduce the formula.

Mr. LeBleu Senator, I wanted to ask you about the "amount, duration and purposes of such taxes shall be in accord with any limitations imposed by the legislature" in your third paragraph. Wouldn't that mean if a school board wanted to impose a tax to hire some additional teachers that the State Board of Education requires or recommends...additional teachers say for special education or something of that sort...then they would have to get permission of the legislature to impose that tax as well as to specify what it is to be used for?

Mr. Rayburn Well, I don't know, Conway. You know this as well as I do that the board has made a lot of recommendations trying to cut down the teacher-pupil ratio and we have been able to reduce it over the past several years in the legislature by providing additional funds to cut down the pupil-teacher ratio.

Mr. LeBleu Well, that's exactly what I'm talking about. If the school board, itself, wants to impose a tax to cut down this teacher-pupil ratio, then they would have to get permission of the legislature, wouldn't they?

Mr. Rayburn No, sir. I don't think so, because you know and I know in some of the parishes in this state, [they] were paying their teachers a tremendous amount of money for eight or ten years before we finally were able to raise the teachers in all parishes. Then, when we passed the bill that allowed the parishes to impose a one cent sales tax, some parishes adopted the provision and passed the tax and others did not...it was defeated in some of the parishes, and some of them didn't submit it to the people. Then, we had a problem with our teachers; one teacher in one parish making five hundred or eight hundred dollars a year more than a teacher in an adjoining parish and only the parish line separated them. Sometimes the schools were not two miles apart. That caused a lot of confusion in the legislature, but it did happen.

Mr. LeBleu In talking about the amount of money that the legislature appropriates for schools...now, if the legislature fails to appropriate the amount that the State Board of Education recommends for each parish school board...if we fail to appropriate that amount, isn't it true that each school board in the parish is cut down proportionately and not by the amount that's listed under my section-sixteen land?

Mr. Rayburn That's true; it's divided according to the per educable formula and the equalization formula in the amount of dollars you have...the formula is applied and certainly if the appropriation is smaller next year than it was this year, they will all have to share in the reduction, Mr. LeBleu; you're right.

Mr. Velazquez Senator, the original Northwest Ordinance that started the deal on sixteenth section lands did not really specify a county or parish basis. It specified education in general, which means that all this period of time anybody who wanted to go to court to sue on the basis of equity without a parish line could have done so, but they haven't done so because of things like the equalization formula; so wouldn't you think that if this thing...if your amendment is not passed every school board and the State Board of Education is going to be in court for the next

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ten years?

Mr. Rayburn That's entirely possible.

Mr. Velazquez And wouldn't you think that extensive amounts of money that could be used on education will be used to fight, for legal costs?

Mr. Rayburn That could happen.

Mr. Velazquez And wouldn't that mean that the children of Louisiana would, in effect, be cheated of hundreds of thousands of dollars in lawyer fees?

Mr. Rayburn That's what I'm trying to prevent.

[Motion to limit debate to one hour adopted without objection.]

Mr. Nunez Senator, I'm trying to determine why these figures vary. I think I know why in many instances, but some instances, for instance, your parishes of St. Tammany and Washington and my parish of St. Bernard which is some of it heavily populated with oil and other things, we get nothing out of this and that's not going to determine my vote because if there's equity in it, I'm going to vote for it. Could you tell me why some of these parishes receive nothing from the sixteenth section and some receive as high as a million dollars?

Mr. Rayburn Senator Nunez, the only thing that I know that some parishes do not own sixteenth-section lands today and therefore they could not have an income. Some of them in later years have disposed of it and don't have any sixteenth section lands.

Mr. Nunez That would be the point I would like to make and ask you another question. Do you think that it's equity that because we were all given an equal sixteenth section, the way I understand it when Congress passed this act, that the school boards of this state would be equally divided into sixteenth sections amongst the school boards. Now, if my parish took advantage of that and sold it and yours did and the others didn't and they're receiving income from it, should we now take that income from those parishes? That's what I'm trying to determine in my mind, right now.

Mr. Rayburn Senator Nunez, let me just say this; Washington Parish many, many years ago was in a dire need for some additional funds and they sold their sixteenth section land. However, it's changed hands several times since then, but the only thing I'm trying to do is to keep intact what we've had intact for many, many years, and this amendment does not take any revenues away from the parishes that they are presently receiving. It keeps it intact. But it does...my amendment does prohibit from letting those parishes receive all of the revenue produced from the sixteenth-section land whereas today they are receiving half of it, and my amendment continues to operate as they have been for many, many years.

Vice Chairman Casey in the Chair

Mr. Jenkins Senator, we received this list showing various amounts of money, but this list really doesn't show us the harm done to the various parishes if we don't adopt your amendment; does it? For example, in East Baton Rouge Parish, even though they have zero here, we're talking about a different thing insofar as the amount of money that East Baton Rouge would lose. We're talking about East Baton Rouge losing two hundred and fifty, two hundred and seventy thousand dollars a year unless we adopt your amendment; aren't we?

Mr. Rayburn That's correct, Mr. Jenkins.

Mr. Jenkins Other parishes like Orleans, etc., losing comparable amounts, isn't that correct?

Mr. Rayburn That's correct, unless the legislature finds the money and makes it up from some other source.

Mr. Champagne Senator Rayburn, actually, what this does is it does give them credit for half of what they get from that, does it not?

Mr. Rayburn Yes, sir. They keep all the funds now, Mr. Champagne, but they are charged with half of the amount they receive. They keep the funds today, but they are charged for half of that amount against...when the state funds are applied.

Mr. Champagne Isn't one of the reasons for the state getting into the education field is to insure that all parishes--even if you happen to be in a real poor parish--you do get at least a minimum education, or provide for an education for all of the people of the state?

Mr. Rayburn That's correct, Mr. Champagne, and I can name you a few parishes--one in particular, St. Helena Parish--the state legislature has appropriated funds out of the general fund for the last sixteen or eighteen years. The state funds now are about ninety-eight percent of the total support for those school systems. But, the reason for the equalization fund when it was created was to help the poorer parishes maintain a public school system like every other parish in the state. They can't do it on their local revenue from St. Helena. They don't have anything up there to tax but billy goats or cows--a few of them. They just...they don't...they could pass a two cent sales tax and the yield won't amount to any money, so to speak. So, that was the purpose of the equalization fund to see that each parish had a sound financial school system.

Mr. Womack Senator Rayburn, hasn't the basic philosophy of our educational system been--all through these years--that we find the money where the money is, and we distribute so that we can educate the children where the children are?

Mr. Rayburn That is correct, Mr. Womack.

Further Discussion

Mr. LeBleu Mr. Chairman and fellow delegates, I think we're just approaching this whole thing with the wrong attitude. I told you yesterday that we weren't talking about the money, or trying to cut anybody's school board, or deprive any child of any education in the State of Louisiana. Then Senator Rayburn just cited you an example where the legislature has been appropriating money to St. Helena school board every year. They don't have anything over there in St. Helena that they can put a sales tax on because it's a rural community. There's no method except what he says--taxing the billy goats--to raise money over there. So, the legislature takes care of them. To me, that's fair. That's the way I think it ought to be. We're talking about the Section Sixteen lands in the equalization formula; the severance tax is also considered in the equalization formula. Let me give you this example: about thirteen or fourteen million dollars a year is now derived by the state from severance taxes in Cameron Parish. The parish gets back a maximum of two hundred thousand dollars, as set by law. In a parish from which is collected, say, three hundred thousand dollars on severance taxes, that parish still collects that two hundred thousand because the maximum amount is two hundred thousand. That's all they can collect. But, I'm not complaining about the amount over two thousand--the other thirteen million eight hundred thousand. Where does that go? That goes to the State of Louisiana to provide education for the children of St. Tammany Parish, St. Helena Parish, and every other parish. What I approached you on yesterday is what I thought was trying to correct an inequity that has been unfair--been unfair. I approached you on

it rather than the legislature because I think you are a fair-minded group of people. Those parishes whose school boards were prudent enough to save their school sections through thick and thin, depression, fat years and all--and I've eaten as much black-eyed peas and cornbread as Senator Rayburn has--ought to be rewarded for what they have held onto. We're taking something that belongs to them. If they decide to sell those sections, which some parishes have done in the past, the parish school board is still going to receive the same amount of money that the legislature appropriates. In the past, the legislature--and I voted for some of these things, to give the school teachers a pay raise, but not provide the money. Our school board--when they had a little extra income from the Section Sixteen lands--supplemented every pay raise the legislature voted whether the legislature provided the money or not. They've also hired additional teachers, and when you hire more teachers or more personnel than the State Board recommends, the school board has to bear the total cost of those employees. The only thing I'm asking you to do is just be fair. We have saved our school sections; they're beginning to bring in a little revenue, and I think that we deserve to keep it. Let the legislature bear its share of the burden. I'm in there and I don't vote for anything against education.

Questions

Mrs. Miller Conway, isn't it true, you take a parish like East Baton Rouge, it has all the industry settled here; Orleans has a lot of industry; they have a broad tax base, they have a lot of things to tax in spite of the exemptions. You take a parish like Vermilion and Cameron, we have no industries or much business to tax. So, in other words, we don't have the millage; we're not going to be able to generate the school revenue with millage tax because our property values are low because they are not just loaded with big industrial areas to be taxed. So, if they take this away from us, they are, in fact, taking it. They already have all the gravy with the industry; isn't that true?

Mr. LeBleu Yes, ma'am, that's true. I don't know, I think in California didn't they...didn't the court out there rule that a school district couldn't impose additional taxes just to provide better services for the schools--for the children within that district?

Mrs. Miller Isn't it true, also, that we--down in these south parishes where most of this revenue is generated--we have a very unstable soil where we have a lot more repairs and upkeep on our school buildings, and that part of it is because of the type of conditions that generate the oil also generate the unstable conditions of the soil.

Mr. LeBleu Yes, ma'am. I'd say in Cameron Parish we have about ninety-five percent marsh and about five percent high land.

Mrs. Zervigon Mr. LeBleu, isn't it a fact that the philosophy behind the equalization formula is to equalize, which means to take some from the rich parishes and give it to the poor parishes? Isn't that a fact?

Mr. LeBleu Yes, ma'am.

Mrs. Zervigon If you don't count the riches of the rich parishes and say, "I'm really a poor parish if you don't count all of my riches," then the philosophy behind the equalization formula is pretty well shot. Isn't that a fact? The Huey Long feeling that every child had a right to a free education no matter where is pretty well shot; isn't that so?

Mr. LeBleu Yes, ma'am, and I'm not arguing with that at all because I think, for instance, Orleans and Jefferson, as well, contribute a whole lot of

money to the state treasury through taxes, etc. I'd say, substantially more than what they get back either in school services or other. They're looking out for the poorer parishes of the state; I'm not quarreling with that at all.

Mrs. Zervigon Well, let me ask you one more question. You keep referring to other parishes other than your own who didn't manage their lands well, but sold them, and therefore don't have these oil revenues. Isn't it a fact that there are Sixteenth Section lands in a number of parishes that never had oil under them and, therefore, produce no revenue or very little?

Mr. LeBleu I suppose so; yes, ma'am.

Mr. Nunez Mr. LeBleu, I notice one of your parishes of Cameron produces eight hundred and seventeen thousand dollars annually from a Sixteen Section. I assume that's mainly from oil, right?

Mr. LeBleu It's primarily from oil, Senator Nunez, but they do lease sections for hunting, trapping, in some areas for rice farming; and I think that farming applies to Mr. Burson's area over there in Acadia where they...

Mr. Nunez My point, Mr. LeBleu, is when you drill oil, you create a certain...you bring a certain number of people into your parish, and there's a certain destructibility that happens to that parish. Isn't that correct? You need schools for those people who do the drilling, and the pipelines, and the roughnecking, and roustabout, and the crews, etc. Isn't that correct?

Mr. LeBleu Yes, sir. Not only for that, but to provide all the services, too, for these...

Mr. Nunez Isn't it also correct that it is common knowledge that we are fast depleting all those oil reserves down on our coastal areas? Isn't that correct?

Mr. LeBleu Yes, sir.

Mr. Nunez Isn't it true when they finish with the oil, you're going to have a lot of pipelines and a lot of destruction, and the only thing you'll have down in Cameron and some of those areas is shrimp, and crabs, and fish, and you'll be up to your knees in alligators?

Mr. LeBleu I'd say a little deeper than your knees, Senator Nunez.

Mr. Jenkins Conway, isn't it true that under Senator Rayburn's amendment none of your rents or royalties would be taken away from Cameron Parish or any of the other parishes? You would still keep every cent in rents or royalties.

Mr. LeBleu Yes, sir; that's right, Woody. But, that's only from Section Sixteen lands. Now, what about all the severance taxes that are gained from the oil and gas production on every other acre, not only in Cameron Parish, but every parish in the state from which the state gets a severance tax? We're talking about Section Sixteen lands, and in Cameron Parish, I don't know how many sections it is, maybe eight or ten, you know.

Mr. Jenkins Well, let me ask you this, Conway, too: Mrs. Miller referred to the industry in Baton Rouge and other parishes. But, isn't it true that because there's a five mill property tax built into this formula, we don't get additional monies because of our industry, we get less. The funds from the state are reduced in proportion to the industrial taxes that are paid in this parish. Isn't that correct?

Mr. LeBleu That's right, and, of course, the school board is limited to five mills. They can go one, two, three, or four, or five--whatever they want.

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Further Discussion

Mr. Burson Mr. Chairman, fellow delegates, I rise in opposition to the amendment to remove Mr. LeBleu's amendment of yesterday. I do so primarily because one of the parishes in the representative district that I represent--Acadia Parish--would be adversely affected by this. But, I do also because I think that the philosophy behind this offset is wrong. It reminds me very much of the fable of the little red hen. If you all recall that story, the little red hen was very careful and cautious over the winter, saved up the grain and was prepared for bad times. The other animals were not so careful, and then when the bad times came, they wanted to impose on the little red hen who had worked very hard while they were all sleeping to share with them the grain that she had saved up for the winter. I think you can draw a parallel directly to this situation. A lot of school boards across this state gave away their Sixteenth Section land to timber companies for a few cents an acre. Now, they would penalize those school boards that were farsighted enough to preserve their Sixteenth Section lands. The assumption has been engaged in most of the questioning here that Sixteenth Section income is oil income. That's not true in many cases; it's not true in the case of Acadia Parish. The primary source there of Sixteenth Section income is farm rent. The Sixteenth Section land is rice land, soybean land that the school board rents out; they get a percentage of the crop every year. I submit to you that by offsetting fifty percent of the income received from Sixteenth Section land, you are removing the initiative on the part of the school boards to develop this land to its fullest potential. Almost all the school boards still have some of this land. There's no reason why they shouldn't go out and rent it for agricultural purposes or for other purposes--recreational purposes, if those apply. But, by penalizing them for fifty percent of the income that they receive from this land, you're, in effect, removing a great deal of the incentive to do that. The minimum foundation program has been mentioned. I submit to you, the minimum foundation program is in an earlier section; it's provided for. We're providing here that all parishes should have at least a minimum educational program. But, what you're doing here, if you eliminate Mr. LeBleu's amendment, is penalizing those parishes who have had the initiative and the foresight to develop the Sixteenth Section land, that I would remind you was given to every parish in this state to begin with. When these same parishes, if they are an oil and gas producing parish, are sending millions of dollars to the State of Louisiana in severance tax which has been dedicated solely for the purpose of education. I ask you for that reason to reject this amendment and to retain the concept that Mr. LeBleu had adopted yesterday by a rather substantial vote.

Questions

Mr. Anzalone Jack, if that little red hen that you were talking about lived in Tangipahoa or St. Helena Parish, do you reckon they'd vote up or down on an amendment like this?

Mr. Burson Probably down, Mr. Anzalone.

Mr. Anzalone How?

Mr. Hayes Mr. Burson, I'm going to ask real fast, isn't this the responsibility of the state to try to make education as equal as possible throughout the state?

Mr. Burson Yes, sir, Mr. Hayes.

Mr. Hayes All right, if a parish does not have or, in fact, has gotten rid of Sixteen Section land, is that the responsibility...is that the responsibility of the kids in the state or the rest of the kids in the state? Are you going to

hold them responsible for that--for something some politician did some time ago?

Mr. Burson Not at all, and we've provided for a minimum foundation program. But, I would remind you that these country parishes for the most part that have income from this Sixteenth Section land don't get a portion of the millage that East Baton Rouge Parish, for instance, collects from all the industry they've got over here, either. You might think about that if we're talking about balancing. I guess if we want to balance, let's have East Baton Rouge Parish send part of the income they get from the high millage on industry, here, and send that out to these other parishes. If we're going to offset, let's offset all the income.

Further Discussion

Mr. Morris Mr. Chairman, Mr. Acting Chairman, ladies and gentlemen of the convention, I hate to rise opposing my friend, Representative Conway LeBleu...

Mr. Casey Mr. Morris, just a minute. Delegates, please take your seats. Please keep your voices down; break up the little groups.

Mr. Morris I wish to compliment Senator Rayburn on his amendment. Certainly he has the will, the knowledge, and he's certainly looking out for the state at large. I certainly find no fault with Representative LeBleu for looking out after his people. However, the rents and leases from the Sixteenth Section are all figured in a four part formula in the state equalization program and, where you have monies that are raised from the five mill constitutional tax that is collected in the parish, reflects in that formula. You have several verities in there, and the least money is only one. Now, the Sixteenth Section, in years gone by in Claiborne Parish, other parishes in the northern part of our state produced a lot of oil monies that supported south Louisiana schools, mid Louisiana schools, and what have you. It's fortunate that parishes do have these incomes. However, many parishes have dissipated their incomes in these Sixteenth Sections, and many parishes are not fortunate enough to be...their Sixteenth Section located in an area that is a revenue producing area. When the Congress of the United States set up the Sixteenth Section, I would like to think that they were looking out after education for everybody--not just education in any one given area. If you leave the LeBleu amendment in this article, you are damaging--you are damaging education in various sections of this state. I would urge you--I would urge you--to go along with Senator Rayburn's amendment.

I would yield to any questions.

Questions

Mr. Nunez Jimmy, would you mind telling us what other incomes make up the equalization formula?

Mr. Morris I'd be glad to, Senator Nunez.

Mr. Nunez Would you please elaborate? Just tell us what other incomes make it up, and how much is it--the total amount that is distributed--and what incomes make it up--what revenues make it up.

Mr. Morris There are four factors in the formula: one, the number of educables in the parish times \$6.5756365. You multiply the number of educables times that amount: your five mill constitutional tax, or what portion is needed of that; your severance tax; and your rent or lease monies of school lands--fifty percent only of that--fifty percent of it.

Mr. Nunez You mentioned the five mill tax and the Sixteenth Section tax or the lease money, and the severance...

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Mr. Morris I said fifty percent, and I want to make that distinction--fifty percent of the lease money.

Mr. Nunez This severance tax, I assume that the severance tax which is generally on all state lands you're talking about is what makes up the bulk of the state monies that go to the school children of this state--not this Sixteenth Section. Is that...

Mr. Morris The severance tax that goes into this distribution formula amounts--in the year '72 - '73--amounted totally in this formula--and this is the one that picks up the difference--amounted to roughly four million dollars.

Mr. Nunez How much is the entire distribution? How much money does the state distribute back to the school through the equalization formula?

Mr. Morris Total support...

Mr. Nunez Total support.

Mr. Morris Total support for all parishes amounts to 39.6 million dollars.

Mr. Nunez The majority of that comes from severance taxes.

Mr. Morris No, it does not. The bulk of it comes from the five mill constitutional tax which produces 26.2 million dollars of the total 39.6 million dollars. The bulk of it comes from the five mill ad valorem tax. I have this at my desk if anybody would like to look at it.

Further Discussion

Mr. Aertker Mr. Acting Chairman, ladies and gentlemen of the convention, before I begin to speak in favor of this amendment, I'd like to preface my remarks by stating to you just by way of information that East Baton Rouge Parish which you see down there as with a zero, happens to have the Sixteenth Sections that were given it by the federal government. We haven't had any mismanagement; we haven't sold out anything. We just happen to have sixteen sections of land that just have some scrub timber on them and don't happen to have some black gold flowing underneath it. That's the problem with East Baton Rouge, and I would have to presume it's the problem in many other areas on this. But, this isn't what I really...why I rise in support of this amendment. I think we really need just a little bit of history of what has happened in education in the last two decades in the State of Louisiana. You know, we had a lot of inequities in education in years gone by, and fortunately for this state, many people finally came to realize that we had these inequities. They finally resolved it and came into the conclusion that every student, every child in this state, regardless of whether he lived on a farm or in a city or in any area, just so long as he lived in this State of Louisiana was entitled to a minimum education program. In order to give him that minimum education program, the state accepted the responsibility of funding that program. Through a long period of time and over many years, they have developed a formula which provides for that. The formula is just as simple as anything. In theory, it's real simple, and that is: is that we will take every child in this state and we will guarantee to him that he is going to get a certain type of education. He is going to get that education because he is a citizen and a part of the State of Louisiana--not because he is a citizen of East Baton Rouge Parish or because he's a citizen of Allen Parish or St. Bernard--because he is a part of Louisiana and, so, therefore, we are going to provide them. This formula that has been developed here is in serious jeopardy if you go ahead and let this amendment that you passed yesterday remain in this constitution because I can pursue this philosophy that has occurred here,

and tell you, "All right, if we do this, why don't we just turn around and put this on the other foot, then, and say, okay, we'll let East Baton Rouge keep all of the taxes it collects on its five mill property tax, which I can tell you is substantially more than what they would get back. But, they are assessed in their equalization for every penny that we collect of that five mills. We don't get fifty percent of it back like these other parishes are getting on oil leases, etc.; we get zero. Every penny of that is credited against East Baton Rouge Parish--and East Baton Rouge Parish--with a tax base of about twenty percent, you can understand--and the properties that they have--you can understand the amounts of money that is involved there, that it does cost. Following that same tax line, I heard it mentioned here about East Baton Rouge having a broad tax base, I just would like to ask you folks where do you think all those taxes that are collected in East Baton Rouge go to? They go to the state in the helping to run this state throughout that. Our sales tax through the state sales tax and, so, well, all of this goes into this one common fund and one common pot. But, I am concerned about two things, and that is that this represents a real threat to the minimum foundation program formula as it presently exists. I think it represents a terrific strain on...and an additional demand upon the state legislature to just go out and find some more money. I think that in theory, it contradicts the thing that we have a concern for a child, whether he's in one parish or the other. This, the state provides. The state tells us that we have to pay teachers a certain amount of salary. We have to provide a certain amount of program for them. This is a provision of the foundation and the minimum foundation program. It was my thought that the purpose of this constitution was to continue those programs and to build into those programs those things that were good. I can tell you this program of equalization is good. I heard it mentioned here that they had a case in California that said you couldn't provide additional things. The problem there was that California didn't have a minimum foundation program. The fact is, in the Sarantos case, this is what was pointed out was that local areas just got everything that they had, and they weren't asked, they wouldn't share with their surrounding communities and their surrounding parishes. We either have to make up our mind in this convention whether we want a State of East Baton Rouge or a State of Cameron or State of Allen, or do we want a State of Louisiana that a constitution will fit all of them. I tell you that...

Questions

Mr. Arnette Bob, I'm asking for information on this. I would like to find out: in the middle column--in this thing that is passed out--it has the amount received. Now, does any of that money go to the state?

Mr. Aertker No, that's exactly as it says; that's what that parish gets in...

Mr. Arnette The parish keeps all of that money?

Mr. Aertker Yes, sir.

Mr. Arnette Well, what's this column on the right then?

Mr. Aertker Then, when they are given out of the equalization formula and they look at their program, they look there and say "You already have this million dollars and since you have a million dollars more than your surrounding neighbors, obviously you're in better position to support the minimum program. So, therefore, you are penalized fifty percent of that amount that you've received, and you will not receive that from the state."

Mr. Arnette So, in other words, what it is it

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means that you don't get as much welfare from the state if you have all the income in your parish?

Mr. Aertker That's correct.

Mr. Arnette But, you're not losing any money are you?

Mr. Aertker No, you're still a half million ahead of the rest of the group.

Mr. Burns Mr. Aertker, what concerns me in all of this discussion and debate is all centered on the LeBleu amendment. But, by voting for or against that amendment, you are either going to vote for or against the rest of Section 16; is that right?

Mr. Aertker Well, I think that it...I should maybe might say degenerates into that, yes.

Mr. Burns But, what I mean is it looked like its gotten to be a case of the tail wagging the dog by voting on...solely on the LeBleu amendment. You might wind up by voting against Section (A) and (B) of Section 16, which provides the money for the operation of the educational system.

Mr. Aertker Well, as from what I see of the amendment present before us, that the only thing that is involved in it--as far as I appreciate it--is that this would eliminate the provision that the least money would be given a hundred percent and would not be accredited against them in equalization formula. So, that's the only issue that I see at stake.

Mr. Burns But...one more question: don't we have to adopt Section 16 that's set forth in the Rayburn amendment to provide the money for the operation of the state educational system?

Mr. Aertker Yes, sir.

Mr. Burns ...not just the LeBleu amendment.

Mr. Aertker Oh, no. This is just the amendment, then after that, we would have to go into the adoption of the section, Mr. Burns.

Mr. Pugh Sir, I'm kind of like Mr. Burns over there. Isn't the issue crystal clear? Either you want to take the sixteen lands and distribute the money throughout the state, or the benefits from them, or you don't. Really, you know, it's a crystal clear issue.

Mr. Aertker That's exactly right, Mr. Pugh.

Further Discussion

Mr. De Blieux Mr. Chairman, ladies and gentlemen, I don't want to be too repetitious in this. But, I would like to say something with reference to the Sixteenth Section lands because that's what's involved here in Mr. LeBleu's amendments. Now, let me read to you what the amendment was because that's what is involved in the total situation. It says "revenues derived from Sixteenth Section lands shall not be used in any manner in determining the apportionment of state funds for the support of public schools to parish school boards." In other words, you don't take into consideration what they are getting from Sixteenth Section lands whatsoever. It so happens that Mr. LeBleu's in an area where they have been very fortunate with their Sixteenth Section lands. Now, what is Sixteenth Section lands? All of the territory in the whole United States belonged to the federal government and then it in turn was transferred back to the respective states. It's divided up into townships, in each township there is thirty-six sections. In each township there is one Sixteenth Section. If that Sixteenth Section falls within that particular parish, then that parish has that particular section of six hundred and forty acres for school purposes. Now, if your parish is a large parish, it has more Sixteenth Sections than

a small parish does. If your parish happens to be an oil producing parish, you might get a lot more income, than you do in some parish who may have three or four more Sixteenth Section lands in a smaller parish where the oil producing, but they don't get as much money, because they don't get as much revenue from the Sixteenth Section. Or, if they are a parish who has suddenly had to sell this section in order to support the schools because there was no other use they could make the Sixteenth Section, naturally they don't have any income from it. Now, at the present time, the school boards get all of the money--not any of it is taken away from them. Under the LeBleu amendment they still get it and the others get it if we don't pass this and pass Rayburn's amendment. They still retain all, we aren't taking anything away from them but what has been done in the past, because we have the children to educate throughout the whole State of Louisiana--not just one particular section--is to take into consideration all of the funds that the school board is receiving from all sources. Then, we have the equalization fund which takes into consideration just one half of what they get from the Sixteenth Section lands--that's what's involved here. You only take in one-half of it in consideration of that together with what they get from the severance tax and the other to make up the equalization fund to be sure that each school board has enough money for a minimum educational program--that's what's involved here. So, we're not taking anything away from any school board by this fund. The only thing is, we're just taking into consideration how much they get in allocating the other funds. Therefore, I ask you to support this amendment of Senator Rayburn's, so that we can have good education for all the children--not just for the favorite few.

Questions

Mr. Lowe Senator De Blieux, this is ("did you realize question?") So, did you realize that as I appreciate this amendment, that it's trying to solve some inequity? Well, let me give you an example of the inequity that could exist if this amendment is passed. Part of the equalization formula is made up of severance taxes and, at the moment, Acadia Parish, for instance--which was alluded to by one of the delegates--receives in severance taxes one hundred and twenty thousand dollars, and they have sixteen thousand students. So, that means they receive seven hundred and fifty dollars per student. Now, in Cameron, the severance taxes that comes from statewide funds, there is seventy thousand that goes to Cameron and they have two thousand three hundred students. So, they are receiving thirty dollars per student. Now, in East Baton Rouge, they receive forty cents per student. Now, in Orleans, they receive just a little over one cent per student. Now, if this amendment is passed, then we'll do away with the income from Sixteenth Section lands which means that that money will apparently have to be made up from severance taxes. Now, if that happens, that means that this four hundred and twenty thousand dollars that will have to go to Cameron from severance taxes. Now, with two thousand students and another four hundred and twenty thousand dollars added to the seventy, that's five hundred and ten, that means Cameron would be receiving one thousand seven hundred and thirty thousand dollars per student--one thousand seven hundred and thirty thousand dollars per student from the severance taxes while Orleans would be receiving just a little over one cent per student. So, you think that adopting this amendment could possibly solve any inequities or create more inequities?

Mr. De Blieux Adopting the amendment we have here will certainly keep from creating more inequities than we have got, Mr. Lowe, because that's what's involved. We are trying to get rid of Mr. LeBleu's amendment which created, in my opinion, a lot more inequities than what we would

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have; that's right.

Mr. Lowe So, you agree that if we kill the amendment, we are at least staying more equitable than we are if we adopt it.

Mr. De Blieux That's right. I agree.

Mr. LeBleu Senator De Blieux, I believe you have stated from the podium that these school sections were originally given by the federal government to provide education. Is that right?

Mr. De Blieux That's right. Now, in this one...

Mr. LeBleu Now, wait a minute, wait a minute. Let me ask you a question. Were they given to the parish, to each particular parish, or were they given to the state?

Mr. De Blieux They were given to the parishes through the states because they...

Mr. LeBleu What for? What for? Why did you answer? What was the answer you gave up there awhile ago?

Mr. De Blieux They were given for educational purposes, and you...

Mr. LeBleu Were they given to the state or were they given to the parish?

Mr. De Blieux Well, you still get them. You get all the revenues from them, nobody is taking that away from you.

Mr. LeBleu Only half, that's all.

Mr. De Blieux No, we're just taking into consideration half of it, in the approachment of the other amount of money that we have, Mr. LeBleu, that's all; you don't want us to take that into consideration. This just says it all it should be taken into consideration.

Mr. Lanier Senator De Blieux, don't many school boards have a sales tax?

Mr. De Blieux Yes, they do.

Mr. Lanier Does the one here in Baton Rouge have it?

Mr. De Blieux That's right.

Mr. Lanier Don't you think that Baton Rouge probably gets an awful lot of money off the sales tax?

Mr. De Blieux They do and that's taken into consideration the allocation and equalization funds.

Mr. Lanier The sales tax?

Mr. De Blieux Oh, yes, since you have to take into consideration of all the funds and allocation of this extra money--this is the extra equalization formula.

Mrs. Warren I wanted to ask Mr. Burson this question, but I didn't get recognized. Mr. Burson made a statement about the little red hen and, of course, I'm familiar with that story "The Little Red Hen," but what connection could you see here? From listening, nobody seems to work for anything, it looked like it was a gift. Could you tell me the connection?

Mr. De Blieux Well, I can't see the connection because sometimes the Sixteenth Sections don't bring in any revenues.

Further Discussion

Mr. Drew Mr. Chairman, ladies and gentlemen of the convention, I rise in support of the Rayburn

amendment. Let me preface my remarks with this statement: there is no member of the legislator or this convention that I have more respect for than I do my good friend, Conway. This is one of the few occasions that I have had to oppose a proposal that he had submitted. I voted against it yesterday. I think it was passed, because I don't think the significance...the implications were fully understood by the convention. I think there is a better understanding this morning, but let me bring just a couple of points to your attention. We are down here to draw a constitution to be submitted to the people for the State of Louisiana, not for sixty-four individual school boards. When I came to the legislature, and I am a freshman member of the legislature; and when I came here in 1972 for the first regular session; when I returned and had the opportunity to speak to several civic groups, they asked me, "What was the most important thing that I observed in the operation of the legislature?" I had no hesitancy in answering that question in this way, that the major business of the State of Louisiana has the least representation. When I said "major business," I was speaking of this State of Louisiana itself. Unfortunately, in the legislature and I'm afraid that we are doing it here--and I mean nothing personal about it. We are looking after our own individual interest. We are losing completely the statewide perspective that a convention to draft a constitution must use. We must use a statewide perspective and not a individual school board perspective. Now, several of the speakers have said that some of the school boards have given away their lands. I voted for Mr. LeBleu's motion to grant additional time so that I could secure that information. I know that in my particular parish and in several other parishes, they have not disposed of all of their Sixteenth Section of land. Our revenues in Webster Parish are some eight hundred dollars a year, I think, is about what it amounts to. But, let me bring this to your attention. As Senator Rayburn so well set forth when he presented this amendment, if this amendment is not adopted which, in effect, all it does is delete the LeBleu amendment that was adopted, and I think adopted through error yesterday. It will mean that the legislature is going to have to find somewhere two million six hundred and sixty thousand dollars to give our school boards the same amount they are receiving now. I think that the public school system is under-financed to begin with and to put the legislature and the state in the position of having to find in excess of two and a half million to maintain the present formula is unfair. As I said, please, let's look at this on a statewide perspective. Now, one of the other speakers said that what this does it removes the incentive for any school board to derive revenues from their Sixteenth Section of land, that is, a complete fallacy because those school boards do get an excess of fifty percent of whatever revenues they derive from those lands. My parish in the past and is still a fairly high producing oil and gas parish, that does not mean that we should receive any more money. The idea of this whole thing--and I'm afraid we have lost sight of it in adopting the LeBleu amendment--is to give every school child an equal advantage for an equal education. If we do not adopt this amendment, we have failed in that obligation and duty to the school children of the State of Louisiana.

In closing it says that...some of our speakers said that those who have kept them should be rewarded, many have kept them and cannot be rewarded because they are unproductive. Let me repeat one more time. Let's do something for the state school system, adopt this amendment, and I think we have put the state in a position where we can see that each child gets the education that they are entitled to. Thank you.

Chairman Henry in the Chair

Further Discussion

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Mr. Weiss Mr. Chairman, fellow delegates, I'm amused at the intense interest and excitement over a little thing like money. But, I can see where Senator Rayburn is very concerned about this, because he would have to come up with some matter of equalization formula if this LeBleu amendment, as was so wisely passed yesterday, remains in effect. Here is a story in my education of this subject, I would like to pass it on to you for consideration. First of all, the equalization formula is entirely a product of the state legislature. Second, if this one sixteenth land was given by the federal government to the parishes to dispose of it as it saw fit, but for educational purposes. Many of them, I understand, during the depression preferred to sell it, even St. Mary... St. Helena, where the center of the short leaf pine industry is. If they had that land today, I'm sure they would have a nice income for their public schools if they care to...to use it for that purpose. But, in the event it was given carte blanche by the federal government for the parishes to use. Now, what really is the picture? We are talking about a very fractional amount of money which would be left within the parishes and it comes to exactly--now, listen, fellow delegates, to this figure--four-tenths of one percent of the total budget for public education in the State of Louisiana. We are speaking of one-half of that amount, two-tenths of one percent. The thing that amazes me is the intimate concern that the educators have for less than one-half of one percent of funds that would be available to them. I could only say that I wish our school board and the school districts throughout the state were as interested and as concerned in saving one-half of one percent as they are about the possible so-called loss. Now, let's evaluate the loss. First of all, there is no loss. The equalization formula sets a minimum standard--and by the way, I can only interject at this point--that the minimum standard that we have created here in Louisiana is not in California and not in Illinois where the finest educational systems in the whole country exist, according to our educators. So, it's a bit confusing as to interpret what they mean as to minimum foundation programs when other fine states in our country do not have this type of legislation or super-legislation in their constitution. But, be that as it may, the minimum program is established on an equalization formula basis--which Senator Rayburn is so concerned about--because it is his committee that must get the funds for this purpose. Frankly, I would like to see the cost of education reduced and this is one way of knocking off two-tenths of one percent on a seven hundred and eighty million dollar operation in the State of Louisiana, three quarters of a billion dollars goes to this. So in reality, and I'll have to be honest with you as Senator Rayburn and Conway LeBleu have been, I'll have to be honest, it really doesn't make a lot of difference how you vote on this as far as I'm concerned. I know how I will vote. But, let me tell you what happened for those of you that don't remember. In 1952 Cameron threatened to secede from Louisiana. Cameron Parish threatened to secede from Louisiana. This is a fact and really it's a sad situation that it had to threaten the legislature at that time. Yes, it almost seceded from Louisiana and went to Texas, fellow delegates, almost by a vote of the people and if the legislature had let them go, they would have gone. And I'll tell you why because of the fabulous amount of money that Cameron is providing to the till here in Louisiana for welfare purposes and getting not a copper cent and at that time, all they wanted was a highway to get out of that area in case they got wet. Two years later, the hurricane, Audrey, struck there and five hundred people lost their lives. Now, are we talking about education or lives, I ask you? Our mellow, meek and very potent senator from Cameron, Mr. LeBleu, has failed to mention this to you, but I would like to bring it to your attention. They almost successfully seceded and maybe they would have been wise seceding, they wouldn't have this thing come up. But, in any event, I'm voting for

it. I hope you'll do...against Senator Rayburn's and for Conway LeBleu's. I think that the home rule order of the state, the home parish. Thank you.

[Previous Question ordered. Record vote ordered. Amendment adopted: 80-32. Motion to reconsider tabled.]

Personal Privilege

Mr. LeBleu Mr. Chairman, fellow delegates, after so many people trooped up here and said that they were my friends and then the way the vote turns out, I certainly don't need any enemies.

[Previous Question ordered on the Section. Section passed: 95-17. Motion to reconsider tabled. Motion for the Previous Question on the Proposal.]

Reading of the Pending Amendments

Mr. Poynter Mr. Juneau and Mrs. Corne have an amendment adding a proposed section: "Right to Preserve Linguistic and Cultural Heritage. Right of the people of the state to preserve, foster and promote their respective historic linguistic and cultural heritage which still exists in substantial form as recognized." Different amendment than offered on yesterday.

Mr. Conroy has an amendment which would propose to add a section relative to new appointments to boards and making new appointments to a board established by Section 7, 8, or 9 of the article: "The governor shall consider appropriate representation on that board by graduates of the respective institutions under control of that board."

Now, Mr. Aertker, you're not going with the post-section that you had? All right, so, those are the only two I have at the moment.

[Previous Question ordered: 60-49.]

Closing

Mr. Aertker Mr. Chairman, ladies and gentlemen of the convention, we have finally come to the end of our deliberations as far as this article is concerned. But, I just thought that I would just kind of point out just some of the savant features of this whole proposal just to make sure that we do understand the purpose of the article that we have presented to you for your consideration. We listened to hundreds of hours of input of people involved in public education throughout this state. We feel that with the creation of the two boards that we have--and I frankly consider it just two boards--because they do control education in this state. I do know that the Board of Education which will handle all of elementary and secondary education represents the thinking of the people in elementary and secondary education. We firmly believe that with the approval of this article, that we in elementary and secondary education have finally found a place to go, and a place to get some problems resolved, and a place to move forward in education in the elementary-secondary level. By the same token, I am firmly convinced that by the creation of the Board of Regents, we have taken a step forward in higher education that will keep in higher education two basic things. That is, that all of higher education--and I repeat--all of higher education, every college, every university in this state will be under one board. That board will have the responsibility of handling all of the budgetary matters, all of the financial matters, and all of the curriculum matters, and all of the program matters. I tell you, when a board has that type of power and that type of control, it has all of education in its hands. This board has a specified responsibility spelled out in this article that they will develop a formula and that formula will be for the equitable distribution

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of funds according to that formula that they will recognize and consider many factors in. But, at least, every body will come into that board together. That board will go to the legislature as a unified request. I think that the clarification that will result from all of these school systems being able to be treated as one body in their basic request to the state legislature, represents a tremendous step forward and a tremendous step toward progress. We have many things that are included in here. We have a method of funding. We have those basic principles involved in education. We feel that this proposal while it will never, it will never satisfy everyone, just as every other proposal, just as the proposal on Revenue and Taxation, just as the proposal on Local and Parochial Government, and on the Executive Branch, and on the Legislative Branch. We have proposed something that we feel marks and indicates a decided improvement in public education for the State of Louisiana. I ask that you give some serious thought to the favorable adoption of this. I point out to you, that this does place education in the area to where they will be able to provide the attention and the time to the different areas of education that deserve the consideration and the time. I think that those areas of local management have been provided for to the extent that they will be able to have a much better type of day-by-day operation at all of our state universities and colleges. I, at this time, ask for your favorable consideration.

[Record Quorum Call: 109 delegates present and a quorum. Proposal passed: 71-42. Motion to reconsider pending.]

Personal Privilege

Mr. Asseff Mr. Chairman, delegates, I resent very much the moving of the previous question in order to preclude the opponents from speaking on the proposal. By moving the previous question, you are permitting the supporters to speak, but you are silencing those who oppose. I do not feel that that is fair. Both sides should be heard. I have no objections to limiting debate. But I feel that that type of thing will kill the constitution. I, for one, resent it. I cannot accept the proposal. It is unacceptable to me, and to the people who elected me. But, had I been permitted to speak, I would have been in a better position to accept that which I oppose. Now, I cannot accept it, nor the constitution. Thank you, delegates.

Personal Privilege

Mr. Roemer Mr. Chairman and fellow delegates, I, too, rise on the point of personal privilege at a somewhat unhappy moment in my life. I speak not just to you, but the people that chose me to represent them in this constitution. It's my personal opinion, and perhaps I share it alone, that we have just written the most ill-conceived article possible in a new constitution--choked full of statutory material; choked full of structure that may or may not work; center around a board that it was described by the proponents of this article as the single, most powerful influence in education in this state for tomorrow. It will be that. A board that was described that had the educational system of this state in its hands--and I can tell you in whose hands that board is--a totally, completely, one hundred percent appointed board is in the hands of the people that do the appointing. Now, you can write it down, you can book it. It ain't right. Now, I will not say that I will oppose this constitution. But I have a message from my people that elected me in the first primary to do the best I can. I tell you back home, I will continue to do the best I can. But as far as I'm concerned, the deal is off. I am not committed to this new constitution. I am only committed to do the best I can. When I go home and look at it all, maybe I can support it.

[2466]

God, I hope so. But, as far as I'm concerned, I'm very, very shaken as of this moment.

Personal Privilege

Mr. Chatelain Mr. Chairman and delegates, I, too, rise to make a statement that I feel I must make. I will work from this day forward, until the day that the election day--to try to sell this constitution. I think it's far better than the one we now have. But, I say this to you, my fellow delegates, and particularly you, Mr. Huntington Odom, LSU group, Mr. Victor Bussie and your fine people, you have a job cut out for yourselves. You have won this battle. But, I'm very fearful that you are going to lose the war. I feel that particularly from the area that I hail from in South Louisiana, that this is going to set us back a great deal. However, my feelings, as I said at the outset, I will try to sell. But, I'm going to have some miserable days ahead of me. I'm going to hesitate to go out on the streets in the city of Lafayette because I know what is in... I know what is in view for me. I know what I will be looking at--some very disgruntled and unhappy people. I hope that you forces that have won the battle today will get out and fight with the diligence, and with the hard fight... fought battle that you fought here in this constitutional convention in this great day of nineteen hundred and seventy-three, because you are going to need it. You're going to need this kind of fight on your hands. I think that the LSU forces can win this battle, or win this war if they get out and fight. But, you, too, have a job. I challenge you with a job. You have won this battle. But, I challenge you to go out and work--and work with the same way you worked here--to sell this constitution. Thank you.

Mr. Henry Since none of us have heard any speeches lately, I'm sure we'll all enjoy these personal privileges.

Personal Privilege

Mr. Leithman Mr. Chairman, fellow delegates, I feel very badly about this proposal, the way it has been adopted. I tried my best to convey to you the thoughts and the ideas of the professional educators around the state--the people dealing with education--and apparently the arguments that I advanced to you weren't sufficient to convince you of how things are expected to go in education. I feel that we killed the constitution. This is my personal opinion in speaking to those persons in education. I don't see in any way that the majority of those persons can go with this constitution the way we turned out this proposal on education.

Personally, I'm not going to make any comment whether I'm going to go for this constitution or not at this time. I can say that I'm uncommitted. I feel that strongly about it. I feel the other legislators around this country, when they read this proposal that we turn out, certainly can look at us with laughter--with laughter--because we have been meeting routinely with those bodies that are rewriting constitutions. I know that and I've gained the philosophy that they have advanced in their constitutions. So, I feel that this is, this is really--if none of the other articles did--this drove the nail in our constitution. I feel very badly about it because I know you folks, whether you voted for it or against it, I know you worked very sincerely and very diligently. Perhaps persons assisted me, or the other side of the proposition, failed to project the argument well enough. So, I accept part of the blame. However, I just think we have a very, very, very bad article on education.

Thank you.

Personal Privilege

Mr. Juneau Mr. Chairman and fellow delegates, I

won't take up much of your time. I've kind of been a maverick on this particular article since the start. You know, I'll tell you at the onset that I am different from the LSU system in this regard. I'm going to support this constitution because I think on balance, it's better than the one we have. I do not think that the education article on balance is better than what we have. I will, though, and I do not believe in giving up the ship because you gonna...we're going to live with this problem for another two months. Let me tell you on balance that when we consider this constitution and bring it to the people, we've got to pass it. We have compromised, and I have compromised. I believe that is the democratic system. Every article in this constitution, save and except one--and, let me tell you that if it dies--if it dies, which God help us, I hope it does not, let the day rule when you say we might have gone a little bit too far. The reason why I'm saying this is not because I'm not going to support it because I am. But I'm telling you that the mechanism I want you to examine the people that you represent--not the boards, not the alumni associations--but the people you represent, and you ask them how they feel. God help us before we end this job in January, 1974, you will want to, through some mechanism of this convention, reconsider this problem. Let me tell you, when you talk to your people, will you please tell them this, that on one day, on November 13, 1973, this convention decided for the children of this state that by a vote of 80 to 18, you're going to have eight elected public officials and three appointed. So be it. On that very same day, when we get to higher education, you voted by a vote--and listen to this carefully--a vote by 69 to 46 to do the very same thing in the field of higher education. Through the divine revelation as reflected by Mr. Duval one day, as he used the word, on the very next day, we voted by a miraculous vote of 62 to 44 to have 15 appointed by the governor. I just want you to examine that because that question is going to be put to you. I can't give the answer. I started from the beginning of this constitution with the concept I'd be willing to take it all out. That wasn't the will of this convention. We got down to the end and I said, "Gentlemen of the LSU system, we have got a problem. You have got to give when you're talking about passing a document to the people. You haven't given one inch; not one inch. You rejected the board's other schools. Well, so be it." So, we got down to the point, and much further than I thought we had to go, get it eight elected and seven appointed. Privately, some people said, "You know, that's really not too bad. But, the holy alliance has been made." Well, then, when they ask you who the holy alliance...I mean you people in East Baton Rouge, and you people in Caddo...you answer that question and then see what the response is.

So, what I'm telling you in conclusion, I do not believe in giving up. I'm going to support this constitution because on balance, I think it's better. I think this particular section is worse. So, what I'm telling you is to talk to your people. I plead with you to reconsider because remember, you don't want to kill a whole document over something that can be, in my opinion, corrected by a very, very small compromise, and not a technical amendment, but one that I think is more representative of the people.

Thank you very much.

Personal Privilege

Mr. Bergeron Ladies and gentlemen of the convention, I rise to tell you that I will support the new constitution because I respect the will of the majority of the delegates. I have the highest regard for the integrity of each and every one of you. Although I will say on the outset of the convention that we, the delegates of CC/'73 had a strong feeling for electing our officials. I'm looking over the number of appointments we have, and I list over sixty appointments in the education

article. I don't see how this number can be justified. I don't see who these appointments--I don't see how these appointments can be responsive to the people. I don't see how they will be answerable to the people. I feel that the educational article which we devised is not a good education article. I think we worked very hard. I know every one of us casted our votes on our conscience. But, ladies and gentlemen, I feel that we've made a mistake today. Of course, it's only one delegate's opinion, and I was in the minority.

I will say, as I have said, though, that we are a deliberative body, and we're working under a democratic manner; that the will of the majority will exist. I will abide by that will. But, when we go home over the Thanksgiving holidays, I'd like you to talk to your neighbors and talk to your friends and just see which sentiment they have for electing over--appointing over sixty members in the education article alone.

Thank you.

Vice Chairman Casey in the Chair

Personal Privilege

Mr. Jack Mr. Chairman and members, I believe this is the second time I've spoken on personal privilege. I'm sorry to have to. But, I feel it should be done. Saturdays are the days this convention says things that are wrong. I'm not going to call names, but I think it is entirely wrong to get up here and talk about at this stage, defeating this whole constitution because of a few things certain delegates don't like. Now, the things that have been printed so far that we've finalized, have been, naturally, and have to be by a majority--and a lot of them by a big majority. As a whole, this is a good constitution to date, in my opinion. It would be very unusual for anyone to like everything. You'd have to be some kind of a nut or telling a lie if you did. But, as a whole, I think if you took a ballot, nearly everybody would agree it is. Nobody is perfect. Now, let's quit bad-mouthing whether it be for publicity or otherwise, what's been done. There's a lot of difference of opinion. I'm frank enough to admit there's several things that were adopted that I spoke against. Since I learned a little more, if they came up again, I would change my position. Now, let's don't lose sight of this fact. The present constitution of 1921 as amended, is so out of date it is not workable. We cannot operate under it. So, we are getting as good a vehicle for a constitution as we can. Quit bad-mouthing it. That's no way to be a real man or a real woman. We're down here and we're using a lot of time. We're going to come up with what's the best we can, and try to get it adopted. That will be the best for the people. If there are mistakes in it after it's adopted by the people, they can correct them with another constitutional amendment as much as they hate to have constitutional amendments.

Now, let me tell you this, and I'm going to close in a minute. I talked in the last three months to over a hundred lawyers, and not a one of them has read the Constitution of 1921 as amended from cover to cover. It's too cumbersome. It's too outmoded. It's under...not understandable. Now, we are going to come up with a much, much briefer constitution--up-to-date, better worded, gone over by Styling and Drafting, and by people that know how to put things in proper order. We're going to have a constitution, if they adopt it, that people will understand. You're going to find that a law student studying it is going to read it from cover to cover. You're going to find all lawyers do it. You're going to find a layman with a little instruction will be able to understand it all. Now, let's don't bad-mouth something that's going to turn out to be good. Nothing is perfect. The 1921 one didn't have to be submitted to the people. They agreed ahead of time to swallow it. This has been above board, and the people are going to vote on it. Let's at least wait till it's through with before we start talking

against this thing.

I ask that this kind of stuff stop. It's every Saturday that the bad things happen here. Thank you.

Personal Privilege

Mrs. Zervigon Mr. Chairman and delegates, it says in the Bible, "What man when his son asks for bread would offer him a stone?" I've met that man in the person of the LSU Board and the LSU Alumni Association. LSU-N.O. is the adolescent son of the LSU System. LSU-N.O. asked only to be taken into the family...only to sit at the table and have one crumb, and we were refused, and rudely refused. LSU-N.O. is not out to kill the system. LSU-N.O. is part of a system. But it is a system. It is not one campus. It is a far-flung system. Let us not forget that. I rise to ask you a question. What am I to tell the people in New Orleans who are interested in LSU-N.O.? What am I to tell them about the attitude of the delegates in the majority--the seventy-one toward them? What am I to tell them about their chances of joining the family in the future? Of sitting at the table? Of participating? No one entity needs a constitution more than the city of New Orleans--no one. I would love to see a new constitution. But, how am I going to explain to the people that are interested in LSU-N.O. joining the LSU System, where they stand, and why? I beg the seventy-one of you to explain to the forty-two of us where we stand. We put a year of our lives in as you have. We want to be together on this. On other subject matters we've worked out compromises satisfactory to both sides. There is still time to do that in this instance. I beg of you to put your energies into a suitable compromise.

Thank you.

Personal Privilege

Mr. Champagne Fellow delegates, I rise to announce to you that I make no apologies for my vote on this proposal. At the outset of this convention when one of the proposals did not go as I thought it should, and I was somewhat resentful, one of my fellow delegates reminded me that what you have to do is look at the overall picture in comparison to what you have--not what, perhaps, you want. I did that, and today I suggest to you before you go off in fits of anger and disappointment--and disappointment--that you do that yourselves. You look over the entire picture and compare it. Take a walk and reflect and judge yourselves. Is what we have better than what we had before? On basis of that, I suggest you make your recommendations to your people. The people who sent me here, sent me to do what I thought best. I want you all to know that I have done what I thought best. I want you also to know that I stand ready at all times, at any place, to defend my decision for what I thought was best. Those of you who think, perhaps, you cannot explain, I offer you my assistance. I shall face anyone in defense of what I have done today. I hope that you shall have the courage to do likewise.

I thank you.

Personal Privilege

Mr. Smith Mr. Chairman and fellow delegates, this is the first time I've ever been on personal privilege and probably will be the last. I'm not aggrieved except the fact I'm aggrieved at some of these delegates. Getting up here like Mr. Jack says and bad-mouthing, they're not going to vote for the constitution because they don't like some of the things that's in it. I don't either, but I voted for every proposal; I didn't like some of them. I've been served in the legislature, I've lost some and won some. But, I don't think we should get up here--we're having enough trouble as it is. I've spent one year of my life down here and I'm 68 years old, and I don't have many more. I have no political aspirations, but I'm

trying to write a constitution which will be so much better than what we have now. I think it ill behoves these delegates to come down here to this microphone and say they're not going to support the constitution because they don't like some of the things in it, and I resent it. I feel like we all ought to get out here and try to sell the thing. I think the newspapers ought to help us. It's some things in here that we don't like, and it's going to be some more. But, gentlemen, let's get down and write...finish writing the constitution. I hate to get up here for this short time, I know we're trying to get this thing through, but I did want to say these few words, and I don't think I'll get up here any more. I thank you.

Personal Privilege

Mr. Kelly Mr. Chairman and ladies and gentlemen of the convention, first, I think, I'd like to thank those people who fought the battle on our sides. I might add, to some of the speakers that have been up here before, I certainly respect the vote cast by every member in here. We fought battles before, and I'm sure most of you here have fought other kinds of battles than political battles. I mean you win some and lose some, and that's the way it goes. I don't begrudge anybody the right to cast their vote and reflect their thinking through the voting process, and I hope everybody feels that way. Also, concerning some of the things that have been said up at this podium earlier today, there's no question about it; it's created this article. I think it's a bad article; I can't help but feel that way. But, I think that what we're going to have to do is lay this aside, and come on back because we've got a lot of other business to take care of. The people that have gotten so excited about this article--I've been very excited about it myself--but we're going to have to lay that aside at this particular time. I'm not here to voice any opinion as to whether or not this constitution will pass or fail. I can say, and I will say, that in our particular area or in my particular area, I've now got my work cut out for me, if such is the job that I decide to do. For some of you folks that are offering all this gratuitous help I might add that up in my area we'll probably be for sure calling on you. But, at this particular time...at this particular moment--and I might add I don't ever give up--but at this particular moment let's go on and lay it aside and go on about the work of this convention.

Personal Privilege

Mr. J. Jackson Mr. Chairman and ladies and gentlemen of the convention, I was just sitting in my seat and I was attempting in my own way to analyze various remarks here on the platform. Then, what I way was a reflection of the many times of frustration, and at the same time, the many times of satisfaction that I've had in this convention. I suggest representing and I feel as though I would like to be considered representing a significant segment of the voters of this state who must also vote on here that in some of the articles I have been tremendously dissatisfied, and some of the articles I felt that I have made some accomplishment. I'm not prepared at this point to suggest to any delegate or to any voter that what we've done here today or elsewhere is fruitless. I suggest to you that I have adopted a position; a position that sometimes is very painful. My position is that I want to look at this document in terms of progress. I want to review this document in terms of what has been afforded in the past to all the people. I suggest to you that some of the positions that are taken on this document that I've taken that position on many documents, and all over in true candor and true sincerity, that I do believe, as Welborn Jack says, that I don't intend to because I have lost some tremendous battles--and most of you know I have lost battles and wars,--but I do not contend to muddy the water in order to write a document solely designed for... by Johnny Jackson, Jr.

Chairman Henry in the Chair

Personal Privilege

Mr. Womack Mr. Chairman and fellow delegates, for those of you that have to go home and don't know what you're going to tell the people, I wish you would tell them this for Lantz Womack, "I have been, am, and will continue to be a very, very strong supporter of L.S.U. and the L.S.U. system." For those that, in the Louisiana Tech area that don't know what to tell them, you can tell them for me that not only did I single-handedly provide something that they almost had to have to survive, and make progress, by running a bluff over some leaders in the Senate--I don't know whether I could have done what I intended or not--but at least I got by with the sandy. You can tell them, those at Northeast, I gave them something in a maneuver one time that they wouldn't have had, and it was a sizable sum. For those from Lake Charles, you can remind them that a few years ago when they had been cut out of a good many thousand dollars that they should have had, that I'm the one that asked the House not to accept the Senate amendments in the general appropriation bill, and to throw it in a stacked conference committee which we stacked, we corrected it, gave the money to McNeese it should have had. We took some away from Southwestern they shouldn't have had. Then, I went back and told the leaders from Southwestern in the House how to get their money in another manner that still gave them something that they shouldn't have had when you compare it to everybody else. For those in the New Orleans area and that you can tell them for me that I'm one that voted for every tax conceivable that's been offered in order to give them what they have today, when a number of their local people fought those taxes to give them what they had. So, I think, when you balance this thing out and look around there is enough stories that you can give everybody just a little of it. Now, we've got probably one of the best states in the nation. We have more personal benefits in this state than any place in the nation, and I don't know if our relationship to our fellow-man is not as good if not better, or cross the board, than any state in the nation. We've got room for progress, we're going to make progress. We're going to take care of every institution in this state to the best of our ability according to the money. One last thing, it seems that a lot of the confusion has come about because certain institutions didn't get their share of the appropriation for higher education. I can tell you now, if you had backed out, the high cost courses; the medical school, dental school, vet school, the doctoral degrees, and put them on the same basis--put L.S.U. on the same basis you did the average of the other state institutions in last year's budget--they would have gotten approximately one million dollars more money than they did get on a student credit hour basis. Back out also the approximately one thousand people involved in agricultural extension experiment stations, etc., we have run these figures. But, anytime you want to take a set of figures that is prone to go to one particular place they can compare them with somebody else and show a deficiency. I think that we're going to make progress that the document we have passed while it wasn't everything I wanted, I voted against some sections, in fact, about a third of the sections that we've adopted at this time; I voted against because there was things in there I didn't like. There's going to be something in the end I don't like, but keep in mind that Louisiana has more sacred cows than all the other states put together. That means that we have got to do an enormous amount of compromising in order to make progress. Thank you.

Personal Privilege

Mr. Burns Mr. Chairman, thank you, and fellow delegates, I just wanted to get up here for one or two minutes because as Jasper Smith said about his age I'm a little his senior and you'll find as you

get along in life every year becomes a little more precious. I would certainly hate to think that as precious as they are to me now that I've wasted a whole year up here on this convention. I'd like to say that I suffered some setbacks during this convention which at the time I was...in two instances resentful. But, as we go along you will find that you're going to win some and you're going to lose some. I believe you find that my record that I've never voted on any issue against an elective board or an elective official, and I intend to continue to vote that way until the end of this convention. On the other hand, the record will show that I never voted against a section or I never voted against an article when it came up for final adoption, and that's what I did in this particular case, I voted on every section in this Educational Article in favor of the election of the boards and the election of the superintendent. But, ladies and gentlemen let's get together or stay together and work together as a team and put this constitution over. People ask me what are we doing up here or what kind of constitution we're writing and my uniform answer is, "just wait until we get finished and you'll see how much superior it is to our present constitution." So, let's put aside our little differences and temporary setbacks and work together from now on as a team to put this constitution over with the people of the state. Thank you.

[Motion to revert to other orders adopted without objection. Motion to take Committee Proposal No. 14 out of its regular order adopted without objection.]

Personal Privilege

Mr. Goldman Fellow delegates, would you all please, would you all please, I'm going to ask you, I don't know if this is the prerogative of the Chairman or not, I'm going to ask you to please stop moving around and listen to me, because I don't want to waste time, I hesitated asking for this personal privilege; listened to all the others, but I think it's necessary because among all the others, this was not brought out. I've attended a number of seminars before this Constitutional Convention--I had no idea I'd be a delegate to the convention, but naturally, I was interested in the new constitution--which I hope every citizen of this state will be interested in. During these seminars I learned that out of nine new constitutions presented to the people of various states in the last few years one passed, and the one that passed had some alternatives to some of the articles. Nobody up to now has brought up the idea of having an alternative to this Educational Article, and I'd like for you to think about that. In the many talks that I've made to many groups in the last few days I had no idea that there wouldn't be any alternatives at all, and I practically promised many of them that in the Educational Section of this constitution we would have an alternative. I don't know how to go about it from the parliamentary procedure, but I believe the people of this state ought to have the opportunity because there are legitimate differences of opinion, in how to govern education in this state, and I think the people ought to have a choice. I'm going to work as hard as I can possibly work, from now until the time to have this constitution adopted by the people, to try to get it adopted in every way that I know how. I'll get it adopted whether they're all...I'll try to get it adopted whether there are alternatives or not, but I think the fair thing to do for the people of this state since this is a peoples' constitution and since...an elite committee of experts are not writing this constitution to give it to the people, but the people are writing it, constituting the one hundred and thirty-two delegates here representing the people of this state are writing the constitution to allow the people to adopt it themselves. I think they ought to have at least an alternative on some of these where there are

legitimate strong differences of opinion on how to best perform the educational functions of the State of Louisiana for the people of the state.

Questions

Mr. Velazquez Delegate Goldman, did you know that the Rules Committee has a special subcommittee which is operating on the alternatives which we were authorized to do by the constitution in the original act setting up the 1973 Constitutional Convention?

Mr. Goldman I didn't know what you just told me, I have read through the rules and it seems to me that the rules provide for alternatives, but nobody has mentioned this yet that I have heard. I thought it ought to be mentioned out loud because I don't know what's happening with alternatives, and I've been given to understand whether this is true or not, that there are certain...there's a certain element here that wants to eliminate alternatives and thinks that we have to give this to the people in just one solid package without alternatives.

Mr. Velazquez Did you know that we're going to give a personal invitation to every delegate in here to attend the meeting of the subcommittee that's going to deal with the alternatives sometimes during next week?

Mr. Goldman I didn't know that, but I'm glad to find it out. I probably wouldn't have found it out if I hadn't come up here and spoken on personal privilege.

Mr. Willis Did you know, Mr. Goldman, that I had asked Reverend Stovall when he was speaking in objection to an amendment on the floor as to whether or not his Rules Committee had provided a vehicle whereby we could propose alternatives, and he told me from that podium that that rule was not mature, that it had not been born yet, that it was not in the final stage whereby we could use it as such a vehicle. Did you know that I had asked him that question?

Mr. Goldman I didn't know that. You probably did it on the three days that I've been absent from this convention, and I'm glad that I brought this out here so that I could find that out and possibly the others didn't know it, I don't know.

Mr. Juneau Mr. Goldman, I wholeheartedly endorse what you're talking about, but let me just present one practical problem for you, whatever mechanism we have it would seem to be that we would at least would have to have a majority vote of this convention to put something alternate on a ballot. Now, if we can't compromise something it seems to me that we're going to have a problem getting seventy-one people to say I'm going to give you an alternate on a ballot; do you see...that's the problem that worries me.

Mr. Goldman I think you only need sixty-seven don't you?

Mr. Juneau Well, I'm saying that we just went through a vote of seventy-one...you'd need sixty-seven, but I'm just presenting a problem to you and that's what concerns me.

Mr. Goldman Well, I...in answer to your question, I believe that every one of the hundred and thirty-two delegates here are fair-minded, and I believe that they are really sincere in allowing the people to vote for a constitution, I've told this to everyone I've talked to and I really mean it, I wouldn't tell it to people if I didn't mean that, and if I didn't believe that. I think that we ought to give them a chance to show how sincere they are in offering the people an alternative when there's a real division...or real difference of opinion on how best to deal with this...with anything for the benefit of the people of the State

of Louisiana.

Mr. Henry Thank you, Mr. Goldman. In connection with what you were saying let me say that the reason I think that the Rules Committee or the subcommittee has not come up with the refined rule or proposal on how we should treat alternative proposals--Mr. Goldman, if you will listen--is because if we had provided earlier the mechanics for alternative provisions I would imagine that we might still be on the Executive Article because if a man or a woman lost an amendment they might automatically argue to make it an alternative. This is the reason that I'm hopeful we'll finish our work and give every proposal a fair hearing before this body and then go back and take a long and a critical look at some of the more controversial areas, and then decide what and how many alternates we can put on the ballot, and that's the reason nothing has been done...concrete about it to this point. But, when we get back after the holidays I think we'll be in a position to adopt something in that connection.

Mr. Chatelain Mr. Chairman, do I understand you to say then that it would be all right with you if the majority wanted alternates to put an alternate in the ballot; is that right sir?

Mr. Henry Well, it's not just that easy. I think, --if you're asking me my personal opinion--I think we're going to have to have a few alternates on the ballot when it goes to the people, but I think we would have made a ridiculous mistake had we decided how we were going to present alternates to the people back in August or September, because I can envision us having five or six alternates to each proposal that we would have adopted up to this point. That's the reason that I have discouraged Chairman Stovall and the members of his committee from coming up with anything concrete; but they have been working on it, and I think they are close to being ready to begin making some recommendations after further hearings.

Mr. Chatelain I wholeheartedly agree with you, Mr. Chairman, but I do feel a ray of light in the statement you made sir.

Reading Of The Proposal

Mr. Poynter Committee Proposal No. 14, introduced by Delegate Aertker, Chairman, on behalf of the Committee

A proposal making provisions for human resources through a system of economic security, social welfare, unemployment compensation, and public health.

Explanation

Mr. Rachal Mr. Chairman and fellow delegates, Committee Proposal No. 14 though short in its verbiage, represents a considerable amount of deliberation, but what held forth was an encouragement at that time to make the constitution as short as possible, but providing for the services which needed to be rendered by the state. Article 14 in its relationship to the constitution replaces in the old constitution Article 6, Sections 11, 12, and 30, and Article 18, Section 7. I think that I should point out that Article 6 of Section 7 had to do with the Public Service Commission... I'm sorry; I'm looking in the wrong section--Section 11; I'm sorry. The boards of health, state, parochial and municipal--state health officer--Section 12 dealt with public health. Section 30 with boards of institutions, and Article 18 dealt with economic security and welfare. Last year's action on the part of the legislature in combining the various functions under health, economic security, and welfare into the Louisiana Health, Social and Rehabilitative Services encouraged us to make provisions for these operations through constitutional provisions leaving the details and the possibility of flexibility in coordination of agencies to the legislature. We, therefore, present

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to you the Article 14 as read by the Clerk.

Questions

Mr. O'Neill Mr. Rachal, in the comments attached to this section, it says that it replaces various sections of the constitution which require the state to do such and such a thing. Now, there's a big distinction between requiring and mandating the legislature, is there not?

Mr. Rachal Requiring and mandating, I tend to take the same difference...well, maybe I shouldn't answer it that way, I should say that our article says that the legislature shall provide, we don't leave for exception to that.

Mr. O'Neill Now, let me ask you this. It's my interpretation of it and several people I've asked --different attorneys--that people, various individuals can sue the state and demand economic security or these other things under this; would you agree with that?

Mr. Rachal Well, it would be according to the provisions under...which the legislature provides for social security. Even if sued, it would be that in keeping with what is provided by the state, I don't see that...

Mr. O'Neill But, you do agree that some suits could arise out of this provision?

Mr. Rachal I suppose so, Mr. O'Neill.

Mr. O'Neill Now, another question: What is economic security?

Mr. Rachal Well, it's the expression that is used in connection with efforts in the welfare system in the country to provide for the economic security of all of the citizens to aid those who need such assistance as determined by the system which we here say that the legislature shall establish.

Mr. O'Neill Okay, now in relation to various members here I'm relatively economic insecure... I'm economically insecure. Could I sue the state and demand that I be as economically secure as other members of this...

Mr. Rachal Well, I suppose you could sue the state, but the response to your suit would be based upon what the state has decided is...qualifies one for assistance from the state.

Mr. O'Neill Now, in your opinion, does this provision need to even be in the constitution at all? Does the legislature not have the power now to authorize everyone of these things?

Mr. Rachal We think...the committee thought that we did need to have it in the constitution whereas we did not want to spell out details of how it should operate, we felt that we should mandate that the state shall establish a system of economic security, leaving the formulae and arrangements and the qualifications and that kind of thing to the legislature, and especially because we wanted to permit the state to respond to whatever developments took place outside of the state. For example, the...as you know the welfare system depends to a great extent upon federal subsidy. We were being careful not to attempt to write in a formulae that would deny the state the flexibility which the legislature at a given time would feel was necessary. On the other hand, we did not think that the constitution would be silent, we thought that it was necessary to state that the state shall provide for the economic security for social welfare, unemployment compensation, and public health.

Mr. Roemer Tony, could you address a few remarks to the first of these "shall establish" - ments, and that is...economic security? Now, I know the

question immediately preceding mine dealt somewhat with economic security. Could you tell me, really, what that means, and what this system will be designed to do?

Mr. Rachal Well, to the best of my ability, I will, Mr. Roemer. I should have stated in my opening remark that we are not suggesting any change from what presently exists. What the committee did was to pull together, and with concise if not precise language, to the perpetuation of what now exists with the broad terms to allow for any changes which the legislature would see fit to make in the light of economic, social developments in the country in the years to come. We were eliminating the details, under Article XVIII for example,...let me read that to you...Article XVIII had all of its sections repealed except Section 7, as I recall, which provided for social security and public welfare. We had broadened that into saying "economic security" but it was for the establishment of age systems, the Confederate veterans and their widows, the Board of Public Health and all of these functions. What we simply did was to continue that without the detail allowing the legislature the flexibility to change as conditions dictate it.

Mr. Roemer All right. But, my point that I'm trying to get at in economic security is...will the legislature be deemed in violation of the principles of our constitution if this passes and the system that they establish fails to secure economically the people of this state? That's what I'm after.

Mr. Rachal I would think not in that we...the degree to which the legislature provides is not required in the constitution. It will say that it will provide, and I would take that to mean according to the definition which it will establish...provide in a manner which it does now. There are those today who suggest that the current system does not adequately provide, and it is not considered unconstitutional, to my knowledge.

Mr. Roemer Well, have we lost anything in this state...any of our precepts or principles or goals if we fail to state that the legislature shall establish a system of economic security?

Mr. Rachal I don't think so.

Mr. Roemer I don't think so, either, so why is it in here?

Mr. Rachal Well, the reason I'm saying it's in here was to make certain that with all that is being allowed to the legislature that the legislature would not decide that we don't need an economic system...a system of economic welfare and so forth at all.

Mr. Roemer Well, do you know that it seems to me that we waste more time in this convention choosing the paint for the exterior of the house than in construction of the house itself? This seems to be another example of window-dressing.

Mr. Rachal Well, I beg to differ with you on that, Mr. Roemer. In fact, I think that the committee has made a tremendous effort in keeping with one of the early objectives regarding the...this constitution in brevity being the guide, and whereas, we didn't want to go into all of the present details to perpetuate the system, we felt that at least it was necessary to assure that there would be a system. The quality and so forth would be more at the will of the people, through their representatives in the legislature.

Mr. Asseff Three questions, Mr. Rachal. Aren't we really telling the legislature to do what it can do?

Two, haven't we really said nothing as full discretion still lies with the legislature, and three, what constitutes compliance, please?

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Mr. Rachal Let's see, I think you answered your own first two questions, but...and the other one I thought that I had covered. We set no perimeters. The legislature...to answer more specifically... compliance would be the establishment of a system.

Mr. Asseff I think we've really set nothing, Mr. Rachal. I have no objections to general principles. I'm simply saying that from a constitutional standpoint we have not assured these programs. It is simply window-dressing.

Mr. Rachal No, we have not assured their programs to any particular formulae. Our sole objective was to assure that the state of Louisiana would have a system of economic security, welfare and health services, leaving to those in the...charged with the responsibility of conducting those services to make them adequate to the times and to the, in a sense, the wishes of the people, actually. I have to disagree with those who say that we haven't done anything. There's a difference between saying that the legislature "may" and it "shall"...we're saying that the legislature "shall" provide.

Mr. Asseff My question is, Mr. Rachal: I agree in general principle with you...how have we really assured it? I don't think we have. That's my question.

Mr. Rachal Well, the only thing that concerns me with the questions that are being raised on that, I have heard the criticisms of the fact that the constitution as we have developed it thus far has tended to go too much into detail. We were very deliberate. We've spent many hours in listening to representatives of the welfare department, the health services, the commissioner of the Louisiana health and social and rehabilitative services and in their considered opinion to allow for the providing of the services that were needed in keeping with the needs of the people of this state at the time that this flexibility should be allowed, however we did not go so far as to say that it should not be in the constitution at all. We want to make certain, as I've said before, that a system is provided and that changes in whatever system is provided would not call for constitutional amendment, but rather statutory changes.

Mr. J. Jackson Mr. Rachal, as I read the digest of Committee Proposal No. 14 by the research staff, it requires the legislature to provide for the interests of state medicine; it requires for protecting the public from altered drinks and things as such. It seems to me that what we're saying here by Committee Proposal No. 14 is that one, the legislature shall not at least abolish those vital services that are not only given, and I hope that people are not trying to cloud the issue when you talk about a welfare system because you're not just talking about A,B,C; you're talking about aid to the veterans, aid to the blind, aid to the needy, unemployment compensation and those sorts of services that run the gamut of a system. Is that not so?

Mr. Rachal And we expect that the services now provided...the associations now operating will continue as they continued under the consolidated concept which is in existence this year. In no way do we suggest the elimination of any of the services which are now provided.

Mr. J. Jackson When we talk about other kinds of economic security systems and we know we're talking about various retirement systems, and we're talking about various pension systems, if we follow the logic of the kinds of questions that were asked concerning the words "economic security" that maybe what we ought to do is to say that economic security for teachers and judges and all these folks ought to also not have constitutional status.

Mr. Rachal I think you're right.

Mr. Derbes Mr. Rachal, the language in the commit-

tee proposal is not self-executing, is it?

Mr. Rachal Only to the extent that it requires the legislature to establish a system. We feel that even the relegation of what is in the 1921 Constitution to the statutes, now...we...someone raised the question about alternatives to this constitution. Another point to be discussed is how those sections of the constitution, now, which we feel can serve their purposes just as well, statutorily, we've got to discuss yet how those are to be transposed. We expect that the...until... changed by the legislature that they will remain primarily as they are now.

Mr. Derbes And in fact the committee proposal does not create a substantive right on the part of anybody; it is merely a policy declaration to the legislature. Isn't that correct?

Mr. Rachal Right.

Mr. Jenkins In other words, your statement then is that it really accomplishes nothing other than to make a policy statement.

Wouldn't it be better then to leave such things out of the constitution rather than trying to put them into a constitution that is already burdened with too much verbiage?

Mr. Rachal No, I would not agree, Mr. Jenkins, that it doesn't accomplish anything. In fact, I think we're being very modern in our approach, and I think it has been more successful than in any other proposal presented thus far, in that what we have simply done is removed, as you state, unnecessary verbiage from the constitution, yet assuring that such services will be provided as deemed necessary by the legislature which gives it, as I said before, the kind of flexibility in keeping with the times and in...closer to the people for the changes that might be necessary.

Mr. Jenkins I thought you just said it did not assure these things, but now you're saying that it does assure them. To what extent does it assure them?

Mr. Rachal It does not assure them in specific terms. I don't know how much more emphatically I can say that it does assure the system than to say that the legislature shall provide.

Mr. Jenkins So, if the legislature doesn't, then in other words, the taxpayer can go and sue and force the legislature to?

Mr. Rachal Well, in the same way, Mr. Jenkins, that the constitution requires action on the part of the legislature anywhere else. It's the same thing here. I'm not certain that I know precisely how to respond to your question. My impression is that what the legislature requires, the legislature must do.

Mr. Jenkins So in other words, if we required single member districts in the Legislature Article, a court could come along and redraft single member districts and place us in those, so you think maybe under this a court could come along and devise an economic security plan; put it on the legislature, possibly even impose taxes to pay for it; is that correct?

Mr. Rachal No. Well, I don't know how far court cases can go but it provides for the...as long as the legislature complies by providing a system, I don't know that the courts could interpret the, whether the system was adequate or not. I would think that the legislature would have the wisdom to provide a system rather than have the court to insist that they do provide one.

Mr. Hernandez Mr. Rachal, I just want to get one thing straight. Wasn't it the thinking of the committee that this entire program...each one of the economic securities...social welfare, unemploy-

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ment compensation...was entirely dependent on the program established by the federal government so I think what we did was just make a provision in here for the legislature to establish these programs and they could change with the federal program when it was necessary to do so. Am I correct in that?

Mr. Rachal Right, we did not want to preclude the legislature from complying with or taking advantage of assistance from the federal government. I think, however, that I should point out, Mr. Hernandez, that the committee has changed nothing as it presently exists. The only way in which a change will take place in the provisions as required here would be at the subsequent session of the legislature when they might change it.

Amendment

Mr. Poynter Amendments sent up by Dr. Weiss reads: "Amendment No. 1, on page 1, delete lines 8 through 18 both inclusive in their entirety."

Explanation

Mr. Weiss Mr. Chairman and fellow delegates, this is an extremely simple proposal which intends...a floor amendment rather which intends to delete the committee proposal as presented since it adds nothing to the constitution. I would like to remind you that the preamble to our constitution does spell out the intent of our legislature and our constitution and the government. If you will recall, the preamble reads "We the people of Louisiana"...and so on..."promote the health, safety, education and welfare of the people." In other words, it specifically spells out and suggests to the legislature what the intent of this constitution is meant as well of the will of the people. This proposal will create, I'm afraid, only many hours of unnecessary argument and perhaps some very powerful special interest group trying to persuade this group to do something which is not in the best interest of the people of the state of Louisiana. It is only necessary to see what has happened to education under the influence and just from this podium a moment ago or an hour or so ago some of those who spoke on special privilege congratulated not only the L.S.U. system which is one of the most powerful and greatest of the state of Louisiana but also the labor people...Mr. Bussie, Mr. Flory, and those who had special interest in this because of perhaps some union associations to affiliate themselves in making the passage as close as it was. In any event, I think that this is best kept out, and physicians certainly agree that we believe individually in a hundred percent consumerism. The consumerism being direct...one hundred percent with patient and doctor. This is as far as the medical aspect goes and there will be amendments if this floor amendment fails to bring up some other concepts as to medical care. As to social and economic care these are such vague words and big words that no one can define them adequately. I don't think there's any question amongst any of the delegates that we in Louisiana have the finest system of social welfare and unemployment compensation and public health that exists in the nation today, and that we can attribute to our citizens, to labor, to management, and to all of the special interest groups in the state who have contributed to care of both those that can afford and those that cannot afford care either medically or because of unemployment or because of social pressures of some type that do not make them equal to making a living. So, I see no reason that we should have this proposal in the constitution. I can only say that we will spend many hours debating this, and I would suggest that we accept the floor amendment to delete this proposal. It adds nothing to the constitution, and there is sufficient statutory law to see that it will be enforced hopefully as we have had by our fine legislature making its mistakes and making its fine decisions

to adjust what is necessary as the years come ahead of us.

Questions

Mr. J. Jackson Dr. Weiss, can you differentiate for me in a definition of economic security between constitutional status for retirement systems of firemen, policemen, teachers, judges, assessors, sheriffs, and between...let's say aid to the blind and needy? Is there a difference of economic security?

Mr. Weiss Well, Delegate Jackson, first of all as a delegate to this convention, my experience prior to this has been limited to the field I specialize in, medicine and surgery. I am not an attorney and I would suggest you speak as I do to some of the attorneys to define these words..."economic security." I know what it means to me, but it might even need according to our chairman who in July...on the 5th of July, I remember so vividly said that many of the things that would be passed in this constitution will be really interpreted by the state Supreme Court. So, I don't know that anyone is aware of economic security and its definition that you and I can agree upon.

Mr. J. Jackson I was just basically asking your interpretation, because your amendment called for the repeal of the section, and I want to know personally what's the difference between a retirement system and aid to the needy and blind in terms of economic security, as far as you are able to define.

Mr. Weiss Yes, well as far as the present state of Louisiana defining it, they have retirement systems which are still and I hope will continue to remain in effect, the aid to the needy which is not only state but federal requirements, and I might point out that before we can accept federal aid we have to meet certain federal requirements and this is all being complied with at the present time, and you as a legislator I am certain are aware of the definition of economic security better than I and I would suggest that you, perhaps, could define it to this body.

Mr. J. Jackson But that's not my amendment to repeal it, Doctor; that's what I'm trying to say. You're asking us to vote to repeal to a section and you're not sure one way or the other if economic security means, you know, what it says, and at the same time we have as a body of delegates constitutionalized the economic security for assessors, sheriffs, judges, etc., and I'm just trying to see...don't you see there's a discrepancy?

Mr. Weiss Can you define economic security because you've asked me that question and I think that speaks in behalf of deleting this committee proposal. No one can define economic security and I can assure you that if this floor amendment fails there will be those in...presentations on other floor amendments to debate this in length. I would suggest that we save time in this convention and leave this to the wisdom of our legislature and those that have created a fine system in our state for not only economic but social welfare, unemployment retirement systems and public health.

Mr. Velazquez Dr. Weiss, do you realize that the effect of your amendment would be to delete the effect of Article VI, Section 12?

Mr. Weiss No, I do not think that will be so, because the confidentiality and communication between patient and medical practitioner of which you refer to, I hope will be substantially substantiated in our Declaration of Rights. Incidentally, you are right, Delegate Velazquez; I wanted to spell that into the constitution, but the Declaration of Rights members suggested that we make it broader and so we have it in our Declaration of Rights. Hopefully, the Supreme Court will not only stand up for confidentiality of communication but

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incidentally will allow for those of us who have confidential information infringed upon, whether it be doctor, attorney or your bank accounts or your credit systems to have the right to sue for infringement of this right if it's misused.

Mr. Velazquez So, you think that anything having to do with the confidentiality of a doctor and his patient is constitutional material, but protection of the people against sale, bought or gift or use of injurious or adulterated drugs, foods and drinks isn't constitutional?

Mr. Weiss That is all in statutory law, Delegate Velazquez, and it is being enforced at this time in our criminal code.

Further Discussion

Mrs. Warren Mr. Chairman and delegates, when I came in this morning I said to several of the delegates as I walked around, "I felt like I was at a wake." After the educational proposal, I heard many eulogies and then we turned to the section of health and the welfare of our people, and it does not deserve constitutional status. When Dr. Weiss was here speaking, he reminded me of the little boy who found a gold coin and he threw it away because he thought it was dirty money. We at P.T.A. have been fighting for a comprehensive health plan for our children across the state for a number of years. Dr. Weiss intends to kill it. Some questions were asked from the floor... "Is this going to make the legislature have to do this that and the other?" I say to you, I look at the legislature, maybe you don't look at it the same way I do, but I'm going to describe it in the way that I understand it, as the great father of all the children of the state of Louisiana and must look out for their health, education and welfare. I don't say that it would take suits, but I do think that when they go to doling out money they ought to decide that they want to have something for welfare. If you are a father in a family, you provide for your family according to your means and to the best of your ability. This is what we're going to ask. Yes, Dr. Weiss, you can ask me any questions that you would like to ask me; I might not answer it like you want me to answer it, but I'll try to answer it.

Questions

Mr. Weiss Delegate Warren, you're from Orleans Parish and you mentioned the P.T.A.; what is the Orleans Parish Medical Society's stand on comprehensive health planning?

Mrs. Warren Dr. Weiss, I am from Orleans Parish, and may I make this clear to you; I'm not talking about Orleans Parish. I'm talking about the state of Louisiana and all of the parishes.

Mr. Weiss What parish?

Mrs. Warren I am from Orleans Parish.

Mr. Weiss What is the attitude of the Orleans Parish Medical Society in reference to your P.T.A. concept of comprehensive health planning?

Mrs. Warren I really don't know...hold it Dr. Weiss, let me say this to you. I was on HEAL. I was invited to one of their meetings, and the next time they had meetings they decided they would not invite Mrs. Warren so how do you expect for me to know their position on it. Now, I would like to know from you, you gave it to me, but I'm not trying to give you their view about it. I'm trying to give you mine. Now, if you want mine, I'll give it to you.

Mr. Weiss Are you familiar with any doctor's concept of health planning in your area?

Mrs. Warren Dr. Weiss, I just said to you, I'm not concerned about the doctors and their views on

it; I'm concerned about the children of this state and the people of this state. Now, you might be able to give me what the doctors think about it, and I've had some letters from them and what they thought about this, that and the other, but you want to know something: I had my mind made up, and I'm concerned about the health and welfare of our children and I ask you to vote against this amendment.

Mr. Velazquez Mrs. Warren, do you think that doctors are the only ones who get sick...that they should have complete authority over all comprehensive medical care?

Mrs. Warren No, Mr. Velazquez, they're not the only ones to get sick, but I want to say to these people before I leave this podium, all of are going to wish that we had taken care of the health of our people because if our people get sick there are some diseases that our health is going to be endangered if we don't take care of their health conditions.

I ask you to please vote against this amendment.

Further Discussion

Mr. Flory Mr. Chairman and delegates, I rise in opposition to the amendment and I hope I can do so without too much emotion, but if you read the proposal carefully all it says is that the legislature shall establish a system of. It does not say for all of the people. It just says a system and that system shall be determined in the wisdom of the legislature contingent upon the resources available to the legislature to fund those systems. you know it's unfortunate that everybody can't be a physician and everybody can't charge prices and if the patient doesn't have anything to say about it and they are not as resourceful as those people but yet they have to depend somehow upon the rest of us who are fortunate enough to be able to earn a decent standard of living and they depend upon us to provide some system of economic security for them. It's unfortunate but it's true. All this does is a continuation of the present welfare program, the present unemployment compensation program, the present mental health program, etc... that's all it does. Its people and yes, Dr. Weiss, I represent a special interest; those special interest are people. I plead guilty to that. I'm proud of it, and I'm proud to have been on the committee that developed this proposal. You say we don't need it. I say that we do, because it's a firm statement of public policy of this state that we are willing to take care of those who can't take care of themselves. That's how simple it is. If you oppose that then you vote for this amendment. You vote for it. I cannot vote for it for that reason.

Questions

Mr. Nunez Mr. Flory, establishing a system of social welfare, which we already have, economic... unemployment compensation and public health...how do we establish a system of economic security?

Mr. Flory I would imagine just as they have in the past, Senator Nunez, in establishing the welfare program in this state.

Mr. Willis Mr. Flory, the proposal uses the phraseology that "the legislature shall." The staff indicates to us the "the legislature is authorized" by virtue of the old constitution. The old constitution says "the legislature may establish a system of economic security." Now, one is "shall," the other one is "may," and the other is "authorized." Now, which do you prefer-- "shall" like you got it?

Mr. Flory Yes, I do, because as I appreciate the constitution, when it was developed in 1921 many of these services did not exist at that time and the legislature was authorized to enter into these types of programs. Now that the legislature has

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seen fit to do that, they, I think this states, as public policy, they shall continue that.

Mr. Willis Well, my point is that...what you say that has nothing to do with the price of eggs in China. There is a difference between the...

Mr. Flory Well, I'm not buying eggs in China, anyway, Mr. Willis.

Mr. Willis Well, I'm not selling any.

Mr. Flory I sounds like it.

Mr. Willis Well, listen a while and you'll find out that I'm not.

Mr. Flory All right.

Mr. Willis Your's says "the legislature shall;" this one says "the legislature "may." Now, there is a difference between the two; isn't that correct?

Mr. Flory No question about it.

Mr. Willis Now, with that difference, don't you think that because the courts are opened as proposed by the old constitution and the new one, that we can go to court and mandamus the legislature to, because "it shall establish a system of economic security, social welfare, unemployment compensation, and public health," the definition of which, the length, the breadth, and the depth to which we don't know the definition?

Mr. Flory Mr. Willis, I have been told by many attorneys in this convention, you can't mandamus the legislature. I think you, as an attorney, know that much better than I do.

Further Discussion

Mr. O'Neill Ladies and gentlemen of the convention, my good friend, Mr. Willis, through his questions, made the points that I can only make and reiterate to you. The articles which have been deleted from the constitution and are attempting to be replaced by this article are authorizations to the legislature, and they authorize the legislature to do these things. They don't require... but they surely don't mandate the legislature. Now, there is a difference between these words, and I think that even you non-attorneys who have sat through this convention have learned that there is a difference between "may" and "shall." There is a tremendous legal distinction between these words. Now, the word "shall" in context... in the context of this article, in my humble opinion, would allow any citizen of this state to sue the state and demand economic security, and demand these other things which are neither defined nor literally expressed in this constitution. In relation to other people, I'm economically insecure; but I don't believe that I should be able to sue the state and demand that I be on par with anyone else, or that I be made economically secure. I think the subcommittee of the Education Committee that came out with this proposal should, perhaps, recheck their thinking on this, and should, perhaps, propose to us something which would not mandate the legislature to do all of these things which they can do now. I think maybe they should vote for Dr. Weiss's amendment which would delete this section. Think back to the preamble of the constitution which we adopted. We provided for the health, safety, welfare, and education of all the people of this state. I don't believe that we need mandate the legislature at this point and allow any citizen to sue the state at any time because he thinks he's economically insecure. I ask you to vote for this amendment because I think that the legislature can do all of these things, and I don't think that the legislature will ever stop doing all of these things. I cannot conceive that in the future that they would disallow any of these programs which are currently going on, or that any of us would really want them to. So, I ask you to vote for this amend-

ment, and don't open up something that we don't know the effects of which will be.

Questions

Mr. Avant Mr. O'Neill, you're assuming, do you not, that that refers to economic security for a given individual, are you not, sir?

Mr. O'Neill I'm not sure who it means at all, Mr. Avant. If it means "people," well, individuals are people.

Mr. Avant What about of the state as a whole?

Mr. O'Neill Well, that would be even harder to provide than for even an individual, Mr. Avant.

Further Discussion

Mr. Rachal Mr. Chairman, fellow delegates, I recognize, now, that I made a serious mistake when I introduced this committee proposal. Actually, I thought it was a perfunctory introduction of an article that was tantamount to saying that we shall continue to fly the American flag, and that it shall be posted in the state legislature. I didn't expect, by any stretch of the imagination, the kind of resistance which this article has received. It seems a little appalling to me that we can say, that first of all, this kind of article is not necessary because we're going to do it anyway. Well, if we're going to do it anyway, why be so concerned about having it? It seems to me that the concern of the health and education and welfare of the people in this state are of equal importance. I pose the question: if this is not necessary, why do we need to mandate the legislature to establish an educational system? We're going to have an educational system. Why have it in the constitution? But, we've proceeded, not only to say that the state shall provide an educational system, but to go into considerable detail as to how it shall be provided. We thought we'd modernized the approach here in stating that in keeping with the concern of the people of this state that they shall be provided with economic security, and etc. Let me just touch on that because it seems that some have...concerned about the state being sued by individuals who will demand that their security be provided. Well, it is no more than a person who could sue the state to demand that they be educated and, if they're not educated by someone's standards, that the state has some obligation to pay or something. When one sues to be educated, he is educated in accordance with the system which the state has established to afford him the opportunity to develop his potential. The same, it seems to me, applies to the system that is established by the legislature to assure the health, welfare, economic security in the other matters. This article does not purport to change any provision now in the constitution. Those who, say, ask for a definition of "economic security," it is not presently defined. Article XVIII, Section 7, states that "the system of economic security and social welfare which may provide for the following." Now, it doesn't say what it is, but it says that "it shall provide for a system of financial assistance to aged, needy individuals who are over sixty-five, a system of unemployment compensation, a system of aid and welfare of mothers and children," etc. I say, delegates, we know what we are speaking of in the provision of welfare programs, economic security, and etc. What we have simply tried to do--and I'm afraid we've given the wrong impression--that by trying to be concise and, I hope, precise in our language, it seems that we've given the suggestion that this is not important. Quite the contrary is true. We expect that even in greater keeping with the possibility of responding to needs of the time--contrary to what we've done in education--that we have provided the kind of flexibility, while assuring that the state in some moment of emotional concern, might decide that such provision for citizens is not necessary. I, therefore, urge your

defeat of this amendment.

Questions

Mr. Tate Dean Rachal, is it my understanding that what you're doing here is replacing a number of articles in the present constitution which authorized the legislature to create certain programs which they have created, and when you say that "they shall do it," in effect, you're ratifying what they have done?

Mr. Rachal Right.

Mr. Tate Second, is it my understanding that the probable reason--aside from a statement of general principle, with which presumably most of us must agree--is to assure old age recipients, all the people having the benefit of these programs already created, that the enactment of the new constitution will have no effect...adverse effect on them? Is that my understanding?

Mr. Rachal That is right. It is in providing that programs will continue. But, the positive side, for those who are in disagreement, Judge Tate, is that we do not mandate a specific formula, we do not mandate a degree of aid, leaving that to the kinds of programs which this country and this state will see fit to provide for the people.

Mr. Tate Is it my other understanding that do you have no intention by this to mandate anything further than it has already been done, in effect?

Mr. Rachal No. In fact, our provision really gives extreme liberality to the legislature. In fact, the sessions of the legislature following the adoption of this constitution, could, in fact, reduce what is there.

Mr. Tate So, then, the issue before us is: should this general statement of principle be contained in the constitution to allay the fears of those who might regret its absence or is it appropriate for the constitution to have the statement of principle?

Mr. Rachal That is right. We felt for the confidence of the people, and so forth, that such a provision should be in the constitution. But, a great deal of verbiage was not necessary to define it.

Mr. Kean Mr. Rachal.

Mr. Rachal Yes.

Mr. Kean You've made the statement--and I think Judge Tate sought to elaborate on it--that there was really no substantial difference between this proposal and what's in the present constitution. Did I understand that correctly?

Mr. Rachal Well, there is a difference in that the present constitution authorizes and says that "the legislature may." This article says that "it shall."

Mr. Kean In other words, the present constitution says that the legislature may establish these types of programs, doesn't it?

Mr. Rachal We are...this article purports to require to change what the legislature has in the past established.

Mr. Kean So, you are now mandating the legislature to provide these programs?

Mr. Rachal Yes.

Mr. Kean So, there is a substantial difference between this proposal and what's in the present constitution?

Mr. Rachal We're mandating that the godliness of what we say will exist without this article, that

it in fact will continue to exist, but exist with even greater flexibility to the legislature than they now have. Any change in the present, as you know, would call for constitutional change. We're leaving any change now to the legislature.

Vice Chairman Casey in the Chair

Mr. Velazquez Dr. Rachal, wouldn't you say that in the Education Article we tried to provide schools for all the children of Louisiana?

Mr. Rachal Yes, that's my understanding.

Mr. Velazquez Wouldn't you think that in this particular amendment they're trying to make sure the kids don't even have shoes to get to the schools they provided them in the other article?

Mr. Rachal I didn't quite get that, Mr. Velazquez.

Further Discussion

Mr. Womack Mr. Chairman, fellow delegates--Judge Tate, in particular--Judge Tate, if I came in and filed a suit on behalf of my mother who had a two-hundred-dollar-a-month doctor bill, who needed nursing care around the clock, and when you added all the other factors to it, it took five, six or seven hundred dollars a month to provide it, and I proposed in that suit that this constitution of Louisiana guaranteed her that economic--what does it say--security, I just wonder how you would rule as to what it would take to give her economic security. Now, the next thing: If you get caught in a trap to where the court would tell you that economic security's term is much broader than we have been led to believe the intent of this article is, and it would take far more money from the state treasury to do it than is provided today, then who will you take it away from? I want to know that. You're going to take it away from education; you're going to take it away from security. Somewhere you've got to take it away. Now, the difference, then--and there's a lot of difference between giving the legislature the authority to provide it and mandating the legislature. Now, there's a lot of difference between mandating a legislative system of education because a legislative system of education is broad and covers all of the children of the state--and rightfully so. But, economic security is an individual situation, and every individual in the state is different. What is economically secure for me is certainly not economic security for some other individual. When we guarantee each individual economic security, I don't know how you can put it. I don't know how broad it is. I don't know where it would start. I don't know where it would stop. I do know this: that there's no way, if we're going to use--and Mr. Flory, you know, I'm a friend of you all's and bent over backwards to help everywhere I can, and I have enjoyed a very friendly relationship--but, if the AFL-CIO's wage scale is something that they consider necessary to provide economic security for the employees of the State of Louisiana, then what standard will we use for economic security when they are no longer employees? It's going to take just about as much for them to live then as it does now. What I want to know is, is what this kind of a figure would be, and where would we be, if we woke up one day with a suit--and don't kid yourself; you're going to have one--if we wake up one day with a suit that says we have guaranteed this individual economic security, and they have every proof in the world: medical information on top on medical information, every minister in the community signing affidavits, and all the politicians, too--which we all do--that that is absolutely needed to take care of this individual, then where is the money coming from? This is the question I raise. I'm for what they say the intent is, but I want somebody to give me a definition of this "security." As of now, I can't vote for this section with that phrase in it. If you will authorize the legislature to provide it, yes. Don't kid yourself; these programs are

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not going to cut down. You say that we've had the authority all these years. We've got the greatest health care programs, I would say, considering our overall economy, of any place under God's green earth, and we've done it under "may"--and the legislature's done it.

So, I would urge you some way--I don't know that deleting the whole section's the answer; probably isn't--but, deleting that particular part where it says, "you shall provide economic security," as far as I'm concerned, will have to come out or be modified for me to vote for it. Thank you.

Questions

Mr. Rachal Yes, Mr. Womack, do you realize that I don't follow your logic? Let me ask you, the reason that I don't, you made reference to the Education Article, and in that article, we state that the...in the preamble--someone before you mentioned about the preamble...but in this one it says that they will establish a system, and that it will design to promote excellence in order that every individual may be afforded the opportunity to develop to his full potential. Now, if I followed your question to Judge Tate that...here's where I don't follow it. You say that in education, it's to all of the children, but when we talk about welfare and economic security, that's to an individual. I don't see how an individual, according to your statement, could not sue the state because the educational system has not developed him to his full potential, and he sues the state in that regard, just as a person could say they had not been economically secure by the system that is provided.

Mr. Womack Mr. Rachal, it's a lot broader term and would be a lot harder to pin down in a suit than offering an individual economic security.

[Previous Question ordered.]

Closing

Mr. Weiss Mr. Acting Chairman and fellow delegates, I would like to point out that those of you that do favor the floor amendment as proposed, in deleting Committee Proposal No. 4, will not by so voting stop motherhood, boy scouts, medical care, unemployment compensation, and the like that has been inferred--that there has been godliness in our state, and that only this type of proposal will resolve matters. Believe me, our legislature and the federal government has done a fine job in promoting economic security for those who are unable to provide for themselves. So, I point out to you, if you vote in favor of my amendment, that we will still have in this state some of the finest medical public facilities, some of the finest unemployment compensation, and we will continue to provide economic security and income maintenance as we have and are doing. I second point out to you that this is a mandated issue which says, we--that is, the people of Louisiana--shall provide heaven knows what. Believe me, economic security is difficult enough to define, much less social welfare. Even unemployment compensation has been taken over the coals in all the states in the federal government today and, of course, public health. Well, Louisiana was the first state in the union to provide public health for its citizens. I must point out, as one of the speakers suggested, that he is a special interest group representing people. I, too, am a special interest group, and I represent a person. When a person comes to me, they are my primary concern, individually. As a group, it was those individual persons, over the twenty-two years in Lake Charles, that elected me to the position I now hold. These group of people that I treated as a person have been most grateful, and for that reason, I am here before you. I hope that you will continue to see that people, as individuals, will have the right to choose their own interpretation of what they consider economic security, what they consider proper medical care, what they consider their level of income maintenance.

On the other hand, the state has and, I can assure you, will continue to provide with such excellent legislators that have already spoken to you such as Delegate Womack and others--will continue to provide for the less fortunate of those among us. I ask you to adopt the floor amendment and prevent further debate, lengthy discussion on a subject that can only give us more trouble, and which is presently covered by statutory law, by federal regulations, and by a fine system of public health, unemployment compensation, social welfare and income maintenance that we have in the State of Louisiana today. Any questions, I'll be happy to answer them, Mr. Acting Chairman, if I can.

[Record vote ordered. Amendment rejected: 40-53. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment sent up by Delegate Abraham as follows:

Amendment No. 1. On page 1, line 16, immediately after the word "legislature" and before the word "establish" delete the word "shall" and insert in lieu thereof the word "may".

Explanation

Mr. Abraham Mr. Chairman and ladies and gentlemen, this puts the language right back to the same way it is in the present constitution. It's my appreciation that in the 1921 Constitution the authorization was put in Section 18 because of the limitations that were placed on the legislature in Article IV which stated that "no public expenditures may be made for private purposes." So, some people felt that it was necessary to include in Article XVIII an authorization for the legislature to be able to provide for these things. What my amendment does is this simply authorizes the legislature to provide for it; it does not mandamus them to it; it does not mandate them to do so, and I urge the adoption of this amendment. I think we can resolve this problem here. It's my personal opinion that we don't need the language at all in the constitution now because I don't think there'd be any problem under the court interpretations now or the legislature being authorized to do these things. But, if there is any question, this does authorize them to act.

Questions

Mr. Roy Mr. Abraham, don't you think we just resolved that issue by saying that we mandated it because your amendment means absolutely nothing?

Mr. Abraham Well, Mr. Roy, the authorization in the present constitution means absolutely nothing, if you want to put it that way.

Mr. Roy That's my point, so that when we just discussed this issue in terms of mandating or not mandating and voted to defeat the amendment to remove it, then obviously, the majority here felt in favor of mandating; don't you believe that?

Mr. Abraham I don't believe that. No, sir.

Mr. Mire May I move the previous question on your amendment, if you have no objection?

Mr. Abraham No objection.

Mr. Casey We have other speakers on the list, Mr. Mire, and I didn't recognize you for that purpose.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, I'd just like to say again, if you're going to put something into this constitution, let's make it mean something. If you're just going to use the word "may," we should have adopted

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Dr. Weiss's amendment and left it out altogether, because you just as well leave it out if you insert the words "maybe" because the only thing in the world you are doing is taking up space in printing. Because it doesn't mean a thing in the world. Now, if you want this type of legislation, you should say "shall", or you should tell the legislature they cannot do something. I ask you to vote down this amendment. You need many other changes bad, it will be different. But, let's don't mess it up by putting the word "may" into this constitution. The legislature can do it without it.

Questions

Mr. O'Neill Senator De Blieux, if we put the word "may," it will conform it to what is basically the law right now. Is that correct, sir?

Mr. De Blieux Well...those words may be in the constitution right now. That's the trouble with our present constitution because we've got too much of that stuff in it.

Mr. O'Neill Well, Senator, you do want to mandate the legislature to do this.

Mr. De Blieux That's right. Exactly correct.

Mr. O'Neill Now, O. K. Well, you want to mandate the legislature to do this. You haven't been up here before, so let me ask you, how do you mandate economic security?

Mr. De Blieux Well, that's something the legislature will have to tussle with in that problem.

Mr. O'Neill, we're not trying to solve the problems. We're only trying to lay down the guide rules.

Mr. O'Neill Well, Mr. De Blieux, I want you to represent me as an attorney when I sue the state for economic security.

Mr. Anzalone Senator, don't we have "may" in the constitution now?

Mr. De Blieux In many places, yes...I think...we should have left that out.

Mr. Anzalone How much...is the State of Louisiana spending this year on these separate, several items that are included here with the word "may"?

Mr. De Blieux I don't know. But, I think it's unnecessary...

Mr. Anzalone Wouldn't you say it would be close to a billion dollars?

Mr. De Blieux Well, I couldn't say that much.

Mr. Anzalone Yet, they are spending this even though the word "may" is in there rather than the word "shall."

Mr. De Blieux Might...probably so.

Mr. Anzalone Do you think that if we don't change it to "shall" that they're going to quit spending this money?

Mr. De Blieux No, but I just think we ought to leave it out altogether if we're going to use the word "may." Just as well leave it out.

Mr. Tate My question is along the lines of Mr. Anzalone's, but a little more friendly. What you...what the authors of the amendment said when they said the legislature "shall" provide, they said since the legislature has already provided under the "may" authorization of the previous constitutions, they are just sort of ratifying what has been done and not intending to provide new rights. If that is the case, would it not be better as a matter of style to keep this as a meaningful thing

rather than as an unnecessary authorization?

Mr. De Blieux Yes, Judge Tate, that's what I think, too. I certainly feel like that putting in there "shall" it means...it makes it mean something while on the...and also confirms what we are already doing under the permissive situation of the legislature rather than putting words that are, you might say, meaningless, by the use of the word "may."

Mr. Tate Senator De Blieux, do you think politically, it's any possibility that the very great programs of economic security, etc., of our state--unemployment compensation, old age pensions--all the things we have that have made a humane state. Do you think there's any possibility that any future legislature would change them?

Mr. De Blieux I doubt it very seriously, Judge Tate.

Further Discussion

Mr. Rachal Mr. Chairman, delegates, I feel compelled to point out some further information. In the concern over mandating the legislature to provide for economic security, we have repeatedly stated, and I have failed to correct, that all of the services being called together under Article XIV here do not have the "may" in their language. In...Article VI, Section 11, regarding the Boards of Health, which is included in this consolidation, it states "the legislature shall create for the state and for each parish and municipality therein boards of health." Under Article VI, Section 12, again regarding public health, the present--the 1921 Constitution--states "the legislature shall provide for the interest of state medicine in all its departments, etc." The...to put into this language "may" in regards to all of the provisions which are provided for here, it is not correct to state that the language in the present constitution is...made as is being argued. The only place in which...it is stated that the legislature may, or the legislature is authorized, is under Article XVIII in regards to economic security. I think that the...that this information should be brought out. Further, under Article VI, Section 30, regarding boards of institutions which have now, for the most part, been consolidated under the Louisiana Health, Social and Rehabilitative Services, stated that "there is hereby created and established the Louisiana Board of Institutions" which includes the various kinds of boards and services which are included. So, it is not correct to state that the legislature now--I mean the constitution now only says that the legislature "may." If we are going to maintain consistency, we would need to go back and eliminate in the articles that we have--because the state has always provided education, it has always had a legislature, and executive department--and if we are to say that we have provided these and so we don't need it in the constitution, we could have finished this constitution long ago and have retired.

I urge your rejection of the...of this amendment.

Questions

Mr. Willis Mr. Rachal, I'm not afraid that the constitution and the course of Louisiana would have any trouble with either the words "shall" or "may." In view of the fact that in the Bill of Rights, you can only sue the state in contract and in tort. You understand that--the thrust?

Now, let us play with the marbles we have. The marbles we have are that we have a double system of government. We have dual citizenship, and that, if a citizen of Louisiana feels aggrieved, he can go to federal court. That's where there's a difference between "may" or "shall." He can say that the government of the State of Louisiana is not, and should, because it shall, provide him with economic security. That's the difference. He can't get into a Louisiana court. But, he can hit that federal court, don't you think?

Mr. Rachal No. Because I don't see that a person can sue--I've said that over and over again--the state to provide more in terms of economic security because this is in the constitution, any more than he... a person could sue the state and say that the state, under the article having to do with education, has not educated him properly, and he has not developed to his full potential. I...while I on the one hand admire those of you who resort to these tactics of debate, I'm not impressed by them, really.

Mr. Pugh You do see the difference between telling the legislature that they shall create a board of health, and telling the legislature that they shall provide for economic security, do you not, really?

Mr. Rachal Wait, let me ask you that again...that they shall provide a board of health, and they shall provide economic security?

Mr. Pugh Wasn't that the example that you gave a few minutes ago that you found there that they "shall" have a...board of health?

Mr. Rachal Right. I was stating that because some had said the present constitution only says that it "may."

Mr. Pugh It said "may" in reference to this economic security.

Mr. Rachal Economic security, right. That's what it does. In the same--if I might carry that further, Mr. Pugh--that in saying that the state "shall" provide a board of...a State Board of Education, it does not have any, it does not quantify, or define; in fact, it does do more than we are now doing. We are leaving the quality, the extent to which the number of branches and all of that, to the needs of the times.

Mr. Pugh But if it says they shall create a board of education, the board can consist of one or a dozen people. Once they create a board or a garner of its compensation, you have complied with it.

Mr. Rachal That's right.

Mr. Pugh But, how do you comply with economic security? I can't understand how you can conceivably do that. That's why I'm for "may" if anything.

Mr. Rachal Well, by the same way that it is presently. It seems that those who argue against the article...are arguing about its definition and the fact that it isn't needed because it is already provided. This article does not purport to change it--to suggest that there's more than is presently provided--it wants to assure that it will, in fact, continue to be divided.

Further Discussion

Mr. J. Jackson Mr. Chairman and ladies and gentlemen of the convention, you know, oftentimes, it appears to me in the debate on this particular committee proposal that there seems to be some question as to what is meant by economic security--particularly in the connotation exhibited by this proposal. I suggest to you that we're very clear what economic security means. My mind reflects upon an article that we've adopted that provided for economic security for a certain class of persons in this state. I remember an article that gives constitutional sanction regarding the pensions of a certain class of people of the state. It just seems to me when I made that kind of comparison, that those kinds of systems--and I was talking about, particularly, retirement system and pension funds--talk about economic security, but not only...not just economic security, but economic security for the future. The people who are going to be affected by this particular committee proposal, are more concerned about economic security of the present--no matter how, or in what fashion that you

design it. I do not find, personally, the kinds of major objections over the word "shall" because I've heard and I respect the comments of delegates here who constantly say that, one, even if you say the word "shall," it depends upon the ability of the legislature, the financial resources of the state, to provide for such. I know presently, under the committee--if nobody raised the question about public health--I know that there is not a system of treatment of hypertension care in the State of Louisiana. I suggest to you that the mortality rate of hypertension, which is a public health matter, is higher, or probably the second number one cause of death in the State of Louisiana. But, we are not alarmed to say that, "Wow, are we mandated in the legislature to spend tremendous amounts of monies for public health." I say for those who use the rationale that we cannot define economic security--I suggest you take some of these other terminologies. O. K. I say, under the social welfare, words in here that...that would give me the opportunity to file suit against the State of Louisiana--either in the state court or the federal court--because the state did not provide me with a guarantee, or with a sufficient amount of money, to protect the welfare of my family and my friends and other citizens. Can I file under the public health thing to say that because thousands of people die a year of hypertension care, that the state is liable to suit for providing that services? I suggest to you that we ought not attempt to cloud the issue about Committee Proposal 14. What your economic security is may be very well different from those. I suggest to you that we are not talking about, as most people who get up here very violently when you talk about going into their system--their retirement system, their playpen, their medical fees, their lawyer fees--because that's economic security to them. To a large degree, that's economic security for the future. I want to suggest that the economic security, as I mentioned before, are the concerns of people who, of the present day, rather than of future life. I think that the committee proposal holds much merit and does not do tremendous violence.

If there are no more speakers, Mr. Chairman, I move the previous question and ask for favorable adoption.

Question

Mr. Nunez Mr. Jackson, if I interpret what you are saying about the various fees and compensation, etc., if this passes with the legislature, "shall provide for economic security," and we get over there and fifty-one percent of us say that economic security means at least a five thousand dollar minimum wage, or minimum income annually--everybody--that would be economic security. Is that what you are saying?

Mr. J. Jackson No, that's not what I'm saying, Senator.

I'm going to ask...I want to respond that when I present this argument, if you've got problems with economic security, that I think you ought to have problems with public health, I think you ought to have problems with social welfare, I think you ought to have problems with the other categories that are mentioned here. It just seems to me that I truly recognize the limits and abilities and capabilities of the legislature to do and not to do.

[Record Quorum Call: 90 delegates present and a quorum. Previous Question ordered.]

Closing

Mr. Abraham Let me just point out two things. First of all, the Article XVII says that "the legislature may establish a system which may provide for the following". Now, I think we probably do need to say the word "may," if for no

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other reason, than in Committee Proposal No. 15, which deals with revenue and taxation, states that "nor shall any appropriation be made except for public purposes." So, this will be the authorization for the legislature to do this.

In answer to Mr. Roy's question that we wanted "shall," I submit that only fifty-three people voted against the Weiss amendment. That's about forty percent of this convention. So, I don't think that's any mandamus that we have to have the word "shall" in there.

[Record vote ordered. Amendment adopted: 53-38. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Jenkins]. On page 1, line 10, delete the words and punctuation "economic security." That same amendment on page 1, line 14; page 1, line 17.

[Amendment withdrawn.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Flory]. On page 1, delete line 18 in its entirety, and insert in lieu thereof the following:
"(portion of the word) -tion public health and comprehensive physical and mental health care."

Explanation

Mr. Flory Mr. Chairman, delegates, what the amendment does is add to the proposal the following language: "comprehensive physical and mental health care." That's simply all it does. It was the feeling of some people that we ought to, in order to maintain and continue the system that we have in the in-patient/out-patient facilities, the half-way houses, the mental health centers throughout the state, in order to be absolutely sure that what we were talking about were these facilities rather than just the words "public health" which might could be have...been construed to mean only the parish public health units, inspection departments, etc., that they would add this language in order to insure the continuation of the types of programs that the state now supports. I would ask for the adoption of the amendment.

Questions

Mr. Conroy Mr. Flory, is this amendment in any way intended to lay the groundwork for some sort of system of socialized medicine? What is it designed to do?

Mr. Flory Mr. Conroy, I thought you were a better attorney than that.

No, indeed, it does not. The thought never entered my mind. As a matter of fact, the request came from your city to include this language--from the Metropolitan New Orleans Council on the Aging. I have the letter here. The letterhead asking for this language to be put in there to be perfectly clear as to what was intended by the proposal. There's no connotations of socialized medicine whatsoever.

Mr. Goldman Mr. Flory, in your opinion, does mental health include emotional health? Or, is there a difference?

Mr. Flory I didn't understand you. I'm sorry, Mr. Goldman.

Mr. Goldman Does mental health include emotional health? Or, is there a difference between mental health or mental well-being and emotional well-being?

Mr. Flory Well, I don't think it makes a great deal of difference.

It is my understanding that the state now has programs for the emotionally disturbed children in

this state. I would think that this would...in the comprehensive medical...physical and mental health care, it would be included in that language, Mr. Goldman. They have a very good program, as a matter of fact, for emotionally disturbed children. The state doesn't finance it to its fullest as perhaps they should, due to the limitation of finances available. But, it's hoped that they would continue the program and expand it.

Mrs. Warren Isn't it true that emotional health leads to mental health?

Mr. Flory Well, I'm not a qualified physician. I'm not a physician, and I really can't...

Mrs. Warren Usually, if they get emotionally disturbed, and if it's not taken care of, it goes worse. This is the way we defined it in P.T.A.

Mr. Flory That's my understanding...yes.

Further Discussion

Mrs. Zervigon Mr. Vice Chairman and delegates, I rise in support of the Flory amendment. This is only an amendment to clarify what our intention was--what exactly we meant by public health when we passed...decided to leave in this Proposal No. 14 in the first place. We now have programs for the emotionally disturbed--programs trying to lead toward mental health. This would allow us to retain those programs and be an expression of philosophy that we think it's a good thing to have those available to our less fortunate citizens.

Let me point out to you that by the end of February, we may all be eligible for this sort of care. Thank you.

Further Discussion

Mr. Weiss Mr. Chairman and fellow delegates, I would like to take the opportunity to try and explain to you a problem which I think comes well within my domain as a physician. I can assure you that for many, many years in this country, there have been attempts in behalf of physicians to define such things as mental health. There have also been attempts to define what comprehensive health care is. At the same time, there have even been in all fairness to you, attempts to decide who is dead and who is not. This being for the purpose of donating very vital parts of the body without legal complications that could ensue if a part was removed from someone who is still alive, and yet their parts had to be used in another individual. I can assure you, as I stand here, that there are many, many definitions of mental health; there are equally many definitions of physical health; and there are tremendous numbers of individuals who are totally confused as to what comprehensive health care is. At the same time, I am proud to say that in the State of Louisiana, even before this amendment, even before this Constitutional Convention convened, there has been operating in our state--thanks to our governor now who has been very active in this regard--area planning...even health planning...which is present in all areas of this state, and I can assure you very active and very efficient. The physicians, the people who are involved with social welfare, the attorneys who are concerned with proper remuneration in economic opportunity for the deprived, have done well to provide for our people this service.

Now, we have deleted the word "shall" and have made optional the type of coverage which the legislature will provide. This has been the situation throughout the past many years as a result of our present constitution. I do not see where the words "comprehensive physical and mental health care" will either add to or encourage anyone to do anything other than reports that I have that this might be used as a foot in the door for further opportunity to seek whatever an individual elects to consider comprehensive physical and mental health care.

I regret to bring up at this time, but I can only see in all fairness to this convention, and telling you honestly, an opportunity for representative union leadership to step in and define what this term means. We have now representative government--the legislature--who will define and help us define what we mean by comprehensive physical and mental health care. This body has deliberated for over two weeks now on what good education is. I ask you, have we decided what quality education is? May the Lord help us, for you people, for legislators, and for representative union leadership to stay out of what they think is comprehensive physical and mental health care. May it rest with you and the one you select to take care of you. May you also be blessed with the type of services--medical, union, legislative--that are concerned with you as individuals, and with the people of the State of Louisiana. I think in regards to physical and mental health, you have been, and will continue to be blest. Now, it is the concern, in all fairness to this group, you must be informed that the federal government has taken many steps. They have decided, in certain areas, what they consider comprehensive physical and mental health care. This federal government is run by a group of legislators, Senators and Representatives like here, and like our state Representatives who represent us. They are politically oriented, and at one time, they may consider abortions favorable, and at another time, unfavorable. Other nations of the world have found this to be true. After five years, a legal abortion suddenly becomes an illegal abortion. After twenty-five years, legal whiskey suddenly becomes illegal whiskey. I ask you to leave these phrases out of the constitution to prevent people from being confused, to keep the wool from being pulled over their eyes, to misrepresent to people what they are not going to get no matter what you write in here. Although I think this is a well-intended floor amendment, I must ask you to vote it down. It is only dangerous and can create serious problems in the future.

[Motion to limit debate to ten minutes adopted without objection.]

Further Discussion

Mr. Jenkins Mr. Chairman, delegates, we don't need this amendment. We already have in this provision that the legislature may establish a system of public health. There's no need to go on and itemize and list every conceivable public health program. Now comprehensive health care, and comprehensive mental health care are particular terms of art. They deal with particular programs that are being established in this state. They are controversial programs--particularly among our physicians--if we start endorsing and recommending programs like that, we're going to upset a lot of people unnecessarily. We don't even need this section, much less this amendment. The legislature has this authority under this constitution, to enact these types of programs. I just don't see why we should get deeper and deeper and deeper into all this sort of thing. When you talk about comprehensive physical health care, and comprehensive mental health care, you're talking about dealing with every possible, conceivable human ailment--not just for the poor--but for every person in this state. Now, the only possible thing that can lead to is socialized medicine. So, we are endorsing a concept here that I'm sure a majority of the people of this state would disagree with. So, let's just leave this section like it is with public health, without getting more and more involved in unnecessary and controversial concepts.

Chairman Henry in the Chair

Further Discussion

Ms. Maybuce Mr. Chairman, fellow delegates, aside from being an elementary school principal, who at many times I am concerned with the mental health problems of our children and their parents. I am

also a volunteer for the Baton Rouge Mental Health Association and the Louisiana Mental Health Association. I would ask those who question this amendment, if you would look at East Louisiana State Hospital for the mentally ill. Mandeville is the only place where our children who are mentally ill can go. If you have every been there, you wouldn't question this amendment, you would add the word "adequate." I rise to support this amendment.

[Previous Question ordered.]

Closing

Mr. Flory Mr. Chairman and delegates, in closing, just let me say that I hope you adopt this amendment. You know we buy comprehensive insurance on our automobiles. If we can't provide comprehensive, physical and mental health care in this state, then I just don't believe that we have come to that point yet where the human body is not equal to the wealth and so forth of an automobile. But, let me say this to those who...it's been stated perhaps that someone has tried to mislead this convention, or that I have no right, or particular people have no right to define what is meant by comprehensive, physical and mental health care. I know what I think comprehensive means--that whatever it takes to restore the human body and the human mind to a well being, then that's what's included. If you have objections to the restoration of the human body and the human mind to its proper place that it was intended, then I suggest that you vote against the amendment. But, I would ask that you do adopt the amendment in the light of what has already been adopted so far. Then, let's go forward and adopt this section and put it into the constitution of this state. It's a people's amendment. It's a people's section. It's the people's constitution.

Questions

Mr. Weiss Delegate Flory, have you every had an automobile accident, sir?

Mr. Flory Unfortunately, I haven't had one in about twenty years, Dr. Weiss.

Mr. Weiss You mentioned comprehensive automobile insurance. Do you think the people of this state feel they always get their moneys worth from the insurance companies after they have their comprehensive policy analyzed after an accident?

Mr. Flory Under comprehensive, if my memory serves me correct, there is no deductible, at least on my policy.

Mr. Weiss Do you think they are satisfied with whatever they receive after an accident in other words?

Mr. Flory I don't think they are satisfied with their insurance in the automobile field, nor do I think they are satisfied with their insurance in the medical field.

Mr. Weiss Who makes that decision, sir?

Mr. Flory What's that?

Mr. Weiss Without their satisfy...

Mr. Flory Whether they are satisfied or not?

Mr. Weiss Yes, sir.

Mr. Flory Well, the individual makes up his mind whether he is satisfied or not. But, if you'll shut up long enough I'll answer it, Dr. Weiss. But, the individual makes up his mind whether he is satisfied or not. But, yet he doesn't have a determination as to the type of service that he bought in the first place because the dictates of that policy are spelled out by some

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insurance company, and he doesn't have the right a lot of times to decide whether he wants whatever type coverage; he has to take what they offer him.

Mr. Weiss If your amendment were to pass, wouldn't that be the exact situation that the individual would not be able to decide whether he had quality medical care, but only based upon the legislative, the union, or whatever decision is made for comprehensive health care be provided for the individual? He may be berserk as far as he is concerned. But, if he were told that he were sane by a union doctor or a legislative doctor so appointed, he would be healthy; is that correct, sir?

Mr. Flory Dr. Weiss, I was an operating room technician, spent four years working in hospitals. I helped treat a lot of people in emergencies and what have you. I always found that if a person didn't recuperate to his fullest extent, he was dissatisfied with the services that he got.

Mr. Goldman Mr. Flory, this is not facetious, and I hope it doesn't arouse your anger. But, I do have a question for you.

Mr. Flory You couldn't arouse my anger, Mr. Goldman.

Mr. Goldman It's conceivable to me--and I've seen it in effect--that in using the word "comprehensive health care," and the definition you gave as to your conception of what comprehensive care is or comprehensive health and mental care, that there may be some person or some individuals who can only be completely cured by the elimination of another individual. Would that be...could that be done in order to completely cure the ill of that person?

Mr. Flory I don't follow your line of questioning, Mr. Goldman.

Mr. Goldman Well, there are some people who are so emotionally disturbed because of someone else, that the only way the emotional disturbance could be taken away is by the elimination of that other person.

Mr. Flory I can't say that, because I'm not qualified to answer that. Mr. Chairman, I ask for the adoption of...

Mr. Juneau Mr. Flory, you know I've taken a look at the roll sheet that you keep, and I think your amendment is going to pass.

Mr. Flory Thank you, Mr. Juneau. I ask for a record vote, Mr. Chairman.

[Record vote ordered. Amendment adopted: 49-32. Motion to reconsider tabled.]

Amendment

Mr. Poynter Mr. Jenkins has amendments here. Amendment No. 1. On page 1, line 18, in Floor Amendment No. 1 proposed by Delegate Flory and adopted by the Convention on today, delete the word "comprehensive".

Explanation

Mr. Jenkins Mr. Chairman, this amendment simply deletes the word "comprehensive" from Mr. Flory's amendment so that it would still say that "the legislature may establish a system of health care and mental care," but not comprehensive. He was talking about the definition of what he meant by comprehensive and as I understood it, he said that it meant whatever it took to make a person well--apparently any person in this state. I don't want to see an endorsement of the concept that the State of Louisiana ought to be treating--directly or indirectly--every possible ailment, physical or mental, by every person in this state. I think we

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will look foolish if we endorse that concept and put it in the constitution. We provided here that the legislature may establish a system of public health. We can, with the adoption of this amendment, say that we will establish a system of health care and mental health care. But, my goodness, that word "comprehensive" is undefined, and I think it could really cause a lot of problems. So, I urge the adoption of this amendment.

[Previous Question ordered. Record vote ordered. Amendment adopted: 43-39. Motion to reconsider tabled. Motion for the Previous Question on the Proposal rejected: 18-56.]

Amendment

Mr. Poynter Next set of amendments sent up by Delegate Pugh:

Amendment No. 1. On page 1, line 18, in Floor Amendment No. 1 proposed by Delegate Flory and adopted by the Convention on today, line 1 of the text after the word "health" delete the comma ",", and the word "and" and insert in lieu thereof the word "including".

Point of Information

Mr. Denney Mr. Clerk, wouldn't you have to add the word "and" where it was deleted by the Flory amendment? Would you have to add the word "and" where it was deleted by the Flory amendment in order to have this make sense?

Mr. Poynter I'm not sure I follow you, Mr. Denney, why don't you come up to the desk and we can look it over.

Explanation

Mr. Pugh Mr. Chairman, fellow delegates, in connection with Mr. Flory's amendment, my amendment would strike the conjunction "and" and replace therefore the word "including." I suggest that for your consideration because the words "public health" are ones of common usage. The words public health appear in many, many federal and state statutes. I want there to be no doubt that if the federal government provides funds for public health and they mean those to relate to physical and mental health, I want no doubt that we would qualify for those funds under our definition of public health. If for any reason any moneys are ever available for public health, then I want them to be available for the usages under Mr. Flory's amendment. I think the words physical and mental health obviously are within the connotation "public health" which does have a common meaning and usage. I recommend to you for that reason, that we include them within that phrase and in doing so delete the conjunction "and."

Mr. Henry All right. Mr. Clerk, are you going to make some changes in that amendment?

Mr. Pugh Mr. Chairman, Mr. Denney has indicated the need for a conjunction "and" before public health, there is no question about that.

[Amendment withdrawn and resubmitted with correction.]

Mr. Poynter All right. It would read as follows: Still beginning

On page 1, line 18, in Floor Amendment No. 1 proposed by Delegate Flory and adopted today, in line 1 of the text of the amendment--here's the insertion--immediately after "tion," and before the word "public" insert the word "and", and after the word "health"--picking back up and--after the word "health" delete the comma ",", and the word "and" and insert in lieu thereof the word "including".

[Previous Question ordered. Amendment

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adopted: 75-8. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Rachal]. On page 1, line 17, after the word "security" and before the word "social" delete the comma "," and insert in lieu thereof the following: "as defined by the legislature,".

Explanation

Mr. Rachal Mr. Chairman, fellow delegates, this is an effort to salvage the work of the committee and to retain some meaning. The committee proposal as it presently stands amended really doesn't give to the legislature any more than it can already do. It seems that the difficulty with the proposal as submitted was with the definition of economic security. It is for that reason that the suggested language is made. It seems that I could not be convincing enough, that the committee took no issue with the present provisions as made by the...all of the services which are now being brought under this one article. The wishes of the committee were that the systems would, in fact, continue. There are those who propose that the individuals might sue the state and demand an economic security against the nebulous kind of definition. By the same token, with the manner in which the proposal has presently been amended, the legislature could, when it chose to do so, eliminate any of the services. The committee's concern was that although it was not concerned with tampering with the present provisions, it wanted to assure that in fact the services rendered by whatever form necessary in the future would in fact be continued and there would not be permission that they be discontinued. The present language would make that possible. The intention of the committee was that economic security would be either as the intention was--although it was not stated--that economic security would be as defined actually by the legislature or by the board, commission, or whatever was established to define that program. If this proposal is to have any meaning whatsoever, as intended by the committee, the word "shall" needs to be remained to insure the continuation. This amendment is intended to allay the anxieties that those who objected to the lack of a definition or a specific indication as to how economic security was to be provided. I urge your adoption of the amendment.

Questions

Mr. Tobias Tony, I'm reading your amendment. The provision of the proposal says that "The legislature may" provide these various things. Now, the legislature makes laws. Therefore, is it not logical that if the legislature is going to make laws, they are going to define what economic etc., security or whatever the word is in this proposal, isn't that true?

Mr. Rachal That's right.

Mr. Tobias So, why put this in, it makes no sense; it's just excess verbiage? We in Style and Drafting have a heck of a time editing it out again because you have added it as a substantive change.

Mr. Rachal I'm glad you asked that question, Mr. Tobias, because evidently I didn't explain what I was trying to say well enough. I honestly feel that the proposal, as presently amended, is excess verbiage; it has no meaning in the constitution. What I'm trying to do is to amend the proposal as submitted such that if this amendment that I have submitted is adopted, we will return to the language which states that "the legislature shall establish a system of economic security as defined by the legislature," and then proceed with the following language. There is a considerable difference between the use of the word "may" and "shall"--without "shall," it is meaningless.

Mr. Tate Dean Rachal, as circulated, it does not include that amendment of "shall" for "may"--that's what the questioning is concerned with. It only includes the amendment to add "as defined by the legislature" following "economic security".

Mr. Rachal Probably that's an error in the drafting of the amendment by not stating that it was, as amended, this was intended to apply to the committee proposal on page 1, line 17, etc. It does not state the proposal as amended. Now, if that's technically incorrect to submit it that way, I certainly would be willing to correct it. That's why I wanted to explain that mine is not an amendment to the amendment, but an amendment to the proposal as submitted.

Mr. Tate Then, Dean Rachal, perhaps what we are...some of us are confused with, is the instructions should be to do whatever you do to delete all previous amendments and go back to the original committee proposal and add these words. But, the instructions that we have here don't show that.

Mr. Rachal I regret mine...if the delegates understand my intention, than if that's what it takes to amend it, then I'm certainly not going to object to that.

Mr. O'Neill Mr. Rachal, now tell us exactly what you are trying to do.

Mr. Rachal What I'm trying to do is to amend the proposal as submitted. To state it another way, I'll say that the amendment that I suggest, if adopted, would have the Section 1 to read: "the legislature shall establish a system of economic security as defined by the legislature, social welfare, unemployment compensation, and public health," and include the other amendments that were made to it.

Point of Order

Mr. O'Neill Mr. Rachal is trying to amend the committee proposal with an amendment that has no words to do quite that, as I see the amendment. I would like to find out if he can do that. I don't think he can. I think he would have try and delete all floor amendments and insert those words back in there again, and then that would be out of order.

[Amendment withdrawn and resubmitted with correction.]

Mrs. Warren Mr. Chairman, I think the reason Mr. Rachal got confused is because his amendment was on there before anything was deleted, was out on the floor. They didn't call for his amendment in order as it was put on the table.

Mr. Henry Mrs. Warren, I beg to disagree, but I don't think you know what you are talking about there, because...well, O.K. Well, then, it might have gotten to your desk. But, I don't think the contrary is true.

[Quorum Call: 75 delegates present and a quorum. Motion to adjourn to 2:00 p.m., Sunday, November 18, 1973, rejected: 25-46. Motion to table the entire subject matter. Record vote ordered. Motion rejected: 36-46.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Rachal]. On page 1, line 16, strike out the word "may" added by Convention Floor Amendment No. 1 proposed by Delegate Abraham and adopted by the convention today, and insert in lieu thereof the word "shall" and on page 1, line 17, after the word "security" and before the word "social" delete the comma "," and insert in lieu thereof the following: "as defined by the legislature,"

[Motion to revert to other orders rejected: J2-49.]

Explanation

Mr. Rachal Mr. Chairman and fellow delegates, the action is so fast on the floor that my efforts are obviously futile at this point. I think it's more fitting that I let you know that I know that you know that the action is tantamount to defeating this amendment. Let me state, however, that the recent development since I submitted it--I submitted my amendment in answer to what I figured...considered to be honest objections, and probably...I thought that the...I got the impression from the debate that the objection to the use of the word "shall" in this proposal had to do with the nebulosness of the term "economic security"--I found that since submitting this amendment that there are other reasons why there is opposition to the amendment--all of which I certainly cannot overcome. I recognize, also, that with seventy-seven delegates here, that certainly at least ten would be opposed to this amendment regardless as to what might be submitted. I thought that I should point out to you my willingness to try to find a means by which we could get together. I repeat again, that the proposal as it presently stands amended is of no consequence, and we're just taking up space in the constitution. I would urge your adoption of the amendment as submitted.

Questions

Mr. D'Neill Mr. Rachal, in effect, your amendment puts the word "shall" back into this section which has been amended by Mr. Flory--which is a substantial difference, by the way--and it deletes Mr. Abraham's amendment when he inserted "may." Now, do you know the vote by which Mr. Abraham's amendment was accepted?

Mr. Rachal I don't recall it at the moment, no.

Mr. D'Neill Well, it was a substantial majority.

Mr. Rachal Nevertheless, Mr. O'Neill, I thought it was based primarily upon the fact that economic security could not be defined. That was the understanding that I had.

Further Discussion

Mr. Arnette Ladies and gentlemen, this amendment seeks to put back in exactly what this convention took out less than an hour ago. I therefore think it's a bad amendment to replot the same ground. Second, by Mr. Rachal's own admission, this section means absolutely nothing without "shall" in it. So, in that case, what I think we ought to do is move the previous question on the entire subject matter, and vote on this thing one way or the other, and let's get it over with and go home.

[Motion for the Previous Question on the entire subject matter rejected: 26-52.]

Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I, too, like Mr. Rachal, don't believe that we have enough votes to pass the committee proposal. But, I...you know, I believe, particularly if I'm going to argue against something, that I ought to present to the delegates of this convention some sincere, legitimate--well, I'll take out the word "sincere" because I don't want to question anybody's motives--but at least some rationale that attempts to approach the word "legitimate." Mr. Rachal has said in his amendment, in effect, that the legislature shall provide for economic security as defined by the legislature. Now, I understand when I talked to some of the folks, that was the major objection because it was so broad, and that we ought to let the legislature define. But, you know the thing that con-

cerns me about the word...about Mr. Abraham's amendment is that no matter how you feel about economic security, you're really tampering in the area of unemployment compensation. You can say that the legislature may provide for a system of unemployment compensation, and you get somebody up in there--a lobbyist--representing bid industry in here, and you're going back and tell the man who's got hurt on the job that it's a possibility that the legislature may or may not provide for some sort of unemployment compensation. So, it just seems to me, very seriously, that--and I recognize that he cannot pass the proposal--but I think Mr. Rachal's amendment at least addresses itself to the objection of defining economic security. Now, for those opponents of the proposal, I have to get some kind of explanations and justification as to, you know, what does it mean when I say that the legislature may provide for unemployment compensation, knowing the kinds of tremendous battles that are in the legislature every time we attempt to increase or decrease unemployment compensation. I think that is the dangerous aspect when you use a word like "may," 'cause the legislature--and I'm saying whatever influenced you on it could very well be influenced to the degree that they can decrease or may not...or take away from the benefits presently enjoyed by the working people of this state. So, I ask that you don't take this proposal lightly. My motions were not a tactical motion to do away with the opposition, but at least to ask us to return to the regular order of business so at least we can come up with one that would take away the concerns as people have about economic security--which I think Mr. Rachal's amendment has--particularly, my concern about using a word like "may" when we talk about unemployment compensation. I ask for your favorable adoption of the Rachal amendment.

Questions

Mr. Chatelain Delegate Jackson, you stated at the outset when you began to talk that there's a short House. Is this right, sir?

Mr. J. Jackson Right.

Mr. Chatelain All right. Do you remember the vote, sir, when we took the final vote on the passage of the Committee Proposal No. 7 that we just voted on? There was a hundred and thirteen people here, then. I don't know if you remember that number or not, but they seemingly got what they wanted and left. So, you don't fault the rest of us that stayed here, do you, sir?

Mr. J. Jackson No, sir. That's why I'm here, too. I'd like to go home; I'd like to drive the hundred miles, but I don't want to kill the proposal. I don't think the proposal can pass, but I don't want to table or kill the proposal on one issue, and I think that's another great concern embedded in the committee proposal--unemployment compensation.

Mr. Pugh Johnny, I only ask this because I think we are dealing with something very serious when we talk about whether or not unemployment compensation, social welfare and public health are in the constitution. Isn't it possible that we can resolve this problem by providing that the--and this is just a question I'm asking, you understand--the legislature shall establish a system of social welfare, unemployment compensation and public health, and then provide it as also authorized to establish a system of economic security? Can you live with that?

Mr. J. Jackson I would, but I'm suggesting to you, Mr. Pugh, that I think there are some delegates that don't even want that compromise in. For those of us who do want to go home, maybe the best thing that we can do, because it's such a complex proposal, that we ought to just go home and just return to regular orders of business.

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Mr. Tate Representative Jackson, do I understand your fear to be this: the legislature has already created unemployment compensation, welfare and public health, and there's not a chance in the world that anyone here is against it or that the legislature would repeal it. Your fear is among some of the people that you represent that appear before the Health and Education Committee that they may take it as a step backward when no one here has any intention whatsoever to repeal those great programs of this state. Is that your fear?

Mr. J. Jackson I think it's that, Justice Tate, but it's also my concern about by using the word "may" as it relates to unemployment compensation. What does that provide in terms of legal suits about whether a person is going to be protected if he's hurt on a job or not, and he ought to be compensated for it.

[Motion to withdraw the amendment.
Record vote ordered. Motion adopted:
66-20. Motion for the Previous Question
on the Section. Substitute Motion
to adjourn to 2:00 p.m., November
18, 1973, rejected: 37-48. Motion
for the Previous Question adopted:
44-41.]

Closing

Mr. Rachal Mr. Chairman, delegates, I realize that the hour is late and nerves are frayed, but this committee proposal as it presently stands doesn't do anything. We are making a farce of the people to have them believe that taking up ten lines in the constitution at this point means anything, and as it presently stands, I am forced to urge the rejection of this committee proposal and save space in the constitution.

Questions

Mr. Flory Mr. Rachal, isn't it true that we need this section in light of the Revenue, Finance and Taxation's proposal where we stated that you could not appropriate funds except for a public purpose, and the purpose of this section is to allow the state to make payments to welfare recipients and also, when the state takes over the funds contributed for unemployment compensation, to make payments to private individuals? Isn't that the necessity of this section?

Mr. Rachal I have to honestly say I really don't know, Mr. Flory, but I'd ask for the Parliamentarian to answer that question, or the...someone who can.

Mr. Henry Go ahead, Mr. Poynter, let her rip.

Mr. Poynter I'd love to, but I think I better not.

Mr. Rachal All right, let me say I certainly don't want to jeopardize a continuation of this program, the contrary is true. My only concern is to have a "may" in the constitution is of no consequence unless what you say, Mr. Flory, is true.

Mr. Jenkins Isn't it true, Mr. Rachal, that we haven't even adopted the Revenue, Finance and Taxation Proposal regarding the use of public funds, and that anyway, the courts have held time and time again that welfare programs are public purposes, and that to spend funds in that way is not prohibited?

Mr. Rachal I think I can answer yes to that question.

Mr. Tobias Mr. Rachal, isn't it true that even if the proposal is defeated, and even assuming that the convention decided to lay that motion on the table, that you could come back and move for a suspension of the rules to call from the table the motion to reconsider and, therefore, it would be open again? Is that not true?

Mr. Rachal I think that's right. With a two-thirds vote it could be...67 votes, rather. I'd like to make one correction to Mr. Jackson's statement. He mentioned when a person is hurt on the job when he referred to unemployment compensation. It's really when he is laid off or for some reason is not employed other than because of injury.

Mr. Singletary Mr. Rachal, I believe under Committee Proposal No. 15, Section 16, which prohibits appropriating the funds, etc., of the state to any individual, I believe that we do need this proposal.

Mr. Rachal Well, I would purport to get it included in another way. If that's true, Mr. Singletary, I would propose to get such guarantee to the citizens through another means other than through what I feel has happened to this proposal.

[Section failed to pass: 44-38.
Record vote ordered. Motion to
table the motion to reconsider
rejected: 33-52. Motion to re-
turn the Proposal to the calendar.]

Point of Order

Mr. Nunez We just had the previous vote; we didn't reconsider it, so it automatically comes up the next day. Isn't that right?

Mr. Henry But, you can still return it to the calendar.

Mr. Nunez Well, I don't see where it makes a great difference whether it's on the calendar or it's reconsidered.

Mr. Henry It really doesn't, but the man made the motion, Senator. It's six of one and half a dozen of the other.

[Record vote ordered. Motion
adopted: 67-21. Motion to take
up other orders adopted without
objection.]

Point of Information

Mr. Stinson Would you advise the convention as to what we have done this afternoon in furtherance of the adoption and preparation of the constitution?

Mr. Henry Well, Mr. Stinson, I'd be glad to give you the floor for about five minutes and let you...

Mr. Champagne I had something along those same lines. I was wondering if there's really any point in coming here at all tomorrow, if we're going to accomplish as much as we did this afternoon.

Mr. Henry Well, gentlemen, I'm going to recognize Mr. Avant in just a minute for the motion.

Mr. Avant, inasmuch as I'm going to exercise my prerogative now, I will give you equal time if you don't mind when you make your motion.

Mr. Avant's going to make a motion, I assume, for adjournment, which he believes in, and in all fairness to Mr. Avant he's been one who sat back there everyday as far as I can recall in this convention and has been willing to work. It's extremely exasperating now--wait just a minute, take your seats, please, and we'll get out of here in just a minute--but I've listened to all this and I'm just about like some of you all, and I appreciate you staying. Mr. Stinson, I'm sorry, I can't tell you what we've accomplished this afternoon, but I thank God that we can do it like this in a free country; it does get a little nauseating at times. But, we're worked hard and we've worked well here for about ten months, and when you look around on Saturday afternoon late you see the same faces every time. We paid one

hundred and twenty-one people today fifty dollars a piece. Some people are making more money than others, and I realize that we all can't stay and we all can't come every time. But, we all have made a commitment, and I think we're going to have to start encouraging some of the other brethren to live up to that commitment more than, perhaps, we have in the past.

It's my considered opinion that we need to work. Granted we did not accomplish anything insofar as adopting a proposal this afternoon, but ladies and gentlemen we have a number of proposals that are going to have to at least be considered before it's over. Now, it's not a question of whether or not we're going to accept or reject these proposals; healthy, plausible debate is good, but there is so much nonsense that goes on, so many unnecessary remarks, so many squirly little questions like, "Did you know Mr. So and So that I like your amendment", and that's absurd. Now, it's time for us to either decide whether we want a new constitution in this state or not; I think you want one. It's not going to be like you want it when we get through and it's not going to be like I want it, but unless we're willing to shut our mouths at times, and not to talk until we've got something to say we're going to be here until the 19th of January or the 20th of January as long as the legislature will allow us to meet, and you can say what you want to about the legislature; you can say all right, if the legislature decides that they don't want to give us extra time, we'll just keep meeting, and the legislature will cooperate with us, I'm sure of that. But, you know the legislature could shut it down; I don't think that's the problem, but we acted too much like legislators here in the past few days.

We have got a number of proposals that must be considered before we get to the alternative proposals that Mr. Goldman was talking about this morning. I don't have any proposals, I've not suggested a thing to this convention insofar as what I think we should adopt, but you have and I'm insisting that we work so you can have the time to debate and discuss your proposals that I know you think are right. Now, if you want to go home--and I know you do, and I know I do--and if you think that's best and you think we can come back here after these holidays and after this session, and sit in our seats and use good common judgment in debate, and can wrap this thing up, and can give it all the time we need, then adjourn, and let's go home, because that's what we should do. But, if you don't believe that we're not going to move any faster than we've been moving, then I'm going to tell you this, we're going to go through the same thing up around Christmas. We're going to get here on the Saturday before Christmas and we're going to be behind, and everybody is going to say, "Well, it's Sunday and then Monday is Christmas Eve, and then there's Tuesday is Christmas and we can't come back Christmas night because of too much traffic so we'll come back the 27th, and then there's going to be the New Year's weekend and the football games, and we will want to be home then."

You have sacrificed, you wouldn't be here this afternoon if you hadn't sacrificed, but don't give up now for goodness sake. Mr. Avant is sincere in the motion that he's going to make as he can be; I think he believes that way. Mr. Avant, I haven't tried to stampee you in what I'm saying because you've been fair with me, and you've been long suffering with the rest of us. We have not finished a job and the real gut work is to come between now and then, and we can finish it, and it ain't nearly as bad as it might look sometime when we get here late on Saturday afternoon. But, for goodness sake, if you've given up, go ahead right now and resign so we can get somebody in here to run in your shoes for a few days, and, God knows, I don't believe any of you have given up or you wouldn't be here today. But, think about those things and think, for goodness sake, about the time we're wasting with a bunch of nonsense, and there was nothing nonsensical perhaps about the amendments this afternoon or the section; you might not have liked them, but you didn't have to get up and talk on

every one of them. You didn't have to ask a lot of redundant questions. We're going to have to begin to restrain ourselves. We're going to have to begin to control ourselves, and we're going to have to begin writing the constitution that the people want and will accept. Now, I give this to you and I guess it's like the preaching in the church on Sunday nights, you all might not be the ones that need it, but that's the way I feel, and that's what I think. I recognize Mr. Avant for a motion. Wait, Mr. Avant, he's got to do one little thing then, I've got you. I'm sorry. I'm treating you like the stepchild I always treated you.

Report of the Secretary
[*II Journal 855-857*]

Motion

Mr. Avant Mr. Chairman, I've been impressed by what you said and I'm with you all the way. I move that we adjourn until nine o'clock Monday morning.

[*Substitute Motion to adjourn to 2:00 o'clock p.m., Sunday, November 18, 1973. Record vote ordered. Motion rejected: 11-76.*]

Point of Information

Mr. Smith Before we vote on this motion, Mr. Chairman, is there any way we get these members if ...I'll be here, but if we're not going to get any more than we've got today it looks like in the rules there we have that--I hate to see it carried out--but the sergeant-at-arms can go out and get these members in; I think we ought to have enough here to do business tomorrow.

Mr. Henry Mr. Smith your point is well-taken. I think there's something under the rules that will allow us to scent [send] for folks.
Read Rule No. 6, Mr. Clerk.

Mr. Poynter Rule No. 6 reads as follows: "Absent Delegates"
"At any time the convention is in session whether upon first convening of the day's session or at any time after the hour has arrived to which the convention stood adjourned, the Chairman is authorized to send the sergeant-at-arms for any or all absent delegates as a majority of such delegates present shall agree."

[*Substitute motion to adjourn withdrawn.*]

Mr. Stagg Mr. Chairman, I think the application of that rule has to be done during the session in which there are absent delegates. So, the rule could not be enforced until tomorrow afternoon after two o'clock.

Mr. Henry I think your point is well-taken.

Point of Information

Mr. Ourso What you're saying is, is if I don't show up tomorrow because I have some personal business to take care of in my office or anything, you're going to send someone to come get me?

Mr. Henry No, sir. Not at all, Sheriff.

Mr. Ourso Well, good because I was going to tell you if you would, send someone to come get them when you bring them.

Point of Information

Mr. Stinson Mr. Chairman, as you know, those of us that come two hundred and seventy miles, we don't get paid any mileage, and these down here roll out of bed and walk over here don't either, but if they send for us, then the rule says that we have to pay for that sergeant-at-arms going up

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or do we get a free ride?

Mr. Henry That's correct, Mr. Stinson.

Mr. Stinson Oh, we have to pay for them.

Mr. Henry You have to pay for them.

Mr. Stinson Oh, that's bad, isn't it.

Mr. De Blieux Mr. Chairman, Mr. Stinson touched on what I was thinking about. Of course, what Mr. Stagg says that it has to be during the session before you can send for them, but if the members of the convention know that they will be sent for and will have to be up here without a sufficient excuse at their expense; before the session, notification to them of that might bring them here so we won't have to send for them.

Mr. Henry I think that's the way we're going to be able to resolve it too, Senator De Blieux.

Point of Information

Mr. Landrum Mr. Chairman, in reading the rules, I believe he stated the last words, "shall agree." Am I right?

Mr. Henry That's right, sir.

Mr. Blair Mr. Chairman, I had full intentions of returning tomorrow, but when...if you vote, if this convention votes to force someone to come here tomorrow, I just sent for a day of leave of absence, and just as the sheriff said, "Somebody come after me because I ain't coming."

Mr. Henry I don't think anybody is going to have to send after anybody tomorrow or any other day, Senator, but these rules are rules that were adopted by you, as delegates to this convention, and I think that's the point that is being made, sir.

Mr. Blair The point...shouldn't you wait to see if you need to send after someone?

Mr. Henry Now, I think that's the point that's being made, Senator, is that if business doesn't pick up, yes, sir.

Mr. Derbes Mr. Chairman, enforcement of Rule No. 6 would be after the fact of our not having a quorum. I wonder if it would be in order at this time to move to suspend the rules so that the machine might be opened for us to indicate, of those present, who intends to be here tomorrow.

Mr. Henry It wouldn't require a rule suspension, but I think we're going to have enough here tomorrow now, Mr. Derbes.

[Record vote ordered. Motion to adjourn to 2:00 o'clock p.m., Sunday, November 18, 1973, adopted: 76-7. Adjournment to 2:00 o'clock p.m., Sunday, November 18, 1973.]

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Sunday, November 18, 1973

ROLL CALL

[84 delegates present and a quorum.
Quorum Call: 78 delegates present
and a quorum.]

PRAYER

Mr. Willis Almighty Father and eternal God, it is right and proper that as the first order of business, especially on this Sabbath, that we should give You thanks and praise and petition Your blessings. Shower Your mercy upon us. Grant us the necessary blessings to make proper judgment on all issues requiring decision. Strike fear in our consciences to shun wrong and embrace righteousness. Grant us the grace to proceed with deliberate speed. Deepen our faith, hope and charity. Make us love what You have commanded. Keep us keenly attuned to reality. Shield us from sin and finally guide us in presenting up Your plan of government to our people. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

PROPOSALS ON THIRD READING AND FINAL PASSAGE

[Motion to take Committee Proposal 18 out of its regular order adopted without objection.]

Reading of the Proposal

Mr. Poynter "Committee Proposal No. 18, introduced by Delegate Aertker, Chairman on behalf of the Committee of Education and Welfare, and other delegates, members of that committee.

A proposal making provisions for human resources by prohibiting compulsory arbitration."

At present, the proposal contains but one section reading as follows:

"Section 1. The legislature shall pass no laws requiring compulsory arbitration."

Explanation

Mr. Flory Mr. Chairman and delegates, the present constitution had a provision, Article III, Section 36, which required the legislature to pass laws to settle disagreements with the consent of the parties by arbitration. There was some discussion in our committee as to the real necessity for having this provision, so that what we really came out with was the language "the legislature shall pass no laws requiring compulsory arbitration." Inasmuch, I personally feel that that is a quite controversial issue as to whether or not you compel arbitration I have some amendments that would put it back in a permissive nature insofar as the legislature may pass such laws as may be proper and necessary to decide differences with the consent of the parties by arbitration. Mr. Chairman, if there are no questions...

Questions

Mr. Landry Mr. Flory, don't you feel that Committee Proposal No. 18 is far superior than Committee Proposal No. 13, because under this proposal the legislature could pass laws for whenever parties would like to...

Mr. Flory You mean under...

Mr. Landry Under this particular proposal you are saying that you cannot pass laws to force compulsory arbitration. Is that right?

Mr. Flory That's correct.

Mr. Landry So, I think it would be better than Committee Proposal No. 13, because the legislature

could...

Mr. Flory Number 13?

Mr. Landry Number 13, which reads "the legislature shall pass such laws as may be proper and necessary to decide differences with the consent of the parties by arbitration." Don't you feel that if we adopt 18 the legislature could still do that?

Mr. Flory No, sir. What I think...they could still do it in the area of...with the consent of the parties, however, as you well know this has been a very controversial issue on the national level, etc., and rather than get into that controversial issue I'd rather see the present constitution sustained rather than to get into that area.

Mr. Roemer Gordon, I'm trying to understand your presentation. Are you talking on behalf of Committee Proposal No. 18?

Mr. Flory Well, I said...I was explaining what the committee had done and said that I had some amendments that would put it back in a permissive nature to let the legislature to legislate in the area of settling differences between parties by the process of arbitration.

Mr. Roemer I thought that's what you said, so in other words, you're not recommending that we adopt 18 as is; you're going to present us some amendments?

Mr. Flory That's correct, but the committee did propose the language that is here.

Mr. Abraham Gordon, I'm a little bit confused. We're dealing with 18 and then Ambroise mentioned a Committee Proposal No. 13; is that an official committee proposal, or do you know?

Mr. Flory What happened was, the committee had agreed to submit it in its original form, when it was introduced back in July sometime, I guess, Mr. Abraham. When it was referred to committee it came out in the way of a substitute proposal and then took the number of Proposal No. 18.

Mr. Abraham I see. Well, let me ask you this then. If this is going to be permissive or however way we decide on it, is there any real need to have this thing in the constitution, in your estimation?

Mr. Flory In my judgment there is no need really to have it, based upon the information that I have been given by the attorneys, but there was some disagreement, I might tell you, as to the interpretation by attorneys, Mr. Abraham, but I would say that the majority of them said that they really didn't feel that there was any necessity for even having it.

Ms. Zervigon Mr. Flory, is not this one of the issues that you and Mr. Lennox discussed at great length on this committee?

Mr. Flory At two or three different occasions, Ms. Zervigon, we did discuss it. At first, we both agreed to submit the original intent of the present language of the present constitution. After that he met with some attorneys that I presume represent him and told him that they didn't need it at all. Rather than have the language, then I agreed to go with him and to report the substitute that's now before the committee of the convention out of the committee.

Ms. Zervigon He agreed with you that it was proper to submit this language? He would have agreed with this language, as you understand it, taking Committee Proposal No. 13 and substituting "may" for "shall" in Committee Proposal No. 13?

Mr. Flory I don't want to speak for Mr. Lennox, Mrs. Zervigon. I'll just tell you that originally he and I both voted to submit to the convention in the way of a Committee Proposal No. 13.

Ms. Zervigon And then on 18 you both voted together on that one as well?

Mr. Flory That's right, because he, as I said, had met with some attorneys who represented him, and I had checked with some attorneys that represented me who both said that they didn't feel there was any need at all. Rather than put it in the form of consent by the parties that at that time we were willing to say that we didn't want...he didn't believe in compulsory arbitration nor did I. But, to get into that area I agreed then to go back, without discussing with him since he left here...to put it back as it basically is in the present constitution.

Ms. Zervigon Well, since there is no representative of industry here, would you tell us what your understanding would be of the possibility of the legislature passing laws in the instance where there is no consent of the parties to arbitration?

Mr. Flory Well, as you know, the National Chamber of Commerce and the National Manufacturers' Association, many of the industrial groups throughout the country have had program on in this country to pass laws requiring compulsory arbitration. On a national level, we have opposed those measures and the Congress has not acted in that area. Rather than get into that fight in this convention I was willing to put it back into the permissive state and let the legislature take whatever course it deemed wisest after hearing both sides, if they chose to get into it at all.

Ms. Zervigon So, it's your feeling that by and large management does like compulsory binding arbitration and labor does not?

Mr. Flory I'm sorry; I didn't hear you, Mrs. Zervigon.

Ms. Zervigon It's your feeling that by and large management does like compulsory binding arbitration...management likes it and labor does not.

Mr. Flory Well, I think management wanted compulsory arbitration as a means to stop disputes when they get to the point of work stoppage. Rather than have a stoppage they would want to force it to a compulsory arbitration and that the parties would then be bound by whatever the arbitrator said. There are some people in industry who I think do not agree with that as there are in the field that I'm in. It's a very complicated, controversial issue.

Ms. Zervigon And would you agree that any of these three proposals that we're talking about would apply to public employees as well as private employees?

Mr. Flory It could apply.

Ms. Zervigon Thank you.

Mr. Flory I think that they are employees by the very fact that they work, regardless of who their employer may be.

Mr. Weiss Delegate Flory, I gather from what you've said that this is permissive law and therefore has no basis in constitutional law since there is no reason to enforce it or any method of implementation in the proposal that you intend to substitute for this proposal, that is floor amendment...you intend to substitute for this proposal. My question is, could we not save time if we voted and called the question on this proposal and therefore delete the entire matter without going through floor amendment. Would you feel that that was in order?

Mr. Flory Dr. Weiss, I would have no objection either way, but I think if we are going to put language in the constitution that we might want to provide some procedure whereby if you could settle disputes by the process of arbitration under guidelines established by the legislature.

Mr. Arnette Gordon, what's the difference between your amendment and the committee proposal?

Mr. Flory Well, if you look at Committee Proposal No. 18, Mr. Arnette, No. 18 would mandate the legislature to the extent that they could not pass laws requiring the parties to get together, submit the issue to an impartial arbitrator and then would be bound by the decision of that arbitrator whether or not that arbitrator knew anything about either side or not.

Mr. Arnette Right, and what would your amendment do?

Mr. Flory My amendment would put it back like the present constitution and let it...the legislature decide...pass laws to regulate the settlement of differences by the process of arbitration with the consent of the parties.

Mr. Arnette Well, Gordon, the thing that disturbs me about your amendment that you are going to propose is that it doesn't forbid compulsory arbitration so therefore, the legislature can have and force compulsory arbitration under your amendment. That's what worries me about it. Do you understand that?

Mr. Flory Well, they could do it under the present constitution if they had chosen to do so.

Mr. Arnette Do you know the difference between our old constitution and the new one in that...

Mr. Flory What I have proposed is basically the old constitution by the way of amendment, Mr. Arnette.

Mr. Arnette Right, but in the old constitution it was a granting constitution whereas we're doing something just the opposite here. We're saying the legislature can do anything that is not forbidden to them, which is exactly the opposite philosophy. In other words, your amendment would allow the legislature to force compulsory arbitration on parties that didn't want it. I'm wondering if that's your intent because that's what your amendment does.

Mr. Flory Well, Mr. Arnette, as I said earlier, what my amendment does is leaves the field open to let the legislature regulate the process of settling of differences by arbitration so long as the parties agree to arbitration. As in the past, the legislature could have entered into the field and said that you would have to submit issues to arbitration and you would be bound by the arbitrator's decision, under the term "compulsory arbitration." They've had that authority since the '21 Constitution.

Mr. Henry All right, Mr. Flory. You've exceeded your time.

Now, in effect, what you apparently were doing was talking on your amendment to this rather than the proposal itself and we never have introduced and read the amendment. It appeared to me that most of your questions and answers were...as pertaining to this amendment; were they not?

All right, go ahead and read the amendment, Mr. Clerk.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Flory], on page 1, line 15, after the words and punctuation, "Section 1." delete the remainder of the line and delete line 16 in its entirety and insert in lieu

thereof the following: "the legislature may pass such laws as may be proper and necessary to decide differences with the consent of the parties by arbitration."

Explanation

Mr. Flory Mr. Chairman, the only point that I want to make, when the question was directed to me as regards industry, labor, etc., I just want to call to your attention that you're not only talking about these matters, you're talking about the differences of individuals...individuals vs. corporations...whatever differences might exist between two parties, so you're not talking, necessarily, labor-management relations; you're talking about human relations insofar as differences might exist in whatever structure and this is why I say that I wanted to put the constitution back in the framework that it was in the 1921 Constitution more or less making it permissive upon the legislature even though some attorneys, a majority of whom, have told me they don't think it's necessary to have it period.

Questions

Mr. Lanier Mr. Flory, do you believe that the present law is that a state constitution as distinguished from the federal constitution is a document of limitation in that if there is no limitation in the state constitution that the state legislature may pass any law unless limited by the federal constitution?

Mr. Flory That was my understanding, Mr. Lanier. That's why I say a majority of the attorneys have told me that they didn't think it was necessary period, so that the legislature could act in the area of the settlement of differences in any manner it deemed wisest even if it were silent. That's why I said that they told me they didn't think the section or the article was even necessary. But, in the event...since we have come up with this and the attorneys, I might say in all fairness did not appear before the committee. It was reported what Mr. Lennox...had met with his attorneys and what I had met with my attorneys which they agreed that there was no real need, but in order to avoid the controversy as far as compulsory arbitration is concerned I was willing to put it back like the present constitution is today.

Mr. Goldman Mr. Flory, this is a technical question and I'd like to get what your intention was. The way I read this, where the commas are placed, to me it seems that the legislature couldn't pass any laws even without the consent of the parties. Was that the intention?

Mr. Flory In the process of arbitration, Mr. Goldman, as I know it, under the law today in Louisiana, if you have a disagreement with someone else you as one party agree to submit that difference to an arbitrator. The other party also has to agree to submit it to an arbitrator. Then, both have to agree before it's submitted to the arbitrator whether or not his decision will be final and binding upon both parties at that time. After he renders his decision and you have agreed then that decision becomes binding, but you can do it also in the fashion of arbitration merely being a fact-finding body.

Mr. Goldman I'm speaking of the word "laws"... in speaking of the word "laws" would that be a general law that would be a procedure for that or would a law have to be passed with each such arbitration?

Mr. Flory Well, I can only tell you off the top of my head of one particular statute whereby I believe it was in about 1936 where the legislature did act in saying that when they established the State Mediation Board that they did provide a procedure whereby labor disputes could be mediated

between the two parties without...but offhand, Mr. Goldman, that's the only statute at the moment that I can recall, and since that time the legislature has seen fit to abolish the Labor Mediation Board.

Mr. De Blieux Mr. Flory, I know that you've stated that this was like the old provision in the constitution, but you realize that there are some changes in it? If you may recall, the present provisions in the constitution say the legislature shall pass laws which may provide for compulsory arbitration.

Mr. Flory No, let me tell you what the present language of the constitution says, Senator DeBlieux. It says that it shall be the duty of the legislature to pass such laws as may be proper and necessary to decide differences with the consent of the parties by arbitration. That's what the present constitution says, and in my explanation I said that it's basically the same as the present constitution.

Mr. De Blieux Well, now, as you well know, the legislature can do anything it's not prohibited from doing, so if you just change your words like you have it here in this amendment, why should we have it at all? Why not just delete the whole provision out of the constitution?

Mr. Flory Senator DeBlieux, I've said three or four times that all of the attorneys that I've talked to told me they didn't see any necessity for having it, but if we were going to put something in the constitution I felt like we ought to stick with the language that was in the existing constitution.

Mr. De Blieux Well, why not word it exactly like it's in the existing constitution if you're going to have it?

Mr. Flory I have no objection to that either. I was trying to shorten it and to make it permissive as to what the legislature could and couldn't do; that's all.

Mr. De Blieux Would you support an amendment to delete the whole business?

Mr. Flory I have no objection to the deletion of the whole thing, Senator DeBlieux, but if we're going to adopt anything I think we ought to stay within the framework of what the old constitution did. That's all I'm saying.

Further Discussion

Mr. Avant Mr. Chairman, fellow delegates, I rise in favor of this proposition. But, I just want to make one point and then I'm going to sit down because all the questions and answers so far have been in the area of labor and management disputes. But, that is not the only area that is involved; and, I want you to clearly understand that. This provision would apply not only to those type of cases but to other cases where the parties may agree to arbitrate their differences and where you wouldn't want to make them do it if they hadn't agreed to do it. I can point out various types of contracts, insurance policies, well, you can... anything you can think of. So, I just want to make it clear that this deals with other things than the one item that has been under discussion so far.

Questions

Mr. Kean Mr. Avant, if we adopted the committee proposal which says that "The legislature shall pass no laws which require compulsory arbitration," that would not mean that private contracts couldn't be made with regard to compulsory arbitration, would it?

Mr. Avant But, there might not be anyway to

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implement those, Mr. Kean.

Mr. Perez Mr. Avant, the thing that concerns me is that if we have no provision in the constitution--either the committee proposal or the Flory amendment--isn't it true then that the legislature could require compulsory arbitration?

Mr. Avant I think they probably could, Mr. Perez, because the legislature can, as you know, can do anything that is not prohibited by the constitution or the federal constitution.

Further Discussion

Mr. Arnette Ladies and gentlemen, I really don't know whether I'm in favor of the committee proposal or not; I don't know enough about it. But, I want to point out a couple of things to you, that I think are very, very important. I hope you listen closely. The first thing is: Whether you adopt Mr. Flory's amendment and put it in the constitution or not makes absolutely no difference because if it's in the constitution it means exactly the same thing as if it's not in the constitution. His language is totally meaningless. Now, Committee Proposal No. 1B, however, is very meaningful. It's very meaningful because it prevents compulsory arbitration. Now, I don't know whether you want it or not; I don't know whether I want it or not. But, the only thing we've got before us that means a thing to put it in the constitution or not, is Committee Proposal No. 1B. Now, decide whether you want this language or you don't want it. Like I said, I don't myself, but Mr. Flory's language means absolutely nothing because the legislature can do that anyway if it's not in the constitution. So, therefore, they don't need it to be permitted by the constitution. But, this, however, is a limitation on the legislature--the committee proposal. So, think about it, whether you want to put it in or not. That's all I have to say. I haven't made my own mind up on the matter. But, for gosh sake, we don't need Mr. Flory's language in there because it's meaningless.

Mr. Drew Greg, particularly referring to Mr. Flory's amendment, you say that there would be no difference whether it was in the constitution or out of the constitution--I mean it's silent.

Mr. Arnette That's right.

Mr. Drew Don't you really believe that the phrase "with consent of the parties," if it were silent, would not be binding on the legislature? I think that's the meat of the amendment and...

Mr. Arnette No, but the whole thing is, Mr. Drew, is that this does not forbid compulsory arbitration. So, therefore, the legislature may pass laws regarding compulsory arbitration.

Mr. Drew That's the point I'm making. If you take the phrase "with the consent of the parties" out, then, the legislature can demand compulsory arbitration whether the parties want it or, can't they?

Mr. Arnette Well, yes, Mr. Drew, they can, of course. But, even if this is not in there, they can...even if it is in there, they can still pass laws regarding compulsory arbitration. This language does not, in any way, at all, forbid compulsory arbitration. It just permits the legislature to have noncompulsory arbitration. But, it doesn't forbid compulsory arbitration, so, therefore it's meaningless. I hope you understand what I'm saying to you. Now, I don't know whether I'm in favor of compulsory arbitration or not. I just want you to know what you are voting on.

Mr. Singletary Greg, in connection with what Mr. Drew said, it seems to me that although this amendment is phrased so as to be permissive, it uses the word "may." However, it does use the words "with the consent of the parties," as opposed to

compulsory. So, it would seem to me that that would mean that...

Mr. Arnette Well, Alvin, let me ask you a question. Is there anywhere in there any word in there that would forbid compulsory arbitration? It does not say "there shall not be compulsory arbitration"; it does not say "there shall not be arbitration without the consent of the parties." It just says they may pass this class of laws, but it doesn't say they cannot pass another class of laws, which they may do under this constitution.

Mr. Singletary I would imply from the use of the words "with the consent of the parties," that the legislature could pass those laws and only those kind of laws and could not pass compulsory arbitration laws, but I don't know...

Mr. Arnette Well, Alvin, are you in favor of compulsory arbitration?

Mr. Singletary I'm not taking a position one way or the other, I just...

Mr. Arnette Well, all I'm saying, is if you are in favor of not having compulsory arbitration, vote for the committee proposal. If you are in favor of having compulsory arbitration, vote against the committee proposal. I just want you to know what you are voting on. But, Mr. Flory's language, I think, is totally useless.

Mr. Weiss Delegate Arnette, in the Committee of the Declaration of Rights, I learned early that the word "may" is permissive. You pointed out that whether this is in the constitution or not, this floor amendment, it means the same thing. Can you help me to understand why we are spending all this time today and spent all day yesterday debating material of this nature--which is not of a constitutional nature--that is being presented before this group?

Mr. Arnette I really don't know, Doctor. But, I may be wrong--I don't think I am--but, I just think Mr. Flory's language, whether it's in the constitution or not, it means exactly the same thing. Now, whether you want compulsory arbitration or not, vote on the committee proposal. But, Mr. Flory's language, I don't think, means anything at all.

Mr. Weiss I think that the question is: Is this any different in or out of the constitution? You said it meant the same thing, so, why are we debating this material to be put into the constitution, if it means nothing when it's left out? Let's leave it alone and leave it to statutory law as we did all day yesterday, and go on with the business of this constitutional convention. I don't understand why men who have such advisers and legal help cannot appreciate what I think I understand to be true. If this is not so, please help me understand it.

Mr. Arnette Well, Dr. Weiss, I have to agree with you. I think it's unnecessary to put permissive language in the constitution because it might as well not be in there because it means the same thing. Now, I don't know why...I just want you to know what you are voting on.

Further Discussion

Mr. Abraham Mr. Chairman, ladies and gentlemen, I rise in opposition to the Flory amendment. I rise in favor of the committee proposal. I think that the legislature should not pass any laws. I think the legislature should be prohibited from passing any laws requiring compulsory arbitration. Arbitration to me is a matter between the parties involved. If the parties involved agree and want to submit themselves to compulsory arbitration, I think that it should be their choice. But, I don't think that it's a matter for the legislature to

get into, to try to make this decision as to whether these two parties--whomever they may be--must submit themselves to compulsory arbitration. Now, while I realize the Flory amendment says "may," I just feel that this whole matter is not a matter for the legislature to decide. Therefore, I am very much in favor of the committee proposal which places a flat prohibition on the legislature so that they cannot pass any laws requiring compulsory arbitration. Now, this says just that. It does not mean that people cannot submit themselves to compulsory arbitration if they so desire. But, let's leave it up to the parties involved as to whether they want to do this or not. Therefore, I ask that you reject the Flory amendment. I think it would be very wise and very good to put this Committee Proposal No. 18 into the constitution which is a prohibition against the legislature; it's definite, they are no permissives to it, and it's right to point. Thank you.

Further Discussion

Mr. Jenkins Mr. Chairman, delegates, I want to concur with Mr. Arnette and Abraham. I would like to look at Mr. Flory's amendment. It says "The legislature may pass such laws as may be necessary and proper to decide differences, with the consent of the parties, by arbitration." Now, what laws might those be? You don't need any special laws to decide differences by arbitration with the consent of the parties. If the law is silent then that's just the case you want because arbitration is a voluntary thing which comes about without laws. The only pertinent law is the general law of contract which would require the parties to do whatever they agreed to do or else suffer damages of some sort. So, to say that the legislature may pass laws to decide differences by arbitration is nonsensical, there are no such special laws which should be or could be passed, only the general law of contract is pertinent. I want you to also note that the interpretation given this sentence, I think, is absolutely correct by Mr. Arnette previously. When he says "The legislature may pass such laws," certainly that doesn't say the legislature may not pass such laws. It doesn't say the legislature may not pass laws contrary to that concept. It says "The legislature may pass laws to decide differences, with the consent of the parties." But, it doesn't say they have to; it doesn't say they can't pass laws to decide differences without the consent of the parties. Now read that carefully, and I think you will see that's what it says. Compulsory arbitration is really another contradiction in terms--arbitration is a voluntary thing. Thus, if arbitration were made compulsory, it would not be arbitration, that's why laws should not be passed compelling compulsory arbitration--compelling a contradiction of terms. We should here prohibit such laws. If people want to sit down and get together and work out their disputes, that's good and fine. If they won't, or can't, they should suffer the consequences. But, to require compulsory arbitration is really to attempt a specific performance of a personal contract for personal services. When you start talking about things like that, you're getting into a...what things...questions that raise serious constitutional problems, I think, with regard to involuntary servitude. We shouldn't have laws that might attempt to enforce such contracts by a personal service. We certainly shouldn't, in the absence of contract, attempt to enforce people to perform services that they haven't agreed to perform. So, the proper approach is the committee approach, prohibiting compulsory arbitration. The approach that Mr. Flory suggests, I really think would be meaningless and would open the door to do just the opposite of what the committee proposal suggests. So, I urge the rejection of the amendment and the adoption of the proposal.

Questions

Mrs. Zervigon Mr. Jenkins, would you agree with

me that the way the amendment is written, it's unclear as to whether the parties must consent to the legislation or consent to the arbitration?

Mr. Jenkins I think that's absolutely true and obviously even under this, the parties could be compelled to come together. Even if you took the approach that they couldn't be compelled to agree, they could be under this, obviously, compelled to come together, which I think is in derogation of their liberties as well.

Mrs. Zervigon And, would you agree with me that since the author of the amendment has said that the amendment itself is really meaningless and unnecessary, that if we want to discuss the issue on its merits, what we ought to do is kill the amendment and vote on the proposal itself which says "The legislature shall pass no laws"?

Mr. Jenkins I agree with you, Mrs. Zervigon.

Mrs. Zervigon I believe I heard you to say that you believe, as someone who has studied law, that just because this says "The legislature may pass laws to decide differences, with the consent of the parties," it does not say that it may not pass any other sorts of laws on the subject.

Mr. Jenkins Well, that's correct because under the theory of this constitution, the legislature can do whatever is not prohibited to it and nothing else in this constitution appears to me to prohibit compulsory arbitration and this certainly doesn't; so, the legislature could pass such a...laws.

Further Discussion

Mr. Chatelain Mr. Chairman, fellow delegates, I stand in strenuous opposition to this amendment. I would like to ask you to please--on this bright beautiful Sunday afternoon--to stop and think what we are voting on. This is a sleeper. This is a ringer. This is something that's entirely different from the Committee Proposal No. 18. Never kid yourself, there is a great difference between this...Committee Proposal No. 18 very strictly and strenuously opposes and forbids the legislature to do anything about arbitration, whereas the amendment is entirely different. I urge you to defeat the amendment; it's not needed and certainly not needed. I wish that you would consider it very, very strongly and vote against it.

[Previous Question ordered.]

Closing

Mr. Flory Mr. Chairman and delegates, this is not a ringer, or a sleeper, or anything that I know of --it's been in the constitution since 1921. But, I guess it's because I offered it, that there is so much controversy. As someone said just now back there, "If you were as bad as they say you are, your wife would leave you." Not only that, my mother would probably disown me. But, really, what we are talking about is a very simple thing...when you are talking about allowing the legislature to pass laws regulating the settlement of differences by the procedure of arbitration, so long as it contains the consent of the parties--that's all we are talking about. Now, I would like to see the amendment adopted because I have been told by an attorney back there--that I have great respect for--that you need it...the language, "with the consent of the parties." I have no pride of authorship in this amendment, just to say to you that I think it represents what we ought to have in the way of settlement of differences, in allowing people to settle their differences through the procedure of arbitration so as long as they agree to submit their problems to an arbitrator--that's all, that's simply what it is. I would ask that you adopt the amendment.

Questions

Mr. Willis Mr. Flory, do you know that we have, in what is revered in this state as a Civil Code which comes from the French, that there is a chapter in our Civil Code numbered...title numbered 19, which is of arbitration, which reads in its first article, and which does exactly what you or the proposal wants, as follows: "A submission is a covenant by which persons who are in a lawsuit or difference with one another, name arbitrators to decide the matter and bind themselves reciprocally to perform what shall be arbitrated." Did you know that we have a chapter in the Civil Code on arbitration?

Mr. Flory I knew there was other reference in the revised statutes to arbitration, but I was not familiar with that, Mr. Willis. But, I was told by a number of attorneys that we did not need this provision, that we had proper authority for the resolution of dispute by arbitration in Louisiana and that--I so stated earlier--when I presented the amendment.

Mr. Willis Well, do you know that the provisions in our Civil Code were first written in French and has been translated into English and incorporated in our Civil Code since the birth of this state?

Mr. Flory No, sir. I'm not a French historian.

[Record vote ordered. Amendment rejected: 43-51. Motion to reconsider tabled.]

Amendment

Mr. Poynter Mr. Chairman, there is a technical amendment at the desk which I asked them not to run the distribution copies--it's strictly a technical amendment sent up by Mr. Aertker to correct the title.

On page 1, delete line 14, in its entirety and insert in lieu thereof the following:--all in caps --"ARTICLE VII. HUMAN RESOURCES"--and on a separate line--

"Section 1. Arbitration"

[Amendment adopted without objection Motion to return Committee Proposal 18 to the calendar subject to call.]

Explanation

Mrs. Zervigon Mr. Chairman and delegates, I know it seems that we are grinding around and not getting any place much. I have the same feeling that you do about that. But, let me make a point about returning this amendment...this proposal to the calendar. When the legislature drew up Act 2 setting us up, they incorporated into the bill representation from labor and from industry. This is an issue that we are discussing that affects both labor and industry. Labor is very ably represented here. The delegate on wildlife and fisheries knows a little bit about labor. But, very few of us here know a whole lot from the industry point of view. Mr. Lennox came to me some time between January and July--I don't remember when--and said "Would you believe it, Gordon Flory and I agree on one thing--compulsory arbitration? I didn't ask him at the time what they agreed on about compulsory arbitration. I wish I had, because I would know now whether it was Committee Proposal No. 13 or Committee Proposal No. 18 which are very, very different in their nature. We have just defeated an amendment which is, in essence, Committee Proposal No. 13. I would like to get more feedback from somebody who knows something from the management point of view before we vote on Committee Proposal No. 18. It's not something I know enough about to be able to vote on now. Mr. Lennox is not here to speak his point of view or to reenunciate the point of view he enunciated in the committee. I, therefore, suggest that we return this to the calendar until such time as the governor

appoints someone to represent industry or until such time that some of us can speak to someone who knows something about industry. There is almost nothing that I know less about.

Questions

Mr. Avant Mrs. Zervigon, I just want to ask you: Do you realize that this subject matter affects anybody and everybody who has a dispute with another person, whether it's because of a contract or any other type of dispute? Do you realize and understand that?

Mrs. Zervigon Mr. Avant, I appreciate you speaking to my motion that way. If it's even more complex than I realized it was, it's all the more reason for putting a little bit more study on it before we go forward.

Mr. Nunez Mrs. Zervigon, isn't it true that Saturday we argued practically the whole day on one committee proposal and then returned it to the calendar after...by some maneuver or another? Now, we are on this one and because someone isn't here to explain it properly--as you say--you want to return it to the calendar. As we return these things to the calendar, don't you agree we still have to dispose of them?

Mrs. Zervigon Not necessarily, Senator Nunez, because the discussion that is about to ensue on the Planchard motion--which is a motion to delete--is whether to have the thing in the constitution or not. If we return it to the calendar, we have in essence accepted the Planchard amendment unless we pull it back off the calendar. So, we have acted, and we have gone on. But, it seems to me that there was a member of my committee who kept saying "Let's do something, even if it's wrong." He was joking when he said it. But, there are a lot of people here that are saying it seriously. I don't want to do it in such a way that we can't undo it. It seems to me that the best way is to accept the Planchard amendment in spirit by putting it back on the calendar. Then, if we find we really do need it in the new constitution, pull it off the calendar, discuss it, debate it, and pass it.

Mr. Nunez But, don't you agree that if we...that we continue to put these proposals on the calendar we have not disposed of them? We'll end up in January or in the latter part of December with forty or fifty proposals on the calendar, they are subject to be heard. Anybody can bring them off and debate them, they are still active. Don't you agree that while we have these things, we should dispose of them and not keep setting a precedent every time we bog down, we send it to the calendar?

Mrs. Zervigon Senator Nunez, what I believe about the calendar--and you can correct me if I'm wrong --is that there is almost no way we can adjourn in January without some things on the calendar. Probably Committee Proposal No. 54 on Education will be on the calendar--either the committee proposal on civil service or Mr. Dennery's proposal will be on the calendar. I urge the adoption of the motion.

[Previous Question ordered. Motion rejected: 19-79.]

Amendment

Mr. Poynter Mr. Planchard sends up the following amendment:

Amendment No. 1. On page 1, delete lines 10 through 16, both inclusive, in their entirety including all Floor Amendments thereto.

Explanation

Mr. Planchard Mr. Chairman, fellow delegates, I think this amendment is self-explanatory. We are just taking it all out of the constitution. If you do not feel it is needed, the way the committee

proposal has it written, there is no sense in having it in there at all. I think that the matter of compulsory arbitration is going to be taken care of by the legislature anyway, and that's where it should be left. So, let's don't clutter up the constitution with these extra words and extra sections for compulsory arbitration; it's just not needed. I would like to ask for the machine to be opened, Mr. Chairman, and see if anyone wants to join in the amendment.

[28 coauthors added to the Amendment.]

Questions

Mr. Jenkins A.J., you said it's meaningless. Isn't it actually meaningful? Don't these nine words mean something? Don't they, in the future, prohibit and prevent the legislature from passing laws which would attempt to force people to come to a contract when they haven't actually agreed on a contract? Doesn't it do something--accomplish something? Isn't it meaningful?

Mr. Planchard It's an absolute prohibition against compulsory arbitration, but I think you said those two words are in conflict themselves.

Mr. Jenkins Right. So it prohibits a contradictory idea from being passed through the legislature.

Mr. Planchard It would. Yes.

Mr. Jenkins Well, so, then it is meaningful. It's not meaningless. It does accomplish something, doesn't it?

Mr. Planchard If you want an absolute prohibition against compulsory arbitration from ever being considered, you would have to feel that you have to have it in there. I think it's between day and night whether you want this kind of a language--complete prohibition against it in the constitution--or whether you don't think it is needed at all and just take it out.

Further Discussion

Mr. De Blieux Mr. Chairman, ladies and gentlemen of the convention, I rise in support of Mr. Planchard's amendment. First, let me call your attention to the exact provisions in the present constitution. This doesn't say "the legislature may." It says "the legislature shall have the right by general laws to provide for the...it shall be the duty of the legislature to pass such laws as may be proper and necessary to decide differences, with the consent of the parties, by arbitration."

Arbitration is just, you might say, a between issue of medium insofar as court procedure is concerned. Our courts are getting pretty well clogged up now with decisions. If we can provide some method by which we can take these issues away from the court and get them decided, we ought to do that. As you've heard Mr. Willis read to you and refer to a few minutes ago, we've got provisions in the Civil Code now with reference to arbitration. Now, if we pass this particular proposal as it is right now, I'm afraid that we have the effect of repealing everything we've got on the books insofar as arbitration is concerned. Those laws have worked for us in the past. I think they'll work for us in the future. The best thing to do is to go ahead and delete this particular provision. The only reason I voted for Mr. Flory's amendment a few minutes ago is because it will at least leave on the statute books what we have got now pertaining to arbitration. I certainly think that we have no need of nullifying our laws we presently have on the books for arbitration and trying to prevent the legislature... for all time in the future, with ever trying to pass something to help to settle disputes. Therefore, I ask you to support the Planchard amendment.

[Previous Question ordered. Record vote ordered. Amendment adopted: 88-10. Motion to reconsider tabled.]

Mr. Poynter I have no further amendments that would propose additional sections.

Mr. Henry Now, that puts us in the most unique situation I recall us being in. We have a proposal with no sections.

[Previous Question ordered on the Proposal.]

Closing

Mr. De Blieux Mr. Chairman, ladies and gentlemen of the convention, since we have taken out everything that this proposal means, therefore, I ask you to vote against the proposal, and that will clear the whole board.

[Proposal failed to pass: 1-94. Motion to reconsider tabled.]

Recess

[Quorum Call: 86 delegates present and a quorum.]

Reading of the Proposal

Mr. Poynter Committee Proposal No. 31 introduced by Delegate Stagg, Chairman on behalf of the Committee on the Executive Department, and other delegates, members of that committee. A substitute proposal for Committee Proposal No. 19.

A proposal making provisions in the schedule provisions of the constitution for mandatory reorganization of the executive branch of government.

The provision...the proposal contains only one section.

"Section 1. Mandatory Reorganization of State Government

Section 1. Paragraph (A). The legislature shall allocate, within more than twenty departments, the functions, powers, duties, and responsibilities of all departments, offices, agencies, and other instrumentalities within the executive branch, except those allocated by this constitution.

Such allocation, which shall not be subject to veto by the governor, shall become operative not later than December 31, 1976.

(B) Should the legislature fail to make such allocation, the governor shall prepare and submit to the legislature at its next session, regular or extraordinary, an allocation in compliance with this section. The legislature, by a majority vote of the elected members of each House, may disapprove such plan, but may not substantively amend it. In the event the legislature does not disapprove the plan prior to the sine die adjournment of the session of the legislature at which submitted, the plan shall become effective at twelve o'clock noon on the ninetieth day following sine die adjournment."

Explanation

Mr. Stagg Mr. Chairman and fellow delegates, if you had in your desk papers the first enrollment of Committee Proposal No. 4 on the executive branch, in Section 1 (B) this language appears; "All offices, agencies, and other instrumentalities of the executive branch of state government and their respective functions, powers, duties, and responsibilities, except for the governor, offices of governor and lieutenant governor, shall be allocated according to function within not more than twenty departments."

Now, this is the language that stipulates that the executive branch of government shall be composed of only twenty departments. Those departments will include the department occupied by the secretary of state, and by the attorney general, the Department of Justice, the Department of Treasury, the Department of Agriculture, the Department

of Insurance, and the Department of Elections and Registration. Having said that in the constitution in Article I of the Executive Branch, it becomes now necessary that the constitution provide for how that shall be accomplished. Because it is a onetime accomplishment--the first reorganization of the state government as required by this article in the executive branch--we have come up with a schedule provision. To refresh your memory on what the schedule provisions do, that's in the nature of a footnote to the constitution which, when accomplished, is no longer a part of the constitution itself. It will drop out after it has been accomplished as required in the reorganization under the schedule.

In Section 1 of Committee Proposal 31, the committee gave the job of reallocating, or allocating the functions, powers, and duties, and responsibilities of the branches of the executive department --the legislator is given the job of accomplishing this reorganization. When they have done so, it may not be vetoed by the governor. It is, then, the way that the executive branch will be constituted. We felt that this was--in the committee we felt that this was the job properly ascribed to the legislative branch.

In this proposal, in Number 31, the legislature is given until December 31, 1976, to accomplish the basic reorganizational structure. It would work like this. Upon the adoption of this constitution, the presiding officer of the House and the presiding officer of the Senate would form a joint legislative committee on reorganizations to undertake the study and the recommendations to the legislature as to how it shall be accomplished. They will have the balance of 1974 in which to work, 1975, and 1976--a period of some thirty months within which to deliberate and to decide how the various boards, agencies, and commissions would be allocated into departments. In the Section (B), since this is a mandatory reorganization of state government, if the legislature should, for any reason, fail by December 31, 1976, to accomplish the reorganization, then the governor shall prepare and submit to the legislature an allocation into twenty departments as required by this section of the constitution. Yet, we retain with the legislature further control. They may not amend or substantively change that submitted by the governor. But, if they dislike it and disapprove it, then the governor has to go back to the drawing board and start over again, and at the next regular session, or extraordinary session, again submit a plan of reorganization into twenty departments. Once it has been presented to the legislature and approved, then in ninety days it will become effective.

This committee proposal does carry into effect, according to a time schedule, the command of Article IV in the executive branch that there shall be no more than twenty principal departments in the executive branch of the state government.

Mr. Chairman, I'll be happy to yield to any questions.

Questions

Mr. Perez Mr. Stagg, do I understand your proposal correctly that if the legislature, by December 31, 1976, does not act, then we would turn over to the governor the authority to actually legislate by giving him the authority to completely reorganize?

Mr. Stagg The department involved is the executive branch of state government. We have built safeguards into those people who are elected to head a department. That cannot be allocated, re-allocated, or fiddled with either by the governor or by the legislature.

Mr. Perez The only way...

Mr. Stagg The governor would, then, present to the legislature a plan of reorganization, but only, Mr. Perez, if the legislature failed to do the

duty carried to it by Section (A) of this article.

Mr. Perez If for some reason they haven't done it by '76, it would require both houses of the legislature to veto that which the governor's done, so to speak. Is that right?

Mr. Stagg Both houses, by a majority vote, would have to turn down what the governor proposed. Yes, sir.

Mr. Perez Again, the legislature, if they didn't like some part of it, could not substantively amend it, would have to take it just like the governor gave it to them in substance.

Mr. Stagg Again, Chalin, that only comes to pass under the circumstances that the legislature shall have not done the duty commanded of it to do by this constitution.

Mr. Perez Mr. Stagg, don't you have any faith in the legislature carrying out the mandate of this constitution?

Mr. Stagg I do, sir...but, in this bill, when the constitution says there shall be twenty departments, then if the legislature does not do it, then the governor is empowered to do it, and the legislature can...turn down what he does.

Mr. Tobias Tom, I address my question to Section (A). Assuming the legislature does enact an allocation among twenty departments, at some later date, the...supposing the legislature decides that it wants to reallocate one of these departments and, say, merge two departments, would this same thing require...would this require the vote--I beg your pardon, the signature of the governor?

Mr. Stagg We have in Section 22 of the bill of Committee Proposal No. CP4, which this convention adopted, a plan for the further reallocation of functions and powers allocated by this constitution, and then that says it shall be done as provided by statute. What we are doing now is the basic, original going-in allocation and...of department agencies and commissions into twenty departments. We did not feel that it should be frozen in that state, but that by statute it could be reallocated as years go on, needs change, times change, duties change, departments come and go, and duties of government come and go. There is, in Section 22 of CP 4, that permanent provision for regular re-allocation as the legislature might conclude to be necessary.

Mr. Roy Mr. Stagg, I don't like the loaded question you got about legislating. The fact that the governor...the fact that the legislature would not fulfill its duty for two years is not giving the governor legislative power by allowing him, then, to consolidate all these different agencies that we have voted on as being surplusage and should be under the executive branch. Don't you agree?

Mr. Stagg Yes, I do. But...and also, if you will note, in the present constitution the powers of reorganization are stated somewhat the same way.

Mr. Roy That's what I mean. We...we're not...by voting for this--which I think is good--saying that we're going to allow the governor the power to legislate, are we?

Mr. Stagg No, sir. Not at all.

Mr. Avant A couple of questions, Tom.

What happens if you go through this little process here, and then the legislature disapproves the plan? Where are you--the governor's plan--where are you?

Mr. Stagg If the plan that the governor sent to the legislature, an allocation in compliance with this section, and it was turned down, he would

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still have the duty to prepare and submit to the legislature at its next session--regular or extraordinary--another allocation of functions and duties.

Mr. Avant In other words, it's the intent of this that he just keeps on submitting them as long as they don't do anything, until he finally gives them one that they will approve, or at least not disapprove.

Mr. Stagg That's correct. Once these twenty departments have been formed and the duties allocated among them, then in the further years down the road, the legislature by statute can do the same thing, or make such changes as are needed in the future.

Mr. Avant All right, now. The next question is: Did you consider the providing...at what point in the legislative session he must submit this thing? Because, you don't say at what point. It just says he shall submit it to the legislature and if they don't disapprove it before they adjourn, then it goes in.

Mr. Stagg Well, I think the legislature has a sure and certain defense against that, Jack.

Mr. Avant Well, tell me what it is, then.

Mr. Stagg If it comes in too late for them properly to act upon it, they vote no. Then he brings it in the very first day of the next session, or six months before the next session. The legislature is not without a defensive mechanism all of its own.

Mr. Avant I don't necessarily agree with that.

Mr. Hayes Mr. Stagg, why...I wondered why did you put an absolute deadline of December 31, 1976? That's my first question.

Mr. Stagg Let me answer your first one, then.

Mr. Hayes All right. Go ahead.

Mr. Stagg Considering that this constitution will go to the people in the early part of 1974, the legislature can begin then, say by the appointment of a joint legislative committee on reorganization, and study it all during the balance of '74; and maybe by '75 session they're not ready, they can study it for another year. Then in the '76 session they can undertake to vote on it. If they haven't got it finished by then, they can call themselves into session before December 31, '76, and form, or make the allocation and do the reorganization.

Mr. Hayes As stated, it presupposed that the constitution had already passed. That's the way it reads. That's why I asked the question.

Now, where did the magic figure of twenty come from? I don't know. In other words, I am trying to see how you arrived at twenty. I understand you have about how many departments or agencies now that you're trying to consolidate into twenty? Do you know?

Mr. Stagg At the moment, there are in the neighborhood of a hundred and ninety-nine to two-o-two, depending on whose figures you read.

Mr. Hayes All right. Good. Now, then, where the magic figure of twenty? Why would you try to put them into twenty?

Mr. Stagg Mostly that's because of a span of control, Dewey. A governor in charge of this state government, now, as it sprawls all over the landscape, has to deal with a goodly number, over-large number of agencies, boards, and commissions, or the heads of those agencies, boards, and commissions. We felt that if it was made twenty departments--and that's what this convention has voted to do--then the governor, by having contact

with the heads of twenty departments, can more effectively, more efficiently, and more responsibly manage the business of the executive branch, which is what he is elected to do.

Mr. Hayes I'm in sympathy with whatever is...you're trying to do. But, what happens in case we tie this down and they need twenty-five, or they don't need but fifteen? That's my only problem at this point.

Mr. Stagg Well, on my desk I have...I can show you a plan of reorganization that only uses eleven of them. So, there is some room to grow on there.

Mr. Derbes Tom, I'm curious about the phrase, "the legislature may not substantively amend." Would you explain the wisdom of that provision to me?

Mr. Stagg Yes.

The legislature, we felt, was being given a clear, clean shot at reorganizing the state government. That's the way it will be done. In my opinion, I think that's the way it will come out. But if it didn't, then somebody ought to be in charge of doing it. The only other fellow in line to do it would be the governor. When he presents a proposal to the legislature, it, having in that instance failed to do it, then they ought not to be able to take his, turn it completely around, ball it up, and hand it back to him and say "This is it, whether you like it or not."

Mr. Derbes Well...but, by the same token, you are assuming that the legislature has the wisdom to effect the reorganization in the first instance. I don't quite understand why there can't be an interplay between the governor and the legislature, should the plan originate with the governor. It seems to me you've...effectively precluded that interplay.

Mr. Stagg Well, Jim, the basic philosophy of our committee was that this was a job for the legislature to do. It is properly a legislative function. Having properly being given to the legislature to do, we had to have a fallback position if, for any reason, the legislature did not do it. This is a fallback provision. The governor could do it by executive order under the present constitution. We felt the governor ought to present his work to the legislature, since it's got to fund it and pay for it; that they ought not, having failed to do it themselves, then turn around and fiddle with that which is presented by the governor.

Mr. Derbes But, finally, by the same token, if the legislature has a choice of either complete approval or complete disapproval of the presented plan, and the legislature can't substantively amend it, then what you've actually done is you've delayed reorganization until the next special or ordinary session of the legislature, haven't you?

Mr. Stagg That's correct--which may not be a very long delay because the legislature can call itself into session under Legislative Committee Proposal No. 3. The legislature is in charge, you see?

Amendment

Mr. Hardin[Assistant Clerk] Delegate Perez sends up the first amendment:

Amendment No. 1. On page 1, delete lines 22 through 32, both inclusive in their entirety.

Explanation

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, this amendment is very simple, and that is to delete all of the provisions which would give the governor the authority to proceed to reorganize and just give to the legislature the veto power, so to speak. I don't believe that we have done this anywhere else in the constitution.

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We have adopted provision after provision which says the legislature shall do this and the legislature shall do that. Why should we single out just this one particular situation and say the legislature shall do this, but if they don't do it, we are going to let the governor do it? I don't believe that it is wise, constitutionally, legislatively, or for the good of the people to give to one man the right to reorganize state government instead of requiring that the legislature have a hand in it. I realize you give the legislature an opportunity. But, we can always remember that there is a possibility, and a probability, that if one of the houses of the legislature does not pass the particular reorganization by 1976, then it would give the governor the absolute right to reorganize. I don't believe it's wise. I don't believe it's wise, again, to require or to provide for any other situation where we say the legislature shall, because we have so many other places in this constitution where we say the legislature shall do this and do that.

I'll yield to questions.

Questions

Mr. O'Neill Mr. Perez, without this section, do you believe that the legislature and the governor will have allowance for interplay so that, between them, they can come up with a workable solution?

Mr. Perez I would hope so. But, again, again I repeat, we have many, many cases in which we are mandating the legislature to do certain things. We don't have a so-called penalty clause--which this would be--if they don't do it, in any other case that I know of.

Mr. Lanier Mr. Perez, I'm looking at the Section (B), and I'm also looking at a proposed amendment by Delegate Pugh. Suppose the governor really didn't want a reorganization? Don't you think he could annually present a real badly drafted reorganization plan--one that would not be acceptable by the legislature--and, in this means, avoid the reorganization which is contemplated?

Mr. Perez There's no question about it. That could be accomplished; or, if there was a difference between the governor and the legislature as to how it should be reorganized, we might never get the reorganization.

Mr. Stagg Chalin, I don't mean to stay up here too much today, but when you say we are giving in Paragraph (B) the absolute power to reorganize, to the governor, would you look down on line 25 where it says "the legislature, by a majority vote, may disapprove such plan." How does that bespeak of absolute power?

Mr. Perez "The legislature, by a majority vote of the elected members of each house"--it's very difficult for me to conceive or believe that both houses of the legislature would veto something that the governor came up with. I mean it in the sense that only the governor can do the proposing. Both houses of the legislature would have to veto it. So, it is virtually absolute.

Mr. Flory Mr. Perez, can you visualize a plan of reorganization being put in a concurrent resolution and dropped in the legislature at the eleventh hour, and then not having time to act on it, and then the governor's plan would automatically become the reorganization plan?

Mr. Perez That's what I'm concerned about. We never know in these sessions of the legislature how much other business the legislature may have. It may be deeply involved in the energy crisis or in something else and may not have the opportunity to adequately consider a reorganization plan any particular year.

Mr. Cannon Mr. Perez, the concept of some depart-

ments which are already included in the constitution would remain stable and in this constitution without interference by the legislature or by the governor if this entire thing were deleted?

Mr. Perez Well, if you remember the Executive Department, there are provisions with respect to the reorganization and making certain officers nonelected with the two-thirds members of the house, etc. But, they remain in effect until that particular occasion may come about, if the legislature does so.

Mr. Cannon But, by the deletion--the entire deletion of this committee proposal, this would in no way effect those that were constitutionally created?

Mr. Perez No, I think it's adequately taken care of already, and I don't see why we need Section (B).

Mr. Nunez Mr. Perez, Mr. Stagg started out by saying that this is the primary responsibility of the legislature. Wouldn't your amendment make it the primary responsibility of the legislature? Wouldn't your amendment do it, then they shall take the blame for not doing it?

Mr. Perez That's correct, and, again, we have many, many other areas where we say the legislature shall do this and shall do that. I don't see any reason why, in this one particular case, we put a sort of a penalty clause on the thing whereas we don't do it with regard to the legislature in all of the various other areas where we say the legislature shall.

Mr. Nunez Isn't it also true that because of the various methods of passing a bill, say, in committee hearings, that you could stall it, but because of the lateness of the hour, or time, etc., and just let it die there, and the other plan would become effective?

Mr. Perez Well, it all depends on the business before the legislature. Again, I say we have some serious problems confronting us like the energy shortage. That may take up virtually an entire session of the legislature. There are many very important bills which do, and those of us who know something about legislative processes realize that in many cases important bills never do get out of both houses, particularly one which would be so complicated as reorganization.

Mrs. Brien Mr. Perez, we set the time that it has to be done by the legislature--December 31, 1976. Do you think that the legislature really would not do it?

Mr. Perez Well, I have great faith in the legislature, Mrs. Brien. I'm sure they'll do it.

Mrs. Brien You have? Well, so this Section (B), maybe, don't even have to be done.

Mr. Perez That's why I don't see why we should need that provision.

Mrs. Brien If the legislature don't do it, don't you think it should be the governor what going to do it?

Mr. Perez Well, Mrs. Brien, we have many, many, many other cases where we've said to the legislature, "You shall do this, and you shall do that, and you shall do something else." If we pass this, I think maybe we ought to have that same provision where the legislature does not do these other things which we tell them to do, then we'll let the governor do it.

Further Discussion

Mr. Denney Mr. Chairman, delegates to the convention, the Committee on the Executive Department felt--and I strongly feel--that our executive

branch of the government of the State of Louisiana is one of the most poorly organized from the point of view of operations of any state in the union. We've studied many states. Reorganization is an absolute must. Now, the previous speaker and some of the questions to the previous speaker, I believe, have thrown up some straw men. Let me put this in context, if I may. We have approximately two hundred departments right now in the State of Louisiana. We have looked at charts that were given us by the present governor and by previous governors. We have looked at the study on the organization of the executive branch which was made by a committee appointed some years ago composed of members of the legislature as well as previous governors and experts on government. All of them seem to agree that we can bring the executive branch down to a number of total departments that the governor can easily oversee. This is not the true cabinet form of government which we discussed when we discussed the executive department--Proposal No. 4. But, it is getting close to it. It gives the governor the power to oversee what is going on without having to have two hundred people report to him. There are many heads of departments, commissions, and agencies who never, during the four year term of a governor, get to even consult with the governor. The governor, frequently, cannot know what is going on in those agencies. Obviously, he should. The Executive Department Committee felt that it was very, very important to reorganize the executive branch of the government. That is the reason that we put in this clause that Mr. Perez objects to. We provided, first, that the legislature should have the right to reorganize for a reasonable period of time. If you think that's too short a period, it's all right to extend it if the convention wants to. Senator Rayburn has such an amendment. If by that time, though--whatever time this convention agrees upon--the legislature has not acted, reorganization is still extremely important, so we have, therefore, in this scheduled provision, provided that the governor shall present a plan of reorganization. We don't want that plan of reorganization killed immediately and just delay the question of total reorganization. We intended to have it reorganized within a reasonable period of time. We agreed that it should be reorganized within a reasonable period of time, and this is the reason we put this one in this one section where in all other sections the legislature may or the legislature shall. We haven't put a penalty on the legislature. We have said the State of Louisiana needs reorganization. If the legislature doesn't reorganize, the governor shall reorganize. Remember, though--remember--that in Section 22 of Proposal No. 4, which was adopted by this convention, further reallocation may be made at any time by the legislature. We had originally proposed that the governor should propose further reallocations. This convention, in its wisdom--I believe it was an amendment by Representative Casey, as a matter of fact--it changes to provide that the legislature should do it. The whole theory of this scheduled provision is to require a reorganization within a reasonable length of time. I ask you to defeat this amendment.

I'll be pleased to answer questions, if I have any time.

Questions

Mr. Nunez Mr. Dennery, the more I read this, the more I believe we just should have said that the governor--period--shall reallocate or reorganize state government because what you have done here, effectively, is just eliminated the legislature if they don't act immediately. Let me just point out to you: in the event the legislature does not disapprove the plan prior to sine die adjournment, which means it can be in committee--and it's very easy for a governor to stop something from being passed in the committee; I'm sure you realize that, or maybe you did not or the committee did not--if it isn't disapproved or it dies in committee, to

my thinking is it becomes law--it becomes the plan.

Mr. Dennery Senator Nunez, you may be hundred percent correct, but if you will refer to the section to which I just referred, at the next session of the legislature, the legislature can reallocate at any time it wants. It always has that right to reallocate. But, somebody, somewhere--either the legislature or the executive--should reorganize our executive branch of government.

Mr. Champagne I have two or three questions. One of them is: Can you feature a private business in which the head of the government would have nothing to say about his departments--the head of the business?

Mr. Dennery No, Mr. Champagne, that was the reason our original proposal called for the governor to recommend it.

Mr. Champagne Okay, now it seems to me that if you don't accept this proposal very much as it is, you're not going to get up with any reorganization because you're mandating the legislature, but they say, "Well, we can't," or "we won't," or "we..." So, if they don't then you do have a provision whereby the people who voted unanimously to consolidate will get an opportunity to have it done. Is that right?

Mr. Dennery That's correct, Mr. Champagne.

Mr. Drew Moise, about Section (B), actually, haven't you set up the mechanism for a complete stalemate to where there may never be reorganization if one house went with the governor and one house went against the governor?

Mr. Dennery No, I think the way it reads, Mr. Drew, is that the legislature, by a majority vote of the elected members of each house...it would require both houses, in effect, by a majority to disapprove. It is true; I don't know of any way that you can avoid completely the possibility of a stalemate.

Mr. Drew Well, what would be the situation, Moise, if the Senate approved and the House disapproved?

Mr. Dennery It would go into effect.

Further Discussion

Mr. Anzalone Ladies and gentlemen of the convention, one of the many functions of the Department on the Executive, or the Committee on the Executive Department, was to review the countless agencies located within the Executive Department of state government. Now, you've had two distinguished members of our committee get up, and the question was asked them: "How many departments do we have in state government at the time?" They couldn't tell you because we never found out. We don't know where they are, where they are located, who works for them, what they do, where they get their revenues, and an awful lot of other things. It's simply just not any way to run an airline. Now, the committee came up with the proposition that this is something that most necessarily needs to be done--unquestionably. There were those of us who felt that it should be done by the legislature. The committee agreed with this, but, yet, we came to the proposition of what's going to happen when the legislature begins to tackle a problem of trying to condense, not to fire anybody--reorganization doesn't mean that somebody is going to lose their job; reorganization simply means that it's going to be a better way of doing what you're doing now with two hundred agencies: To give the legislature the authority and to give them a time limit. But, as Senator Rayburn has said a hundred times during this convention, what happens if the legislature shall don't? Well, that's just it. If "the legislature shall" don't, you continue year after year after year with the same mess that

you've got now. So, we thought that it would be a good idea that in one spot in the constitution--just one, I might mention--that you do hang something over the legislature's head to give them just a slight bit of incentive to begin to reorganize government, as it should be done. This is the only reason that it's here. If you...we felt that if you don't do it this way, then you don't get it done--it's just that simple. Now, there are some safeguards built in if the legislature doesn't act. I will admit that they are not as great as maybe some of you would like, but there are safeguards. The greatest safeguard of all is that if the legislature will accept the responsibility that it has been asking for in the article on the legislature, then it will get the job done, and there will be no problems. I ask for your support.

Questions

Mr. O'Neill Joe, I'm a little worried about the mechanics of this thing. Now, what if the governor sends to the legislature his bill or what have you, but he sends it after the day for filing bills, and the legislature can take no action on it. Yet, they are going to be adjourned sine die.

Mr. Anzalone Mr. O'Neill, you are presupposing the fact--and Mr. Rayburn does have an amendment to extend the time to December 31, 1977--you are presupposing the fact that the legislature is going to sit on its haunches for a period of over two and a half years and not do one earthly thing. I don't want to take that...

Mr. O'Neill I've seen that before.

Mr. Anzalone That's right, you certainly have. But, in this particular case, they know that if they sit on their haunches, something will happen.

Mr. O'Neill What form will this reorganization take in the form in the legislature--a bill, a concurrent resolution, or what form? That's another thing that's not in this section, here, that you propose.

Mr. Anzalone Well, I really couldn't tell you all of the mechanics because I don't know how all of the departments have been set up.

Mr. De Blieux Mr. Anzalone, do you recognize the fact that we have similar provisions like this in the federal law; isn't that correct?

Mr. Anzalone That's what I understand.

Mr. De Blieux It's worked fairly well in the federal government, hasn't it? That is--what I mean--it hasn't caused any problems in the federal...

Mr. Anzalone If you asked me how well the federal government has worked, you better ask me statute by statute.

Mr. De Blieux Well, what I mean, this particular procedure hasn't caused any problems in reorganizing the federal government at any time.

Mr. Anzalone Senator, I don't see any problem with it at all because the primary responsibility rests in the legislature, which is where it should be.

Mr. De Blieux Then it gives the legislature the right its duty to do it first. If they fail to do it, then the governor can do it; isn't that correct?

Mr. Anzalone If Senator Rayburn's amendment is adopted, it will give them two and a half years to make an exhaustive study, and then come up with some legislation--not that the governor feels is correct--but that the legislature would feel is correct.

Mr. Nunez Mr. Anzalone, evidently your committee keep...you keep quoting two hundred and some odd agencies. Where...where did that figure come from? Was that before the recent reorganization of our state government that we did in the past session?

Mr. Anzalone No, sir, that was after. I understand that there were two hundred and fifty-nine before that.

Mr. Nunez Did you know that...

Mr. Anzalone I sure do.

Further Discussion

Mr. Asseff Mr. Chairman, delegates, if you read Committee Proposal No. 31 carefully, you will note that it is the only proposal by our committee which bears the name of each member of the committee--including me. This is the first time I have added my name to a proposal by that committee. Of all branches of our government, the executive branch is the most in need of reorganization and consolidation. Now, we have over two hundred agencies, boards, commissions, and departments--if we really know how many we have--in the executive branch. It results in inefficiency, overlapping, and duplication. Though the governor is responsible in law for the executive branch, this many agencies makes it impossible for him to be responsible, in fact. Let us face facts, delegates. You keep saying the legislature is going to do it. Well, they've been going to do it since 1921. The legislature has not reorganized; it has no intentions of reorganizing. More than any other issue, reorganization and consolidation of the executive branch is the key to good government and efficiency and economy, for it will make the executive branch responsive to the governor and, thus, make him accountable, in fact as in law, for the administration of the executive branch. Without (B), we might as well forget reorganization and kill the proposal. The purpose of (B) is to force the legislature to act, and I know of no other way of forcing them. I've watched them act for thirteen years--they didn't act. So, this is an alternative. The legislature still may disapprove. We have till 1976 for the legislature to act. I urge you to reject the amendment to the proposal.

Thank you, Mr. Chairman.

[Previous Question ordered.]

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, again, I just want to remind you that we have many, many, many cases where we have required the legislature, where we say "the legislature shall do this and do that." I just cannot understand why, in this one particular case, we want to mandate the legislature or say, "Well, if you boys don't do it, then we're going to penalize you by letting somebody else do it." I just don't think that's proper government, and it's certainly not proper constitutionally.

[Record vote ordered. Amendment adopted: 52-41. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Rayburn]. On page 1, line 21, after the words and punctuation "December 31," delete the figure "1976" and insert in lieu thereof the figures "1977."

Explanation

Mr. Rayburn Mr. Chairman and fellow delegates, the purpose for this amendment is to grant a little more time to the legislature to carry out the provisions of this proposal. In the event that our work is submitted to the people--and if it's not submitted before May of next year--that means that

there will only be one legislative session, unless we have a special session, that we'll have an opportunity to look at this. If this proposal or the proposal of this convention would be submitted in the next congressional election, which will be in August, it means that there will only be one session that the legislature will have a chance to look at it--it'll be the '75 session. Well, the '76 session, in my opinion, will be a new session. What I'm saying here, now, it's not fair to saddle a new legislature and give them only one session to do what you're telling them to do here. You could have a new governor--who knows. You're saying to them that they've got to come down here, and they've got to take the oath of office in May--and you may have a tremendous turnover, which has happened in this state--and you're telling them that the first session you're there, before you leave and go home, you've got to adopt this. If you don't, it becomes effective as of sine die--nineteen days thereafter. They will only be here one session, Mr. Stagg, and if this proposal is successful when the people vote on it, if they don't vote on it before this coming session in '74--which is highly possible, it won't be submitted to the people before May of '74 'cause we might not be through with it by then by the time we're going--then you'll only have the '75 session that we'll have a chance to do something about it and it will be what's commonly known as a "lame duck session." I can really see them and the governor fixing this thing up for their successors. I don't get too worried about whether if the legislature don't adopt a plan, the governor will. I've seen them come down pretty, sweet, and rosey, and then we'd get the word they don't smell so good. I've seen them leave there with all the flowers you could put on them out of the governor's office, and then a little word will whip around to the legislature, "This thing is not as good as I thought it was, but I was trying to satisfy the Picayune or the Morning Advocate or somebody like that." Then, we'll go ahead and kind of put it to rest. We'll lay it on the calendar or we'll leave it in the committee, and then just get busy and overlook it. I've seen all those things happen. But, I think, and we have in the legislature been trying for some time--and I served on the beam committee--we had all the executives we could find. Industry furnished us with all the personnel we needed, and we tried to consolidate in this state. There's room for consolidation, but every time we consolidate one or two or three or four agencies we get a new governor, and under these federal programs, he's got to create another agency to get new federal funds. We had about...in 1950, I believe we had about a hundred agencies, and every year they've increased, increased, increased and increased. But, there's a lot of times you have to create an agency to comply with your federal government because they see that a certain agency will have to operate or participate in the programs to be able to get the funds. I'm just trying to do what I think is best--to give the legislature a little more time. I move the adoption of the amendment.

Questions

Mr. Shannon Senator, you made the statement that a new legislature would get this to fool with down there--probably, perhaps maybe a good turnover like '72 was. Weren't we caught in that same position in '72 when a lot of us created that umbrella agency that we really did not know in depth what we were doing? It turned out, according to the publicity, that it's created more problems--maybe not more problems, but a lot more expense to this state.

Mr. Rayburn I believe, Mr. Shannon, the...we created an umbrella agency and composed some sixty-seven agencies under one so-called umbrella. It was a grave economy move. The first budget they submitted to the Budget Committee, they asked for about a three million dollar increase and about

three hundred additional employees. So, that umbrella had to be expanded.

Mr. Derbes Senator, in the absence of Section (B), the date really doesn't make a whole lot of difference, does it?

Mr. Rayburn Well, yes; it does in my opinion. Let me briefly tell you why. Suppose that this... that our work or the product of this convention is not submitted until...not submitted to the people until the fall of next year--I'm just surmising...

Mr. Derbes I under...I listened to your remarks, and I agree with you. I don't oppose your amendment, but just by way of bringing the discussion to a head, here, it seems to me that unless there's something to force the legislature into action, and as long as we're essentially relying on their good faith, that whatever deadline we put into the constitution is more persuasive than it is mandatory. That is, it's more advisory than it is mandatory; isn't that correct?

Mr. Rayburn You're correct; yes, sir.

Mr. Derbes And while you're up there, let me ask you one question with respect to this last sentence of Section 1 that you seek to amend. As I read the sentence, it says: "Such allocation which shall not be subject to veto by the governor shall become operative not later than December 31st," and you want to change "1976" to "1977." Does that mean that if the legislature fails to act within the deadline, and acts subsequent to the deadline, that their action would not...would be subject to veto by the governor? Do you understand what I...

Mr. Rayburn Well, this language says that it will not be subject to veto by the governor. If they act...I'm sure that if they'd waited till the last session to do it, then the governor would have no alternative; he'd have to live with it; he couldn't veto it.

Mr. Derbes But...but what I'm suggesting to you is that there's some ambiguity in the last sentence, and I was wondering if you had considered it. That is, that if the legislature fails to act within the deadline, that their action after the deadline may be subject to veto by the governor. Do you understand that question, and do you agree with this?

Mr. Rayburn No, I don't follow you. It can...

Mr. Derbes Okay, well, I'll talk to you privately.

Mr. Rayburn Yes, because it says, "Such allocations which shall not be subject to veto by the governor shall become effective," which my understanding is that the governor can't veto it.

Mr. Rayburn Of course, knowing the governors like I've known them in the past, they'll have it fixed when it gets down there; they don't have to veto it. They'll take care of that.

Mr. Abraham Sixty, is it your understanding that the primary purpose of the allocation within the twenty departments is in order to make the various agencies a more manageable type of organizations? When you brought up the point that there may be additional agencies created, that this could be done, but they would be allocated within a particular department so that there would be a department head who would oversee the activities of these various agencies?

Mr. Rayburn That's correct.

Mr. Abraham So, would it not be true, then, that the sooner you get the allocation made, the sooner that these department heads can work with the legislature on this type of...as to whether or not there's any consolidation or anything involved? That there's no intent to consolidate, as such, but more or less to allocate.

Mr. Rayburn Well, that's...you are correct in that, but the way these federal programs have been coming into this state and all other states in the last year or two, a member of the legislature, we've got a staff trying to keep up with them. They create them faster than they can tabulate them. You just can't keep up with them.

Further Discussion

Mr. Anzalone Ladies and gentlemen of the convention, I would like to call your attention to--what, here it is--Section 1, Subparagraph (B), of the first enrollment of the article on the executive branch. It says, "All offices, agencies and other instrumentalities of the executive branch of state government, their respective functions, powers, duties and responsibilities, except for the office of governor and lieutenant governor, shall be allocated according to function within not more than twenty departments." That is going to be the law upon the adoption of this constitution. Now, I've heard around the floor a little bit that since we have eliminated (B), we shouldn't even have (A) at all. I choose to think that that may not be true. We have used and fought for the word "may" instead of "shall" all throughout this constitution for the simple reason that there were those of us who felt that "shall" may carry with it the possibility of having a mandamus proceeding. The "if"--and I don't say that it will, I'm just saying that a speculative "if"--the word "shall" does carry with it a mandamus, then what is going to happen if the legislature does not do this in the first year or the first two years after the adoption of this constitution? What I'm trying to say is that I'm deathly afraid of getting into a judicial reorganization of the Executive Department. It was hard enough on the Executive Committee to get legislative...get the legislature to be in a position of doing this. It was argued many, many times that the governor should do it since it was his department--ain't that right, Mac? The only thing that I'm saying is, is that, please adopt this Subsection (A). At least we are saying that the legislature does have the time to do it; the legislature does have the authority to do it, and that we are at least giving them a good two and a half years to digest the problem and come up with an answer. Now, if they don't do it by 1977, I don't know. Maybe you've got big problems, then. But, it will only be their fault after that time. I just don't want to not adopt this and preclude them from having the opportunity.

[Previous Question ordered. Record vote ordered. Amendment adopted: 91-3. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Gravel, et al.]. On page 1, delete lines 15 through 16, both inclusive, in their entirety and insert in lieu thereof the following:
"Section 1. (A) The legislature shall allocate, within not more than twenty departments, including the departments created by this constitution, the functions, powers, duties,"

Further Discussion

Mr. Dennery Mr. Chairman and delegates, the purpose of this amendment is to make it quite clear--and we didn't think the language within the committee proposal was completely clear--that there should not be more than twenty departments, including those created by the constitution.

We also wanted to make certain that the legislature could not reallocate any functions, powers, duties, and responsibilities which were allocated by this constitution, to any other department. The purpose--the way it was written--it...there was some confusion as to whether or not it would mean twenty-six departments. Our proposal was that there should only be twenty departments. So, in

truth and in fact, this is sort of a technical amendment. But, I wanted to explain it to you first before making that statement.

I'll be glad to answer any questions, Mr. Chairman.

Questions

Mr. Perez Is this what might be called the Water-gate amendment?

Mr. Dennery Not even the Rivergate amendment.

Mr. Perez The reason I ask that question is because I know that we had the discussion earlier, and we agreed that the attorney general's department was not to be included within the executive branch of government...

Mr. Dennery Oh, no it is.

Mr. Perez ...and I'm trying...

Mr. Dennery You're wrong.

Mr. Perez Well, I beg your pardon, sir. That's not the way I read it. My question is: Are we trying to come in through the back door with that which was rejected earlier by the convention and to put "including the departments created by this constitution?" Now, what I want to know is what are they? Does it also include the attorney general's department?

Mr. Dennery Mr. Perez, the Executive Proposal No. 4 provides that the attorney general's office is an executive department. It doesn't...his duties are set forth in a different article. But the Executive Article by agreement at the time--I don't remember the exact section; I think it's Section 5 or 6--included it as one of the executive departments.

Mr. Perez Well, I disagree with your interpretation. But is this...then this would attempt to include the attorney general back in? Is that right?

Mr. Dennery No, it was to keep it in.

Mr. O'Neill I had a similar question. But, my other question is if you think this section need be included as an article in the constitution?

Mr. Dennery It should be in the schedule, Mr. O'Neill, because it only has one...effect on one occasion. The only purpose of it now is that it uses the word "shall." It says that "the legislature shall reorganize."

Mr. Lanier Mr. Dennery, perhaps I don't recall correctly, but, as I recall it--I've been looking for my enrolled copy of the Executive Article--but, as I recall, the attorney general was listed there as one of the statewide elected officers. Is that correct?

Mr. Dennery I believe so. Yes, sir.

Mr. Lanier But, that during the course of the debate, there was an amendment, and my understanding of the amendment was that the attorney general would actually be included under the judicial branch. Now, is that correct?

Mr. Dennery I'll have to check my article. But it was my recollection that, although the duties, powers, and functions of the attorney general are set up in the judiciary section, the attorney general's office was included as one of the executive departments. I'll try to find that for you.

Well, in other words, if you look at Section 8, it says "there shall be a Department of Justice headed by the attorney general who shall be the state's chief legal officer." That's in Committee Proposal No. 4 which is the Executive Proposal.

So, that is one of the twenty departments.

Mr. Lanier Well, it...perhaps I'm confused; but, as I understood it, when we put the attorney general in the judicial branch, did that not take that department out of the executive department? Now, is that correct or not?

Mr. Dennergy Well, my recollection of it, and I suppose the Journal would reflect it, but my recollection of it was that by agreement, by common consent--and I think Mr. Gravel handled this; he may--Mr. Gravel, check my recollection on this: It's my recollection that we took the duties, powers, and functions out of the Executive Article, but we retained in the Executive Article the Department of Justice, so that the Department of Justice, headed by the attorney general, would be one of the twenty executive departments.

Mr. Perez So that all the delegates can understand exactly what it is we're talking about, I would refer you to Section 1 (A) of the article which says, "The executive branch shall consist ...of the governor, lieutenant governor, secretary of state, treasurer, commissioner of agriculture, commissioner of insurance, superintendent of education, commissioner of elections, and all other executive offices, agencies, and instrumentalities of the state."

Mr. Dennergy That's correct, sir.

Mr. Perez Again, I ask you, sir, whether your amendment, now, would not try to come through the back door and try to put the attorney general back in, when we specifically took the attorney general out of Section 1 (A)?

Mr. Dennergy Well, Mr. Perez, my recollection is that--and you are quite correct; we originally had attorney general in 1 (A)--it was deleted from 1 (A); but, by common consent, it was kept in Section 8 under the executive department: "Powers and Duties of the Attorney General. There shall be a Department of Justice, headed by the attorney general, who shall be the state's chief legal officer." Now, all of these duties, powers, and functions were put in the judiciary section. But, we retained him--and my recollection is that it was clearly discussed on that occasion that he would be deleted in Section 1 (A), but would be included in Section 8.

Mr. Perez You don't...recall the very heated debate and the long discussion we had? I don't believe there was any consent on this at all. This is...it was one of the very hotly debated issues. It was decided by this convention that the attorney general would not be a part of the executive department.

Mr. Dennergy Well, Mr. Perez, all I can tell you is that our recollections differ in that regard. He was not included in 1 (A); he was included in 8.

Mr. Abraham Mr. Dennergy, would you not agree that we did delete the word out of Section 1 (A)? But, in Section 2 (B), we put the words in that "the attorney general shall be the state's chief legal officer, and shall have been admitted to the practice of law, and head the Department of Justice," etc. We put it back in in 2 (B). We also put it in in Section 3 (A), did we not? Then, we also kept it in in Section 8.

Mr. Dennergy That's correct, sir.

Mr. Lanier Mr. Dennergy, in Section 1 of the Executive Article, it lists the members of the executive branch as the governor, lieutenant governor, secretary of state, treasurer, commissioner of agriculture, commissioner of insurance, superintendent of education, commissioner of elections, and all other executive offices. We left out

specifically naming the attorney general there, did we not?

Mr. Dennergy That's correct, Mr. Lanier. It's absolutely correct. I would further state to you, members and to delegates of the convention, that I somewhat resent Mr. Perez's suggestion that we are trying to come in through the back door. We are not trying to come in through the back door. We argued the point when the Executive Department Article was first argued. I will be the first to agree that everything in the Executive Department Article is not as clear and concise as I had wanted it, or as our committee had wanted it. But, we are not trying to come into the back door. It is clearly set out in the Executive Article that the Department of Justice is part of the executive branch of government, and it is one of the twenty.

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I hope that you heard the first question that I asked a little earlier because I think that you should think long and hard about what this amendment really means. The question I asked is: was this the Watergate amendment? We know that on a national level today, the problems, the crisis which our nation faces, because of the fact that we have an appointed attorney general, appointed by the president. When there are ever any problems with regard to the executive branch of the government, we have the very, very difficult problem of not having an independent attorney general who can move independently, wherever the needs arise, to accomplish justice and to support the law. I suggest to you very, very forcefully that we had, and debated long and hard, the questions as to whether or not the attorney general should be in the executive department; he was taken out of Section 9 (A). It is true, later on, the Department of Justice was created under the same article, but that article...but that provision does not put him under the executive branch. It's just his provisions--that is, the provisions with regard to the Department of Justice--are in that particular article. But he was not--and again I repeat--he was not made a part of the executive branch. This is strictly a back door, Watergate amendment. So, I urge you to defeat it.

Questions

Mrs. Zervigon Mr. Perez, since we are all in agreement that we will have an elective rather than an appointive attorney general, and that's not one of the offices that could later be made appointive by a two-thirds vote of the legislature, how, exactly, could he be subjected to the governor's will? What, exactly, is the effect of the difference of opinion between you and Mr. Dennergy?

Mr. Perez I have to reread that article. But, if he's a part of the executive branch, it's my recollection he--by a two-thirds vote of the legislature--his...position could be made appointive. That was my recollection.

Mrs. Zervigon No, sir, that's only certain named ...certain named officers. He is not one. So, exactly, what would be the effect--assuming you are right and Mr. Dennergy is wrong, and both are acting in good faith--what, exactly, would be the effect?

Mr. Perez We all know that the power of the purse string controls quite often. If there is a reorganization, just as we had a reorganization not too long ago and took just about everything but the man's desk away from him, that that effectively dilutes the position of his office.

Mrs. Zervigon Mr. Perez, wouldn't that have to be done by the legislature under the last amendment you passed?

Mr. Perez Yes.

Mrs. Zervigon Wouldn't it have to be done by the Legislature--giving and taking of desks? Whether he is in the executive department or he is a department unto himself, the legislature has the power of the purse strings over the attorney general?

Mr. Perez Yes.

Mrs. Zervigon Not the governor.

Mr. Perez Well, upon recommendation of the governor, Mrs. Zervigon.

Mrs. Zervigon Well, the governor may recommend one way or another about his budget, whether he is a separate department or whether he is a department of the executive department. Is that not the case?

Mr. Perez I didn't understand the intent of your question.

Mrs. Zervigon The governor may recommend a budget concerning the attorney general's office, whether or not he is considered to be one of the branches of the executive department. Is that not the case?

Mr. Perez Yes.

Mrs. Zervigon The legislature may take his advice or not, as they see fit. Is that not the case?

Mr. Perez Yes.

Mrs. Zervigon So, there's very little effect, really, of the difference that you point out between what you would like and what Mr. Dennery would like in the way of wording, whether you pay attention more to paragraph...Section 1 of the Executive Department or Section 8. There's really, in practicality, very little difference. Isn't that the case?

Mr. Perez Well, Mrs. Zervigon, one thing that bothers me--and I haven't had a chance to check to see what all the other departments are that we're talking about--it says, "including the departments created by this constitution." I'm not sure which other ones we are talking about, other than the attorney general. But, I do know the attorney general would be included here, whereas, before, he is not included as a part of the executive branch of the government.

Mr. Jenkins Mr. Perez, I know this whole discussion is centered around the attorney general. But, isn't this amendment much more broad and far-reaching than that? For example: all the work we did on the Education Article. Wouldn't this allow the legislature to come back and transfer all powers over education to the Board of Regents, for example?

Mr. Perez Well, that's one of the things that bothers me. I'm not sure what he means by "including the departments created by this constitution." I would assume that the Education Department is one of those created by this constitution. I think it's called the Education Department.

Further Discussion

Mr. Cannon Mr. Chairman, ladies and gentlemen of the convention, I'd like to rise to strenuously oppose this amendment. I think that after long and hard deliberations and hammering out a lot of things in the...with respect to the State Superintendent of Education, who shall be the administrative head of the Department of Elementary and Secondary Education, I think we've at last arrived at something which can benefit the children of this state. I think that this is our hope of

having a qualified leader in the office of state superintendent, and his professional qualifications being judged by the voters of this state. I don't want to see that the legislature should be able... I don't think that the legislature should be able to change what has been mandated in the constitution. I think that if this amendment is passed, it will certainly do this. I think that it...if we should allow this, this would be an insult to the intelligence of this body. I do think that this has applications on other elected officials who head up departments created by...this constitution. I would certainly like to see the defeat of this amendment.

I'll answer one question. I'll recognize you, Mr. Lanier in the absence of a chairman.

Questions

Mr. Lanier Mr. Cannon, as I read this Committee Proposal No. 31, it says it's to make a schedule provision for mandatory reorganization of the executive branch of state government. Is that correct?

Mr. Cannon Of which the State Superintendent of Education is included.

Mr. Lanier But, to get back to this attorney general thing, if the attorney general is in the judicial branch, then, of course, he would not be affected by this reorganization--Is that correct? --in accordance with this proposal?

Mr. Cannon There's some question in my mind about that...but, I'm not as knowledgeable about the judiciary since I got in. I came back from my illness on the tail end of that. I missed the executive deliberations entirely. I have read it, and I raise...again, I think that this will create more problems than it does...

Mr. Lanier In other words, if he's in the executive branch, and they start putting all of this stuff under different department heads, they could put stuff under him that's presently not there in the Judicial Article.

Mr. Cannon I can see that. I don't necessarily think that is a good idea. If, in our deliberations, and if approved by the people of this state that it should be a certain way, I don't think that this should be tampered with. I think that's the purpose of this constitution.

Mr. Goldman Mr. Cannon, I hate to open up this kettle of fish, but you opened it up by saying that we are now, by what we passed the other day, going to be guaranteed a highly qualified superintendent of...

Mr. Cannon To be judged by the people of this state.

Mr. Goldman ...of education. There are no qualifications in what we passed the other day for a superintendent of education at all, are there?

Mr. Cannon Which the judgment must be made by the people of this state.

Mr. Goldman If I had an eighteen-year-old daughter, she could be elected state superintendent of education or even I could. I have no qualifications for that.

Mr. Cannon She might be...no, sir. Twenty-five years old, but, and she...

Mr. Rayburn Mr. Cannon, could you explain to me exactly what is meant by this amendment when it says "the legislature shall allocate within not more than twenty departments, including the departments created by this constitution"? Now, does that mean that the amount of departments that were created by this constitution will be included in

the twenty figure? Or, will they be excluded from the twenty figure?

Mr. Cannon That would be included in that twenty figure.

Mr. Rayburn Well, will that mean the five boards that were adopted here, plus all the other constitutional provisions that we passed? Would they be included in that twenty?

Mr. Cannon It appears to me that way.

Mr. Rayburn They are...they were created by this constitution, then. Well, that won't leave much left for us to...

Mr. Cannon No, sir, it wouldn't.

Mr. Rayburn I'm just trying to figure exactly what are we talking about. I thought maybe you might know.

Mr. Cannon I have a lot of doubts, myself. That's one of my reasons for objection.

Mr. Rayburn Well, if it would say "which includes the departments created by this constitution," I'll know. But, it just says "including the departments." So, according to the way I read it, if we have seven or eight offices, then we've got five boards; there's not too much left.

Mr. Cannon Well, I wouldn't see any objection to deleting the entire article.

Mr. Singletary Mr. Cannon, did I understand you to say that you were afraid that under this amendment the Education Department could be reallocated?

Mr. Cannon The functions, powers, and duties of the State Board of Elementary and Secondary Education--this is the body that I have particular concern about because this is going to deal with the children of the people of the State of Louisiana. Their being out from under the Board of Regents, I think, is a fine thing. But, I do believe that there is enough ambiguity in the whole section--I think it creates more problems than it solves. I think I know my English language. I...I'm not satisfied that it does what the proponents of it says it will do.

Further Discussion

Mr. Lanier Mr. Chairman and fellow delegates, I think we've got us a real problem here, which, I think, goes back to something very basic: that is, whether or not the attorney general is to be considered a part of the executive branch or a part of the judicial branch. I haven't had a chance to go back and review the Journals of the debate at the time, but my recollection, generally, is that we had a big fight over whether or not to put the attorney general in the executive branch or in the judicial branch. Part of my recollection is that under the present constitution, he's under the judicial branch.

Certainly, in the judicial branch, in Sections 26 and 27, we define the Department of Justice, composition, attorney general, elections and assistants; under Section 27, we define the attorney general, his powers and duties, and vacancy. Now, of course, if the attorney general is not in the judicial branch, then why do we have all of this stuff about him in the Judicial Article? So, to me, this is quite confusing. But it has a great deal of bearing on this proposal and on this amendment because, as I understand the proposal, in the top, if you look at lines 8 to 10, it says this is "making provisions in the schedule provisions of the constitution for mandatory reorganization of the executive branch of state government."

Now, of course, if the attorney general is not in the executive branch, then this would not affect the attorney general in any way. However, if it

is determined that the attorney general is in the executive branch, then he would be subject to this reorganization; and, conceivably, some types of agencies could be put under his department, where they are not presently under the judicial branch. If he's in the judicial branch, of course, the reorganization can't touch him.

Further, the way this amendment is drafted, as I understand it, it would include "including the departments created by this constitution." That language is a lot broader to me than saying something like "the departments created in the Executive Article of this constitution." I believe when you just say "this constitution," you may well be transcending just those that exist in the executive branch.

I think we have a very confusing situation here. I believe we'd better get this thing straightened out because, otherwise, to me, we are going to have a big inconsistency right smack in the middle of our Executive and Judicial Articles.

Questions

Mr. Kilbourne Mr. Lanier, assuming that the argument that...about the way the attorney general is, assuming that he is in the executive branch, my recollection is that his powers, duties, and functions were specified in the Judicial Article. Now, wouldn't this...wouldn't this amendment allow those powers and duties and functions to be...to come under some other branch--allocated say to the executive branch?

Mr. Lanier I really don't know, Mr. Kilbourne. Quite frankly, as I recall, when I voted on this... as I recall, we had a real floor fight over where the attorney general was supposed to be. At the time that I voted, it was my intention that he would be under the judicial branch, where he is now, independent of the executive. With this amendment drafted as broadly as it is, I quite frankly don't know where he would be or what could be done to him.

Thank you, Mr. Chairman and fellow delegates.

Mr. O'Neill Walter, the discussion has been centered on this judiciary question with the attorney general, but would you agree with Mr. Cannon's analysis that the whole entire structure of education could be affected by this?

Mr. Lanier Very possibly. At best, I think we would have an inconsistency between different provisions. Quite obviously, from what Mr. Denney and others say as to their interpretation of the Executive Article, we got a real inconsistency as to where the attorney general is.

Mr. Denney Walter, what are the departments within the judiciary?

Mr. Lanier Well, on Section 26 in the judicial branch, which is...I have a copy of the enrolled thing there. It says "Article V. Judicial Branch. Section 26 says "Department of Justice." That's the way I thought it was.

Mr. Denney So, there is a conflict, then, between the present Executive Article IV which has been adopted by the convention, and Article XXI which you refer to. Is that correct?

Mr. Lanier I don't recall the articles. This is..

Mr. Denney Well, Article IV...Proposal No. 4.

Mr. Lanier This is Article V...

Mr. Denney Committee Proposal 4, and Committee Proposal No. 1.

Mr. Lanier Right. Committee Proposal No. 21. That's correct.

Mr. Denney Both call for a Department of Justice.

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Mr. Lanier But my understanding...as I recall, the way this thing developed was that we were talking about statewide elected officials, and the attorney general was going to be a statewide elected official, but his powers and duties and department would be established in the judicial branch, which is exactly what we did.

Mr. Dennerly Well, now, Walter, where would his budget be? Isn't his budget historically within the executive budget of the state?

Mr. Lanier I really don't know, Mr. Dennerly. I'm unable to answer that.

Mr. Dennerly Well, if I were to tell you that normally and historically it comes within the executive part of the budget which is adopted by the legislature, you would not disagree, would you?

Mr. Lanier Knowing you, Mr. Dennerly, I'm sure you have your facts correct.

Mr. Dennerly Thank you.

[Previous Question ordered. Record vote ordered.]

Closing

Mr. Dennerly Mr. Chairman, delegates, I believe there is some confusion about this entire Committee Proposal No. 31. Let me first point out to you that, as an article for the schedule, we have already adopted an article which says that "the re-allocation of the functions, powers, and duties of all departments, offices, agencies, and other instrumentalities of the executive branch, except those functions, powers, duties, and departments allocated by this constitution, shall be as provided by statute." I don't think that there's any question in the world but that Mr. Cannon should have no fear. The legislature can't change what the constitution has allocated. As far as the Department of Education is concerned, as far as the education...educational branch is concerned, there cannot be any possibility that the legislature can change it. The same thing is set forth in the Schedule Article. The only purpose of my amendment was to clarify that there should only be twenty departments, and not twenty-six. Now, please remember that when you vote on this amendment, all you are voting on is whether there should be twenty departments within the executive branch of the government, or whether there should be twenty-six departments within the government. In Committee Proposal No. 4, we have already said there shall only be twenty. The whole purpose of this amendment was to clarify it. Now, if you want to pick up on the argument that Mr. Perez made, Mr. Lanier made, and some other gentlemen made, then argue about the committee proposal itself. But, at least before you get to that argument, adopt this amendment which merely clarifies that we are talking about twenty departments, and not twenty-six.

I ask your favorable consideration of the amendment.

[Amendment rejected: 34-58. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Pugh]. Page 1, line 21, after the word "than", delete the remainder of the line and all amendments thereto, and insert in lieu thereof the following:
"January 1, 1978."

Explanation

Mr. Pugh Mr. Chairman, fellow delegates, the purpose of this amendment is to move forward Mr. Rayburn's proposal by one day. I have absolutely no experience in the legislature. I have some small experience as...in both accounting and in

law. It's inconceivable to me that an agency would be created in the fashion where it started its business on the last day of a month. Frankly, I think we ought to start it on the first fiscal day of the year used by the state. But, certainly it ought to be January 1 instead of December 31. It's inconceivable to me...that a man gets paid for one day by one department, and he gets paid for fourteen days--since they get paid twice a month--by another department. I merely ask you to move it up one day, and for those rather obvious reasons.

Questions

Mr. Derbes Mr. Pugh, did you ever consider wrapping a diaper around this amendment and calling it the New Year's baby?

Mr. Pugh What is that? I didn't hear you.

Mr. Henry It wasn't worth a whole lot.

Mr. Arnette I think that you're missing the idea of that cutoff date. That cutoff date is not the date that the new agencies are formed. That's just the last day to make sure the legislature has done something by that time. It doesn't say that these things have to start on that day.

Mr. Pugh Yes, sir, but I have a little experience watching the legislature, if not being in it. I believe it will be the last day. If it's going to be the last day, let's make it the first day of the year instead of the last day of a calendar year, for the reasons I've set forth.

It says it will be operative no later than that day.

Further Discussion

Mr. Rayburn Mr. Chairman, fellow delegates, in the event the legislature does adopt the provisions of this amendment, they are going to have to adopt them and appropriate the money while they are in session. They are going to have to start when the money is provided. Now, I cannot see and all you would have to do--you can put it January 1, or December 31, or any date that you want--but all you have to need is just add one little sentence to the General Appropriation Bill. "There funds have become available not later than midnight the thirty-first day of December or not later than midnight the fifteenth day of January" that's all you've got to do. I don't know, I doubt if we could ever get a date in here to satisfy some of these lawyers.

[Previous Question ordered. Amendment rejected: 39-44. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Anzalone, et al.]. On page 1, between lines 21 and 22, insert the following:

"(B) Should the legislature fail to make such allocation, the governor shall prepare and submit to the legislature at its next regular session, an allocation in compliance with this section. The legislature may disapprove such plan but may not substantively amend it. In the event the legislature does not disapprove the plan prior to the sine die adjournment of the session of the legislature at which submitted, the plan shall become effective at twelve o'clock noon on the ninetieth day following sine die adjournment."

Point of Order

Mr. Perez Point of order, Mr. Chairman.

It's my appreciation of this amendment that it's virtually verbatim with that which was previously deleted from this section by the amendment which I offered.

Mr. Anzalone Mr. Chairman, I could argue the

point.

Mr. Henry Well, Mr. Perez, it appears to me--looking at the amendment--the changes are insignificant. Now, I have ruled from time to time, during this convention, that if there is any change at all, that it's a different amendment. This is a different amendment although it's got the guts just like it was. But, it gets back to what we were talking about yesterday--this dog's been whipped once. If we are going to keep on, on, and on it's going to get a little ridiculous. But, it's not the same amendment because...it's just difficult to tell. Now, we will decide this one if you like the way we have some others and let you all decide by a vote now as to whether or not this amendment is one that's already been considered.

Point of Order

Mr. Nunez Point of order, Mr. Chairman.

Mr. Henry State your point.

Mr. Nunez You're right, it's not the same amendment, it's worse than the other one.

Further Discussion

Mr. Champagne Mr. Chairman, ladies and gentlemen, I'm not one of those who usually comes back once you are beaten. But, I discussed this amendment with a number of people on this floor. They were not aware of the significance of this amendment when it was first presented to delete Section (B). If you delete Section (B), you may as well delete the whole thing and forget about reorganization, because I don't think you can accomplish it. Now, Mr. Chairman, I guess that's about all I can say. I don't want to debate the merits of it. But, I think we deserve to hear the merits of this amendment, because I discussed it with several people on this floor and they were not aware at the time--perhaps it's Sunday, the day after Saturday--and they weren't quite as alert as they might have been. But, I do feel that we need to discuss this amendment.

Questions

Mr. Fulco Mr. Champagne, haven't we already made ...taken into consideration or made provision for the consolidation of these agencies in the Executive Article?

Mr. Champagne Yes, sir. But, I think it was pointed out--I'm not familiar--but, I think it said...

Mr. Henry You are supposed to be debating, gentlemen, whether or not this is...this amendment is in order or not, Mr. Fulco.

Mr. Champagne I think it said "may" or "shall."

Mr. Fulco All right. Then, have you checked this with the proposal that we amended to delete exactly what you have got in your amendment? Have you checked it?

Mr. Champagne Yes, sir, I have. It is different, in a few words; I'll be honest with you, it's just about the same thing. The only thing--the point I'm trying to make--Mr. Fulco, is that some of the members were not aware of the significance of the amendment to delete it at the time.

Mr. Fulco But, you will admit it is the same in substance--only a few words are switched?

Mr. Champagne I never argued that point in the least. I just think that some people were not aware of the significance of the amendment to delete it at the time.

Mr. Chatelain Mr. Champagne, in a good sportsmanship, sir, why don't you withdraw it, sir?

Mr. Champagne Mr. Chatelain, after the deal on the education, this is the last time I'm going to try it. But, I really think that we should try it.

Mrs. Warren Mr. Champagne, on this beautiful Sunday afternoon, are you trying to avoid trying to pull it back from the table--get a two-thirds votes to bring it back to see if they want it--this is all you would have to do on a beautiful Sunday afternoon?

Mr. Champagne Mrs. Warren, I enjoy the afternoon, too.

[Amendment declared out of order: 44-44.
Chairman voted nay breaking the tie:
45-44. Motion to reconsider tabled.
Motion for the Previous Question on
the Proposal rejected: 10-76.]

Further Discussion

Mr. Champagne Thank you, ladies and gentleman. I want to suggest that the close vote--the tie vote--on the 44-44 did indicate that some people did not understand the significance of the amendment when it was presented. I rise to tell you that if you are in favor of reorganization, I would have hoped you would have done so. But, on this proposal, you have no assurance that you will ever have it. I think you are fooling the people if you vote for it. I am against it, because I will stand and tell them that I had an opportunity once to provide for it, but this proposal does not ...this does not provide for reorganization because I want to point out to you that if you are in the legislature, it shall be extremely difficult for you tell a good and powerful friend at home why you should consolidate his department with another when he tells you, "Remember, Joe, I supported you for this position you now have." In all practice, it shall be impossible for them to approve reorganization and consolidation of forces ...which in the last election for governor there was no opposition to it whatsoever. The people... all candidates for the position, voted unanimously, time and time again, that this state needed reorganization, that it needed consolidation. But, you have missed the boat here. I urge you to vote against this proposal because, if you do vote for it, you're not providing any. You're simply providing a last hope that maybe you might have. But, you are fooling the people, you have it in the legislative proposal. Let's go ahead and defeat this proposal as it is. I thank you.

Further Discussion

Mr. Stagg Mr. Chairman, fellow delegates, with all due respect to the previous speaker at this microphone, I can understand much of the debate which went on this afternoon. But, what I don't understand is the opposition that is stated in terms quite demeaning to the members of this committee who confected this proposal some three or four months ago. It is a companion measure to the section of the Executive Department requiring that there be twenty departments in the executive branch. Somehow or other this has got to be brought to past; it's not going to happen by osmosis; it's not going to happen by having no direction in the constitution as to how and when it shall be done. I think most of the speakers at this microphone are as convinced as I am, that there has to be a companion measure. I did listen with interest to the debate that stated that maybe the governor ought not to have a shot at it even if the legislature didn't do it. But, somehow or other this reorganization has got to take place. I think that December 31, 1977, is a fair date toward which to work. I think it gives the legislature a considerable leeway in time to perfect their work, and to thereby give a meaningful reorganiza-

tion to the government of Louisiana which badly needs it. I have thought, while we were debating this afternoon, of the course of this convention when the first article came to the floor--led by Senator Blair on the legislative branch. You would be amazed to go back and read your Journal to find out how well we adopted, and how well we worked before we started learning some parliamentary procedure. I think we were lucky in those days. Then, we adopted the executive branch without a great deal of ranker and without a great deal of demeaning the work of the delegates who presented it. We did well in the Judicial. Then, we started to bog down. But, at no time at this microphone did any delegate arise to speak and suggest that a delegate was doing something by the back door, or by indirection, or by any devious means. That statement was made at this microphone today. I'll be a number of days at this convention before I forget it or the man who said it. But, we do have an important problem. We must direct the work of this legislative branch of the government in achieving the reorganization of the executive branch. I think it can be done, in what is left of the Committee Proposal No. 31. I do seriously urge that it be adopted, and that we go on to the next important matter to face us the rest of this Sunday afternoon.

Questions

Mrs. Zervigon Mr. Stagg, it may not surprise you that I'm a little bit confused by what's happened. Would you say that the main utility of the proposal, as it stands, would be to set a date for the reorganization?

Mr. Stagg Yes, Mary, I would.

Mrs. Zervigon Which, in effect, delays it for a year from now or so--or a year from passage or so--so that it can be done in a well considered manner, rather than having to hurry up and do it in an ill-considered manner, if it becomes law on the day of passage.

Mr. Stagg That's right. I voted for the Rayburn amendment to extend the time until the end of 1977. I thought he had a good argument and that a better bill would come out of a further time for considering it by the legislature.

Mrs. Zervigon Thank you.

Further Discussion

Mr. Drew Mr. Chairman, ladies and gentlemen, I rise in support of this proposal as amended. If you will look in the executive proposal--of which you are already familiar with--it says...it provides for the consolidation into the departments as stated in that article. It further provides that the governor which, of course, is the chief executive officer of the state. Now, this proposal gives you the very clear decision to make. Do you want the governor alone to reorganize the Executive Department, or do you want your Representatives and Senators to have a say-so in that reorganization? For that reason, I think that--as it is now written to where the legislature has some authority--that we are in better position than if we left it up to one individual. I certainly hope, as amended, you will adopt this committee proposal.

Questions

Mr. A. Landry Mr. Drew, isn't it true that the same legislators who are charged with the responsibility of reorganization would be facing the public less than a year after the deadline?

Mr. Drew That is correct.

Mr. A. Landry Don't you think if the people on reorganization they'll know what to do when they

come up for reelection?

Mr. Drew I certainly think so, Mr. Landry. I'm not fearful of those who may be damaged slightly by the reorganization.

Mr. Goldman Mr. Drew, if this amendment is adopted, it then becomes, at that time, a part of the constitution; doesn't it?

Mr. Drew Right, sir.

Mr. Goldman All right. Contrary to what Mr. Champagne said then, wouldn't it be true that this is not poppycock, because if it becomes a part of the constitution then there is an element of blame on the part of the legislature because--by constitutional mandate, or whatever you want to call if they are supposed to do this. If they refuse to do it or don't do it, then the public will know that they refused to do it even though it was told them to do it in the constitution. Whereas, heretofore, these past forty years that suggestions have been made to consolidate the executive branch; there really hasn't been any mandate for them to do it; it hasn't been constitutional.

Mr. Drew Not only that, Mr. Goldman, but if this proposal is not adopted the authority to do it is more or less in limbo and it could be easily kicked back and forth between the governor and the legislature.

Mr. Goldman ...The way it's been all these years; isn't that true?

Mr. Drew Right. I move for the adoption of the proposal.

[Quorum Call: 85 delegates present and a quorum. Previous question ordered on the Section.]

Point of Information

Mr. Tobias We have to vote twice, don't we--once on the section and once on the...

Mr. Henry Yes, sir. We are going to vote on the section first; you are correct sir.

[Section passed: 81-10. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 83-8. Motion to reconsider tabled.]

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING
Committee Proposal No. 3

Mr. Henry What we are going to do now, as I told you earlier, is to look and start working on this report of the Committee on Style and Drafting on the legislative proposal. Now, let me tell you why I'm suggesting that we do this. It shouldn't take a great deal of time to go over the report of the Committee on Style and Drafting, but it's time now that we find out. So, this is sort of a little trial run for us this afternoon to see how we work on this. The rules of the convention provide, of course, that we've adopted each section of this proposal heretofore, and that we have reconsidered the vote and laid the motion on the table. But, as I appreciate the rules of this convention, we also have to refer each of these proposals to the Committee on Style and Drafting--that the Committee on Style and Drafting makes its report back to us in the form of these amendments. As much as these amendments are not substantive, but are as to Style and as to Drafting, then that's the way we can consider the amendments to this...these sections to the legislative proposal. They are not substantive--supposedly substantive amendments--but they are amendments as to Style and as to Drafting. Now, we are not going to be able to accept floor amendments as to Style and Drafting because it would be in violation of

the rules of the convention---unless you suspend the rules and reopen the section, or unless you call from the table the motion to reconsider. Now, I think I have tried to make myself clear. But, Mr. Clerk, you might cover up or clear up what I have said, if you will?

Mr. Poynter All right, that's probably the key thing. As you had distributed to you several days earlier on the request of Judge Tate--and he made comments to you--the amendments have been prepared and as it's going section by section, and at times paragraph by paragraph reflecting those changes. Those amendments are totally divisible and it's certainly going to be--I know from conversations with Judge Tate--his intent to totally divide the question so that you would vote amendment by amendment, rather than voting in globo on the amendments. That way, or course, it would be in order if you all wanted to speed it up and take two or three together at one time. But, they are totally divisible, so if you've got a problem with Amendment No. 12, but no problems with the others, you can vote on that separately. In addition, the committee has transmitted to you primarily--what probably will be the most useful document to you for your consideration--is this, the green and yellow copies. Now, the green and yellow copies set forth for you on alternate sides of the pages, the proposal on the left as you adopted it in the convention. On the right, you can tell what the proposal would...or the section, or paragraph--as the case may be--would look like if you accepted the proposed amendments. So, you have rather convenient source of reference there, to be able to distinguish between the two. In addition, there are a number of places the committee has exercised some self-restraint--I would say, and has several recommendations for your consideration, which they feel, in fact, may perhaps be deemed substantive, and have so indicated by caveat notes. Those notes reflect--and the various amendments reflect--some concern on behalf of the committee with particular language that has been adopted in particular effects, but realizes that the amendments might be substantive. Therefore, they have tried to make that as clear to you as possible by the notes in the formal amendments and by...also these will contain the changes and the caveats are contained on this yellow sheet. They would propose to take those amendments last; in fact, they constitute the last amendments set out in the formal amendments themselves. Those are, perhaps--could be construed at least by some of you--to be substantive and that's why they have been so done, but are all offered for various reasons which the committee feels important in keeping with a consistent constitution and trying to keep consistent in language with what they thought was the intent of the convention. Finally, as the Chairman said, the rules specifically exclude or provide for perhaps the offering, in effect, of amendments by Style and Drafting. However, individual floor amendments proposed by delegates would be out of order, unless by one of the procedures you affected the reconsideration--and for most likely a suspension of the rules--affected the reconsideration of one of the sections to be offered.

Personal Privilege

Mr. Asseff Mr. Chairman, this has come suddenly to the convention. I am a member of the Committee on Style and Drafting, so I do know what is being done. I suggest to the Chair a ten-minute recess so perhaps the members can look over the proposal. I think that was...

Mr. Henry We were going to call a recess. But, I just wanted to explain what was happening prior to taking the recess. Your point is well-taken.

Point of Information

Mr. Asseff May I ask a question, Mr. Chairman? On the vote will it require a record vote, Mr.

Chairman--on the amendments?

Mr. Henry No, it doesn't require a record vote, sir.

Personal Privilege

Mr. Tate Mr. Chairman, fellow delegates, as you know by the rules, the Committee on Style and Drafting was entrusted with the obligation to present in a consistent literary form all of the adoptions of this convention. We have, in each instance, worked through the staff and then through the Committee as a Whole, to provide a consistent format for all of the articles, not involving any substantive change. In each instance, the recommended amendments have been sent over to the Substantive Committee for their contemplation and study to see if there were...if they concurred in the amendments and if there was any changes of substance. Senator Blair will mention it in a minute, I'm sure, when the recess is over, of what the legislative branch has done. But, to familiarize yourself with what you have before you, the first enrollment was passed out earlier--what passed the floor. The amendments are to the first enrollment, the amendments in that package of papers you got the other day. But, for your convenience, in the green sheets on the right side is the first enrollment text; on the left side is the stylized draft according to the manual and the judgment of the committee. At the bottom of each section or subsection is an explanation of the reasons. I always get my left and right mixed up--it's on the left side, thank you, Ambrose--on the left side, on the port side. On the left side is the first enrolled version and on the right side is the stylized version in the green sheet. When you get to the yellow sheet, we will talk about that later. Those are the few questionable amendments that we thought required some reference to the body of the legislature...the convention as a whole.

Mr. Chairman, have I confused the matters enough for the recess?

Vice Chairman Casey in the Chair

Personal Privilege

Mr. Blair Mr. Acting Chairman and fellow delegates, we think--our Committee on Legislative Powers and Functions--we think that the Committee on Style and Drafting did an excellent job after we suggested they get out of their substantive changes and they took a few of our suggestions. But, after it was all over--after we went over it--we did meet after they had finished, and we had a few suggestions. We got together; as of this time, we have no objections. We think they have done an excellent job.

Recess

Chairman Henry in the Chair

[*Quorum Call: 83 delegates present and a quorum.*]

Mr. Poynter Mr. Chairman, at the pleasure of you and the convention, I guess, I can read each one of the separate amendments, or not read them for that matter, if you want to, and you can move to adopt as many presumably confined to, I suppose, at least one section as you want to at a time.

Mr. Henry Well, since the rules provide we move section by section, let's take them up section by section and once we get through with the amendments to a section if anybody wants a division of the question insofar as the amendments to that section are concerned, we'll act accordingly then.

Amendments

Mr. Poynter All right. Mr. Chairman, in that light, Amendments Nos. 1, 2, and 3 affect first

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the title to the whole proposal, changing the word "department" to "branch" and Amendments Nos. 2 and 3 affect Section 1. You want me to read them?

Point of Information

Mr. Dennergy I have a question, Mr. Chairman, if that's permissible?

Mr. Henry Yes, sir.

Mr. Dennergy ...In view of your previous statements to me I was not sure I would be permitted to ask a question. However, do you propose, Mr. Chairman, to take these up section by section and subparagraph by subparagraph in order, or do you propose to change the rule as you did earlier today?

Mr. Henry I think we'll take them up section by section, Mr. Dennergy, and take the amendments up in order in which they come in those sections.

Mr. Dennergy Thank you, sir.

Amendment No. 1

Mr. Poynter Amendment No. 1. On page 1, at the end of line 16, delete the word "department" and insert in lieu thereof "branch".

[Amendment No. 1 adopted without objection.]

Amendment No. 2

Mr. Poynter Amendment No. 2. On page 1, delete lines 17 through 23, both inclusive, in their entirety and insert in lieu thereof the following:
"Section 1. Legislative Power; Composition, Continuous Body

Section 1. (A) Legislative Power of State. The legislative power of the state is vested in a legislature consisting of a Senate and a House of Representatives. The Senate shall be composed of one Senator elected from each senatorial district. The House of Representatives shall be composed of one representative elected from each representative district."

Point of Information

Mr. Abraham Mr. Chairman, what I'd asked for-- can we waive the reading of all of these amendments in the interest of saving time?

Mr. Henry Why don't we do it by each section? You waive the reading of the amendments to Section 1?

[Motion to waive reading of Amendments to Section 1 adopted without objection. Amendment Nos. 2 and 3 adopted without objection.]

Amendments Nos. 4, 5, 6

Mr. Poynter All right, next amendments would be Amendments Nos. 4, 5, and 6, respectively, all dealing with Section 2, respectively, Paragraph (A), Paragraph (B) in Amendment No. 5 and Paragraph (C) in Amendment No. 6.

[Motion to waive reading of Amendments to Section 2 adopted without objection. Amendment Nos. 4, 5, 6 adopted without objection.]

Amendment No. 7

Mr. Poynter Next amendment will be Amendment No. 7 which affects Section No. 3 in its entirety.

[Amendment No. 7 adopted without objection.]

Amendments Nos. 8, 9, 10, 11

Mr. Poynter Next set of amendments would constitute Amendments Nos. 8, 9, 10, and 11, all affecting the four paragraphs of Section 4, respectively.

Questions

Mr. Dennergy Mr. Chairman, I suppose this should be asked of Judge Tate.

It's clear from this, Justice Tate, that the date of qualification is the final date at which a man can qualify...not the date of his actual qualification?

Mr. Tate Mr. Dennergy, we thought it was clear, we needed some clarification because...we thought it was clear that it meant at the time that he qualifies as a candidate for office, he meets the qualifications needed for the office.

Mr. Dennergy No. My question is, sir: do you mean at the actual date on which he personally qualifies or the last date on which he is permitted to qualify?

Mr. Tate I understand your question. We didn't think that was a problem because if he didn't have it the first day, he would qualify on the last date, Mr. Dennergy. We didn't think it was a real problem.

Mr. Abraham Justice Tate, now isn't Section 4 (D) here is where we had a substantive change?

Mr. Tate Mr. Abraham, on Section 4 (D) we have an amendment later, Amendment No. 60, which you will see will come up...will bring up a possibility that some members of one of the committees...and of both committees thought the floor might need to clarify. But, Section 4 (D), as stylized here, represents a stylized version saying exactly the same thing that the floor passed. But, there is an ambiguity that we will call to your attention by Amendment No. 60 that you may wish to clarify later.

Mr. Singletary Judge Tate, in Paragraph (A) of Section 4, you say "has been actually domiciled for the preceding year." It seems to me that that's not a clear requirement that he actually be there one year, but actually...only reside there or be domiciled there during the previous year.

Mr. Tate The...as it passed the floor, we had a little trouble with the phrase "actually domiciled." As it passed the floor in 4 (B), it says "he must have been actually domiciled in the legislative district within which...from which he seeks election for one year immediately preceding qualification for office." When you say "has been actually domiciled for the preceding year in the legislative district from which he seeks election" the feeling of both committees was that it means the same thing.

Mr. Singletary It doesn't seem to me that it's as clear as what the convention adopted.

Mr. Tate Yes. Now, I will say that there is a little problem there because actually...what does "actually domiciled" mean? You're either domiciled or you're not. But, "actually domiciled" is what passed the convention. It's a phrase that has been interpreted in some procedural statutes, and whereas strict accuracy might have been to leave "actually" out, we thought it unwise to change the convention language in that instance, even though, in the view of some, it's not...

Mr. Singletary The words "actually domiciled" don't give me any problem; it's "for the preceding year." Whereas, we said the convention adopted language, it says "actually domiciled within the legislative district from which he seeks election for one year immediately preceding qualification for office."

Mr. Tate Well,...all I can say is that I think

"for the preceding year" means the same...if he's been domiciled in the...been "actually domiciled for the preceding year in the legislative district," all I can say is I think it means the same thing. He's got to have been actually domiciled in that district for the year preceding his qualification.

Mr. Flory Judge Tate, do I understand you to say that if we adopt Amendment No. 60, this will clarify the hiatus between (C) and (D), when we say that "a member of the legislature shall be elected for a four year term" and I know we were talking about the original election, but then we get into (D) in the "election to fill an unexpired term because of death or vacancy for other purposes." But, you think Amendment No. 60 will clarify the (C) and (D)?

Mr. Tate No, Mr. Flory, the committee felt there's no ambiguity because it says "...vacancies will be filled for the remainder of the term" meaning for the remainder of the four year term, and that is the way it's been construed under the present constitution. The Amendment No. 60 deals with the fact that some members of the committee thought there might be a problem because it doesn't spell out that it's an election by the people, and that's what Amendment No. 60 is about.

Mr. Flory Well, then my question then to you is: that if a member is elected to the legislature... a member of the legislature is elected, his term of office under (C) would be four years.

Mr. Tate Yes, sir.

Mr. Flory All right. But, I'm asking you again, is...would 60 clarify it if he's...the Amendment No. 60 would clarify the situation regarding the number of years of the term even though it may be for an unexpired period?

Mr. Tate We thought, Mr. Flory, and as it passed the House, it uses a thing, the remainder of the term refers to the remainder of the four year term for the seat that's vacant. It did pass the floor that way, and we didn't think there was an ambiguity in that respect, sir.

Point of Information

Mr. Burns Mr. Chairman, I just wanted to ask a question: Would it be possible as we go along that the Clerk or Judge Tate would call the convention's attention to any substantial change? It might save a lot of time and make it easier to follow.

Mr. Henry I believe that's...you're going to do that, are you not, Judge Tate?
All right, sir. Thank you.

Mr. Tate Mr. Chairman, there are only about four or five instances where we were worried, and I will call your attention when we get to them--all of those come back on yellow amendments later.

[Amendments Nos. 8, 9, 10, 11 adopted without objection.]

Amendments Nos. 12, 13, 14

Mr. Poynter All right, next would come Amendments Nos. 12, 13, and 14, respectively, all dealing with Section 5, dealing with Legislative Reapportionment.

[Amendments Nos. 12, 13, 14 adopted without objection.]

Amendments Nos. 15, 16, 17

Mr. Poynter Next set of amendments would constitute Amendments Nos. 15, 16, and 17, dealing with the amendments to Section 6, dealing with judging qualification elections, procedural rules, discipline, and the like.

Questions

Mr. Goldman Judge Tate, in Section 6 (B) which has to do with subpoena power, is there a limitation since it reads "the production of books and papers"? Is that a limitation on just books and papers, or would they be able to subpoena other materials such as tapes, and other materials that are not described or defined as books and papers that might be pertinent to an investigation?

Mr. Tate Mr. Goldman, of course...by the way, in delayed response to Mr. Burns, so far as we know, there are no substantive changes on the green amendments. The House passed it "books and papers". In retrospect...in Watergate retrospect, perhaps, we should have called it to the attention of the convention.

Mr. Goldman Even before Watergate, I remember a dentist in Shreveport that had a lot of...there was a lot of controversy over tapes a few years ago...with our own legislature.

Mr. Tate Just shooting from the hip now, really shooting from the hip, I think that "books and papers" probably means "all records," but I just don't know, frankly.

[Amendments Nos. 15, 16, 17 adopted without objection.]

Amendment No. 18

Mr. Poynter Next amendment stands by itself. Amendment No. 18 affecting style and drafting of Section 7.

[Amendment No. 18 adopted without objection.]

Amendment No. 19

Mr. Poynter Also, Amendment No. 19 stands alone, affecting the reorganization of Section 8.

[Amendment No. 19 adopted without objection.]

Amendments Nos. 20, 21, 22

Mr. Poynter Next group of amendments are Amendments Nos. 20, 21, and 22, respectively, dealing with the three paragraphs of Section 9.

[Amendments Nos. 20, 21, 22 adopted without objection.]

Amendment No. 23

Mr. Poynter Next Amendment would be Amendment No. 23, which stands alone, dealing with Section 10, Mr. Chairman.

[Amendment No. 23 adopted without objection.]

Amendment No. 24

Mr. Poynter Next amendment would be Amendment No. 24 which deals with Section 11.

[Amendment No. 24 adopted without objection.]

Amendment No. 25

Mr. Poynter Next amendment is Amendment No. 25 affecting the redrafting of Section 13. Stands alone.

[Amendment No. 25 adopted without objection.]

Amendments Nos. 26, 27, 28

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Mr. Poynter All right, next amendment or group of amendments would be Amendments Nos. 26, 27, and 28, which as a group affect the three paragraphs of Section 14.

Question

Mr. Dennerly Justice Tate, is there any reason for using plural in Sections (A) and (B) about "the state, its agencies, and political subdivisions" and in (C) "for suits against the state... a state agency, or a political subdivision," etc.?

Mr. Tate We slipped. There's no reason...we slipped. I'm sorry. Maybe, we might be able to catch it on the final go-round on the thing.

Point of Information

Mr. Perez I just wanted to raise a question: The Judge says we may be able to catch it on the final go-round. It was my understanding that this is the final go-round, and I just wanted to raise that as a point of information.

Mr. Tate This is the final go-round. This is really the final go-round for Executive, but we will have to come back when all of the things are through, as I understand it, and report back to you with the connection...with perhaps--just for example today, what we had...that little dispute whether the attorney general and the Department of Justice is in the Executive or the Judicial Department--we may have to come back under another rule when all of the proposals are through and cut through a final version.

Mr. Henry Judge Tate, this is it, really, except for final organization of the entire document, as I appreciate it, under the rules.

Personal Privilege

Mr. Perez Well, Mr. Chairman...if there's something wrong, I don't believe we ought to adopt... knowingly adopt something which is not grammatically correct. I would suggest that we might pass over this amendment now and find a way to correct it a little bit later. But, if there is something wrong, I don't believe that we should knowingly adopt a provision which is not correct.

Mr. Henry You want to then...your motion will be to temporarily pass over section or Amendments Nos. 26, and 27.

Mr. Perez Yes. If there's agreement by Judge Tate that it's not grammatically correct,...I really haven't checked it, but I just want to be sure that when we proceed we know what we're doing.

Mr. Tate Now, Mr. Chairman, there is no...it's grammatically correct. It's not following the rule of the singular that we've generally followed. There's nothing exactly wrong with one place in the thing not following the rule of the singular, and that's all we're talking about.

Mr. Henry There's nothing wrong with passing over it.

Point of Information

Ms. Zervigon Mr. Chairman, could he withdraw that amendment, make the changes, and resubmit it without permission?

Mr. Henry Since it was in the form of a committee report, I think there's a way to accomplish it. But, I think Mr. Perez's motion to pass over it would allow us to go ahead and rectify the change that needs to be made, although I can't tell you the mechanics right yet, but I'm sure there's a way to do it.

Mr. Tate Mr. Chairman, my mind has been refreshed

on this thing. It was not...it's not an inadvertent departure from the rule of the singular. In an attempt to use the singular, it got more clumsy to state the thing, and so our rules are not iron-bound rules; they're stylistic guides, and it was a considered departure from the consistent rule of the singular we usually use. I'm sorry, Mr. Dennerly, for confusing the matter. I thought I would end the discussion; instead, I created more. I'm sorry.

Mr. Henry All right. So, what you're saying is that it's done the way your committee intended to do it, Judge Tate?

Mr. Tate Yes, sir.

Mr. Perez Inasmuch as we're trying to move rapidly--and I don't want to hold anything up, but on the other hand, there seemed to be a question on Mr. Dennerly's part, and some others--with respect to it I would like to suggest that we do temporarily pass over it. If the delegates are satisfied later, then we can come back and adopt it. So, I insist on my motion.

[Motion to pass over Amendments Nos. 26, 27, 28 adopted without objection.]

Amendment No. 29

Mr. Poynter The next amendment is Amendment No. 29 which affects Section 15. Stands by itself.

[Amendment No. 29 adopted without objection.]

Amendment No. 30

Mr. Poynter Next amendment stands by itself. Amendment No. 30 affecting Section 16.

[Amendment No. 30 adopted without objection.]

Amendments Nos. 31-37

Mr. Poynter Next set of amendments constitute Amendments Nos. 31, through 37, respectively, all affecting Section 17, Paragraph (A).

Motion

Mr. Perez Mr. Chairman, I was the author of an amendment which would make it clear that both bills intended to have the effect of law and constitutional amendments had to be introduced during a session of the legislature. Unfortunately, it appears that with respect to the joint resolutions introduced during a session of the legislature would not have to be introduced during a session of the legislature under the committee proposals. Therefore, I would move that we suspend the rules in order to take from the table Section 17 for the sole purpose of considering the amendment which I would offer in order to straighten this matter out.

Mr. Henry Let me just sort of rephrase your motion for you.

The gentleman now moves to call for a suspension of the rules for the purpose of calling from the table the motion to reconsider the vote by which Section 17 was adopted for the sole purpose of considering the amendment that has just been passed out.

Judge Tate, you don't object, do you?

Mr. Tate No, Mr. Chairman, we don't object. In view of the committee, we didn't need this change, but I think it does...would solve...adding these three words--if they'll solve Mr. Perez's doubts--I personally have no objection, although this will be a terrible precedence if we do much of this.

Point of Information

Mr. Abraham If I understand Mr. Perez's amendment, it does the same thing as what we approved in the committee report, and what Style and Drafting has done has left out some of these words. So, we don't have to call anything from the table, do we?

Mr. Henry Yes, we do, because what we're doing is effectively reopening this...and it appears to be necessary at this particular point, Mr. Abraham. We're limiting it, we're tying it down to that purpose.

I don't believe...Judge Tate, your committee... you have no objection to this?

[Motion to suspend the rules to reconsider the vote by which Section 17 was passed adopted without objection.]

Reconsideration

Amendment

Mr. Poynter Technically, now we are on...if you have your first enrollment of the bill, we're on Section 17, dealing with passage of bills, and Mr. Perez at this time sends up floor amendments which read as follows:

Amendment No. 1. On page 7, delete lines 19 through 29, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 17. (A) Introduction; Title; Single Object; Public Meetings. The legislature shall enact no law except by a bill introduced during that session, and propose no constitutional amendment except by a joint resolution introduced during that session, which shall be processed as a bill."

I think the rest of it is the same, isn't it, Mr. Perez?

"Every bill, except the general appropriation bill and bills for the enactment, rearrangement, codification, or revision of a system of laws, shall be confined to one object. Every bill shall contain a brief title indicative of its object. Action on any matter intended to have the effect of law shall be taken only in open, public meeting."

Explanation

Mr. Perez Mr. Chairman, and ladies and gentlemen of the convention, you might have recalled that because of the fact that we said that the legislature was a continuing body, that it was necessary to have language which would provide that a bill be introduced in every session of the legislature--both a bill and also a joint resolution which would have the...which would become a constitutional amendment. Now, when the Committee on Style and Drafting redrafted or reprepared the provision, they did take care of the first part by saying "a legislature shall enact no law except by a bill introduced during that session." But, in the second portion where they say "and propose no constitutional amendment except by a joint resolution which shall be processed as a bill," it does not make it clear that the bill...that this joint resolution would also have to be introduced during that session. Of course, that is what we adopted, and I believe it's necessary to make it clear that no constitutional amendment could be proposed except by a joint resolution introduced during that session. It's exactly what we adopted by the convention earlier.

Questions

Ms. Zervigon The way you have drawn your amendment in the 1, 2, 3, 4, 5th line, it's not clear to me that it isn't the session that doesn't have to be processed as a bill. Would you agree to withdraw your amendment, put a period "." there, and then insert the phrase "a joint resolution shall be processed as a bill." Would that be clearer?

Mr. Perez Well, I still...I missed a couple of the words you said Ms. Zervigon, and again, I'll read to you--and it seems to be clear to me--"the legislature shall enact no law except by a bill introduced during that session, and propose no constitutional amendment except by a joint resolution introduced during that session which shall be processed as a bill." I don't quite understand what you mean.

Well, my main purpose...I can understand now, Ms. Zervigon's suggestion, and I think it's possibly something else that Style and Drafting might have been able to do, but I wanted to be sure that we included that the resolutions intending to be introduced as constitutional amendments be introduced also during the session of the legislature, which is exactly what...

Mr. Pugh Is there any reason why the word "an" does not appear between the words "in" and "open" on the last line?

Mr. Perez I had...I did not even look at the last part of this. This was Style and Drafting's business and the only thing that I was...my only objective in this particular amendment was to take care of the words "introduced during that session" to make it clear that constitutional amendments had to be introduced during a session of the legislature. I did not attempt to correct any other verbiage of the Style and Drafting Committee.

Mr. Flory Mr. Perez, isn't it really mandatory that you put that in there in light of the fact that we took...by amendments, we've already adopted from Section 1 (B), we deleted the word "automatically withdrawn from its files" and which was the intent. Under the rules, as I appreciate them, in the House and Senate, when a Senate bill gets to the House, you don't withdraw them, it's indefinitely postponed and vice versa. So, you really need what you're putting in here to clarify it that the bill has to be introduced in that session before it can be acted upon.

Mr. Perez It's not only what's needed, but it's exactly what was adopted by this convention almost unanimously.

Point of Order

Mr. Abraham I think my question is more to the Chair. Would I be in order to move that we pass over this section in order for Mr. Perez and Style and Drafting can straighten this thing out, and then we can move on to other things?

Mr. Henry We're sort of in a bad situation to pass over it right now.

Point of Information

Mr. Juneau You're going to take a recess because I can just ask you up there?
Are we in recess now?

Mr. Henry No, we're not in recess.

Questions

Mr. Juneau Chalin, maybe I don't understand either proposal. The only concern I would have in the changes we are making, would it any way affect, if we were to have a process whereby a constitutional amendment to be put on the ballot would have to go to two separate sessions of the legislature before it got on the ballot, what would this do to that?

Mr. Perez Well, all I can say to you, again, I'm not...I don't think we ought to get into the merits of that because all I'm trying to do is to put back into this proposal exactly that which the convention previously adopted.

Mr. Tate Mr. Perez, do you know...that we had the Style and Drafting staff and Vice-Chairman go

over the amendment, and it is in accord with our rules? Some people would say you need another comma; I personally think it's...all right as it is. Do you know that I have no objection to it... if that...is that how you say it?

Mr. Perez Thank you, Judge.

Mr. Juneau I don't want to be too insistent about this, but we just finished saying--we're talking about finality. The concern that I have: I know there is a delegate proposal--it's not mine, but I just say it; it's Mr. Bergeron's--which relates to the specific problem I was talking about: that is, with regard to constitutional amendment. I just want to...trying to clarify it. Chalin, for either proposal. What does this language do to the kind of proposal which would say that a constitutional amendment would have to go through two separate sessions of the legislature?

Mr. Perez The only thing I can tell you is that I'm not trying to make any change. What we've adopted, we've adopted. Now, if the convention later adopts something else, it will be up to the convention at that time to straighten it out, but all I'm trying...

Mr. Henry Mr. Perez, let...what he's concerned with, I believe, is somebody, somewhere along the way, is going to recommend that before a constitutional amendment can be put on the ballot that it has to pass through successfully two sessions of the legislature, as I appreciate it. This proposal would have nothing to do with that because Joint Resolution No. 33 that passes the '74 session would come up as Joint Resolution No. 48 next year, so it wouldn't...this wouldn't affect that at all, has nothing to do with it.

Point of Information

Mr. Avant I want to ask a question of the Chair because I'm beginning to get a little confused when people start talking about the final go-around and all that business. We still have parts of this constitution, or proposed constitution, that we haven't considered. Now, in the event that later on we should adopt something that says black is red, when we've already said black is green, it seems to me that there's got to be a procedure for straightening that out. I think that was the point Mr. Juneau was trying to raise. So, I would like to know at this time: we do have a procedure to straighten out any inconsistencies that may develop between what we have adopted and what we may adopt in the future, don't we?

Mr. Henry Well, we can do just like we've done on this amendment. We can come in here, and assuming that on most days we're all reasonable and rational people, we can do just as we've done. We've already had the final go-around, for all practical purposes as you are aware, on Section 17 of this proposal. But, apparently there was some mistake, some error, that we...that somebody thought should be rectified, and so we suspended the rules to raise that from the dead. So, that, I think, is what you're looking for.

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 86-1. Motion to reconsider tabled.]

Point of Information

Mr. Nunez Mr. Chairman, it may or may not be important, but just for the record, are these record votes?

Mr. Henry The vote we just took was a record vote; but these other votes, we've been doing them by, you know, if there's no objection, we adopt them. So, there's no...but, you know, if we lost a quorum or something like that, it'd get sort of

ticklish.

Point of Information

Mrs. Zervigon Mr. Chairman, in line with my other question, does this section now go to Style and Drafting?

Mr. Henry No, ma'am.

Mrs. Zervigon Why is that?

Mr. Henry Because the rules don't provide it. Now, Mrs. Zervigon, there again, assuming we're reasonable people, I'm certain Judge Tate and his group will look at it, and if there's a material defect--again, there's got to be some sort of an unfinal finality in this, and if there are any problems, I'm sure that folks like you and Mr. Casey will help us resolve them. So, we just sort of have to play it by ear.

Mr. Poynter No, Mr. Chairman, we hadn't...I think Judge Tate is going to probably either need to move to either withdraw or defeat, as the case may be, Amendment No. 31.

[Amendment No. 31 withdrawn without objection. Amendments Nos. 32 through 36 adopted without objection.]

Amendment No. 36

Mr. Poynter Amendment No. 36 sent up dealing with (F): Concurrence in Amendments.

Questions

Mr. Asseff I'm on the Committee on Style and Drafting, Mr. Chairman. I am delighted at the great confidence shown in us. However, I am wondering, sir, in view of the fact of the pre-annuity of what we are doing, whether we should move as fast as we are? I have no objections. It is a unanimous report. I just simply raise the question, Mr. Chairman. Now, if they are happy, I am too, sir.

Mr. Henry Well, it appears...

Mr. Asseff I'm just worried, Mr. Chairman; that's all.

Mr. Henry Well, there again, Judge Tate--I mean, Dr. Asseff--these were passed out for the delegates to read; and whether they read them or not, I'm not certain. Again, we're not reconsidering votes and lying...laying the motions to reconsider on the table. So, I think if we make any drastic mistakes, we're going to be able to come back and correct them.

Mr. Asseff Mr. Chairman, I join the committee in the unanimous report. I'm not that...I simply said it, sir, for the record.

Mr. Henry I understand; I understand, sir. I guess it's just evidence that this convention has a great deal of faith in that committee, obviously, and which I think is a compliment.

[Amendment No. 36 adopted without objection.]

Amendment No. 37

Mr. Poynter The next amendment would be Amendment No. 37, dealing with Paragraph (G): a Majority Vote; Record Vote.

[Amendment No. 37 adopted without objection.]

Amendment No. 38

Mr. Poynter Amendment No. 38 which goes to Para-

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graph (A) of Section 18.

[Amendment No. 38 adopted without objection.]

Amendment No. 39

Mr. Poynter Amendment No. 39 dealing with (B) of Section 18.

[Amendment No. 39 adopted without objection.]

Amendment No. 40

Mr. Poynter Amendment No. 40 dealing with Paragraph (C) of Section 18: General Appropriation Bill; Limitations.

[Amendment No. 40 adopted without objection.]

Amendment No. 41

Mr. Poynter Amendment No. 41--42, excuse me--deals with Paragraph (D) of Section 18: Specific Purpose and Amount.

[Amendment No. 41 adopted without objection.]

Amendment No. 42

Mr. Poynter The next amendment is Amendment No. 42 dealing with the same Section 18: Extraordinary Sessions, Paragraph (E).

Question

Mr. Dennergy Are there any members of either house who are not elected, Justice Tate? In accordance with your rule about omitting needless words, why do you need "elected members of each house"?

Mr. Tate Because it means total membership. They wanted to be sure that it meant three-fourths of the total membership instead of three-fourths of those present that day.

[Amendment No. 42 adopted without objection.]

Amendment No. 43

Mr. Poynter Amendment No. 43 deals with Section 19, Paragraph (A): Signing and Delivery of Bills.

Questions

Mr. Dennergy No, I just have a question. You say that it should be signed by the presiding officers. Now, I believe, previously, you said that the Senate had to elect a permanent presiding officer. Is that correct? I forget what section it is.

Mr. Tate Mr. Dennergy, we took the language as it passed the floor about the presiding officers and assumed that that's what it meant.

Mr. Dennergy In other words, it must be the permanent presiding officer of the Senate?

Mr. Tate We assume that that's what it meant when it said...when the convention floor passed it.

[Amendment No. 43 adopted without objection.]

Amendment No. 44

Mr. Poynter The next amendment is Amendment No. 44 dealing with Paragraph (B) of Section 19: Resolutions.

[Amendment No. 44 adopted without objection.]

[2514]

Amendment No. 45

Mr. Poynter The next amendment is Amendment No. 45 which deals with Paragraph (A) of Section 20: gubernatorial Action.

[Amendment No. 45 adopted without objection.]

Amendment No. 46

Mr. Poynter The next amendment is Amendment No. 46 dealing with Paragraph (B) of Section 20: dealing with the veto.

Explanation

Mr. Tate Mr. Chairman, on this section as you have it here, we stylized it in accord with the language of...as it passed the floor. As you will see, there--when we get to Amendment No. 56--we raised a possible ambiguity, and we'll suggest it to your consideration at that time, in the event you agree with us that it's ambiguous. But, Amendment No. 46 is a stylized version in accordance with the manual on drafting of what passed the floor. But, I want to alert you that when we do come to Amendment No. 56, we'll point out a possible ambiguity in this section.

Question

Mr. Perez Do I understand, Judge Tate, that we're going to have two versions to decide upon? Is that correct?

Mr. Tate Yes, sir. This is...this version is as it passed the convention floor, stylized. When we get to 56, you will have...we will report to you what both committees thought was an ambiguity and how it should be clarified. The committee...the convention will either stay with 46 or adopt 56.

Motion

Mr. Perez Well, then I'd move that we pass over this amendment at this time, and then consider the two at the same time. We'll decide on which one we want at that time.

Mr. Henry You want to...let me ask you this, Mr. Perez: do you want to pass over it or do you want to move to...well, I guess that would be better.

Mr. Perez I'd move that we pass over it at this time, and let's wait and get to the controversial things later.

Mr. Tate May I ask...Mr. Chairman, may I ask Mr. Perez...may I say something to Mr. Perez and ask him to ask me a question?

Mr. Henry Proceed.

Mr. Tate For the purposes of the floor consideration, we had prepared Amendment No. 56 to replace Amendment No. 46. Do you not think that it would be just as convenient to adopt this stylized version now, and then either stay with it or not when we get to 56?

Mr. Perez If the Chair rules that that's appropriate and proper procedure, I'd have no objection.

Mr. Henry I think we could do it that way because it would be...it's always the last amendment which is adopted. So, it wouldn't cause any harm, Mr. Perez.

[Motion withdrawn. Amendment No. 46 adopted without objection.]

Amendment No. 47

Mr. Poynter Amendment No. 47 which deals with Paragraph (C): Veto Sessions.

Question

Mr. Dennery Judge Tate, I know you and I disagree sometimes on the meaning of a split infinitive, and I will not raise the question; but do you not find split infinitives throughout these amendments?

Mr. Tate You and I disagree on what an infinitive means, and you looked in the dictionary and you showed me I was wrong. But, anyway, I always thought that splitting the infinitive that people don't like is: "to infinitely go" or "to immediately do." I never thought "has immediately done" violated the rule against split infinitives. But, anyway, we'll be consistently splitting that latter type of infinitives.

[Amendment No. 47 adopted without objection.]

Amendment No. 48

Mr. Poynter The next amendment is Amendment No. 48 dealing with Section 22 in its entirety.

Explanation

Mr. Tate Mr. Chairman, this is, again, an amendment on which both committees found some ambiguity which we will, in Amendment No. 59, ask you to clarify it. The amendment before you, however, incorporates the concept as it passed the floor and is restyled in accordance with the rules of drafting.

Question

Mr. Singletary Judge Tate, I noticed that you didn't put a brief title.

Mr. Tate May I apologize to the sister and brother delegates? I'm confused, as usual. It's in another section.

Mr. Henry Well, would you tell us why you are apologizing, Judge Tate?

Mr. Tate Because I'm confused.
All right, to answer the questions that have been raised, the reason we have no subtitle on this one is that we didn't delete Section 19 in the first enrollment, so the title is still there, Mr. Singletary.

[Amendment No. 48 adopted without objection.]

Amendment No. 49

Mr. Poynter The next amendment is Amendment No. 49 deals with Section 23.

[Amendment No. 49 adopted without objection.]

Amendment No. 50

Mr. Poynter The next amendment is Amendment No. 50 which deals with Section 24, Paragraph (A): Persons Liable.

Question

Mr. Perez I question whether or not the language as adopted is not better than the suggested changes by Style and Drafting. I'm not sure what that last clause modifies, "during his term of office."

Mr. Tate The...this, if I may comment, Mr. Chairman...

Mr. Chairman, as soon as this passed the floor, the author of it--whoever...who was the author of it--several people came and pointed out and someone, in fact, asked on the floor if they could not change where that "during the term of office"...

"During the term of office" had to refer not only to gross misconduct, but also for conviction of a felony or malfeasance during the term of office. It was suggested to us to clarify it, to remove the "during the term of office" to refer to

"commission or conviction, during the term of office, of a felony, malfeasance, or for gross misconduct" because, otherwise, it was liable impeachment for commission or conviction of a felony, malfeasance, which could have meant at any time. You know, one of us that did something bad years ago could be impeached, you see, and only for gross misconduct during his term of office. So, this was a floor amendment--I mean, this was brought out during the debate, and suggestions were made at the very time it was passed. They said, "Well, leave it to Style and Drafting," and that's why we did what we did.

Mr. Avant Judge Tate, I'm no grammarian, but when you...I read the first one, and then I read the committee suggested amendment and--of course, I'm on the committee so maybe I went to sleep or something --but it looks to me like the gross misconduct "during his term of office"...I'm kind of disturbed about the point Mr. Perez raised: what the phrase "during his term of office" modifies. It looks to me like it modifies only "commission or conviction of a felony during his term of office," and the malfeasance or gross misconduct could have happened any time. I mean...

Mr. Tate The point is halfway well taken.

Mr. Henry Why don't we pass over this one, Judge?

Mr. Poynter Well, in that light, Mr. Chairman, do you want to pass over 51 too, which is Paragraph (B) of that same section?

Mr. Henry I think that was included in the motion, there--50 and 51.

[Motion to pass over Amendments Nos. 50, 51 adopted without objection.]

Amendment No. 52

Mr. Poynter Amendment No. 52. On page 11, delete lines 19 through 24, both inclusive in their entirety. It deals with removal by suit; officials subject thereto.

[Amendment No. 52 adopted without objection.]

Amendment No. 53

Mr. Poynter The next amendment is Amendment No. 53 dealing with Section 26.

[Amendment No. 53 adopted without objection.]

Amendment No. 54

Mr. Poynter The next, 54, deals with Section 27, Paragraph (A), Mr. Chairman--Amendment No. 54.

[Amendment No. 54 adopted without objection.]

Amendment No. 55

Mr. Poynter Amendment No. 55 deals with Paragraph (B) of the same section.

Explanation

Mr. Tate Mr. Chairman, I'm not used to talking in a microphone.

Mr. Henry You'd never know it, Judge.

Mr. Tate But, again on 54 and 55, which we just passed, you will see in the yellow amendments we have a...we have something to correct a floor mistake that we want to bring to your attention.

[Amendment No. 55 adopted without objection.]

Mr. Poynter Mr. Chairman, the next five amendments, now, are the five amendments which bear

committee notes or committee caveats, if you will. At your pleasure and the convention's pleasure we also have...we passed over, now, three, I believe, or at least two sections we've passed over. I don't know if they are ready or not. I have two or three other amendments up here by Mr. Tobias which go back to prior material.

Recess

[Quorum Call: 81 delegates present and a quorum.]

Amendment No. 56

Mr. Poynter Next amendment is Amendment No. 56 which goes back...affecting the veto provision--Paragraph (B) thereof.

Explanation

Mr. Tate Mr. Chairman, as it passed the floor, and as it was stylized, the third sentence of this article reads: "If the legislature adjourns before he--meaning the governor--vetoes or returns one or more bills, he shall return them with his veto message as provided by law."

The committee...some members of the committee felt that this might mean that if the legislature...adjourned before he had vetoed even one bill, then he should return all of them, or something, with his veto message as provided by law. To make it clear that the intent of the convention body was that if...is the following, we recommended this change:

"If the governor returns or vetoes a bill after the legislature adjourns, he shall return it, with his veto message, as provided by law." In other words, some members felt that was an ambiguity that should be--possible be clarified by the House. We...other members just think it's a stylistic amendment. But, in the excess of caution, we present it to you separately.

Mr. Chairman, I'm open to questions. If there are no questions, I...whatever I'm supposed to do. I move for its favorable adoption.

[Amendment No. 56 adopted without objection. Motion to pass over Amendment No. 57 adopted without objection.]

Amendments Nos. 58 and 59

Mr. Poynter Next amendment is Amendment No. 58, dealing with Section 27, Paragraph (A). I guess, almost, that's got to be considered in globo with 59, which is (B). Doesn't it all go together, Judge Tate?...58 and 59 really go together as a team to...on the problem raised by the original Drew amendment. Isn't that correct?

Explanation

Mr. Tate Mr. Chairman, in connection with that, my yellow sheet just disappeared with the official extract of the...debates of the day. But what...here is what happened.

You see before you in the green sheets...what? On the green sheets we stylized 27 (A) and (B) as the Official Journal of the convention reflected. However, it was discovered that Mr. Drew had two amendments that day. Through mechanical error, the first enrollment reflects an amendment he did not present; but the yellow sheet you have here in Amendments 58 and 59 reflects the actual amendment he did present. We took the...we have an extract of the verbatim transcript of the proceedings of August 1, 1973, and it shows the following: the Clerk reads the amendment--he reads the amendment that you see now in the green sheets in the first enrolled copy. Then, Mr. Drew says, "Mr. Clerk, we are confused again on amendments. The amendment that I am offering this time reads..." Then he reads to the Clerk the exact amendment that's on your yellow...yellow copy as true...

Section 27 (A) and (B), instead of the 27 (A)

and (B) as stylized and as reflected by the Journal. There is no question of this...that's a transcript, that's a recollection of the desk and it's recollection of everybody. It was thought that the quickest...most quickest, convenient way to clarify this inadvertent error and slight changes in language, was to report to you these amendments of 27 (A) and (B) to reflect the true amendment that passed...that did pass the house. I have here the transcript if anybody wants to look at it.

Questions

Mr. Pugh Justice Tate, what benefit does the Style and Drafting Committee think the phrase, "and other officials elected statewide" adds to it? What does that do for it?

It says, "The members of the legislature shall take office on the same day as the governor." What does "and other officials elected statewide" do for it?

Mr. Tate Mr. Pugh, we were, in this instance, in the peculiar position of having to recommend to you something that the Journal did not show you had passed. We did not wish to complicate it further by stylizing section...stylizing it further, as I understand our position on the thing.

Incidentally, in the final rearrangement--that's the only thing that's left--this would be moved up to Section 2. But, we wouldn't do that tonight. We'd do it at a later date.

Mr. Pugh What...would the committee be able to remove that language? Can we do that?

Mr. Tate We...need an amendment now, Mr. Pugh. I don't think we should...if you wouldn't mind. There's a lot of merit in what you say, but let's...I'm inclined to say let's take it as it left the floor. It's not very bad.

[Amendments Nos. 58, 59 adopted without objection.]

Mr. Henry All right. Now, Mr. Tobias has got an amendment that's going to have to be treated, if we treat it at all, like we did the Perez amendment. I don't know the purpose of it. So, Mr. Clerk, you or Judge Tate or Mr. Tobias better...sort of lay the ground work so that we can decide what we want to do.

Amendment No. 60

Mr. Tobias Mr. Chairman, fellow delegates, the amendment that I am talking about is the one that reads, on page 3, deletes lines 29 through 31.

Amendment No. 60 of the Style and Drafting Committee--there are two small errors in that amendment. There should not be a comma at the end of the second line; there should not be a comma after the word "district" in the third line. In other words, all that my amendment does is, in effect, delete those two commas.

Mr. Henry These are just super technical amendments? Is that correct, Mr. Tobias?

Mr. Tobias That is correct.

Mr. Henry All right. Judge Tate.

Explanation

Mr. Tate I should report, though, first on the merits...the merits of the thing was, some members...this section 4 (D) provides that a vacancy in the legislature shall be filled for the remainder of the term only by election as provided by law.

Some members of the committee felt that we should specify that it's only by election by the electors--by the people. Other members were not sure that it was necessary. But we...because of the concern of some members of both committees, we present that to you. We're not...some of us are

not sure it's necessary. But, if it's necessary, I guess Mr. Tobias' amendment without commas is...

[Amendment No. 60 adopted without objection. Motion to suspend the rules to reconsider the vote by which Section 4 of Committee Proposal No. 3 was adopted for consideration of Amendment No. 60 only.]

Reconsideration

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Tobias]. On page 3, delete lines 29 through 31, both inclusive in their entirety. Mr. Tobias, just in an abundance of saying a lot of words--maybe we don't need to again--but I'd like to say, and delete Committee Amendment No. 60.

Mr. Henry. All right. Now, all this does is eliminate those two commas in Committee Amendment No. 60. Is that right, Mr. Tobias?

Mr. Tobias That is correct.

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 78-0. Motion to reconsider tabled.]

Point of Information

Mr. Guarisco Mr. Chairman, I think maybe some time could be served, possibly, if we could...I move that we recommit these amendments to the Committee on Style and Drafting so that these changes can be made, rather than doing them on the floor.

Mr. Henry Mr. Guarisco, that's what I'm talking to Mr. Poynter about here, now. We...apparently there have been some grammatical errors, or some...errors of punctuation made that there are about four amendments here to correct. Now, I don't think--and then I'm exercising my prerogative--I don't think it's very wise for us to continue to do this by separate amendments as we are. I think it would be appropriate for us, now, to recommit the proposal to the Committee on Style and Drafting. I don't think it'll take but just about fifteen minutes of you all meeting.

Judge Tate, you might comment to that.

Mr. Tate All right, if we can get a quorum. Actually, these four little amendments--two of them are to take care of the rule of the singular that my friend, Moise Dennery, raised that I tried to sweep under the rug: one is to add two words, "prior thereto," into something; and one is to restore the floor language on gross misconduct. I don't think any of them are controversial. I think we can...either way we do it, I think we can do it right away because I don't think there is anything controversial about them...All issues have been raised.

Motion

Mr. Perez I move that we return to other orders of business, and we can, hopefully, take care of this matter tomorrow morning.

Mr. Henry Well, if...let me suggest that we do one of two things. If we can...if you all want to wrap them up, let's wrap them up, or, either, just recommit the whole thing. I hate to leave these amendments dangling like this, Mr. Perez.

Mr. Perez Are there any of these sections that we...apparently will become controversial?--Particular the Jenkins thing, I'm thinking about.

Mr. Henry I think we've resolved that. I understand that none of these are controversial. Do you think we can dispose of them in ten or fifteen

minutes?

Point of Information

Mr. Blair Just a point of information or suggestion.

I wonder if Style and Drafting couldn't meet for about three minutes? I think they are together already. All they have to do is just get their amendments together.

Mr. Henry I think I misjudged the amendments here, Senator. You've got to go through the process of recommitting it, then having a committee report. So, perhaps we'll do well to go ahead... if they are just technical little amendments, let's go ahead and see what we've got here.

[Motion withdrawn.]

Amendments

Mr. Poynter All right. The next set of amendments are the Tobias amendments that go to Section 14. There are two amendments. Now, as I'd appreciate it, these would be in lieu of what...about 26 and...26 and 27. We passed over earlier...

Mr. Henry We passed over 26, 27, and 28, if I'm not in error, Mr. Clerk.

Mr. Poynter That's correct, Mr. Chairman. This would be just for 26 and 27. Right, Mr. Tobias? In effect...so that he would move to withdraw them if these were adopted.

He sends up amendments, Mr. Chairman, and again he'd have to ask for, I guess, a suspension to do that...to reconsider Section 14 like we...

Mr. Henry Well, let him say what the purpose of it is, before we make the motion here.

Explanation

Mr. Tobias Mr. Chairman, fellow delegates, the purpose of these two amendments is to meet the objections which Delegate Dennery had to the plural words, "its agencies" or "political subdivisions." All that these amendments do--at least Amendment No. 1 does--is singularize "agency" and "subdivision". With respect to Amendment No. 2, the word that is changed, on line 3, is...we changed the word "and" to "or" to conform to Amendment No. 28 which uses the phrase "or a political subdivision" to make it consistent throughout. That was the sole intent of those two amendments.

[Motion to suspend the rules to reconsider the vote by which Section 14 of Committee Proposal No. 3 was passed.]

Point of Information

Mr. Rayburn Mr. Chairman, are these typographical errors, or is this some disagreement among committee members? I see the people that served on the committee up here with these amendments. Are they typographical errors, or...

Mr. Henry Well, the first one that we adopted a while ago, in typing it, I understand it was a staff error of putting two commas in the wrong place.

Now, this 26--Amendments 26, 27, and 28--there was some concern between Mr. Dennery and Judge Tate as to what was what...this just gets some grammatical changes made in there.

Personal Privilege

Mr. Asseff Mr. Chairman, when changes are made in the report of the committee--and I am a member of it--I am reluctant to proceed without a committee meeting. I mean, I feel that we...following your original advice, we could have settled it in a few minutes. I mean I'm in agreement with the

Senator. We are moving like this, and we are changing a committee report. We do not have the chance to look at it.

O.K. with me.

[Rules Suspended without objection.]

Reconsideration

Explanation

Mr. Tobias I think most people understand what the purpose is. It's just to singularize the words "agency", "subdivision"; in Amendment No. 2, to change the word "and" to "or".

[Amendments adopted without objection. Previous Question ordered on the Section. Section passed: 79-0. Motion to withdraw Amendments Nos. 26, 27 of the Report of the Committee on Style and Drafting adopted without objection. Amendment No. 28 previously passed over adopted without objection.]

Point of Information

Mr. Dennerly I think the Journal might be confusing. I think we have already adopted Section 14, and now we have adopted an amendment to Section 14.

Won't you have to now readopt Section 14?

Mr. Henry Well...

No, sir, because what we did on the Tobias amendments...

Mr. Dennerly Sections...that was Paragraphs (A) and (B), and you just adopted an amendment to Paragraph (C), did you not?

Mr. Henry Well...this twenty-eight is a Style and Drafting amendment, Mr. Dennerly, as opposed to the amendments offered by Mr. Tobias which were floor amendments. It makes a difference. I know it seems confusing. But, for us to comply with the rules, that's about the way we've got to do it.

Amendment

Mr. Poynter The Tobias amendment--and you may want to compare that to the green copy there--reads "Section 19 (A) Signing; Delivery.

A bill passed by both Houses shall be signed by the presiding officers and delivered to the governor within three days after passage."

Explanation

Mr. Tobias Mr. Chairman and fellow delegates, if you will look at Amendment No. 43 of the Style and Drafting Committee Proposal, you will note that there is a comma after the word "governor" in the third line. My amendment would delete the comma. It's unnecessary. It was an error. If you will look on the green copy with respect to that Section 19 (A), you will see that in the green copy there was no comma.

Mr. Henry Well, what this is is just a change in punctuation?

Mr. Tobias Correct. It just deletes a comma.

Mr. Henry That's in Section 19. Right?

Mr. Tobias Correct.

Motion

Mr. Henry Mr. Tobias now moves for a suspension of the rules for the purpose of reconsidering the vote by which Section 19 was adopted for the specific purpose of considering this floor amendment.

[Rules Suspended without objection.]

Reconsideration

Amendment

Mr. Poynter I'm making a change for clarity's sake again, like I did before.

Amendment No. 1. Page 9, delete lines 10 through 14, both inclusive in lieu entirety, and Committee Amendment No. 43 adopted by the convention on today, November 18. Insert in lieu thereof of the language.

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 81-0. Motion to reconsider tabled.]

Amendment

Mr. Poynter Judge Tate has passed out an amendment, now. That amendment is in lieu of a...or he would like for it to be in lieu of Amendment No. 57, which is one of the amendments containing a note. It's found on page 11 of the white copy--or the original amendment was--and on your yellow sheets, I guess on the second page. Was it second page, Judge Tate? Yes, the second page of your yellow distribution.

In lieu of that proposed language, Judge Tate would like for a suspension of the rules to offer the proposed amendment--the floor amendment that bears his name.

Explanation

Mr. Tate All right. Mr. Chairman, as the Section 21 passed the floor, it was through amendments by Representative Jenkins. He concurs in the final revision with which we are presenting to you. It said, "all laws shall be published in the Official Journal. The statement shall take effect on the sixtieth day...thereafter shall take effect on the sixtieth day after final adjournment." In other words, it will take effect on the sixtieth day after publication.

There were two defects in this--two serious defects. One is, for instance, if the Official Journal was on strike or ceased publication, the law wouldn't become effective, or if the publisher didn't do it.

Second is, to figure the date that it came into effect, you'd have to keep a permanent record of the State Times. The laws have come on different effect according to publication. That was not Representative Jenkins' intent. So, to reflect the true intent, and the intent of the body, we are proposing that you say "all laws shall take effect on the sixtieth day after final adjournment."--that gives you a final...a definite date--"and shall be published prior thereto...shall be published prior thereto in the Official Journal of the state as provided by law." The law, of course, could provide in the event of some emergency...in the event of some emergency, it would regulate the situation we are worried with. I understand that Mr. Jenkins has no objection to this amendment. It reflects his basic intent which is that no law shall take effect unless first published...unless in dire circumstances.

There is, of course, the exception that was on the floor--passed the floor--that says, "however, any bill may specify an earlier or later effective date." That should take care of emergency bills.

Mr. Chairman, I'm open for questions. If there are no questions, I make the...

Motion

Mr. Henry You moved for a suspension of the rules for the purpose of reconsidering the vote by which on calling from the table, the motion to reconsider the vote by which Section 21 of Committee Proposal No. 3 was adopted, Judge Tate?

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Mr. Tate That's exactly the motion.

Mr. Henry For the specific purpose of considering your amendment?
Is that right?

Mr. Tate Yes, sir. That's exactly my motion.

[Motion adopted without objection.]

Questions

Mr. De Blieux Mr. Chairman, and...I'd like to ask this question of Judge Tate. I'm a little bit concerned about the way...because I do think that this particular amendment, as he's redrafted here, makes a substantial change in the law--that is, in the original proposal as we had it--that the amendment, as I take it, that no law can become effective until after it has been published except those that provide for a different date.

Mr. Tate "...or except as provided by law." I would anticipate that you in the legislature--when you pass your statute on it--you will say, "they shall be published in the Official Journal, etc., etc.,"...say, "however, in the event the Official Journal of the state is on strike"--or something like that--I would anticipate you would provide for the emergency, Senator.

Mr. De Blieux Well, the thing is, if that's not provided in the law...now, let's take a situation. I'll give you an example. Suppose that the laws were passed, that ordinarily would become effective on, we'll say the thirtieth day of September--just using that date, the thirtieth day of September. Now, the laws are submitted to the Official Journal for publication. Somehow or another, they get down to around about the twentieth day of September, and they've got a strike, or something of that sort. Now, we could not anticipate that at the time we passed those laws. We'd just pass them ordinarily--relative. Now, if those laws are not published, they don't become effective on that particular date. That's why I think that you--that this particular amendment you have--that you are making a substantial change in what we originally published...or passed. Now, as I see it, the proposal that you originally proposed is much, much better than what this amendment is coming up with.

Mr. Tate Senator, I wish you would study...Oh, the one we originally proposed--yes. But, Representative Jenkins called to our attention that it was his intent that it shouldn't become effective until published. As it passed the floor, it says it will become effective only sixty days after it's published, which will be an impossible job in figuring the effective date of laws--criminal statutes and all that. Depending on which--Monday, Tuesday, Wednesday, you know, Friday--which week they are published in the State-Times. We were trying...in our original proposal, we did not think he meant that. We thought he just meant that laws should be eventually published. But, he...and pursuant to his request, and in view of the fact that the...it was closer to the original meaning of the floor, we...I personally agreed to sponsor the amendment that says, "it shall not take effect prior to publication as provided by law", which, I think--it's never happened before. Up to now, they have to be published within thirty days. The new constitution gives...I mean they become effective thirty days after enactment. Now, they become effective sixty days after the session. This gives more time. I think that this gives enough flexibility, Senator, to take care of Representative Jenkins' concept that was...somewhat incorporated in the floor amendment. Also, the very practical objections of it was applied literally.

Mr. De Blieux Well, I just don't think it's--I'm not going to argue the point because I just don't think it's that important. But, I just wanted to

say that I think we are making a change. I can see some time possibility there.

Mr. Tate Senator, frankly, I agree, also, with the committee thing, it reflects my concept more. However, the...as a matter of fact...Senator, Representative Jenkins said--and the literal wording does say--it shouldn't become effective until after publication, so it looks like...

Mr. Jenkins Judge Tate, let me make one correction in what you said about the thing we originally adopted.

The proposal we originally adopted said, "and thereafter shall take effect on the sixtieth day after final adjournment of the session."

Mr. Tate After publication...

Mr. Jenkins No. It doesn't say that.

Mr. Tate Well...

Mr. Jenkins It says, "on the sixtieth day after adjournment of the session." It says, "all laws shall be published in the Official Journal of the state as provided by law, and thereafter shall take effect on the sixtieth day after final adjournment of the session." So, it would have to be sixty days.

Anyway, the point that I am making is that, the original proposal by the committee did, in fact, make a substantive change which would have been prohibited. What you now have is merely a technical change clearing up any ambiguities, and thus retains the same intent and effect as the original for all purposes.

Mr. Tate Thanks, Mr. Jenkins. I accept your suggestion.

Mr. Willis Mr. Justice Tate, don't you think that the...an explanation of the distinction between promulgation and publishing would be edifying to understand what you are driving at?

Mr. Tate Yes. Would you ask it in the form of a question because...

Mr. Willis Well, let me ask you this question. Isn't it a fact that the secretary of state promulgates the laws?--and that you are talking about publishing in the State-Times, and that there is a distinction between the two?

Mr. Tate Yes, sir. That's exactly right.

Mr. Willis The promulgation required is that which the secretary of state does?

Mr. Tate The...

Mr. Pugh Judge, I appreciate the distinction as indicated by Delegate Willis. If we eliminated the words "prior thereto," do you not think that all of the problems would be resolved?

Mr. Tate Mr. Pugh, that was our original amendment. But, Mr. Jenkins pointed out--and I think, correctly--that that would be a substantive change. We thought that it was not a substantive change, or at least it was so ambiguous that it deserved the attention of the floor. But, I am more than willing, myself, to say that the amendment with the words, "prior thereto," more nearly reflects the intention of the floor than what our committee did--although I think what our committee did, and what the legislative committee did--was better. But, I think Mr. Jenkins' amendment--the amendment that I'm proposing now--with "prior thereto" is more stylistically...more stylistic and less substantive and I'm willing to go with it.

Mr. Pugh But, to get down to the law, to strike "prior thereto," then there can never be a question about the validity of the law in Louisiana. Whether

or not it's ever printed, it's a valid law.

Mr. Tate Mr. Pugh, I agree with you that's what it ought to be. But it seems to me that the convention, whether it...whether after full deliberation or not, did accept the idea that it wouldn't become effective unless it was published--until after it was published. However, with the amendment "prior thereto as provided by law," I think we've given some flexibility to the thing so that we can live with it.

Mrs. Zervigon Mr. Tate, from what I understand of your comments, what you are trying to do is avoid the case in which the publisher sets the effective date of the law by grinding his wheels to a halt.

Mr. Tate Right.

Mrs. Zervigon You say, "shall be published prior thereto." What is the "prior thereto" referring to?

Mr. Tate The sixtieth day.

Mrs. Zervigon It's referring to the sixtieth day. It is not referring to the taking of effect of a law?

Mr. Tate Both.

Mrs. Zervigon Then the publisher can still set the effective date.

Mr. Tate No, no...well, as provided by law...

Mrs. Zervigon Well, it seems to me that the "as provided by law" means on yellow paper, in five columns, let by public bid, but that you can't make an exception to this "prior thereto" because that's a constitutional deal by statute.

Mr. Tate Mrs. Zervigon, in a minute I'll let Mr. Flory bail me out. Mrs. Zervigon, I...personally, if I were able to vote over again, I would leave out "prior thereto", but I do think that if you read what passed the floor, it said it won't take effect until after publication. Whether that's wise or not, we did not...I'm willing to accept Representative Jenkins' suggestion that we may have exceeded what we should have done when we recommended leaving that out.

Mrs. Zervigon In other words, what you are saying is while you would like to bail us out of the box of the publisher setting the effective date of laws, you see no way to do it without substantive change?

Mr. Tate Yes...although I do think that "prior by law"...if your choice is between my amendment and the floor amendment, it's even worse, because the date it becomes effective is...

Mr. Flory Judge, what we found ourselves in the position was that the convention wanted it published, but they didn't want the publisher to determine the effective date of the law. Also, what you are doing in this clarification amendment is that the law can provide for the Official Journal to be a different publisher in the event of certain extenuating circumstances is the reason it clarifies and gives the flexibility.

Mr. Tate Yes, sir. I would say it can also provide...

[Previous Question ordered. Amendment adopted: 72-8. Previous Question ordered on the Section. Section passed: 79-1. Motion to reconsider tabled.]

Amendment No. 57

Mr. Poynter Judge Tate would now, I'm sure, want

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to take up Committee Amendment No. 57 and move to withdraw it in light of the passage of this last one, Mr. Chairman--No. 57 on page...

[Amendment withdrawn.]

Mr. Poynter The last thing pending at the desk: the convention, so far, has passed over Amendments Nos. 50 and 51 that affect Section 24. Mr. Avant does have an amendment to affect the Paragraph (A) of Section 24.

Motion

Mr. Henry Mr. Avant now moves for a suspension of the rules for the purpose of reconsidering... for the purpose of calling from the table the motion to reconsider the vote by which Section 24 was adopted, for the specific purpose of considering his amendment.

[Motion adopted without objection.]

Explanation

Mr. Tate Mr. Chairman, this is the Avant amendment. It's simply to clarify the objection that Mr. Perez raised--which was a good objection. As it passed the floor, it was ambiguous where only the gross misconduct had occurred in office, or also the commission or conviction of a felony had to be in office. Mr. Avant is proposing it, this amendment, to make it clear that both the commission and conviction of a--during his term of office, has to be during the term of office--also the gross misconduct has to be during the term of office, subjecting an official to impeachment. I think that's clearly the intent; it's the intent of the floor amendment as it...the floor as it passed. It was our intent to end that ambiguity that created a new ambiguity.

Questions

Mr. Champagne In other words, he is subject to impeachment only if it occurred during his term of office.

Mr. Tate Yes, sir.

Mr. Champagne Thank you, sir.

Mr. Tate Whether it's a gross misconduct or conviction or commission, yes.

Mr. Alexander I notice you corrected that, Judge Tate. But, I'm wondering it is not clear here whether the language would infer that the offense may occur other than in connection with his office or employment.

Mr. Tate Mr...Reverend Alexander, neither was the floor amendment. In other words, if a fellow had a burglary of an opposition party's offices, it might not technically be in connection with his office but, he still might be liable if he committed or is convicted of that. It doesn't have to be...he might steal...from his client if he is a lawyer and all.

Mr. Alexander That explains it; thank you.

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 78-0. Motion to reconsider tabled. Amendment No. 50 withdrawn. Amendment No. 51 adopted without objection.]

Personal Privilege

Mr. Tate Listen, really, on behalf of the Committee on Style and Drafting, we do appreciate very much your courtesy and your study and your willingness and your suffering through this hour...these hours. Thank you so very much for your

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help.

Mr. Henry Thank you, Judge Tate.

Personal Privilege

Mr. Rayburn That in the future, that if we have some technical amendments that's really not basically changing the law, that we refer the proposal back to the committee or we either suspend the rules and not require a record vote. We have spent about eight hundred dollars here tonight doing some things, in my opinion, that maybe will just clarify the technical amendment. If it is something that changes the law or basically changes it, I think we should recommit it back. We can save quite a bit of money and quite a bit of time, in my opinion. I just offer that as a suggestion because it is my understanding that each record vote costs, to print in the Journal, fifty dollars plus.

Mr. Henry Your point is well taken, Senator. The reason...

Mr. Rayburn So, what we have done here tonight with the little technical amendments, which the committee could have straightened out; we would have come back and everything would have been lovely. Every time we had to redo a little something, we spent about fifty dollars on each record vote--it had to be published in the Journal--if my figures are correct.

Mr. Henry Your point is well taken, and your figures are not quite correct--it costs about fifteen dollars, but that's still...we spent seventy-five dollars doing that. In all fairness to the committee, I think this was the first report they were making, we were having a trial run. But, your point is well taken. We're not going to do this because there are other problems like if we open up one of these sections and it doesn't get reclosed, then we've got some very serious problems.

Personal Privilege

Mr. LeBleu Judge Tate and his remarks sounded as if this was going to be the last bout with the Committee on Styling and Drafting. I just wondered if he had planned to leave us any time soon.

Personal Privilege

Mr. De Blieux I just wanted to give Senator Rayburn the correct figures on the cost of a record vote. It's eighteen dollars, Mr. Chairman.

Mr. Henry And, the correct cost is fifteen dollars, Senator De Blieux.

Point of Information

Mr. Perez Point of information.
I would like to know what we will be considering tomorrow or what the Chair suggests that we should...

Mr. Henry We are going to take up first of all, Delegate Proposal No. 23 tomorrow--balanced budget, after we get through with that, Delegate Proposal No. 12, which is uniform compensation for members of all state boards. We will start with those two.

Mr. Perez And what after that?

Mr. Henry Well, there is a good chance we are going to get into these provisions...the Delegate Proposal Nos. 67, 71, and 72.

[Motion to take up other orders
adopted without objection.]

Report of the Secretary
[I Journal 875]

[Adjournment to 9:00 o'clock a.m., Monday,
November 19, 1973.]

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Monday, November 19, 1973

ROLL CALL

[71 delegates present and a quorum.]

PRAYER

Mr. Burns Our heavenly Father, we pray this morning that Thou would give us wisdom, courage, and faith: Wisdom to decide what is right, courage to vote our convictions for what we know is right, faith in You that You will reward our efforts if we but act diligently and sincerely. As we approach this Thanksgiving season, we express our gratitude and thanks for all that You have done for us this past year. We ask, Father, that You would be with us this morning and speed us through our work. In Jesus name. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

PROPOSALS ON THIRD READING AND FINAL PASSAGE

[Motion to call Delegate Proposal No. 23 from its regular order adopted without objection.]

Reading of the Proposal

Mr. Poynter Delegate Proposal No. 23, introduced by Delegate Abraham.

Which is relative to appropriations by the legislature for the state budget.

Constitutes one section, Article III, Section 8. Appropriation--in particular one paragraph of said Section 18 (F): Total appropriations for the year shall not exceed anticipated annual revenues as projected by the governor in the operating budget.

Explanation

Mr. Abraham Fellow delegates, when we went through the Executive Article--and we had provisions in the Executive Article that the...for the governor to prepare the operating budget for the state and that the governor must prepare a balanced budget--we put a provision in there in Section 5 that the governor must balance the budget; that he either had to veto line items or use other means that may be provided in the bill and/or that the total appropriations for the year would not exceed the anticipated revenues. In the article on revenue and taxation, Committee Proposal No. 15, we state that "The total appropriation made by the legislature for any fiscal year shall not be greater than the anticipated revenues for the state." Well, in comparing all this, I find that we have not done anything in the Legislative Article which requires the legislature to present a balanced budget to the governor for approval or to keep the appropriations in balance with the anticipated revenues. In order to avoid having to go through various articles in the constitution, I think that we do need, in the article dealing with the legislature and appropriations, that there does need to be language in there which will require the legislature to present a balanced budget--that in making their appropriations for the year that these appropriations should be in balance with the anticipated annual revenues. Now, if you will recall, there was a discussion earlier--I think it was on the Legislative Article--as to whether or not the revenues would be those as projected by the governor or by whom, and that I will not quarrel with. This delegate proposal was submitted prior to this discussion coming up. But, I do think that it is necessary that in the Legislative Article dealing with...in the section dealing with appropriations, that there should be some limitation on the legislature so that they must present a balanced budget, rather than having to make up a budget that is out of balance and send it on to the governor and depend on the governor then to veto various items in order to bring the budget back into balance. I, therefore, ask your favorable consideration of this

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proposal.

Questions

Mr. Alexander Mr. Abraham, was not a similar proposal adopted with the Executive Committee...I mean the Committee on the Executive Department before?

Mr. Abraham Yes. This report was reported favorably by the Committee on the Executive Branch.

Mr. Alexander And it was adopted, was it not?

Mr. Abraham Yes.

Mr. Alexander So, what you are trying to do is get it from both ends--both the Legislative and the Executive?

Mr. Abraham Well, we provided that the governor must veto line items in order to bring the budget back into balance. But, I think that a limitation does need to be in the Legislative Article to require the legislature to do this before it ever submits it to the governor.

Mr. Alexander I see, sir...

Mr. Abraham This is what I am trying to accomplish here.

Mr. Alexander You are trying to prevent the legislature from directing salary increases, etc. without appropriating the money. Is that correct?

Mr. Abraham Whatever it may be.

Mr. Munson Mr. Abraham, I'm all for what you are trying to do, of course, which is to have a balanced budget. But, can you give me in a little more detail how this would be accomplished?

Mr. Abraham Well, I think it provides that before the appropriation bill goes to the governor for his signature, that it must be in balance.

Mr. Munson Before it goes to the governor, it must be in balance?

Mr. Abraham Right.

Mr. Munson Well, that's my point. A majority of the legislature can vote--as you well know--on any appropriations just like any other matter, so what's the penalty? Suppose it's not? How would it actually be accomplished is what I am trying to find out.

Mr. Abraham Well, Bob, how will anything be accomplished? What's the penalty to the governor if he does not veto line items to bring it back into balance?

Mr. Munson Well, let me say this, too, that we also have a legislative auditor. Now, we get estimates of anticipated income from about six or seven difference sources. Which estimate are we going to abide by?

Mr. Abraham Bob, if you will recall, this proposal, I said, was drawn up prior to the language which came out of the Committee Proposal No. 15. I would not quarrel with who is going to project the anticipated annual revenues because in Committee Proposal No. 15...

Mr. Munson I know you wouldn't quarrel with it; but, since we have several projections, don't you think you should...in order to accomplish what you are trying to accomplish, you should say what estimate is going to be used as a basis for a balanced budget because, after all, it is an estimated income.

Mr. Abraham Well, the language that we have used in both the Executive Article and in the Committee Proposal No. 15, we just said "anticipated revenues." This is why I say I will accept an amendment to

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reword this that it will not exceed the anticipated revenues. The language that is in here now was what was originally proposed. Since that time the convention has agreed or has decided that we would simply say "anticipated revenues."

Mr. Munson But my point, Mr. Abraham, is, for instance, that this last session the Division of Administration, which represents the governor and is a part of the governor's office, actually that is the figure that we were using in making--I say we, the Budget Committee and the Appropriation Committee and the Senate Finance Committee--in making appropriations. However, the legislature showed an inclination--at least some of the members did--to use an estimate that was projected by the legislative auditor, which was some six million dollars over and above what the Division of Administration has estimated. So, don't you think we should say... you should say, at least, what estimate we are going to use as anticipated income?

Mr. Abraham Bob, in Committee Proposal No. 4, we used the language that "total appropriations for the year shall not exceed anticipated revenues for the year." In Committee Proposal No. 15, which is the one on Revenue and Taxation, we state "the total appropriations made by the legislature for any fiscal year shall not be greater than the anticipated revenues of the state." Now, I agree that the language ought to be consistent. I will accept amendments--in fact, I will prepare one to make this language consistent with what we have already said. The point I'm trying to make here is that rather than having to chase all through the various articles of the constitution to find this, that if this particular thing should be in the Legislative Article.

Mr. De Blieux Mr. Abraham, Representative Munson touched on what I was interested in. You make these figures absolutely subject to the governor's projections in this particular article. Now, wouldn't that, in effect, have the governor--you might say--deciding the budget himself? Then, too, if he wanted more money than the legislature thought that they had available, all he has to do is just set the budget higher so that they would have the leeway to appropriate it; isn't that correct?

Mr. Abraham No, Senator De Blieux, I'll say again that the language should be...in this proposal should be amended to agree with the language that we have proposed in Committee Proposal No. 15 and what we have already adopted in Article IV, you see.

Mr. De Blieux Well, wouldn't it be better that we just not pass this particular proposal right now, and take up that particular section in Article XV? Wouldn't that be a better procedure?

Mr. Abraham No, because I think that we need to have this particular language in the Legislative Article, since it does deal with the legislature. We should not have to chase through various articles of the constitution to find out this particular limitation that might...that's on the legislature.

Mr. De Blieux Financing the government deals with the legislature too. So, isn't that the appropriate place to put it--where the legislature is making the appropriations?

Mr. Abraham Well, we have in the Legislative Article a section dealing with appropriations. We also have an article in the...section in the Article XV...or Committee Proposal No. 15 dealing with appropriations.

Mr. De Blieux Well, isn't that the proper place for this article because that's the article that's going to be making the appropriations for the operation of the government?

Mr. Abraham Then, why would we have anything

dealing with appropriations in the Legislative Article? Why should it not all be in the Revenue and Taxation Article?

Mr. De Blieux All you would need in the Legislative Article is the power of the legislature.

Mr. Lowe Mr. Abraham, what I'm concerned about is your wording. I understand what your intent is. But, do you realize what you are saying is that "total appropriations"--and you're using the terminology "total appropriations for the year shall not exceed anticipated annual revenues"? Now, when you say "anticipated annual revenues," and you identify that "as projected by the governor in the operating budget," well, now the operating budget isn't going to take care of total appropriations, because you not only have your operating budget, you have capital expenditures, and capital expenditures is part of a total appropriation, but it's not in the operating budget. You also have debt retirement; you have to service your bonds and your interest; and that's not part of your operating budget. The operating budget is identified with the year-to-year operations of the state, as I appreciate it. I think there is some problem with your wording that is going to get us in trouble, because you're saying the total appropriation that we can make is that amount that's in the operating budget. Well, how do we get into our total appropriation capital outlay and debt retirement?

Mr. Abraham Well, Bob, the money to retire the bonds comes out of the operating budget, comes out of the general revenues; does it not?

Mr. Lowe As I appreciate it, the operating budget is just the operation of the state. As I appreciate it, the capital outlays and debt retirement is separate from the operating budget. Well, that's my appreciation, Mack, and I'm a little concerned about the wording; do you realize that?

Mr. Abraham Yes, I appreciate that. As I said, I will accept amendments to this to reword this thing to bring it into conformity with what we have already agreed on in the Executive Article and what is being proposed on in the Committee Proposal No. 15.

Mr. Jenkins Mack, with regard to Monday Lowe's question, isn't it true that what you've said that the total appropriations during the year cannot exceed the total revenues anticipated in the budget, not the total spending anticipated in the budget, because the spending in the budget will probably be less than the revenues in the budget--since you have a lot of other appropriation bills--but, total appropriations could not expend total revenues in the governor's budget. That would be workable, wouldn't it?

Mr. Abraham That's correct.

Further Discussion

Mr. Rayburn Mr. Chairman, fellow delegates, I rise in opposition to this proposal because I really can't understand it. It says "anticipated annual revenues as projected by the governor"--by the governor, if you please--"in the operating budget." Now, let me briefly tell you how the Budget Committee prepares the budget now, and certainly the governor of the state has the final say: We prepare it, along with the Division of Administration and his personnel, and submit it to him for final approval to submit to the legislature. We have been for several years calling in the legislative auditor; the Division of Administration, who is the governor's right arm; the state treasurer, who is very familiar with the financial structure and the finances of this state; PAR--we bring them before our committee. We also bring the Department of Revenue; we also have L. S. U. to send someone and also L. S. U. of New Orleans; we also call in the Department of Conservation. We get their projections on how much additional revenue will be available to be used or

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spent in the next fiscal year. After we have heard all of these people, then we reach a happy medium.

Point of Order

Mr. Dennery I rise to a point of order, Mr. Chairman. I understood that the usual procedure was that after the proponent explained a proposal, that the Chair asked if there were any amendments to the proposal; then people spoke against it.

Mr. Henry Mr. Dennery, there are no amendments that I know of, and you're absolutely correct.

Point of Information

Mr. Rayburn It was my understanding, Mr. Chairman, that you had no amendments at the time.

Mr. Henry Beg your pardon?

Mr. Rayburn I say it was my understanding there were no amendments at the desk at the time.

Mr. Henry I was not aware that we did. If you will, let us go ahead and take care of this amendment right quick, please, sir.

Amendment

Mr. Poynter Mr. Abraham sends up a technical amendment, Mr. Chairman.

On page 1, delete line 8 in its entirety and insert in lieu thereof the following:--in caps--
"ARTICLE III. LEGISLATIVE BRANCH"

Next line: "Section 18. Appropriations"

Then, three asterisks (***) indicating that there is material to be passed over that this proposal is not affecting.

Mr. Henry All right. It's more or less a technical amendment, is it not?

Mr. Poynter Just clears up the title of it, Mr. Chairman, on line 8.

[Amendment adopted without objection.]

Amendment

Mr. Poynter I don't have the distribution copies, but the desk copies [are] sent up by Pugh, Stagg, and Abraham. They read:

On page 1, line 11...delete line 11 in its entirety and insert in lieu thereof "legislative auditor."

Explanation

Mr. Abraham This amendment changes the word "governor" to the "legislative auditor." I think the legislature uses the legislative auditor in order to help them determine what the anticipated revenues would be; and since the legislative auditor is an arm of the legislature, then, I think that this would be more properly put in the Legislative Article.

Questions

Mr. Bollinger Mack, it was my interpretation of David's reading the amendment that it deleted all of line 11. If so, you're not just changing the word "governor" to "legislative auditor," are you?

Mr. Abraham Well, it's projected by the legislative auditor; that's right.

Mr. Bollinger But, I mean...

Mr. Abraham But, we deleted all of line 11; that's true.

Mr. Bollinger The operating budget which was a problem of Delegate Lowe's, right?

Mr. Abraham Right.

Mr. Munson Mr. Abraham, I said a few moments ago that the House had shown some inclination on using the estimates made by the legislative auditor's office. But, did you know that the legislative auditor's office actually does not have the staff or the wherewithal, and they don't live with the budget processes on a day-to-day basis at all, like the Division of Administration does? It would be very difficult for the legislative auditor's office to--without a great deal of additional staff--to make these day-to-day estimates of the economy of the country in order to determine what the anticipated revenue is going to be.

Mr. Abraham Well, Mr....

Mr. Munson Out of all of the estimates that we get from different agencies, I would say that the...I think Joe Bards would tell you himself that they are not set up to make these kind of estimates.

Mr. Abraham Well, that may be true, Mr. Munson.

Further Discussion

Mr. Rayburn Mr. Chairman, fellow delegates, I rise in opposition to the amendment. Certainly the auditor knows considerably what's going on in this state, but after all, he just audits the expenditures. If you are going to leave it to one person, I would lot rather see it left to someone that knows more about the revenues than the auditor. The auditor just audits what is spent in this state from year to year. However, he has been very helpful in us reaching the amount of revenues that were available. I think, in Proposal No. 15, that we pretty well covered it. Revenue, Finance, and Taxation went over and over and over this, and we finally agreed that we would leave the words that "The appropriations shall not be greater than the anticipated revenue of the state." If we can continue to get the estimates from these five, six, or seven different people, it will help us to get a better estimate, in my opinion. That's why I would be opposed just to any one individual giving us that estimate--whether he be the governor, the auditor, or anybody else--when, in the past, we have had the benefit of about eight different people who were well versed on finances and revenues of this state giving us a figure that we could solve, but what we thought would be the anticipated revenue.

Questions

Mr. Pugh When you had all that information, how many times did the legislature exceed what the proposed budget was?

Mr. Rayburn They have, in some cases, exceeded it, Mr. Pugh, and then a lot of time they haven't exceeded it. A lot of times I have seen the governor tell us we had "X" number of dollars when the bill was introduced in the House. When it would get over in the Senate and they needed a few votes, you would find fifty more million--that happened not too many years ago.

Mr. Pugh Who would you recommend? What name should be here?

Mr. Rayburn Well, I don't really think that we need to tie it down by name because in the past we have been using, as I said, the auditor; the Division of Administration, who is the governor's voice in state government; the state treasurer, who is certainly knowledgeable; PAR; the Department of Revenue; L. S. U. here; L. S. U. in New Orleans; and the Department of Conservation, who is very familiar with our revenue from oil leases and bonuses. We have been bringing all of them in and getting all the estimates and then comparing them, and then reach a happy medium that we could all agree on and use that figure. I have seen it work for many years. I know of no better way to do it. I really don't. I'm not trying to cripple this article. But, we did go over it in the committee. We finally came up with the language that "the

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appropriations shall not be greater than the anticipated revenue." We didn't decide that any one individual should set that figure because in the past it had been reached by about eight or nine different people or different organizations.

Mr. LeBleu Senator Rayburn, isn't it true that the governor has the privilege of either a line item cut or a percentage cut, which he generally exercises in order to...I believe it's a fifteen percent cut that he can go across the board?

Mr. Rayburn You're correct.

Mr. LeBleu ...which he generally does in order to balance the budget?

Mr. Rayburn You are correct, Representative LeBleu. When you are dealing with a two billion dollar plus budget, there is no way that none of us know exactly how much revenues are going to be available. We have, in the past several years, wrote in the general appropriation bill and give the governor authority that anytime that he and his staff feel that the revenues are not going to reach the projected figures that he will have the right to apply five or ten, or even one year we put fifteen percent cut at his discretion in order that we could have a balanced budget.

Mr. Blair Senator Rayburn, after we listen to all of these estimates by these different agencies and departments and all, how close do we usually come on the anticipated funds?

Mr. Rayburn In the past several years, we have been less than one-tenth of one percent in the projected figures that we have used.

Mr. Nunez Senator Rayburn, isn't the likelihood of us making errors, or the legislature, or the governor making errors would be to tie down the one source? Isn't the best way, from your experience and the experience of the people who have handled it in the past, would be to take the composite of all of them and average it out? Then, you have a better idea, rather than saying one source which, in many cases--you know and I know--haven't they been wrong on the one source, regardless of who it was?

Mr. Rayburn That's true, Senator Nunez. That's the reason I would be against this amendment that leaves it to one individual.

[Amendment withdrawn.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Rayburn and Mr. De Blieux]. On page 1, delete lines 8 through 11, both inclusive, in their entirety.

Explanation

Mr. Rayburn Mr. Chairman, fellow delegates, I offer this amendment to delete this proposal. I think we have the proper language in our proposal. I will ask that you now vote for the amendment. I'm doing this in an effort to keep us from having to reconsider and maybe take another record vote tomorrow and all. I just don't think that this particular proposal will work. That's why I'm offering an amendment to delete it.

Questions

Mr. Dennery Senator Rayburn, would you be good enough to tell me where in the Revenue Article your language is, so I can read it?

Mr. Rayburn It's in...

Mr. Dennery The one we haven't gotten to yet?

Mr. Rayburn ...in Proposal No. 15 that has not been acted upon yet, Mr. Dennery; it's on page 7...

wait a minute; it's on page 6, on line 22, says "Total appropriations made by the legislature for any fiscal year shall not be greater than anticipated revenues of the state."

Mr. Dennery When do we anticipate reaching that, Senator?

Mr. Rayburn I hope we'll get it. We have it in our committee. I don't think we have any more real problems with the proposal. I think at our next meeting, we will be able to report it out, Mr. Dennery.

Mr. Dennery Thank you.

Mr. Rayburn I feel certain we will.

Further Discussion

Mr. Lowe Mr. Chairman and ladies and gentlemen of the convention, I rise to support Senator De Blieux and Senator Rayburn's amendment which will delete this Delegate Proposal No. 23. I hope that I won't take much time to explain why I take this position. I feel that we have in Delegate Proposal No. 23 a proposition that's completely unworkable. If you run a business yourself, you know it's difficult. If you take three members of that business which is not as sophisticated as the operation of the State of Louisiana, that three individuals would come up with three different projections of what the revenues will be for that year. That just has to be, because we're not dealing with an exact science when we're dealing with revenues--anticipated revenues. There's no way that one person can come up with that one exact figure; it's just impossible. Now, we can't say that we're going to let the governor decide what that figure is going to be. I remember when I was in the legislature that we shut things down for about five hours one day because we had about six different figures. The governor had a figure, and PAR had a figure, the Appropriations Committee had a figure; Pappy Triche and I stayed up all night, and we came up with our figure. We confused things so badly that we had as many people believing us as anyone else. It's just not possible for one person to come up with the anticipated revenues for one year for the State of Louisiana that where we can hang our hat on it and say, "This is the figure we're going to pin down being used for our appropriations." We have one hundred and five Representatives and thirty-nine Senators, and I think they have a little wisdom as to what the revenues are going to be after they get around and talk to a few people. I'm opposed to trying to say that the governor can tell us--any governor, now and in the future--can tell us what the projected revenues are. So, I submit to you that the wording in the Committee Proposal No. 15, which is the Revenue, Finance and Taxation Proposal, it says: "Total appropriations made by the legislature for any fiscal year shall not be greater than the anticipated revenues of the state." I think that's broad enough and specific enough with the subject matter that we're dealing with. We can't get more specific. For that reason, I ask you to support this amendment and to do away with Committee Proposal No. 23.

Questions

Mr. Munson Monday, isn't it also true that, regardless of what figure you use on anticipated income to appropriate during the legislative session, that that figure, oftentimes, has to be revised during the year...

Mr. Lowe Absolutely.

Mr. Munson ...because of such intangibles as maybe a strike or any kind of recession or, on the other hand, there could be an increase in revenue; isn't that true?

Mr. Lowe That's exactly correct.

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Mr. Munson That's the reason for giving the--in the appropriations bill--for giving the governor the authority to make across-the-board cuts in case there is a change; isn't that right?

Mr. Lowe That's correct, yes, sir.

Mr. Jenkins Monday, with regard to the Revenue and Taxation Proposal where it says, "total appropriations made by the legislature for any fiscal year shall not be greater than anticipated revenues of the state," isn't that intended to be a limitation on the legislature?

Mr. Lowe Yes, sir. Well, actually, the only way we're going to end up with appropriations, as I appreciate it, is those that are approved by the legislature.

Mr. Jenkins No, but I mean that statement is intended to limit the authority of the legislature, is it not?

Mr. Lowe But, isn't that where we get our appropriations from, Mr. Jenkins, is from the legislature?

Mr. Jenkins Yes, well, that's a grant of power--the right to appropriate--but, this is a limitation on their appropriation power: the right to appropriate no funds in excess of anticipated revenues. Is that not correct?

Mr. Lowe I would agree, and I think that would take care of balancing the budget. When you tell the people that are making the appropriations that they can't appropriate amounts in excess of the total anticipated revenues, well, then you end up with a balanced budget.

Mr. Jenkins But, if you intend to put a limitation in the constitution on a body such as the legislature, and then you give that same body the right to do the anticipating with regard to revenues, you are, in fact, providing no limitation whatsoever, and you might as well not have it in there. Aren't you?

Mr. Lowe Well, now, Mr. Jenkins, you're reading something into those three lines that isn't there. You said that we're going to give them the right--the legislature the right--to set the anticipated revenues, and we're not...that's not said in there.

Mr. Jenkins Well, they're going to decide which of many estimates, I suppose, they would accept, wouldn't they?

Mr. Lowe Well, if we were almighty and could decide which of the five or six people had the best estimate, well, then today we could put something in this constitution. But, we're not almighty, and we can't sit here today and say whether Joe Burris has the right figure, whether the treasurer has the right figure, whether the governor has the right figure, whether PAR has the right figure, or whether some sophisticated legislator has the right figure. There's just no way of saying that; and if there's no way of saying that, I don't see how we can sit here and say that we can say it.

Mr. Jenkins Couldn't we provide, when we get to the Revenue and Taxation Article, a system for having such an estimate: for instance, by saying that the governor, the state treasurer, say the legislative auditor, maybe one or two other persons would come up with an estimate, and those estimates would be averaged? Then, the legislature could not exceed that total. Wouldn't that be workable, you think?

Mr. Lowe That's a possibility; but you know, Woody, when you get in politics, if someone wants to inflate a figure so that the average will be affected by it, I guess that would be possible, also.

Mr. Champagne Mr. Lowe, don't you agree that it would be in the interest of the legislature not to

appropriate more than revenues?

Mr. Lowe I don't know of any legislature that wants to overappropriate and put themselves in a deficit position. I don't think the type legislature or the responsible legislators we have are even thinking about that.

Mr. Champagne Because if they didn't, they'd have to face it the following year, would they not?

Mr. Lowe That's exactly correct. They're just pyramiding something that's going to catch up with them.

Mr. Champagne So, we really don't have any fear here, even though they are really, actually deciding what figures they're going to face, because if they don't do it right, they will be faced with it the following year?

Mr. Lowe That's correct, Walter. What we need is a more sophisticated method of reporting revenues for the state, and that will help us.

Further Discussion

Mr. Abraham I simply want to point out that we have already adopted language in the Executive Article that "the governor shall veto items in order that total appropriations shall not exceed anticipated revenues." We have language proposed in the Revenue Article saying, "total appropriations made by the legislature for any fiscal year shall not be greater than the anticipated revenues of the state." I simply think that we need to have some language in the Legislative Article directing the legislature to do this, and that is the intent of my proposal. I have an amendment coming which will read exactly the same as the language in Committee Proposal No. 15. So, if we have no quarrel with 15, then we should have no quarrel with the language in the amendment that I am proposing. I therefore ask that you...we reject the Rayburn amendment. I have one coming up, I think, that will satisfy the language that is needed. I just feel that we need to have something in the Legislative Article, where we are dealing with appropriations, to spell this out.

[Previous Question ordered on the Proposal.]

Closing

Mr. Rayburn Mr. Chairman and fellow delegates, let me just take one minute to briefly tell you where I think we are making a mistake. We had a committee that took this subject matter up. We met for months and months and months and got all the information we could. I hate to see a delegate proposal that is being discussed and being acted on prior to the time you have an opportunity to at least read and hear the committee's proposal. I hope that in the future, where there is a delegate proposal that's in direct conflict with the committee's proposal and the committee's proposal has not been heard at that time, that we defer action on it until we at least hear the committee's proposal. Then, if a delegate wants to put his amendment or consider it, I think we could save an awful lot of time. That's what I'm trying to do with my amendment.

Questions

Mrs. Zervigon Senator, you're speaking of Committee Proposal No. 15?

Mr. Rayburn I was speaking of all committee proposals, Mrs. Zervigon. I feel like, where there is an individual delegate proposal in direct conflict with a committee proposal, that we should not take the delegate proposal prior to the time of hearing the committee's proposal. Then, once we hear the committee's proposal, then if the delegate wants to amend it or come forth with his proposal, good

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and well. But, here, we have, this morning, argued for a considerable amount of time; and, finally, Mr. Abraham has said he's agreed to come back with another amendment that says what the committee proposal says. So, I'm just mentioning that in a manner to expedite time and to save a little time.

Mrs. Zervigon I don't see Committee Proposal No. 15 on the calendar.

Mr. Rayburn It's not on the calendar, but we have several others that are. I was speaking of anytime one is on the calendar that we should discuss it prior to discussing individual proposals, only where there is a direct conflict.

Mrs. Zervigon When can we expect to see it on the calendar so that we can consider it and act on it?

Mr. Rayburn As soon as we get enough time to have a committee meeting, if you please.

Mr. Alexander Senator, is your opposition to the proposal--I mean to the committee proposal--based on the fact that you oppose the concept basically or that you oppose it because you think it's premature?

Mr. Rayburn Well, I think it's premature at this time, and we do have a committee proposal that I think pretty well covers it. However, I think we should discuss the committee's proposal, who studied this proposal for a long time, before we take up an individual delegate's proposal.

Mr. Alexander The committee's proposal embraces the same concept?

Mr. Rayburn Yes, sir. There's just some difference. Well, this has changed three times since we started with it. I don't know what it will finally be, Reverend; but it was first the governor, and then there was a member for the auditor, and now I understand they are agreeable to take the same language that was in the proposal.

I now move the adoption of the amendment, Mr. Chairman.

[Record vote ordered. Amendment adopted: 72-9. Motion to reconsider tabled. Proposal failed to pass: 0-80. Motion to reconsider tabled.]

Recess

[Quorum Call: 73 delegates present and a quorum.]

Reading of the Proposal

Mr. Hardin [Assistant Clerk] Delegate Proposal No. 12, introduced by Delegate Dennery:

A proposal to provide uniform compensation to members of all state boards, commissions, and authorities.

"Article IV, Section 1. Compensation
Section 1. The legislature may provide that unsalaried members of any state board, commission, or authority may be compensated for each day devoted to the work of the board, commission, or authority. The amount of compensation, if any, shall be determined by the legislature and shall be the same for the members of all such boards, commissions, and authorities."

Explanation

Mr. Dennery Mr. Chairman and delegates, throughout the present constitution and throughout the present statutes, various provisions are found dealing with compensation of members of boards, commissions, and authorities on a per diem basis. There are many board and commission members who receive no compensation per diem. There are others who receive only travel; there are others who receive per diems and travel. The purpose of this amendment--this proposal--is to set forth that instead of placing this

in each statute as it's adopted, that the legislature may adopt one statute which will fix the per diem compensation of any board member or commission member or authority member that the legislature chooses to authorize receiving a per diem. It excludes any members who are on a regular salary basis. In other words, the legislature, in some instances, will provide for no per diems; in other instances it may provide for per diems. The final sentence of the proposal says that all per diems shall be the same. Now, the purpose of this is in recognition of the fact that although there are some boards, commissions, or authorities which are not as important as others--the meetings of which do not last as long as others--nevertheless, if a man lives in Vivian or Shreveport or New Orleans and has to come to Baton Rouge for a meeting, whether that meeting takes fifteen minutes or eight hours, it normally means a day away from the man's earning capacity at home. It seemed to me--and the Committee on the Executive Branch agreed--that all of those per diems should be the same. Now, I have...there is no way that I can tell you exactly what it would cost the state if all per diems presently provided were lifted to the maximum. I believe that the average is somewhere slightly under fifty dollars a day. There are some boards which...members who receive twenty dollars a day; some, fifteen; some, twenty-one; some, thirty-five; some, fifty. It seems to me that the legislature could very well adopt a uniform rule so that all members of any boards or commissions of the state who receive per diems--now, mind you, the legislature has to provide that they do receiving a per diem, or the constitution must provide that--that they will all receive the same amount. Now, I discussed this with some of the members of the legislature, and they have suggested that we delete the last phrase that "the amount shall be determined by the legislature" and, in the legislature's wisdom, it may or may not be the same for the members of all such boards. I assume that an amendment will come up to that effect. Personally, I believe that an individual's time is worth the same as any other individual's time, whether he serves it on an important board or an unimportant board, whether the board meets for fifteen minutes or for eight hours. It's a day out of his life, and I think he's entitled to the same compensation as anyone else is entitled to. Now, it is quite true that some of these boards and commissions arrange to meet in Baton Rouge on Friday night or Saturday morning, when there is an important football game, and meet for ten minutes, and then the members go to the football game. The legislature, in its wisdom, could provide that they shall receive no per diems on days when there's a football game. This is left entirely up to the legislature. I don't believe we should fix per diems in the constitution. I believe that the legislature should fix the per diems, and I further believe that all of them should be the same.

I'll be pleased to answer any questions.

Questions

Mr. Hayes Mr. Dennery, would this include the dock boards? This would include the dock boards...

Mr. Dennery It would include the dock board if the dock board members are entitled to a per diem. My recollection is that the dock board members in New Orleans--and that's the only ones with which I am familiar--receive no per diem.

Mr. Hayes Well, this would then...would exclude them?

Mr. Dennery No, if the legislature were to provide that they should receive a per diem, then they will receive it. If the legislature does not, then they won't.

Mr. Hayes If the legislature does, then, they can.

Mr. Dennery And they get...my theory is that they should all get the same amount, whether they are the Baton Rouge Dock Board or the Lake Charles Dock

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Board. If they're going to spend one day, they ought to get paid the same thing.

Mr. Hayes I want to make sure that I'm clear. If the Legislature decides they can, they can. Is that correct?

Mr. Dennery Correct.

Mr. Hayes Well, then, I'm for your amendment, if that's the case.

Mr. Champagne That some of these boards are really neighborhood boards, and some of them you have to go meet in Shreveport or Baton Rouge, etc., is that right, sir?

Mr. Dennery I would assume that that's true in some instances, yes, sir, Mr. Champagne.

Mr. Champagne Well, the real part that I object is when you say "the same," because going to a board, for instance, meeting in Krotz Springs, when I live in Port Barre, for instance, is not the same consequence as attending a board meeting in Baton Rouge or a board meeting in New Orleans. I feel this "same" could only cost the state more money, and for that reason, I would be opposed to that part of it, sir.

Mr. Rayburn Mr. Dennery, I'm not quite clear, here, in the language where you say, "shall be compensated for each day devoted to work of a board, commission, or authority." Under this language, does that mean that if you devoted some time, in your office or in your home to some commission you was a member of, that you would get pay for that time you devoted?

Mr. Dennery My recollection, Senator, is that the ruling of the attorney general has provided it must be at a formal board meeting or at a time authorized by the board. In other words, if a board sends a member to attend a meeting outside of the state, he would be entitled to receive his per diem even though the board is not meeting. If the board did not authorize that attendance, he would not be entitled to receive it.

Mr. Rayburn I know, but I don't believe this language is quite clear, Mr. Dennery. It says, "for each day devoted to the work of the board or commission," which means, in my opinion, that if I devoted some time at my home, as Chairman of the Budget Committee, which I do--I receive no compensation now unless we have a meeting, and I have come to Baton Rouge to attend meetings and got here late, and I still didn't get any money if I didn't attend the meeting--but, this says, "time devoted," so I would be devoting my time if I was on the way over here.

Mr. Dennery I would think, Senator, that the provision that the legislature would adopt, because it provides that the amount shall be determined by the legislature, etc., that the statute could very well provide exactly what the legislature wanted.

Mr. Fulco Mr. Dennery, I had the same thought in mind that was expressed by Senator Rayburn, but I do know what you're...the intent of the proposal is. But, according to the verbiage it certainly is understandable as Senator Rayburn explained; that's the way I would interpret it, too. But, the question I wanted to ask, also, was this: Why didn't you include mileage in your proposal along with the per diem or the compensation?

Mr. Dennery I would have no objection to including mileage, Mr. Fulco, except that the present statutes normally don't specify mileage. In some instances they do, and there are fixed travel regulations provided by the Division of Administration which call for mileage. As you will recall, it is only because Act 11 provides that we don't get anything but fifty dollars a day that we don't get any mileage. And I would further answer you, sir, by saying that this is all "may"; there is no "shall." It

provides that "the legislature may provide that unsalaried members may be compensated for each day," so that in the statute by which it is provided, the legislature could make it quite clear exactly what the compensation is, and for what period of time it must be, etc. It seems to me that to put all of this kind of thing in the constitution would be too legislative.

Mr. Fulco Well, I was thinking, if you're going to put compensation in there, that it wouldn't hurt a bit in the world to add mileage because it is terribly unjust for anyone coming a long distance to these meetings to have to provide his own transportation or his own expense for mileage. I know that we don't want anyone to have to suffer that consequence. I do believe that if we're going to give them compensation, that we ought to include mileage. My question is: Would it be difficult to...for you to just add mileage in here?

Mr. Dennery Well, I don't think I can because this proposal was prepared this way. If you choose to submit an amendment, I'm certain that it would be satisfactory.

Mr. Burns Mr. Dennery, Senator Rayburn asked one of the questions that I was a little concerned about. The other question is: Do you have any statistics as to how many boards and commissions would be affected by this proposal? It seems like it could be very, very far-reaching.

Mr. Dennery Well, Mr. Burns, my answer to that.. I can't give you any specific figures because I don't believe there are any specific figures which are in existence. Nobody has made a tabulation of this. But, this provides that the legislature has the right to decide who shall and who shall not receive a per diem, so that if the legislature feels that too many people are receiving per diems, and it's costing the state too much, it merely provides that the members of boards A, B, and C shall work without per diem. But, if it provides for a per diem, I think all per diems should be the same.

Mr. Burns The other question is...I understood you...in the first part of your remarks, I believe you referred to some boards or commissions would just, perhaps, meet for maybe an hour or a half an hour just to approve what the staff had done or something, whereas another board or commission may work all day and actually work the things out themselves at an open meeting. Now, would those two different types of boards or commissions or meetings be paid the same per diem?

Mr. Dennery I would think so, Mr. Burns, the same way as each of us is paid fifty dollars if we're here for five minutes or ten hours. If we come in here for part of the day, we get paid a per diem.

Mr. Burns Especially if you add mileage on there, it would seem a kind of an unjust situation.

Mr. Nunez Mr. Dennery, evidently a lot of our regulatory boards, which are self-generating revenues, don't pay anything; and under this proposal, my understanding of it--and evidently there are several proposals out--under this proposal it says "the same." You would make those people take the same per diem that you pay other board members and use their own funds, even though they don't have the funds.

Mr. Dennery I'm not sure I understood your question. You said that some of these boards do not pay per diems. Is that correct?

Mr. Nunez That's correct.

Mr. Dennery They don't get salaries either; is that correct?

Mr. Nunez That's correct.

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Mr. Dennery Well, the legislature is not required to say that they shall receive any per diem. The proposal provides that "the amount of compensation, if any, shall be determined by the legislature."

Mr. Nunez Well, that's a different proposal than I have. It says: "The amount of compensation which shall be the same for all members."

Mr. Dennery Do you have the yellow copy of Delegate Proposal No. 12, reprinted as engrossed?

Mr. Nunez I've got a yellow copy of Delegate Proposal No. 12, yes, sir.

Mr. Dennery I mean No. 12. Well, on line 11, Senator, doesn't it say, "if any"?

Mr. Nunez Someone has brought a different one to me just now.

Mr. Dennery Well, to answer your question, I believe the way it is now before the convention, it says: "The amount of compensation, if any."

Mr. Nunez Even after reading the other proposal--the darker one--why do we need this in the constitution at all, Mr. Dennery? Why should we place something in the constitution that we can handle in the legislature?

Mr. Dennery Well, Senator, the purpose of putting this in the constitution is that there are some proposals already before this Constitutional Convention which provide for per diems. Now, I don't think that's constitutional material. I think it should be left to the legislature. I quite agree with you that it should be left to the legislature, and the whole purpose of this was to leave it to the legislature. However, there was one item that I thought belonged in the constitution, and that was that if the legislature made a provision for per diems, that that provision should be the same amount as for any other citizen of the State of Louisiana who is devoting his time to this state, whether the work of the board on which he serves is as important as others or not. His time, I believe, is just as valuable. At present, you have varying amounts of per diems, which I think is grossly unfair.

Mr. Nunez Well, that was the point I had made before, Mr. Dennery. A lot of self-generated revenue boards regulate their own industries, draw no per diem at all.

Mr. Dennery Well, I...there are many boards which don't draw per diems, Senator, whether they are self-generating boards or not. I don't believe the Board of Supervisors of L.S.U. gets paid for attending meetings. I'm not sure about that, but I know there are many boards that don't get per diems. This does not require them to get per diems. It merely says if they do get per diems, they shall be the same.

Vice Chairman Casey in the Chair

Mr. Lanier Mr. Dennery, I note that this apparently applies to all state boards. Would I be correct in saying that it does not appear that this is in any way intended to apply to boards, agencies, or commissions that are created by or through local governmental authorities?

Mr. Dennery You are quite correct, sir. It specifically says "state."

Mr. Lanier Now, with reference to your last sentence--the one that starts on line 10 and ends on line 13--as I intend...understand your intent, that if a per diem is authorized, it must be a uniform per diem for all such boards, commissions and agencies. However, if no per diem is authorized, that is still within the prerogative of the legislature. Is that correct?

Mr. Dennery Yes, the legislature has the prerogative, under this proposal to determine whether or not compensation is paid in per diem form to members of these state boards, etc.--does not require it.

Mr. Lanier This is not to be construed to mean that if a per diem is authorized for one board, that you must pay the same per diem for all boards?

Mr. Dennery No, sir. It says, "The amount of compensation, if any." In other words, it is not required that all boards receive compensation because all boards don't, at the present time.

Mr. Lanier Okay, now, my next question, then--this was brought up by one of the previous questions--is: do you have any idea what the present spread in the variation of per diems from boards to boards throughout the state are? In other words ...

Mr. Dennery My recollection is that the lowest is about twenty dollars, and I think the highest is fifty dollars. I'm not positive about that, but I think the vast majority of per diems are fixed at fifty dollars.

Mr. Lanier Well, one of the things I was thinking about: the last time I recall checking it, the Greater Lafourche Port Commission--which, I believe, is a state agency or commission--had a ten dollar per day per diem.

Mr. Dennery You may be correct, sir; I'm not sure about that.

Mr. Lanier My thought was: suppose those people don't choose to pay, or don't want to pay, any more than ten dollars per day? Would they then be required to have to go to fifty if that was set as the per diem by the legislature?

Mr. Dennery Yes, sir; I would think that would be true. That would not prevent them from making a contribution back to the levee board, though.

Mr. Lanier So that, for example, like the Greater Lafourche Port Commission is only domiciled and has jurisdiction in the Tenth Ward of Lafourche Parish; those folks would get the same per diem as, say, the Dome Stadium Commission or the Port of New Orleans or some other such agency?

Mr. Dennery Yes, sir.

Mr. LeBleu Mr. Dennery, my questions were primarily the same as Mr. Lanier's. I just wonder, when you specify "state boards, commissions," etc.--since police juries, municipalities, and everything are creatures of the legislature--whether this might not be passed on down to be construed as every port commission, whether it's created by the legislature or whether it's created constitutionally or, say, every water board, sewerage board, garbage board...

Mr. Dennery I would think that would be a purely local rather than a state board, though.

Mr. LeBleu But, in any case, say, as port commissions, some of which are created by the legislature and as I understand it, each creation considers the per diem for its members--Mr. Lanier said ten dollars; ours says no per diem...

Mr. Dennery They vary.

Mr. LeBleu It would...but the legislature would have to come back and set a per diem for all port commissions in the state?

Mr. Dennery It would just set a per diem for all boards, whether they were port commissions or other.

Mr. Blair Mr. Dennery, I'm afraid we could be opening up a Pandora's box. I'll give you a for

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example, and I want you to answer me would I be eligible. Today, for instance, I'm attending the convention until 11 o'clock; I have to go to a Budget Committee, at 4 o'clock this afternoon I have to attend the Legislative Council. Under your amendment--or your proposal--wouldn't I be eligible to receive all per diems?

Mr. Dennery Well, Senator, if the legislature adopted a statute which said that you were, yes, you would. But, if the legislature, in its wisdom, were to adopt a statute saying that no individual could receive more than one per diem per day, then I don't think you would. I think...what I've tried to do--please understand--what I've tried to do is leave this entirely in the hands of the legislature. I don't think it should be in the constitution that the members of Board A receive "X" dollars a day. I've tried to say that all board members, if they're going to receive a per diem, should receive the same amount. Your time is worth fifty dollars, or whatever it is, to you just as much as my time is worth fifty dollars to me.

Amendment

Mr. Hardin This is a technical amendment [by Mr. Dennery] correcting the title as in the two prior proposals.

On page 1, delete line 6 in its entirety. At the beginning of line 7, delete Section 1, and insert in lieu thereof the following:

"Article IV. Executive Branch.

* * *

Section _____ Compensation
Section _____."

Explanation

Mr. Dennery Well, this is the same technical amendment that we passed before. It's purely technical in nature.

[Amendment adopted without objection.]

Amendment

Mr. Hardin Amendment sent up by Delegate Reeves.

Delegate Proposal No. 12 by Delegate Dennery, amend reprinted as engrossed proposal as follows: Amendment No. 1. On page 1, delete lines 6 through 13, both inclusive in their entirety.

Explanation

Mr. Reeves As you can see, this is a very simple amendment. It simply deletes the entire section. This can be...the legislature may provide--as it is said here--anything it wants to do. The legislature can do anything it wants to do as long as we do not prohibit it by this constitution. What we are doing, if we adopt Mr. Dennery's amendment, is cluttering up the constitution again with legislative and statutory material. I think we do not need to do this. We need to get back in the saddle of writing a constitution and quit trying to be legislators. I think this is a simple amendment; it's a good amendment, and it simply deletes Mr. Dennery's entire section because the legislature...it doesn't...his amendment is possibly a good amendment. It has some flaws. But, his...what he's trying to do can be done by the legislature anyway, because they may do anything they want to do.

Questions

Mr. Dennery Mr. Reeves, I would agree with you except for line...the last clause which says "and shall be the same." Now, that is mandatory, is it not, sir?

Mr. Reeves It says the amount of compensation, if any, shall be--if any--shall be determined by the legislature, and shall be the same for the members of all such boards, commissions, or authorities. Well, they can do this anyway, and I think they've

pretty well done it.

Mr. Dennery But, they are not mandated to do it. Right now, per diems are different. This was the point I was making, sir. Do you not agree that per diems are presently different?

Mr. Reeves Some per diems are different. There are reasons for them being different.

Mr. Dennery Well, now, the purpose of this amendment, though, despite what you said, was to mandate the legislature to make them all equal. Now, if you disagree with that, that's fine. But don't say--at least, I don't think you should say, and I hope you will agree with me--that it does not mandate the legislature, at least, in one respect.

Mr. Reeves Possibly in one respect it does. But I...again, I think it's statutory material, and it could be left out of the constitution.

Mrs. Zervigon You agree that the per diem paid various boards in the state is different one from another. There's good reason for it. Can you tell me what the reason is?

Mr. Reeves The same reason, Mary, that certain individuals in different professions are paid differently. For instance, we have a watchmaking commission; we have strawberry commissions; we have etc., etc.--various and sundry commissions. Their duties are very...are different from other commissions, such as the Port of Orleans, and, I would hope that you even agree that the members of the board of the Port of Orleans, have a stronger, or a more important job than possibly the members of the board of watchmaking of the State of Louisiana.

Mrs. Zervigon The members of the Port Commission of the...of New Orleans don't get a per diem. They get none.

Mr. Reeves I agree with that.

Mrs. Zervigon You agree that they are less important than the strawberry commission?

Mr. Reeves I didn't say that either...

Mrs. Zervigon Do you think that the legislature has established a rational policy among all these boards?

Mr. Reeves Mary, what I am saying is this is statutory material, and it should not be in the constitution. I think you agree.

Mrs. Zervigon You told us that your...in addition that you are not trying to be a legislator?

Mr. Reeves This is correct.

Mrs. Zervigon Would you say that again for the record, Mr. Reeves?

Mr. Reeves I'm not trying to be a legislator on the Constitutional Convention, for the very simple...

Mrs. Zervigon Oh! I'm glad you cleared that up.

Mr. Reeves For the very simple...for the very simple reason that I am a constitutional delegate. I am not a legislator.

Mr. Roy Mr. Reeves, other than Mr. Dennery having thought up this proposal--and obviously considered it maybe a day or so ago, or many weeks ago--have you ever seen it before, or considered this matter in any detail?

Mr. Reeves No.

Mr. Roy Do you think any of the other delegates have considered, essentially enough, to make a judgment in the constitution that we should mandate the legislature to, in the future, say that all per

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diems must be the same?

Mr. Reeves Absolutely not.

Mr. Roy Don't you think the legislature should be able to determine that matter in its own wisdom after due deliberation, and not us make a determination that is, at best, a judgment call?

Mr. Reeves Again, as I have said many times from this mike, I trust the Louisiana Legislature, for I think if you have people that you cannot trust in the Louisiana Legislature, you can get rid of them through the election process.

Mr. Burns Mr. Reeves, Mr. Dennery called your attention to the fact that there wasn't an authority in here that the legislature, perhaps, would not be bound by in that they all shall be paid the same per diem. Do you agree that that's the most objectionable part of this proposal? That regardless of the time spent by the different commissions, or the different boards, difference in importance of their work, and the time that they have to devote to it, that they all should be paid the same, regardless?

Mr. Reeves I agree that this is probably one of the most objectionable, and I do not agree with what Mr. Dennery...

Mr. Burns Did you hear Mr. Lanier's question that he has a board that's being paid ten dollars a day? Under that, they would have to be paid fifty...

Mr. Reeves Right.

Mr. Burns ...whether they wanted it or not, if the legislature should so provide.

Mr. Reeves Right. I agree with what you say.

Mr. Lanier Mr. Reeves, don't you think that this proposal really affects seriously the flexibility of the legislature to fashion per diems to fit the agencies involved?

Mr. Reeves Absolutely.

Mr. Lanier For example, do you think that necessarily the Latt Lake Conservation Commission, which I believe is domiciled in your district, should necessarily have the same per diem as, say, the Dome Stadium Commission?

Mr. Reeves I agree that they shouldn't have the same per diem.

I think this is a good amendment. I just hope that you will come back and approve this amendment for the very simple reason that I think you know that you are constitutional delegates and you are trying to write a constitution, not statutes. We need to take extraneous material such as this out of the constitution.

Mr. Champagne In furtherance of your support of this amendment, do you...agree...and everybody, I'm sure, would agree...that you don't have to take an appointment on one of these boards, if you don't think you are adequately paid. Right?

Mr. Reeves Absolutely.

Mr. Smith Mr. Chairman, I think this is a good amendment. I think we're all ready to vote. We've argued it back and forth for about an hour. So, I now move the previous question.

[Previous Question ordered. Record vote ordered. Amendment adopted: 61-19. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal failed to pass: 2-77. Motion to reconsider tabled.]

Mr. Casey Mr. Pugh, why do you rise?

Motion

Mr. Pugh To move to suspend the rules to provide that anytime that a delegate calls for a record vote that his name be reflected in the Journal. Also, to provide that when a proposal has one section, we can vote on it one time instead of twice.

Mr. Casey Mr. Pugh, I think those are separate matters to handle, to start with. If you wish to take up...

Mr. Pugh The first motion.

Further Discussion

Mr. Nunez Mr. Mr. Acting Chairman, if Mr. Pugh wants to amend the rules, I think he should follow the regular procedure that we usually follow and put that in the form of an amendment and send it to the Rules Committee, and then report it back to the convention.

Mr. Casey I think your...Mr. Nunez, I think your point is well taken. Normally, when we suspend the rules, it's just something temporary that we handle on a certain day. For instance, the...relative to limit debate to ten or fifteen minutes on a particular proposal, or a particular section. I think that's something of a permanent nature, and would require action by a written...proposal, referral to committee, and then action on that.

Point of Information

Mr. Bollinger Mr. Casey, being that we have a little time, I'd like a little further explanation on why the Journal cannot reflect who requests a record vote. The way I read it in the Journal, the Journal states "a record vote was requested and ordered by the convention." Why couldn't it have "a record vote was requested by so and so, and ordered by the convention"?

Mr. Casey Mr. Bollinger, your point's well taken. The parliamentarian is here. We'll let Mr. Poynter...O.K. Mr. Poynter, a request was made by one of the delegates, when a record vote was requested, that the name of the delegate requesting the record vote appear in the Journal because there is an excessive number of delegate...of record votes requested. I indicated that I thought it would require a suspension of the rules in order to reflect the name, unless there is some other way that it can be done.

Would you give your explanation on that?

Mr. Poynter Mr. Chairman, I'm sorry to come in a little cold from a committee meeting, but I know of no reason--if the majority of this convention wants to vote that the Journal be organized or styled in such a fashion to do that; it's not traditionally the way we've handled it--but, I know of no reason that the convention would so order by motion that it could not be reflected in that manner. I don't think it would take a suspension of the rules in that sense. I think it would just take a direction from this committee...convention, in essence, to me as to how they felt it should be styled.

Further Discussion

Mr. Flory Mr. Chairman, I believe the rules stated that if a delegate requests a record vote, and twenty-six members join him, a record vote will be ordered. If we are going to put into the Journal whoever requests a record vote, then I suggest we also include the twenty-six names that join him.

Further Discussion

Mr. Champagne That is, in fact, exactly what I think. If you're going to start putting one, well, let's all, have all of 'em's names in there. I object to this mentioning because, frankly, I'd pay a hundred dollars for a record vote that was held yesterday if we had it.

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Point of Information

Mr. Perez Point of information, again, Mr. Chairman, because this is a highly irregular procedure where we are breaking early for lunch. Would you please tell us exactly what it is that we propose to do this afternoon, and why we can't begin doing it now?

Mr. Casey Mr. Perez, I was advised by the Chairman of the convention, when he departed, that after lunch the convention would consider Committee Proposals 12 and 14--after lunch. It is my understanding that, as he announced yesterday, those Delegate Proposals 67, 71, and 72, the author of those proposals was not ready to move at this time. That's the only explanation I can give.

Further Discussion

Mr. Goldman Mr. Chairman, on this record vote and recording the name of the person who requested, and also the twenty-six delegates, I'm agreeable to that, too, because I think many times I've counted, and I haven't seen twenty-six hands go up. I'm not criticizing the Chairman. But, there have been many occasions like that. I think many, many record votes have been called for that have no reason for being. I think it not only saves money, but I think it'd be a lot faster moving, if we could adopt that.

Mr. Poynter Mr. Goldman, again, now I'm strictly going to do, and I don't think there's any departure from the rules or anything like that with respect to your comment, of Mr. Bollinger's--but, I think it'd be only fair of me to point out: if you want and would so move, and this convention adopts, a procedure by which I have to open the machine and then print the yeas and nays of who wants a record vote, you've got to record vote to get a record vote; if you get one, you're going to have a second record vote--if you follow me. Now, if that's what you want to do, there is nothing to my knowledge--and perhaps I'm incorrect--there is nothing to my knowledge that would be improper about such a procedure; there would be nothing involved that would take a suspension of the rules. I would appreciate a direction from the convention one way or the other about it. But, I would point that out to you that, in effect, if you are going to open the machine and require a record vote to get a record vote, you're going to be spending some more money there, and kind of doubling up on the process, if you will.

Point of Information

Mr. Lanier Mr. Chairman, Committee Proposal No. 14 is this proposal dealing with human resources that we took up Saturday, that's up for reconsideration. What is the reason why we can't take that up at this time?

Mr. Casey I don't believe the author is available, to tell you the truth, Mr. Lanier. If he's ready, it's fine with me.

Mr. Lanier Well, there's a whole...it's a whole bunch of authors. It's the Committee on Education and Welfare is the author. Secondly, on these delegate proposals by Delegate Abraham, he has advised me that he's ready to go except Kendall Vick has something that he apparently would like to present on it. But, I was wondering on that...

Mr. Casey I think that, Mr. Lanier, all I can tell you is, if Mr. Abraham wants to go now, that's fine with me. But, I was advised that he was waiting on some additional information.

Mr. Lanier My thought was maybe we can get started with this reconsideration. If we get through with that, then go to Mr. Abraham's, and then if we get through with Mr. Abraham's presentation, defer until Mr. Vick is here to say whatever he wants to say.

Mr. Casey Mr. Lanier, all I can tell you is that

we have always yielded to the wishes of the authors of the proposals. If the convention...if the authors wish to make a motion that they take their resolutions up at this time, we'll let the convention decide. If they're not ready, we have not been in the position of forcing anybody to take a resolution up until they are ready.

[Motion to stand at ease until 12:30 p.m. Substitute motion to stand at ease until 1:00 p.m. adopted: 62-17.]

Recess

Chairman Henry in the Chair

[Quorum Call: 73 delegates present and a quorum. Motion to take Committee Proposal 12 out of its regular order adopted without objection.]

Reading of the Proposal

Mr. Poynter Committee Proposal No. 12 introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare, other delegates, members of that committee.

A proposal making provisions for human resources by prohibiting the leasing of convicts and the employment of convicts in competition with private enterprise and by providing for reimbursement to parishes for expenses incurred resulting from crimes committed in penal institutions.

The proposal consists of one section:

"Section 1. (A) State Penal Institutions: Reimbursement of Parish Expense. In parishes in which are located penal institutions of the State of Louisiana, the expenses incurred by the parish arising from crimes committed in such institutions or by the inmates or employees thereof shall be reimbursed by the state.

(B) Convict Labor. No convict sentenced to the state penitentiary shall ever be leased, or hired to any person or persons, or corporation, private or public, or quasi-public. No convict sentenced to the state penitentiary shall ever be employed in any enterprise in competition with private enterprise."

Explanation

Mr. Flory Mr. Chairman and delegates, what the Committee Proposal No. 12 does, in Section 1 (A), retains the present constitutional provision that provides for the reimbursement of expenses incurred by a parish as a result of crimes committed in, or by the inmates or employees of the penal institutions located in that particular parish. As I appreciate the present constitutional provision, this was put in there to protect, or to make restitution to, the parish of...where Angola is located and also the other state penal institutions in the event that they sustain losses because of crimes committed by inmates escaping or something of that nature.

Section (B)...what Section (B) does, retains the present prohibition in the constitution against the leasing of convicts. It adds a prohibition against the employment of convicts in any enterprise that's in competition with free enterprise. Now, we have heard from the director of the Department of Corrections, that there was some question about the Section 1 as to whether it ought to be retained as it now exists in the constitution. All of the information that we had before the committee was that it should be retained in order to reimburse parishes or local government bodies that sustained a loss because of something committed by the employees or inmates of a penal institution. The reason for the addition in the present, or the proposed, article in Section (B) is to be sure that there will be no factories, etc., instituted or begun at Angola that would sell products on the open market in competition with free enterprise.

Mr. Chairman, that is the explanation. I'd be happy to answer any question that you might have.

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Questions

Mrs. Zervigon Mr. Flory, why has the committee omitted...why has the committee omitted the present language that would allow employment of convicts under state supervision on public roads and other public works?

Mr. Flory Well, it was the feeling of the committee that the state ought not to get into the use of prisoners on upkeep of highways, etc.; therefore, they deleted it. Mr. Lennox and myself, who were on the committee were, and the committee was in total agreement in that regard.

Mrs. Zervigon The authorization that now exists in the constitution that the legislature may authorize such a thing. Is that in use now, or convicts that work for the government?

Mr. Flory The notes...there was a time--I might give you this explanation--that under the present language of the constitution, I believe it was in the 1952 session of the legislature where they authorized the use of patients in mental institutions and persons who were serving time at Angola and other penal institutions to do construction and repair work, the legislature has, since that time, repealed that authority. To my knowledge, no convicts work on any public projects in this state, at this time, based upon legislature authority now in existence.

Mrs. Zervigon Well, there are two additional things that trouble me about this: One is it's effect on work release programs. It says that "convicts may not be hired," which means that you couldn't have work release programs; isn't that so?

Mr. Flory No. Under the language, the question arose in the Department of Corrections, as we said, "in competition with free enterprise." Under the work release programs that I am familiar with--and I've had some contact with both parolee rehabilitation and the work release program--if, when they spend the night in the penal institution and then they work outside the penitentiary during the day, they work in the free enterprise system for private industry, which this does not prohibit nor did we want to prohibit that.

Mrs. Zervigon Mr. Flory, I'm addressing myself to the first sentence of Section (B) "No convict sentenced to a state penitentiary shall ever be hired to any person or persons, or corporation, private or public." That would not affect the work release program? That would not be a person hired by a private corporation?

Mr. Flory There was some question about that in the mind of the Director of the Department of Corrections. I have an amendment, I think, would take care of that. But, I was trying to explain the proposal without getting into the amendment.

Mrs. Zervigon One more question: Would this stop any sort of rehabilitation program which would involve convicts freely within the penitentiary doing useful work and being paid therefore?

Mr. Flory It does not interfere with the rehabilitation program that now exists, whereby they work in the penitentiary on the manufacture, for example, of soap, license plates, etc.--I think they are paid two to five cents an hour--so long as they distribute those products to the state itself, or the state agencies, and they are used within those agencies.

Mrs. Zervigon That is not a person hired by a public corporation?

Mr. Flory Well, I say this is what the Department of Corrections felt like did involve itself with the work release program, etc. That was the reason that I had prepared the amendment, in hopes that it would correct, because I did not want to interfere

with the rehabilitation program nor the work release program.

Mr. Munson Gordon, Mrs. Zervigon has already asked one of my questions; I was concerned about the work release program. You will offer an amendment on the first sentence of this Section (B) before we are called on to vote on this; is that correct?

Mr. Flory I have an amendment that would rewrite Section (B). But, I was trying to explain the proposal before...without getting into the language of the amendment.

Mr. Munson What about the manufacture of automobile license plates?

Mr. Flory Would not interfere, nor do we intend for it to interfere with that, Mr. Munson.

Mr. Munson Well, the way it's written now, though, it would; wouldn't it?

Mr. Flory Well, it could be interpreted to that extent by some of the people that I have talked to. They believe that it could be, it was not intended to do that.

Mr. Munson Do you intend to offer an amendment to correct that, also?

Mr. Flory Yes, sir. Yes. And, the statutes provide that they can do that, Mr. Munson, but that they cannot sell their wares or merchandise on the open market.

Mr. Mire Gordon, would this stop--like for instance, Jackson Barracks in New Orleans, from using prisoners as domestics in the homes there and to do work for individuals in the compound?

Mr. Flory Mr. Mire, I had that same question arise insofar as the cooks at the governor's mansion are concerned. I believe, with the amendment that will be clarified, was no intention to stop that at all. But, it would stop, if it existed somewhere, construction work by inmates in mental institutions which the legislature has repealed, or inmates in the penitentiary from constructing--as they did at one time--a three or four million dollar project, which the legislature subsequently repealed that authority.

Mr. Lanier Mr. Flory, I'm concerned about this last sentence. As I understand your presentation, this would not be construed to prohibit convicts from being used to do things at the penitentiary--like say, paint buildings, or repair buildings, or things like that--is that correct?

Mr. Flory No, not so long if it's within the present public bidding statutes, so long as it doesn't, I believe, it's fifteen hundred or twenty-five hundred dollars--I forget which the figure is--in Title 39, Section 2211, I believe, which, under the public bidding--and I had it on my desk back there--is either fifteen hundred or twenty-five. If it's under that, they can do it, nor do I intend to interfere with that because when the legislature repealed that authority, it was understood that they would continue to do minor repair and maintenance.

Mr. Lanier But, if there is anything over that amount, it would have to go under the public bid law...

Mr. Flory Under the public bidding statutes.

Mr. Lanier ...and, the convicts couldn't do it?

Mr. Flory No, sir.

Mr. Giarrusso Mr. Flory, a couple of questions. Would you please define for me what a penal institution is, and how many of them do you know that there are in the state?

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Mr. Flory My understanding, and what the committee meant, they didn't want to get into the parish prisons, if that's your question; it was no intent to do that--only on state penal institutions, which was Angola, the one at DeQuincy, and the one, LTI in Scotlandville, I believe, and one in Monroe.

Mr. Giarrusso O.K. How would you determine the cost of a crime that's committed in a prison?

Mr. Flory I don't know, Mr. Giarrusso, that's been in the constitution since 1921; and, I'm sure there is jurisprudence on it.

Mr. Giarrusso Well, there might very well be. But, I was just interested in what formula that they use, whether it's on a time basis or what. The next question is: Do you believe in the rehabilitation of prisoners? Do you think prisoners should do something meaningful with their time and perhaps earn some money while they are doing it?

Mr. Flory Well, there is a program of rehabilitation, right now, that the legislature had authorized for the prisoners, and so forth, and this would, in no way, interfere with that.

Mr. Giarrusso One other question: Don't you believe that this material, if it's going to be, should be statutory rather than constitutional?

Mr. Flory No, I think there is a long history of this type of language in the constitution since 1921; and, I think we ought to retain it.

Mr. Giarrusso Well, Mr. Flory, I have seen you consistently advocate change here in many of the articles. I can't subscribe to the concept, simply because something has been in the constitution since 1921, it should be in the 1973 Constitution.

Mr. Flory No, let me clarify, Mr. Giarrusso, if I indicated just because it was in the existing constitution that it ought to be retained. I think the merit of the issue is that it's of sufficient magnitude that it ought to be retained.

Mr. Nunez Mr. Flory, would you give the convention...give the group some specifics as to why (A)--which is already in the present constitution and has been there since '21--what reasoning behind the logic that we should keep this provision in the...write it the new constitution? Is it that much of an expense to parishes that have these institutions that they are being incurred that there is such a grave financial burden on them? Is that the problem?

Mr. Flory Well, it was my understanding, Senator Nunez, that there has been some occasions in the past, whereby the state did have to reimburse parishes for this very thing, and that as recently, I think, they have had to make reimbursement on some of these...of this one provision.

Mr. Nunez And, you believe...

Mr. Flory I can't give you the specific example...

Mr. Nunez O.K. We don't need the specifics of it. Evidently it's here and there must be a re... Do you believe that the state could not reimburse them unless it's in the constitution? Is that the logic behind putting it in the constitution? We could not statutorize this material and say that the state shall reimburse these parishes in the statutes rather than putting it in the constitution? I think that's what I'm trying to get...the validity for putting it in the constitution.

Mr. Flory Well, it was the authority, I presume, when they put it in the constitution, based upon the location of the facility at that time for problems that arose and for the repayment of damages in that particular area--Angola was the one institution mentioned at that time. I would have no objections, Senator, for taking it out. But, I thought

it was something with more of a protection to local government, where state caused damages by whatever means to local government--this would, then, be the authority for repayment. That was simply the reason for the continuation of the language in this constitution.

Mr. Nunez That same authority for repayment could be gotten from the statutes though; isn't that correct?

Mr. Flory You're a member of the legislature; and, I'm sure you know what you are talking about.

Mr. Nunez Well, let me tell you...well, then, it is correct what I'm saying is true, it can be?

Mr. Flory I would think so, yes.

Mr. Roemer Gordon, will this prohibit or in any way restrict the attempts to rehabilitate these prisoners by giving them useful tasks, etc., etc., etc.? Could you address a few remarks to that?

Mr. Flory No. It would in no way affect that because the statutes specifically provide for that, Mr. Roemer. This would, in no way, interfere with that at all.

Amendments

Mr. Poynter Amendments sent up by Delegates Roy, Gauthier, and Tobias.

Amendment No. 1. On page 1, delete lines 18 through 23, both inclusive, in their entirety.

Amendment No. 2. On page 1, delete lines 24 through 29, both inclusive, in their entirety.

Amendment No. 3. On page 1, delete lines 16 and 17, both inclusive, in their entirety.

Explanation

Mr. Roy Mr. Chairman, ladies and gentleman of the convention, we have put this particular amendment into two sections so that it can be divided in case the convention feels that one of these parts should be retained and not the other. It is my feeling, and the feeling of the coauthors, that neither of these particular sections should remain, that we ought to take them both out. Now, let me give you some background and some disagreement with Mr. Flory with respect to the argument that the present section is similarly provided for in the 1921 Constitution. If you will think back at the turn of the century and prior to the turn of the century, prisoners were some type of animals. They were to be abused, lent out, indentured, tortured, whatever have you, by certain people. As a result, I think, history found that when the Constitution of 1921 was written, the delegates there too felt that it was necessary to ensure that this would not recur. I think in this modern time there is no question but that that is not anything we have to worry about. Besides that, Section (A) is very, very ambiguous--just for instance--when it speaks of the expenses incurred by the parish arising from the crimes committed in such institutions, are we talking about the fact that the repair to the building is located in the prison? Does the parish have to make some type of reimbursement there or not? Are we talking about when it says "or such are committed by the inmates or employees thereof," are we still talking about committed in the prison compound itself or maybe committed outside? Are we talking about court costs, the pay of a D.A. for having to prosecute the prisoner to find him guilty and what have you? It's just much too ambiguous; it's archaic; it's not needed; it's not in keeping with modern penology. I think we should take the whole matter out and let the legislature deal with it since there are so many items in it that need to be clarified by more deliberation and spell out in more detail than we have here in the constitution. With respect to Section (B), I don't see that at all. I see that that's the worse type of penal provision we could have because, in my judgment, it prevents work release programs; it prevents the

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whole notion of rehabilitation that we have. Now, let me say this, the other day I was listening to the radio and heard Paul Harvey--who is not one of my favor commentators--but in any event, Paul Harvey was talking about that it appears to him in Congress that in this day and time when we talk about rehabilitating prisoners and/or reimbursing victims for crimes committed against them, we are imposing taxes on law-abiding citizens to help those who have been injured by criminals. Now, I'm still for that in any event. But, Harvey's comment was, "Why not make it so that the person who does the injuring may be in a position to reimburse the person who he has injured?" He pointed out that in one particular case a federal judge had, instead of sending some doctors who were guilty of income evasion to prison, he made them work for six months in a charitable institution and, thereafter, he made it mandatory that they repay the government for their income tax evasion. All I'm saying is that, we may in the future--as some states are looking now--feel that imprisonment is not the answer; that it doesn't reimburse the victim at all and that in a lot of cases what ought to be done is the particular criminal ought to be able to pay back the person who is injured. So, for those reasons, I think that we ought to take both of these out. One last comment: It just seems silly to me that in a prison system where we are supposed to be teaching prisoners some type of trade--maybe carpentry and what have you--that we would provide that even within the system itself, the prisoners will not be allowed to make repairs to the various buildings and what have you and try to learn a trade, because they may be in competition with private enterprise--which brings up the question: What the heck is competition with private enterprise? It's too broad a term, and I think we ought to take both of these particular sections out.

Questions

Mr. Roemer Chris, I have a friendly question for you. I would like you to hit a lick on the idea that some have proposed here that it's the wrong thing and it's something we should take up in this constitution: that is, the danger that Angola or some other state prison, might undertake a private enterprise--such as a paint factory, or a furniture factory, or something like that. Do you think that's something we should address in this constitution?

Mr. Roy No, I don't. In the first place, I think that it would be unconstitutional even without any provision in the constitution where Angola would get engaged with private enterprising in certain areas of private enterprise. So, we don't know what we are saying when we say "What is competition with private enterprise?" That's so nebulous it could be any number of things. I think it's up to the legislature to deal with that more succinctly than we can.

Mr. Perez Mr. Roy, in view of the fact that we have the provision in the Bill of Rights with regard to the prohibition of involuntary servitude, don't you believe that it is likely that the courts would hold that you could have no work program of any kind for convict laborers because it would, in effect, be involuntary servitude with respect to the work?

Mr. Roy No, I don't, Mr. Perez. I think this: That if the work is being done for the benefit of the prison system, the Article...Section 3 of the Bill of Rights provides "slavery and involuntary servitude are prohibited except in the latter case as punishment for a crime." So, I think they could make them work in the prison system. Now, with respect to a work release program, it may be that a prisoner would say, I don't want to go work for a particular person even though it teaches me a skill." He could probably get out of doing that, but if that's his own...if that's what he wants, if he doesn't want the benefit of getting out of Angola, well, then, let him make his choice. I don't think as a practical matter, we would find

too many people who would say, "I don't want to get involved in a work release program."

Mr. Perez In other words, you believe that only those who would want to work could be made to work, and those who decided they did not want to work, those convicts could be allowed, then, to sit around do nothing?

Mr. Roy No, no. No, Chalin, you're missing my point. When you say a work release program, you are talking about outside of the system in some type of rehabilitative capacity. I think that a prisoner would have the right to say, "I don't want to engage in that." But, insofar as being incarcerated in the prison and working there, I think they can make him work because it explicitly says that they may do so.

Mr. Hunez Mr. Roy, during the past session of the legislature, we reimbursed several municipalities and parishes for work that their deputies, and their sheriffs, and etc., and even the state police had done because of the same conditions that have arisen out of either prisoners, or riots, or etc. We didn't have no constitutional authority to do it; we did in the statutes through an appropriation. Don't you believe we can do the same thing without this provision to the various parishes that have penal institutions in them?

Mr. Roy Right. I think it's good point, Sammy, in that the legislature would be in a position to adjudicate whether that parish should be reimbursed. Let's take an example where the officials of that parish are just flagrant in not doing certain... having certain safeguards, and as a result, something happens. Well, maybe that particular parish ought...police jury ought to have to pay for its own negligence and not impose that upon the rest of the citizens of the state. So, it leaves it up to you all, which is the way I think it ought to be.

Mr. Singletary Chris, if a prisoner volunteered for a work release program, that wouldn't be involuntary servitude, would it?

Mr. Roy That's right, it would not.

Mr. Singletary But, under the committee proposal he might be prohibited possibly from volunteering.

Mr. Roy In my judgment, there is no question, Alvin, but that you can't volunteer for that type work.

Further Discussion

Mr. Avant Mr. Chairman, fellow delegates, I rise to speak against this amendment--particularly, and most emphatically, Amendment No. 2. Now, I'm somewhat surprised, really, to see Mr. Roy as one of the authors of these amendments because if my memory doesn't fail me, he was the gentleman--and I mean no disrespect when I say this--who from this podium some months ago referred to what he called a law and order paranoia. Now, I don't necessarily agree that there is any law and order of paranoia. I'm certainly for law and order and all reasonable and proper steps to preserve law and order. I think we all are. But, I want to tell you that this provision that he seeks to delete, has been in the constitution of this state since 1898. I hate to get up here and tell you what my father told me, but I'm going to do it, because I think it's pertinent, because I happen to have a little first hand information about this type of situation. My father was born in 1884, and he was a sawmill man. He worked a number of years in the State of Florida where they leased convicts to the operators of sawmills--like you lease cattle, or you lease a piece of equipment. One very interesting thing it was no crime to work a man to death; the most serious crime was to let him escape. Needless to say, there were very few escapes because there was a financial penalty imposed upon the employer in

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those cases if that convict escaped. Now, I say to you that the only reason you put provisions in a constitution, or one of the reasons, is to keep things from happening that have happened in the past, and that you want to make sure don't happen again. I know this with respect to certain other provisions in here that Mr. Roy seeks to delete. But, I am sure that many of you have ridden about the southeastern part of the United States, and in some of our states, seen on the public highways, convicts in highway department trucks manacled together with leg irons and hand irons and transported before the eyes of the public to work on those public roads. Now, that may be in the minds of some people the way to restore law and order, but certainly not according to my judgment. I think that unless we put some provisions in this constitution to insure that those things don't happen in this state, that they may well happen in this state because they have happened in other places at other times, and they were done by people, people just you and I. That's all I have to say.

Questions

Mr. Roemer Jack, in regard to this Paragraph (B) it reads: "State penitentiary." What about other institutions in the state, for instance, at Jackson where I think they do some work on their own shop and that sort of thing?

Mr. Avant Mr. Roemer, let me say this. I'm speaking on this particular amendment--there will be other amendments, some of which I may be for, probably will be for--one, in fact, I'm pretty sure I know that I'm going to be for. There is nothing intended here to stop a bona fide work release program for the purpose of rehabilitation; nobody wants to stop that.

Mr. Roemer Well, I just want you to know that's my concern. I share many of your same fears, but I...

Mr. Avant Nobody want to stop that. What we want to do...what I want to do is stop the leasing and hiring of human beings to other human beings like you lease cattle, bulldozers, tractors, and automobiles.

Further Discussion

Mr. Kilbourne Mr. Chairman, fellow delegates, I address myself especially to Section (A): that is, what is in the proposal is the exact language that has been in the constitution all this time and in the Constitution of 1921, and I don't know how long before that. But, I can tell you that this is a serious problem in the parish of West Feliciana where the penitentiary is located. For instance, just a few weeks ago when the last grand jury met in West Feliciana, I believe there were twenty-one murder indictments for killing in the prison at Angola. The expense of these things is terrific and it would be no way that a parish as small as West Feliciana could take care of these expenses. Now, it's well and good to say this is a legislative matter and the legislature will take care of it. Maybe they will. But, I can tell you within my memory--not in my term of public office as district attorney--but in my memory, there was times when they wouldn't pay them. I don't know for what reason, maybe political reasons or some other reason, but they wouldn't pay them. As a consequence, the grand jury in West Feliciana wouldn't indict anybody at Angola and I certainly never want to see that happen again. But, now, nowadays, it's a much more serious problem because of course, the prisoners at Angola have to be accorded just exactly the same rights that any other person accused of crime is accorded. The expense has gone up in proportion to their rights. I feel it would be a serious mistake to take this out of the constitution. I certainly hope that you will leave it in there. If anyone...I will say this, someone asked how this matter is handled. Well, it's handled this way. When they bring an inmate from Angola down for trial, whatever expenses

incurred by the parish, for instance, jurors fees, transcribing testimony--all of those things run into--witness fees, expert witnesses, all of that. Any expense in connection with their trial is paid for by the state--as it certainly should be. I will be glad to answer any question, if anyone has any.

Questions

Mr. Alexander Mr. Kilbourne, so that the other delegates who are not familiar with what goes on up there will know about some of the expense incurred, do you not--of course this is West Feliciana --I think you are familiar with West Feliciana, also--that the judge goes onto the grounds of the penitentiary and tries some felony cases. Is that not a fact?

Mr. Kilbourne I'm sorry. Would you repeat it? I didn't understand the question, Reverend Alexander.

Mr. Alexander The question is that: are you familiar with the system under which the judges sometimes go to the penitentiary and try some felony cases--not necessarily capital, or what used to be capital cases--but assaults, etc.? Is that not a fact?

Mr. Kilbourne Your question is that they are going to prison and are tried for felony cases, not necessarily capital cases?

Mr. Alexander Right.

Mr. Kilbourne Yes. They are tried for all felony cases, and such as escape--any crime--; Just like the same crimes that are committed on the outside.

Mr. Alexander Which means that whenever that happens, then the whole court moves onto the...into the penitentiary.

Mr. Kilbourne In the penitentiary?

Mr. Alexander Yes.

Mr. Kilbourne Oh, no!

Mr. Alexander No?

Mr. Kilbourne No, no. No, the grand juries...

Mr. Alexander Only the grand jury?

Mr. Kilbourne The grand jury, when they investigate them, the grand juries frequently go there because the witnesses are all there. Angola is twenty-five miles from St. Francisville, where the courthouse is. So, in order to save a lot of... sometimes they may have fifteen or twenty witnesses --or maybe twenty-five witnesses--and they have to bring them down there in a big bus--the prisoners, the inmate witnesses. They have to bring them down there in a big bus with bars on it and keep them locked up there all day while the grand jury is investigating. So, what the grand juries have done recently, more recently, they have gone to the prison and held their grand jury sessions at the penitentiary. When...if they make the return indictment, of course the trials take place at the courthouse, which is at St. Francisville.

Mr. Alexander I see.

Mr. Hernandez Mr. Kilbourne, is it not true that the people up in the areas...the different areas around the several institutions, demand that the provisions contained in Section 1 (A) be put in the constitution?

Mr. Kilbourne That's correct.

Mr. Hernandez Rightfully so?

Mr. Kilbourne Yes, sir. In my opinion.

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Mr. Hernandez That had not been brought out. I just wanted to be sure that that was brought out in testimony.

Mr. Kilbourne Thank you, sir.

Mr. Gauthier Rich, I agree with you in principle, but I'm trying to distinguish. It says in the... on lines 21, 22, and 23, "in such institutions by the inmates or employees thereof." In other words, if a person employed by Angola commits a crime, they...the parish has to be...

Well, what distinguishes this employee? He is a state employee, is he not?

Mr. Kilbourne Well, that's correct. He's a state employee, and the incident would take place at the institution. Now, bear in mind that's a big place. It's twenty-five thousand acres.

Mr. Gauthier Well, what distinguishes this particular state employee, say to another employee, possibly in the welfare office, who works in my parish that would commit a crime? Would my parish be reimbursed for it?

Mr. Kilbourne No, it would not. But...

Mr. Gauthier Well, I have trouble...

Mr. Kilbourne The...point is simply this, Mr. Gauthier, that Angola is the largest prison--one of the largest prisons in the country--and it's located in a small parish. Now, we...we seldom have problems with employees, except this: that we've had quite a number where they would smuggle contraband into the penitentiary. We've had quite a few trials like that. That would be in connection with the...operation of the institution. So, I presume that's the reason. But, those expenses are reimbursed to the parish.

Mr. Gauthier But, do you not agree that it would be possible for my parish, like any other parish, to incur some expenses because of the action of state employees?

Mr. Kilbourne Oh, I certainly agree with that. But, not on the magnitude it occurs at the penitentiary.

Further Discussion

Mr. Flory Mr. Chairman and delegates, I rise in opposition to the amendments. I hope you'll give me just a moment of your time, if you will, to let me, if I can in a few words, summarize how deeply I feel about this particular subject that we're talking about now at the moment.

I can remember in the thirties when you could go to the parish farm or the penitentiary, and you could get somebody out of the penitentiary, and you could bring them to your home and keep them and work them, and do anything you wanted to them so long as you fed them. I remember as a child, during the thirties, waking up around three o'clock in the morning, and a man that had one of these prisoners at his house two doors down, had housed him in a one room about 8 x 10 in a little garage that was a frame building; the building was on fire and that man burned to death in that fire. I stood by there as a child and smelled the flesh burning from a prisoner who ought to have been in the prison, protected at the time.

Secondly, I want to tell you this: What this is all about is simply this. There has been repeated occasions--repeated occasions--when prisoners at Angola--and just the last few days ago, I am told, a man sentenced up there for aggravated rape...raising hell because he wants some factory put in Angola to build furniture where he can put him up a little nest egg when he gets out.

Now, let me tell you what that does. All the people involved in the furniture industry in this state are displaced because they can perform the services cheaper than you can do it on the outside because they only pay them what they want to pay

them in Angola. Consequently, the man on the outside who's committed no crime whatsoever, who has to pay the taxes to sustain Angola and keep him in Angola, has to sit on a bench; his children have to starve; they don't have the clothes to go to school. Yet, you are worried about the prisoners in Angola? I tell you, let's worry about the people who haven't committed any crimes.

Just a few years ago, they wanted to put up a paint factory in Angola. They wanted to sell all of the paint to the Highway Department. They had a paint factory in the city of New Orleans that would have gone completely out of business. Only through the good will of the governor was it stopped. I think there's a time and a place to draw the line. I heard Mr. Roy and those people on the other committees when they talked about law and order--put them in the penitentiary, punish them for the crimes. Let me tell you something else, Mr. Roy, I've been working on parolee rehabilitation since 1956. Where have you been? How many of those people up there that are lawyers are you willing to let out and practice law during the day and go back to Angola at night? I have no objection. I'm strong for work release programs so long as they work for private enterprise, and the state don't get the money. Let them stay in the penitentiary at night, work outside for private enterprise, private industry, during the day, but let them get the money--or let their family get it. Don't let the state lease to somebody, and let the state get the money. That's what this is all about. If you've got more concern for the prisoners in Angola than you have for the honest worker on the outside, or the honest businessman, then I suggest you vote for this amendment.

I remember the furor caused in this convention because they was worried about the state going into the printing business--not talking about Angola--just talking about the Division of Administration doing the printing, and all the hell that was raised because they didn't want to get into the printing business, because they had private enterprise doing the printing for the state--printing the Journal, printing the calendar. And now, we are willing to say "it's O.K. if you do it at Angola. It's O.K. if you do it with the prisoners. But, don't take care of the private citizen." I am amazed at what I hear from this microphone in this regard--absolutely amazed.

I ask you to defeat this amendment.

Questions

Mr. Nunez Mr. Flory, I'm not going to say I'm amazed at what you said, probably you've got very good reasons for saying it. But, do you know of any instance where we are competing with private enterprise with Angola and any other prison right now? Besides all the things that people wanted to do, is there one instance that we are now competing?

Mr. Flory Yes, sir. You, as a member of the legislature, appropriated three and a half million dollars for a new facility at Angola and you let the prisoners construct it. Then you came right behind and repealed that authority. It got so fouled up, no private contractor could go in there and straighten it out. No, it's wrong, Senator Nunez, to take people off the...in the penitentiary and construct a three and a half million dollar facility when you've got people on the outside who have committed no crime, who are paying their taxes to run Angola, and who can't get a job. Yes, sir, you as a member of the legislature did that.

Further Discussion

Mr. Abraham Mr. Chairman, ladies and gentlemen, I rise in support of this amendment because I think all of this is just purely statutory material that could go in the statutes just as well. But, let me correct a couple of impressions that were given from this microphone. One is that this language in Paragraph (B) is the same as in the present constitution. Let me read what the present constitution says. It says: that "no convict sentenced

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to the state penitentiary shall ever be leased or hired to any person, or persons, or corporations, private or public, or quasi-public or board, save as herein authorized."

Now, the first portion of this Article III, Section 33, states, "The legislature may authorize the employment under state supervision, and the proper officers and employees of the state, of convicts on public roads or other public works, or convict farms, or in manufacturers owned and controlled by the state. Under such provision, restrictions may be imposed by law, and shall enact laws necessary to carry these provisions into effect." So, the legislature has had the authority to employ these people on public works in the past. I ask you: have we seen any road gangs on this state, as been mentioned as occurring in the southeast portion of the United States? In my lifetime, I have never seen any in Louisiana. I just don't think that this language is necessary in the constitution. I am very much in favor of work rehabilitation for people who serve time in penal institutions. But, because it is such a complicated problem, I don't think that we are in a position to try to deal with this here in this convention. Therefore, I think it must be left up to the legislature. It needs to be flexible enough so that the legislature can change it, if it does need to be changed. For these reasons, I am in favor of this amendment.

Further Discussion

Mr. De Blieux Mr. Chairman, ladies and gentlemen of the convention, I had not had any intention of saying anything about this amendment until I heard Mr. Flory. Then, he kind of got me a little bit upset about it. I thought I'd better give you my views. Mr. Flory and I have had some differences about this type of program for a long, long time. Some people feel or think that convicts ought to be sent up there to Angola to stay there and do nothing about. That has been the situation for a long time. As a result, what do we have? We have a college for crime because they are not taught how to do anything whenever they go up there. Whenever they come out, they are in a worse position than when they are sent. Yes, Mr. Flory, and other members of this convention, I am thinking about the people on the outside because those are the ones who suffer because of the fact that we haven't done anything for the inmates that we have sent to Angola. One way to do something for those inmates is to teach them how to do a job when they get out of there, so they can become self-sustaining citizens. We don't want to send them up to Angola where they will be doing the same identical thing which caused them to go there. Let's teach them a trade. You can't teach them a trade with this type of legislation in our constitution. It ought to be taken out, and the legislature ought to be given a chance to work out proper work-release programs, proper rehabilitation. If necessary, if they are engaged in something that they can have a little pride in and a little dignity for them to help the state and its cost of keeping them up there and training them, they ought to be allowed to do it. So, therefore, I ask you, let's don't put this type of legislation into our constitution. It has no place in it. Certainly, it has no place for it if we are thinking about the good, honest, law-abiding citizens on the outside that we don't want to foster those who go to Angola and learn how to commit crime because there is nothing else there for them to do. Let's put the type of programs in Angola where we can help these people. Yes, if it's competition for outside industry, let's have a little competition to that respect. It won't hurt us that much, as long as we're teaching people how to do something. You take...there's nobody hardly objects to a license plant that we have up there. Yet, I say, that's in competition with private enterprise. You have license plants throughout the United States that are not run by convict labor. But, we have ours. We do business for other people other than the State of Louisiana up there. It helps to provide some sort of an income, as well as a little rehabilitation for those who work up there. We have...do have

a small amount of training, but not near enough. We need more of it. Maybe, if we keep this out of the constitution, we can get more and help ourselves help the state, and help the inmates that we send up there. I ask you to support the amendment.

Questions

Mr. Flory Senator, have you ever heard me say, as any time, as long as you've known me, that that's all I wanted them to do was to stay up there and not do anything? Have you ever heard me say that?

Mr. De Blieux Well, Mr. Flory, I can't say that's the...I heard you use those exact words. But, yet, nevertheless, if you don't let those convicts learn how to do a job, that's all we are for.

Mr. Flory You inferred that, though, didn't you? Can you show me in this language where it would prohibit them from carrying on vocational training in that institution--or any institution? Can you show me that?

Mr. De Blieux Well, let's make it worthwhile vocational rehabilitation.

Mr. Willis Senator, don't you think that as "idleness is the devil's workshop," that in order to have some program conducive to rehabilitation, that they must perform some constructive work in the rehabilitation program? If that construction is construction itself, then it's a worthy cause, isn't it?

Mr. De Blieux Certainly, Mr. Willis. If there's something that whenever the inmate gets through with it he can see it and have some pride and dignity because of the fact he has done so, yes.

Mr. Willis Satisfaction indeed.

Further Discussion

Mr. Jack Mr. Chairman and members, I rise in support of this amendment. This whole matter should be subject of legislation and not in the constitution. Different people say whether they are qualified or not to talk on rehabilitation. I believe I know a little about prisoner rehabilitation. I've handled as many pardon board and parole board cases, probably, as any lawyer in the history of Louisiana. I've been handling criminal cases all of my practice. Primarily, I'd say I am a civil lawyer. But, I'm interested in anything to do with human beings, and humanity, and trying to help people. My civil practice concerns contact with people. I don't like abstracts, titles, those things. Every case I've ever handled where I've got the man on parole, if possible, I've kept up with that person. I believe, since I've practiced since August 2, 1932, I know something about prisoner rehabilitation. It's not a question of whether you are going to take prisoners, keep them for life. You're not going to do it. The question involved is not being nabby-pabby and treat them lightly. But, they've got to learn somehow to make a living, to have some pride when they get out. We've got to live with those people. If they're going to put them off like the old days of Devil's Island, keep them there forever, that's one thing. But, they're going to be back here; it behooves us to do all we can to rehabilitate them.

Now, the reason I'm against Section 1, this is a matter for the legislature. Now, we've started with local and parochial affairs and education of putting too many things in this constitution that were really statutory. I don't believe in a technical thing on those. But, where it's clearly something that's liable to change from time to time, you can be wrong about, and it can just as well be in the legislative matters, let's don't put it in the constitution. I notice in one--and somebody will probably, if they get time to ask me a question, will say, "Isn't Section 1 more or less like that in the constitution?" It's not the question. This says in..."reimburse the parish for crimes committed in the institution"--by anybody--that could be a visitor. Why should they be reimbursed

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for that? Certainly that's debatable. Let the legislature decide that. Inmates or employees, where they commit them. I don't know why for employees. I agree there ought to be some reimbursement on the inmates. But, this don't say what type of reimbursement. This is not clear. We don't want to load this constitution down with things just because you want it there and not willing to take your chance with the legislature, if the thing is something that's subject to change.

As to Section (B), I don't think, Mr. Flory, you have any worry about those convicts being able to outdo skilled people and good people. I don't want something in (B), that passed, to interfere with the work-release program and those type of programs. I say this is entirely a subject for the legislature--just like on juvenile jurisdiction. That thing is changed from day to day, and the same about prisoners. What's good this year might not be proper method next year. That's why this should be sustained--this committee amendment, this floor amendment--and let it be a subject for the legislature.

In conclusion to say, if it needs changing from year to year, you can do it. So, I say sustain it. Thank you.

Further Discussion

Mr. Nunez Mr. Chairman and fellow delegates, I rise in support of these amendments. I don't believe that the material placed before you in Committee Proposal 12 is constitutional material. I think it can aptly be handled in the statutes. I think it has been handled in the statutes before. I believe that Section (A), when we talk about reimbursing the various penal institutions throughout the state, we can make that applicable to the various parishes. A crime is a crime whether you serve it in Angola, or serve it in parish prison, or serve it in reform school, or where you serve it. I think if the state has an obligation to take care of those crimes committed within an institution by an inmate in Angola and other state institutions, it has that same obligation to take care of those crimes committed by inmates, upon inmates or on other people in other places.

I believe in Section (B), when you talk about convict labor, I think if you'd read the last sentence, it says, "No convict sentenced to the state penitentiary shall ever be employed"--shall ever be employed in any enterprise in competition with free enterprise, or private enterprise." What does that mean, when he gets out he can never be employed in competition with free enterprise, because he's a convict? I think if you'd read it, that's what it means. I don't think it's necessary. I think that we can aptly handle it in the statutes. I believe that if the...biggest thing we can be accused of in the legislature is saving the state three million dollars--which I can't recall, Mr. Flory, I can't recall at all appropriating three million dollars to build new constructions at Angola--I think that the statute you quoted to me says "maintenance repairs and renovation." If that's all we can do for those people up there is allow them to do a little job on the side, I think we're doing them a favor. I also think we're doing this state a favor when we can save three million dollars. Let's hope we might be able to save ten, eleven, or twelve, or what have you.

So, I ask you to vote for the amendments. I think they are good amendments. I don't think this is needed in the constitution.

Questions

Mr. Avant Senator Nunez, I want to direct your attention to Amendment No. 2, I believe it is, which would delete lines 24 through 29. I want to ask you this question: Isn't it a historical fact that following the Civil War and with the end of slavery as an institution, that it became the practice in many southern states--including this state--to lease gangs of convicts, or hire them, to private individuals in saw mills, on plantations--just turn them over to those people like any other piece of equip-

ment, and that that's why this provision was put in this...our constitution in 1896 to outlaw that practice? Isn't that a historical fact?

Mr. Nunez Mr. Avant, there are many historical facts. There were many things that we did before the Civil War and during the Civil War that are now prohibited. I think you know it.

Mr. Avant I'm talking about after the Civil War.

Mr. Nunez Well, after the Civil War. I think if we are going to write this constitution based on what was done during the Civil War, we are in bad shape. Do you know of any instances that, in the past ten years, that...or the past twenty years? I don't know any, and let me be positive about it. I don't know anywhere where we are leasing convict labor to saw mills to cut down trees, to do private enterprise. I don't know of any. The only one I know of and I think it is historical in this state, I don't think...don't even know if they are doing it any more--is to make the license plate. I don't know of any instances in recent history--in recent history--if we want to start talking about what happened fifty years ago, I think we are in the wrong place. Certainly we should base some of our facts on historical data that we have. But, I don't know of any recent history that we have had instances in this state that has been practiced is to lease convict labor out to private enterprise. Now, if you or Mr. Flory's, or anybody else know, I wish you would get up here and expose them.

Mr. Avant Didn't it continue in certain of the southern states until as late as the 1920's?

[Division of the Question ordered. Previous Question ordered. Record vote ordered. Amendment No. 2 reread and adopted: 63-29. Motion to reconsider tabled. Record vote ordered. Amendments Nos. 1 and 3 adopted: 48-44. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Flory]. On page 1--I guess we'll just simply say--at line 18, insert the following:

"Inmate Labor." (There are some...two changes in the text) "No person (need to insert the word "while")...No person while confined in a state correctional institution shall ever be leased, or hired by the state to any person or persons, or corporation, private or public, or quasi-public. No person shall ever be employed in any enterprise in competition with private enterprise, except for the productions of goods used or consumed, or maintenance services performed, in state or parish institutions." (The words "or parish" need to be added--"in state or parish institutions.")

Explanation

Mr. Flory Mr. Chairman and delegates, as I had indicated earlier, in the explanation of the article, that I had this amendment that I believed would correct...

Point of Order

Mr. Tobias A point of order, Mr. Chairman. Amendment No. 3 deleted the, in effect, title of this section, and, in effect, defeated the whole proposal. Is this amendment...would this...

Mr. Henry No, sir; it didn't, in effect, defeat the whole proposal because you've still got the committee proposal. So, technically speaking, you could add a bunch of sections to it and go on with it, Mr. Tobias, although it...well, anyway, you can do that.

Why...did you have a point of...

Point of Information

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Mr. Chatelain Would it take sixty-seven votes, Mr. Chairman?

Mr. Henry It will take sixty-seven votes to adopt any section to this, and then to adopt the proposal.

Explanation continued

Mr. Flory As I had stated earlier, I had no intention to do away with the rehabilitation programs nor the work release programs inasmuch as we had, for many years, worked with the Department of Corrections, with many governors that have served, with public officials in trying to help rehabilitate the prisoners at Angola, and that I had the amendment coming. I believe that this amendment does clarify it; does not interfere with those programs, nor does it interfere with the production of goods that are sold to the parish penal institutions for the maintenance of prisoners on the parish level. It was not our intention to do that. When it was brought to my attention, we attempted to correct it, and I hope that this would correct it. I do believe that this is constitutional material and would ask for you to consider its adoption.

Questions

Mr. Lanier Mr. Flory, when you say, "state correctional institution," could that be in any way construed to apply to parish prisons?

Mr. Flory No, sir.

Mr. Ourso Mr. Flory, now, since you put in here, "in state or parish institutions," does that mean that the sheriffs or the police juries throughout the state can still purchase their mattresses and pillows, parish uniforms, and signs, etc., and such as foods that they use in the jail from the state prison? Is that correct, sir?

Mr. Flory That's correct, and it was not our intent, at the beginning, to disturb that. It just was not brought to our attention; when it was brought to our attention, more than happy to correct it because we did not intend to disturb that.

Mr. Munson Gordon, on line 1 where it says, "No person while confined in a state correctional institution," which I agree with, but down on the second sentence, it says, "no such person." Do you think it's clear enough there that we're still talking about a person "while confined"?

Mr. Flory I think that's clear because the only person we're talking about is a person "while confined."

Mr. Munson I just wanted to clarify that point. Now, let me ask you the same question that I asked you earlier, and that is in regard to the license plates. Will this have any effect on that whatsoever?

Mr. Flory Well, it spells out specifically that that could continue because it said, "goods used or consumed, or maintenance services performed, in state or parish institutions." This is no way...there's no enterprise in this state who is in competition with them as far as making of license plates.

Mr. Goldman Mr. Flory, when you say there is no private enterprise in competition in making license plates, are there private enterprises in this state that stamp out words on metal?

Mr. Flory That do what?

Mr. Goldman That stamp out words or letters on metal. They may not be called license plates, but they make that type of product; don't they?

Mr. Flory Well, I don't know if they make license plates in competition with Angola. That was my statement.

Mr. Goldman Well, they couldn't do that because they couldn't make license plates unless they could contract with the state for the state to sell those license plates to the public. But, those license plates are sold to the public, and doesn't your last sentence prohibit the manufacture of anything that's sold to the public?

Mr. Flory Not intended that way...

Mr. Goldman I realize that.

Mr. Flory ...other than the production of goods other than the license plates, and those goods that are sold to state or penal institutions in the parish level.

Mr. Dennis Gordon, I heard you say something about work release, but I missed your explanation. How can you have a work release program under this provision? You say that "No such person shall ever be employed in any enterprise in competition with private enterprise." Don't you realize that's where they work? They go out and work for private enterprise.

Mr. Flory If they work outside for private industry, they're working for private enterprise and not in competition therewith. The only enterprise that can be in competition with private enterprise is the state enterprise--the public enterprise--and that's what you're talking about in competition.

Mr. Dennis Don't you think that this is going to be interpreted to mean that they can't work for a private employer who is in competition with another private employer who doesn't have work release labor?

Mr. Flory No, I didn't say in competition with private firms, I said, "in competition with private enterprise." They are a part of private enterprise, and that was to protect the work release program. I think it specifically protects the work release program. That's what we intend to do.

Mr. Dennis Don't you think it should be clarified, though? Don't you think there's a danger that it might be interpreted to mean that a man cannot go out and work in a job where he is competing with somebody else in private enterprise?

Mr. Flory Judge, I think it's as clear as I can make it in the language here, and certainly in the intent. If it's adopted, then certainly you can offer an amendment to correct...I wanted to finish one more statement, Mr. Chairman, just to say that the only purpose of this is to protect the private enterprise system and to stop the prisoner competition with private enterprise. That's solely what it is, and not to disturb the existing programs of rehabilitation and the work release programs that now exist.

I would ask the adoption of the amendment.

Mr. Fulco Mr. Chairman, that was the question I was going to ask, the one that was asked by Judge Dennis. But, it still isn't clear. I heard Gordon say something about inmates are...will be allowed to work for private enterprise, but then, again, when you read it in here, it says, "not in competition with private enterprise." So, it's got to be clarified...

Mr. Flory Well, Mr. Fulco, let me say this: if you read it very carefully, it says, "No person shall ever be employed in any enterprise in competition with." Now, the only enterprise that's in competition with private enterprise is the state enterprise, is the public enterprise. There is no other, to my knowledge.

Further Discussion

Mr. Jack Mr. Chairman and members, I rise in opposition to the amendment. This does not do--the wording--what, in my opinion, what Mr. Flory wants

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it to do. Now, I personally don't want the prisoners to form a big company in competition with private enterprise, but that isn't...this amendment doesn't do that. This amendment--just like Judge Dennis asked--it's very clear. It interferes with the work release program. I don't know whether you understand it. A work release program is simply this: you can have prisoners at Angola, and they release them to stay in jails in various parishes at night. During the day, they work for different business in private enterprise. So, they would be working in competition with private enterprise. If we pass this amendment, you're going to kill the work release program which is one of the finest methods that I know of to rehabilitate prisoners. You're going to kill the halfway houses and all those other programs like those that come from DeQuincy and somewhere near Alexandria--a lot of them. They work under a program as individuals; they are paid; the state doesn't get the money. The state may have to designate how many. This is the perfect example, as I said earlier on the other amendment, why this matter should be left up to the legislature. If they make an error, they can correct it the next year. They have yearly sessions of full sixty calendar days if they need it. Now, we haven't met...since 1921. This is a new convention and none of us, probably--it may be a hundred years before this meets again. Now, we don't want to go off on a tangent and start putting a lot of these things in the constitution that clearly the subject should be dealt with by the legislature. I think Mr. Flory and I agree; I don't want them competing in the sense of a big factory or that with...in private enterprise. But, this is dangerous the way it's worded. To me, it's worse than the other material in it because this definitely provides that you would lose your work release programs. So, I say, "Let's defeat it and let the legislature legislate."

Questions

Mr. Willis Mr. Jack, I am averse to the amendment, but for a different shade because I believe that the amendment is self-destruct. Don't you think that any production of goods used, or consumed, or maintained, or performed for parish or state institutions--no matter what they are--are in competition with private enterprise? I give you this example: if you take a plumber from Angola to go repair plumbing at a school in East Baton Rouge Parish, he is competing with the plumbers in East Baton Rouge Parish, isn't he?

Mr. Jack Well, he'd probably be worth something, but I don't see how it has anything to do with this. I don't believe the churches and all those nonprofit companies should compete in things with private enterprise, and this group agreed with that. But, we are dealing, here, with a thing that's even more so. I don't think prisoners who get their food free and everything should be leased out by the state, or the state should build factories up at Angola--like a shirt factory or a suit factory, making of shoes and every kind going, forty different kind, that would have free labor. No, I don't believe in that.

Further Discussion

Mr. Stagg Mr. Chairman and fellow delegates, I rise in opposition to this amendment more out of disappointment than opposition because it does not do what the proponent wants it to do, and it needs to be repaired. If you look, beginning in line 4 where it says, "No such person"--all right, that's a person who is incarcerated in Angola--"can be employed with private enterprise." But, it says, "except for the production of goods"--in place of "goods" put license plates--for the production of license plates "used or consumed in state institutions." Well, license plates aren't used or consumed in state institutions; they are used or consumed out on the highways of this state. It's quite likely that an inmate in Angola who was sick of making license plates after twenty years could

bring a suit in that parish court, over there where Richard Kilbourne is from, to be kept from making license plates because it would be patently unconstitutional under the language of the Flory amendment. I think that language needs to be repaired. I hope that during the time this constitution is in effect they take Angola and plow it back into sugarcane, and that we use a more regional method of housing prisoners so they can receive the services of proper rehabilitation, proper training, proper teaching. With Angola being twenty-five miles down a little narrow road off in a remote corner of the state, nobody wants to go there much less be kept there in prison. But, that's not what this argument is about. This argument is about this amendment on this floor this afternoon, and it's not a good amendment.

[Amendment withdrawn.]

Amendment

Mr. Poynter The Flory amendment reads as follows: Amendment No. 1. At the beginning of line 18, insert the following: (Mr. Flory, I believe we need to strike out that (A) and insert a Section 1 there since all that's been deleted.)

"Section 1. Inmate Labor. No person while confined in a state correctional institution shall ever be leased, or hired by the state to any person, entity, or corporation, nor employed in any public enterprise in competition with private enterprise, except for the production of goods used or consumed, or maintained, or maintenance services performed in state or parish institutions. Nothing herein shall be construed as prohibiting the employment of such persons in work release programs authorized by law nor in the manufacture and sale of vehicle license plates."

Explanation

Mr. Flory Mr. Chairman and delegates, what the amendment does is to attempt to correct some of the objections--or most of the objections, if not all of them--that I had heard. We inserted in line 4 the word, "any public enterprise in competition with private enterprise" so there'd be no quarrel as to whether or not we were talking about public enterprise versus private enterprise. We added the last sentence, and I'd like to read it to you. "Nothing herein shall be construed as prohibiting the employment of such persons in work release programs authorized by law nor in the manufacture and sale of vehicle license plates." I believe that it's clear now what the intent is, and I would ask for the adoption of the amendment.

Questions

Mr. Chatelain Delegate Flory, I see you inserted the word "state enterprise." I mean, I'm still looking at the old one; it's got the last one. Does that mean inside or outside of the penitentiary, sir?

Mr. Flory No, I inserted the word, "in any public enterprise," Mr. Chatelain.

Mr. Lanier Mr. Flory, why did the...why was the sugarcane harvesting terminated up at Angola? Do you know?

Mr. Flory Why was what?

Mr. Lanier We used to have sugarcane harvesting going on at Angola. Do you know why that was terminated?

Mr. Flory It's my understanding that it wasn't a profitable venture.

Mr. Lanier Okay. Suppose they went back to that practice at Angola. Would that be in competition with private enterprise?

Mr. Flory Not so long as they use the sugar of

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what have you from the cane in the public institution.

Mr. Lanier Now, when a person goes to Angola, isn't he sentenced to hard labor?

Mr. Flory It depends upon what the judge gives him, I guess.

Mr. Lanier If he's not sentenced to hard labor, he doesn't go to Angola; does he?

Mr. Flory I'm not an attorney, Mr. Lanier. I can't answer that; I don't know.

Mr. J. Jackson Mr. Flory, are work release programs, to your knowledge, established by law or are they established by department policy?

Mr. Flory At the present time?

Mr. J. Jackson At the present time, right.

Mr. Flory I believe I know of...I have something back on my desk there in the statutes. I believe there are some provided by the statutes, but I think the legislature ought to establish a uniform work release program, whatever kind it may be, and I don't think it ought to be at the whim of whoever is the warden of the institution.

Mr. Abraham Gordon, would any of this language in any way prevent an inmate in an institution from learning a trade such as welding or pipe fitting or automobile mechanics or electrical work?

Mr. Flory No, sir; in no way.

Mr. Abraham Well, in learning this trade, would it prevent them from doing construction work within the confines of the institution?

Mr. Flory No, sir; in no way, no way. I can also say to you, Mr. Abraham, that when...because of finances, the vocational instructional classes were discontinued at Angola. We were one of those who strongly recommended to the governor that they be reinstated, and they were reinstated at our request in 1964.

Mr. Nunez Mr. Flory, you evidently changed it around considerably, the way I'm reading it, and I noticed that when you said, "or maintenance services performed," the present statutes authorize maintenance repairs and renovation which would be in line with Mr. Abraham's question about a welder if there was some renovation or some repairs to be done, evidently he couldn't do it without... with the language you have left out of here--number one. Number two, it looks to me like you're doing exactly what you don't want to do--"except for production of goods used or consumed, or maintenance services performed, in state or parish institutions." For instance, they can lease a convict out, evidently, to do this if it was consumed by parish or state institutions; is that not right?

Mr. Flory No. Mr. Nunez. What it says, if you read it carefully, is that they can continue to do maintenance work, etc., in these institutions because the prohibition...you have the prohibition and then you have the exception. It allows them to continue to do not only the vocational training, etc., but whatever maintenance work there, so long as it's done within that institution.

Mr. Nunez The exception, "except for production of goods used or consumed, or maintenance," and I would rather see repairs and renovations along with the maintenance and services performed--"maintenance services performed in state or parish"--you added "parish" to this which was not in the other constitution or in either of your other amendments; is that not correct?

Mr. Flory No, this was in the other amendment. We added it at the desk, Senator Nunez, because I

am told that Angola--in the production of canned goods--sells to the parish sheriffs, for example, for the parish jails, food that they feed the prisoners in the parish jails. So, in order not to interfere with that, we included that language at the desk, and it was announced from the desk. Also, they sell, from Angola, mattresses, bed clothing, etc., and we did not want to interfere with that.

Mr. Giarrusso Mr. Flory, I'd like to preface my question by saying that I want you to know that I'm not anti-labor, and I'm pro-labor in the sense that I'm thankful for the progress that labor has contributed to the welfare of the workers in this country. So, with that in mind, I ask you this question--and I hate to repeat myself. But, don't you think that your amendment is statutory and that you are anticipating, perhaps, what a penologist might possibly do, what methods they might employ, in time to come, as to various work programs that might be brought up? You're putting them in a very inflexible position in that they can't move; whereas, if you make this statutory, the legislature, at any time, can go ahead and make the changes to fit the conditions at that particular time. In principle, I'm for what you're trying to do, but I'm not for trying to lock something in the constitution that I feel doesn't belong there.

Mr. Flory Well, bear in mind, Mr. Giarrusso, for many years in this state we've had prohibitions in the constitution as to what they could do with inmates in penal institutions. I think that is true in the majority of the other states of this nation. There still is a trend in this country not to allow the leasing and the use of convicts on private enterprises. All this does is carry forward the prohibition on the leasing of convicts to private interests, but still allow for the use so that there'd be no question--the use of work release programs as a means of rehabilitation. It's that simple.

Mr. Giarrusso Well, again I just say I repeat myself is that don't you know that there have been very many studies that have been made by various federal agencies and state agencies trying to improve our situation regarding penal institutions and that...

Mr. Flory Yes, sir; I know that we have attempted...have been many studies made on the improvement of penal institutions throughout this country. I think there are many improvements that ought to be made, both in the physical plant and the way that they are run. I also know, on the other hand, the experience that has been on the attempts that have been made in this state to put factories in penal institutions to produce goods in competition with free enterprise. That, I want to prohibit.

Mr. Giarrusso Well, I'm not against that; I'm for you along those lines.

Mr. Hernandez Mr. Flory, most of my questions have already been answered, but there's one thing that I've heard discussed quite a bit. Aren't all these work release programs covered in the laws?

Mr. Flory Well, I hesitated to answer that categorically awhile ago, Mr. Hernandez, because I'm not absolutely positive. I do know Senator O'Keefe, several years ago, handled a whole series of bills dealing with parolee and inmate rehabilitation. I know there are some--whether they are all in there or not. I further added I think that they ought to be by law, and that they ought not be at the discretion of a particular warden of a particular institution.

Mr. Hernandez Now, that, I hardly agree with on...that's the point I wanted to bring out that these work release programs...I know of no work release programs that's established up there that isn't covered by the law; do you?

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Mr. Flory I don't know of any; no, sir.

Mr. Hernandez I don't know of any. This, I believe, I just would like to comment that this, I believe, conforms to the unanimous opinion of the committee that worked this thing up, too.

Mr. Chatelain Gordon, you're coming back in this new amendment, you put the word "entity" after the word... "to any person, entity, or corporation." Now what is... why do you put that word, "entity"? What does that mean, sir?

Mr. Flory I'm told that that is the legal term used for a partnership, etc. It's a legal term, and it was put in there to shorten--we cut several words out, the quasi-public, etc.--and used the word "entity" because it had certain legal meanings as it relates to partnerships.

Mr. Chatelain Now, you also refer--down later on --"except for the production of goods used or consumed, or maintenance services performed, in state or parish institutions." When you say a "parish institution," are you referring to a parish jail?

Mr. Flory Yes, sir.

Mr. Chatelain In other words, if a...

Mr. Flory Or any parish penal institution.

Mr. Chatelain I know, but a parish jail--you say, "parish institutions." That's the reason I want to--for the record--to know if you mean a parish jail?

Mr. Flory Yes, sir.

Mr. Chatelain Do you mean that if we have inmates who are qualified journeymen in some trade, that he cannot repair the plumbing or the electrical or whatever it is in that parish jail, or do any painting or anything in there insofar as the maintenance of that jail?

Mr. Flory What it means is that an Angola inmate could go to a parish jail and do the maintenance work, under this amendment.

Mr. Chatelain Are you referring to Angola or any state...

Mr. Flory Yes, any state correctional inmate.

Mr. Chatelain The only thing I'm fearful of--I join Delegate Giarrusso--I think that you're hastily writing a constitutional amendment, here, that's got some dangers. I think it's doing some things you don't want it to do, here.

Mr. Flory No, sir; I don't believe that I am. I think what I am doing here is prohibiting the Angola Penitentiary from competing with private industry on the outside and, yet, providing for real, meaningful work release programs and rehabilitation programs as the legislature may deem, in its wisdom, to be wise.

Mr. Willis Mr. Flory, focusing upon your first independent clause, isn't it a fact that a convict could be leased to another state agency? You don't exclude state agencies, and the Highway Department is an agency. Isn't that correct?

Mr. Flory Well, I think it says, "in any public enterprise in competition with private enterprise," Mr. Willis, and I'm told that under that language they could not do that.

Mr. Willis Well, now, let us assume that the warehouses of the state or parish institutions are either gorged or the don't want the merchandise from the... from Angola. Don't you think that the hard labor to which those convicts are sentenced will be reducing to making small rocks out of little ones, and dehumanize the convict beyond the poor privilege of

rehabilitation?

Mr. Flory No, sir.

[Previous Question ordered. Record vote ordered. Amendment rejected: 37-57. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment sent up by Delegate Kilbourne as follows:

Amendment No. 1. On page 1, line 18, insert the following:

"Section 1. (A) State Penal Institutions; Reimbursement of Parish Expense. In parishes in which are located penal institutions of the State of Louisiana, the expenses incurred by the parish arising from crimes committed in such institutions or by the inmates thereof shall be reimbursed by the state."

Explanation

Mr. Kilbourne Mr. Chairman, fellow delegates, this is almost the same as the amendment...the proposal we've already voted on, except I have left out employees. I can only reiterate what I told you already. I think this is very necessary, and it's been pointed out to me that...under present Article IV of Section 12, without this being in the constitution, these expenses could not be reimbursed by the legislature. So, I think it...and I think that's why it was in there. It's very urgent that we put that in there because these people that commit these crimes, and believe me, it's a real serious situation in Angola. There's nowhere else you can try them except in the parish of West Feliciana, unless there's a change of venue. It's a terrific expense, and it will simply mean that the parish just simply could not carry the burden. These people could not be tried. For the protection of the inmates, themselves, it is certainly necessary that we have them tried for the crimes that they commit against one another at Angola. I certainly hope that you will see fit to pass this amendment. I believe some of the delegates may have become confused on the other matter when the other vote was taken--I hope so, and the manner in which it was voted on. I'll answer any questions that I can.

Questions

Mr. Kean Mr. Kilbourne, as I understand your explanation, the present constitution, Article IV, Section 12, prohibits the granting of public funds by the state to any person or corporation--public or private. If this provision is carried over in the new constitution and we don't have the provision that you are here presenting for reimbursement of the parish, under those circumstances, the legislature couldn't act to make reimbursement, could it?

Mr. Kilbourne That's my understanding, Mr. Kean, and I appreciate your pointing it out to me. Let me say this: West Feliciana is...I think that the population--excluding the population, the inmate population of Angola--is about between twelve and fourteen thousand people. Angola, you know occupies about twenty...between twenty-three and twenty-five thousand acres of land which isn't on the tax roll. It...it just isn't any way that these matters...that these crimes could be handled in the courts in West Feliciana without this amendment.

Mr. Nunez Mr. Kilbourne, do you have any idea what we are talking about in actual dollars and cents or cost to the Judiciary Department in that parish?

Mr. Kilbourne Well, Mr. Nunez, one trial--if it goes all the way to the Supreme Court, and most of them do now--can cost anywhere from two thousand to three thousand dollars--one trial.

Mr. Nunez I realize that, Mr. Kilbourne, but I

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thought you might have had some idea that in 1971 and '72 it cost the state a hundred thousand dollars to do this service for that parish because of that institution, 'cause it's presently covered. I don't recall of ever...voting for an appropriation of that sort. That's why I'm...I'm trying...and if it is justified, I'd be glad to vote for it.

Mr. Kilbourne I don't know how, Mr. Nunez...I don't have the figures here because I didn't know this was coming up today. I could have easily gotten them. But, we have had trouble in the last...with the change of administration of the new attorney general that we had an argument about the repayment of these expenses because they didn't know any authority for it. I had to go dig up this constitutional provision because I don't know just how it's taken care of, whether it was a general fund or some of it's paid for by Angola. Incidentally, Mr. Nunez, we got a bill in 1956 in the legislature to reimburse attorneys who represent these inmates, which is also a very, I think, a very progressive thing. It worked out...it worked very well indeed which, of course, had nothin to do with this particular phase of it, but I recall, one time, spending about two weeks, myself, defending inmates at Angola and didn't get a penny for it--not even in expenses.

Mr. J. Jackson Mr. Kilbourne, I'm trying to...I understand you do have a problem as it relates to judicial expense. Let's say, if an inmate from a parish prison escaped from West Feliciana and commits a crime in East Baton Rouge Parish. Are those same kind of reciprocal agreements made from parish to parish, that maybe the parish of East Baton Rouge would then be subject to--I mean the parish of West Feliciana--would be subject to bear the court costs of that inmate?

Mr. Kilbourne You are asking whether...if an inmate in the parish jail in West Feliciana escapes and goes to Baton Rouge and commits a crime, well, that wouldn't...this wouldn't have anything to do with this. This only covers the state institution.

Mr. J. Jackson But, I'm trying to find out in terms of some rationale, do we have that kind of agreement or that kind of understanding on parish levels?

Mr. Kilbourne I'm not aware of that, Mr. Jackson.

Mr. Durso Mr. Kilbourne, you have the state institution for the prisoners in your parish; I have the state institution for the prisoners in my parish for women--you have it for the men. This is a friendly question. It's a question with a statement. Do you know that we had a disturbance over in St. Gabriel at the women's prison farm, and at that time, we didn't have a public defender. Three attorneys were appointed to represent these inmates, and they sent a bill to the police jury of about eighty-five hundred dollars? Out of the fund for the parish, they are still paying off that bill. That's just one disturbance that they had over there. Now, through the public defender's system, thank goodness, that they don't have that anymore. But, they are still paying a bill for what they had before. I think that that happened in a state institution that the state should pay for that.

Mr. Kilbourne I wasn't aware of it, Sheriff, but it certainly is becoming more of a problem all the time, and I believe we'd be taking a step backward if we didn't have this in the constitution.

Mr. Chatelain Mr. Kilbourne, I'm certainly sympathetic with your problem, but could not the legislature provide for this also?

Mr. Kilbourne Well,...I think I pointed out, Mr. Chatelain, it's my understanding under the present constitution, Article IV, Section 12, which...will like to be carried over into what we're working on now, they could not without this provision; and I think that's the reason it's in there.

Mr. Velazquez Delegate Kilbourne, since the people at Angola come from all over Louisiana, and since when they cause a problem at Angola the East Feliciana Parish has to bear the burden of that, shouldn't the entire state be willing to reimburse East Feliciana Parish for disturbances caused by citizens from all over Louisiana?

Mr. Kilbourne I would certainly hope so, Mr. Velazquez.

Mr. Giarrusso Mr. Kilbourne, don't you think this is discriminatory in that the parish of Orleans--where the parish prison population is about a thousand--when crimes are committed with the confines of the parish prison, and these prisoners are brought to trial wherein they are state prisoners, is that Orleans Parish is not reimbursed for the trial expense whereas, your parish is?

Mr. Kilbourne I'm sorry, sir, I didn't...I couldn't here all of your question, and I can't answer it. If you'd repeat it, I'd try to answer it.

Mr. Giarrusso Okay, I said, don't you think that your proposal is discriminatory in that East and West Feliciana...

Mr. Kilbourne This is West Feliciana...

Mr. Giarrusso ...All right. West Feliciana is reimbursed for these expenses, whereas in Orleans Parish, in parish prison where the population is about a thousand, crimes are committed there just as in Angola, they go to trial, but Orleans Parish is not reimbursed...

Mr. Kilbourne You mean...prisoners from Angola commit crimes in the prison in New Orleans, and the parish is not reimbursed.

Mr. Giarrusso No. I said state prisoners...or commit crimes.

Mr. Kilbourne Well, that's a parish prison. No, sir, I don't think any parish prison...no provision...that's not a real problem. It may be in New Orleans. Let me say this: in my experience the worst prisoners they have at Angola came from New Orleans.

Mr. Giarrusso No question about that.

Mr. Singletary Mr. Kilbourne, doesn't this amendment refer to state institutions?

Mr. Kilbourne Yes, sir. That's the intent of it, and I believe it's specifically...and it's just exactly what is in the present constitution with the omission of one word. It hasn't caused any problem in all these years; it worked very well indeed, and I certainly hope you will vote favorably on it.

Mr. Singletary Well, it's not referring to parish prisons?

Mr. Kilbourne No, sir.

Mr. Singletary All right. Well, it seems to me that it is implying that the parish has to pay other expenses of state institutions except the ones caused by crimes committed in such institutions.

Mr. Kilbourne Well...I don't quite understand that, but what you are exactly...getting at...

Further Discussion

Mr. Jenkins Mr. Chairman, I rise in support of Mr. Kilbourne's amendment, and I think there are a number of facts that haven't been brought out that the convention ought to be aware of. The main effect of this amendment does deal with West Feliciana Parish because the state prison is located there. It also, though, would deal with other state...penal institutions such as the various locations of

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Louisiana Training Institute, and the Woman's Prison in St. Gabriel. Now, I want you to take the Parish of West Feliciana Parish, as an example, to see the injustice that might occur if we don't adopt this provision. West Feliciana has a population of probably about twelve thousand people. There are, in turn, about four thousand inmates up in the upper northwest corner of the parish, very isolated from the rest of the parish. Of the people who work at the prison, the employees, most of them either live in Mississippi, in Avoyelles Parish, or on the prison grounds itself. In which case, they contribute nothing in the way of taxes--property taxes--to the parish of West Feliciana, nothing in the way of sales taxes to that parish. Only a handful of the employees live in West Feliciana Parish itself. The prison itself contributes nothing in the way of finances to West Feliciana Parish. Yet, the children of the employees who do live on the prison grounds, and those few who do live off the prison grounds, go to school in West Feliciana Parish and use the services of that parish. Now, every crime that is committed in the prison itself has to be tried in the Twentieth Judicial Court which sits for these purposes at St. Francisville. There's no rationale or justification for forcing the people of West Feliciana Parish who benefit not at all from the existence of this institution, and who are not a particularly a rich parish at all, to have to bear this expense. Now, the problem that arises if we don't have this in here, is the fact that in years past before this provision was in the constitution, occasions arose when the legislature refused to pay these expenses; and it's just and right that the legislature would. Now, Chief Giarrusso raised the question of parish jails and the fact that there is no reimbursement for those. That's not a legitimate argument, I don't think. The people in the parish jail, even though they're sent up for state offenses, are there because they committed an offense in Orleans Parish, if they're in the Orleans Jail. So, it's just that Orleans Parish would pay the expenses of trial of those prisoners, just as the people who are in the West Feliciana Jail in St. Francisville, their expenses are paid...their trials and so forth--if they committed crimes from West Feliciana Parish--are paid for by West Feliciana Parish. But, there's no justification for forcing the people of West Feliciana Parish to pay for crimes--the trials of crimes--which are committed on the grounds of a state institution by people who were sent there without their consent and without the consent of the people of West Feliciana Parish. Now, the question was raised of the fact that there were twenty capital offenses which had to be...which are now pending in West Feliciana Parish that occurred in the last six months at Angola. This represents a tremendous expense for a small parish, and it's just not right to put that expense on the people of that parish. So, I urge you to do a just...do justice here and adopt this amendment.

Questions

Mrs. Warren Mr. Chairman, somebody else might want to know what I want to know, but I was trying to save time; but I will ask him. He mentioned the fact that we had people from Mississippi that was working at the prison, and that they were not contributing anything, but their children were going to school here. Now, I would like to know...wait...I would like to know how many people are employed here in our institution from Mississippi or any other state.

Mr. Jenkins No, that isn't what I said, Mrs. Warren. I said that a large number, a majority of the people who work at the prison either live on the grounds in Mississippi or in Avoyelles Parish. I think there is a distinct minority that live in the parish itself. But, as I said, the children of the employees who live on the grounds and outside the grounds, but in West Feliciana Parish, do go to the West Feliciana Parish schools.

Mrs. Warren Well, what is the rationale for hiring

people out of Mississippi in Louisiana; you can't find nobody here?

Mr. Jenkins Well, Mrs. Warren, I think that's another question entirely, I have no reason for it one way or the other; I'm just telling you the facts and the facts that...

Mrs. Warren That's the reason I didn't want to come here, but I wanted to ask you the question; and I didn't want anybody to think I had a secret.

[Previous Question ordered. Record vote ordered. Amendment rejected: 65-28. Motion to table rejected: 18-71.]

Point of Information

Mr. Kean A question for the Chair, Mr. Chairman. I know you have ruled it twice now, but we are now offering amendments to this proposal. The amendment has to have sixty-seven votes in order to pass?

Mr. Henry Well, it says...the rules provide that to add a new section, you have to have sixty-seven votes, and to adopt a section you have to have sixty-seven votes; so that's the problem.

[Motion to reconsider adopted: 74-18. Previous Question ordered. Quorum Call: 92 delegates present and a quorum. Amendment adopted: 79-12.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Flory]. On page 1, at the beginning of line 16, and immediately before the language added by Convention Floor Amendment No. 1 proposed by delegate--we have to now change that Kilbourne, and adopted by the convention on today, insert the following:
"Article VII. Human Resources, Section 1. Penal Institutions and Convict Labor"--you want to knock out the "Convict Labor" now, Mr. Kilbourne--just make it "Penal Institutions".

Point of Information

Mr. Singletary This is with regard to the technical amendment; is that correct?

Mr. Henry I can't hear you, Mr. Singletary, speak in the mike, please.

Mr. Singletary All right. This is with regard...we're on the technical amendment right now, Mr. Chairman?

Mr. Henry Yes, sir, that's right.

Mr. Singletary I was just wondering why it refers to convict labor?

Mr. Poynter We took it out. That was drawn for Mr. Flory's amendment, and I just swapped Flory's name with Kilbourne and struck out "and convict labor".

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 87-10. Motion to reconsider tabled. Proposal passed: 86-10. Motion to reconsider tabled. Motion to call Committee Proposal No. 14 from the calendar adopted without objection. Motion to reconsider the vote by which Section 1 failed to pass adopted without objection. Motion to limit debate on Committee Proposal 3, Section 1 to five minutes for each proponent. Substitute motion to limit debate on each amendment to Committee Proposal 3, Section 1 to fifteen minutes adopted: 68-10. Section 1 reread as adopted. Pending amendments read.]

Amendment

Mr. Poynter Amendment reads as follows by Mr. Jenkins and Mr. Roemer:

Amendment No. 1. On page 1, delete lines 14 through 18, both inclusive, in their entirety and all floor amendments thereto.

Explanation

Mr. Jenkins Mr. Chairman, I want to withdraw that amendment because I have another one that I want to try to pass as a compromise to hopefully satisfy most people.

[Amendment withdrawn.]

Amendment

Mr. Poynter Amendment reads as follows:

Amendment No. 1 [by Mr. Jenkins]. On page 1, delete lines 14 through 18, both inclusive, in their entirety and all floor amendments thereto, and insert the following: --Now, Mr. Jenkins, with your permission I think we need a couple of technical changes--that Article VII does not need to be at the beginning of that, and since we just adopted a Section 1 to this article, make this a Section 2.

"Section 2. Economic and Social Welfare; Unemployment Compensation; and Public Health

Section 2. The legislature may establish a system of economic and social welfare, unemployment compensation, and public health."

Explanation

Mr. Jenkins Mr. Chairman, I had an amendment to delete this section. The only reason I'm not offering it is the fact that I'd like to try to have a provision that will satisfy a majority of the people without extending the debate on this subject for even longer than we've already spent on it. There's several problems that I see with this section. One deals with the word "shall" another deals with the concept of "economic security". If you look in the old constitution, you'll see that it says "the legislature may establish certain programs." It doesn't attempt in any way to put the onus on the legislature or the state government to provide any undefined or undefinable programs or concepts. Now, with the provision of "may" in our constitution we have developed into what amounts to the biggest welfare state in America. We have more in terms of social services and give-aways on a per capita basis than any other state. Now, we've done that with "may". It's been permissive, and I certainly don't think we need any stronger language than that, which might allow someone to come in and try to get more money, sue for more money, or in some way say that the state has not been giving him his due. Now, Mr. Pugh has an amendment talking about mandamus, and the fact that the legislature might not be mandamus'd to do certain things. But, there's nothing in his amendment, or in the scope of it, that would, for instance, discourage someone from going in--if we cut out a given program in this state--from going in and trying to get an injunction to prohibit an official from cutting off any funds under that program, or any other sort of system that might interfere with the elimination of that program. The idea being--and my firm belief is--that when this state undertakes a given program to help the needy, it does not do so because that person has a right or a claim on other citizens, but because the citizens of this state do it in their own goodheartedness and out of a sense of charity and brotherhood and help for their fellowmen; and not because there is a substantive right that someone might sue under in this constitution. Now, that concept of "economic security" which has been proposed in the committee proposal is not the same as that wording in the present constitution. The present constitution says "the legislature may establish a system of economic security and social welfare," and then it defines those terms. It defines those things as "unemployment compensation, old age assistance," etc; it defines what it means.

[2546]

Now, in the committee proposal, though, we have the language "economic security, social welfare, unemployment compensation and public health." Unemployment compensation which was formally part of the definition of social...of economic security is thus put on the same plane with it, as though they are different things. Thus, it seems to be that if we include that wording, "economic security," we are somehow endorsing a vague concept which I can see used as being justified to implement programs like guaranteed annual incomes, thousand-dollar-a-year-grants, all sorts of exotic schemes. Now, the legislature has all the authority in the world to enact such schemes right now, and under this amendment that I'm proposing, surely, when we say "economic and social welfare," they would certainly have such authority, as well as the authority when we say "public health," to enact with regard to programs relating to physical and mental health. But, I certainly wouldn't want us to undertake in this convention to specifically endorse any particular concepts of "economic security." That has never been the function in this state to guarantee anything to anybody unless he's in dire need, in which case we have established certain programs in that regard. I think this amendment gives all the authority that the legislature needs; it has that authority anyway; it ought to satisfy people; and it doesn't allow this convention to be used by those who have certain philosophical principles that they want this convention to go on record as endorsing. We could sit here for hours and hours and hours and debate these philosophical concepts, and proposed and potential programs that various people would like us to adopt. But, we're not going to be, by doing that, furthering the work of this constitution. That's for the legislature to do. Let's don't get involved in these philosophical discussions. Let's simply give this authorization here, and then allow the legislature to worry about these problems and enact these programs on an issue by issue and merit by merit basis. So, I urge the adoption of this amendment.

Vice Chairman Roy in the Chair

Questions

Mr. Aertker Woody, I see that you left out the word "security," and yet I see that, actually, the exact wording, "the legislature may establish a system of economic security," is in Article XVIII, Section 7, of the present constitution.

Mr. Jenkins As I said, Bob--and maybe you weren't listening at the time--it uses those words, and then if you read what follows, it defines what it means by "systems of economic security and social welfare." It defines it as "aid to dependent children, old age assistance," so forth and so on. Here, we are not--we are obviously changing that concept because we are putting economic security on par with unemployment compensation which, under the present constitution, was one of the definitions of economic security. So, it seems to me that under the committee proposal, we are undertaking to do something more--something bigger, something broader than the 1921 Constitution would do. So, that's why I don't think that we need that term "economic security". Let's put in there "economic and social welfare". That's clearly...means social services as well as financial assistance, but not "security". That's not something the state can guarantee to every citizen. We shouldn't try to raise false hopes here that somehow we are going to try to grant security, or that the legislature would ever try to grant security to every person in this state.

Mr. Aertker But, it is a fact, though, that the...present constitution follows that up and then says, "It may provide the aid to the...persons over sixty-five and the dependent mothers and welfare, etc."

Mr. Jenkins That's correct. I think that the context and meaning of that, in that context, is entirely different.

Mr. Goldman Woody, I just want to get something

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straightened out. I am holding your amendment. I think I've got the right one up. On top it says, "Committee Proposal No. 18." You mean 14 there, don't you?

Mr. Jenkins That is fourteen. Yes, sir.

I want to urge this convention, if we don't take out either the...both the "shalls" and the "economic security". We shouldn't go along with this section. The only valid, legitimate purpose of this section is to give an authorization to the legislature--not to be involved in false hopes or false promises.

Mr. Nunez Mr. Jenkins, would you not say that the terminology or the definition of economic security was quite different when the Constitution of 1921 was drafted, than it is today? For instance, I don't think that there was any such thinking as in economic floor--such as was proposed in the last presidential election of five thousand dollars, per individual or per household--as being a minimum amount of...poverty level, so to speak. I don't think that was defined in those days of 1921. If we don't...if we leave it in there, possibly that definition would be carried forth as today, rather than spelling it out the way you have here in your amendment.

Mr. Jenkins I think you're right, Sammy. I think if you look at the results of the presidential election last year, and you look at public sentiment in this state, you will see that the people of this state overwhelmingly opposed such concepts. They wouldn't appreciate something like that being in this constitution.

Mr. O'Neill Woody, if your amendment passes, will you vote for the final section as it...as your amendment?

Further Discussion

Mr. Flory Mr. Chairman and delegates, I just rise briefly to state that, if you recall in the Revenue, Finance and Taxation proposal, there is a provision that says you can only appropriate monies for public purposes. You must have this authority in order to appropriate monies to pay old age benefits, welfare benefits, unemployment compensation, etc.

Now, you get down to the language...the argument that we had the other day--and I have no quarrel whether you say "may" or "shall", because I think the legislature does have to have the authority in some fashion. But what Mr. Jenkins is attempting to do, is to delete something from the constitution that's been there for many, many years. When it says "economic security and social welfare," it then lists the things that can be considered in that fashion as economic security and social welfare.

My quarrel with his amendment is--and I ask you to reject it--is on the basis that he has deleted the language that was adopted in the amendment on Saturday when we say, "public health, including physical and mental health care." Now, this is the language that I have objected to deleting. As I told you the other day, I had offered the amendment for the metropolitan New Orleans Council on the Aging. They felt, and still do, that in order to be absolutely sure that when you mention public health, you are not merely talking about the inspection of sanitation facilities, etc., or restaurants--that you are actually talking about physical and mental health care.

I ask you not to delete that language from the proposal as it now stands.

Questions

Mrs. Zervigon Mr. Flory, as the passage now stands, with Saturday's amendments in it, it's permissive. It says, "may", doesn't it?

Mr. Flory That's correct. That's all the authority that the legislature needs in order to make appropriations to pay welfare recipients, ADC payments, old age benefits, etc., unemployment compensation, etc.

Mrs. Zervigon So, we don't need to allow ourselves to be frightened by the spectre of five thousand dollars, per family, per year, do we? That's up to the legislature, isn't it?

Mr. Flory That's correct.

Mrs. Zervigon But, we do need something in there to give the authority to the legislature that they need, because of the prohibitions in the old Article IV, Section 12, which have been carried forward in Committee Proposal 15, Section 16. Isn't that correct?

Mr. Flory That's correct.

Mrs. Zervigon Thank you.

Mr. O'Neill Mr. Flory, what distinction do you make between public health, including physical and mental health? What distinction is there? It would seem physical and mental health would be inclusive of public health.

Mr. Flory It just puts it in a positive framework, Mr. O'Neill, to say that public health does include physical and mental health care. That's all it is. Just plain layman's language.

Mr. Jenkins Mr. Flory, isn't it true that the provision as it presently stands without this amendment, does include the term "economic security"?

Mr. Flory That's absolutely correct. I have no quarrel with that language.

Mr. Jenkins Now, also, do you really think it's advisable for us to state, as a concept, the idea that the legislature ought to establish a health care system for this state, apparently for all the people of the state--not just for the poor people?

Mr. Flory The proposal doesn't say that, Mr. Jenkins. It doesn't say that. It says that it may institute a system leaving to the legislature, in its wisdom, to define what the system is and to what extent it shall go.

Mr. Jenkins But, we have in there the words, "public health," and that really would include any sort of health programs that we wanted to adopt, wouldn't it?--without endorsing this particular concept of...a health care system for all of our people.

Mr. Flory As I told you, there are those who believe that inclusion of the words "including physical and mental health care," is a clarifying phrase to be absolutely sure the term "public health" does include that for the continuation of the charity hospital system, the mental retardation centers, the half-way houses, etc. That's all their interest is.

Mr. Jenkins You have some doubt that "public health" includes those things?

Mr. Flory I don't have any doubt, Mr. Jenkins, at all. I stated that. I told you that I offered the amendment in behalf of the Metropolitan Council on the Aging. It was their belief, and this convention adopted it on that basis.

Point of Information

Mr. Pugh I could easily be in error, but it was my understanding that we were going to discuss all three of them, and then vote on them one, two, three. I don't care.

Mr. Roy My understanding was that we'd discuss each one fifteen minutes and vote on it as we went.

[Previous Question ordered. Record vote ordered. Amendment adopted: 57-32. Motion to reconsider tabled.]

Amendment

Mr. Hardin [Assistant Clerk] Delegate Pugh sends up the next amendment.

Amendment No. 1. On page 1, delete lines 16 through 18, both inclusive in their entirety, including all the floor amendments adopted, thereto, and insert in lieu thereof the following:

"Section 2.--it's a technical change, Mr. Pugh --"The legislature shall establish a system of social welfare, unemployment compensation and public health, including physical and mental health care. It shall also offer...also authorize to define and provide for a system of economic security. Mandamus shall not lie for the enforcement of any of the provisions hereof."

Explanation

Mr. Pugh Fellow delegates, I suggest to you your favorable consideration of this amendment, and in that connection would like to explain to you the differentials between this, what was discussed Saturday, and what was just adopted.

I do not believe that to say "may" says anything when it comes to the legislature. Now, heretofore, the constitution used the word "may". In that connection, it did not attempt to define economic security, nor did it attempt to limit economic security to the provisions therein set forth. It said it may have those provisions. Questions were raised last Saturday relative to the word "shall"--if that would authorize or allow anyone to go to state court for the purpose of trying to sue the legislature. To resolve that question, I have provided in the last sentence that mandamus would not lie insofar as the provisions of this section are concerned. When you talk about mandating the legislature, you're talking about whether or not you in turn can bring a mandamus proceeding to require them to perform a ministerial act, that is the establishment of these programs. This eliminates that problem.

Also, as to economic security, I join with those who are concerned about its definition. I join with those who have some concern about saying they shall establish one of economic security. For that reason, I have provided that the legislature may define and provide for economic security. The reasons for that are that I believe that unless we provide in our constitutionally...constitution substantially as I suggest to you, this provision, there are those who will say that we didn't want to keep up old age and we didn't want to keep up these other programs. I don't think that's our intention. If that's not our intention, I think we ought to say so. I believe this amendment does so.

Mr. Pugh Mr. Jenkins was concerned about an injunction. Mr. Jenkins, if he doesn't know, he ought to know that you can't bring an injunction proceeding against the state.

I will now yield to questions.

Mr. Perez Mr. Pugh, you had made the statement that the word "may," that it means nothing if we say "may". But, don't you realize that the problem is that the present constitution has a provision which I will read to you in just a moment...

Mr. Pugh I have the proposal.

Mr. Perez ...Article IV, Section 12, and there also is a proposal both by Local Government and by the Revenue Committee which would read substantially as follows: "The funds, credit, etc...the funds, credit, property or things of value of the state, shall not be loaned, pledged, or granted to or for any person or persons; "and that the purpose of having a provision such as the Jenkins amendment would be to make an exception to the rule that those funds could not be granted to...and the funds of the state could not be granted to any persons. Do you realize that?"

Mr. Pugh I realize that both his amendment and [2548]

mine would afford that protection.

Mr. Roemer But, Bob, in addition to affording that protection, doesn't your amendment once again change the word "may" to "shall?" Aren't we back to "shall" under you?

Mr. Pugh Yes, Buddy, there is no question about it. I think we waste our time when we tell the legislature you may do something. They have that authority anyway.

Mr. Pugh If you want them to do it, tell them they shall do it.

Mr. O'Neill Mr. Pugh, if you tell them they shall do it, and then you won't let a mandamus lie--you know--what's the effect of having it at all? What proceeding can be taken against the legislature under your amendment?

Mr. Pugh I don't think you can mandamus then. I don't think you can bring a proceeding against them.

Mr. O'Neill Now, another question...

Mr. Pugh ...figure on the "may" either. Now, the "may," you might be able to bring a proceeding. Under mine you can't.

Mr. O'Neill I don't want...them to bring a proceeding. My other question is: "By saying, "mandamus shall not lie for the enforcement of any of the provisions hereof", are you implying in other places where we have said the legislature "shall", that a mandamus will lie?"

Mr. Pugh No, sir.

Mr. O'Neill I disagree.

Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, you know I guess this appears to be the issue that we were discussing, particularly on Saturday, as it related to the human proposal article. The amendment that we recently just adopted--the Jenkins amendment--did, in effect, remove the language "economic security", I come before you to say that I don't know if this amendment is going to pass, but I rise in support of it because I think that this amendment takes care of Mr. Jenkins' reservations about mandating the state to provide an economic...provided for economic security in such a broad language. At the same time, takes care of a significant portion of the delegates who feel that we ought to continue our system of aid to the elderly, to the blind, and to the needy. As provided here, it says that, when it relates to economic security, that the legislature shall define what is "economic security." I, as a delegate, in opposition of the Jenkins amendment, feel...that that portion of the Pugh amendment does provide the latitude for the legislature to determine economic security.

In addition, let me say, that about...the question about we are mandating the legislature--as it originally appeared in the human resource proposal--that if you look at the last sentence it says that "mandamus should not lie for the enforcement of any provisions thereof," so that it attempts to address itself to the problems that was raised originally by Mr. Jenkins on Saturday. I think that the Pugh amendment, in my estimation, is the closest that we can get between persons who felt that economic security was so broad, and persons who felt that we ought to insure that those persons who receive some form of economic security--although they are not retirement system and pensions for the future, but for the present--that...you know, we can agree on the Pugh amendment.

So, therefore, I ask your serious consideration and support of the Pugh amendment. I'll answer any questions.

[Previous Question ordered.]

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Closing

Mr. Pugh Mr. Chairman, I'll only state the question was raised: Could you go to the federal court? I explained to the gentleman that the state must waive its...consent insofar as being sued in a federal court.

[Record vote ordered. Amendment rejected: 25-64. Motion to reconsider tabled.]

Amendment

Mr. Poynter Mr. Hernandez, did you want your amendment, sir?

All right.

The amendment reads as follows:

Amendment No. 1. On page 1, delete line 9 in its entirety and insert in lieu thereof the following:

"Relative to the".

Amendment No. 2. On page 1, delete lines 14 through 18, both inclusive, including all floor amendments thereto, in their entirety and insert in lieu thereof the following:

"Article VII. Human Resources. Section"--again we are making that...have already made that 2... amended Section 1 to become Section 2--Economic Social Welfare; Unemployment Compensation; Public Health

Section 2. Economic and social welfare, unemployment compensation and public health, including physical and mental health care are matters of public concern and the legislature shall determine and enact appropriate programs therefore."

Explanation

Mr. Hernandez Mr. Chairman, ladies and gentlemen of the convention, I am a member of the subcommittee that developed this proposal. I offer this amendment as a compromise between the original proposal and the expressions that some of the people in here have made to me. I tried to cover everything that the committee wanted covered in this proposal--that is, economic and social welfare, unemployment compensation, public health, including physical and mental health care--and the statement is that they are matters of public concern. I doubt very little if there is anyone in here that would not admit that these matters are of public concern. Now this proposal authorizes the legislature and says, "the legislature shall determine"--and please read that carefully--"The legislature shall determine and enact appropriate programs therefor." The reason for that language being simply this, that the federal government designs these programs, provides most of the funds for these programs, and this will give the legislature the authority to determine our need, based on the federal programs who provides the money. Now, any time these programs are no longer needed--just a minute, please, sir--anytime these programs are no longer needed, the legislature can terminate them. Any time they need any changes to conform to the federal program--upon which all of these state programs are dependent for financial support--then it can be handled. Now, I have tried to cover those things that so many people have told me that they wanted covered here. I would like to--for the purpose of emphasis--I would like to call your attention again, to the fact that the legislature shall determine and enact appropriate programs therefor. Now, I believe that that latitude is necessary because any time that our program does not conform to federal regulations, then our program is out and over because they are not going to furnish the money. This is liberal. I will admit that. A lot of good can come for it. I think that none of us here would deny that--like this amendment points out--that it is a matter of public concern. We are going to have these programs. We might as well make the best of them.

Now, I included health--mental health care--because there is a lot of progress being made in mental health care right now. It is of utmost importance. There is a lot of progress being made.

I would certainly hate to see the...that program held back in any way. It is extremely important.

Thank you very much, ladies and gentlemen. I will be happy to answer any question that I can.

Questions

Mr. Roemer Pete, I agree with you that I don't think there is a person here who wouldn't deny that these matters are matters of public concern. So, I salute that portion of your amendment. However, isn't your amendment guilty of the same basic flaw, in my opinion, that we just voted down a minute ago, and that is it has the word "shall"--"the legislature shall", I just can't understand why you, personally, can't live with the way it is in the old constitution. We seem to have progressed under it--"the legislature may."

Mr. Hernandez Buddy, the legislature shall determine--that is the main thing. It shall determine--that's the first thing--it shall determine, and they must do that in order to conform to the federal programs. Then, after they have made their determination, then they shall enact programs to cover that.

Mr. Roemer All right. Well, this says, "shall determine and enact"--not just "shall determine".

Mr. Hernandez Well, but they must determine, they shall determine and then after they determine the program that is needed--and it will conform to the federal program--then to enact their programs accordingly. They can change it anytime it's outmoded or outdated.

Mr. O'Neill Mr. Pete, I, too, you know, agree with sort of the concept of your amendment. But, I have a problem, too. You say "economic security" again. That's a...phrase that we've all been concerned about. None of us quite knows what it means.

Mr. Hernandez Wait a minute. Before you get too worked up over that, you have the wrong one, Mr. O'Neill. It says "economic and social welfare".

Mr. O'Neill Well, I'm...I do apologize then.

Mr. Hernandez So, don't work yourself up to a frenzy over that, now. It's outmoded.

Mr. O'Neill All right. I'm sorry. I had your wrong amendment.

Mr. Jenkins Mr. Pete, when you say this language about matters of public concern, don't you think something like that would probably be taken out by Style and Drafting as being needless words? I mean is this really...isn't this really more statutory, when you say something like that, than constitutional?

Mr. Hernandez You wouldn't say that you...don't have concern about those things, Mr. Jenkins. I think everybody...

Mr. Jenkins I wouldn't say it in the constitution.

Mr. Hernandez Well, this is a constitution. It's the basic...it's to be the basic law of the land... that we are admitting that these are things of public concern. Therefore, the legislature shall determine the programs we needed and enact their programs to conform to this.

Mr. Jenkins Well, let me ask you: when it says that "the legislature shall enact appropriate programs," doesn't this leave it open for someone to go into court and say that a given program is not appropriate for providing for economic welfare or physical care, or something like that?

Mr. Hernandez It puts first, Mr. Jenkins, "that they shall determine, and enact..." but they must determine first. There is no question about their legislature has a perfect right to determine what is needed. Nobody can argue with that.

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Mr. Fulco Pete, this is friendly.

Mr. Hernandez Oh, thank you.

Mr. Fulco You and I are not attorneys, are we?

Mr. Hernandez No, sir.

Mr. Fulco But, we do understand that if it shall be determined that it would be necessary, and it's in keeping with the government program--whatever it may be--then, after it has been determined, the legislature will then act; isn't that right?

Mr. Hernandez That is absolutely correct.

Mr. Fulco So, you and I are not attorneys, and even you and I can understand that; can't we?

Mr. Hernandez Yes, sir; I can't understand why the attorneys can't understand that, Mr. Fulco.

[Amendment rejected: 37-49. Motion to reconsider tabled.]

Amendment

Mr. Poynter The technical amendment--all it needs to include reads:

Amendment No. 1. On page 1 [by Mr. Aertker], insert the following immediately before Committee Amendment No. 1 proposed by Delegate Jenkins and just adopted; then it would simply read:
"ARTICLE VII. HUMAN RESOURCES"

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 71-21. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 82-10. Motion to take up other orders of business adopted without objection.]

Report from the Secretary
[II Journal 885-888]

Announcements
[II Journal 888-889]

[Adjournment to 1:00 o'clock, p.m., Tuesday, November 20, 1973.]

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Tuesday, November 20, 1973

ROLL CALL

[82 delegates present and a quorum.]

PRAYER

MR. STOVALL

Let us pray.

Eternal God, we give thanks to You for the gift of this day, for the heritage that is ours, for all the blessings of life. As we come together in this Convention, we pray that we might have courage to make those decisions that will enable us to have a better Louisiana, a new future. We pray that You will give to us Your wisdom that we might make the right decisions. We are grateful for the faithfulness and the concern of each of these delegates. We pray that You will continue to be with us that we might make those decisions that will help us to have a new future in our state. For we offer our prayer in Your name as the One Who was, and is, and ever shall be. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

Reports of Committees [II Journal 890]

PROPOSALS ON THIRD READING AND FINAL PASSAGE

[Motion to call Delegate Proposal No. 72 from its regular order.]

Point of Information

MR. PEREZ As I would understand it, you tell me that Delegate Proposal No. 72 would delete from the Judiciary Article the authority and powers of the attorney general. My question is: as a matter of rules, ordinarily it would take 67 votes to suspend the rules to take the matter off the table in order to change what we have already done; now we can do this through another means by having a delegate proposal and just take the matter up without having to have the 67 votes?

MR. HENRY

Well, the way we'll have to treat this delegate proposal, Mr. Perez, is as a delegate proposal. It'll take 67 votes to adopt it. Then, we have, I think, momentarily discussed such situations heretofore. Then, if there is a conflict between this and what we already adopted, then we are going to have to resolve that conflict.

MR. PEREZ

I want this clarified because we may have other areas where some of us might want to reopen some of these other issues, and what you

MR. HENRY

I don't think we are reopening anything that we've already adopted. It's just like some of these amendments that we've discussed heretofore. This is a delegate proposal. If we adopt this delegate proposal, even in the light of what we've already adopted in another proposal, then we are going to have to make arrangements for the conflict to resolve that conflict. But, this is a separate proposal from either the Judicial or the Executive Proposal, which we have heretofore discussed.

MR. PEREZ

In other words, what you are saying, that under the rules that you can, by a delegate proposal or any other committee's proposal, reverse the action which we have previously taken....

MR. HENRY

I'm not saying that's true under the rules. But, for better or for worse, the rules of the convention allowed delegate proposals to be introduced. For better or for worse, we've got to discuss this proposal and do something with it--dispose of it or reject it or adopt it, one way or the other. If the gentleman who got it out of the committee, because the committee reported it out, and now we....we're obligated to dispose of it some way or the other.

All right, while you all are thinking about that, Mr. Aertker says he's got a school board meeting later in the afternoon. He would prefer to go with Committee Proposal No. 30 first--Committee Proposal No. 30 first. So, we'll go with Committee Proposal No. 30 to facilitate Mr. Aertker here.

[Motion to call Committee Proposal No. 30 from its regular order adopted without objection.]

Reading of the Proposal

MR. POYNTER

Committee Proposal No. 30, introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare, and other delegates who are members of that committee: A proposal to provide for the transition of membership on boards of education. It deals with proposed Article XIV, Section I, Board of Regents.

"Section 1. On the effective date of this constitution, the members of the Louisiana Coordinating Council for Higher Education, whose terms will not have expired, shall become members of the Board of Regents until their respective terms expire. The governor shall appoint such additional members as are required to complete the full membership of the board in accordance with and for the purposes of effectuating the provisions of Article IX, Section 7. Then there's a second section.

Explanation

MR. AERTKER

Mr. Chairman, ladies and gentlemen of the convention, as you can see by this Committee Proposal No. 30, this is providing for the transition of the members in compliance with the act of the legislature which requires that the members of these various boards have got to be transferred or taken care of so that their terms are not affected. Actually, then, of course, according to Committee Proposal No. 7, we have created four boards involving education--actually five--one, of course, since it has no members at the present time when this started, wouldn't be involved in this at all. That would, of course, be the LSU Board of Supervisors.

Technically, our Committee Proposal No. 7, as you must realize, has created two, what I consider, superboards, or major boards of education; and that, specifically, is the Board of Regents and the Board of Elementary and Secondary Education, because both of them have pretty well the same power. One just has the power of financial power and budgetary problems, power in program, etc., over higher education. Of course, the other one would have it over K through 12. The first board that we are going to...that we are dealing with, of course, is the Board of Regents, as we have it proposed here; and you'll see that we are taking care of the present Coordinating Council for Higher Education in stating that that is the board that we feel should be the one that should be transferred over to the Board of Regents. Our rationale there is quite simple: that is, that this is the present board dealing with higher education. We felt that all of the people on this would be knowledgeable in that direction. I will admit that it is quite possible and quite probable that many members of the State Board of Education, as presently comprised, certainly also had that type of knowledge and background. But, you see that we have given them really the choice of going into the direction of the Board of Trustees, or actually going and retaining that position on the present State Board of Education. But, for our purposes here, and of course the LSU Board of Supervisors would--the only thing that really has happened to them would be that their terms, of course, have been shortened from fourteen years to six. By a matter of attrition, I think that, eventually, that would resolve itself.

But, the section that we are dealing with right now, Section 1, has to do strictly with the Board of Regents. The proposal that we have there is that the members of the Coordinating Council would be transferred or would become members of the Board of Regents until their term expired. Now, at the present time, we have fifteen members on the Coordinating Council; thirteen of those fifteen members are actually appointed to that board. These are the ones that we are talking about, since they are the appointed members. The other two members of that really served at the pleasure of the board--the State Board of Education had usually its president and the LSU Board of Supervisors had its president, just serving on that--but it wasn't....they weren't appointed by the governor. So, the amendment that you will have coming to you very shortly will be one in which we will state that the members of the Coordinating Council who have been appointed by the governor shall be,

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then, of course, relegated or moved over to the Board of Regents until the -- and so serve--until the expiration of their term.

Now, that, basically, is what is being proposed in the first section on the...Board of Regents. This is the recommendation of the committee that the transition of this...members on this board be handled in this manner. I so recommend it to you for your favorable consideration.

Questions

MRS. ZERVIGON

Mr. Aertker, if you covered this material, I didn't hear you. How many members are on the present Coordinating Council?

MR. AERTKER

At the present time, actually appointed by the governor, there are thirteen appointed. There are one from each of the congressional districts, Mrs. Zervigon, and five at large. In addition to that, the LSU Board of Supervisors and the State Board of Education had a representative also on that commission representing--this was in the form, for instance, Mr. Bankston and Mr. Swanson are presently serving and representing LSU..the State Board of Education and the LSU Board of Supervisors respectfully--but the appointed members, really, are thirteen in number.

MRS. ZERVIGON

So, the ones you are trying to provide an orderly transition for are the thirteen.

MR. AERTKER

That's correct.

MRS. ZERVIGON

What are the lengths of their terms?

MR. AERTKER

Six years.

MRS. ZERVIGON

Six years. Thank you.

MR. AERTKER

They, of course, are serving staggered terms as you would expect. For instance, there's one, two, three, four, Mrs..., in '74 will have their terms expired. Then, they go '76 and '78. So, by '78 they will all have had their terms completed.

MR. LANIER

Mr. Aertker, am I correct in evaluating this proposal in not in any way limiting existing terms of office of any of these elected or appointed people?

MR. AERTKER

That's correct.

MR. LANIER

Is it not true that under Section 4 of Act 11 of 1972 that established this convention, that theoretically we could limit the terms of these people to not later than 1976.

MR. AERTKER

Theoretically, yes. But, our proposal is not...the proposal that the committee felt...it was in fairness to all of the people who serve and that they would be allowed to serve out their terms....

MR. LANIER

But, specifically, for the face of the record here, you feel, and your committee feels, that this would not be the fair thing to do or the wise thing to do, to exercise that authority, but that all of these persons should be continued in office, and transposed into other boards in accordance with their present appointments or elected status.

MR. AERTKER

That's correct, and for two basic reasons, Mr. Lanier: one, we felt in the spirit of fairness; and second is that we felt that these people were knowledgeable and that their presence in any new board that we created as a result of this constitution would have an advantage by having them present.

MR. J. JACKSON

Mr. Aertker, this may just be a technical question, but based on the present posture of Section 9 of the Education Article, do you feel that it would be necessary--I noticed just a transfer of...to the respective boards--do you feel that would be necessary,

somewhere in this proposal to make a technical amendment, particularly when there is no reference to presently the Board of Supervisors for Southern University.

MR. AERTKER

Well, I think that perhaps, Mr. Jackson, that if we would handle that, that perhaps, maybe--you might even handle it when we complete the proposal, if we wanted to, or right before we complete it, it would be...but it doesn't pose any problems since the proposed Board of Supervisors has no membership on it.

Amendment

MR. POYNTER Amendment No. 1.

Copies are being passed out now.

On page 1, delete line 15 in its entirety and insert in lieu thereof the following:

"Education appointed by the governor, whose terms have not expired, shall become. "Education appointed by the governor, whose terms have not expired, shall become."

Explanation

MR. AERTKER

Mr. Chairman, ladies and gentlemen, I...this is almost technical in nature. It's just the inclusion of the fact that these people have been appointed by the governor so that we would clarify just the very question that I was talking with Mrs. Zervigon a little while ago about--to make sure that we are under the understanding that these are the thirteen members of the Coordinating Council who have been appointed by the governor. This is what we have reference to.

[Previous Question ordered. Amendment adopted: 91-9. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Aertker, you've got technical amendments.

The amendments Mr. Aertker has, these are technical amendments like we've been doing in the last few of these delegate proposals--in essence, straightening out the title.

On page 1, delete line 12 in its entirety and at the beginning of line 13, delete "Section 1." and insert in lieu thereof the following:

"ARTICLE XIV. SCHEDULE

* * *

Section 2. Board of Regents

Section 2."

I might say that the staff is trying to keep a consistent basis of this thing. The purpose of the first part of that, making it "Article XIV. Schedule," is just to stay consistent in form. The reason for making this Section 2, as opposed to Section 1, is the convention on yesterday adopted Committee Proposal No. 31 of the Executive Branch on mandatory reorganization, which provided for a Section 1 of the schedule. So there's the feeling that we ought to try to stay consistent--not keep adopting a bunch of Section 1's--and would propose to make this a Section 2, and the next section a Section 3, Mr. Aertker.

Point of Information

MR. DENNERY

I'm sorry. Are you adopting the changes of all of the sections at this point?

MR. POYNTER

No....the only change on this one would be just to change Section 1, then make it Section 2, and straighten the title.

Then, I've got another one coming to make Section 2, Section 3.

Point of Information

MRS. ZERVIGON

Mr. Chairman, this is a typical Zervigon troublemaking question. But, wouldn't it be more logical to make this Section 2 (A), 2 (B), 2 (C), since these are all related and they are all completely unrelated to what we did yesterday?

MR. HENRY

Well, you know, we could probably do it a number of ways. I think that, probably again, Style and Drafting will have ultimately something to do with the way this is set down, Mrs. Zervigon. But, we...just don't want to have several Sections 1 and 2, etc.

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[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 97-8. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

"Section 2. Board of Supervisors, Louisiana State University and Agricultural and Mechanical College
Section 2. On the effective date of this constitution, the members of the Board of Supervisors of the Louisiana State University and Agricultural and Mechanical College, whose term will not have expired, shall become members of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College until their respective terms expire. The governor shall appoint such additional members as are required in accordance with, and for the purpose of effectuating the provisions of Article IX, Section 9.

Section 3. State Board of Elementary and Secondary Education; Board of Trustees for State Colleges and Universities
Section 3. On the effective date of this constitution, each member of the State Board of Education whose term will not have expired shall have the right to elect to become a member of the State Board of Elementary and Secondary Education or the Board of Trustees for State Colleges and Universities and to serve until the expiration of the term to which he was elected. The legislature shall establish procedures by which the right herein granted shall be exercised, and by which the Secretary of State..(I've gone on to Section 3. You just wanted 2. I'm sorry. I was getting a little carried away there.)

Explanation

MR. AERTKER

Mr. Chairman, ladies and gentlemen of the convention, Section 2, of course, is ...deals specifically with the L.S.U. Board of Supervisors. L.S.U. at the present time has fourteen members on the L.S.U. Board of Supervisors. They have fourteen members and their term of office is fourteen years. They have a method of selecting or appointing, or they have been in the past, that every two years two members of that Board of Supervisors go out of office. So, you could see that under that setup with two of them going out on a period of every two years that the last term that some of these members would have would be the year 1986, which is the latest term... the last to be appointed would be serving. Every even year they lose two members, and so it would be starting in '74 losing two members up until '86, they would actually have lost all of their membership. The terms of the L.S.U. Board of Supervisors, of course, have been reduced to six years, and so by a method of attrition, gradually these members, if they were appointed, or as they served out, even if they were reappointed, we would recognize the fact that they would be reappointed to actually a six year term and this is the... again the thinking of the committee that these people are on the present board, and that it would be our intention to let them remain, and when their term expired, whether it be two years from now or actually twelve years from now, that at that time the then, governor would be in position to appoint the replacement or renew the person to that particular board, and I recommend the approval of that recommendation.

Amendment

MR. POYNTER

Mr. Aertker, that technical amendment page 1, line 21, again on line 23 change "Section 2. to Section 3."

[Amendment adopted without objection.]

Personal Privilege

MS. ZERVISON

Mr. Chairman and delegates, I have great reservations about this particular section, and no other of this proposal, purely on the basis of fairness, and on the basis of trying to carry through the obvious wishes of this convention as expressed in the Education Article. When we voted on each of these boards, except for the Board of Elementary and Secondary Education, in the Education Article, we made it plain that our policy was that the governor should control these boards and express his policy there through. We turned down resoundingly an amendment that would have made ten year terms for the members of the L.S.U. Board and, therefore, isolated them from control by any one governor. I have not been a blind follower of the present governor as my voting record shows, but it seems to me grossly unfair, and in conflict with our policy as earlier stated in the votes taken on this floor, to say that every other governor may control the Board of L.S.U., but not the present governor. I don't think that the present governor has shown himself

to be an enemy of L.S.U., and I just find it basically unfair, as I do the mathematics and I'm slow at it, it takes me a long time; he might by some stretch of the imagination get control in his second term the last two years or the last year of his second term. But, every other governor succeeding him in the State of Louisiana would get control of the L.S.U. Board within his first term and appoint the entire L.S.U. Board before two terms would be up. I think that's unfair to this man in showing a lack of trust that he doesn't deserve.

[Previous Question ordered on the Section. Section passed: 83-21. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

"Section 3.--I've read about half of it, I think.
On the effective date of this constitution, each member of the State Board of Education whose term will not have expired shall have the right to elect to become a member of the State Board of Elementary and Secondary Education or the Board of Trustees for State Colleges and Universities and to serve until the expiration of the term to which he was elected. The legislature shall establish procedures by which the right herein granted shall be exercised, and by which the secretary of state shall be notified as to those elections which must be held, and by which the governor shall be notified as to the appointments which must be made, to complete the full membership of the boards mentioned herein. Such elections and appointments shall be made in accordance with and for the purpose of effectuating the provisions of Article IX, Sections 4 and 8."

Explanation

MR. AERTKER

Mr. Chairman and ladies and gentlemen of the convention, this deals with the final existing board and that is, the present State Board of Education. At the present time, the State Board of Education has a ... has eleven members on it and they also serve staggered terms into which every two years members of them go off. For instance, in 1974, three of the present members of that board will be going off. In 1976, three more go off, in 1978, three more, and in 1980, the last two will have gone and completed the present terms that they're presently serving at the present time. The difference here is that actually these people are given a choice as to whether they wish to go into the new State Board of Education dealing with K through 12, Education or whether they would, perhaps, wish to move over into the Board of Trustees for dealing with higher education. The thinking behind that was that some of these folks perhaps, felt themselves more interested and more inclined to concern themselves with the matters dealing with higher education; if that would be the case, we'd have to presume that they would wish to indicate that their preference would be to go to the Board of Trustees. Those who felt that... or feel that they would like to remain concerned with the problems dealing with Elementary and Secondary Education, and of course, would... I would have to presume would so indicate that they would wish to continue to be and become a part of the members of the new State Board of Education in that direction, and that's the recommendation on how these are handled. This is the committee recommendation, and we recommend it to you for your approval.

Questions

MR. ROY

Actually, Mr. Aertker, that's also in compliance with Act II which says that we can't knock out any officers at this time. Isn't that correct?

MR. AERTKER

That's correct. We have to take care of these people for the duration of their term.

MR. JENKINS

Bob, you know, thinking about the three board members that are going to be elected next year to the State Board. They would be elected on November 5, 1974, in the general election, and thus the effective date of this constitution, whatever it might be, could be very important in determining whether we held those elections or not, and whether or not the people had taken office before the effective date of this constitution. What is your viewpoint on the effect of this provision with regard to that election?

MR. AERTKER

I would have to presume or my thinking would be that if they were elected for a six year term that those three members would be... would have the same option to them when the constitution was adopted, that they would be... they would have six years ahead of them

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MR. JENKINS

For example, suppose this constitution were voted on, say, in March of 1974, and became effective several months later then, the effective date would be before those elections so there would be no election then for State Board of Education?

MR. AERTKER

That's correct.

MR. JENKINS

If the election then, on the other hand, were, say, in November 5, 1974 on this constitution that we're adopting--we're trying to come up with, which it could be--then, if the people who were taking office for the State Board, took office before this constitution went into effect, they would serve for six years; but if they did not take office before the effective date, then they would not be... have a right to serve, is that correct?

MR. AERTKER

That's correct. In fact, as I pointed out, we have three ripe at the present time who... well, who would actually have four years. These actually would have six years to go.

MR. JENKINS

So, if we do not take care then in selecting the effective date of this constitution, and the governor does not take care in calling this the date for the election for this constitution, we might have a situation arise where people could go through an election campaign, be voted on and then never actually be able to serve. Isn't that correct?

MR. AERTKER

That's correct, and I think that's something we're going to have to keep in mind.

MR. O'NEILL

Mr. Aertker, maybe you're more familiar with it than I am, doesn't Act II set the date that this constitution will take effect, and isn't it either December 31st, 1974 or January 1, 1975?

MR. AERTKER

Not that I'm aware of

MR. O'NEILL

I think there is a date in there.

MR. AERTKER

I thought that there was a date that they had to vote on it prior to sometime, but I didn't know there was a date that it went into effect.

Amendment

MR. POYNTER

I had that technical amendment changing it from the two places from "Section 3. to Section 4."

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 96-9. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment sent up by Delegate Conroy as follows: Amendment No. 1. On page 2, line 17, add the following section: "Section 5. Boards; New Appointments Section 5. In making new appointments to a board created by Sections 7, 8 or 9 of Article IX, the governor shall consider appropriate representation on the board by graduates of the institution under the control of the board."

Explanation

MR. CONROY

This amendment had originally been prepared as an amendment to the Educational Article, but in the stampede to call the question on that article on Saturday, it didn't ever get before this body. Its purpose... its basic purpose, quite frankly, is to try to give L.S.U.-N.O. a wedge in getting representation on the L.S.U. Board. This was discussed with a number of the delegates in connection with the Educational Article. I got the impression at that time that there was no disagreement with the philosophy that this amendment represents.

Point of Information

MR. AERTKER

Point of information. I question whether this amendment is a part of a transitional matter. I don't have any objection to the amendment, David, but I just would like to get a ruling...

MR. CONROY

Well, it refers to making... the concepts that will apply in making the new appointments which I think is part of the transition. That's the way it's drawn.

MR. AERTKER

Is that the ruling, Mr. Chairman? Mr. Chairman, is that your ruling?

Explanation continued

MR. CONROY

As I said, the fact of the matter is at the present time the L.S.U. Board in our efforts to try to insure representation by L.S.U.-N.O. on a board with what was it, seventeen members or fifteen, however it wound up with it, didn't have anybody representing directly an institution that has some thirty percent of the total enrollment of the system. So, as I said, this amendment is simply designed as a statement of principle that would apply in making a new appointment so that these institutions that do not have presently have people on the boards would be assured that this would be considered in making the new appointments to the boards. I yield to any questions.

Questions

MR. KEAN

David, do I understand by putting this in... this particular proposal which is a transitional proposal that the new appointments that this speaks of are those that would occur by reason of the transitional proposal?

MR. CONROY

Well, I think in its present posture that's about as much effect as it could legally have. But, I would hope that the principle would apply in the future as well, but unfortunately I couldn't get it in the constitution so I'll just have to settle for trying to get it in the schedule.

MR. DUVAL

David, I'm trying to understand the intent of your amendment, and of course, applies to the Board of Regents?

MR. CONROY

Yes.

MR. DUVAL

Now, the Board of Regents has all institutions of higher learning under its auspices...

MR. CONROY

Yes.

MR. DUVAL

...and does that mean that there would at least have to be fifteen representatives.... what's the meaning?

MR. CONROY

Wouldn't change a thing, it would just be that that would definitely be a factor that would be considered in making the appointments, that it wouldn't be loaded up with all graduates of, say, one institution, that it would be... that the fact that there were other institutions would be considered.

MR. DUVAL

What would occur if there were no graduates of any institution in Louisiana on the Board? What could one do legally under your amendment?

MR. CONROY

There's it is not enforceable. I had attempted in discussions with others to make some sort of enforceable pattern or formula, but this was not acceptable to the people I spoke to, and I felt that a statement of principle was better than nothing at all, and I couldn't get anything better than that that was acceptable to people.

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MR. BERGERON

Dave, what this amendment simply does as you said, it's a statement of principle, correct?

MR. CONROY

That's correct.

MR. BERGERON

It's not a mandate to the governor to appoint?

MR. CONROY

No, I don't think... no, that's the thing we ran into problems with in trying to make anything mandatory. It's just a statement or principle that I think would, at least, help somewhat in some of the feelings that I think were badly hurt by the L.S.U.-N.O. people, and I think this would help somewhat in that regard.

MR. BERGERON

It's just a statement which says the governor shall consider?

MR. CONROY

That's right.

MR. BERGERON

Right. Thank you.

MR. MUNSON

Mr. Conroy, in your remarks you've only mentioned L.S.U.-N.O., there are other schools under the L.S.U. system besides New Orleans, aren't there?

MR. CONROY

Yes, there are.

MR. MUNSON

Such as L.S.U.-Alexandria?

MR. CONROY

Such as what?

MR. MUNSON

L.S.U.-Alexandria?

MR. CONROY

Yes, and it was a problem of trying to devise a formula that emphasized anything that got us into trouble in making it mandatory, that's why it was put in just... this salutatory fashion.

MR. WILLIS

Mr. Conroy, don't you think we depreciate the discretion we attribute to the governor in allowing him to appoint in the first place by setting forth these guidelines?

MR. CONROY

Mr. Willis, I'd say that if L.S.U.-N.O. had a representative on the board at the present time that I'd have to agree with you, but it doesn't. So, I think that something further is desirable to be stated.

MR. WILLIS

But, the desirability you have there I don't think is achieved by mere suggestion in a constitution.

MR. CONROY

Well, I think it would give those, when an appointment comes up, who would be in a position of trying to urge the governor to make a decision. I think that the fact that it's in this schedule would be helpful in their winning their point that it should be somebody from L.S.U.-N.O.

MR. WILLIS

That's a weapon for those who would urge the governor to use this consideration.

MR. CONROY

Yes.

MR. WILLIS

You think it's an appropriate place to put it, in a constitution?

MR. CONROY

Well, this isn't in the constitution, this is in the schedule--in the transitory schedule.

MR. LANIER

Mr. Conroy, if this provision is not enforceable, then, really why do we want to put it in here?

MR. CONROY

I think I just answered that in the question that Mr. Willis asked, is that I think it is helpful from those who urge the appointment of people from unrepresented institutions to have this in their hand to say to the governor, "Look we don't have anybody from this institution, you're about to make a new appointment, don't you think you ought to give consideration to what the Constitutional Convention says?"

MR. NUNEZ

Mr. Conroy, do you believe that this language in the constitution even though, you put it in there--sort of window dressing--and it makes people believe that maybe if you got a chance at it would do any good, if the governor wants to do that. I think a governor would give consideration to a graduate if there was a graduate of such that would qualify to serve on a board.

MR. CONROY

Senator Nunez, I've been assured that he probably would too, but I don't see how this can hurt those circumstances. This is not a part of the body of the constitution, this is in the schedule, and I think it's an appropriate place for it to be. As to what the feelings of this convention is,.... would be with regard to new appointments, I think this is the appropriate time and place for it to be handled.

MR. NUNEZ

How many... would you answer another question? How many graduates from L.S.U. are now on the L.S.U. Board of Supervisors?

MR. CONROY

I understand that all but one of the members of the L.S.U. Board of Supervisors are graduates of L.S.U.

MR. NUNEZ

All right. Now, how long have the other institutions in this system such as, N.O. --and I'm an N. O. man as you know I'm a graduate of L.S.U., but N.O. is my base over there in that area-- like Alex, and Opelousas, how many graduates from those other institutions have we put out so far, do you think....

MR. CONROY

Well, I don't think Alex, and Eunice would qualify under any circumstances, but L.S.U.-N.O. has some rather significant graduates around now, and I think that it's time to give them a good representation.

MR. RIECKE

Mr. Conroy, isn't it true that if this is in the... in there that it's going to help pass the whole constitution in the light of so much opposition from the L.S.U.-N.O. group now, don't you think this might help us to pass the whole constitution?

MR. CONROY

Well, Mr. Riecke, I feel that it is at best a bone, but it seems to me that we at least ought to give a bare bone to the people who don't otherwise have anything to point to. Yes, I do think we could....

MR. RIECKE

I agree, I'm sorry we couldn't get it in the main roll.

MR. CONROY

Right. I think it could help.

MISS PERKINS

Mr. Conroy, if your proposal was adopted, would you support an amendment to that proposal that changed the word "graduates" to "alumni" so that L.S.U.-Alexandria and Eunice would also be included for consideration?

MR. CONROY

Well, I don't know exactly the distinction you'd make between alumni and graduates, but I felt that graduates were people who

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would have the greatest interest in the institution as a continuing institution.

MISS PERKINS

Do you realize that L.S.U.-Alexandria and Eunice are two year schools and we'd like to assure representation for them as well, and we must delete "graduates" and insert the word "alumni"? Could you support such an amendment?

MR. CONROY

Well, I don't know which is the better way to do it would be. Alumni means the same thing to me, frankly, from my concern, I don't know what...

MISS PERKINS

You can go to a school for one year and be an alumnae without being a graduate.

MR. CONROY

I sec.

MISS PERKINS

Could you support such an amendment?

MR. CONROY

Well, I would certainly vote for it if it would help in any way in getting greater representation into this,... the whole concept here is to spread out representation. I'm not... really not in a position to quibble about the words. I thought I'd discussed this with a number of people, and thought I had words that would satisfy everybody.

MISS PERKINS

Thank you.

MR. CHAMPAGNE

... center around L.S.U., but does not Section 8 have to do with other schools also?

MR. CONROY

Yes.

MR. CHAMPAGNE

In other words, the impression I get in this assembly is, the only concern is L.S.U. In other words, what about the University of Southwestern and all the others we're talking about them too, in this amendment.

MR. CONROY

That's right. It would be an important factor in appointing the new members of that entirely new board to be sure that they do have representation on the board, very important factor.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, I'm not opposed to the principle which Mr. Conroy has stated in this amendment, but I certainly think that it is a needless amendment to be placed into our constitution. This is just like one of those amendments that says, "the legislature may" do something which everybody knows the legislature has the authority to do. This amendment just says "the governor shall consider graduates from these other... from the various institutions." There's no mandate that he has to appoint anybody. Therefore, I think it's just needless verbiage that we'd be placing into our constitution. I think it's unnecessary, and I think that if we would put something like that into an act of the state legislature that it would be a whole lot more influential upon the governor than putting it into our constitution. Therefore, I just oppose to filling up our constitution with meaningless verbiage. If we keep on doing this, we'll have a constitution as long as the one we are presently trying to rework. I ask you to defeat the amendment.

Further Discussion

MR. BERGERON

Mr. Chairman, ladies and gentlemen, you know, the other day I offered an amendment which would have made it mandatory to place at least one representative on the Board of Supervisors from L.S.U.-N.O. Well, you know, I've been going to all the L.S.U. Baton Rouge football games, and I've been sitting in the stands and cheering. It took me all this time, but I finally

found out what the fans at the stadium meant when they would say, "Tiger bait, tiger bait." But, in all seriousness, this is not an attempt to open up the door which we had closed on the Education Article. This is simply a statement of principle. It's not in the... will not be in the constitution, it will be in the transition—in the schedule. This will allow all universities of the L.S.U. system to be considered. You're talking about Alexandria, Baton Rouge, Eunice, Shreveport, etc. It will also allow all the universities in the Southern system to be considered when they're making their appointments. So, what we're doing is we're simply saying that the governor shall consider the various colleges in the system of L.S.U. while making his appointments. It's not a mandate saying that he shall appoint one from each branch of L.S.U. It's simply a statement of principle which says he shall consider the various colleges in the system. I think, as Mr. Conroy has brought up, that it will be... it will make the article and things we have done in education a little bit more easier to live with in terms of speaking of other universities within the L.S.U. system. I would urge for the adoption of this amendment. Thank you.

Questions

MR. MUNSON

Mr. Bergeron, I'll ask you the same question Miss Perkins asked a moment ago. If this amendment is adopted, would you support an amendment changing the word "graduates" to "alumni"?

MR. BERGERON

Mr. Munson, I really... I believe Miss Perkins gave the definition of "alumni," and I'm not sure how... what the difference is between "graduate" and "alumnus."

MR. MUNSON

L.S.U. Alexandria is in the L.S.U. system, but they are a two year commuter college. They don't have graduates except in the nursing school.

MR. BERGERON

And they have alumni?

MR. MUNSON

They have alumni, but not graduates, except for the nursing school.

MR. BERGERON

All I can say, Mr. Munson, is if the majority of the delegates wish it, I certainly would have no objection.

MR. MUNSON

I was asking Mr. Bergeron.

MR. BERGERON

Pardon.

MR. MUNSON

I was asking you, would you support such a change?

MR. BERGERON

Yes, sir, I would, because we'd simply say that "they shall be considered." We would not be saying that they will have a representative. We're simply saying, "they shall be considered," while the appointments are being made.

MR. ROEMER

Phil, I didn't hear your answer to your support or nonsupport to amend this proposition to read "alumni" rather than "graduates." What was your position on that?

MR. BERGERON

Buddy, I simply said that if there was... Mr. Munson had brought out, and so had Miss Perkins, that alumni would enable the two year schools to have representation because they do not have graduates. Now, what I'm simply saying is that I would see no reason to object to it because we are not mandating the governor to make an appointment from that school. We are simply saying he shall consider making an appointment.

MR. ROEMER

Well, do you understand the difference between an alumnus and a graduate? An alumnus is one who just attended the university or the school. A graduate is one who matriculated therefrom. So, I don't see any objection to making the change. It's broader with "alumni" than it is with "graduates."

MR. BERGERON

Correct.

Further Discussion

MR. VELAZQUEZ

Mr. Chairman, fellow delegates, I rise in support of this amendment as being eminently fair to all concerned. I think it allows the institutions under the L.S.U. Board the opportunity to receive some representation. It allows the institutions under the Board of Regents the opportunity to receive some representation. It allows . . . neither mandates nor it requires. It expresses in constitutional language--which is which will be placed in the following part--this particular right. It hurts no one, and it still allows the governor wide latitude. This will be in the schedule itself, and it will allow all the component institutions of the various systems the opportunity to receive some representation without tying the governor's hands. I urge your support for this amendment.

[Previous Question ordered.]

Closing

MR. CONROY

I just wanted very briefly to reiterate that this is a statement of principle. It goes in the schedule which kind of phases out after awhile, and it is not part of the permanent constitution. There should be no concern about voting for this in this regard. On the other hand, it is not proper matter for legislation because these are constitutional boards appointed by the governor, and you could not have appropriate, effective legislation in this area. This is the place to put it if you believe the principle should be enunciated at all. This is where it should be. I urge your favorable vote.

[Amendment adopted: 68-37. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment No. 1.

On page 2, line 17, in Floor Amendment No. 1 proposed by Delegate Conroy and adopted by the Convention on November 20, 1973, on line 5 of the text of the amendment, immediately after the word "by" and before the words "of the" delete the word "graduates" and insert in lieu thereof the word "alumni."

Explanation

MISS PERKINS

Ladies and gentlemen of the convention, I urge your support of this amendment. This would allow L.S.U. Alexandria and Eunice to be considered with reference to representation on the L.S.U. Board of Supervisors. I won't go into detail because we argued this thoroughly. As Mr. Conroy pointed out, this is not a mandate, but if we're going to consider the other schools, let's also consider the two two year schools within the L.S.U. system. So, I strongly urge your support of the amendment of changing the word to "alumnus."

Question

MR. WILLIS

Lynn, I have . . . this is a friendly question, and it might be approaching a holy one. Don't you think that we ought to have an amendment whereby the governor would be directed to have a moment of silent prayer before he makes these appointments?

MISS PERKINS

I imagine so.

Further Discussion

MR. VELAZQUEZ

Mr. Chairman, fellow delegates, I rise in support of this amendment because it widens the governor's latitude. It helps the presently existing two year institutions, and in case there are ever any other two year institutions established, it would give them some assistance in receiving representation on this board at the discretion of the governor. I urge your favorable vote on it.

[Previous Question ordered. Amendment adopted: 92-13. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 76-30. Motion to reconsider tabled.]

Further Discussion

MR. LEBLEU

Mr. Chairman and fellow delegates, possibly I'm just a little bit confused about this whole thing. I don't intend to do it myself, but I think from the publicity that the Article on Education has received in the last week or so, that there may be some attempt by one of the delegates to come back and change, maybe, the whole concept of the educational board. Now, if we go ahead and adopt this, it's my understanding that even though it's not a part of the constitution, if we did change--and we did it with the State Superintendent of Education--if we did change, we would then have to come back and possibly make some changes along these lines. Like I say, I'm kind of confused on it. Maybe Mr. Aertker can explain the whole thing when he closes, but I just wanted to throw that out for your consideration, and see what you thought about it. Thank you.

Further Discussion

MR. JENKINS

Mr. Chairman, I'll be brief. I just want to say that I think the only criteria that should be used in choosing people for these boards are: Who are the best qualified people, and who will do the best job? That has nothing to do with what particular college or university a person attended--that's the first thing. The second thing is that you shouldn't have people appointed to the board with the idea that they're going to be lobbyists for a particular college or university, or that they're going to be representing their interests there. We should have people who are going to be above that and try to keep the interest of the whole system at heart. So, I'll have to speak against and be against this particular section.

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, I have no objections to Section 5. However, I am gravely concerned about the fact that we are reopening the constitution through the schedule. I would like for the Chair, during the recess, to reconsider how far we can go in this type of thing. I again repeat, I have no objections to Section 5. I do object to putting it in the schedule, and for that reason, I must vote against the proposal. Thank you.

[Previous Question ordered on the Proposal. Proposal passed: 88-21. Motion to call Delegate Proposal No. 32 from its regular order adopted without objection.]

Reading of the Proposal

MR. POYNTER

Delegate Proposal No. 32 by Delegate Drew:

A proposal to provide with respect to courts of appeal, circuits and districts.

Being adopted by the convention, it provides for an:

"Article V, Section 9. Courts of Appeal; Circuits and Districts. Section 9. Each circuit shall be divided into at least three districts, with at least one judge elected from each. The present circuits and districts and the number of judges as elected in each circuit are retained, subject to change by two-thirds vote of the elected members in each house of the legislature."

Explanation

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, in our Judiciary Article, in Section 9, there was inserted the sentence, "After January 1, 1975, no judge shall be elected at large from within the circuit." Now, let me clarify one misunderstanding. I am violently opposed to at large judges. Let me remind you this: that in the First Circuit and in the Fourth Circuit, the judges--every judge--is elected from districts. In the Second Circuit, you have five judges, two who are elected from one of the three districts; three who are elected from a district each; two who are elected from a district at large. In the Third Circuit, you also have three districts as provided in the constitution. You have three from districts and three at large. Now, if you still have the map of the circuits of the state before you, you will notice that the Second and Third Circuits include the entire state with the exception of the boot--the toe of the boot--so to speak. The Second Circuit runs from Natchitoches Parish⁴ to the Arkansas line. The Third Circuit runs from Natchitoches and LaSalle Parish to the Gulf of Mexico; and we are requiring

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three judges in the Third Circuit to run at large. We're requiring two judges in the Second Circuit to run at large, which, in the Second Circuit, particularly, although the districts are more equal in population than in any other circuit, it is an utter impossibility from any attorney from Monroe east to the Mississippi line to be elected as an at large judge. Some people have misinterpreted my amendment, and have said that I am for at large judges. I am one of the proponents of doing away with at large judges. My objection to the committee proposal--and Ruth will take the podium here, and she has agreed with us on it--is that January 1, 1975 is too short a cutoff date. This will leave the provision applying to the Court of Appeal the same as to the Supreme Court. I can assure you, when I have the adequate information, consulted with the judges, consulted with other people who can render an awful good advice to where we'll be doing the least damage to the least number of judges, I will submit a bill to where each judge will run from a district within his circuit. Ruth and I have discussed it; I had originally agreed to go with her amendment of a cutoff date of January 1, 1975, until I suddenly realized at that time that it was totally unworkable. You have five at large judges. Should this constitution not be submitted to the people in time for the '74 legislature to take action, there could be no legislation before the cutoff date. In the event of retirement or death of any of these five at large elected judges, there would be no procedure to fill their vacancies. Ruth has agreed with me that January 1, 1975 is too early a cutoff date. I have assured her that we will work out in the legislature a redistricting--not put part of one parish one district and another part in another district--and let these judges run on an equal basis, as near as possible, from districts within their circuit. I'll be glad to answer any of your questions, and I will ask your approval of the amendment.

Questions

MR. NEWTON

Harmon, isn't the present situation that some judges run in districts and some run at large?

MR. DREW

In the Second Circuit, you have three by district, two at large. In the Third Circuit, you have three by districts, and three at large. In the First and Fourth, they all run by district.

MR. NEWTON

All right, as I appreciate the present law is that in our First Circuit, here--which includes East Baton Rouge Parish and my parish, Tangipahoa--that our . . . we have six judges now, and they've got three appointed judges serving on there, and they're getting ready to provide for some new judges. Then, we'd have six judges running in districts, and possibly three judges running at large. Would that be right?

MR. DREW

That could develop, yes.

MR. NEWTON

Now, there's another thing that I was curious about, and I'm asking you, really, what the present law is. As I appreciate it, if a vacancy occurs in the Court of Appeal judgeship, somebody has to be appointed to fill that vacancy who is not in the district. Is that correct?

MR. DREW

Autley, that applies to district judges. I don't remember, offhand, whether it applies to Court of Appeal judges or not. I'd have to check the article to see.

MR. NEWTON

Well, would you believe it if I told you it was true? So, that if there was a vacancy in one of these at large judgeships, they would have to go completely out of the circuit to get a judge to fill that vacancy, wouldn't they?

MR. DREW

That is correct.

MR. NEWTON

I really support your amendment.

MR. ANZALONE

Mr. Harmon, after this thing goes into effect, are you saying that every time that a new appellate court judge position is created that you're going to have to create at least three of them?

MR. DREW

What was the last, Joe?

MR. ANZALONE

Well, what I'm saying is, is that suppose we've got six judges, two from three districts within the circuit. Now, we come up with the idea that we want to create another Court of Appeal judge. We would have to create three at one time, wouldn't we--a completely new panel?

MR. DREW

Not necessarily, Joe, because if you would look at this--if you have this paper--you will notice in the Fourth District they elect three judges from the First--I mean, in the Fourth Circuit. They elect three from the First District, five from the Second District, and one from the Third District. So, you would not have to have three judges every time you created another judgeship.

MR. ANZALONE

You're not getting the point. We've got three districts in our circuit.

MR. DREW

That's a right.

MR. ANZALONE

All right, we've got one over where we live, Terrebonne has got one down in there somewhere, and they've got one further out west--in the never, never land. Now, if we've got . . . if the legislature has got to create another Court of Appeal judge, and he can only run within a district, which one of those three districts is going to get that Court of Appeal judge?

MR. DREW

If you leave this amendment in, your proposition is correct. There could be no such thing as at large judgeships. I am not trying to maintain the at large judgeship concept. I am trying to do away with it, but I am trying to get enough time to do it where the least number will be hurt the least. January 1, 1975 is too close a deadline on the thing. In your instance, Joe, of course, they do not have to, so far, be equal in population. In the Fourth District, you have five judges from 593,000 people. You have one judge from 149,000 people in that district. So, I think we could add by districts, if necessary.

MR. ABRAHAM

Harmon, as I understand it, the only thing you're really objecting to is the date that's in the proposal, and not with the concept that there would not be . . .

MR. DREW

I am not opposing the concept of having the right to change it. I think we need that; we had this same provision for the Supreme Court, in case it's needed in the future. We now would have this for the Court of Appeal. We do not have the at large problem on the Supreme Court, but I am very interested in creating districts--which we will be able to do under this proposal--to where you will not have a few judges running at large and others by small districts.

MR. ABRAHAM

Well, as I appreciate it, though, the only difference between your proposal and what we have already adopted is the . . .

MR. DREW

...the cutoff date.

MR. ABRAHAM

...the one sentence, and say that none will be elected at large.

MR. DREW

That's the only difference. Right now, you have a cutoff date of January 1, 1975, which is too soon. There could not . . . there's a good possibility that there will not even be a legislative session before the cutoff date after the adoption of the constitution.

MR. ABRAHAM

Well, then why not leave the cutoff date in . . . leave it out--just leave the date out--and just say that "no judge shall be elected at large." Why couldn't you do it that way?

MR. DREW

That would take effect thirty days after the constitution is adopted. That would move the cutoff date up, even.

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Further Discussion

MRS. MILLER

Mr. Chairman and ladies and gentlemen of the convention, Mr. Drew and Justice Tate and I have been agonizing, really, over these at large judgeships. It seems that we're not really at odds over the philosophy of the fact that it's a very unfair situation to have judges--some judges--running to very small areas and small populations, and some judges running to very large areas geographically, and very large populations. We have this unbalance on the Supreme Court, and you all didn't see fit to change that. When we did adopt the amendment in the Judicial Article to cut out these at large judgeships, we put the cutoff date so that it would not take effect too soon after the adoption of the article. Since we've debated this thing several times, I have talked with Representative Drew, and he says he believes the legislature is very much aware, now, of the unfair problem; and that with his amendment, it still leaves a great deal of flexibility. He, for one, is prepared to do the best that he can in the legislature to effect some equitable changes. In view of this, but even if we delete that sentence, we do leave a great deal of flexibility to the legislature. We believe that their attention has now been directed to the unfair situation of at large judgeships, and that they will possibly be able to work out a better system. For that reason, I withdraw my objection to the Drew amendment. In philosophy, I think the at large judgeships are very, very bad; that the people do not have an opportunity to get to know a man when he's running in such a large territory. Plus the fact that you have the unfair situation of one judge having to raise or spend so much money to get elected and serve with judges on the same bench who, possibly, have a very easy time of it, or at least only have to advertise over one or two T.V. stations, and ten or fifteen radio stations, and maybe eight or nine major daily and weekly newspapers. But, I think this is something that Mr. Drew assures me can be taken care of in the legislature, and that the legislature will direct their attention to it. For that reason, I withdraw my opposition to Mr. Drew's amendment. Thank you.

MR. HENRY

We have an amendment, Mr. Clerk?
Who offers it?
Mr. Drew? Well, read it, please.

Amendment

MR. POYNTER

A technical amendment.
On page 1, delete line 8 in its entirety and insert in lieu thereof the following:

"ARTICLE V.
* * *

Section 9. Courts of Appeal; Circuits and Dis--"

[Amendment adopted without objection.]

MR. DREW

I think you understand the problem, what the intent is to do away with at large judgeships, put them on an equal footing, and I ask your support of the proposition.

Closing

[Previous Question ordered on the Section. Section passed: 105-2. Motion to reconsider tabled. Motion to adopt Delegate Proposal No. 32.]

Point of Information

MR. KEAN

Mr. Chairman, just as a matter of information, if we approve this proposal, as I assume we will, as I appreciate it, we then have a delegate proposal we have approved which says one thing, and a committee proposal section which we've approved which says something else. How do we resolve that conflict?

MR. HENRY

I think we're going to be able to resolve that by the recommendations that will be made by the Committee on Style and Drafting as a result of the conflict, Mr. Kean. We're going to have to touch it very carefully, but we are going to have to address ourselves to that.

MR. KEAN

Well, what comes. . . how are you going to resolve it--by what gets voted last?

MR. HENRY

Well, I think in the report of Style and Drafting that in all probability when they make their report they will point out what was adopted and what has been adopted. What has been adopted at that point will be, I would assume, be offered as an amendment to that proposal, in that manner. That's. . .

[Previous Question ordered. Proposal passed: 107-1. Motion to revert to Reports of Committees adopted without objection.]

REPORTS OF COMMITTEES
[II Journal 895-896]

Report of the Secretary
[II Journal 896]

[Motion to make financial report through October 31 a part of the Journal adopted without objection.]

Personal Privilege

MR. ASSEFF

Since there is some confusion about conflicts, I thought I would read a portion of the rules relating to it, so there would be no misunderstanding.

MR. HENRY

All right.

MR. ASSEFF

The rules say, that "where a proposal referred to the Committee on Style and Drafting is inconsistent or in conflict with a proposal already acted on favorably by the convention, the Committee shall so notify the convention of that inconsistency or conflict and await its instructions." However, Mr. Chairman, in view of the fact that I feel there may be many provisions of this sort, that I urge the delegates if they know of a conflict, to call it to the attention of a member of the committee.

MR. HENRY

Certainly, your point is well taken, Dr. Asseff. Thank you.

Announcements

[II Journal 897]

[Motion to suspend the rules to allow a meeting of the Style and Drafting Committee without giving a twenty-four hour notice adopted: 69-28. Adjournment to 9:00 o'clock, a.m., Wednesday, December 5, 1973.]

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Wednesday, December 5, 1973

ROLL CALL

[89 delegates present and a quorum.]

PRAYER

MR. STOVALL

Let us pray.

Oh, Lord, our Lord, how excellent is Thy name in all the earth. Before the heavens were made or ever Thou hadst formed the earth and the world, even from everlasting to everlasting, Thou art God. We bless Your name for our creation and preservation and all the blessings of this life. We are grateful for our return here this day, and we would look to You for Your wisdom and Your guidance that we might make those decisions that will mean the best for our state and for our future. Bless us with Your presence and be with us in our deliberations, for we offer our prayer in Your name, as the One Who was and is and ever shall be. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

MR. HENRY

Gentlemen and ladies, in the event you don't know what took place relative to the extension of time for the convention, the legislature, last night, voted to extend the life of the session through the nineteenth of January. There is a provision in the bill--and I don't think that any of you can fault this provision--that says that the convention should not work, in effect, from the Sunday before Christmas through the Wednesday after New Year's. That was to give you folks and us some time off during the holidays. Therefore, the convention, unless we wind up before then, will be closing down on the nineteenth of January. Insofar as our work schedule this week, if I had only known that we'd be in till midnight last night, I would never have suggested that we come back this morning at nine o'clock. I just wasn't thinking. I apologize, especially to you legislators, for that. When we entered into this contract with this hotel to use these facilities here, there was one exclusion, and those were the days of, I think, Thursday and Friday and Saturday of this week. I believe that we have a sufficiency of work to do, and we can meet in the House chamber; and unless you all adjourn, that's where we will be meeting from Thursday through Saturday. It will be my suggestion that probably we work through Saturday, middle of the afternoon, and then start working a Tuesday morning through Saturday afternoon schedule, and just sort of seeing how that works. If you all have any suggestions or ideas, I'll appreciate hearing from you, but not right now, please. Let's try to have a nice quiet day.

REPORTS OF COMMITTEES LYING OVER
[II Journal 898-901]

PROPOSALS ON THIRD READING AND FINAL PASSAGE

[Motion to call Committee Proposal No. 11 from its regular order adopted without objection.]

Reading of the Proposal

MR. POYNTER

Committee Proposal No. 11, introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare, and Delegates Carmouche, Corne, and other delegates, members of that committee.

A proposal making provisions for human resources by providing for retirement and survivor benefits.

As I appreciate it, Mr. Aertker, this proposal has but one section. Is that not correct? One section.

Motion

MR. JENKINS

Mr. Chairman, I want to move that we--and before Mr. Aertker starts explaining it--that we consider this proposal by letters, with A, B, C, since it is so long and purports to be only

one section; that we consider these letters as though they were sections and vote on them accordingly.

MR. HENRY

Now, when you say "consider," do you mean to adopt them paragraph by paragraph?

MR. JENKINS

Yes, that we consider them just as though they were sections.

MR. HENRY

That would require a suspension of the rules, and you so move, Mr. Jenkins?

Mr. Jenkins moves for a suspension of the rules for the purpose of considering Committee Proposal No. 11 paragraph by paragraph. Is that correct, Mr. Jenkins? Capital-letter paragraph by capital-letter paragraph.

MR. POYNTER

Designated paragraphs.

Point of Information

MR. RACHAL

I did have a question, Mr. Chairman. When Mr. Jenkins mentioned that these would be handled as though they were sections, does he mean by that that they will also require a vote of 67 in order to pass each?

MR. HENRY

Yes, it would, sir.

Point of Information

MR. STOVALL

Mr. Chairman, I rise to ask Mr. Jenkins if he would withdraw that request until after it is presented by Mr. Aertker, and we might have a better idea concerning the content and would be able to make a better decision on this matter.

[Motion withdrawn.]

Explanation

MR. AERTKER

Mr. Chairman, ladies and gentlemen of the convention, perhaps an explanation of why we are going into this section dealing with retirement before proceeding with the matter on civil services is in order at this time: I would like to explain to you that it is my plan, later on today, to ask you all to allow a suspension of the rules so that the Committee on Education and Civil Service and Welfare can have a meeting immediately after recess today, with the hope that we can come together with an agreement that will considerably shorten the proposed delegate...the Committee Proposal No. 9 and 10, which is ... close to fifty pages. We are hopeful that we can come back to this convention with, perhaps, maybe three or four pages that would make us and give us a little bit better idea of what we're proposing, plus saving this convention, I think, almost a day in time by having to amend some fifty pages of a proposal that we got out of committee. So, that's the reason for this. The proposal that we have...it would be my intention, after explaining this proposal to you, I think that Mr. Jenkins's point is well taken. I think that it should be broken up into those sections dealing with, specifically, the sections that we have which are four basic points in this proposal, and that deals first, of course, with the retirement system for all public school employees. The second, so-called part B, which would deal with all of the retirement system for state officers and employees; and then, the third proposal which deals with, of course, law enforcing and providing financial security for the surviving spouse and children of law enforcement officers in certain cases. Then, finally, the last one is a general statement about the retirement system itself and how it is to be handled and how amendments to the retirement system could be possibly be proposed. I think all of us would agree that those are four distinct basic issues and points and should, perhaps, be discussed by themselves. The proposal, as presented, actually...the proposal that we have to you right now actually, of course, provides for a retirement system and a proposal for handling a retirement system for both public school employees and also state officers and employees. I think the way it is presented here that it could and does, perhaps, even suggest that the possibility might be down the road one day that this state might actually operate one basic retirement system for all employees--school employees, as well as state employees. This is not the proposal in this here, but I think it does provide that that possibility could exist, since the recommendation and the matter of dealing with retirements is basically the same for the school employees as it is for the

state employees. So, the suggestion is in...inherent in this proposal; and what we really are saying, I think, in this proposal, the basic issue about retirement is, is that both public school employees--and I think all of us recognize the fact that we have a varied assortment of retirement systems dealing with public school employees; we've got the school bus driver employee, the School Lunch Employees' Retirement System, the Schoolteacher Retirement System; and hopefully, as a result of this, one day again we might incorporate all of those into one retirement system, dealing with all people in this area. Just as we deal with the matter that just came before the legislature where we granted a 5.5 increase to all employees, I think that, perhaps, maybe we ought to give some consideration to dealing with retirement systems for all of the employees. But, under this proposal, we are actually stating that the retirement is a contractual agreement, and it means exactly that--that it is a basic contract between the state and that person in which the state, of course, enters into a contract, and the last part of both of the state employees and the school employees state specifically that there is a guarantee of all benefits payable to a member of the system or his beneficiary at his retirement or at his death. This is what the committee felt should be incorporated into the proposal. The other part of the proposal dealing with the financial security for surviving spouses and children of law enforcement, the basic point that we have changed there is that--under the old constitution is--this person was paid only if he suffered death while in the direct apprehension of a person during the course or the performance of his duty. This changes it to the fact that this is the public policy of this state to provide this, and while he is engaged--whether on duty, off duty, and so forth, in the certain categories--but it states "while he is engaged in the protection of life or property," not as the old constitution states "just in the direct apprehension of an individual." So, this could be, certainly, much more far-reaching and we feel, much more inclusive in that. Pretty well, the other parts of it, the only thing that we have changed some law enforcement inclusion, and excluded on some of them, and so forth. The procedure is pretty well the same way as before. The attorney general, of course, is the one who proceeds to file the suit in favor of the spouse and the children. It's a ten-thousand-dollar appropriation for the spouse, five thousand dollars for any of the children that remain after that. The fourth section deals actually with the matter of requiring the ways to amend the matters dealing with the retirement system. Basically, the main point that I can see in our proposal is that we are requiring publication in the Official Journal on two separate days, whereas at the present time we do require that the notice be published on three separate days, and at least thirty days prior to the convening of the legislature in regular session; and ours changes it to at least thirty days before the introduction of such bills in the legislature. So, it could, of course, come after the legislature actually convenes. These are the basic changes, and it is my considered judgment that these represent an improvement over the present matter of retirement; and I so recommend them at this time for your favorable consideration.

Vice Chairman Casey in the Chair
Questions

MR. JENKINS

Mr. Aertker, what is the purpose of including this proposal in the constitution? Why do we really need it, rather than in the statutes?

MR. AERTKER

Well, Mr. Jenkins, it was the feeling of the committee, and after listening to people talk to us, that this matter of a retirement is quite a sensitive issue and that this would provide for many people a comfortable feeling that in the constitution of this state they felt that they had a provision which stated that their retirement actually represented a contractual relationship with this state, and that they had the full faith and credit of this state back of it to make sure that they, when they got old and dottering and feeble, that they were going to get that check every month and make sure it kept coming in, and they just like to see it written down in the constitution.

MR. JENKINS

So, the justification then of Paragraph (A) and Paragraph (B) would be the fact that we are stating that this is a contractual relation--not any sort of social program or gift to teachers, but a contractual relation. But, that would not pertain then to Paragraph (C) and (D), would it?

MR. AERTKER

That's correct.

MR. CONROY

Mr. Aertker, was any study made or any effort made to find out whether this would have any effect at all on the state's bonding ability, or whether this addition of an additional full faith and credit obligation would have any effect on that?

MR. AERTKER

I don't believe the matter really, to my knowledge... I don't remember it being represented as an issue in the committee proposal, Mr. Conroy. It certainly, of course--as I appreciate it now--it certainly, of course, could have, perhaps, have an effect on it if it meant that they, for instance, had to provide a more... a larger base than they presently are, in order to actually make the thing actuarially sound.

MR. SINGLETARY

Mr. Aertker, I have just a technical question. On page 3, Subparagraph (4), lines 13 and 14 refers to conditions described in Paragraph (A) above that seems... Paragraph (A) seems to be dealing with school employees. Isn't that... shouldn't that be Paragraph (C), Section 1?

MR. AERTKER

Yes, I would think so, and we'll so have to amend that as we get to it, I think.

MS. ZERVIGON

Mr. Aertker, I call your attention to page 1, line 26, where it says that "the legislature may provide for retirement of officers and employees of the State of Louisiana, its agencies or political subdivisions." The city of New Orleans, and I imagine other cities as well, have retirement systems set up for their employees. What does this do to our employment systems... I mean, retirement systems; excuse me.

MR. AERTKER

I don't see where it does anything to it. I just say that it's my understanding here is that anyone who is not in... who is not provided for in another retirement system would have to be provided for by the state under this retirement.

MS. ZERVIGON

Mr. Aertker, does it say that here? I thought it just said, "the legislature shall provide".

MR. AERTKER

Well, that's what I say; but if it provides for one and the person is already provided for in another system, I would have to assume that that would be allowable to them to have that excluded, since they have that.

MS. ZERVIGON

Well, then, you wouldn't object to an amendment that says "not otherwise provided for by that political subdivision," or some such phrase that makes it clear, and those who have contributed to a retirement system may remain in it....

MR. AERTKER

No, we'd have no objection to that.

MS. ZERVIGON

On page 2, lines 11 and 12, it refers to "officers sustaining death or injury while on or off duty." It's my understanding that many police officers hold down second jobs as employees of private security firms. Would the state, in effect, be establishing retirement systems for those private security firms, since those off-duty police officers would be protecting life and property, but they would be off duty and in somebody else's employ at that time?

MR. AERTKER

Well, I think the statement right above it says "official duty," and so I think the interpretation would be that unless they were actually in a... officially doing something for the state or for itself that it would not apply.

MS. ZERVIGON

Well, Mr. Aertker, when you're off duty, how does someone establish what your official duty is?

MR. AERTKER

Well, the committee had in mind such things as, for instance, if there would be a person off duty and he would actually be trying

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to make an arrest, or if he were trying to, say, help in the assistance of stopping a riot or something. This was the thinking that that would ... while he was not officially on duty, that certainly he was in the performance of preserving and protecting life and property, and so, therefore, it should apply to them; and that was the inclusion of it. But, as you will notice as I say, this is a change from what it presently is, which is... which would cover your other point-- and the other point was, of course, that he actually be... had to be apprehending someone in the arrest for our process.

MS. ZERVIGON

Mr. Aertker, let me ask you one more overarching question. I would like to have the benefit of your thinking, if you will, on why this should be in the constitution at all. We wrestled, if you'll recall, for a great deal of time over the judicial retirement system and stuck it in on the margin of one vote, if you'll remember, largely on the rationale that the judiciary was a third branch of government and ought not to be subject to the whims of one of the other two branches. These people mentioned in these retirement systems are not in a third branch of government, and as I understand it--as my attorneys informed me--the retirement systems are already a contractual arrangement which cannot be harmed. So, since we only stuck the judicial retirement system in by a one-vote margin why should these retirement systems go in?

MR. AERTKER

Well, I explained to you that they were in the constitution already and that people felt that, this being such a matter, that they just felt that we ought to have it included in there to make the people who are the employees of the state and who are in the school system have that assurance that it was a contractual agreement with the state, and that their benefits were guaranteed by the full faith and credit of the state, rather than just allow it up to the whim and fancy of the legislature. They... we felt that it ought to be included in the constitution.

MS. ZERVIGON

Well, would it not be sufficient then to say that retirement systems established by the state or its political subdivisions are declared to be contractual arrangements, without going into all of this?

MR. AERTKER

Well, it ... it might be sufficient, but it just sounded better to the committee, and it was... the committee felt more comfortable with the wording that they had down here, rather than the wording that you just proposed.

MS. ZERVIGON

Did your committee take a lot out of the present constitution that was in there before, or did you largely, in your various articles, stick everything back in?

MR. AERTKER

I would have ... I would have to say that they pretty well tracked the present retirement system.

MS. ZERVIGON

Thank you.

MR. CASEY

We have other questions, Mr. Aertker, but before moving on, we'd like to point out to the delegates that Staff Report No. 30 was handed out a couple of weeks ago; it's a good digest of this proposal which may answer many of your questions in advance.

MR. ABRAHAM

Bob, the... the present constitution states that the legislature shall provide a retirement system for the... for state employees. But, it says that it shall have authority to provide it for these political subdivisions. It doesn't say that it shall provide it; it says it shall have authority to provide it. My question is: Why are we saying in here that it shall provide for the political subdivision? This is a change from the present constitution; why the change?

MR. AERTKER

Mack, I really couldn't... couldn't give you the answer to that because I really think that they had planned on certainly allowing present retirement systems to continue. So, this might be something that we might have to amend as we go on.

MR. LANIER

Mr. Aertker, this guaranteeing of the retirement by the political subdivision, is that the present law?

MR. AERTKER

I don't think. I don't believe that's ... that's the present law on it.

MR. LANIER

So, you're adding this responsibility in the new constitution on, say, the state or the local political subdivisions; is that correct?

MR. AERTKER

That's correct.

MR. LANIER

Now, these retirement systems, are they supervised or administered by the local units of government?

MR. AERTKER

They are... they are supervised by--retirement systems--by... by boards of trustees.

MR. LANIER

But; does the local unit have any control or authority over this retirement system that it is going to be responsible for?

MR. AERTKER

They have the authority, of course, of seeing to it that the proper appropriation is made to make the operation of it actuarially sound, but ... I know what you're saying. No, they do not control, for instance, the investments that they make, etc. That's done as... through the board of trustees.

MR. LANIER

So, if the board of trustees made some unwise investments, the political subdivision would be responsible for it, even though they could not control the actions of the board of trustees; would that be accurate?

MR. AERTKER

I would say that presently that is the situation; however, I don't see anything in... in here that would prohibit the legislature from making certain restrictions on the operations of the board of trustees. I don't see anything that would stop them from doing that.

MR. LANIER

Well, let me ask you this: For example, say --I believe that police officers, or the chiefs of police --in municipalities recently got a retirement program set up by the legislature--how would all of the municipalities around the state be able to protect their local interests under this type of a situation?

MR. AERTKER

If it were... frankly, under this situation, I don't see how they could if -- and that was the point I think that we were talking with Ms. Zervigon on --is that, if they decided to go into that type of retirement system, I think that they actually would be forfeiting the guarantee that they would have, because I don't believe the local... that this would say that the local subdivision or political subdivision guarantees it.

MR. LANIER

Now, let me ask you, for example--like my good friend, Ambrose Landry, is a clerk of court--would LaFourche Parish Police Jury be responsible for the retirement of the clerks of court, or would that be a state... the state guaranteeing that?

MR. AERTKER

It ... would depend upon what the state actually provided for in this; it would have to be one or the other. It would have to be provided either at... if it were not provided at the local levels, my appreciation of it is that the state would have to provide for some system of retirement.

MR. LANIER

Then, we'd have the same problem with the sheriffs and the assessors?

MR. AERTKER

Yes, certainly.

MR. JENKINS

Mr. Aertker, we have in the Bill of Rights a provision prohibiting impairment of the obligation of contracts. Probably, later on, we're going to include a provision similar to Article IV, Section 15, of the present constitution saying that, "Vested

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rights shall not be divested without the payment of just compensation." Wouldn't those two provisions really protect the people who've been under retirement systems in the past, and in the future, in our state?

MR. AERTKER

It... it might, Mr. Jenkins, but I really believe the committee had in mind the provision in the Bill of Rights that the state could not impair the contract, and that's why they put the word in there "contractual relationship," with the understanding that if they put this and included it in the constitution, even in the Bill of Rights the state would not be able to impair it in any way, and that, therefore, it would be a contract that everyone understood what they were operating under.

Motion

MR. JENKINS

Mr. Chairman, after going over this proposal, as well as Committee Proposal Nos. 9 and 11... no, 9 and 10, I see that the Education Civil Service Committee has submitted proposals which do not seem to conform to the form and style being followed by the convention in that each of these three proposals is one section in length: One, forty-seven pages for one section; one, seventeen pages, one section; and one, four pages, but still one section. In order to allow us to continue in the same manner that we have in the past, I'd like to move for a suspension of the rules in order that we could consider the paragraphs which are indicated by capital letters as though they were sections, and vote on them, and can discuss them accordingly.

MR. CASEY

Mr. Jenkins now moves for a suspension of the rules for the purpose of considering Committee Proposal No. 11 by lettered Sections (A), (B), (C), and (D). Is that right, Mr. Jenkins?

Point of Information

MR. FLORY

Mr. Chairman, I want to know if the motion is debatable?

MR. CASEY

No. A suspension of the rules is not debatable.

MR. FLORY

May I ask a question of the Chair as a point of order then? If we consider... if this motion is adopted, what vote would be required on amendments to the particular subparagraphs mentioned in Mr. Jenkins's motion?

MR. CASEY

Well, assuming, first of all, you had an amendment to Paragraph (A), we would, under our suspension, consider that, for instance, Section 1. It would require just a majority of those present and voting for the adoption of an amendment, unless it's a new lettered paragraph. Then, under the suspension we would have to rule that it would take sixty-seven votes, for instance, to adopt a new Paragraph (E).

MR. FLORY

But, if... if we have an amendment to a particular section, let's say (C), are you saying that that would only require a majority of those present and voting?

MR. CASEY

An amendment to (C). But, when we adopt (C)...

MR. FLORY

All right. What if we rewrite (C) then? Would it still take only a simple majority of those present?

MR. CASEY

That's all that it would take, Mr. Flory.

MR. FLORY

It would take sixty-seven votes?

MR. CASEY

That's correct, unless you submit a new... new lettered section.

MR. POYNTER

Mr. Flory, it takes sixty-seven votes to adopt (C) as amended, once that you amended it, under the suspension. In other words, to be treated like a section, once all the proposed amendments were completed, and--let's say for the sake of the argument--some of them adopted, once someone moved final passage

of the paragraph, Paragraph (C), it would then take sixty-seven votes to adopt the Paragraph.

MR. FLORY

So, in effect, what we're doing is changing the entire rules of the convention as far as voting is concerned?

MR. CASEY

We are changing the rules, Mr. Flory.

Point of Information

MR. DENNERY

Mr. Chairman, as I understand it, this is not a debatable motion; is that correct?

MR. CASEY

That's correct; suspension of the rules is not.

Motion

MR. DENNERY

Then, I would move as a substitute motion that the Chair be permitted to permit debate in order to discuss... to suspend the rules for the purpose of permitting the Chair to allow discussion on, ultimately, the motion made by Mr. Jenkins.

MR. CASEY

Mr. Dennery makes a subsidiary motion that there be an additional suspension of the rules for the purpose of debating the first motion offered by Mr. Jenkins.

Point of Information

MR. DE BLIEUX

As I understand the rules, a motion to suspend the rules is not debatable, but the ... after the rules are suspended, the motion that Mr. Jenkins made would be debatable, whether or not we'd adopt that or not. I don't think you can couple a motion with a rule suspension like that and cut off debate; it's just not right.

MR. CASEY

Well, Senator De Blieux, first of all, it is my understanding of the rules that when we suspend them, we suspend them for a particular purpose, and once that's adopted, it is a one-shot deal. However, I think we're going to achieve the same thing that you're mentioning right now through Mr. Dennery's motion, whereby he moves specifically to suspend the rules to permit argument on the first suspension. So, let's just handle it that way.

[Subsidiary motion adopted without objection.]

Explanation

MR. JENKINS

Mr. Chairman, delegates, if you'll notice committee proposals Nos. 9, 10 and 11, you'll see that they are not in the same form that all other Committee Proposals have been in. If you look at Committee Proposal No. 9, you'll see that it is seventeen pages in length, and yet, it is only one section. If you look at 10, you'll see that it's forty-seven pages in length, and yet, it is only one section. In Committee Proposal No. 11, which we're on now, is four pages in length, and yet, it is only one section. Now, the subdivisions, which seem to be equivalent to sections in these proposals, correspond with the capitalized letters: the capital (A), capital (B), capital (C). Now, these are lengthy provisions, and if we're going to consider them intelligently, it just seems to me that we ought to continue the same process that we have before considering the relatively short provisions that deal with a single subject matter. Even doing it this way, some of these lettered paragraphs are going to be too long for us to consider, and they may need to be further subdivided. But, what I want to suggest is that we go ahead and do it that way. I'm asking to suspend the rules, but in effect, what I'm really doing is saying let's just keep the same rules we have. Let's consider these section by section, because these particular subdivisions are equivalent to sections. It will require sixty-seven votes to adopt one. If you want to amend it, it would require a majority of those present and voting; everything would be just like the adoption of a section. I think that's really the only reasonable way to do it, and that's why I want to start with Committee Proposal No. 11, since I think we'll sort of set a precedent on 9 and 10 with it.

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Further Discussion

MR. FLORY

Mr. Chairman, and delegates to the convention, I hesitate to rise to oppose Mr. Jenkins' motion, but I must tell you that it appears to me on the surface of the motion that what we're doing is heading in the wrong direction, insofar as the rules of this convention are concerned. It was the thought of the Committee on Education, Health, and Welfare, as I understood it, in proposing Committee Proposal No. 11, to try to condense into one proposal several subject matters: one dealing with retirement of state systems, the other of local systems, plus carrying forward the... taking forward the present constitutional provision as it relates to compensation for officers killed while in hot pursuit. Now, as I understand, the suspension of the rules is directed specifically to the consideration of paragraphs in the proposal, and if granted, then what it would take is a sixty-seven vote in order to adopt a paragraph. Now, this convention has never done that on any proposal that's come forward, even on taxation. In the homestead, for example, we didn't even agree to allow that to be done. I have no objection whatsoever to a careful consideration paragraph by paragraph, and then adopting it with the -- under the rules -- with the sixty-seven vote. I think it ought to take a simple majority in order to amend a particular paragraph. Let's consider it separately; let's amend it separately, and then go on to the next one; then vote overall with the sixty-seven votes to adopt the proposal. I think that is the normal rules of the convention, and I would ask that you not suspend the rules, and to get us into the posture of changing the voting procedures of this convention. I suggest to you that what it's directed at, perhaps, is in the consideration of the next two proposals which are somewhat detailed; and under the present constitution, this was the procedure used in the '21 Constitution, later amended to include the civil service provisions. All of it was contained in one section and lettered Paragraphs (A) through whatever it was; the same thing with fire and police. So, that what we're talking about is a vote change in the voting procedures of this convention, and not necessarily a suspension of the rules in order to consider paragraph by paragraph. If the maker of the motion would like to have consideration paragraph by paragraph, fine; I agree to that; but I do not agree to a suspension of the rules which would carry with it a change in the voting procedures of this convention. I would ask that you not agree to suspend the rules.

[Previous Question ordered. Motion to suspend the rules for the purpose of considering Committee Proposal No. 11 by lettered paragraph adopted: 62-27.]

Point of Information

MR. DENNERY

Would you announce that vote again, Mr. Casey?

MR. CASEY

Yes, sir.
62 yeas, 27 nays.

MR. DENNERY

Well, with 62 yeas, you can't suspend the rules, can you?

MR. POYNTER

... sixty-seven or two-thirds present and voting, whichever is lesser.

Amendment

MR. POYNTER

Amendments sent up by Mr. Aertker, has been distributed. Amendment No. 1. On page 1, delete line 12 in its entirety and insert in lieu thereof the following:
"ARTICLE VII. HUMAN RESOURCES
Section 1. Retirement and Survivor's Benefits" --technical amendment to correct the title.

[Amendment adopted without objection.]

Reading of Paragraph (A)

MR. POYNTER

Section 1. Paragraph (A). Retirement System; Public School Employees

The legislature shall provide for the retirement of teachers and other employees of the public educational system through the establishment of a retirement system or systems for employees

of the public educational system. Membership in such retirement system or systems shall be a contractual relationship between the employees and employer, the accrued benefits of which shall not be diminished or impaired, and the state guarantees all benefits payable to a member of the system or to his lawful beneficiary at his death or retirement.

Explanation

MR. AERTKER

Mr. Chairman, ladies and gentlemen of the convention, I think the point that was raised relative, of course, to political subdivisions, certainly has some real merit to it. I think that, perhaps, inadvertently, when we drafted this, that perhaps that we... I know that it was not the intention of the committee to change the wording of the present constitution, which, of course, states that the legislature shall have the authority to provide for the retirement of officers and employees of the state. I think that if we would continue with that type of wording, and perhaps, maybe, amend this section to that effect, that we wouldn't have the inconsistency of having these separate retirement systems being provided for at the local level, and also at the state level. I think we would provide for the proper coordination that if we would provide the legislature having this power. I have asked for an amendment to that effect to see whether we could change the wording to that effect, to where it would clarify it, that for instance, in the case of a local--for instance, in the case of the, say, the sheriffs, who might be under a retirement system in which all the tax recipient bodies of the local political subdivision are contributing toward that retirement system, that this would not then make the state liable for the full faith and credit of that retirement system. So, I think that if we would change it to that effect, and I, as I stated to you, I have an amendment coming up to that effect that I think will clarify this whole thing. This is exactly as the present constitution reads on it--that the state--the legislature shall have the authority to provide for this type of retirement system, and that this would be the type of arrangement that it would still be the contractual agreement between the state and the full faith and credit of the state would be back of the retirement system. So, I don't know, Mr. Chairman, where that leaves us right now. Whether we want to...

Questions

MR. CONROY

Mr. Aertker, do I understand your amendment would relate to (A) as well as (B)?

MR. AERTKER

Yes.

MR. CONROY

The effect of it will be to say that whoever provides the fund, in effect, guarantees the payment and puts its full faith and credit, but that the state doesn't enter into an area where it hasn't been before. Is that right?

MR. AERTKER

Well, just a minute, Mr. Conroy. I don't really believe that we have a problem in as far as Section (A) goes. I'm really getting ahead by saying,....but the problem really is in the state area. I don't believe that we need to change the wording on Section (A) dealing with public school employees, because we don't have a separate setup different than--all of these are at the state level, so, we wouldn't have that problem there.

MR. CONROY

Well, that's what I--then I'll go on with the question I started. The school retirement system is, presently, provided entirely by the state. Is that right? Is it funded entirely by state funds? It's not funded by any local funds at all?

MR. AERTKER

No, the local school--for instance the local school system--contributes a certain share. But that, of course, is required by statute that they contribute "X" number of dollars to it.

MR. CONROY

Who has control of what the benefits will be? Just the legislature?

MR. AERTKER

Just the legislature. Yes.
So, Mr. Chairman, in view of that, I think that we are ready, then, to go with Section (A), because that--the amendment I have reference to actually has reference to Section (B). Since we are dealing with these--my understanding is we did vote to deal with them by section. So, we'll just stay on Section (A) right at the present time, and we'll get to (B) later, then.

So, I have no amendment to Section (A).

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MR. ABRAHAM

Bob, I'm concerned about the last clause that says, "the state guarantees all benefits payable to a member of the system or to his lawful beneficiary at his time of retirement."

Now, does the state have any control over the management of the retirement funds now? Will you explain to me how these trustees work, etc.?

MR. AERTKER

These trustees, of course, are people who operate and are responsible for the investment of all of the funds, etc. But, the legislature has this control over them that they could legislate certain types of investments that they have. Let's be more specific; I think they are right now in the process of developing something that would prohibit them, for instance, from making loans on, say, properties of different kinds, as they have--as both retirement systems, as you know, have. I think that this is a matter that addresses itself to the legislature. The actual mechanics of the operation, though, is done, of course, by the Board of Trustees.

MR. ABRAHAM

All right. Now, is the Board of Trustees appointed by the legislature or by the members of the retirement fund?

MR. AERTKER

By the members of the system.

MR. ABRAHAM

Now, under the present system now, if the Board of Trustees makes a bad investment and loses money, which depletes the funds of the retirement system, is the state now obligated to make up that difference and pay those funds?

MR. AERTKER

I don't--I really don't believe that they are. I think that the state probably will feel that they have to in order to make the payments of what they guarantee. They would be obligated to it if they have agreed that pensions, or that retirements are of...on such a formula. I think the faith and credit of the state would have to guarantee that that formula be implemented when that person retires.

MR. ABRAHAM

But, now, this language right here, if I understand it correctly, does obligate the state that if this retirement fund goes busted, the state, then, will have to guarantee the retirement benefits that are being paid out to the retiree.

MR. AERTKER

Yes.

MR. ABRAHAM

Is that correct?

MR. AERTKER

That's correct.

MR. DE BLIEUX

Mr. Aertker, I noticed that the language contained in Section (A) and Section (B) is very similar, except that it just pertains to different personnel. Is there any reason why that those two paragraphs could not be combined into one, and, therefore, eliminate the...what I would consider just excess verbiage in the constitution?

MR. AERTKER

Well, one of the reasons for it is, as we pointed out, is that when you get into state employees, we have included in...there that the matter of....

MR. DE BLIEUX

What is it that's contained....

MR. AERTKER

....well, we've got the matters in there--included in there--for instance, the other areas. The first one deals strictly with teachers.

MR. DE BLIEUX

What is this contained in Paragraph (B) that could not be put into Paragraph (A)?

MR. AERTKER

Well, for one thing is that we are talking about political subdivisions in Section (B). We don't have that included in (A). That's why we are amending Section (B), because it deals with it.

MR. DE BLIEUX

Well, the legislature has to set up both of them. Why couldn't the legislature, if it's going to be provided by the legislature,

why can't you say that in Paragraph (A) that it shall provide that and just eliminate that excess verbiage?

MR. AERTKER

Well, that would imply that they would all be under one system, too, Senator De Blieux. As you know, at the present time, the formula for state employees is different from that than that is utilized for school employees. For instance, the formula has a two and a half percent clause in it as contrasted to a two percent clause for public school employees.

MR. DE BLIEUX

Even that's true. But that may be true at the present time. But isn't it also possible that the legislature, since it's going to provide it, it doesn't have to provide for them in the same act.

MR. AERTKER

Well...

MR. DE BLIEUX

Couldn't it still, under...the provision, if you just added in the necessary offices and employees, in the Paragraph (A) that's contained in Paragraph (B), couldn't the legislature still legislate and make the various retirement systems they have?

MR. AERTKER

I think they could. But, the committee felt that there was...that there were problems connected with state employees that were not... that were not problems as far as school employees were concerned; that school employees were a specific category that you could go ahead and make a retirement system on, and that, therefore, they ought to be dealt with separately, even though they might be under the same retirement system and the same benefits.

MR. DENNERY

Mr. Aertker, I'm not quite sure I understood something you said about--what does "the accrued benefits of which shall not be diminished or impaired", mean? What I'm getting at, sir, is, suppose we have a real recession or depression in the future. Does that mean that future contributions would not produce lesser benefits, etc., or what?

MR. AERTKER

Well, again, this is strictly my opinion of what the word "accrued" means. That means that if you have accrued benefits two ways, one of course, is that if you have made contributions into the retirement fund, that's guaranteed that you will be paid back those accrued benefits. But, I go even one step further, in my understanding of accrued benefit actually is that if you are in a retirement system that guarantees a certain formula for implementation, and you have accrued that benefit, and have paid into that system on that basis, that the state does guarantee that that formula--and your point about if something happened, I think the state does state that that type of benefit will be paid because it has accrued up to that time. They could, in case of something happening financially, or something, certainly change that. Any person then joining that system would then join under the new provisions of that. But, my appreciation of the other would be that it does guarantee that that would be the benefits paid.

MR. DENNERY

In other words, future contributions, after the legislature would change the method, let us say, future contributions would only apply to new employees. An old employee, regardless of what the contributions are, either by the state or by the employee, would retain the same right that he had then accrued as to benefits. Is that correct, sir?

MR. AERTKER

That's my understanding of it.

MRS. CORNE

Mr. Aertker, coming back to the question of the people who make up the Board of Trustees of the Teachers' Retirement System, do we not have state officials on the board that are not elected by the teachers, or by the employees--school employees?

MR. AERTKER

That's correct.

MRS. CORNE

Also, isn't it a fact that in the State Teachers' Retirement System, we do not have any political subdivisions, or any kind of local government involved in the Teachers' Retirement System? Therefore, it's completely a state retirement system?

MR. AERTKER

That's a right, Mrs. Corne. That's why I was explaining to Senator De Blieux we felt we should not combine (A) and (B), even though

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they both might end up with the same retirement system, that we do not have that matter of political subdivisions that confuse ours. Ours is....and does include every teacher and every employee who is employed in the public school system.

MRS. CORNE

All right. Now, this is a question that I have not asked before. For many years I should have known this, and I'm sure that you would know the answer.

For instance, a state official like the Secretary of State is a member of the Board of Trustees of the Teachers' Retirement System. Is his appointment to the retirement system an act of the legislature? Do you know?

MR. AERTKER

Yes, that's how he's on there. Then there are other state officials-- I believe the treasurer is on there, too.

MRS. CORNE

I think so.

MR. AERTKER

Yes.

MRS. CORNE

Yes, sir. Thank you.

MR. LOWE

Mr. Aertker, my question has to do with the wording of "the accrued benefits of which shall not be diminished or impaired". I have a difficult time trying to find out what we are trying to say here when we say "the accrued benefits shall not be diminished or impaired". What does that mean, actually, you think?

MR. AERTKER

Well, to me it means something, maybe to you, as an accountant, it might mean something else. To some of these lawyers, I'm sure it means a third thing. But to me, it actually means....accrued means to that extent that you have made contributions in there that you are guaranteed that return of that money that you've made in the contribution.

Impaired means that if you have a contractual basis that you are contributing on the basis of a salary at such and such a basis and formula, that that is, and would be an impairment if you tried to reduce that formula in some way to reduce the amount of your retirement in future years.

MR. LOWE

So, actually, then, if it reached the point that paying the current retirement to the payroll of the retirees--if you were to make that payroll, the retired funds' payroll, and it actually impaired some of the funds that some of these others that weren't retired, then they would be prohibited from paying the retirees that are now drawing a pension. Is that what this would do?

MR. AERTKER

Well, it wouldn't prohibit it. It would just tell them that they had to get this little fund up and pay it out first. But it wouldn't tell them that they couldn't go somewhere else and pick up some more money in some other sock that they might have hidden away.

MR. LOWE

No. I believe you misunderstand my question, Bob. Let's assume, and the Teachers' Retirement System, I'm not sure, hadn't reached this point, that the only funds that are left that are available are the funds that have been contributed by those teachers that are now presently working and have not yet retired. The funds that have been contributed by the state are pretty much depleted, I believe. So, what we are saying is, that we are not, we shall not diminish or impair the accrued liability--the accrued benefits. So, if the only thing we have left are the accrued benefits of those people that are working, we have no funds to pay the people that are retired, because we say, "We shall not diminish." I'm not sure that this is good. I'm afraid that writing into this constitution things about retirement systems--that we have thirty-six in the state; we don't know what kind of condition they are in, I believe we are being a little premature to try to expand too much, and end up getting ourselves in trouble. Do you know that I really believe that we could be in shape with this wording that it would be impossible to pay some of the retired teachers in the state today, because I'm afraid that the payment to those teachers may impair and diminish the accrued benefits of those people that are presently working?

MR. AERTKER

Well, I'm....not really sure that we have exhausted that amount that the...actual amount put in by the state. I'm not....I know that actuarially they have been told that they have certain deficiencies in

the operation. But, my understanding of it is is that if this is involved, that the state would have to come up with some more money in order to make it that way.

MR. SUTHERLAND

Bob....when Moise Dennery asked you a question as to what "accrued" meant, I think you answered him to say that those people who were presently in the system could not have their benefits changed. It was my understanding, when we discussed this in committee, that the word "accrued" meant those benefits which had been earned up to that time. Now, that did not prevent the legislature from changing it for everybody in the future. But, those benefits which had been earned up to that time, before the change, would be accrued. Now, is this not correct?

MR. AERTKER

That's correct. I thought that's what I had stated at that time....and I thought I'd answered that to Mr. Lowe that stated the legislature would, in case of financial difficulties have the authority, then, to change it from that date on.

MR. SUTHERLAND

Wasn't the real gist of it that the committee did not want the legislature giving a lot of benefits without making sure there was sufficient money to pay those benefits?

MR. AERTKER

That's correct. Yes.

[Quorum Call: 85 delegates present and a quorum.]

Amendments

MR. POYNTER

Amendments by Senator De Blieux as follows:

Amendment No. 1. Page 1, at the end of line 17, delete the word "membership" and delete lines 18 through 32 in their entirety. On page 2, delete lines 1 through 3 in their entirety and insert in lieu thereof the following:

"It also shall provide for the retirement of officers and State of Louisiana, its agencies and political subdivision" (shouldn't that be subdivisions, Senator? Shouldn't there be an "s" on the word "subdivision" there?

All right. Make that correction, if you would, please.) "political subdivisions, including persons employed jointly by state and federal agencies other than the military service, through the establishment of retirement system or systems."

Amendment No. 2. Page 1, line 13, immediately after Section 1. and before "retirement" delete Paragraph (A).

Amendment No. 3. Page 1, at the beginning of line 14, immediately after the partial word "poyees" change the period to a semi-colon and add the following:

"State Officers and Employees."

Mr. Chairman, Vice-Chairman, Senator, if you'll look with me, I believe that we are going to need some corrections to these amendments to make them conform to the rules suspension, inasmuch as the rules suspension requires us to go paragraph by paragraph. Unless I misconstrue this, this would delete more than one paragraph at a time. Am I not correct?

MR. DE BLIEUX

No, I don't....

MR. POYNTER

I think the only...thing that we could delete under this rules suspension is through line 22 on page 1, and then precluding the adoption of this amendment, you would certainly want to propose subsequent amendments, it would seem to me.

MR. DE BLIEUX

That's correct, Mr. Clerk. This new amendment was adapted before we adopted that rule.

MR. POYNTER

That's correct.
All right....

MR. DE BLIEUX

So, I'd like to just change the words....it would be to line 22 rather than line 32.

MR. POYNTER

Right.
The instructions for Amendment No. 1 should read as follows:
Amendment No. 1. On page 1 at the end of line 17, delete the

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word "membership" and delete lines 18 through 22 in their entirety. Scratch out everything up to "an insert in lieu thereof". It would read, On page 1, at the end of line 17, delete the word "membership", and delete lines 18 through 22 in their entirety and insert in lieu thereof the following. Everyone follow me on that? Thank you, Senator.

Explanation

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, as I had previously queried Mr. Aertker about this, since Paragraph (A) and Paragraph (B) are so similar in language, except that they just apply to different retirement systems, I cannot see why we can't combine those two paragraphs and eliminate, just by the addition of the words in this amendment, to Paragraph (A); eliminate Paragraph (B) altogether. I don't think we ought to see how long a constitution we can write. We ought to just put into the constitution what is the necessary verbiage, and leave it that way. This amendment would just combine Paragraphs (A) and (B), and give the legislature the right, since it's going to do it in both sections, to set up the various retirement systems as needed. I think that's all the language we would need insofar as these two particular paragraphs are concerned. It doesn't change the rights or anything else of either one of them except that.

So, I ask that you adopt that particular language. Of course, they'd have to have an amendment later to delete Paragraph (B).

Questions

MR. FLORY

Senator De Blieux, I think I understood you to say that the only change it makes, it combines the two paragraphs together. Is that right?

MR. DE BLIEUX

That's the biggest change it makes, Mr. Flory.

Now, there's one thing that I'd like to take out, insofar as Paragraph (B) is concerned, that I don't agree with. I don't think that's contained in Paragraph (A). That's with reference to...wait I take it back; it is also in Paragraph (A). That's the right, to the state and in the event that we should have a recession, something like that, that they couldn't change these retirement benefits. I think that's up to the legislature to decide that, as to how much the retirement benefits should be. It should...it'd have to be based upon the amount of the funds that are actually paid into...otherwise, we'd be in a position of whether we couldn't operate the state government.

MR. FLORY

Senator, do I understand you to say that you believe that if a man for twenty years makes his contribution to the retirement system, and as a depression, the state ought to have the right to use that money and take it away from that employee, and that that money ought not be there when he gets ready to retire? That's what your amendment does.

MR. DE BLIEUX

No, the amount that the retiree has put into it. But, you must remember this, Mr. Flory, that most of the retirement systems of the state puts as much, if not more, than the retiree does. It's the question of whether or not the state could reduce its contribution to a retirement system.

MR. FLORY

But, under the committee's proposal, what it mandates is that the benefits earned up to the time that the legislature makes a change, which it has every right to do, you can't change those benefits earned up to that point. But, you could abolish the system after that, under this language. But, what you are doing by your amendment, is taking away the vested right that that employee has once he puts his money in that system. That's immoral.

MR. DE BLIEUX

No. What I take out of that is the guarantee that the state's going to guarantee that that retirement system will always be at that level. That may not be possible for the state to do.

MRS. WARREN

Senator De Blieux, there was a time when the state had plenty of money with the...if retirement benefits go up.

MR. DE BLIEUX

They have been doing that, Mrs. Warren.

MRS. WARREN

Whether they paid it or not, they....

MR. DE BLIEUX

That's been over...the years since I've been in the legislature. We have been increasing benefits of retirement systems practically every session of the legislature.

MRS. WARREN

So, it'd be according to the cost of living they would be paid.

MR. DE BLIEUX

That's right.

MRS. WARREN

Wonderful.

Further Discussion

MR. LOWE

Mr. Chairman, ladies and gentlemen of the convention, the matter of retirement systems is a highly technical problem, particularly when you consider the number of retirement systems that we have in the State of Louisiana and some of the chaos that we have had in these retirement systems through the years. The thing that concerns me about locking into the constitution some of the things that we are getting ready to lock in, if we pass this proposal, is that we are trying in one hard fell sweep, suddenly, to cure all of the problems that have accrued over years and years and years of the operation of retirement systems. I don't think that anybody in the State of Louisiana is going to deny the fact that there is a great deal of research that needs to go into the study of retirement systems. There is a great deal of research that needs to go into the investment of funds of retirement systems. There is a great deal of research that needs to go into giving some uniformity to the type of benefits that are paid to the various people that come under the retirement systems of the State of Louisiana. Now, when you get down to the problem we are addressing ourselves to in part (A), we are talking about the funds and the accrued benefits and the accrued liability of these funds. Now, when we talk about preserving the accrued benefits, we are talking about how do we want these retirement systems funded, because that's exactly what we are talking about. When you talk to people that know retirement systems, they are not in agreement as to whether you should fund a retirement system one hundred percent, or whether you should fund it to the extent that you just have adequate funds to meet current payrolls. I would say that if we today, in the State of Louisiana tried to fund all of the retirement systems one hundred percent, it would be virtually impossible. As I mentioned to you before, the State of Florida had a survey made of their retirement systems over a period of years, and they are finally getting them in shape. They found out that they had an unfunded accrued liability of 1.8 million dollars. Now, who is going to sit here and tell us that we know best how to fund these systems today, to say that they have to be funded to the extent that if they are not funded, that we can't pay anything out of them to meet current retirement benefits because it might impair those benefits that presently accrue to some of the people that have paid in funds. Now, I can't disagree with the logic of that. The only thing that I have to disagree with is that we are trying to cure years and years and years of problems with one sentence in this constitution. It may take years and years and years of study before we know enough about the thirty some odd retirement systems in the State of Louisiana, before we can make a one statement presentation of what it's going to take to protect the citizens of the state and also to assure that the retirees are going to receive their benefits without overnight bankrupting the State of Louisiana. I say we need a general statement in this article that there will be retirement systems. I think Mr. De Blieux's amendment takes a step in that direction. You can't sit here and say that it's best for the State of Louisiana to come up with eight hundred million dollars and put in these retirement systems, and let them get invested in some five percent bonds and turn around and have that money laying idle when it could be used for other purposes in the State of Louisiana. We just can't say that right now. There is no doubt that every retiree is going to get paid. The state is going to live up to their moral obligations. The municipalities that are subdivisions of the state--those people are going to get paid because the state is going to live up to its moral obligations. Let's not make the mistake today of saying that we know what's best over some emotional feeling that some person that's put in some benefits may not get them back. It's easy for us to take that route; it's easy for us to feel that way. But, you and I

know that every person that contributes to a retirement system in the State of Louisiana, their funds are not in serious jeopardy. There is some study that needs to be made so they will be handled efficiently, that we will get the most out of the investments in them, that there will be some equity in the amount of retirement that is paid to the various people from the retirement funds. But, we don't need to say today that we know what we need to do with retirement systems. I ask you to cut out the expansion that's been made on the retirement systems that would be locked into the constitution for all time and to allow some time to deal with retirement systems. So, I ask you to support Senator De Blieux's amendment.

Further Discussion

MR. CONROY

I rise in support of Senator De Blieux's amendment as did Monday Lowe—all three of us having been members of the Revenue, Finance, and Taxation Committee. I think it is from that direction that the concern is most obvious. The problem of retirement plans and the state's fiscal responsibility in connection with retirement plans was discussed a great deal, particularly in the Public Finance Subcommittee and informally by members of the Revenue, Finance, and Taxation Committee. There was considerable speculation and thought given to the possibility of some sort of provision in the constitution that would deal with this problem--the problem of the state's fiscal responsibility in connection with retirement plans and what effect retirement plans could possibly have at some time or another on the state's bonding capacity and the state's general ability to operate government. I think the conclusion of those of us on the committee who considered this problem was that it was not possible to deal with the problem appropriately in the constitution. For that same reason, I opposed the language in the committee proposal. It attempts to deal with the problem from a different respect, from a different viewpoint; it approaches it and ignores--I think--the state's fiscal responsibility and position in connection with retirement plans and places a guarantee on the part of the state that I think is totally unwarranted and inappropriate in connection with retirement plans. I certainly concur and agree with the desirability of retirement plans. I certainly recognize the state's moral obligation to provide the funds to pay employees for anything that they have earned. I think that trust funds and retirement funds should be administered in such a fashion as to insure the greatest possible benefits for the employees. But, when there is a problem, and when things have fallen apart, I think that this provision--as written--would place the state's retired employees in a position where they would benefit, but you may not be able to pay the state's current employees any salary; you may not be able to meet the state's bonding obligations; you may not be able to issue any more bonds. You may reach that point long before you have any problem at all--fiscally--as people who have to deal with the state and its fiscal responsibility and see a broad guarantee of the state behind retirement plans and the benefits of retirement plans, which can be increased in the future, would certainly have serious questions as to the state's fiscal responsibility to pay bonds because note what this does; it says "the state guarantees the benefits" and if the legislature, after the bonds have been issued, suddenly greatly increases retirement benefits for employees, that those increased benefits--future benefits--would be guaranteed by the State of Louisiana. I assume to the detriment or possible detriment, of bonds that would be issued or could be issued. I think that the entire subject matter is one that is remarkably inappropriate to handle in the constitution. It is a problem; it's a changing problem; it's in an area where a great deal is developing, but, I implore you to support the De Blieux amendment--to delete this sort of requirement from the constitution of this state.

I'll yield to any questions.

Chairman Henry in the Chair

Further Discussion

MR. HERNANDEZ

Mr. Chairman, ladies and gentlemen of the convention, I rise in bitter opposition to the De Blieux amendment. With all due respect to him, he is just completely doing away with this proposal. Now, my interest in this is purely because of the fact that I think the teachers and all of the school employees are just not being treated exactly fair at this time. Now, let's go back: The State of Louisiana has been recruiting teachers and they have had a shortage of good efficient teachers for a

long time. Now, one of the inducements that these people have had to enter the teaching profession is the retirement system. They were told what they would pay, the benefits that they'd receive; and they have a right to expect just exactly that. Now, if they are assured at the time that they enter the teaching profession that they will receive these benefits, they should, by all means, receive these benefits; it is a contract, they thought it was a contract, and they have a right to expect everything that they have paid for--that's all in the world this says that it should do, that "the state shall guarantee the accrued benefits." Now, that is the benefits that they have accrued under a system that they accepted and have paid toward. If the state is not going to live up on that, then the state is in violation of their contract with that. Mr. Lowe pointed out that we were trying to establish a system. We are not trying to establish a system with this proposal. We are merely saying that if the state employs teachers under this agreement, that it is a contract and they shall be liable for it. Now, the teachers themselves do not change the payments made by themselves or by the state; they do not govern their own retirement; it is left entirely up to the legislature. If the legislature is going to control this, there is nobody else that can guarantee it except the legislature. They have that responsibility that when they see fit to change the retirement system, in any way--that is, to give greater benefits, shorter retirement, or anything else--it is their responsibility and their duty to also determine the payment into this system that will tolerate that. Now, at one time, the teachers and the State of Louisiana had the strongest retirement system in the State of Louisiana. There are so many teachers, right now, that still think they have a strong retirement system. Now, the thing that worked me up on this thing and got me started on it is the fact that I had an opportunity to read this memorandum on the funding of the Louisiana Teachers' Retirement System prepared by George B. Buck, Consulting Actuaries, Inc. of New York. Now, they pointed out clearly that something must be done with this retirement system and be done now, or else this retirement system will be defunct. Now, it is not now; it can be saved. But, the only one that can save this is the legislature. Now, I realize that Senator De Blieux has pointed out that that's the legislature's prerogative to do that. It is not only their prerogative, it is their duty to see that they do have a sound retirement system. Now, they have not done so in the past. Now, I...I know I'm about to run out of time, so I want to refer you to two paragraphs in this report prepared by George B. Buck, Consulting Actuary. Now, please listen to this, if you don't listen to anything else; say this is...I'm going to read this from this report: "The assets of the system currently amount to seven hundred and eighty-five million dollars, but perhaps five hundred and sixty million dollars is now reserved for retired teachers, leaving two hundred and twenty-five million dollars on account of active teachers. Since the accumulated contributions"--and please listen to this--"since the accumulated contributions of those active teachers now on duty amount to two hundred and sixty million dollars, no employer contributions are now being held reserved by the system on account of active teachers, and there is a deficit in the amount of assets held for retired teachers, if it is considered that the first claim on the assets is for members to receive their own contributions." In other words, ladies and gentlemen, the teachers that are now paying into the system have contributed two hundred and sixty million dollars. Now, in addition to that, the state has made its contributions and there have been earnings from investments. Yet, there is thirty-five million dollars less in there available to the active teachers now. In spite of all of these other contributions, there are thirty-five million dollars in this fund less than they themselves have contributed and that is in itself, proof that this system is going down all the time. Now, the only thing this proposal does--and it does not try to tell the legislature how to run their business--it just says that "they shall guarantee all benefits payable to a member of the system or to his lawful beneficiary at the time of his death or retirement"--that is, the accrued benefits. Now, that is not fair. They went into this system with the understanding they would pay in a certain amount, the state would pay in a certain amount, and they would get certain retirement benefits. We are not trying to tell the legislature--contrary to what my friend, Mr. Lowe, said--we are not trying to tell the legislature how to run their affairs. We are just telling them to run their affairs so that the teachers will have a sound retirement system. I urge you to please defeat this De Blieux amendment and give the teachers the protection that they are entitled to. We are not asking them to get any new benefits, just those benefits that have already accrued to them in a system that they elected to join because that was a part of their profession. They went into this teaching profession with that understanding. They have a right to expect the benefits, and all this does is guarantee those accrued benefits that they went into and they have a right to expect. There is only one group that can correct

this situation--that is, the legislature--and this just tells them that they must correct this situation so that they will not lose these benefits.

Thank you very much, and I urge you....

Questions

MRS. CORNE

Pete, is it not true that the Teachers' Retirement System has been an enticement for young teachers to come into the system? But, also, that the retirement system ought to be an enticement to retain good teachers?

MR. HERNANDEZ

That is very true. I pointed out, Mrs. Corne, at the very beginning that this is an inducement for young people to go into the teaching profession. We need good, efficient teachers. This brings them in, and we hope it will keep them in the system. But, anytime this system goes bad, there are a lot of them that are going to leave then, and it's headed in that direction.

MRS. CORNE

One more question: Do you know that to contribute to the retirement system is a condition of employment?

MR. HERNANDEZ

Yes, ma'am, that is a condition and it was explained to these young teachers at the time they joined the system, what they would pay, what the state would pay, and the benefits that they would receive. That's all we are trying to do, just let the state live up to its agreement with the teachers.

MRS. CORNE

Correct. If a teacher refuses to join the system, then she cannot be employed?

MR. HERNANDEZ

That's right.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I rise in opposition to the amendment. Let me see if I can explain to you, as I appreciate the thinking of the committee and the development of this proposal, which--as I recall it--was either unanimous or nearly unanimous in the committee's vote. What we were attempting to do here is to protect the vested rights of the employee; when he gets ready to retire, to insure him that when he retires, whatever he is paid towards the retirement system at that time he retires, that money will be there when he gets ready to retire. This guarantees that whatever the system called for, that when he retires there would be sufficient moneys in the system to pay his benefits--that's what it means. He has vested rights in whatever he's paid towards, plus the state's contribution. Now, as you well know, there is a national problem in this country as relates to retirement systems in private industry. It's estimated that fifty percent of the employees, when they get ready to retire in this country today, the systems have either gone bankrupt, or through misuse of the funds, etc., the money's not there to pay the benefits to those fifty percent of the employees. Now, all this proposal says is--in its original form--that if you pay into the system with the understanding that the law provides, let's say, two percent per year for every year that you have served in state government, that whenever you retire, the legislature, the day before you retire, or nobody else can come in and say, "We are going to reduce that benefit to one percent and all you paid these twenty years, you paid with the understanding you were going to get two percent a year for every year of service." Nobody can depreciate what you have paid toward as far as that two percent is concerned; nobody can reduce those benefits; that's all this says: accrued benefits are guaranteed when you get ready to retire--whatever you have accrued, not what happens in the future. The legislature still under this proposal has the full authority to meet, to change the provisions of the retirement system anyway it sees fit, even to the extent of abolishing the system in the future. But, they can't tamper with it--what's in the past--that's what it means. You can't take away from those people who have paid into the system with the understanding that when they get ready to retire that money is going to be there. That's all this proposal does; it does not take any prerogatives away from the legislature. All it does is protect the system that exists and the benefits that have been accrued by the participants in the system up to the time any change might be made in that system.

I'll be happy to yield to any questions, Mr. Chairman.

Questions

MR. WEISS

Delegate Flory, could you help me understand why one must be guaranteed--as you point out--accrued benefits when these funds are invested? Now, if the funds are invested, there are two possibilities--they can either go up or down; of course, they may remain the same. But, if they go up then, of course, the individual who has the benefits of these funds benefit by them. But, if the funds depreciate, if they go down--such as a stock market decline at this time--then, someone has to backup that and, I believe, now you are asking the state, or this proposal asks the state, to make good any defaults in investments that go on in this situation. My question then is: How can one be accrued benefits...guaranteed accrued benefits when they are invested funds? In other words, retirement funds, therefore, should not be invested--it would seem to me--if we are to guarantee or if the constitution of this state is to guarantee benefits to people. There would be no reason to invest funds. Now, these retirement funds are invested, are they not?

MR. FLORY

Yes, sir. I think it would be terribly imprudent not to invest those funds because at the present market, even in government securities, you can earn substantial interest on the funds invested.

MR. WEISS

But, what happens if the funds are lost? That's my question.

MR. FLORY

I didn't understand you.

MR. WEISS

What happens if these investment funds depreciate or are lost?

MR. FLORY

Well, I don't know of any situation, to my knowledge, Doctor, where the investments have been lost, of any consequence whatsoever, because....

MR. WEISS

Have you seen the stock market in the past month?

MR. FLORY

All I can tell you is, based upon the past, in the retirement systems they have been very prudent and under very strict regulations as to the type of investments they can make with those funds. Now, it has been liberalized, and I might say this: the legislature had a serious quarrel with one of the retirement systems in the past because it was so stringent in the method in which they invested their funds; their portfolio was only yielding about three, three and a half percent. They asked the system to make some changes in their investment portfolio. So, they did, and they are now yielding about eight percent, which means, of course, that the state doesn't have to put up near as much money to keep the system actuarially sound. Now, the whole center of this proposal is that...let's say today the legislature has agreed and passed a law to cut off all retirement benefits for any employees in the future. But, let's say that all the employees in the system decided to retire--they all could retire today--but there were not sufficient funds in the system to pay those benefits; then, the state would have to make up the difference because, somewhere in the past, the state--under its financial obligations and the law--did not meet its financial responsibility and make substantial contributions to the system to keep it actuarially sound at that time, and that's happened in the past. We are trying to prevent this from happening in the future.

MR. WEISS

How could they do that? In other words, it was not actuarially sound, then, for everyone to retire at once; is that correct?

MR. FLORY

What happens is, Dr. Weiss, it's my understanding, that of course, they depend upon an actuary to tell them whether or not the fund is actuarially sound. You can get variations of opinions from actuaries, just like you can economists, as to what is and what is not actuarially sound. So, consequently, if the state gets an actuary to say that the fund today is actuarially sound, when, in fact, it may not be, the state can reduce its contribution rate. They have done that in the past when, in fact, the system was not actuarially sound and the state should

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have, at that time, increased its contribution rate; but, due to financial conditions of the state, they did not do that. I can recall on one occasion, they took from their contribution rates twenty-eight million dollars in one year to one system, used it for state purposes, which should have gone to the system to make it actuarially sound.

Further Discussion

MR. ABRAHAM

Ladies and gentlemen, I have no quarrel with the desire to try to have the state guarantee what these various retirement benefits might be. This is nice to have, but I question... I do quarrel with whether or not we can actually accomplish this. Now, I don't think that this type of thing should be locked in the constitution. All of us contribute to social security, but what constitutional guarantee do we have that we are going to receive the benefits that have accrued to us through social security. Mr. Flory pointed out that he did not want the legislature to be able to tamper with things in the past that would change the amount of the retirement. What is to prevent the Congress of the United States from changing the amount we receive from social security? We have no constitutional guarantee there. We have no constitutional guarantee that federal employees--to which the federal government contributes money to their retirement system--that these federal employees are going to get what they think they are going to get, whenever the time comes for them to retire. Many of us have no constitutional or any other type of guarantee that we're going to receive our benefits from any private annuity system that we may belong to. I just don't think that it is wise to try to lock into this constitution any guarantee that the state is going to pay these benefits, particularly, and even more so, if the state really has not that much control over the investment of these funds. I think the De Blieux amendment is all right because it deletes a lot of unnecessary language... a language that I don't think that we can live up to necessarily. I think that it should be further amended to conform to something we have in the present constitution. But, I would urge the adoption of the De Blieux amendment, and let's delete the language that we have in this particular committee proposal because I just don't think that we can live with this type of language locked into the constitution.

Question

MR. J. JACKSON

Delegate Abraham, a lot of us... lot of the delegates here are concerned about maintaining a stable retirement system. But, at the same time, there are some of us who feel that one of the prerequisites for a person to even get a job as a teacher in the state is that he or she agrees to participate in the retirement system. If that's so, no matter what the stock market may do in terms of investments, one way or the other; let's say it falls. If the state makes that kind of commitment, or that kind of requirement on a teacher, is it not fair and just that that teacher ought to hold the state to provide funds no matter if there's an adverse effect in terms of investments of the stock market?

MR. ABRAHAM

No, Johnny, because I have to make a commitment to contribute to the social security system, but I have no constitutional guarantee that the federal government's going to provide for my social security benefits.

[Previous Question ordered.]

Closing

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, I might state at this particular time that I have no intentions of taking away something which the employees of any retirement system have already earned and has accrued to them. Therefore, if the convention will agree, I would rather withdraw this proposed amendment and resubmit it in a different form which will accomplish what I had intended to do: that is, to shorten the constitution, but yet preserve the very things which I think the committee proposed in this particular proposal. If it's all right with the convention, I would withdraw that amendment and resubmit my amendment that I have that I think that accomplishes the same, identical thing. It leaves the accrued retirement to all those who already have earned it, and it's there for them. I don't want to take away anything which the retired employees of the state have earned or those who are working for the state have already placed into the retirement

system. That's not my idea whatsoever. I just don't want to get into the constitution the fact that the state has to guarantee every employee of the state that his retirement system will be the same as it is now throughout the rest of his lifetime, in the event we should get into a depression or something of that sort.

[Rules Suspended to allow withdrawal of the Amendment. Amendment withdrawn.]

Amendment

MR. POYNTER

Mr. Conroy sends up the following amendment:

Amendment No. 1. On page 1, line 17, after the words and punctuation "system," delete the remainder of the line and delete lines 18 through 22, both inclusive in their entirety.

Explanation

MR. CONROY

This amendment does what the first part of Amendment No. 1 of the De Blieux amendment had proposed to do. It is what those who spoke in favor of the De Blieux amendment--other than Senator De Blieux--addressed themselves to. I think that the debate... it's also what those who spoke against the De Blieux amendment, spoke against. I think all the debate has occurred. What this amendment does is delete everything after the first sentence in Paragraph (A) so that it eliminates the guarantee of the state to it. It also deletes the references to contractual relationships and accrued benefits, both of which I think are unnecessary to refer to. They are contractual; to the extent they are contractual rights; they, of course, cannot be taken away. So, I move the adoption of the amendment--and frankly, I don't see why there should be any lengthy discussion because we have already debated this issue at length already.

Questions

MR. HERNANDEZ

Mr. Conroy, don't you agree that when a teacher enters the teaching profession, and they accept the retirement system, elect to go into it, make their contributions--they make those certain contributions, determined by the legislature, and for certain benefits, which amount to "X" number of dollars a year--don't you think they have a right to expect that when they retire?

MR. CONROY

Yes. I think they would. If it's a contractual right already, they'd have it as a contractual right.

MR. HERNANDEZ

All right. That's all this does, is expect the state...

MR. CONROY

I don't agree with you, with the particular phrases that are used here. Now, normally, when a retirement plan is set up, the rights in it says that the employee has rights attributable to a particular fund, and that the payments will be made out of a particular fund for that purpose. It does not put the employer's full faith and credit, I think is the term used, as far as the state goes, behind those things. It sets up the fund. The contributions go into the fund. The employee has a voice in the management of the fund, in this case in some form or another, so that if the fund falls apart, the employee is partly responsible for it, too. But, I don't think that the state should endanger all of its fiscal responsibility for the sake of one particular portion of what the state is obliged to do. I do think it should administer these funds properly. It should help in the proper administration of the funds, but I do not think that the guarantee of these benefits is a proper thing for the state to do in this constitution.

MR. HERNANDEZ

Isn't the legislature the only one to determine what shall be paid in by the employee, by the state, and determine the benefits that the teacher shall receive? Isn't the legislature the only one that can do that?

MR. CONROY

Well, the legislature provides it, Mr. Hernandez, but, I think, in our system of government we expect the legislature to be democratically responsive to what the teachers may want and what the people in the state may think is proper. So, yes, the legislature does, but that's saying the people determine it. I think that's the proper place for it to be determined, is by the people.

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MR. HERNANDEZ

Wouldn't you agree that the legislature had actuarial information on this, and knew that...the trend that it was taking?

MR. CONROY

The risk of the correctness of the actuarial determination should be on the fund and those who expect to benefit from it, Mr. Hernandez. That is my very point. I think that actuarial assumptions and actuarial projections are a very dangerous thing for this state to go behind and say that it's going to guarantee the correctness, in effect, of these actuarial assumptions and decisions that are made because I know an awful lot about actuarial assumptions, and I don't think that that's any place for this state to be risking all of its fiscal responsibility behind some of these actuarial assumptions. You can get two or three actuaries together and they can sort out their different assumptions and presumptions and come up with all sorts of different figures. That's basically one of the problems we've got to deal with that I think the legislature should be given as free a hand as it can, to deal with as this area develops, and this is a developing area. The concepts are changing. The problems are just becoming more obvious now. I don't think that we should run the risk of putting the state in a position where it will be totally unable to meet its other obligations by putting this sort of guarantee in the constitution.

MR. HERNANDEZ

One final question, Mr. Conroy. Don't you believe that when a teacher enters this system they have a definite figure given by the legislature what they shall pay, the state shall pay, and they shall receive a certain amount. Isn't that, in your mind, a contract that should be lived up to by the state?

MR. CONROY

The salary, Mr. Hernandez, or what?

MR. HERNANDEZ

No...they determine the salary...but, the payments to the retirement fund, by the employee and by the state. The state, also, ...the legislature also determines the benefits to be paid from that.

MR. CONROY

Well, that's...I don't think that's the way it's set up now. That's what we're going to change it to. Right now, I think the employee understands that his benefits are payable out of a fund, which hopefully will be adequate to meet those obligations. But, the legislature certainly could, if it chose, abolish the fund, and make definite contractual commitments with employees to pay them so much out of the state's general fund in ensuing years. It could do that...the deletion of these provisions wouldn't preclude the legislature from doing what you say that you think the legislature ought to do. It would just leave it open.

MR. HERNANDEZ

They haven't done it. Thank you, sir.

MR. LOWE

Mr. Conroy, don't you think that the...some of the delegates are confusing what I said before and what you've said into feeling that we're not interested in protecting those contributions that's been made by the teachers. We're all for that. Don't you agree with that?

MR. CONROY

Yes. I think that both you and I share serious concern about protecting those contributions, future contributions, and the responsibility of the state. I think that our overall concern is one of fiscal responsibility, and fiscal responsibility of the state is what's going to mean most to the people who look to the state to pay its obligations, including those who have retirement benefits to be paid through the state.

MR. LOWE

Right. Now, let me ask you another question. The thing that concerns me probably more than the full faith and credit of the state being behind the retirement system is this sentence that says, "the accrued benefits of which shall not be diminished or impaired." Now, there's not a single system in the state of the thirty some-odd we have, that's fully funded. You won't run into any actuaries that will tell you that it's wise to fully fund a system because you just tie up tremendous amount of funds that could be used for other purposes. There are formulas to determine what's reasonable and what's not reasonable. But, wouldn't you agree that anytime that a system is not fully funded that any payments from that system would, by necessity, impair

and diminish the funds of the people that are left. So, what we are saying here...we have a mandate, telling the legislature, "Get these systems fully funded because if they are not fully funded, any payment that you make is going to impair and diminish the benefits of those people that are left in it." Don't you agree with that?

MR. CONROY

Mr. Lowe, I agree completely with that. I have tried in my arguments to stay away from what I considered some of the more involved explanations of how retirement plans work. I think that your point is well taken, though, and I think that some present employee of the state school system could bring a suit and say "You cannot pay out any further benefits until this plan is fully funded for my benefits in the future. You simply have to suspend the payments until the thing is fully funded." I think from... public employee's plan should really not be fully funded. I don't think it's to the best interest of the way to operate a public retirement plan, to have it fully funded. I think it would impair the state's really proper allocation of its funds if you tried to fully fund a retirement plan of this kind.

MR. LOWE

I agree with that a thousand percent. Don't you also agree that realizing the teacher system is probably seven hundred plus million short of being actuarially sound, or being fully funded, don't you agree that we probably, if we studied and got all the information in on our thirty some odd systems that we'd probably be in the same shape that Florida is in and be, maybe, 1.8 billion, not million, but 1.8 billion dollars short of being fully funded of the accrued liabilities that now exist? Wouldn't it be impossible for the State of Louisiana to fully fund the systems that are mandated by this wording?

MR. CONROY

That's certainly part of my concern, Mr. Lowe.

MR. SUTHERLAND

Mr. Conroy, are you aware of the fact that politics plays a great deal with the decisions that the legislature makes?

MR. CONROY

Well, I certainly expect them to, Mr. Sutherland.

MR. SUTHERLAND

Right, and because of that fact, isn't it a fact that in the past, the legislature has granted pay raises to teachers and has not funded those pay raises?

MR. CONROY

Yes. They have done that. They've given retirement benefits that haven't been funded either.

MR. SUTHERLAND

That's correct. Then, so, as long as the legislature is going to be a political body that's subject to the pressures of people bringing pressures on them, don't you think that they should have the fiscal responsibility of funding those benefits that they agree to?

MR. CONROY

Yes. I think they should be responsible enough to fund them themselves, as they see fit.

MR. SUTHERLAND

Now, if in the future these benefits are increased, the legislature should then have the sufficient funds, or see that there are sufficient funds to pay those benefits.

MR. CONROY

The legislature, as a responsible body, should do that... should foresee that that has to be done. That's correct.

MR. SUTHERLAND

Now, up to the point that they make that decision to increase benefits or to reduce the time for retirement, which is another way that they do it. They reduce it from thirty years to twenty-five to twenty to fifteen years of service, which increases the obligations of the system. It has nothing to do with what Dr. Weiss says, the investment of the funds. These are increased benefits that they are granting, and not funding, and this is what we're trying to accomplish, to prevent them from doing that. As the social security system of the federal government, constantly, the Congress uses this as a political football; constantly, increasing, but not caring where the money's going to come from. We want this system to be financially sound. The only one who can control it

is the legislature. So, if they're going to increase the benefits, they should see that there are sufficient funds to do it. That was the purpose of the committee's recommendation.

MR. CONROY

Mr. Sutherland, if I understand that explanation of the committee's objective in this, I think they've gone about it in the wrong way because I think that in order for that objective to be properly served, you'd have to have an actuarially sound plan now, and I don't think you do. That's what gets into Mr. Lowe's question, is that given the objective you just recited about no benefits being increased unless the legislature could, at that time, fund it, if this would have that effect...if this provision, as written by the committee, would have that effect, then Mr. Lowe is absolutely correct in his suggestion that someone right now could bring a suit to prohibit any payments being made out of the retirement fund until it was made actuarially sound. I don't think you intended that, but both results would flow from the language which is used here; if the one that you said should flow, the other one would flow equally quickly.

MR. SUTHERLAND

I don't necessarily agree, David. As long as they can make the payments that are due, and have accrued, there would be no right that anyone would have to contest it.

MR. CONROY

Well, then, he could contest the payment out of that fund of any further benefits to others. I think they probably would, from what you've just said as far as what the objective of this was.

MR. AERTKER

Mr. Conroy, in your presentation, you implied that your amendment was...didn't really do very much violence to the proposal that the committee proposed. Actually, what you...

MR. CONROY

I didn't say that.

MR. AERTKER

Oh, you didn't...

MR. CONROY

No, I said it did what Senator De Blieux's...the first part of his amendment did...that he has withdrawn now, what it did. That's what it did. I just came behind the De Blieux amendment; it did the same thing as that.

MR. AERTKER

You would agree, then, that your amendment, if adopted, would completely destroy the intent and purpose of what the committee proposal was attempting to do?

MR. CONROY

Insofar as it related to a guarantee of the full faith and credit of the state behind retirement funding, yes. That's exactly what it's intended to do because I think that that's an expansion that the committee is suggesting far beyond anything that this state has at the present time, and far beyond what I think is fiscally responsible on the part of the state.

MR. AERTKER

But, you don't believe that it's right for people to expect that when they enter into an agreement with the state, that they are going to have a certain type of retirement, that that ought to be guaranteed to them?

MR. CONROY

I think that's a desirable objective of any employee for any company or for any institution or for anything else that when they set up these retirement funds that it will be forthcoming at the end of the road. But, I say that if they're not providing enough funds...let's take an assumption, Mr. Aertker. Let's say that you have a retirement plan that's set up, and it's set up on the basis that you're going to get benefits of, let's just say, five hundred dollars a month when you retire. For that purpose, you're asked, as an employee, to contribute a dollar a month and the state's going to put up a dollar a month. Then, when you get to the end of the plan, you discover that what was projected was totally erroneous...that really, you should have been contributing five dollars a month, and the state should have been contributing five dollars a month, and the actuary made a mistake, so that the amount of benefits which are available there just aren't properly produced. Well, this says "the state guarantees" the correctness of those actuarial assumptions on which your

contributions were based, on which the state's contributions were based. I say no; I don't think that that's right. I don't, because the employee does contribute on certain assumptions, just as the state does. If those are wrong, I don't think the state should be obliged in the constitution to guarantee the correctness of those assumptions made by the legislature and by actuaries.

MR. AERTKER

You think, then, it's wrong for a person to expect to receive a certain benefit at the expiration of his life span, and that this is asking the state too much to provide that type of guarantee?

MR. CONROY

No, Mr. Aertker, I don't think it's wrong for him to expect it. I agree that the state has a moral obligation--and probably, one it would adhere to and follow through with. What I'm saying is I think it's a mistake to create a binding legal obligation on the part of the state in this constitution that would make that effective guarantee that you're saying is right or wrong. Morally, I agree with you. Ethically, I agree with you. But, I'm saying that legally we should not impose such an obligation on the State of Louisiana in this constitution because I think it will disparage and cause trouble with the state's other fiscal responsibilities.

MR. FLORY

Mr. Conroy, you've made a great point of fiscal responsibility--the state's fiscal responsibility. Isn't it a fact that in the retirement system that's mentioned in this proposal that the state is the one who enacted the provision or the retirement system to begin with?

MR. CONROY

Yes, I assume so. The legislature did, yes.

MR. FLORY

That's the first responsibility of the state. By law, they have enacted a retirement system.

MR. CONROY

Yes.

MR. FLORY

All right. Secondly, if you espouse fiscal responsibility, don't you think it wise, fiscally speaking, for the state to make adequate compensation to fund their legal obligation that they have enacted into law as it progresses through the years, rather than waiting at some late date? Do it on a current, fiscal basis.

MR. CONROY

No, Mr. Flory, I do not agree with that concept from the standpoint of a public employee's retirement plan. I don't think that properly speaking, that a public retirement plan can appropriately be funded the same way a private retirement plan is. I certainly think that from the standpoint of a private employer who runs a risk of going out of business and so forth, that it's desirable for it to be actuarially sound on a year-to-year basis, based on the contributions that are being made. I do not agree that that is so, with a public retirement fund. I think that most people that study in this area agree that it is not normally expected, nor necessarily desirable for a public fund to be actuarially sound, just like the social security system in the federal government level, is certainly far from actuarially sound.

MR. FLORY

Well, what you're saying, then, is it's all right to have a retirement system on paper. Just don't fund it.

MR. CONROY

No. It should be funded, and it should be expected to be paid as the funds are available, as people retire, just like our social security system is based on that basic concept, Mr. Flory. You know that. That's the concept of our social security system. If...we couldn't pay everybody right now; if we didn't take any more money into the social security system, you couldn't pay the benefits to retired people that the social security system of the federal government provides. You know that.

MR. FLORY

No, I don't know that.

MR. CONROY

Well, it's a fact. You look for further funds to come in as the economy grows; you expect and hope that there will be more money to pay for retirement benefits on a public basis.

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MR. FLORY

My last question, Mr. Conroy: In truth, in fact, what your amendment does is take out of the proposal the provision that gives to that employee his vested rights on what he's paid for. That's what your amendment does, isn't it?

MR. CONROY

No. It doesn't refer to the term "vested rights." I would have felt a lot more comfortable if that particular phrase had been used because I'm more familiar with that phrase than I am the phrase "accrued benefits." To me, strictly speaking, as an attorney, the two things may be different. "Vested rights" is a phrase I'm used to, and I don't see how we can take away vested rights.

MRS. CORNE

Don't you think, Mr. Conroy, that a restraint should be placed on the legislature to prevent it from granting additional benefits for political expediency?

MR. CONROY

Mrs. Corne, I don't disagree with that desirable goal. As a matter of fact, as I suggested previously in my talk that I felt that those of us who worked with this problem on the Revenue, Finance, and Taxation Committee, worked very hard to try to find such a restraint, or a proper restraint to place on the legislature. Ultimately, my conclusion was that this constitution really, at this stage of development of the concepts of retirement plans couldn't come up with an appropriate restraint to place in the constitution on the legislature. But, if this is intended, if this provision is intended as a restraint on the legislature in the future, in what the legislature does in the future, then I think it's improperly worded. If this committee, or anybody else, can come up with an appropriate restraint on future acts of the legislature, I would think...

Further Discussion

MR. WEISS

Mr. Chairman, fellow delegates, I take the podium in support of the Conroy amendment and feel rather strongly that this is an honest, a moral--and from what I can appreciate--legally sensible approach to this retirement system. I feel very strongly because as a physician, I've been in the midst of this medicare confusion. Several years ago, the chief actuary...for thirty years, the chief actuary of the retirement system of the United States, spoke here in Baton Rouge, and has since been retired from that system voluntarily--of his own will--because the federal government has failed to adhere to an actuarially sound medicare system. At the present time, without question, there is no actuarially sound medicare system that is existing in the United States today. I feel that if such were to be promised to the people of the state, such as this committee proposal promises, that we would reach havoc just as you are seeing now in the medicare operation of the federal government. When we ran for this office, most of us delegates promised that we would prevent constitutional amendments. I can foresee that if this committee proposal is accepted as written, there will be within short order many constitutional amendments to try and bail out this system as written. It cannot be proven actuarially sound. As Delegate Flory has pointed out, there are too many opinions as to what is actuarially sound. It is a dynamic system. It is influenced by many, many factors, both within our state, outside of our state, and even internationally. It's highly important that we leave a flexibility to the legislature, and I would suggest that the Conroy amendment is a very good one, and fiscally sound. Mr. Conroy, serving on the Revenue and Finance Committee, has spent many months studying these matters, and I feel certain that the proposal that he has rendered is an excellent one. I consider it a good one, will vote for it and hope you will do the same.

Questions

MR. WINCHESTER

Dr. Weiss, are you saying that you do not have confidence in the ability of the legislature to regulate benefits by its right to dictate to the retirement funds as to how funds must be invested? It also has the right to audit these funds; the legislature also determines the amount of the benefits, and how the monies to pay these benefits shall be raised.

MR. WEISS

Dr. Winchester, I can answer that best by asking you: Is there anything in the Conroy amendment that would prevent the legislature from doing that? I see nothing, because the legislature has that power, under the Conroy amendment.

MR. WINCHESTER

Well, then if it has that power, that's why I think I'm for... I'm against the amendment because I think that it should be a guarantee. I've worked forty-two years, and I am now on retirement. I'm certainly think of the people who share... and that was how my whole retirement centered around the amount of money that I would receive from the Assessor's Retirement Fund.

MR. WEISS

I fully agree with you, and I think that the legislature, as any other body, is morally sound, although legally, it may present problems in the future. It's for that reason I would leave it to the legislature as the Conroy amendment so allows.

MR. HERNANDEZ

Dr. Weiss, don't you agree that the legislature has always had that right, and it has been their duty and their responsibility to make the laws needed to keep this retirement system sound? Isn't that true?

MR. WEISS

Yes, and I think they will try to do so.

MR. HERNANDEZ

They haven't done it, have they?

MR. WEISS

Well, now that's a problem that is not necessarily their responsibility. Sometimes, it's the administration of the laws. Sometimes, it's the nature of the investment of these funds, which I think, in many instances, could be considered unsound. This is a problem beyond the legislature.

MR. HERNANDEZ

Don't the legislature make all the laws regulating these retirement funds?

MR. WEISS

It makes the laws, but it doesn't implement them.

[Previous Question ordered. Amendment rejected: 37-55. Motion to reconsider tabled.]

Recess

[Quorum Call: 67 delegates present and a quorum.]

Amendments

MR. POYNTER

Amendment sent up by Senator De Blieux as follows:

Amendment No. 1. On page 1, line 13, after the word and punctuation "System;" delete the remainder of the line and on line 14, delete the partial word and punctuation "poytees." and insert in lieu thereof the following:

"State Officers and Public Employees."

Amendment No. 2. On page 1, delete lines 14 through 17, both inclusive, in their entirety and insert in lieu thereof the following:

"The legislature shall provide a retirement system or systems for all public employees of the state and its agencies. It may authorize retirement systems for its political subdivisions. Membership"

Amendment No. 3. On page 1, at the end of line 20, change the comma "," to a period "." and delete the remainder of the line and delete lines 21 and 22 in their entirety.

Explanation

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, as I explained to you on the previous amendment that it was my only intention to combine Paragraphs (A) and (B), and I did not intend to take away anything that had already accrued to any employee. Now, it was also called to my attention that many of the political subdivisions have retirement systems which are authorized by the legislature, but which are not founded by the legislature. Therefore, I made the correction and changed in it where the legislature would have the right to authorize retirement systems for political subdivisions. This also eliminates words which I think are excess insofar as Paragraph (A) is concerned, and that is: after the words guaranteeing the accrued retirement system of the employees, we eliminate the rest of that where it says that all benefits payable to members

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from the system will be payable on a death or at retirement. That, to me, is automatic, and therefore, you don't need that excess verbiage in the article. I just have an amendment to eliminate that. That's the purpose of this amendment, to consolidate and reduce and make the necessary authorization for the legislature to enact legislation in regard to these retirement systems. It guarantees the accrued retirement of any employee where they have already made a contribution, the state has already the contribution. I don't intend to take away any of that, and I think that meets Mr. Sutherland's objection to my previous amendment. I ask for adoption of the amendment.

Questions

MR. HERNANDEZ

Senator De Blieux, if you don't object to this, why do you want to take it out of this proposal where it, after line 20, 'the state guarantees all benefits payable to a member of the system or his lawful beneficiary at his death or retirement'? If you don't object to that, why do you want to leave that out?

MR. DE BLIEUX

Well, it's . . . the only objection I have is just excess verbiage, Mr. Hernandez, and we don't need it. I just don't believe we ought to just stick words into the constitution which, you might say, don't mean anything.

MR. HERNANDEZ

You mean to take inalienable rights away from. . .

MR. DE BLIEUX

You're not taking any rights away from anybody by this amendment because, after all, if that benefit has accrued to them, they are entitled to it; and they owe it, but then, they're going to get it. But. . .

MR. HERNANDEZ

This is only two lines, Senator.

MR. DE BLIEUX

It's just excess verbiage which I just don't think we need. That's the only reason I suggest we take it out.

MR. HERNANDEZ

Do you think that two lines of excess verbiage is going to ruin this proposal?

MR. DE BLIEUX

Well, we. . . I don't think that that ruins it or helps it any. It just eliminates unnecessary verbiage; that's all it does.

MR. DENNERY

Senator De Blieux, isn't it true that when you put in. . . when you add in your Amendment No. 2 that the legislature may authorize retirement systems for its political subdivisions," if you do not delete the three lines that you just spoke of, the state would have to guarantee those benefits as well as retirement systems of state employees?

MR. DE BLIEUX

I don't think under the provision, Mr. Dennery, that the state, at the present time, I don't think it guarantees in the retirement system of political subdivisions. The only part that the state is absolutely responsible for is that portion which the state contributes to. But, you know, we have numerous subdivisions that have been authorized for their own retirement systems. In fact of the business, it was called to my attention by Delegate Abraham that that's the provisions of the present constitution--that they authorize political subdivisions to have retirement systems. They don't guarantee retirement systems for political subdivisions.

MR. DENNERY

Now, my point was, though, Senator, if you do not delete these lines and you add your language, this would require the state to guarantee those systems, would it not?

MR. DE BLIEUX

Well, in essence of the word yes, that's true if they. . . if the retirement systems are already in existence, they are entitled to that accrued leave and accrued benefit.

MR. FLORY

Senator De Blieux, in reference to what Mr. Dennery asked you, my question is: We had proposed in the committee that the local governing bodies who had established through law retirement

systems, would guarantee the accrued benefits to those participants in that system. But, if I appreciate your amendment, by the deletion of the last two lines of that paragraph, you're not then guaranteeing the accrued benefits of a local system by anybody, are you?

MR. DE BLIEUX

Well, Mr. Flory, as I understand this, it would have the same effect insofar as the state is concerned because you guarantee the accrued--that portion which they have accrued, they get it. I don't intend to take anything away that they've already earned, and worked for, and the state has already contributed to.

MR. FLORY

I appreciate that, I appreciate that, Senator, but I think it's a matter of mechanics and combining the two paragraphs where you are willing to guarantee the accrued benefits by the state for state systems. But, by the deletion of the second paragraph, you have taken away the guarantee to the local municipal, for example, employees in a retirement system that the municipal government would guarantee the accrued benefits.

MR. DE BLIEUX

No, I don't necessarily agree with that because we leave in the words saying, "the accrued benefits which shall not be diminished or impaired," so that in essence, that's what you are doing. You are guaranteeing that.

MR. LANIER

Senator De Blieux, does your amendment, as it's presently drafted, have any effect on the (B) part of this section?

MR. DE BLIEUX

Well, if my amendment passes, Mr. Lanier, I don't think (B) part would be necessary. If this passes, I have an amendment to eliminate (B) part because everything that's in (B) part will be covered in (A) part.

MR. LANIER

Now, in the (B) part, don't you think we have a very definite problem here with this last sentence of the (B) part that says that "the state or political subdivisions shall guarantee any benefits payable to a member of the system"?

MR. DE BLIEUX

I don't think it creates a problem because if you can't diminish it or impair it, it means that if. . . in essence, it's guaranteed.

MR. LANIER

Well, what I'm concerned about is, for example, as I understand it with clerks of court and sheriffs and assessors, that all of the taxing bodies in the parish contribute to their retirement systems. Is that not correct?

MR. DE BLIEUX

I don't know exactly how it's made up, but I do know, in essence, they do through a portion of the tax revenues that are collected. So, you might say they do, yes, in that sense, because you take a little portion of each political subdivisions revenue.

[Previous Question ordered. Amendments rejected: 34-47. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment No. 1. On page 1, line 19, immediately after "employer" delete the words "the accrued" and delete line 20 in its entirety and insert in lieu thereof the word "and".

Explanation

MR. LOWE

Mr. Chairman, ladies and gentlemen of the convention, I have very serious reservations about what this particular wording does to the retirement systems of the State of Louisiana. I firmly believe that anytime a payment is made from a retirement system to a retired employee that if that system is not fully funded, well, then the accrued benefits of all of the other people in that system--retired or otherwise--would, to some extent be

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diminished or impaired. Now, you just have to think with me for a moment. If we are funding a system and it takes so much funds to fully guarantee the payment of all of the employees in that system, and anytime that system is not fully funded to take care of all of the accrued liability that's accrued to that point in time, well, anytime a payment is made to any other individual and a pro rata payment is not paid to the others in the system, well, those that have remained in the system that are not paid on a pro rata basis have by necessity had their portion diminished and impaired. Now, I don't know all there is to know about retirement systems; I have been exposed to them. I can frankly say to you that we're laboring under some serious misconceptions if we're sitting here thinking that it's appropriate to fully fund governmental retirement systems. Now, I'm familiar with the Studebaker Case where the company couldn't meet the retirement of the employees, and in industry and commercially the companies can go bankrupt and leave the country and not be there when the employees retire. We don't have the same situation with government. Government isn't going anywhere. I wouldn't be a bit surprised, as I mentioned at this microphone before, that we're in the same shape that Florida is in, and maybe worse. We may be two billion dollars short of fully funding our retirement systems--the thirty-some-odd systems that we have. I think it would be ridiculous for us to feel that we should, overnight, try to solve the problems that's been created for years and years and years with the retirement systems in the State of Louisiana. Now, you saw fit not to take out the full faith and credit of the state as it applies to the retirement systems. I hope that you will go along with me and take out the words, "the accrued benefits of which shall not be diminished or impaired." By taking this out, we still leave in the full faith and credit of the State of Louisiana. I don't know that we want to give much more protection than that. The wording that we have in here could place in serious jeopardy the funds of the State of Louisiana if we have to, overnight, try to fully fund the retirement systems. So, with that in mind, I ask you to go along with my amendment and the wording I think is unnecessary. Without it, we can still give full assurance to the retiree and those that will retire, that they will receive that benefit.

Questions

MR. AERTKER

Mr. Lowe, what is your definition of "accrued"?

MR. LOWE

"Accrued," to me, means that that's anything that inures to the right of an individual at a specific date.

MR. AERTKER

Well, actually. . .

MR. LOWE

If something accrues to me, that means I. . . it's built-up there for me with the retirement system.

MR. AERTKER

Well, it does also mean that it's the total amount of benefit that has developed to that person's account up to that time and date. Right?

MR. LOWE

I'm not sure that that's what it means, no, sir. Accrued doesn't mean you can draw it--accrued does not mean that you can draw it. Accrued has a different connotation than payable. Payable means it's payable to you. Accrued means it's building up to your benefit, and some point in time you can draw it. We have accrued taxes when we close out a set of books. If we close out books on June 30th and the taxes are due on. . . in December, well, those taxes accrue to June 30th, but are not payable till December. If an employee is building up benefits, certain benefits accrue to him that may be payable at the time that he retires. I think your question brings out a good point. I think we're dealing with words that we don't really put in the proper context.

MR. AERTKER

But, actually, if this amendment that you have proposed passes, it would possibly, actually be possible to actually reduce the amount of retirement that a person had that was supposedly due to them as of a certain date. Isn't that correct? That would be impairing it, wouldn't it--impairing the accrued part of his retirement?

MR. LOWE

I really don't know if it would do that or not; I guess it's possible. But, the point that I'm interested in has

nothing to do with what a person will draw or won't draw except that when it comes time to draw whatever has been set up by the Legislature for him to draw will be guaranteed by the full faith and credit of the State of Louisiana. Now, there's been some changes made in retirement systems because of political pressure, I would think, that have wrecked these retirement systems. Maybe the teachers, probably, now should be paying seventeen percent into the system for the benefits that they will receive, and they're only paying seven. But, that's not the issue here right now, Mr. Aertker. I believe that issue that you address yourself to can be handled better by the legislature in a flexible nature rather than locking it into this constitution.

MR. AERTKER

Well, that is the issue. I think that's the issue that the teachers would have. But, let me ask you a still further question. That is: It is a matter of interpretation as to whether the Board of Trustees would be able to use a certain amount of funds. It is a matter of interpretation as to what really "impaired" means as far as their investing funds go. It would be possible for them to invest all of the funds if another interpretation was forthcoming, right?

MR. LOWE

Mr. Aertker, I'm not an attorney, and it's difficult for me to put in legal context the meaning of words as far as how they would be interpreted by the Supreme Court. But, to me, "impaired and diminished" means that anything that you would do that would decrease what a person had before you made the payment below what they had after you made the payment would impair it or diminish it. That's what I am concerned about, that any of the payments that are made out of a system that's not fully funded would automatically impair or diminish that person's rights to what he had before the payment was made, and I think we'd end up with serious problems.

MR. AERTKER

Well, couldn't you carry your interpretation just one step further and actually say that if they made any type of investment, regardless of what condition the fund was since both the state makes its contribution and the employee makes his contribution, but both of them are of the net result of what he's going to have to expect to get in the retirement. Actually, under that interpretation, they wouldn't be able to actually invest any of it on the possibility that they might make a bad investment and impair the total picture on it.

MR. LOWE

Well, as I appreciate your question, that's why I'm against the wording, because if we don't have "diminished or impaired" in here, we don't have to worry about the flexibility with which these funds operate and make investments and make payments to the retirees. So, I agree with you that we come up with serious problems with investing. If you invest something and lose on it, you've impaired the rights of that individual. So, maybe you shouldn't have made the investment. So, we have some problems.

MR. AERTKER

But, we wouldn't have a problem if the interpretation was that impairment did not mean that that prohibited them from making investments of funds.

MR. LOWE

Well, Mr. Aertker, I'm not sure what question you're trying to ask me, but I think I'm clear about my position on how I stand as to the fact that if the funds are not fully funded--the retirement is not fully funded--and payments are made to a particular individual while no payments are made to other individuals, the individuals that do not receive payments while others receive payments--the ones that do not have had their funds diminished or impaired. That's clear, to me.

MR. AERTKER

Well, did you know that really the reason for my question was that I was really trying to show that the committee felt that the accrued portion of any individual was and should be included in the constitution, and that that word is very pertinent to the whole meaning of this whole matter on retirement? That was what the committee felt--why they thought it should be included in it.

MR. LOWE

With all due respect, Mr. Aertker, I understand what you told me; I understand you understand the meaning of "accrued"; and I know what you want in here. I just think it's a mistake for us to put it in here. I know that you want to tell every

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teacher and every employee in the State of Louisiana that nothing will be paid to anyone else if in any way effects what you have coming to you. If we pass this particular proposal, we just have to stop sending out retirement checks tomorrow because we won't be able to do it. It's impossible, because when we mail the retirement checks, we've impaired and diminished some of the funds of some of the people that are left in the system. I think it's wrong. That's not the way governmental retirement systems work.

MR. AVANT

Monday, I'm trying to understand this thing, and I hope you can help me but...a man or woman comes to the state...one of these covered agencies that we're talking about and he applies for employment, so they tell him, "O.K., we're going to pay you so much money. Out of that you're going to contribute so much to a retirement system. We're going to add so much. If you stay with us X number of years, you will be able to retire," and then aren't the benefits always based upon a certain percentage of a certain number of years, the highest years' salary... the three highest years or something like that?

MR. LOWE

That's the way I appreciate it, Mr. Avant.

MR. AVANT

Alright. Now, doesn't all this thing mean that when that day rolls around they can't--or is approaching--they can't come back...the state can't come back and say, "You know, we made a mistake way back there twenty years ago when we told you we were going to do these things for you, so we're not going to pay you that; we're going to pay you something less than that." Isn't that all these words mean?

MR. LOWE

No, sir. I think they mean a lot more than that.

MR. AVANT

Well, if you take these words out though, couldn't the state then do that? Couldn't they come back and say, "Well, we said we were going to pay you fifty percent of your average salary for the three highest years within this twenty-five year period that you've worked, but we've decided that we can't do that now, so we're going to pay you thirty percent of the three lowest years." Wouldn't they be able to do that if you don't put this guarantee in here?

MR. LOWE

Well, I don't know, Mr. Avant, but the wording to accomplish what you've just enumerated for me is done very poorly if this language is expected to do it, because it has serious side effects in the meantime.

MR. AVANT

Well, you object as I understand....I've been listening to you, and I don't really know anything about this, but it seems to me that your objection is more to the word "impaired" than it is to the word "diminished". Is that right?

MR. LOWE

You know I'm not an attorney, as I've told Mr. Aertker, and it's difficult for me to put in legal context, but I'm concerned about both words, "diminished" and "impaired". You know, Mr. Avant, if you have money in the savings and loan, the interest accrues to you as of a certain date, but you may have to leave your money in to X date before you can draw that interest, and it's the same thing with an employee in a retirement system. Certain things accrue to him, but if he leaves before the time when all of it is payable to him, he can't draw everything he accrues.

MR. AVANT

I understand that, but when I put my money in the savings and loan, and they say if you leave it here for five years, we'll pay you seven percent interest on it. If I leave it there for five years they can't at the end of that time say, "Oh, we made a mistake, we're only going to pay you four percent." If you take these words out of here then I think that's exactly what you're doing--the state can tell these people, "Even though we made a deal with you years ago and promised you certain things, we find we made a mistake, so we're not going to do what we promised."

MR. LOWE

Well, I don't agree with what you said because even in a savings and loan, as tight as they are, if you have over twenty thousand dollars--if you have a hundred thousand--it's a possible

that you can't get it all if they go broke. I think we're protecting the employees by saying the full faith and credit of the State of Louisiana is behind it to pay off whatever we owe you. I think that's strong enough in this constitution, Mr. Avant.

MR. AVANT

But, Mr. Lowe, isn't it the same thing as if you buy an annuity contract with an insurance company, and you say, "O.K., I give you ten thousand dollars today, I'm thirty years old." The day I'm sixty-five they promise to pay you, say, a hundred and fifty dollars a month the rest of your life, and then when you reach sixty-five they say, "Look, we made a mistake, you're going to live longer than we thought you did, and the stock market hasn't been as good as we thought it was going to be so we're going to pay you less money." Now, they couldn't do that because they had made a contract.

MR. LOWE

That's right, they've made a contract, and I'm glad you brought up a contract, because you know what happens, Mr. Avant? We're dealing in a different framework and a different ball game. When you buy an annuity, you get exactly what you say you're going to get. The teachers that entered this system ten, fifteen, twenty, thirty years ago may have been looking for one percent of their highest income for a year's service then it goes up to two, then it goes to two and a half. When that happens, it's impossible overnight to fully fund a retirement system as a result of the fluctuations and additional benefits are added. So we're not talking about the same thing in the private sector that we're dealing with in the governmental sector.

MR. AVANT

Well, I think...don't you agree that we are, insofar as the time the original arrangement is made and the employee is told that certain things will be done?

MR. LOWE

I have no objection to saying that whatever agreement was there when they originally came in, they would be guaranteed a hundred percent.

MR. HERNANDEZ

Mr. Lowe, I hardly agree with your definition of accrued benefits. Just like accrued interest...if you loan me some money even though it's not payable because if at the end of six months, you have so much accrued, but there's nothing I can do then to keep me from owing you that money. Well, that's all we're saying about the state. Won't you agree to that?

MR. LOWE

No, sir, I don't agree. A time or two I've been able to put some money in a building and loan, and I collect the interest on December 31, and I might need it on October, so I go draw my money out, and I've had accrued interest to it, but it's not payable until December so when I draw my money out, I don't get the interest, Mr. Hernandez.

MR. HERNANDEZ

That's right. That's right, but the accrued at this time... it's not payable until they are retired or died. All we're asking for is that they get that that is accrued to them...isn't that about what it is? When you violate that, you have violated the contract. Won't you agree to that?

MR. LOWE

No, I don't agree with that. We have a problem, Mr. Hernandez, and the fact that I've explained that I think it's impossible to issue any checks out of retirement system when it's not fully funded without diminishing or impairing the people in that system who are not drawing on a pro rata basis at that time.

[Previous Question ordered.]

Closing

MR. LOWE

Well, Mr. Chairman, ladies and gentlemen of the convention, I don't come before you often. When I come before you, I think I have a point that I want to make to you. I don't have an ax to grind with anyone. I think I understand a little bit about retirement systems, and I think I understand a little bit about the terminology that's written into this article. I'm just going to say one thing to you, and I'm going to sit down, because the biggest part of my time when I was here with you before, I finished my remarks and I let the opponents question me at will

whichever they wanted. If you've been bored, you may have been bored as much by the opponents to this measure as you have been by myself. Now, I may have bored you fifty percent of the time, but they may have bored you the other fifty percent of the time, and that's one point that I rise to make with you. I'm going to say what I have to say fast and sit down, and not allow you to get bored the other fifty percent of the time in my closing. But, I can tell you that I deny anyone from getting up here and saying that they are positive, they are positive--and I'm not saying that I'm positive, but I believe that if a fund retirement system is not fully funded that you cannot make payment from that system to retired people without impairing and diminishing what is accrued to and would eventually be payable to the people that are left in the system. Now, if you are here telling me you want the legislature to find two billion, two billion dollars overnight, possibly, to fully fund every retirement system in the State of Louisiana, you vote for this, and I'm not going to be upset. I'm going to vote against it in good conscience knowing that I'm not doing violence to anyone except that we are here as a deliberative body; that some of us feel like we have expertise in some area; that we have something to offer. I've given you what I think I have. I hope I've convinced you. If I haven't, we'll live with what's here, and I doubt seriously if the state will fold up. But, it will work a hardship to implement what we're working with with this verbiage. I ask that you go along with my amendment.

[Record vote ordered. Amendment adopted:
53-44. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Abraham sends up amendments at the present time. We've got to change the instructions in light of the passage of the Lowe amendment. It would read:

Amendment No. 1. On page 1, line 19, immediately after the word "employer" change the comma to a period and delete and insert the word "and" added by Floor Amendment No. 1 proposed by Delegate Lowe and adopted by the Convention on today. Strike out the words "the remainder of the line" and pick up with and delete lines 21 and 22 in their entirety."

If this amendment is adopted maybe this will make it a little bit clearer, but if you adopt the Abraham amendment now coupled with the Lowe amendment just adopted, on line 19, you would place a period after the word "employer" and strike out everything else...the rest of line 19 and all of lines 20 through 22 contained in Paragraph(A). That would be the net result of the adoption of both amendments.

Explanation

MR. ABRAHAM

Ladies and gentlemen, what kind of people are we to think that the state, simply because it's an employer who contributes to a retirement system for its employees, must guarantee for all time that the employees are going to receive the benefits from this retirement system? If the state were to place this retirement premiums, purchase annuities through an insurance company, would we still expect the state to have to guarantee that this insurance company is going to pay off? Those of you who've been employed in the private sector of business who have contributed to a retirement plan, and had your employer contribute to a retirement plan where annuities were purchased from an insurance company, what guarantee did you have that this insurance company wasn't going to go busted, and that you were always going to be able to get this money? Those of you who are professional people, some of you have purchased your own annuities--your own retirement plans--what guarantee do you have? We have to contribute to Social Security? What guarantee do we have that we are going to receive the benefits of Social Security? I just don't see how we can expect the state to guarantee that it's going to be able to fund the retirement system in the event that the people who manage the system do a poor job of managing and aren't able to meet their obligations. That is the purpose of my amendment, is to delete this requirement. Now, I don't have any doubt in my mind whatsoever that the state is going to do everything possible to meet its obligations, any more so than I have of the federal government meeting its obligation toward social security, but I do not think that we need to lock this type of language in the constitution. I think that it's going to bring on serious problems in the future. I therefore ask that we simply delete this language, and we leave it up to the state to provide the retirement system, and then go from there.

Questions

MR. DERBES

Mac, it occurs to me that the language that you point out--and I think correctly point out in the committee proposal as being a guarantee in the committee proposal--is in conflict with work that we've already accomplished; namely, that no judgment shall be exigible, payable or paid except from funds appropriated by the state. Do you have any opinion on that? Do you understand my question?

MR. ABRAHAM

Yes, I understand what you're talking about, but I question whether or not that there is a real conflict there, or whether this would supercede the language...the point that you just brought out, because we're saying here in this constitution itself that the state is going to have to guarantee these funds.

MR. DERBES

No, my point is that what is a guarantee? If you were saying on one hand that you were guaranteeing such benefits--if the state stands behind the benefits--and then you were saying on the other hand that no judgment shall be exigible, payable or paid except from funds appropriated by the legislature, then what kind of a guarantee are you really undertaking? Aren't you just essentially fooling yourself and creating a conflict within the constitution itself?

MR. ABRAHAM

No, because the other deals with a judgment against the state, and I question whether this would be a judgment.

MR. DERBES

Ultimately, Mr. Abraham, isn't any claim for benefits--if there were a problem with appropriation--isn't any claim for benefits what a court would allow, and what a court would enforce against the state?

MR. ABRAHAM

That's true. I see your point.

MR. DERBES

You see my point?

MR. ABRAHAM

Right.

MR. DERBES

So don't you really think that the committee language is therefore unnecessary for a previously established position that we have already adopted in this constitution?

MR. ABRAHAM

That's correct. I agree with you.

MR. MUNSON

Mr. Abraham, doesn't your amendment have the same effect that Senator De Blieux's amendment would have had that he withdrew?

MR. ABRAHAM

I don't know whether it would have the same effect because his dealt with other matters also, Bob, and this only deals with this one thing right here.

MR. MUNSON

Well, do you really think that it's really right and proper that a state employee or schoolteacher should have to pay into the retirement system his money, and the state put up their money, and then that employee is not guaranteed anything?

MR. ABRAHAM

It's just as proper as it is for me to have to pay Social Security, Mr. Munson, and I'm not guaranteed anything from Social Security, nor am I guaranteed anything from any other private annuity that I may have.

MR. MUNSON

Well, don't you think if your amendment passes, we might as well take the whole thing out of the constitution? There will be no purpose in it whatsoever if this amendment passes.

MR. ABRAHAM

I don't really see the need for this language at all in the constitution. I agree with you there. But, if we're going to put some language in the constitution dealing with

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retirement systems, I don't think we need to have all of it in here. I think all we need to say is simply that the state shall provide for a retirement system.

MR. CHATELAIN

Mac, I understand what you have in mind, but I'm a little bit confused in that--as Mr. Munson just stated--we have a retirement fund with an insurance company--a big insurance company. They guarantee that we're going to get certain benefits if we put our money into this retirement situation. What real objection do you have for the state guaranteeing these people this?

MR. ABRAHAM

I beg to differ with you, Mr. Chatelain. You have no guarantee that that insurance company is going to pay off. If it files for bankruptcy tomorrow, you're out of business.

MR. CHATELAIN

But, I mean what objection though, really, do you have that the state should not guarantee this, because they could conceivably raid this retirement fund or loan it out to some people who are unable to pay it back?

MR. ABRAHAM

Well, to begin with, the state does not manage its retirement system the way that this insurance company does. Secondly, the state is not in business for itself--it's not a private enterprise--so if it has to meet these requirements or these funds...put up these funds, then it's going to have to levy additional taxes in order to raise the funds. Now, if it had to go out and sell something in order to raise money, it might be different.

Further Discussion

MR. FLORY

Mr. Chairman, and delegates to the convention, I rise to object to the amendment on the same basis that I did this morning when Senator De Blieux offered to delete this precise language. Let me say this: one of the reasons that the state today can employ personnel is because of the retirement systems that they do have. Certainly the pay that they receive is not commensurate with their counterpart in private industry. Now, if you just want to say they are entitled to a retirement on paper, and you're not willing to fund it then I think we're being less than honest with the employees of the State of Louisiana. It's just that simple. It's immoral to tell people--and let them pay fifty percent of the cost into a retirement system--that you can have the system, but we're not going to fund it so that when you get ready to retire there's going to be sufficient funds there for you to draw your benefits. Now, I can't reconcile in my conscience, the people that say on one side, we're for retirement, and yet they say on the same time on the other side, we don't believe in funding it, and we don't believe in guaranteeing it. It's very simple to me; very simple. If a man pays into a system for certain benefits, he ought to be guaranteed if it takes the full faith and credit of the state, or whatever it takes, that when he gets ready for retirement, he meets all the conditions of the law for his retirement that the money is going to be there when he gets ready to retire. That's what this whole proposal does. Nothing more. Nothing more! I ask you to reject this amendment. This is a good proposal. It's in behalf of the people who pay into retirement systems to guarantee them their benefits are going to be there when they reach that retirement age. I think that we as employers--members of the state...citizens of this state--owe it to our employees to guarantee them that right that when they put their money in there and the state matches it, the money is going to be there when they get ready to retire. I ask you to reject the amendment.

Vice Chairman Casey in the Chair

Questions

MR. LANIER

Mr. Flory, if one of the systems did go bust for, say, a hundred million dollars or something like that, where would the money come from to make up this difference?

MR. FLORY

Well, I can't visualize any system going burst as you say for that amount of money, Mr. Lanier. But, let me say to you what this will do. It will force upon the legislature, whoever creates the retirement system, to exercise fiscal responsibility. In that every time a bill comes before the legislature...take for example, they want to pass a law to include one individual

into the system who can't qualify under the law today. The bill doesn't carry a fiscal note. Nobody knows what it's going to cost because they don't know how many people can meet that qualification to qualify for retirement benefits where they could not qualify before. Whatever the cost is, is a drain on the system, and yet the legislature at that time does not add additional funds to compensate for that additional financial burden on the system, so that in the future, I would suggest to you that the legislature would be extremely hesitant in passing improvements and increased benefits in retirement systems whether they be for the local level, whether they be for the state or whatever retirement system it might be without a fiscal note from an actuary saying exactly what it's going to cost and at the same time providing the fund for that additional increase in benefits. I think this is going to mandate fiscal responsibility insofar as retirement systems are concerned. I want to see that. I believe in it. I believe in guaranteeing to the employees their benefits whenever they get ready to retire. I don't think anybody has the right to take away from them something they had paid into, and was a part of their work contract during their work life.

MR. WINCHESTER

Mr. Flory, presuming that you agree that when the legislature enacts a law it is a contract with the people that allows them to do something or allows them not to do something, then don't you agree that a retirement fund which is enacted by the legislature is a valid contract, also?

MR. FLORY

In my judgment it is, Mr. Winchester. Absolutely.

MR. LANIER

Is the reason that this is constitutionally set up as a contractual relationship to comply with our provision in the Legislative Article that the state does not have immunity from suit with reference to breach of contract? Is that the reason this language is used here?

MR. FLORY

It was never considered in that light, Mr. Lanier. It was never discussed before the committee as you well know. At the time this language was developed by the committee, I don't believe we had adopted at that point--we may have, but we certainly...at least I didn't and I don't recall it ever being discussed in the committee, the legislative proposal as to the part that you mention of it.

MR. LANIER

Well, would that not be true that this would be--if this is a contractual relationship--that this is one of the exceptions to the sovereign immunity of the state, and that the legislature would have no control over suits brought under these contracts to secure this money? Is that correct?

MR. FLORY

I can't answer that, Mr. Lanier. I'm not an attorney, and I can't answer that.

Further Discussion

MR. MORRIS

Mr. Acting Chairman, delegates to the convention, I listened to Mr. Lowe's explanation, and I didn't altogether agree with it and I did vote against it, but this amendment really does exactly what Senator De Blieux's amendment did this morning. This says, as I view this article, that if an employee comes to work for the State of Louisiana, and he puts up seven percent of his money over thirty, forty years, this article says that he'll get that money back plus the interest, plus the state's portion, plus the state's interest, and guarantees him a certain amount of money to live on. If you believe that's right, you should vote against this amendment. If you believe that's wrong, then you should vote for Mr. Abraham's amendment. Now, he was saying something in connection to Social Security, and something in connection with the private sector which we have no control over. We're not writing legislation or constitutional anything for Social Security or for the private sector. We are in a position to do something for public employees, and if it's wrong to say that you're entitled to a certain benefit when you retire that you preagree upon, and you have no opportunity not to join the system; you have to join the system; the state puts up a certain amount of money, you do, and the interest brought in is supposed to arrive at certain benefits then you would have to vote for this amendment. But, surely, surely, working people who work on salaries all their life have no opportunities to save much

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money. Most of the monie that they would save are in a retirement system or in their home, and if they can't be assured in later life when they can't earn or their earning capacity is far below what it was a few years ago, this is the only thing they have to count on. Certainly, I would hope that we would guarantee our state employees that the full faith of the state is behind their retirement system. Thank you.

Questions

MRS. ZERVIGON

Is this provision in the present constitution?

MR. MORRIS

No, ma'am. I didn't have an opportunity, at any time, to vote on that constitution or a constitutional amendment; I think it should have been, Mrs. Zervigon.

MRS. ZERVIGON

Have the employees of the state been wholesale cheated out of their retirement benefits as they reach retirement age?

MR. MORRIS

No, the legislature has been very generous to them. I might say this: when I vote for this article, it's certainly, I'm not voting against the governor, the legislature, or anyone else, I'm voting to say "Yes, we think that you should be guaranteed a certain annuity when you retire," Mrs. Zervigon.

MRS. ZERVIGON

One more question: Mr. Flory said rather in passing in his remarks, that employees put up fifty percent of the fund and the state put up fifty percent of the fund. Do you know that to be a fact of the teacher's retirement fund?

MR. MORRIS

Yes, ma'am, I do know that to be a fact.

MRS. ZERVIGON

Exactly fifty percent and no more?

MR. MORRIS

No, it's not exactly fifty percent. Two years ago, the teacher was putting up more than the state was putting into the system, at that time.

MRS. ZERVIGON

So that it can be unequal in either direction?

MR. MORRIS

Yes, ma'am.

MR. LANIER

Mr. Morris, under the present...as I understand this Section (A), is that correct, that it only applies to teachers and other employees of the public educational system. Is that true?

MR. MORRIS

Very quickly, I believe Section (A), that's what it applies to. I may be wrong, but as I read it, I believe that is what it applies to.

MR. LANIER

Right. So, this particular type of protection here, as far as this section is concerned, does not cover other people outside the educational system?

MR. MORRIS

No, that's a wrong. It includes all public employees employed by the State of Louisiana.

MR. LANIER

The (A) part?

MR. MORRIS

No, I'm sorry; I'm sorry.

MR. LANIER

O.K. Now, under the present law of Louisiana--not this proposal--does any retirement system have this type of guarantee--this type of protection?

MR. MORRIS

Evidently, you didn't hear me. I just said to Mrs. Zervigon, no it didn't.

MR. LANIER

O.K. So, this is an added protection that we are talking about now?

MR. MORRIS

Yes, sir.

MR. LANIER

Would it be correct...well, let me ask you this, would... if this went into effect, would it require the state putting up some money at the present time into this system?

MR. MORRIS

Not to my knowledge, at this time. I listened with a great deal of interest to what Mr. Lowe said. He is working with the committee on retirement, looking into all retirement systems. I'm not an actuary. However, I follow the retirement systems very cloealy. With the language that was in there, the language that was taken out, there may have been a possibility. I don't know. I'm not an attorney; you, are. I don't think so now, at all; no, I wouldn't think so.

Further Discussion

MR. HERNANDEZ

Mr. Acting Chairman, ladies and gentlemen of the convention, I rise again for the sole purpose of reminding you that this is a contract between the employee and the employer. When the State of Louisiana lays down the guidelines and tells a teacher that you shall pay a certain amount, we will pay a certain amount, then when you are ready for retirement, when you have earned your retirement, you will receive so much money per month the rest of your natural life--that is a contract. To pass this Abraham amendment in conjunction with the one that Mr. Lowe passed a few minutes ago, it gives the state the right to go ahead--like they have been doing in the past--and just completely ruin the teachers' retirement system; it is going down. The teacher's retirement system, right now, is paying out more money than is going in and everybody knows that that is not fiscal responsibility. I would like to answer Mr. Lanier's question a while ago. Mr. Lanier, there is only one motive behind this and that is to stop fiscal irresponsibility in the legislature with these retirement systems--that is the only purpose of this amendment. This will--even with Mr. Lowe's amendment--it will protect the teachers who have been paying all of these years into this retirement system looking forward to that day that they could draw it. Now, the state cannot, the state will never want to be a party to not living up to its agreement like that and there is no danger of it in the immediate future. But, if it keeps going down--as it has in the last few years, paying out more than is going in--somebody is going to have to feed the kitty or it's going broke and that's just simply all there is to it. Well, this just will prevent the legislature from awarding benefits--awarding retirement benefits--to teachers and not put something in the kitty to take care of it; and that's all in the world it is. There is no intention of doing anything other than guaranteeing these people what they have paid for, what they are entitled to and have a right to expect.

Questions

MR. CHATELAIN

Pete, a question was raised a few moments ago as to what percentage the State of Louisiana pays toward the teachers' retirement and it was mentioned it's about half now; is that correct?

MR. HERNANDEZ

It is about half, Mr. Chatelain; of course, this has nothing to do with it. The legislature determines how much the teachers shall pay and how much the state shall pay. Right now, if I remember correctly, the teachers are paying seven and a half percent and the state seven percent.

MR. CHATELAIN

Well, let me ask you a further question that's tied to this. What percentage of the state school teacher's salary did the state pay across the board, you know, average of the state?

MR. HERNANDEZ

It's my understanding about seven percent.

MR. CHATELAIN

No, I'm talking about the actual pay of the school teacher... the teachers themselves.

MR. HERNANDEZ

You mean the retirement?

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MR. CHATELAIN

No, no, not the retirement, the teacher's salary. Doesn't the state pay the majority of it?

MR. HERNANDEZ

What percentage? That I can't answer, Mr. Chatelain; I don't know.

MR. CHATELAIN

I mean it would be a great percentage of it; don't you think?

MR. HERNANDEZ

Yes, sir.

MR. CHATELAIN

Well, that's what I was trying to see. So long as the employees, being the school teacher or the employee of that system, it doesn't make any difference what...it's still part of the total.

MR. HERNANDEZ

Yes, sir.

MR. CHATELAIN

Let me ask you one other question: Does...is the State of Louisiana behind the bonds of the dome stadium? Do they have the full faith and credit of the state behind those bonds?

MR. HERNANDEZ

That's my understanding, yes, sir.

MR. CHATELAIN

Thank you.

MR. STINSON

Mr. Hernandez, I wanted to ask this question of Jimmy Morris. Someone asked him if Section (A) provided to all employees? First, he said "yes," and then said then "only to school personnel." But, isn't it a fact that (B) applies to the other states, so they will all be in the same category; won't they?

MR. HERNANDEZ

Yes, sir. We are dealing now entirely with Paragraph (A).

MR. STINSON

I know, but (B) says "the same for other state employees" too; doesn't it?

MR. HERNANDEZ

Yes, sir, (B) says "the same thing for other employees."

MR. HERNANDEZ

Thank you very much. I would urge that--let me in closing--urge that you defeat the Abraham amendment; it would be a violation... could be a violation of the contract the state has entered into with many, many school teachers who have been looking forward to this retirement for a long time. I ask you, please, defeat the Abraham amendment.

Further Discussion

MR. ALEXANDER

Mr. Acting Chairman, delegates, ladies and gentlemen, I rise in opposition to this amendment for the following reasons: (1) when an employee pays into a system, in effect, he signs a contract. Now, this is a...this retirement system, rather, is a form of insurance and it's similar to a contract between an individual and an insurance company. Now, prior to about 1948 in the state, insurance companies could lapse a policy and subsequently paid the policy holder nothing if...no matter how long the policy holder had held that policy. Now, in effect, that's exactly what the proponents of this amendment want to do. They say to say, in effect, that you pay for thirty years and if we so desire as the other party to the contract, we will terminate the whole thing because it's convenient to us. Now, someone has alluded to the fact that suppose a system becomes actuarially unsound. Well, if the system has been established on an actuarially sound basis in the first place, then it will not become actuarially unsound at any time in the future because when an employee retires, if the system is actuarially sound, then the necessary funds to pay his pension for the natural remainder of his life--usually ten to fifteen years, if the system is sound--is invested at that time and placed in escrow, so, there is no reason for the system becoming unsound. Now, I submit to you that in this instance, as the contract says "the party of the second part and the party of the first part," the state is the party of the first part or the employer. The employee, or the teacher, or the school system

employee, of course, is the party of the second part and both parties have certain responsibility. I say to you, that you will render the whole system unsound if this amendment is passed. You will say to the teachers out there--who number in the thousands in this state, something like fifteen thousand or more and their families--that this system is unsound, it is not guaranteed and the state may at its design, its convenience, terminate the whole thing and kick you out. I'm asking you not to go along with the idea which, in effect, says "we are for retirement" as one would say to an individual "I think you should live, but I must cut your head off. I must separate your head from your body, but I want to see you live---that's a contradiction, ladies and gentleman. I'm asking you to defeat this amendment.

Further Discussion

MR. DERBES

Ladies and gentlemen, I won't take up much of your time. I just like to point out something to you, which I think is important and, that is, the provision that we adopted in the Legislative Article. It says in Section 14 as follows:--in pertinent part, that is that-- "the legislature shall provide for a method of procedure in the effect of the judgments which may be rendered in all cases against the state, its agencies, and political subdivisions" and finally and most importantly that "the public property and funds of the state shall not be subject to seizure and no judgment against the state, its agencies or political subdivisions shall be exigible, payable, or paid except out of funds appropriated--except out of funds appropriated--for payment by the state, its agencies or political subdivisions. That provision applies to all judgments. I suggest to you that there is no guarantee of any benefits provided in Committee Proposal No. 11 unless that guarantee is legally enforceable, but by virtue of a judgment. We have said elsewhere in our previous deliberations that such guarantees will not be enforceable by judgment, unless specifically appropriated by the legislature. So, what are we saying in Committee Proposal No. 11? We are making a promise which is not self-fulfilling. We are making a promise which, in fact, in my opinion conflicts with provisions previously adopted by this convention. If we want to make the promise and we want to put teeth in the promise, let's put a provision for automatic appropriation in the constitution. Now, maybe you don't want to do that. I don't want to do that either. But, otherwise, it seems to me to be just an empty promise--an empty promise--which is not ultimately enforceable in a court of law. A promise which is not ultimately enforceable in a court of law is merely discretionary on the part of the legislature.

I move the previous question. Thank you.

Questions

MR. ALEXANDER

Mr. Derbes, if you feel that it would more or less be an empty promise because maybe the state would be forced to raise additional money, could not the employees also be taxed? Could not the rate of taxation be raised on employees, so that the system could remain actuarially sound?

MR. DERBES

Yes. Reverend, I have no argument with the points that you made. I simply want to say that ultimately the problem rests with the legislature and the phraseology that has been suggested by the committee in Proposal No. 11 is nothing more, ultimately, than discretionary phraseology. It is not, in fact, ultimately, legally enforceable phraseology--that's my point.

MR. ALEXANDER

Your position, then, is that the language is not strong enough?

MR. DERBES

To accomplish the purpose that the proponents suggest should be the purpose, in my opinion, the language is not strong enough; the language merely represents an empty promise. I do not support that particular point of view. I express to you what I regard as a sound, legal opinion and nothing more.

[Previous Question ordered.]

Closing

MR. ABRAHAM

I just want to make a couple of points. First, there is no language in the present constitution which says that the state is going to guarantee these retirement benefits. Why do we need

to have it in this present constitution? Secondly, if we were to go out and purchase an annuity from a private insurance company, we would contract for a certain amount--we would pay a certain amount, we would get a certain amount. All right, this is a contract we have entered into, the same as the state would enter into a contract with the teacher that they are going to have a retirement plan---but, that's as far as that contract goes. This insurance company is not going to guarantee that it's not going to go broke tomorrow. The point was made up here that the state could say "All right, we are going to collect money from you people all these years, then, thirty years from now we are going to take it away from you." Well, I disagree with that. Once the state has contributed its funds to the retirement plan, the state can't take that money away. Once the employees contributed, it can't take that money away from them. It may have to discontinue the plan or something like that, but it can't reach out and get that money back and take these benefits away. The people will not lose these benefits unless something happens to the plan--that's the only way they can lose them--the same as it would happen anywhere else in this economy. But, the point is this also, what we are doing is we are saying to the public employees that we are going to guarantee you something that we don't guarantee to any other citizen of this state. The state does not guarantee to any other citizen that if the retirement plans that they belong to are going to be backed by the faith and credit of the state. Why should we do the same thing here? We are giving these people preference over others. Now, we talk about giving the public employees something, what about the rest of the citizens of the state? Why don't we give them the same benefits? Now, if we really want to treat all citizens alike, if we want to put a stop to the finagling with the retirement system--as some of you have said has happened in the past--then, let's let the state get out of the retirement system from the standpoint of having them manage the funds or be a part, possibly, of managing the funds and let the money go to a private insurance company. Let the contract be entered into and then the employees would get their retirement benefits from that insurance company. The legislature would not be able to come in then and raise automatically or arbitrarily raise the benefits unless negotiations were held and the thing were done in a proper business like manner; then, you would get some fiscal responsibility. So, I urge you to adopt this amendment. I don't think that this language has any business in this constitution. I don't think it's enforceable. I don't think it can work in any way. I ask you to adopt this amendment.

[Amendment rejected: 32-73. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment No. 1. On page 1, between lines 22 and 23, insert the following: "Investment of funds of retirement systems created under the provisions of this Paragraph shall be limited to federal, state, and municipal obligations."

Explanation

MR. WEISS

Mr. Acting Chairman, fellow delegates, the tempo of the present convention is such that from the past votes it's quite apparent that the retirement system--as spelled out in this proposal--is intended to be one that is both actuarially sound and fiscally stable. For this reason, I propose this amendment for your consideration in that I feel that both of these requirements are met by this simple introduction at this time under this section concerning the retirement system. First of all, actuarial soundness, as it has been pointed out, is much in the eyes of the beholder sometimes. But, it does depend upon two things: a front and a back end. The front end being the number of people in the retirement system that will be alive at a stated date. Secondly, the amount of funds that will be available to pay these people. Both of these are unpredictable at this time and this, of course, is what creates such instability in actuarial determinations. We cannot determine who will be alive or who will not be, at a certain date--this depends upon many, many factors and is quite unpredictable--this is not controllable. On the other hand, we can in great manner predict what funds will be available and by estimating two, to four, to eight, to ten percent, or whatever the investment may be, we can be assured of what this income will be in the retirement system rather than turning it over sometimes to faulty investments

by pension fund representatives. Occasionally, someone has made the suggestion that it would be wise for the State of Louisiana to purchase a seat on the New York Stock Exchange. One member's fee would probably take up enough commissions to save hundreds of thousands of dollars that are being spent on commissions otherwise or even, currently, to help state employees that retire before their time to collect interest--which they are not currently collecting--if they retire before their retirement date is established. I'm sure you realize that people retiring today before their retirement date are allowed to collect the amount of funds they put into the system, but do not collect any interest on those funds that they have put in over the many years. If this amendment was to be adopted, then only federal, state, or municipal obligations would be allowed in the retirement system fund investments. In this way, a predictable amount of income could be made available from the most secure source of investments at this time. The most stable, and secure, and monetary, and fiscal investments are state, federal, and municipal funds. I ask that this amendment be adopted to Section 1, Article VII.

Questions

MR. ALEXANDER

Dr. Weiss, under the provisions of your amendment you would limit investments to federal, state, and municipal government bonds. Now, suppose I was involved in a system where I took the highest bidder, if I could get four and a half percent and these municipal or state bonds would only yield three, then I took the private bonds or whatever I could buy. Now, supposed the system can purchase or invest at a higher rate of interest, you would still prohibit them from getting the higher rate of interest?

MR. WEISS

The highest rate of interest...of course, are you interested first in security or investments? The retirement system, as I say, I present this to this body because it is my feeling from the votes that have occurred that you--and you are one of the ones who spoke in this regard--are more concerned with security than investment. Now, which are you speaking of at this time?

MR. ABRAHAM [Alexander]

I'm speaking about..well, both security and investments, of course.

MR. WEISS

Well, as you know, it's difficult to obtain both security and investments. As your security increases, the investment income declines. As your security decreases, then your investment income increases--so, it's a reverse proportion. I think that would answer your question.

MR. ABRAHAM [Alexander]

Of course, Dr. Weiss, as you are speaking about a ten or fifteen year period then you may....I think you would tie the hands of any board or commission that would be handling this when you prohibit them from....

MR. WEISS

No.

MR. ABRAHAM [Alexander]

....don't you think so?

MR. WEISS

I don't think so at all. I think it would enhance the position of any board that makes these decisions by providing for them the finest type of security and investment and fiscal responsibility that any board could provide in any system.

MR. HERNANDEZ

Dr. Weiss, since we are asking the legislature to guarantee the benefits that are accrued to the school teachers and employees; don't you think that we should give the legislature the right to rule as to how these funds should be invested?

MR. WEISS

I asked you that same question, Delegate Hernandez, and whether we should not allow the legislature to determine the retirement system benefits, and you are the one who opposed it. You thought it should be constitutional. I feel for the same reason that this, too, should be constitutional matter.

MR. HERNANDEZ

I was not in favor of leaving it to the legislature because the... but, we are asking them to guarantee it. If we are asking them to guarantee it, don't you think that we should let them write the rules as to how the money will be invested since they do....

MR. WEISS

This is the most secure method of investment that anyone could be offered today--investment in government securities.

MR. HERNANDEZ

Thank you, sir.

MR. AERTKER

Dr. Weiss, you will agree that certainly this is the type of material that really is completely statutory; wouldn't you?

MR. WEISS

No. I feel that the entire retirement system is statutory. I find that this body feels otherwise. So, I think then this, too, should be in the constitution.

MR. AERTKER

Do you realize that if we, in the retirement system, had been operating under the provisions of this amendment as you propose that right now, this retirement system would either be practically bankrupt or else the employer and employees' contribution would be about doubled what it presently is in order to make up the income that we would have lost all of this time on investments that this retirement system has made?

MR. WEISS

I do not believe that to be a true statement. I think that, at the present time, if the economy goes in the direction it is now, many of these retirement funds themselves will be economically bankrupt. If they were funded in government, and state, and municipal securities, they would be far better off than in private investments at this time. For that reason, the people of the State of Louisiana would have less to pay back to these funds than if they were left in the hands of federal government and state municipal securities.

MR. AERTKER

Well, I, Dr. Weiss, I really would suggest that you check the history of the investments to verify the remarks that I made to you.

MR. WEISS

Are you speaking of the past twenty or thirty years of history of inflation?

MR. AERTKER

Yes, yes.

MR. WEISS

Have you considered all the history of depression and the loss of funds which may be in the offing at any time in the future?

MR. AERTKER

Well, of course, we haven't experienced too much of a depression in the last twenty years.

MR. WEISS

There were no retirement funds in the '30's, I believe, though, of any consequence.

MR. AERTKER

That's what I'm saying, I'm talking....

MR. WEISS

Well, this is a new problem. I would suggest that this be a new solution.

MR. AERTKER

.....I said the last twenty years. Yes.

MR. GOLDMAN

Dr. Weiss, I hope you can hear me... wouldn't your

amendment prohibit the investment of these funds and certificates of deposit in banks up to the amount insured by the United States Government?

MR. WEISS

No, for see these are obligations of the U.S. Government. If they're obligations secured by the U.S. Government they would be.. obligations.

MR. GOLDMAN

I've spoken to several people and they think that this would prohibit that unless the wording of your amendment was changed, or that added to it.

MR. WEISS

I'd be glad to accept an amendment in that regard, if you think the CD's are that significant, sir.

MR. MORRIS

Dr. Weiss, I had written down here U.S. Treasury notes and time certificates that I was going to ask what Mr. Goldman did. The language is very ambiguous, and I just wanted some clarification as to what you were really talking about.

MR. WEISS

The research staff has worded this, and it's my understanding the federal obligations would certainly include federal bills, federal bonds, federal notes, and the like.

MRS. CORNE

Dr. Weiss, do you know that investments have not heretofore caused the problems in the Teachers' Retirement System, but that fiscal irresponsibility in the granting of benefits, for which no contribution has been made, and no funding has been provided by the legislature has caused these problems?

MR. WEISS

I don't see how you can say that, Mrs. Corne, if that was the law, then the legislature would have acted according to the law. I think what you're saying aren't you, is that the legislature has not done what the retirement systems wanted them to do; is that not so?

MRS. CORNE

Correct. The legislature has, heretofore, granted benefits to certain persons in this state who have not contributed to the retirement system to the extent that they are collecting from the retirement system today, and that is what has caused the problem. As far back as I can remember, we have had no problems with investment... up until this period.

MR. WEISS

The retirement system for teachers is matched by these state funds at this time, is it not?

MRS. CORNE

Correct.

MR. WEISS

I think it would be wise to see that these funds are properly invested, fiscally, don't you think?

MRS. CORNE

Oh, yes, of course, I....

MR. CASEY

You've exceeded your time Dr. Weiss,

Further Discussion

MR. MIRE

Mr. Acting Chairman, fellow delegates, I hate to rise in opposition to Dr. Weiss' amendment. I know his intentions are very well intended here. However, when... in managing a retirement system today--and I can only say for the assessors' retirement system-- you need daily investments; you need to be able to invest this money practically on a daily basis, and to get your best possible revenue for your monies you cannot invest on a daily basis in government bonds and come out with a best possible return for the monies that you have to invest. Many times, your government bonds, or your municipal estate bonds are selling at a very low rate of interest. You can maybe contract with a bank for a... a ninety day or for a... six month certificate of deposits up to a hundred thousand dollars. Right now, banks are paying us nine percent, and they are also giving us... guaranteeing these deposits with municipal bonds, or state bonds, or federal bonds. In our... particular... laws governing our retirement system we can't invest in anything if it's not guaranteed by the

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federal government, one way or the other. So, we make them give us a letter guaranteeing our investments, even in banks, but, presently we're getting as much as nine percent on something like this. I don't know of any government bonds right now that you can buy for even six percent, and these are the kind of things ... unless at specific times, sometimes you can buy them, but you may have to wait six months. You may have to wait a year for a specific issue, for, say a ten, or fifteen or twenty year duration or maybe a forty year duration; this is a highly, highly, complicated system of investment. I don't think you can constitutionally... or put it in the constitution; I think you should leave it to the statutes. We can't do anything with our system without getting permission from the legislature; they have to first give us permission to do it. I would urge you to vote against this amendment, and leave it to the legislature to govern these retirement systems as a state. Should they ever go on a one system basis, then, they can do it on a one system basis. I'm not saying what stand I take on that, but I think it's their responsibility.

Questions

MR. WEISS

Delegate Mire, isn't it true that there are daily issues on treasury bills that could be bought on any given day?

MR. MIRE

Yes, sir, they... you can buy fed funds everyday, a bank can do this you see, but you're not... you're not setting out that that retirement system has that authority here. You're saying the only thing we can invest in is in federal, state, and municipal obligations, and this doesn't give us the permission to, you've got to be an association organized under the banking laws to be able to do what you want to do.

MR. WEISS

Do I understand then, that in the retirement system programs that they are more interested in the investment income than anything else?

MR. MIRE

Well, this is exactly what we're interested in, and this would not give us maximum income.

MR. WEISS

Well, wouldn't that conflict with the degree of security that is, in concern with retirement system?

MR. MIRE

All real... all retirement systems that look to have a good security to their funds demand that every nickel of it is secured by federal, or state, or municipal bonds, and this can be gotten from any state agency, from any bank, anybody who has money to loan, if you look for it.

MR. CASEY

Have you concluded....

MR. MIRE

Thank you very much, and I urge the defeat of this amendment.

[Previous Question ordered. Amendment rejected: 8-88. Motion to reconsider tabled. Previous Question ordered on Paragraph (A).]

Point of Order

MR. PEREZ

It's my understanding that we adopt a section, not a paragraph.

MR. CASEY

Mr. Perez, earlier this morning the convention suspended the rules to consider these paragraph letters by paragraph.

MR. PEREZ

I apologize, I wasn't here this morning.

[Paragraph (A) adopted: 87-14. Motion to reconsider tabled.]

Reading of Paragraph (B)

MR. POYNTER

Paragraph (B)
"(B) Retirement System; State Officers and Employees.
The legislature shall provide for the retirement of officers and employees of the state, its agencies and political subdivisions,

including persons employed jointly by state and federal agencies other than the military service, through the establishment of a retirement system or systems. Membership in any retirement system of the state or of a political subdivision thereof shall be a contractual relationship between the employee and the employer, the accrued benefits of which shall not be diminished or impaired, and the state or political subdivision shall guarantee any benefits payable to a member of the system or to his lawful beneficiary at his death or retirement."

Explanation

MR. AERTKER

Mr. Chairman, and ladies and gentlemen of the convention, as I explained to you this morning, this Paragraph (B) actually deals... does the same thing for the state employees as what we just approved for the school employees. We recognize that both of them do operate under different provisions and different formulas for retirement, and so, therefore, we felt that they should be kept a part and at the same time, we felt that by the introduction of this with the same statement, and the same guarantees, and the same benefits that we feel should be guarantees to them, that this would allow in the future for a one system of retirement if the... if in the judgment of the legislature and the various groups that this would be the proper thing. So, in view of the fact that we have discussed at some length the teacher retirement and all of the points related to that, I'm not going to take any more time of this convention to go into that. So, I would ask for the favorable consideration, and I would have to presume that we will have similar amendments, such as, Mr. Lowe made to ours which would pertain to this one that would make it consistent, and be the ... be the same as far as the reading of this goes. I ask for your favorable consideration of this Section (B).

Questions

MR. LANIER

Mr. Aertker, you and I have been discussing this little problem that I notice in the (B) part here. Why did the committee on line 32 of the first page, and line one of the second page, require that the police juries and municipalities guarantee the retirement systems along with the state, and with reference to education, the guarantee is only by the state and not by the school boards.

MR. AERTKER

Well, I ... really would think that they ... they just felt that the state employees would probably be more ... well, really more under the jurisdiction of... or ... have more responsibility for at the local level in many instances. I think the very fact that we talk about various other employees... other retirement systems that we have in operation might have had something to do with that. That was one of the things that was brought up this morning on it, the fact that teachers just have one retirement system and that is at the state level and they have no other choice of other retirement systems that that was the reason why they did not include and make the provision that the local school board had to guarantee this. I presume, that that might have been some of the rationale back of it.

MR. LANIER

Well, do you feel that with reference to these other systems that if they had the guarantee and protection of the state as the teachers do, that that would be adequate protection?

MR. AERTKER

Would you state that again, Mr. Lanier?

MR. LANIER

I said if we treated these people in Paragraph (B) the same way that we're treating the teachers, i.e., give them state protection for their retirement system, do you think that that would be fair treatment and adequate?

MR. AERTKER

I think that that would be consistent with what we did with the other, yes.

MR. LANIER

Now, did your committee do any type of a study with local

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governmental units as to what effect this requirement of a guarantee by the local governmental unit on the retirement system have on their capacity to secure bonded indebtednesses?

[Previous Question ordered. Amendment adopted without objection.]

MR. AERTKER

I don't believe any local groups appeared before our committee to call this to their attention, and so, therefore, I don't believe that they did give very much deliberation to that point.

Amendment

MR. POYNTER

Mr. Aertker sends up amendments at this time.

Amendment No. 1. On page 1, line 24, after the word "shall" and before the word "for" delete the word "provide" and insert in lieu thereof the following: "enact laws providing".

Explanation

MR. AERTKER

Mr. Chairman, ladies and gentlemen of the convention, actually I think this is kind of technical in nature and that is, instead of just saying "the legislature shall provide" all we're doing is just adding the words "shall enact laws providing" for the retirement of officers. I don't believe that we've destroyed any meaning there except that we just gave a clarification of what we did mean on it. I don't believe that we would have too much objection to the changing of the wording of this, and so I recommend its approval to you.

Question

MR. PEREZ

Under the present Parochial Employees' Retirement System no parish or municipality is required to participate in that system. My question with respect to your particular amendment-- which by the way, I'm in favor of-- is whether or not you would be opposed after this amendment to another amendment which would make it clear that the laws passed by the legislature could not mandate any parish to participate in these particular systems.

MR. AERTKER

I would have no objection to it, Mr. Perez.

[Previous Question ordered. Amendment adopted without objection.]

Amendment

MR. POYNTER

Mr. Lowe sends up amendments at this time.

Amendment No. 1. On page 1, line 31, after the word and punctuation "employer," delete the remainder of the line and delete line 32 in its entirety and insert in lieu thereof the following: "and the state or".

Explanation

MR. LOWE

Mr. Vice-Chairman and ladies and gentlemen of the convention, I hope that we can dispose of this amendment without any objection. Even, if you objected to it originally, I think you'd probably go along with it now for the sake of consistency, so that we would make the same application in the state employees that we made to the teachers. So, I'm not going to belabor the point; this merely is a consistent amendment and does the same thing in this section it did in Section A. I ask you to go along with it, without any objection either because you agree, or for the sake of consistency.

Amendments

MR. POYNTER

Next set of amendments to be sent up by Mr. Abraham.

Set of three amendments.

Amendment No. 1. On page 1, line 25, after the word "Louisiana" and before the word "its" delete the comma "," and insert in lieu thereof the word "and".

Amendment No. 2. On page 1, at the end of line 25, delete the word "and" and at the beginning of line 26, delete the words "political subdivisions".

Amendment No. 3. On page 1, at the end of line 28, add the following: "It may also provide for the retirement of officers and employees of any political subdivision of the state, including persons employed jointly by the state and any political subdivision thereof."

Explanation

MR. ABRAHAM

Ladies and gentlemen, Paragraph (B) of the article proposed by the committee states that "the legislature shall provide for the retirement for employees of the state, its agencies and political subdivisions." The present constitution now provides that the..... in section... Article XVIII, Section 9, that "the legislature shall provide for a retirement system for the employees of the state." Section 9.1 provides that it shall have authority to provide for this... for the employees of the political subdivisions. It is a permissive thing in the present constitution as far as the employees of political subdivisions are concerned; it does not require the legislature to provide for this. My language here simply intends to correct the proposed language, so that it is in conformity with the present constitution, where the legislature shall provide for the retirement, for the officers and employees of the state and its agencies, but that it may provide for the retirement of these various people who are employees of the political subdivisions, so that the requirement will not be mandatory. I ask your adoption of the amendment.

[Previous Question ordered. Amendment rejected: 38-61. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Lanier sends up amendments at the present time.

Amendment No. 1. On page 1, at the end of line 32, after the word "state" delete the word "or" and on page 2, at the beginning of line 1, delete the words "political subdivision".

Explanation

MR. LANIER

Mr. Chairman and fellow delegates, I think the convention has pretty well spoken that you wish to shape the (B) part substantially the same as the (A) part with reference to what would be covered and what types of guarantee should be given. I would like to point out to you that in the (A) part there is no provision that school boards guarantee the retirement systems, the guarantee is the guarantee of the state. However, in the (B) part, on line 32, in the top of line 1, on page 2, you will note that the political subdivisions, which would include your municipalities, police juries-- and I might add, under the definition in local and parochial government also includes school boards, drainage districts, lighting districts, ports and all types of other political subdivisions-- would be included in the term "political subdivision." I asked Mr. Aertker the question when he was presenting this article as to whether or not the protection of the state would be adequate for these people as it is for the teachers and I believe, he agreed with that proposition. If the state guarantees it, then it should be safe. If we leave "political subdivisions" in there we're going to get into all kinds of problems for several reasons: first of all, if you will recall under Section 16 of the Local Government Article, the local governmental subdivisions have a right to approve legislative increases in pension and retirement benefits with the exception of firemen and policemen. Now, I think that local governmental subdivisions would be more reluctant

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to support those types of increases, if they were required to guarantee the systems. If the state is required to guarantee it, there is substantial protection and this would not be an inhibition to the local governmental units who would have to also share this protection to veto the increase in retirement benefits. You have another problem here, as I see it, with reference to securing of selling bonds. If the local governmental subdivision is required to guarantee the system, then, if the system was to default, how would you pay that which was required to be paid? The way this would be done, I assume, would be that the local governmental unit or the political subdivision would have to float a tax to make up the difference. Now, I believe this would be in the nature of a lien on all of the taxable property in the district to protect these retirement systems. But, if you go to sell bonds ... a bonding attorney would have to take cognizance of this provision and advise anyone who was a prospective purchaser of the bonds that the taxable property in the district would be subject to this requirement that the local governmental subdivision, or the political subdivision guarantee these bonds. Now, quite frankly, I don't know what effect that would have on the interest rate, and that was why I asked Mr. Aertker whether or not any research had been done on that point, as to what effect such a guarantee or hold harmless would have on interest rates on the bond market. But, I think it is certainly a factor that would have to be considered by any bonding attorney in certifying the bonds for sale. So, for this reason, I believe that these people who are covered in the (B) part should be given the same protection as the people in the (A) part, i.e., the protection of a state guarantee. I think we're courting a lot of problems if we try to extend the guarantee to the local governmental subdivisions themselves. If we're going to remain consistent between (A) and (B), then I would suggest that since we haven't required the school boards to guarantee the teachers' retirement systems, that we not require the political subdivisions to guarantee their retirement systems. The guarantee of the state is adequate, and I would move the adoption of the amendment. I'll be happy to answer any questions.

Questions

MR. HAYES

Mr. Lanier, could you clarify this distinction between the school boards being the political subdivision of the state?

MR. LANIER

I believe, Mr. Hayes, we had an amendment to the Local Government Article that included school boards under our definition that we had in Local Government that they would be a political subdivision under our Local Government definition. That's my recollection.

MR. HAYES

So, this would not affect the school boards in no ways?

MR. LANIER

I don't see how it could affect the school boards because the school boards are covered. The teaching people, and the people in education are covered in (A). The school boards are not required to guarantee these systems. All I'm asking for is that the other units be treated the same way.

MR. SUTHERLAND

Walt, do you make in reference, in the statement to the fact that the school boards do not have to guarantee a retirement system, do you know of any school board that has its own retirement system, other than the state retirement system?

MR. LANIER

I have no idea. In other words, I have no personal knowledge, but, as I understand it from the debate, that there is only one retirement system for schools, and that's the state retirement system for all education.

MR. SUTHERLAND

Do you know that it's a fact that other political subdivisions may have retirement systems that are not state retirement systems?

MR. LANIER

I'm sure that's possible, but another problem here--and I discussed this with you on this particular point--about the sheriffs and the clerks of courts and the assessor. They are constitutional state officers under the present constitution, and will remain so under our new constitution. We say in this (B) part that "the members....that there shall be a contractual relationship between the employer and the employee." I think that raises first a question as to whether these sheriffs and clerks and the assessors, who are they an employee of? They are constitutionally sanctioned officers who are elected by the people. Further, these

people's retirement benefits, as I understand it, are paid for as a percentage from all of the taxable bodies in the parish that they are domiciled in, which could lead to the conclusion that every taxable district in the parish would have to guarantee the retirement systems of the sheriff, the clerk of court and the assessor. For example, Lafourche Drainage District Number 12 in Lafourche Parish, or the city of Thibodaux, or the Lafourche Parish Police Jury, I think this would lead to a very unusual situation if we try to do this. Now, as I understand it from my conversation with you, it was the intent, when this was written, that the unit that had the retirement system, would be the one to guarantee it. But, quite frankly, my feeling, Mr. Sutherland, is that the way this thing is written, it does not accomplish that. I think the best way to cure the problem would be to treat the (B) people like the (A) people, and just take out "political subdivision," and let everybody be protected by the state.

MR. SUTHERLAND

I would agree with you, Walt, except for the fact that the state may not want to enact laws providing for a system that they don't have control over it, and they don't want to guarantee it.

MR. LANIER

I believe they are now mandated to do so by the language of this thing, as it's presently written.

MR. SUTHERLAND

Well, again, how do you mandate them to do something? Do you go in there and say, "You've got to pass a law"?

MR. A. LANDRY

Mr. Lanier, I think you said something about that the school boards have been placed in the Local Government Committee as a political subdivision. Is that correct?

MR. LANIER

That's my understanding. I think Jack Burson was the one that had the amendment. I'm not sure, but my recollection is that they were classified as a political subdivision under our definition. That was by floor amendment, I believe.

MR. A. LANDRY

Is it also true that the percentage of taxes which goes to the retirement system of the clerks, the sheriffs and the assessors also comes out of the school board taxes?

MR. LANIER

I'm not personally aware of that, but Sheriff Martin advised me of that. Knowing Sheriff Martin, I'm sure that that's accurate since he collects them.

MR. A. LANDRY

Well, I can assure you that it is, and therefore, if we insert "political subdivision" wouldn't it also make the school board responsible for guaranteeing our systems?

MR. LANIER

I hadn't thought of that, Mr. Landry, but it may well be doing that by the back door.

MR. ALEXANDER

Mr. Lanier, I'm assuming that you have equated "school boards" with municipalities and police juries. But, isn't there a distinct difference in that police juries and municipalities may tax; they may sell bonds unlimited. Unlike school boards, which may not legislate the tax, there are many things that they may not do without the direct authorization of the legislature. I think it's a distinct difference--is it not true--that a municipality, which is more or less independent...school boards, for example, get most of their or much of their revenue from the state, whereas municipalities do not. So, isn't that a distinct difference, and municipalities should be made to guarantee that system?

MR. LANIER

There is this distinction, Reverend. Between municipalities and parish governments, police juries in that under the Local Government Article, the municipality and the parish government is classified as the local governmental authority which has substantially more powers than single purpose districts. But, I believe that under the term "political subdivision," as defined in the Local Government Article and which I am seeking to take out of this provision, in that definition you would have drainage districts, lighting districts, sewerage districts, port commissions, levee districts, which are single-purpose

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districts, like school boards, and like school boards would be covered by this provision.

MR. ALEXANDER

Of course, the distinction I'm trying to make is that a teacher in Union Parish is guaranteed a minimum wage by the state, whereas the mayor or councilman from Farmerville or from Rayville may not guaranteed a salary other than by the municipality itself, or by the parish. That is the distinction I wish you would take into consideration.

[Previous Question ordered. Amendment adopted: 83-17. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment sent up by Delegate Perez as follows: Amendment No. 1. On page 1, line 30, between the word "be" and the word "a" insert the words "optional and".

Explanation

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, if you will recall a little earlier, I asked the question with respect to whether or not under (B) it was intended that all political subdivisions of the state would have to get into these retirement systems because under the present law, the political subdivisions have the option as to whether they get in or get out. Under the present system, there are many, many political subdivisions, police juries and so forth that are not members of the parochial employees retirement system. Therefore, all I have done--and there shouldn't be any objection--on line 30 added "optional and" so that the retirement system of a political subdivision would be optional.

Questions

MR. DE BLIEUX

Mr. Perez, you recognize the fact that each one of these retirement systems would have to be provided for by legislative act. Isn't that true?

MR. PEREZ

Yes.

MR. DE BLIEUX

Couldn't the legislative act provide whether or not it's optional or not?

MR. PEREZ

Well, I don't know from the reading of this. That's what bothers me, Senator, because it makes it appear as if it's mandatory that everybody get in the system, and as the system is now organized, it is not mandatory with regard to political subdivisions, with regard to parishes; they get into the retirement system, if they want to, or they don't if they don't want to. But, I'm concerned about the wording as to whether this would require everybody to get in.

MR. DE BLIEUX

Well, if the legislature doesn't provide for the retirement system, you wouldn't have any. Isn't that correct?

MR. PEREZ

Well, if you'll read from line 24, it says "the legislature shall enact laws providing for the retirement of officers and employees of the state, and its agencies and political subdivisions." So, in my judgment, that could be construed to mean that every political subdivision of the state would have to get into the parochial employees' retirement system. That's what I wanted... just wanted to be sure that it would conform with the present situation which provides that you get in if you want to get in, if you elect to get in.

MR. A. LANDRY

Mr. Perez, in an attempt to protect the political subdivisions, maybe you are doing something a little different as we already have in retirement system for clerks, sheriffs and assessors. Membership in those systems are mandatory. They have to belong. I'm just wondering, when you read the sentence, "membership in

any retirement system of the state, or other political subdivisions, thereof, shall be optional." Then, wouldn't you automatically do away with the mandatory provision that we now have in our retirement system?

MR. PEREZ

Well, with regard to...I don't believe that you are a political subdivision as such. I wouldn't think it would apply to you.

MR. A. LANDRY

We're not a political subdivision, but it says, "Membership in any retirement system of the state, or of a political subdivision thereof, shall be optional" if we adopt your amendment.

MR. PEREZ

Well, I'll tell you, sir, as a member of Style and Drafting, if there's any question about this, I'll be glad to clear it up when we get in Style and Drafting and get it straightened out so that it applies only to the parochial system.

Further Discussion

MR. WINCHESTER

Mr. Acting Chairman and delegates, I am opposed to this amendment. I spoke to the research staff, and they agreed that this amendment would adversely affect the assessors' retirement, the sheriffs' retirement, and the clerks' retirement fund. I, therefore, ask for the defeat of this amendment.

Further Discussion

MR. FLORY

Mr. Chairman and delegates to the convention, I ask that you reject this amendment and pay very close attention to it because what it does is to say that the employees of the state who now belong to the state employees' retirement system. For example, it's optional as to whether or not they are going to participate in a retirement system. It is now mandatory that they participate in the retirement system. Let me tell you something: I've had some thirty years of experience in the negotiation of retirement systems. As a young man when I first started, I could never see the wisdom of a retirement system. In order to make it actuarially sound, you almost have to make it mandatory that if you're going to have a system, that you have to have it mandatory that everybody participate in that system. As the people grow older, as they belong to the system, they then begin to realize the value of the system. But, that first step is an extremely hard step to make so that if you make it optional, the only people that are going to participate are those who approach the age of retirement. Now, what he says is that he wants to make it optional for those employees on the local level. I submit to you that make it optional as to whether or not they have a system, but if they have a system, then it's mandatory and that the benefits provided in the system are guaranteed to the recipient at the time he gets able to retire. I ask you reject this amendment. This is a very serious amendment. I don't believe that Mr. Perez intended it to be this way. I hope not. But, that's what it does. I ask you to reject the amendment.

[Amendment withdrawn.]

[Previous Question ordered on Paragraph (B). Paragraph (B) adopted: 89-11. Motion to reconsider tabled.]

Reading of Paragraph (C)

MR. POYNTER

(C) Financial Security for Surviving Spouses and Children of Law Enforcement Officers in Certain Cases.

[Motion to waive reading of Paragraph (C) adopted without objection.]

Explanation

MR. FLORY

Mr. Chairman and delegates, Mr. Aertker had to go to an important meeting at the school board office and asked me if I'd explain Paragraph (C). Those of you that recall several years ago there was a number or several police officers killed in this

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state in the performance of their duties in the apprehension of of criminals. The legislature in its wisdom saw fit to submit to the people a constitutional amendment to appropriate funds or set up a procedure whereby the survivors could be compensated by the state in these instances. What this Paragraph (C) does is to carry that forward in the same atmosphere with these changes. It adds to the law enforcement officers the capitol security police, the guards at the state-owned hospitals, the security officers on the campuses of state-owned colleges and universities, guards at state penal institutions, law enforcement personnel of dock boards and levee boards, and persons on the payroll of the state or of any political subdivision of the state in training to become a law-enforcement officer, as defined in this subsection, and other state employees whose primary responsibility is the fulltime protection of state property. Those are the people that have been added to the existing constitutional provisions in the constitution today. The requirement in the past constitutional provision was that they had to be killed while in hot pursuit or the apprehension of a criminal. What this does is to change that requirement to say that if he's killed in the course of the performance of official duties or activities, while on or off duty, undertaking in the protection of life or property. That's the changes that are in the present constitution as proposed by Paragraph (C) of Proposal No. 11. There was some discussion in the committee as to whether or not this should be put into the statutes. I think the final conclusion was we needed some authority to appropriate funds through the legislature to private citizens in these particular instances. I think that basically at that time, also, we didn't have the vehicle by which to put it in the schedule, and to carry it forward in that fashion. That's the reason that it appears in Committee Proposal No. 11 in the fashion in which it does. Mr. Chairman, I'll be happy to answer any questions.

Questions

MR. NEWTON

Mr. Flory, there are presently constitutional provisions similar to this?

MR. FLORY

Almost identical with the additions that I've mentioned, Mr. Newton.

MR. NEWTON

Now, you say it was the committee's feeling that it was necessary to have some, sort of, authorization in the constitution?

MR. FLORY

Well, if you remember, the language, I believe, we have already adopted, that the legislature can only appropriate funds for public purposes, so that the authority to appropriate to private individuals is necessary somewhere in the constitution, in my judgment.

MR. NEWTON

Well, did you know, I would disagree with you on that, but even if that were true, do you think it's wise to put dollar amounts in a constitution? Isn't that the sort of thing that leads to constant amendments to the constitution?

MR. FLORY

This is one of the things that we considered: recommending that it be put in a statute. But, this was the dollar amounts contained in the present constitution. There was a great hue and cry in the state at the time this was adopted by the people by an overwhelming majority, and we chose to carry it forward in this fashion.

MR. PEREZ

I'd like to know why in lines 28 and 29 you take out, as one of those type officers who covered, probation and parole officers including juvenile probation and parole officers because isn't it true that many times, they are subjected to the same dangers of enforcement of the law that an ordinary policeman would?

MR. FLORY

I can only tell you that the committee followed the present constitutional language, I believe, Mr. Perez--and I don't have the present constitution before me--but, I believe that's in the present constitution, that they wanted to exempt, honorary... these some parishes... some places have honorary law officers, and they chose not to include those people, and as to the juvenile probation and parole officers, I can't answer that.

MR. PEREZ

Well, I had no objection, of course, to the honorary law

enforcement officers. But, my question to you was that didn't you know that state probation and parole officers, including juvenile probation and parole officers, many times are called upon to enforce the law and are put in just as much danger to their life as might be a regular policeman or sheriff's deputy?

MR. FLORY

I wouldn't argue that point at all, Mr. Perez.

MR. PEREZ

But, would you have any objection to the deletion, so that if in the event they were killed in enforcing the law, that they, too, ...that their widows would also have the benefits?

MR. FLORY

No, sir. I wouldn't have any objection because what we're trying to do is to protect those people who are charged with the responsibility of law enforcement, and if they are killed, their survivors suffer the same hardships as any other law officer's, in my judgment.

MR. CHAMPAGNE

Mr. Flory, I probably should say "do you know," but the fact is that I am in complete agreement with doing something for these people's families. The only thing I disagree with is that by listing individually which what, I would rather "leave, provide, and mandate" the legislature to do so, and by doing so and not stipulating a dollar figure, then we don't have to change it every time we might get a new type of individual that would be something in the next ten years, we might have some other people who deserve to be in there. Simply mandating the legislature to do this in this instance, and provide for it, would probably take care of it rather than have it listed and itemized in the constitution. Do you have any objection?

MR. FLORY

Mr. Champagne, as I recall the present constitutional provision and the jurisprudence on those provisions, there has been some question in the minds of the court and the attorney general of this state in certain cases where law enforcement personnel were killed, as to whether or not they were actually in hot pursuit, etc. and who was and who was not covered by the broad terminology used in the present constitutional provision so that the committee chose to, more or less, enumerate those situations, those personnel who we knew were charged with fulltime responsibility of law enforcement.

MR. CHAMPAGNE

Yea, sir. But, you understand that the...I'm not in objection to all law enforcements, whether they're in hot pursuit or not. I think they ought to get it. But, the point is when you started enumerating it, you may run into the possibility of leaving somebody out or having somebody that shouldn't be in there. That's the question I have.

MR. FLORY

I agree. We considered that, and that's one of the reasons for the very numerous additions of categories that we list in the proposal.

MR. LANIER

Mr. Flory, did I understand you correctly to say that there was a constitutional problem with not explicitly covering police officers like this?

MR. FLORY

No, I said, as I recall the present constitutional provision, the language in the constitution, I believe there's some jurisprudence on whether... who was covered, who was not covered, and whether or not that a person killed was actually in the hot pursuit of the apprehension of a criminal at that time. For example, let's say that a motorcycle officer chasing someone speeding, and his motorcycle slipped out from under him and he was killed. There's been some question as to whether or not he was actually in pursuit of a criminal because the person had not been convicted of speeding, etc.

MR. LANIER

But, that's under the present law. That's not necessarily true under our new constitution.

MR. FLORY

No, sir.

MR. LANIER

As a matter of fact, this article is entitled "Retirement and Survivor's Benefits," isn't it?

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MR. FLORY
Yes, sir.

MR. LANIER
Why wouldn't these police officers be covered under the (B) part dealing with state officers and employees?

MR. FLORY
I don't recall any specific reason, Mr. Lanier, other than the committee considered this in a separate fashion. Actually, it was a separate proposal, and we incorporated this in order to present to the convention a more concise proposal.

MR. WINCHESTER
Mr. Flory, do the words "Financial Security for Surviving Spouses and Children," do they carry any obligation other than the ten thousand and the five thousand in this?

MR. FLORY
No, sir.

Chairman Henry in the Chair

Amendments

MR. POYNTER
The first set of amendments sent up by Delegate Jenkins. One change in it.
Amendment No. 1. On page 2, delete lines 4 through 32, and insert in lieu thereof the following:
"(C) Compensation for Surviving Spouses and Children of Law Enforcement Officers. The legislature (and here's the change--change "may" to "shall") shall establish a system for compensating the surviving spouses and dependent children of law enforcement officers and personnel, as may be defined by law, who suffer death as a result of injury sustained in the performance of official duties or while engaged in the protection of life or property while on or off duty."
Amendment No. 2. On page 3, delete lines 1 through 29, both inclusive, in their entirety.

Explanation

MR. JENKINS
Mr. Chairman, delegates, the purpose of this amendment is to take out the lengthy detail which is itemized in (C) on these pages 2 and 3. Really, the only purpose of (C), I think, is to provide an exception to the section in the Revenue, Finance and Taxation Article which prohibits the use of public funds for private purposes. It appears that this compensation to surviving spouses and dependent children might be considered a gratuity and, thus, perhaps, some constitutional authority is needed. But, certainly, the authority that would be needed would not extend to the detail of defining law enforcement officers and defining specifically how their remedies are going to be enforced, etc. So, what this attempts to do is simply to establish the authority for such a system without going into great detail. It leaves the definition of law enforcement officers and personnel up to the legislature. I think it leaves, really, all of the details--particularly as regard to, say, off duty personnel and things like that--up to the legislature because it will be up to the legislature to define with precision what sort of system would exist under this provision. This is a good program under our law for compensating these survivors. It's worked very well in the past, and just in order to insure it and in order, particularly, to reduce this length, I'm offering this amendment.

Questions

MR. PEREZ
Mr. Jenkins, the only question I have is that when you say, "The legislature may establish a system for compensating surviving spouses," I'm concerned as to whether or not public funds could be used unless it's more specifically stated. So, my question is whether or not you would be agreeable to an amendment after the word "system" which would say, "including the use of public funds"?

MR. JENKINS
I wouldn't object to that, Mr. Perez. I think that it's implicit in this. I don't know that it's necessary, but I wouldn't object to that.

MR. ABRAHAM
Woody, your . . . the last line there says, "or while engaged in the protection of life or property while on or off duty." Now, would this include officials or a patrolman or someone who may be working, say, for a private agency, or may be working for . . . directing traffic after a football game, or something like that, that are protecting life and property? I mean that. . . I don't think that's the intent of your amendment.

MR. JENKINS
The intent of it, Mack, is to allow the legislature to define and explain under what circumstances law enforcement officers would be entitled to such protection on or off duty when engaged in protecting life and property. It's not to say that in every circumstance involving protection of life or property on or off duty they would be covered, but to allow the legislature to establish a system, which system would provide that under certain circumstances they would be covered.

MR. ABRAHAM
Well, would not your intent be served, then, by simply saying, "or injuries sustained in the performance of official duties"--period--and leave that last part of the sentence out? Then the legislature can decide whether the official was on or off duty, or however it may be.

MR. JENKINS
I think the legislature could do that, yes, by defining official duty; I think the same purpose could be served--either way.

MR. ALEXANDER
Mr. Jenkins, am I assuming that the legislature may unify the system unlike the way it is now where it may favor one and, you know, not favor the other? Is it possible?

MR. JENKINS
Well, as I understand the system now, Reverend, it works so that the attorney general sues the legislative auditor to get these funds on behalf of the surviving spouse and any dependent children. I think that that is the system--that method of initiation of suits by the attorney general. I think that would continue. Now, if it has worked in some sort of arbitrary fashion in the past, I'm not aware of it. But I think that the attorney general, probably, is going to be looking out for these law enforcement personnel fairly well.

MR. ALEXANDER
Well, may I inform you that sometimes it works and sometimes it doesn't? There's some cases now. But, would it not also be better if the system could be underwritten by an insurance company?

MR. JENKINS
I think that would be a very reasonable thing to do, and this allows the flexibility for that, as I appreciate it. So, I urge the adoption of the amendments.

[Previous Question ordered. Amendment adopted: 93-1. Motion to reconsider tabled.]

Amendment

MR. POYNTER
I have one amendment. I don't have the copies. This has just been previously discussed. Mr. Perez sends up an amendment to the Jenkins amendment.
Amendment No. 1. On page 2, in Floor Amendment No. 1, proposed by Delegate Jenkins, and adopted by the Convention on December 5, on line 3, after the word "system" and before the word "for" insert the following:
", including the expenditure of public funds,"

Explanation

MR. PEREZ
Mr. Chairman and ladies and gentlemen of the convention, if you were listening a little earlier when I asked a question with respect to the use of public funds for the establishment of a system for compensating these people; in my judgment, the words, "The legislature may establish a system for compensating" is not sufficiently clear in light of the fact that we will have the absolute prohibition against the expenditure of public funds for private purposes under what is now Article IV, Section 12,

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of the constitution. To make it abundantly clear and to be sure that the public funds could be expended in this system, after the word "system" in the Jenkins amendment we'll just add the words, "including the expenditure of public funds," to make it clear that public funds could be used in such a system that was developed by the legislature.

Questions

MR. CONROY

Mr. Perez, I agree with your objective, but don't you really confuse the situation as a result of 1 (A) and (B), each of which dictates that the legislature shall establish retirement systems and say nothing about funds? Don't you create a cloud on what we've done in (A) and (B) if you insert this language with regard to funds here, because we don't say anything about funds in (A) and (B)?

MR. PEREZ

Well, those are quasi-public bodies, and I believe that this is possibly in a little different category. But, I do believe that we should make this abundantly clear, and if we feel there's a necessity to make the other ones clear, we might do it also. But, I'm concerned when you say that you're going to establish—this is a system for a direct payment which is much different than a retirement system. This is a payment to one particular surviving spouse or a group of people which is a little different than a general system of retirement benefits. I just believe it's necessary to make it perfectly clear.

MR. CONROY

Well, I believe that you'll find that under (A) and (B) they both contemplate, in addition, payments to widows. It says, "lawful. . . payments to lawful beneficiary at his death or retirement," and I just didn't see the distinction.

MR. PEREZ

Well, I just believe that because of Article IV, Section 12, or its counterpart, that it should be made clear that these words should be in there.

[Previous Question ordered. Amendment adopted: 82-10. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment sent up by Mr. Velazquez, Jack, Warren, Miller, Maybuce, Martin, Johnny Jackson and Ourso.

The instructions have to be changed. It was passed out with just Mr. Velazquez' name on it; a number of other people have joined. The instructions need to be changed. I think it would work basically like this:

In Floor Amendment No. 1 proposed by Mr. Jenkins and adopted by the Convention on today, on line 6 of the text of said amendment, immediately after the word "death" and before the words "as a" insert the following:

"or who suffered death before the effective date of this constitution, but not earlier than July 1, 1972," (that's inserted, now).

Explanation

MR. VELAZQUEZ

Mr. Chairman, fellow delegates, this is a relatively simple amendment that attempts to correct several injustices that are prevalent right now in the state. At the time of the Howard Johnson incident in New Orleans, a young man was killed who was a police cadet. He was not a law enforcement officer as defined by the 1921 Constitution, so the statutes written pursuant to that constitution did not apply to him. At this date, his widow and his children have not yet collected the amount stipulated in the 1921 Constitution. Now, when State Representative Connor introduced. . . attempted to introduce special legislation to extend the benefits specified in the 1921 Constitution to this particular individual, he was told it would require a constitutional amendment and a statewide vote. Since constitutional amendments were catching hell, he decided the best thing to do would be to wait until C.C./'73 and attempt to do it this way. As it is written, it extends. . . it makes retroactive the period of time which this money could be collected under. . . as defined in our present proposed constitution to July 1, 1972. By this means, it would include from three to ten individuals. The

persons would still have to go through administrative or judicial treatment to be declared eligible for this thing. I had a letter from the attorney general which I didn't bring, unfortunately, because I didn't think we'd cover this particular committee proposal today. But, he said it appeared that three people would definitely be covered, perhaps five, but no more than ten persons. The overall effect is to allow these individuals to get justice if a court of competent jurisdiction or proper administrative procedure supports it. I urge your favorable adoption of this amendment.

Questions

MRS. ZERVIGON

Mr. Velazquez, I would just like to understand as nearly as I can exactly what the intent of your amendment is. The intent of your amendment is to include in the coverage that we are specifying cadets and other police personnel. Is that correct?

MR. VELAZQUEZ

Yes, ma'am, who died retroactively to July 1, 1972, which is the only date which I can find relatively reliable figures. Beyond that date, the figures become somewhat garbled as we've left the fiscal year.

MRS. ZERVIGON

Well, you said you didn't bring the attorney general's letter with you, and I sympathize with that because it's tough to have things brought up at the last minute. But, let me ask you a little something about the phrasing of that letter. As I understood Cadet Harrel's widow's position, she was disqualified under two parts of the old constitution. Number one, Cadet Harrel was not an officer, and it specified that they be an officer. But, in addition to that, Cadet Harrel was not in hot pursuit. He was shot from an alley as he just kind of stood there. He wasn't pursuing anybody and didn't really know there was anybody out there, as I understand it. Did you, in your letter, ask the attorney general how many people would be covered by the two changes that you are making, or did you only refer to the change in the status of the police personnel?

MR. VELAZQUEZ

I made as specific a statement as I could. But, I feel this way: this man is a policeman; he's just as dead whether he was standing in an alley or whether he was in hot pursuit. His wife is a widow, his children are orphans no matter whether he was in hot pursuit or whether he was scratching his head at the time.

MRS. ZERVIGON

I understand that, Mr. Velazquez, but the question is: the three to ten people that you are talking about, I was just wondering the figure that you got three to ten people is in response to what question?

MR. VELAZQUEZ

It was in response to a question directed toward this particular incident, but wanting to be broad enough to get specific coverage; in this case it is July 1 date which gave some specific data. If I tried to go beyond that date, as I felt I should have, the data became very confused as to numbers. With this date, I have a relative idea of numbers. I thought it would be unfair to come before the convention with a date and not be able even in relative terms to give you a number.

MRS. ZERVIGON

It mentioned that we were changing the concept from hot pursuit to scratching your head?

MR. VELAZQUEZ

That would be taken care of, I'm quite sure, by the legislature, if they wish to handle it that way. But, I feel that if we don't have the specific retroactive act, then these. . . this gentleman in particular, who died, his widow will get nothing and his children will get nothing. I feel this is unfair; it's also unfair to similar officers in the state. I think the number is approximately ten, but if there are more, I think that ten thousand dollars for losing your father is only a nominal and token amount.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, as much as I regret, I think that I have to oppose this particular amendment. I

understand what Mr. Velazquez is trying to do. He's trying to take care of a situation and give benefits to a person who did not have any benefits at the present time, under the present constitution, or even at the time that this particular constitution would be adopted. This is retroactive legislation is what it amounts to. If we're going to give benefits to this particular person, why not go back to some of those other people who were killed earlier than before this was enacted into law? I certainly would feel like that those people that were in this particular category which could not receive benefits at the time that he was. . . actually suffered death should be taken care of in the future. We should correct our laws for the future. But, I don't feel like we can afford to go back. This would be setting a very bad precedent going back and trying to pick up somebody who didn't have any benefits at the time. I just feel like that this is bad. It's in the form of legislation, and we should not do it. It's a matter of principle of what we can do with public funds. Now, this is payment out of the public treasury, taxpayers' money or public funds. I just don't feel like the taxpayers would meet this with approval.

Further Discussion

MR. JACK

Mr. Chairman and members, I arise in support of this amendment of which I am a coauthor. I first want to answer Senator De Blieux's argument in which he's against it. If you will note, the coverage for this cadet or any others goes back to July 1, 1972. Now, bear that in mind for this simple reason: this is not going way back to like a net catching a lot in the past. Ordinarily, any death action, there's a lawsuit; you got a year from when it happens. As I understand from listening to Mr. Velazquez and talking to him before I became a coauthor on this, action was taken in the legislature. Nothing could be accomplished because of him being a cadet. That carried on for the others that may be in it, as high, I believe, the. . . Mr. Velazquez said of maybe up to eight or ten. Now, ladies and gentlemen, that's a small amount to pay--ten thousand dollars--to widows and children of officers or cadets -- law enforcement people who lose their life. It's in Jenkins' amendment, "who suffered death as a result of injury sustained in the performance of official duties or while engaged in the protection of life or property while on or off duty." Now, that is not like the remark made of while scratching their head. That's while protecting your life and protecting your property. I'm surprised somebody hasn't objected to it being when they're off duty. Let me tell you, if somebody is after me to shoot me, I sure want that off duty policeman to intervene and protect my life. Now, this is a good amendment, and I hope you'll pass it. Thank you.

Further Discussion

MR. J. JACKSON

Mr. Chairman and ladies and gentlemen of the convention, I join Mr. Velazquez in authoring the amendment. I don't know--and I would like for someone to explain to us as a coauthor, does the Jenkins amendment really allow the legislature to provide a statute whereby the kinds of coverage that we are seeking would be available? I understand an objection. . . to one objection raised by Senator De Blieux that we cannot as a constitutional body do anything retroactively, as such. I wanted to ask him the question. I understand in terms of retroactive legislation, that refers to the legislature or any body such as this not being able to take away a right, retroactive, and it's limited to that rather than affording a right because I would assume that if that was possible, that some of the legislation, particularly on a national level that we have existing today, would not exist. Now, if. . . I believe and I've said constantly that I do have some problems with the administration of the criminal justice system. But, I do believe in fairness to everybody; if you're going to allow a cadet in training to be placed in a posture whereby he's going to perform certain duties--he's going to ride in patrol cars, he's going to, in most cases, be used for undercover work--and if he's married or if he has heirs, then you ought to afford to his family and his heirs those same rights given to law enforcement officers. I remember the bill well because I coauthored with Mr. Connor, and I do understand that there was a constitutional limitation that prevented us from introducing the statute. I would have no objection, and I guess Mr. Velazquez would have to as lead author, you know, give his point, but if we can get some sort of assurance that the Jenkins amendment does provide or enable the legislature to do it, then I say. But the question I raised in

opposition to that, or I raised as a question, if we can constitutionalize the surviving. . . the benefits of members of law enforcement--so called legally defined law enforcement officers--if we can constitutionalize that, then I just wonder if we run into some problems legislatively, if we don't provide within this constitution. Those are my concerns. But, I just wanted to clear up an understanding that you can, and the legislature can pass retroactive laws provided that they don't take away a right. But, they can extend a benefit.

[Previous Question ordered. Record vote ordered. Amendment adopted: 87-10. Motion to reconsider tabled.]

Amendment

MR. FOYNTNER

Mr. Flory sends up amendments as follows:

Amendment No. 1. On page 2, line 4, in Floor Amendment No. 1 proposed by Delegate Jenkins and adopted by the Convention on December 5, on line 2 of the language added by that amendment after the word "Enforcement" delete the word and punctuation "Officers." and insert in lieu thereof the words and punctuation "Officers and Firemen." and on line 5 of the language added by that amendment after the word "enforcement" delete the word "officers" and insert in lieu thereof the words and punctuation "officers, firemen,"

Explanation

MR. FLORY

Mr. Chairman and delegates, this amendment merely adds the word "firemen" wherever you have the words "law enforcement personnel and firemen." The firemen now enjoy a similar provision, but it's in the statutes so that they were satisfied to leave the details of their benefits in the statutes of the state. However, if there is a question--as I believe that there is--upon the authority of the legislature to appropriate funds to the payment of private individuals, all this then does is give to the legislature the right to continue those payments that had been made under the statutes as now prescribed in the law--all it does is add the word "firemen."

Questions

MRS. ZERVIGON

Mr. Flory, some of what we are doing troubles me. We are applying it to these people on and off-duty protecting. . . in the protection of property. It doesn't say "it necessarily when you are off duty it has to be an official action" it just says "protecting life and property." Isn't it the case that some of these people when they are off duty are in other people's employ?

MR. FLORY

That's correct and would not be covered.

MRS. ZERVIGON

It doesn't say they wouldn't be covered if when they are in other people's employ, they are doing something to protect property.

MR. FLORY

It says "while in the performance of official duties."

MRS. ZERVIGON

Or. . . .

MR. FLORY

Or. . . .

MRS. ZERVIGON

Or, is disjunctive.

MR. FLORY

Or while engaged in a protection of life or property.

MRS. ZERVIGON

Or is disjunctive, it doesn't say "and" it says "or."

MR. FLORY

It says "or in the performance. . . . let me read it.

MRS. ZERVIGON

Well, the official duty doesn't. . . .

MR. FLORY

"Injury sustained in the performance of official duties or

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while engaged in the protection of life or property while on or off duty." I presume in the legislature--and I know in the firemen's statute now--provides that. I'm sure that the legislature would provide that same....carry forward that same provision. The problem coming, Mrs. Zervigon, is that if a person--let's take a law enforcement officer who is off duty and who....a uniformed officer is in the process of apprehending a criminal and he calls on help and the off-duty officer joins with him and is killed in the process, then he likewise would qualify. The same thing would affect the fireman who is....who goes in in the protection of property in the fire or in a riot situation, even though he may be off duty, he would then qualify for the same provisions as he does now.

MRS. ZERVIGON

I have no objection to that, Mr. Flory, so long as it's your opinion when you say "the legislature shall provide a system" that the guidelines and rules within that system could say that it doesn't apply to people who are, at the time, in someone else's employ.

MR. FLORY

I would not think that....and the reason for the latitude given to the legislature in defining the system, on or off duty, is to take into consideration the questions that you raised. I would not think that the legislature would allow payment or appropriate funds to survivors who were--let's say a person was killed while in the employ of a private individual--let's take a grocery store, for example, who hires a guy off duty to protect his private property--and I'm sure that the legislature would not allow that to...would not appropriate funds to compensate those survivors. So, this is within the latitude of the legislature to prescribe the limitations under which these people could qualify for the appropriations.

MRS. ZERVIGON

Well, is it also your opinion that with regard to off-duty officers and firemen, the legislature could say that if they are being negligent in some kind of way, their survivors are not taken care of?

MR. FLORY

I looked at your amendment and the thought that struck me was a case that happened in your city, and I would have to object to it on the basis that I don't know who would determine in the case of a motorcycle officer chasing someone could qualify to say at the point that the motorcycle slipped out from under him and he was killed, whether he was negligent in the operation of that vehicle--in that motorcycle.

MRS. ZERVIGON

Mr. Flory, I'm talking about off-duty officers.

MR. FLORY

Well, I'm talking about on or off. Let's say he's got a motorcycle he owns privately, and he rides in it and joins in it, theoretically. Then, the question comes in to determine whether or not he was negligent in the operation of the vehicle. Now, this is the only question that it raises in my mind. I agree in concept with what you are attempting to do; I don't know how to phrase it.

MRS. ZERVIGON

But, it's your opinion that the legislature could set guidelines like that if they weren't susceptible to proper interpretation, and they could change them over the years. But, they could say that you don't have to be reimbursed if it's clearly through your own negligence that you were injured.

MR. FLORY

Well, I think the legislature could do that without question and would without question.

MRS. ZERVIGON

....because isn't it true that the various insurance companies have guidelines that say the same thing and manage to enforce them?

MR. FLORY

Absolutely correct, there are limitations in practically all life insurance policies to my knowledge.

MR. LANIER

Mr. Flory, in LaFourche Parish, we do not have any public firemen--every firemen in Lafourche Parish is a volunteer firemen. Does your amendment propert to include volunteer firemen?

MR. FLORY

To be honest with you, Mr. Lanier, I did not....the question didn't come into my mind at that time. There are two major systems in the state to my knowledge that are volunteers---your area and in the Gretna area, I believe. Under the language as it's drawn, yes, I think they could if defined by the legislature. It was my intent that it be paid firemen as the law now says under the supplemental pay, etc.

MR. LANIER

So, it's not your intent to include volunteer firemen?

MR. FLORY

It was not my original intention, although, I think if the man was killed in the performance of his duty that would then be a question of the legislature to define whether or not they wanted to appropriate funds in that manner.

MR. LANIER

Now, my second question is: As I understand your amendment to the Jenkins amendment, line 5 would then mean or say "enforcement officers, firemen and personnel." Since enforcement would no longer include per...define personnel, who would be the personnel that we are talking about if you stick firemen between "enforcement officers and personnel"?

MR. FLORY

I can't visualize at the moment, I'm thinking of the radio alarm people, etc., but they would not be called out or be subjected under normal circumstances to fighting fires or in a riot situation unless it were in extreme cases where, however, it's possible that they could be. I'm talking about those people who operate the alarm systems.

MR. LANIER

Don't you think that maybe this might more properly be written as "law enforcement officers and personnel and firemen," rather than "law enforcement officers, firemen and personnel, because that leaves personnel unmodified?

MR. FLORY

Well, I think we are really quarreling over words; I don't think it makes a great deal of difference because if you look at the intent of it, it's to let the legislature set the guidelines. I think in the definition established by the legislature, they could easily define the situation which you are talking about. I don't see any problems.

MR. LANIER

Under your amendment, as drawn, could the legislature direct local units of government to pay these benefits?

MR. FLORY

No, sir---this is state appropriations.

MR. LANIER

These are intended to be state appropriations....

MR. FLORY

Yes, sir.

MR. LANIER

....and, not financial burdens upon local government?

MR. FLORY

No, sir, it was never intended. The program now in existence in the constitution and in the statutes as relates to firemen and policemen are state appropriations.

MR. CHATELAIN

Mr. Flory, I know that you have good intentions here. But, let me cite you a situation in Lafayette Parish. We have six incorporated cities. Of those six, there is only one city that has a paid fire department and that's the city of Lafayette. The five other cities have all volunteer fire departments. I can see a problem, as Mr. Lanier sees, in our volunteer fire department because when a fire comes about, any public spirited citizen--whether he is employed or not by the city--will jump to the cause of the volunteer fire department. What is your intention, insofar, as these volunteer firemen are concerned?

MR. FLORY

Let the legislature define as to whether or not, in their wisdom, they want to cover them or not. Let me give you one of the problems as it relates to the volunteer firemen that I'm aware of--there are some in this parish. One of the problems

is that there has been a legal question as to how you go about providing workmen's compensation even in the event that the man is killed, although he may be a fireman in the performance of his official duties as a fireman fighting a fire, killed or injured while performing that service. Now, the question has come up legally as to how do you go about providing workmen's compensation benefits for him and his survivors of that? I think under this the legislature could, perhaps, I don't know I haven't really given any study to it and haven't discussed it with my attorneys. But, I think they could in those particular situations make statutory provisions for these types of coverage. I think it's something that the legislature, in its wisdom, ought to go into and make an intelligent study on whether or not they, with state funds, want to appropriate these funds for volunteer firemen.

MR. CHATELAIN

Well, I understand that the Jenkins amendment--just passed by this convention--is, in fact, a permissive provision, not a mandatory provision, is that correct, sir?

MR. FLORY

No, sir. He changed the word "may" to "shall."

MR. CHATELAIN

In other words, then you...the legislature shall provide for a system then?

MR. FLORY

A system...and let the legislature, in its wisdom, determine what kind of system and to what extent and to who shall be covered under that system in the broad category of "law enforcement officers, personnel and firemen."

MR. JENKINS

Gordon, really, if you are going to maintain the intent of the amendment that I put in there, you are going to have to take that "firemen" and put it after "personnel" because the intent was to say "law enforcement officers and law enforcement personnel." By putting that "firemen" in between them, you make the word "personnel" ambiguous. It just seems to me if you are going... I know this is a pretty bunged up section as it is with these amendments. But, I think to be logical and consistent you need to do that.

MR. FLORY

Mr. Jenkins, I have no objections to doing what you're saying. But, the amendment really places "firemen" in two places in the amendment and in order to pursue it, I would have no objections to withdrawing it and doing it in that fashion, other than, the problem you run into as far as the withdrawing and resubmitting the amendment. But, I don't think it makes a great deal of difference because what you have done here is to give to the legislature the authority to make the definition as to the boundaries of the system and who shall participate in the system. So, I don't really see any problem where you put it before or after--that's why I would have no objection if you come later, change it from where it is in my amendment to put it after the word "personnel," because I know what we are talking about when we talk about firemen, even those people in the radio alarm system wear uniforms and are firemen as such; so, I would have no problem in that area. I think what you are talking about, perhaps, is secretaries, etc., which you do not want to cover--nor do I--nor would they be subjected to these types of situations we are talking about, in my judgment.

[Previous Question ordered. Record vote ordered. Amendment adopted: 93-8. Motion to reconsider tabled. Previous Question ordered on Paragraph (C). Paragraph (C) adopted: 103-3. Motion to reconsider tabled.]

Reading of Paragraph (D)

MR. POYNTER

"Paragraph (D) Retirement Systems; Notice of Intent to Propose Amendments or Change; Publication. No proposal to amend or effect any change in existing laws or provisions of the constitution relating to any retirement system in this state shall be introduced into the legislature unless notice of intention to introduce such proposal shall have been published, without cost to the state, in the Official Journal on two separate days, the last day of which is at least thirty days prior to the introduction of such bill into the legislature. The notice shall state the substance of the contemplated law or

proposal to amend the constitution. Every such bill shall contain a recital that the notice has been given."

Explanation

MR. MORRIS

Mr. Chairman, members of the convention, this section has to do with intent to change the retirement system and the procedure which you should follow in making the changes. The proposed constitution says that "you must advertise twice in the Official Journal on two separate days, the last day which would be thirty days prior to the introduction of this bill." It retains the requirement that "such notice states the substance of the contemplated law or proposal contained in the notice that shall be given." The constitution today provides that "any change in the constitution must be advertised on three successive days, thirty days prior to the regular session." This just changes it to twice, thirty days prior to the introduction of bills for intent to change the retirement system. It's a very simple thing and it is contained in the present constitution.

I will be glad to answer any questions.

Questions

MR. GOLDMAN

How can you publish it in the Official Journal without cost to the state? Isn't the Official Journal the State Times and Morning Advocate or something like that?

MR. MORRIS

Anybody, Mr. Goldman, that wishes to make a change they do so--the advertisement--at their own expense, rather than the state's expense.

MR. GOLDMAN

Oh, I see---it's done by the person that proposes the change?

MR. MORRIS

Yes, sir.

MR. WINCHESTER

Why do you think that this publication is necessary? I'm not objecting. I'm just trying to find out the reason.

MR. MORRIS

Mr. Winchester, someone asked me that a while ago. Someone in my office, prior to the legislative session, collects these things so that we will have some idea of what is contemplated change wise with the retirement system--particularly in the teacher retirement system, which I know best--so, we have some understanding, some knowledge of what is contemplated in changing the retirement system. I think it puts people on notice. Particularly, the public on notice that there is a change contemplated and what section they are contemplating changing.

MR. FLORY

Mr. Morris, what we did in this particular provision was to make it coincide with the legislature session, I believe it was, where you have to give notice of publication for passage of local and special laws. This really, in effect, is to put on notice local governments who have retirement systems that you are going to introduce into the legislature, changes that might affect the actuarial soundness of the funds or make it increase the benefits so they will know ahead of time what is going to be proposed and this ties in with the other provisions that we have already adopted.

MR. MORRIS

Yea, sir.

MR. BROWN

Mr. Morris, why does this have to be in the constitution, it just seems to be just a statutory as it can be, and why.... what is the importance of putting this in the constitution? Why are you so locked in on that?

MR. MORRIS

Senator Brown, I hate to say just because it's in the previous constitution. But, we do think that it is a good safeguard that at least it gives people who watch this sort of thing the opportunity to be on guard for it and it could be, probably, handled by statute. But, we felt like it should be in the constitution.

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MR. J. JACKSON

That provision would allow not only for persons who want to adversely effect a retirement system, but also those persons who may want to—let's say a legislator—who may just want to on the spur of the moment, increase one which would ultimately result in really throwing the retirement system out of balance... further out of balance. Right?

MR. MORRIS

It very easily could be, Representative Jackson.

MR. J. JACKSON

Right.

[*Previous Question ordered on Paragraph (D). Paragraph (D) adopted: 98-3. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 91-14. Motion to reconsider tabled. Pre-*

vious Question ordered on the Proposal. Proposal passed: 92-15. Motion to revert to Reports of Committees adopted without objection.]

REPORTS OF COMMITTEES
[*II Journal 908-909*]

Report of the Secretary
[*II Journal 909*]

Announcements
[*II Journal 909*]

[*Adjournment to 11:00 o'clock a.m., Thursday, December 6, 1973.*]

93rd Days Proceedings—December 6, 1973

Thursday, December 6, 1973

ROLL CALL

[93 delegates present and a quorum.]

PRAYER

MR. LANDRUM

Our Father, we thank Thee once again for all Thy blessings. Being so good and kind, enable us to rise once again to come and to work on what is supposed to be a document for our people. We pray that Thou would give us understanding--not only understanding, but give us the will to do what is pleasing in Thy sight. Look on the families of each and every delegate here--not only delegates, but everyone connected with this convention. Bless our state as a whole and our nation. In the name of Christ we pray. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

Personal Privilege

MR. ASSEFF

Mr. Chairman, delegates, since I was caught gambling by winning two hundred dollars on the football pot, I'm giving a birthday party this afternoon around 3:15 for the sixteen delegates of the convention who admit they have a December birthday, and for the staff of the convention. We'll have a birthday cake, homemade nut cakes and date rolls made just for you, toasted pecans and sandwiches. If you want anything else, you better tell me before this afternoon. Thank you.

REPORTS OF COMMITTEES LYING OVER [II Journal 910]

PROPOSALS ON THIRD READING AND FINAL PASSAGE

[Motion to call Committee Proposal No. 9 from its regular order adopted without objection.]

Reading of the Proposal

MR. POYNTER

Committee Proposal No. 9, introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare, and other delegates, members of that committee:

A proposal making provisions for human resources by providing for state and city civil service.

The proposal has, as I appreciate it, but one section. I presume you all want to waive reading that for the time being.

[Motion to waive reading of Section 1 adopted without objection.]

Explanation

MR. RACHAL

Mr. Chairman and members. . . delegates to the constitutional convention, I consider it an honor and a privilege to have this assignment this morning and to discuss with you the workings of the committee which led to the proposal which is before you. While the details of the various sections will be discussed as the sections and subsections are considered, an overview of the committee's proposal and a background of the events and the considerations which went into the development of this proposal seems to me to be necessary. Let me begin by stating that few individuals are neutral on civil service. Either you are for it or against it, and then the differences begin. Of course, if you are against a civil service or a merit system, of course, you see no need for its inclusion in the constitution. If you are for a civil service system, then the disagreement comes as to what extent should detail be outlined in a constitution to guarantee its continuance. The development of the civil service system in Louisiana has great similarity to the establishment of the federal civil service system. By that, I mean that the federal system was formally and permanently established by the

Civil Service Act of 1883. That act's passage followed several attempts on limited basis by various agencies and authorities. However, the passage of the Civil Service Act of 1883 was enhanced by the increasing disgust with the "spoils system." While I'm not as familiar with the details of the development of the formal civil service system in Louisiana, Louisiana, too, had made several attempts at merit systems with port authorities, police systems in New Orleans and several others. She experienced terminations by the legislature, all of which preceded the establishment of the civil service by constitutional amendment in 1952. In spite of the fact that the civil service and the merit system are common words, there are many different concepts regarding what they, in fact, mean. While it may be generally agreed that either the combination of words mean employment based on merit, and that it should be a guarantee against the mass firings that comes along with the motion with changes of administration, actually, the operation of a civil service system and the problems caused by inept operations lead to the basis of attacks for the system and not actually the principle of a civil service system itself. Making a differentiation has been the challenge of the subcommittee which considered the civil service system for the Constitutional Convention '73. In our subcommittee's deliberations we heard from many. We heard from individuals representing the present. . . the operation of the present system, individuals representing personnel organizations, personnel associations and personnel councils. Individuals appeared before us who were responsible for the setting and monitoring of the policies of civil service as it now exists in the states. Those were the commissioners of the present system. Individuals who are responsible for carrying out the policies, the personnel directors--the state personnel directors, the personnel directors for the city civil service in New Orleans, personnel directors for the Jefferson Parish system--and we heard from individuals representing employees. Without a doubt, and as they stated, all wanted a continuation of the guarantee of a civil service system in the State of Louisiana. While they differed on the amount of details, that is the verbiage that would be in the new constitution, they nevertheless felt that constitutional guarantee was necessary to avoid the undesirable past practices. A study of the testimony that was presented to our committee identifies several rather common pertinent issues in regards to civil service system. They are as follows: the concerns dealt primarily with the membership of the commission--the number of members and the representation of that commission of the citizenry of the state and of the city where city civil service existed. There were expressed concerns about the nomination of the commissioners to the commission, the autonomy of the commission--its rule-making powers. The differences came on the degree to which the commission should have absolute rule-making power. Another issue mentioned to us several times had to do with the rule of three in regards to the certification of persons for consideration for the filling of vacancies. Tremendous criticism was made of the testing and certification procedure, but primarily testing and the means of identifying the person allegedly to be the best qualified to fill a vacancy. There were concerns about the relevancy of the tests to the jobs, and the validity of the tests in predicting the success of individuals on the job. The other of the more pertinent issues had to do with the appellate system. A study of the testimony and the discussion with those appearing before us indicates that as a minimum, or to some degree a maximum, constitutional coverage should be a creation and establishment of the system and the commission; that these factors should be in the constitution; that the constitution should not only guarantee the continued existence of a civil service system, but that it should point out the commission, the nonpolitical appointment of commissioners, the protection of commissioners from arbitrary removal, the powers of the commission--that is the degree and the absoluteness or like thereof of the commission--and a uniform pay plan, and an appeals procedure as well as the guarantee of funds for the administration of a merit system. There were strong opinions on several issues by many, and although not volunteered in, statements by others were concurred in such as the necessity for the expansion of the commission, or at least make commissioners more representative of the citizenry. Another issue had to do with the administrative officer--making the administrative officer of the commission qualify under the classified service. It was against that background, fellow delegates, that Committee Proposal No. 9 was developed. I would like to, for the sake of enhancing discussions, hopefully, on the proposal, it seems imperative that we point out the. . . what in totality the committee's proposal does. In answer to the discussions and the pleas of the persons appearing before us in our own deliberation, Committee Proposal No. 9 establishes, or in another way guarantees the continuation of a civil service system in the state. It defines its intent for both the state and city civil service systems. It establisha

or continues state and city civil service commissions, but changes the composition of those commissions and the nominating authorities. It provides for the compensation of the commissioners and the filling of vacancies and the removal of the commissioners. It changes the name of the chief administrative officer and places him in the classified service. It provides for classified and unclassified positions with listed exceptions. It provides for the appointment and promotion, continuing veterans preference. Provides for layoffs and for disciplinary action for the violation of regulations, with the rulings of the commission subject to the review of the court of appeal in which the commission is located, and it continues the rule-making power of the commission along with the restriction against political activity. It provides for the acquisition of permanent status by employees, the continuation of all existing laws which are not inconsistent with those changed in this proposal. It further guarantees the appropriation for the operation of the system, and it provides enabling rights for cities and parishes to establish civil service systems of their own. I must point out that this proposal finally cleared the Committee on Education and Welfare after most of the items escaped the subcommittee with votes of four to three, with some being broken by the vote of the chairman. Subsequently, this proposal passed the committee by a vote on individual subsections of ten to nine. I suggest to you that in the discussion of this proposal, that we attempt to differentiate between what is necessary to be in the constitution to guarantee a civil service system in the state and of that which it is felt must be in the constitution, to what extent must it be spelled out in detail. Against that background, Mr. Chairman and fellow delegates, we are prepared to discuss the Committee Proposal No. 9 on human resources having to do with civil service. I would like to suggest, Mr. Chairman, that we discuss the proposal by subsections beginning with Section 1, Subsection (A).

MR. HENRY

You want to suggest that we discuss it or handle it like. . . Are you suggesting we handle it like we did the retirement proposition, yesterday, or you just want to discuss it?

MR. RACHAL

I would like the differentiation from the retirement one of yesterday, since that required sixty-seven votes.

MR. HENRY

So, you want to discuss Paragraph (A) of Section 1 at this time?

MR. RACHAL

Right.

Explanation

MR. RACHAL

Under Section 1, Subsection (A), the committee's proposal, for the most part, retains the definition that appears in the present constitution--the 1921 Constitution. It retains the service. . .it defines the state civil service and the intent and the agencies to be included, and the positions therein. That is: under Section 1, Subsection (A), number (1) having to do with state civil service. I don't think, Mr. Chairman, that I need to read that particular subsection.

Amendments

MR. POYNTER

Amendments sent up by Delegates Flory, Rachal, Toca, Haynes, Wisham, and many other coauthors.

Amendment No. 1. On page 1, line 14, following the word "Service" and before the period "." insert the word "Commission" and delete the remainder of line 14 and delete lines 15 through 28 of page 1 and in lieu thereof substitute the following:

"There is hereby created and established a State Civil Service Commission to be composed of seven members who are citizens and qualified voters of the State of Louisiana. Five members of the Commission shall constitute a quorum. The seven commissioners shall be appointed by the governor for a term of four years as follows:

The presidents of Louisiana State University and Agricultural and Mechanical College at Baton Rouge, Louisiana; Centenary College at Shreveport, Louisiana; Louisiana College at Pineville, Louisiana; Southern University at Scotlandville, Louisiana; and Xavier University at New Orleans, Louisiana, shall each nominate three persons, and one member of the commission shall be appointed by the governor from the three persons nominated by each such president. Two members of the commission shall be appointed by the governor by his own selection. Vacancies by expiration of

the term of office or otherwise shall be filled by appointment of the governor from nominations made in like manner by the president (or his successor) of that institution . . .

who nominated the member whose place is being filled or by the governor on his own selection in cases of a gubernatorial appointee. It shall be the duty of the presidents of Xavier University and Southern University to, within thirty days after the effective date of this constitution, make such nominations, and thereafter within thirty days after any vacancy occurs, it shall be the duty of the presidents of each of said institutions to make such nominations. Within thirty days of the expiration of the terms of the members of said commission previously nominated by the presidents of Loyola University and Tulane University and serving at the effective date of this constitution, it shall be the duty of the governor to fill such vacancy by his own selection.

All appointments as hereinabove provided shall be made by the governor without confirmation by the Senate."

Amendment No. 2. On page 1, line 29, following the word "Service and before the punctuation period "." insert the word "Commission" and delete the remainder of line 29 and on page 1 delete lines 30 through 32 and on page 2, delete line 1 and in lieu thereof insert the following:

"There is hereby created and established a city civil service commission for each city having a population in excess of 400,000 according to the latest decennial census of the United States. Each such city civil service commission shall be composed of five citizens who are qualified voters of the city in which they serve, three of whom shall constitute a quorum. One member of each city civil service commission shall be appointed by the governing authority of the city by its own selection and one member of such commission shall be elected by the employees of the city in the classified service from their membership. In the city of New Orleans, the presidents of Tulane University, Loyola University of the South and Dillard University shall each nominate three persons and one member of the commission shall be appointed by the governing authority of the city of New Orleans from the three persons nominated by each president. In other cities subject to the provisions of this section, three members of the commission shall be nominated from any of the three universities named in Section 1 in accordance with the procedure therein provided. The terms of the members of the city civil service commission shall be four years. Within thirty days of the effective date of this constitution, it shall be the duty of the president of Dillard University to make such nominations to the governing body of the city of New Orleans. Within thirty days from the effective date of this constitution an election shall be held within the classified service of the city of New Orleans for the purpose of naming a member of said commission. Vacancies by expiration of the term of office or otherwise shall be filled by appointment of the governing body, or by election, or by nomination as herein provided in the same manner as the original appointments were made, and it shall be the duty of the governing body to make such appointments or conduct such election of the said presidents to make such nominations within thirty days after the occurrence of any vacancy.

(3) Coverage, Exclusions, Amendments. Except as may be inconsistent with the provisions of this article, all of the provisions of Article 14, Section 15, of the Constitution of 1921 providing for a system of classified civil service for the state and for cities are hereby retained and continued in force and effect. The legislature upon the favorable vote of two-thirds of the elected membership of each house may amend, repeal or otherwise modify any of the provisions of Article XIV, Section 15, of the Constitution of 1921, which are continued by this article or amend, repeal or otherwise modify any provision of this article except that the legislature may not abolish the system of classified civil service in the state and in the cities of over 400,000 population according to the latest decennial census of the United States nor may it include in the classified civil service system of such cities employees of the fire and police departments, who are expressly excluded from said classified service.

Amendment No. 3. On page 2, delete lines 2 through 32 and delete in their entirety pages 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17.

Recess

Vice Chairman Casey in the Chair

[Quorum Call: 98 delegates present and a quorum.]

Explanation

MR. FLORY

Mr. Chairman and delegates, we've come now to a point in the convention that I consider to be, perhaps, one of the most grave matters of concern for some sixty-thousand state employees in this state, as well as the thousands of employees of the city of New Orleans, and the thousands of firemen and policemen throughout this state who have enjoyed for a number of years the constitutional protection of civil service. At the present time, under the state civil service, the Civil Service Commission is composed of five members, appointed by the governor from a list of nominees...At the present time, the Civil Service Commission is composed of five members, appointed from a list of three names submitted by the following five colleges and universities in the state: Centenary College, Louisiana College in Alexandria, Louisiana State University in Baton Rouge, Tulane University in New Orleans and Loyola. The amendment that is before you at this time changes that composition of the commission to be as follows: instead of a five-member commission, it should be a seven-member commission. The three colleges and universities, Centenary College, Louisiana College and Louisiana State University are retained as three of the nominating organizations. In place of Tulane and Loyola, I submit the Southern University in Baton Rouge and Xavier University in the city of New Orleans to be the five nominating colleges and universities for appointment to the commission, with the addition that the governor can appoint from throughout the state, two persons to compose the seven-member commission. In the...and that's the change it makes in the present civil service commission. The second change that the amendment makes is in the composition of the commission and those municipalities over four hundred thousand in population. At the present time, there is a three-member commission: two appointed by lists from colleges and universities in the city, over four hundred thousand; one by the city council. The amendment before you proposes to make that, instead of a three-member commission, five-member commission. What, then, would constitute the commission would be: Tulane University would make a nomination; Loyola University would make nominations; Dillard University; the city council would continue to make an appointment from whom-ever they chose in that area; and, the employees in the municipality over four hundred thousand--which is New Orleans--would elect a member of the Civil Service Commission. That is the change within the City Civil Service System in the city of New Orleans, with one exception, that's the only change that it makes in the City Civil Service System governing all municipalities over four hundred thousand. The other change is that it excepts those employees in the fire and police department from the coverage of the City Civil Service System, which is now covered under the City Civil Service System. In the proposal, Committee Proposal No. 10, I have amendments prepared--which is a forty-eight page document--the amendment is one paragraph long, which brings into the State fire and municipal police civil service, the employees in the fire and police department in the city of New Orleans into the rest of the state service of the municipal fire and police civil service throughout the state. Lastly, what the amendment does: it says that the legislature, by two-thirds vote, can change any provision of civil service, including the composition of these commissions by a two-thirds vote, with the only prohibition being that the commission...that civil service, both in the state and in municipalities over four hundred thousand, cannot be abolished. I call to your attention the fact that there are thirteen states that have civil service system in their constitution, Louisiana being one of those thirteen states. Most of them--eight states--there's just simply a definition of a state merit system and an authorization for the legislature to implement such a system. Only Louisiana, California, Colorado, Georgia and Michigan specify the establishment of the organization of a state commission to administer the program. Now, California has a five-member commission, and the governor appoints these members with the advice and consent of each house of the legislature. Colorado, the governor appoints three persons, with a known devotion to the merit system, to the state commission. A recent amendment to that constitution permits the classified employees to elect two additional members. Georgia has a personnel board of three citizens of known interest in the improvement of public administration, appointed by the governor and confirmed by the legislature. Michigan has four members of the commission, appointed by the governor. Among the fifty states that have the civil service commission range normally in size from three to eight, most of whom are all appointed by the governor. Some states do require confirmation by the Senate or the House or both, most of which just require the governor to make the appointment, and some specify that the commissioner of labor, for example, as well as the president of the board of education, etc. might serve as members of the commission. I suggest to you that what is proposed in this amendment is, in the interest of

brevity, it would substitute for the entire seventeen page document that's before you in the way of Committee Proposal No. 9. It guarantees to the people of this state and to the employees of this state that there shall always be a merit system in this state, but that the legislature in its wisdom by a two-thirds vote, can change the provisions of civil service as the times dictate, and as personnel policies throughout this country change, in the way of public employment. I do not believe, in my judgment, in any way, that this is...or could be considered, as detrimental to those who believe in the civil service system of this state. If you'll notice in the comments that Public Affairs Research Council made, in their booklet distributed to you yesterday, their basic conclusion was on civil service, that the entire matter be turned over to the legislature, with a two-thirds vote, allowing them to change the provisions of civil service as the legislature deemed wise. Let me suggest to you one of the things that I believe that the legislature...one of the reasons the legislature ought to have, at least, some method, some procedure whereby they might have some voice, both in the Legislative and Executive branches over the personnel affairs of their employees. I don't believe any prudent businessman in this convention would submit to the theory that they would hire an outside consulting firm...management firm to handle their entire personnel relations. Yet, that's what the state does as it relates to their sixty thousand employees by the appointment of five people who can only be removed after formal charges and public hearings. They are the only five people that have any final voice over the personnel policies of the sixty thousand public employees in this state. Most of you read just recently of the just-adjourned special session of the legislature. The legislature was called upon to vote to pass additional taxes. Subsequent to that, which was adopted, they appropriated some fifteen million dollars for pay raises for the state employees. Yet, when all was said and done, the taxes were voted, the appropriations were made, the legislature could not say how that money was to actually be applied. It was left in the hands of five people, and I do not want to, in any way, question the integrity or the motives of the members of the commission. I don't mean that. But, there is a basic disagreement, sometimes, between human beings as to philosophically what's right and wrong, and where money should be applied, whether at the lower level, the higher level, across the board, or whatever it may be. The point that I make to you is that although the legislature's required to appropriate the money, vote, if necessary, to raise taxes, yet they have no voice in how that money is to be spent to their employees...given to their employees. I believe that what's before you in the way of this amendment is honest, just and in the best interest of this state, and is certainly in the best interest of the public employees of this state. I ask for the adoption of the amendment. I'll be happy to answer any questions?

Questions

MR. ROEMER

Gordon, could you explain to us in terms of the composition of the board...the state board...the State Civil Service Commission, what exactly, now, is the change from the present board that you're recommending?

MR. FLORY

Presently, the Civil Service Commission now...

MR. ROEMER

And why.

MR. FLORY

...has five members. The amendment proposes to make it seven. The nominating colleges under the present system are: Centenary, Louisiana College, Louisiana State University, Tulane and Loyola. The amendment says: Centenary College, Louisiana College, Louisiana State University would continue to be nominating organizations. But, in place of Tulane and Loyola, on the state system, we submit Southern University and Xavier University... then, let the governor appoint two additional members, which makes a total of seven members on the commission. The commission now is five.

MR. ROEMER

So, you expand the commission by two...

MR. FLORY

By two members.

MR. ROEMER

...make both of those new members appointed by the governor.

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MR. FLORY

Both of them appointed by the governor.

MR. ROEMER

You make two substitutions in the present appointments. You take away Tulane and Loyola, and add Xavier and Southern. Is that correct?

MR. FLORY

That's correct.

MR. ROEMER

Now, Gordon, would you agree with the proposition, then, that what is left is a seven-man board: two appointed directly by the governor and two from universities, the boards of which are completely appointed by the governor. That is, LSU and Southern. Is that correct?

MR. FLORY

Southern, at this time, doesn't have a board, but in the future, under the article that has been adopted, that would be true.

MR. ROEMER

But, under...if this new constitution...

MR. FLORY

However, I'll point out to you that LSU, since the inception of civil service, to my knowledge, has been one of the nominating organizations. Remember, now, that the president of the university makes that appointment, and if the three names that he submits, the governor does not appoint one of those three names, then at the end of thirty days, the top name on that list automatically becomes a member of the Civil Service Commission.

MR. ROEMER

Well, but, perhaps, you choose to ignore my point. I hope not. But, is it not true that what we have left is the potential four of the seven--a majority--controlled by the governor. Is that not right, or am I just looking at ghosts.

MR. FLORY

If you hold to the theory, Mr. Roemer--which I do not hold to--that the presidents of the universities at Southern and LSU would be submitted to the dictation of the governor, you would be correct. That has not been the history of the appointments made by...nominations made by Louisiana State University in the past. I can only tell you what the history has been.

MR. ROEMER

Well, I appreciate that. I don't know the history, and I appreciate learning it. But, you will have to admit that before this provision can become law, the constitution has to pass. When that constitution passes, all these other provisions pass, also, wherein, for example, Southern University will be run by a board appointed completely by the governor. Number 2, LSU will be run by a board appointed completely by the governor for terms much less than fourteen years. So, that board will now be more embroiled in politics, not less. So, I submit to you that the danger here is that four of the seven of the Civil Service Board will be directly controlled and appointed by the governor. Now, that's my fear. You and I probably disagree on that. Another question: why do all appointments, as here and above provided shall be made by the governor, without confirmation of the Senate. I know that's the present law. You didn't want to change that, or does that bother you any?

MR. FLORY

No, that doesn't really bother me. But, that was the present law, and I think that's the same...in the majority of the states that have civil service, that's the procedure used by those states that the governor makes the appointment. I've read to you some of those states which do require confirmation, but not a majority of them require that.

MR. ROEMER

I have one final question. Why was it necessary to change the board from its present composition? Why the expansion, why the substitution?

MR. FLORY

One of the reasons for the change in the composition of the board: many of the problems that have existed over the years is a result of the attitude and actions of the board in that the commission is given the authority to establish rules which have the ef-

fect of law. No recourse is given to the members of the commission or to the public-at-large on the actions of the commission. Consequently, the testing procedures, the policies, the rules of the commission are not what many people throughout this state believe that they ought to be. In order to establish some semblance of a more responsive commission to the people of this state, a change in the composition of the board was proposed in this amendment, with the full realization that the people will vote upon it, and if they adopt it, then they, of course... the legislature even thereafter, may by a two-thirds vote change any portion of this amendment or the present provisions of the constitution. But, it was to give to the people of this state at least a choice to make of whether or not they wanted to expand the commission in the future because many of the problems I say to you that have existed in the state civil service is believed to have resulted from the policies set by, and the rules adopted by the Civil Service Commission. The only way to change those rules is by a change in the composition of the commission.

MR. ROEMER

Well, you think that by changing the composition, we're going...I didn't understand your answer. I'm just sorry. But, let me see if I can pick it out. By expanding this board, and by making it dominated by the appointments of the governor, we're going to make it more responsive to the people. Is that it?

MR. FLORY

Well, let me say this, Mr. Roemer, and I don't subscribe to your statement--and I let it go a moment ago--that this was going to be under the dictation of the governor. I've got more faith in the presidents of the LSU system, the Southern system, and as a matter of fact, in the governor of this state, that whatever he does in the way of appointments is going to be in the best interest of this state. I do not believe that there should ever be a return to the Spoils System in this state. I don't believe that there'll ever be a time that you and I'll live to see, with the modern media the way it is, that civil service would be tampered with to the extent and detriment of the state employees of this state. I do not share your view that the commission, as proposed in this amendment, would be dictated by the governor in no way.

MR. ROEMER

Well, do you know the old axiom that "power corrupts and absolute power corrupts absolutely"?

MR. FLORY

I don't see the power in this amendment that you see, Mr. Roemer. I'm sorry.

MR. CASEY

Mr. Lanier has a question. Then, Mr. Chatelain, Roy and O'Neill.

MR. LANIER

Mr. Flory, you and I discussed previously this little problem of the part 3 of your amendment dealing with the transposition of the present provisions in the constitution into statutory law. When you used the word "retained," it says here that all of the provisions of Article XIV, Section 15 of the Constitution of 1921, providing for a system of classified civil service for the state and for cities are hereby retained and continued in force and effect. Would it be accurate to say that it is your intention that these provisions would be retained as statutes rather than be incorporated into the new constitution by reference?

MR. FLORY

What my intent was, Mr. Lanier--and you and I, I think, are in agreement upon this point--was to be absolutely certain that between the time that this document was adopted by the people and the legislature might take action, that the provisions of the '21 Constitution plus this amendment, would be carried forward in effect. There would be no void whatsoever during that period of time that we would not have civil service. That's my intent in this amendment.

MR. LANIER

But, specifically, your intent is not to incorporate all this language...

MR. FLORY

Not incorporate it in detail in the new constitution. No, sir.

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MR. LANIER

It is to transpose it as a statute, subject to a two-thirds vote of the legislature.

MR. FLORY

That's correct; but to retain the provisions guaranteeing the procedure whereby the legislature can amend it, and that the legislature cannot abolish it.

MR. LANIER

Isn't there an amendment being drafted right now to add the language "retained as a statute"?

MR. FLORY

It's being drawn, but I have not seen it as yet. That's my understanding, that the staff is working on it. But, I want to see it when it's completed. I have not looked at it yet.

MR. LANIER

Now, the second thing: up here in this "2" part, it says, "in other cities subject to the provision of this section, three members of the commission shall be nominated from any of the three universities named in Section 1 in accordance with the procedure therein provided." These cities that you're referring to would be other cities over four hundred thousand. Is that correct?

MR. FLORY

That is correct.

MR. LANIER

This would not apply, say, to a city like Thibodaux that has a little over fifteen thousand.

MR. FLORY

No, sir. That civil service is statutory, and this in no way affects municipal civil service throughout the state, other than those municipalities who have a population in excess of four hundred thousand.

MR. LANIER

Now, one other question for the record: we have just recently adopted in Thibodaux a statutory civil service system. Am I correct in saying that your amendment, if adopted in our constitution, would in no way affect the present system of civil service as it exists in the city of Thibodaux?

MR. FLORY

No, sir, in no way.

MR. CHATELAIN

Mr. Flory, just for the record, to get the record straight, on your second page of your proposed amendment, this first part 2 really and truly deals with the city of Orleans only at the present time. Is that correct, sir?

MR. FLORY

At the present time, but it was worded whereas it would not name specifically the city of New Orleans being the only one because in the present constitution it's classified by population, in those municipalities over two hundred and fifty thousand, believing that some of the municipalities in the state might in the future reach three hundred...two hundred and fifty thousand, I believe it was, in the present constitution. It was changed to four hundred thousand because some of those municipalities that are approaching that point now have their own city civil service systems. They have it by statute and we did not want to disturb what they now have.

MR. CHATELAIN

Well, that's one of my problems. I wanted it to be clear on this. For instance, if the city of Lafayette, which is one of the fastest growing cities in the South, should in the next ten or fifteen years reach a population of four hundred thousand, then, the recommendations for our civil service would then, of course, come from the universities in New Orleans and Pineville and Shreveport. Is that correct?

MR. FLORY

We said, I believe, from three of the universities listed in Section 1. That's correct. It was not anticipated in the drafting of this amendment that there was any municipality in the state approaching the four hundred thousand figure in the immediate future.

MR. CHATELAIN

All right, sir. In Section 3, I'm concerned also with the word "retain." As I understand it, the city of Lafayette and many other cities in the South Louisiana are now operating on the statutory civil service. Is that correct?

MR. FLORY

Yes, they have statutory, and I recall specifically when the legislature adopted the system of civil service for the city of Lafayette, this provision in no way affects that whatsoever.

MR. CHATELAIN

In other words, the word "retained," then, means retain... that what we now have, we'll keep, and will be no violence done to what we now have. Is that correct?

MR. FLORY

No, sir. No, sir. No, sir. It does not mean what you now have will be retained because it has no reference to what you now have. The provision that you're reading is the state civil service and in cities over four hundred thousand are retained and continued in force and effect so that my amendment in no way affects pro or con the civil service that you might have on a local basis in the city of Lafayette.

MR. CHATELAIN

In other words...that's fine...in other words, we're not changing what we now have except the legislature, of course, in the future could come do what they want.

MR. FLORY

Well, in the city of Lafayette, for example, the legislature, by a simple majority vote, can change your civil service system, or abolish it. This could not change that one way or the other.

MR. CHATELAIN

Would you have any objection to considering the fact that one-third of the population of Louisiana is in what is known as Acadiana--those thirteen parishes in and around Lafayette? Would you have any objection to perhaps putting in USL or McNeese or some of the other universities there as one of the nominating universities for this?

MR. FLORY

Mr. Chatelain, let me say this--and I certainly gave consideration to that point--there was a division among some of our committee. There is a division in this convention as to philosophy as to whether or not all of the nominating organization ought to be a private college with no public supported funds. There was some thought that the colleges ought to be more geographically located throughout the state. At the present time, there are four private colleges and one public-supported university making nominations in the Civil Service Commission. In order to give some geographic consideration to the nominating colleges and universities, some to the racial balance in this state as far as appointing...the appointive process is concerned, and all of the private college versus public-supported colleges, it was my considered opinion that the geographic and other factors taken into consideration, these nominating organizations were better than expanding into the area in which you mentioned. Certainly, I have nothing against USL. But, it was just thought that this was the better approach from the factors that we considered in the drafting of this amendment.

MR. CHATELAIN

Well, I appreciate your statement on that...

MR. FLORY

I would oppose such an amendment in short.

MR. CHATELAIN

Mr. Flory, Number 1, I want to state to you that I believe conceptually that you're shooting in the right direction with a shorter document, and I'm in accord with that. The only thing I'm trying to get some...I represent South Louisiana, and my parish, and I'm trying to get some justification. You have three privately endowed universities: Centenary, Louisiana College, and one other one...

MR. FLORY

Xavier.

MR. CHATELAIN

Xavier, yes. You have two black universities, or predominately black universities: Xavier and Southern. I don't see any French

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universities or any Acadiana universities involved, and that's one of my concerns.

MR. FLORY

One of the factors, of course, considered in that, Mr. Chatelain, was that, if I remember correctly, in the adoption of the Civil Service System for the city of Lafayette, Southwestern does, in fact, make more if not one, at least, ...more than one nomination to the Civil Service Commission in the city of Lafayette.

MR. CHATELAIN

Thank you. I see the Judge here said that you don't even have one for red necks in North Louisiana.

MR. FLORY

I think those in Shreveport with Centenary College would disagree.

MR. ROY

Mr. Flory, if I understand your explanation, the fact of the matter is, that by a two-thirds vote of the legislature in the future to take care of all these little parochial questions you're being asked about my city and this and that that we seem to be getting down in the constitution every time, Lafayette could be given, or U.S.L., and Natchitoches, and everybody else could be given the right to make the three appointments to the governor; isn't that true?

MR. FLORY

That's correct, they could amend and change it any way that the legislature saw fit by a two-thirds vote, but they could not abolish the system.

MR. ROY

Now, don't you think with people like Mr. Chatelain complaining and you know, representing that area as he is here, that the legislature would probably see to it that in Acadiana that the local schools get to have something to say with respect to the appointments?

MR. FLORY

I would... I have heard it said, that those in Acadiana have very much influence in those places where the appointments are made.

MR. ROY

You understand that there are some Acadianas who live other than in Acadianas; don't you?

MR. FLORY

Yes, sir, and there's more graduated from U.S.L. than just in the city of Lafayette.

MR. ROY

Now, getting to something which I think is serious, and that the rest of the convention ought to appreciate, if they'll look at page 359 of the book we have on the present constitution, in essence all of the provisions from page 359 to page 376 with respect to causes for termination, layoffs, methods of making the list and what have you, that will all be retained, subject a two-thirds vote of the legislature to change it; isn't that true?

MR. FLORY

That's absolutely correct.

MR. ROY

So, that what we have done, if we pass your amendment, is to reduce a proposed document of some seventeen pages to two, and reduce about twenty pages from the present constitution; isn't that true?

MR. FLORY

That's correct, yes, sir.

MR. ROY

Thank you.

MR. O'NEILL

Gordon, I'm curious why, all of a sudden, these people who were on the committee proposal which have these five colleges in it all now seem to have changed their mind, and are on this amendment. Could you explain why this change has been made from the committee proposal which you originally had your name on?

MR. FLORY

Yes, sir. Let me point out something to you that Mr. O'Neill brings out what I think is a very pertinent point at this time. In the consideration of the proposal on civil service by our committee, we felt like that there ought to be constitutional protection of civil service retained. There was a short division among our subcommittee as to how much detail that ought to be continued in the new constitution, so that the committee finally recommended to the overall committee and the overall committee adopted it pretty much the same detail with four or five changes in the present constitutional provision guaranteeing civil service. When the committee met at that time to consider for final adoption a proposal on civil service, I suggested at that time that perhaps, we ought to shorten our state civil service system drastically, and that if the convention adopted a shortened version, I would then submit a much shorter version of the provision of the municipal fire and police civil service. So, that yesterday, after I had been given the privilege of reading the preliminary report that Public Affairs Research Council made some weeks ago, I determined then that there was sentiments in this state and in this convention after talking to a number of you who really wanted a shortened version of civil service. So, we had this amendment drafted and I met with the Committee on Education yesterday; gave them copies, explained to them what the amendments did, and then said to them that if they agreed with these amendments, I would appreciate it if they would act as coauthors with me on these amendments. You will notice by the amendments that there is a majority of the total committee on Education who are coauthors of this amendment. That's how the change from the present proposal on Committee Proposal No. 9 comes about now with a majority vote of that committee supporting the amendments before you at this time. There are others whose names do not appear here, but who are in support of this amendment on that committee.

MR. O'NEILL

I think we all applaud your efforts toward shortening this article, but let me direct you to the point of why was the composition of the State Board changed from the committee proposal to your amendment, specifically on that point?

MR. FLORY

Mr. O'Neill, I think you have to understand the controversy and the makeup of the Committee on Education at the time that this matter was considered, that on both the subcommittee and the overall committee the votes were on many occasions tied, with the Chairman breaking the tie--one time the Board was of a different size and different composition-- so that in the final analysis, by a one vote margin the... it was decided to leave the commission as it was in the present constitution. But, after having discussed it with many of the delegates here, then the change came about in the makeup of the commission. But, at one time in the committee's proposal if you recall--I believe it's in the original introduction of committee proposal--and I forget the number of it, but there was one to be elected by the employees or appointed by the governor from the employees of the state that so long as he remained as an employee of the state, but if he left the employee of the state in that position, was automatically vacated.

MS. ZERVIGON

Mr. Flory, as you're aware of, I've sat and listened to some of the committee deliberations on the idea of civil service and one of the things you said at that time, was that you thought employee representation on the Civil Service Commission was very important in cities over four hundred thousand because you said there was an appointment by the city council which was management. As you're aware, --I've argued with you at that time--saying the city council was the representatives of the people, not management, that the mayor and the chief administrator officer were management. But, in any case, you stuck a... in your recommendation stuck an employee representation... representative on the Civil Service Commission in cities over four hundred thousand. Would you explain to me--that being your argument-- why in state civil service you give the governor who is clearly management two representatives directly appointed on the board and none elected by the employees?

MR. FLORY

Well, first: it was hoped that at ... in the appointive process, that the governor would take into consideration both, employer oriented representatives to serve on the commission; secondly, employee oriented representatives to serve on the commission selected from somewhere throughout the state. Secondly, the point that you make as it relates to city civil service, there are many municipalities--and I can't recall a figure--but I know just day before yesterday in the city of Baton Rouge they held the election to elect the employee representative on the city system of civil service. So, that in

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some municipalities there is a precedence for employee representative on the city civil service commission, as well as, in the municipal fire and police civil service throughout the state, except for the city of New Orleans. It is a constitutional and statutory provision requirement that in the firemen elect one member and the policemen elect one member on municipal fire and police civil service so that there is ample precedence for the change from a state civil service to the city civil service.

MS. ZERVIGON

Well, Mr. Flory, if you argue it that way, you can say there is ample precedence for representatives of employees on civil service commissions, and then, therefore, you could put them on the state civil service commission; isn't that correct?

MR. FLORY

As far as that goes, Ms. Zervigon, there is ample precedent to have named the commissioner of labor in here as one of the members. But, I didn't do that, I chose to leave it open to allow the governor the discretion to select from throughout this state citizens devoted to the public civil service system to serve on that commission.

MS. ZERVIGON

Well, would you consider withdrawing your amendment and changing "cities over four hundred thousand" to allow the mayor to have two appointments on that board rather than the city council and the employees, and give them that same discretion you trust the governor to have.

MR. FLORY

No, ma'am, I would not.

MS. ZERVIGON

Why not?

MR. FLORY

Because there is ample precedent throughout this state for the employees and municipalities to elect their own representative on the civil service commission in the municipalities.

MS. ZERVIGON

Well, Mr. Flory, would you admit that there is ample precedence for a whole lot of things that may or may not be a good idea, like acts, murders and rape and stuff like that and then that isn't the only way in which we decide things. Would you admit that if it's good for the governor, it's good for other administrative officials?

MR. FLORY

While you say there may be ample precedent for rape, etc., I've never chosen to go that route, nor did I choose to go that route here. I chose to go the route in which I've gone because I believe it's the proper route in which to go.

MS. ZERVIGON

Well, would you consider withdrawing your amendment and putting two people on the State Civil Service Board one appointed by the legislature, and one elected from the employees.

MR. FLORY

No, ma'am, I would prefer to go with it as it is.

MS. ZERVIGON

Can you explain to me exactly why you don't want the employees to have a representative on the Civil Service Commission of the state?

MR. FLORY

I said, I believe that I have enough faith in the appointive process in this state that whoever the governor may appoint, they would take into consideration the employees' viewpoint on the Civil Service Commission.

MS. ZERVIGON

You don't see any conflict there?

MR. FLORY

... I would take it... I'm willing to stand upon that with the thought in mind that the legislature, if they disagree with that in the future, can by a two-thirds vote change. If they want to make it in the future the legislature shall appoint one they certainly have that prerogative under this amendment.

MR. JACKSON

Mr. Flory,

MR. FLORY

Yes, sir.

MR. JACKSON

... I just want to make it clear in my mind that on the last page... on page 2, I guess with the last sentence that firemen and policemen are being exempt from the city civil service as we know it today in the city of New Orleans.

MR. FLORY

That is correct, and I so stated.

MR. PLANCHARD

Gordon, I hope you consider this as a friendly question, because you know I believe in civil service being directly connected for years in the city of Sulphur, but I want to ask you a question: There seems to be some problem with the last sentence in that first amendment on the first page where the governor does have the authority now to appoint two people, and that the... this will be without the consent or the confirmation of the senate. Now, I think in the old constitution the wording is exactly the way it is here....

MR. FLORY

Correct.

MR. PLANCHARD

... but, I don't think that the governor had the two appointments at that time, and I believe that the reason for the wording...

MR. FLORY

Technically, he made the appointments, but he was limited as to the names that he could consider for appointments.

MR. PLANCHARD

Right. It seems to me to quell some of the objection that may be an amendment might be in order for these two appointments to be by the consent of the Senate and not the rest of them.

MR. FLORY

Mr. Planchard, I certainly ... as I said, have full faith in the legislature, however, if you want to come with an amendment after that that will require a confirmation by the Senate as we do in the other articles, I certainly have no objection to that.

MR. PLANCHARD

Thank you.

MR. FLORY

To only to those two appointees because the provision relating to appointment otherwise state that if the governor doesn't make appointments from the list submitted to him by the nominating organizations, the top name on that list at the end of thirty days automatically is appointed to the commission.

Further Discussion

MR. DENNERY

Mr. Acting Chairman, ladies and gentlemen of the delegates, I rise in opposition to Mr. Flory's amendment. I would first give you a little of the history of Louisiana Civil Service, because although I don't think we should be bound completely by history, I think history does teach us lessons, and from these lessons we can learn and should learn. The first statewide civil service system in Louisiana was adopted by statute in 1940, the first effective one. At the same time, a constitutional amendment was proposed which was adopted later that year which provide... which confirmed, ratified and approved the state civil service statute and a city civil service statute which governed only New Orleans at the time, and it provided that any bill or bills amending or repealing either of these laws directly or by implication may be passed, and become laws only when adopted by a two-thirds vote of the members elected in each house of the Legislature of the state. At that time, everyone felt that the two-thirds vote would be sufficient to protect civil service which was by virtue of its very terms an a political organization, not nonpolitical, but completely removed from politics as far as it could be removed. In 1948, however, the legislature adopted a bill which effectively killed the civil service system which was then in effect, it did not repeal it, but it amended it so that it was no longer a true merit civil service system. Now, I don't... I hope ...

I sincerely believe and I certainly hope and pray that we will never again be in the position that we were in 1948. Nevertheless, I am constrained to say that as far as civil service is concerned, and I speak unfortunately with some experience in this field because I served on the state commission for six years... for ten years was its Chairman for six years, and I learned that there are many things that are done by civil service commissions both in the city of New Orleans and in the state with which the legislators do not always agree. But, the legislature and the city council are political bodies and they should be political bodies. Civil service on the other hand, in my opinion should be completely removed from politics. For this reason, I could not conceivably support a constitutional provision which would permit the legislature to amend or in effect repeal—even though Mr. Flory's amendment says it cannot repeal--effectively repeal a true merit system of public employment. I would urge you to go back in history and remember what has happened, let us avoid the possibility of that happening again as far as civil service is concerned. Now, with regard to Mr. Flory's specific amendment, I would point out to you that in the beginning of it in his first amendment --as pointed out by Mr. Roemer-- he has provided the possibility, mind you I say only the possibility, of a civil service commission controlled by the governor. The civil service commissions over the years have never been controlled either by the governor or by the legislature, they have been completely independent bodies and they should remain such. The present terms of commissioners are six years--and I notice Mr. Flory has reduced them to four, I don't know the exact reason for this--but I do not believe a six-year term is too long. Now, when we get to the second amendment of Mr. Flory's we are speaking primarily of the city of New Orleans. The present constitution provides that when a city reaches a population of two hundred and fifty thousand then the present city civil service provisions of the constitution will apply. It was the belief of those who drafted the original constitutional amendment in 1952, that until a city reached two hundred and fifty thousand, it did not have the need nor the resources to support a full-fledged merit system. However, upon reaching two hundred and fifty thousand it certainly would. By changing this to four hundred thousand we would effectively prevent the constitutional civil service which offers two things mind you; two things: a merit system of public employment and protection of the employee. It would prevent those cities from getting the benefit of this type of merit system and political protection for the employees. One member of the city...

One member of this commission, of course, would be named by the mayor or rather by the council and one member would be elected by the classified employees. It seems to me that this would permit an appeal from Caesar to Caesar in effect.

The idea of an elected employee sitting on a commission which rules on his fellow employees I think is an unsound idea. I believe we should not permit that. I do not believe that the voice of labor should be prohibited from being heard or being members of the commission, but I do not believe an elected employee should serve on a civil service commission which will rule on his fellow employees in appeals. Now, the other thing in the Amendment No. 2 which is included, which would affect the city of New Orleans directly, is the last sentence which says that it shall not include in the classified civil service system the employees of the fire and police departments." Now, in New Orleans, the employees of the fire and police department are one-third of the total employees of the city of New Orleans. We have a merit system. In other words, if a person deserves it, he can be promoted regardless of questions of seniority. Under the municipal fire and police system the primary basis for a promotion is seniority. It seems to me that we are thereby depriving the city of New Orleans, and any other cities who would later come under this provision, of the right to promote people in the fire and police departments who deserve promotion; who would benefit the city by that promotion; who could become top-ranking officers in both the fire and police departments other than by pure seniority. We, in New Orleans, do not think that that is a sound idea. We believe our merit system has served us well over the last thirty odd years now, because we've had it since 1940. Now, one point that Mr. Flory made I believe in answer to a question, was the problem of listening to the legislature when it came to pay raises. The whole theory of a civil service system is to have equal pay for equal work. The whole theory behind the present civil service system, and I believe it should be behind any future civil service system should be based on the same thing. It is true that the state by virtue of having a civil service commission and department does put the burden of determining how these funds which are appropriated by the legislature should be spent upon the commission. Nevertheless, I think it better there where you have a non or... noncompletely nonpolitical body than to leave it in the hands of the legislature who would be under certain circumstances subject to lobbying to benefit certain groups or classes of employees. Mr.

Flory stated that the rules of the civil service commission are not subject to amendment by the legislature, that is true. But, if the rules are improper, they are subject to appeals of the court and this has happened on a number of occasions when rules were improper, the courts have corrected the rules. By and large it seems to me, and I urge this belief upon you, that a self-executing provision for civil service should be in the constitution. It should not be subject to legislative amendment even by a two-thirds vote. I, therefore, urge you to defeat the Flory amendment. As you know, I have an amendment which I believe is completely self-contained, which will cover it.

Questions

MR. AVANT

Mr. Dennery, there's just one thing that you said, that I wanted to ask you about and that was the four hundred thousand provision as opposed to the two hundred and fifty thousand provision which is in the present constitution and which I think is also in your proposal. Now, the city of Baton Rouge has a civil service or merit system of employment. I believe its source is the plan of government of the parish in the city of Baton Rouge. To the best of my knowledge it's working reasonably well. In other words, I know that as anything, some people are going to complain, but overall presumably it's satisfactory because nobody tried to get rid of it. It's different from your system, it's different from the one that's in the constitution, but it is another such system. Now, a special census was just made, completed last week in this city that shows that our present population is a hundred and eighty-two thousand people; seventeen thousand people more than it was in the decennial census in 1970. Presumably, within approximately five or maybe six years we're going to hit that magic figure of two hundred and fifty thousand. Now, then, we're just going to have to junk our system no matter how well it's working, no matter how satisfactory it is, and just go in under some other system; is that... isn't that what's going to happen?

MR. DENNERY

Yes, Mr. Avant, that's exactly what would happen, and if you had no civil service system you would automatically have one, that is the reason for putting a figure in. Now, whether it should be two fifty, three hundred, three fifty, or four hundred is a matter for this convention to determine. It maybe that two fifty is too low. It seems to me, however, that it is a fair figure because at that time most communities would have the resources and the required number of employees to support the type of civil service system that we have presently in the constitution, or will... hopefully will have in the constitution.

MR. AVANT

Well, my question then is this: that we have the resources now and we have a system and it is working, and it seems to be satisfactory to everybody concerned. Now, why should we just arbitrarily junk all that and move under some other system in the next few years just to satisfy somebody?

MR. DENNERY

Well, I don't think it's a question of satisfying somebody, Mr. Avant, and I don't think there would be much junking required. I think certain changes probably would have to be made, but basically, the two systems are similar in many respects, if not in all.

MR. ROY

Moise, I don't understand your harum-scarum argument on returning to the spoils system by adopting Gordon Flory's amendment. I wish you would explain how requiring a two-thirds vote of the legislature to implement some changes which I think are necessary, I have dealt in civil service cases, is a return to the spoils system when there was no civil service system whatsoever.

MR. DENNERY

When there was no what, Mr. Roy?

MR. ROY

When there was no civil service systems, you know, days when the governor would come in and fire everybody who's in office--that's a spoils system.

MR. DENNERY

Well, Mr. Roy, let me point out to you, sir, fortunately, for you, you're younger than I am. But, in 1940 we had a very complete civil service system almost as...if not as complete as the one we have now and that is what was gutted in 1948

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by a two-thirds vote of the legislature--that is exactly what happened.

MR. ROY

Was it in the constitution?

MR. DENNERY

There was a provision very similar to the one that Mr. Flory has, it could only be changed, amended, or repealed by a two-thirds vote of the legislature--yes, sir--that was in the constitution, that phrase.

MR. ROY

...and, in 1940, they emasculated the whole constitutional provision you say?

MR. DENNERY

Yes, sir. It's not the amendment, Mr. Roy, the law was a legislative enactment. The amendment to the constitution in 1940 ratified, approved, and affirmed those two laws--one for the state and one for the city and provided in the constitution that these two laws could only be amended or repealed by a two-thirds vote of each House of the legislature. So, in view of that, it required a two-thirds vote to amend the civil service law--a constitutional provision required it. But, the two-thirds vote did--as you point out--emasculate civil service.

MR. ROY

Well, don't you think, though, that if the governor or if the civil service folks in 1948 couldn't get fourteen senators to block some type of provision that obviously the people of Louisiana must have wanted some type of change?

MR. DENNERY

No, sir, I don't believe that. I think that was proven by 1952 when the state civil service amendment, which was adopted, was adopted by an overwhelming majority of the people of the state--an overwhelming majority.

MR. ROY

Would you tell me what's your authority for your statement that the '40 amendment provides that "the legislature by a two-thirds vote" could go back and do all of these things?

MR. DENNERY

Yes, sir. If you will turn to page 110 of the West Publishing Company volume of the constitution dealing with Article XIV, Section 15, you will see there the following amendment. If you would like me to quote it, I will be pleased to....

MR. ROY

No, there are other people who want to ask questions; I'm going to go look it up.

MR. DENNERY

I'll give you a copy of it.

MR. WEISS

Delegate Dennery, not only is the appointment at the will of the government, but as the Flory amendment reads, isn't it also possible that there can be removal of these civil servants at the will of the government? According to the reading: "Vacancies by expiration of the term of office or otherwise shall be filled by appointment of the governor" and so on. Is it not true, then, he could remove these appointees as well as appoint them at will?

MR. DENNERY

Dr. Weiss, I would think that's probably true, an argument could be made that by virtue of Section 3 or of Amendment No. 2--I don't know exactly what they means--but it's on the second page it says "except as may be inconsistent with the provisions of this article, all of the present provisions remain in effect." I would imagine, however, that a court might well hold that it is inconsistent to the extent that it does not mention this.

MR. SHANNON

Mr. Dennery, did I understand you to say your main objection to this amendment was the fact that it gave the legislature authority to overrule things by a two-thirds vote?

MR. DENNERY

Yes, sir, that's my principle objection to it, Mr. Shannon.

I believe it should be a completely self-executing provision in the constitution which could only be changed by the voice of the people.

MR. SHANNON

Well, let me ask you this: Where does the money come from to support all of these activities?

MR. DENNERY

It comes from the people of the State of Louisiana and is appropriated by the legislature of the State of Louisiana.

MR. SHANNON

It's appropriated by the legislature?

MR. DENNERY

Yes, sir.

MR. SHANNON

But, yet, you do not want to have the legislature to have any say whatsoever in what it should be?

MR. DENNERY

Well, that's not completely true, Mr. Shannon. As you know, the budget must be submitted--the civil service budget is submitted--and the legislature has the perfect right to control that budget. When it comes to pay increases, I would say you are correct that it must be...the pay increases, the pay scales of the employees of the State of Louisiana are recommended by the Civil Service Commission--after public hearing--they do not become effective until after the governor approves them and that is never done until after the legislature has appropriated the money--so, that the legislature normally knows exactly where those raises are going.

MR. SHANNON

Do you recall several years ago when the legislature voted a pay raise for the state police?

MR. DENNERY

You're speaking about the overtime provision?

MR. SHANNON

Yes.

MR. DENNERY

Yes, I recall that quite well. As a matter of fact....

MR. SHANNON

They were overruled by the czar commission?

MR. DENNERY

No, sir, they were not overruled by the Civil Service Commission at all, at that time.

MR. SHANNON

Well, they went....

MR. DENNERY

As a matter of fact, the Civil Service Commission amended its rules in accordance with the recommendation made by the legislature. But, the department of the State of Louisiana did not pay that money to the state police. I was involved in the lawsuit, which was very recently settled, which permitted that pay...or rather required that pay to be paid by the State of Louisiana through the department--and it was not the Civil Service Commission.

MR. SHANNON

But, what you--in your proposal or your amendment--you are proposing to retain the commission as is now with the authority that they have at this time?

MR. DENNERY

Basically, yes, sir, Mr. Shannon. Of course, I'm not discuss....I haven't discussed my amendment yet, I've only....

MR. SHANNON

You did discuss it, you discussed that part of it.

MR. DENNERY

No. I merely said, I had one. I said I had one.

MR. SHANNON

Yes, but you said....

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MR. DENNERY

Well, go ahead, I'll be glad to answer any questions on it, Mr. Shannon.

MR. SHANNON

Well, for your information, it was the Civil Service Commission that stopped the pay raise to the highway police.

MR. DENNERY

Are you speaking about pay raises, or are you speaking about overtime, that's the question I'm asking?

MR. SHANNON

I'm speaking of pay raises.

MR. DENNERY

You are quite correct, sir, because pay raises could only be done on a uniform pay plan which was approved by the governor and the money, therefore, appropriated by the legislature. When the legislature attempted to appropriate additional salary raises for one class of employees, the Civil Service Commission--and in my opinion it was quite correct--refused to agree to this because they felt it was unfair to the other state employees. In that regard, you are a hundred percent correct, Mr. Shannon. I think the Civil Service Commission was also a hundred percent correct.

MR. SHANNON

In other words, you lean toward the czar commission?

MR. DENNERY

If that's what you choose to call it, rather than the czar legislature. Yes, sir.

Thank you, sir.

Chairman Henry in the Chair

Further Discussion

MR. REEVES

Mr. Chairman, fellow delegates, we are faced once again with the decision as to what we are going to place in the 1974 Constitution for the State of Louisiana. We are faced on a decision, whether we are going to conceptualize again what we have had in the 1921 Constitution--a constitution that does not trust the Louisiana Legislature; a constitution that does not want to give to the Louisiana Legislature--even by a two-thirds vote--the power of reforming and restructuring. Ladies and gentlemen, I have looked at the legislature. Even though I am only twenty-seven years of age, I have watched the legislature all of my life--since I was a little kid. I watched the Louisiana Legislature grow, just as I grew. I have watched the Louisiana Legislature in the past two days of the last ten day session. I watched them conduct business as businessmen, even with the small amount of frivolity, but frivolity is necessary in a long extemporaneous debate by individuals. I watched this legislature under the helm of a governor that I respect and a speaker of the house, and a lieutenant governor that I respect. Put together, an organized group of individuals that I feel are doing a great job for the State of Louisiana. Now, what we are faced with now is three concepts essentially. We have the Committee Proposal--Proposal No. 9--in reference to civil service. We have Mr. Flory's proposal, and we have the concept that Mr. Dennery proposes. The concept that we are presently debating is the Flory amendment. Again, it is not perfect-- I will admit that; I think Mr. Flory will admit that because he's not a perfect individual. I don't think any of you delegates are, and I, definitely, am not. But, what we are faced with is looking at a committee proposal that is depth in detail, does not leave anything to the Louisiana Legislature to take care of and reform in the later years. We are also faced with the Dennery proposal, which is nine pages long, and still does not trust the Louisiana Legislature and holds them down. The day that the State of Louisiana in the future will depart from civil service is...I happen to agree, is in your imagination. We will never--in the State of Louisiana--get rid of Louisiana Civil Service System. I hope, to God, that we are going to reform it somewhat. We are going to reform it somewhat to the Louisiana Legislature can implement pay raises to groups of individuals, because they put up the money, because this money belongs to the people of the State of Louisiana, and they should be able to decide where they spend this money. Also, we are

faced with a situation on the present Civil Service Commission--and let's admit the facts--in which black people sometimes are mistreated and held down in position. This proposal by Mr. Flory will eliminate this--this problem that we have had in the past--because the great State of Louisiana is growing up. You should grow up; the legislature is growing up and we've got to realize this. Please, realize that we have a new state. We are not back in the days of Huey Long, and Earl Long, and the days that were...happened across the history and pages of this state. We are in a new era. The Louisiana Legislature can be trusted. I'll assert one other thing to you: If they cannot, you have the power--the greatest power--that anyone has ever given you, the power of the ballot box to correct this. Let the civil service system remain within the State of Louisiana. But, at the same time, let's let the Louisiana Legislature be able to reform this system. Mr. Flory has told you--and I agree--that these individuals on the Civil Service Commission should and may be confirmed by the Senate--I believe he will agree to this amendment. Please vote for this amendment for the betterment of the State of Louisiana and the civil service system that these individuals--your friends and neighbors--have to serve under.

Further Discussion

MR. HERNANDEZ

Mr. Chairman, ladies and gentlemen of the convention, I rise in opposition to the Flory amendment for a number of reasons. The first place, I came down here to this convention dedicated to the support of a strong and a permanent civil service. I think that Mr. Flory's amendment makes it possible that civil service will be of short duration. I'm not saying it will be, but it certainly makes it possible and even probable that it will be. You know I lived back...and I worked for the state before civil service was ever enacted. There are very few of you in here, I imagine, knows anything about this, but, I paid these deducts. We worked on a small salary and it was pretty hard to pay deducts out of your small pay. But, we had to do it or else we didn't have any pay coming in from the state because it would be cut off shortly. I also sold a Louisiana Progress. I wonder if there is any of you ever saw a Louisiana Progress, but I sold them. I had to sell them at night because I wasn't making enough money to pay for these Louisiana Progress like some of the higher paid ones. So, I got out and sold my Louisiana Progress papers at night--certainly with not with any degree of pride and let's get that straight. Now, I just can't imagine Louisiana going back to such days as that when you had no civil service to protect the state employees and to protect the State of Louisiana too because civil service has proven that it is good for the state because you get dedicated and trained employees--they can stay there and learn to do their jobs much better than when they started. It gives these employees protection and an incentive to try to stay on state jobs, because they have...their jobs are protected and they can look forward to a retirement and enjoy those days of their declining years. So, civil service is good and it's good for everybody. The whole State of Louisiana profits by it and certainly the employees profit by it. Now, at the beginning of these committee hearings back in January of this year, we started hearings on civil service. Now, Mr. Flory and I were both on the subcommittee that heard all these presentations. We heard a lot of them. I never knew of anybody being turned down when they made a request to appear before the committee or the subcommittee on civil service--that was just unheard of. We listened to many, many hours of presentations--that is something that very few of this convention, other than the members of the committee, had an opportunity to hear. Now, we had every chance in the world to learn everything that we possibly could about civil service. Most of us on that committee took advantage of this, and I do think that we did learn a lot about civil service. We learned what the people of the State of Louisiana wanted in civil service. Now, yesterday at noon, a committee meeting was called of the Health, Education and Welfare by Chairman Aertker, we meet right back here at noon for a few minutes. We were presented with this long amendment that you have on your desk today by Mr. Flory and a number of cosponsors. Now, we have no way of having seen this amendment before...had no opportunity to read it and actually while this amendment was being handed to us and discussed for a very few minutes, one of the members of the committee offered a motion to approve this by the committee. Now, it was just that absurd. We had not even had an opportunity to read this amendment. Now, as all of you can see if you read this amendment, that it's going to take some time because if you will look at the last paragraph, Paragraph 3, under Coverage, Exclusions, Amendments: "Except as may be inconsistent with the provisions of this Article, all of the provisions of Article XIV, Section 15,

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of the Constitution of 1921 providing for a system of classified civil service for the state and for cities are hereby retained and continued in force and effect." Now, you are going to have to take these amendments and take time to see which of these... just what part of the original constitutional amendment on civil service is in effect and which one has been changed by this amendment; it's going to take a little time in which to do that. Now, it just can't be done in a few minutes, there is no way to do that. I'll tell you another peculiar thing is, I had hoped we would take the Committee Proposal No. 9--which you have had for some time--and that we could take this and take it up paragraph by paragraph, just as we have done everything else--and you had the right to amend, delete, change, do anything you wanted to with it. But, we should go through it paragraph by paragraph. Well, now, if the Flory amendment is adopted that will stop all that; you can just write it all off. All these many months of hearings and arguments about this will be just tossed out the window. If it can be done that way, I don't know why we spent six months attending committee meetings--it just simply doesn't make sense. I want to point out one thing....

As Mr. Dennery has so aptly pointed out, we had civil service put in the constitution in 1940 with this same provision that Mr. Flory has in his amendment---it can be amended by a two-thirds vote of the legislature. Well, in 1948, it was rendered absolutely effective--as Mr. Dennery pointed out--and in the subsequent special session of the legislature it was completely abolished. Now, we only say that we can judge the future by the past--that is the only way we can judge the future or you can say history repeats itself either one. But, you can see that there is a strong possibility that civil service may be of short duration in the event that this amendment is adopted. So, there's a lot of thing that I could point out, but...two-thirds of the same...that was a downfall of the constitution. Now, in 1952, it was put back in the constitution; it has worked well regardless of what you hear, civil service has worked well for the employees; it's worked well for all of the State of Louisiana; it has reduced a cost of operation; it's stopped a lot of deadheads--not all of them and I don't think any of us are going to see all the deadheads cutoff from the State of Louisiana--but it has greatly reduced it. Now, it has been said here that the Flory amendment will greatly reduce the length of a civil service provision, that is, not necessarily true. I think you are going to have to see what this will effect, see what's left over, because he winds up that if it's not in conflict with this then it will still be in effect. So, I'm not sure that it's going to be any shorter at all, it does not necessarily...will not necessarily be any shorter. Besides that, let's go back.... brevity is not necessarily virtuous. How many people are interested in whether there is ten pages in a provision or whether there is eleven pages? There is not one person out of every ten thousand in the State of Louisiana that will know and will care whether it's that short or not. So, I think this has been greatly exaggerated is the importance brevity. Now, the only thing that I can ask you to do--and I do appeal to you--and please understand that in fairness to the committee and to everybody concerned, I ask you to defeat these amendments. Let's go back to Committee Proposal No. 9 that was completed after a long hearings and lots of study were given to it. We had input from everybody that wanted to put anything into the constitution. Let's go back and defeat these amendments and take this Committee Proposal No. 9 paragraph by paragraph. If you want to delete something, you can amend it; you can change it; you can add things to it, do anything you want to with it. But, let's give it a fair shake--it deserves that. Thank you very much.

Questions

MR. FLORY

Mr. Hernandez, you said that it was absurd that this long amendment was presented to the committee yesterday and then a motion was made. To set the record straight: Didn't I say at that time, that I was not asking for a vote? That I thought I owed it to the committee as a courtesy to present them with the amendment to let them know what I proposed to do on this and that I did not ask for a vote? Isn't that correct?

MR. HERNANDEZ

Yes, sir, that is absolutely correct. But, there was a motion, Mr. Flory, to adopt this by resolution.

MR. FLORY

Wasn't that motion withdrawn when I made that statement?

MR. HERNANDEZ

Yes, sir.

MR. FULCO

Pete, you speak as though Flory's amendment will abolish the civil service plan. Is there anywhere in the Flory amendment a provision that will provide that possibility?

MR. HERNANDEZ

Yes, sir. Mr. Fulco, you will find that it says that "it can be amended by two-thirds vote of both the Houses." That is the same way that this same civil service provision was actually rendered ineffective in 1948. Now, it also says "it cannot be abolished," but it could be rendered so ineffective and be so worthless that the cats wouldn't have it after it got through with those amendments.

MR. FULCO

But, that would still depend upon the action of the legislature, would it not?

MR. HERNANDEZ

Yes, sir, and let's all admit this: That the action of the legislature, especially that first session after a new governor goes in, that's a honeymoon session. Now, another thing--let me add this--under Mr. Flory's amendment here--I'm trying to cut these shorter--but the governor can easily gain control of civil service under Mr. Flory's amendment--remember the terms are for four years--he will appoint two and that is not to be confirmed by the Senate. He will have two and then there will be two by state supported institutions, which we all agree, are greatly influenced by the governor--I'm not talking about the present governor, but any governor. Now, they only serve for four years, so it would be very easy for a governor to control the Civil Service Commission and when that happens, you are going to have politics back in that has killed every civil service system that we have any record of.

MRS. WARREN

Mr. Hernandez, you said when you began speaking, that you came here to write a permanent civil service proposal. Now, would you tell me what you call permanent? How long is permanent?

MR. HERNANDEZ

Well, let's put it this way, I don't believe anybody can... would say that a civil service that's permanent can be forever but that's what the name would imply. I said that I came here dedicated to support a sound civil service system on a permanent basis. Yes, ma'am.

MRS. WARREN

All right, since it can't be permanent then who is supposed to make the changes--by a constitutional amendment or by the legislature?

MR. HERNANDEZ

Under this Committee Proposal No. 9, it would take a constitutional amendment.

MRS. WARREN

How hard is it to get a constitutional amendment today?

MR. HERNANDEZ

It depends....

MRS. WARREN

...and just change in this still changing world?

MR. HERNANDEZ

It depends on the people. In the last four years, a constitutional amendment has been hard to get through. Before that time, for many, many years, you couldn't defeat a constitutional...a proposed constitutional amendment--it depends on the way the people feel at the time. But, if the people want to change or alter civil service, they have that prerogative if the need arises for a change.

MRS. WARREN

So, in other words, everything should be by a constitutional amendment instead of by the legislature?

MR. HERNANDEZ

I didn't understand that.

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MRS. WARREN

So, in essence, everything should be by a constitutional amendment instead of the legislature. Then, we will have a permanent constitution, unless we call another one; am I right?

MR. HERNANDEZ

Let me say this: That's the way it's intended. The members of the legislature would do well--and I've been in the legislature--and it's mighty easy to see when you have an influence group come to you that you...want you to do something that you don't think you should do. Instead of having to yield to their pressure, you can say "We have civil service in the constitution, and I cannot do it." It would take a lot of pressure off of the members of the legislature.

MRS. WARREN

Mr. Hernandez, one more question: Do you believe that if all the amendments had of passed, we would have been writing a constitution today?

MR. HERNANDEZ

I'm sorry; I didn't understand that. You are speaking too close to the mike.

Do you believe that if every amendment that had been on the ballots had passed, that we would be here today writing a new constitution? If you could have gotten all passed, do you think we would be here now?

MR. HERNANDEZ

I don't know, I guess I have been here too long, but I cannot understand you.

MRS. WARREN

I would really like for you to get this. Do you believe that if all the amendments to the constitution had of passed, do you believe we would be writing a new constitution today? Do you think it would be necessary, because I have seen that is what hamstrung the legislature--they couldn't get nothing through--so, we are here now trying to write a new constitution. Now, what do you think--this is what I am trying to say--I wanted to put it in the form of a question.

MR. HERNANDEZ

This constitution has lasted over fifty-two years, so you can't say that it wasn't a pretty durable constitution. I would say one thing additional: There is nothing in this present constitution that we, the people of the State of Louisiana, didn't want in there--nothing in there that we, the people of the State of Louisiana, didn't want.

MR. SUTHERLAND

Delegate Hernandez, Mr. Flory's amendment does more than just shorten the committee proposal. It puts in certain things, and then has a broad paragraph at the end incorporating everything that went before. Now, if the convention is only interested in shortening this provision, Delegate De Blieux has a proposal which will adopt everything in the present constitution and allow two-thirds of the legislature to change it. So, if they're only interested in the shortness, Delegate De Blieux's proposal is a lot shorter than Delegate Flory's proposal. Is that not correct?

MR. HERNANDEZ

That's correct, sir. I tell you, in Delegate Flory's, he's going to incorporate everything in this new one that's in the old one not affected by this amendment here. It's going to take just a little time to see what's affected and what's not affected, and I'm not sure, when you get through with that, it's going to be any shorter. There's no indication that it's going to be shorter, but if it did shorten it, that still doesn't add anything to the value.

Thank you very much. I would urge you, please defeat these amendments, and let's give the committee proposal the chance it deserves. Thank you very much.

Further Discussion

MR. A. JACKSON

Mr. Chairman, ladies and gentlemen of this convention, I rise in support of this amendment. I do so because I believe that if we are going to make significant progress in the area of providing jobs by state agencies for all of the people, that we have got to make some changes in the structure of the Civil Service

Commission. Now, I've heard arguments that this amendment is designed to return politics to civil service. I see no such intention included in the words of this amendment. I think what this amendment will do is to provide an opportunity for all of the people to be represented. At the present, the Civil Service Commission has made rules and has used devices by way of standardized tests that will do one thing: that will exclude people from the opportunity to serve in state government. Now, I do not believe that simply because you're going to have some public educational enterprises making appointments from which the governor can select an individual to be a representative on the Civil Service Commission, that you're going to bring politics into the matters of the Civil Service Commission. I believe that what is going to happen is that people are going to believe that this commission is serving all of the people. At the moment, black people in this state do not believe that civil service represents them. They do not believe that civil service is acting in their interests, and I do not believe that civil service is acting in the interests of black people. My reason for saying that is that when I walk over to the State Capitol and I look at all of the people pouring out of there at about four-thirty every afternoon, I see very few black people. When I go across this state and I look at the state agencies and I look at the upper echelon, I look at management, I look at the people at the decision level--policymaking level--I do not see black people. They all tell me it's because civil service is making the decisions. Now, I know of all of the reasons and all of the arguments that can come forth about why black people aren't hired. But, I tell you that I believe that if we are going to restore confidence in the Civil Service Commission, that there must be some sort of guarantee to ensure that there is significant black representation on the Civil Service Commission. So, I believe that the changes by way of the composition of the Civil Service Commission is in the interest of this state because it's going to democratize that structure. Now, some individuals are saying that "Well, what you're going to do is going to make changes that are going to destroy the Civil Service Commission." I stand here to tell you that significant changes ought to be made, that significant changes must be made. I stand here also to tell you that you have nothing to fear from the legislature of this state because the legislature of this state is going to guard very carefully and very jealously those policies and those procedures that are in the interest of maintaining an independent body and an independent commission. A few months ago, a significant change was tried by some individuals interested in trying to do something that I thought was in the interest of this state, and that was to change the selection procedures from three to five; and the legislature turned that down. I didn't think that that was too much of a change, but they turned it down because people were saying that they didn't want to interfere with the Civil Service Commission. So, I don't think that anybody can make the argument that the legislature is going to hasten to make changes to destroy the Civil Service Commission. It simply is not true. Now, I heard people stand here and said that civil service has worked well, and therefore, we ought not to make any changes in it. I do not at all subscribe to the notion that civil service has worked well because if civil service had worked well, we would have representation at all levels of state government. We would have job opportunities in greater numbers for all people in this state. The truth of the matter is that civil service has not acted well because it has not acted in the interests of all of the people, and it has not acted in the interests of all of the people because you have not had representation from all of the people included on the Civil Service Commission. I think that this commission is a significant step forward, and I would ask your support for it. It does not make any changes, but it will, I believe, democratize the Civil Service Commission in a manner that will redound to the benefit of this state. I urge the adoption of this amendment.

Further Discussion

MR. JENKINS

Mr. Chairman, you know, I think we've made a lot of mistakes so far in this convention, but I still think we have a basically good document. But, if I wanted to devise a way to kill this constitution, I couldn't think of a better one. The public sentiment, today, is for more honesty, less favoritism, less politics in government. They're concerned at the national level, at the state level, at the local level about these things. The people are not going to tolerate any tendency in the opposite direction. Now, what would it be like if we went to the people

of this state with a system of civil service that could allow a return to the old spoils system? That'll be the final nail in the coffin--the last nail in the coffin. Now, how does this do that? It does it in several ways. First, it packs the Civil Service Commission. It's basically a nonpolitical body right now, a very independent body; but it would be a seven-member commission controlled by gubernatorial appointees--two outright by the governor, and one from the president of LSU and another from the president of Southern University--who more and more are going to be political animals, I think, by virtue of the Education Article that we adopted, since the boards for those institutions would be appointed by the governor for short periods of time. So, you can see that, starting out, a majority of the commission--four out of the seven--are likely to be much more political than in the past. Then, this two-thirds vote in the legislature to change any aspect of civil service, that's no protection at all. You might as well not have a civil service system because I honestly don't believe that the legislature is sensitive to the delicacies of the civil service system. How could they be? State employees represent a big voting bloc. The legislature is not in a management position. They're subject to too many political influences. The Civil Service Commission serves as a buffer to those political influences; it has in the past. It's worked very well in that respect. It has represented the public fisc, protected the taxpayer, in a way that the legislature, because of its political makeup, simply cannot do. It's impossible. Now, I'll tell you what's going to happen if we adopt this provision and somehow the constitution were adopted--which I don't think it would be--every time we had a new governor coming in who was not a reform governor, we'd have a return to the spoils system, because the legislature by a two-thirds vote could allow any amount of political activity: deductions of salary for political purposes, campaigning by civil service employees. They could completely do away with the merit system, for all practical purposes; could do away with the rule of three, make it the rule of twenty or the rule of anything. Appointments could be completely at the whim of the local legislator or the local political power, whoever he might be. That won't fly. Now, I'm not one that's come up here every week and said that this or that is going to kill this constitution. I haven't done that, but I'm telling you this will--this will. Civil service is on a pedestal in the public's mind right now; it is sacred. The public will not tamper with it, and they're not going to by means of this constitution. I guarantee it; I don't have any doubt in my mind about that. Now, certainly the committee report is longer than I'd like to see it--seventeen pages--but for us to work through it would be preferable to adopting this amendment. But, I think the best approach is Mr. Dennery's amendment. It works out to about nine pages--eight or nine pages. It includes most of the real constitutional, gutsy material of civil service and leaves the rest to the legislature, as it ought to be, but it would maintain the basic principles and concepts of the civil service system. Now, Mr. Dennery has served on this commission. He understands the problems; he understands what we're confronted with, and I think he has a good proposal if you would give it some consideration. We can't take the chance of returning to the spoils system. If we tried to, it would be a fruitless endeavor because the people aren't going to let us. So, I urge you, let's reject this amendment and consider either Mr. Dennery's or the original committee proposal.

Further Discussion

MR. ALEXANDER

Mr. Chairman, delegates, ladies and gentlemen, I rise to support this amendment, but with modifications or with some reservations. First, I want to say that for those who are saying that civil service is a sacred cow, to those who say that it must not be altered or changed, I say to you that any system devised by man is subject to change. Any system that any group of individuals may write should be changed from time to time. Let me give you this example. Since 1950, every mayor of the city of New Orleans has told me personally that blacks could not be hired on a large scale because of civil service. With the exception of one, every governor of this state since 1956 has said to me that the reason there are so few blacks in the civil service system of this state is because of civil service. Now, I say to you civil service people that somebody is lying, and I say to you that we would like to get to the bottom of this issue and find out where the problem is. Now, let me say specifically that in the city of New Orleans the mayor had to go to a white university and ask them to appoint

a black to the Civil Service Commission, or name a black, in order that we would have one. Now, I say to you that that's a bad system. I'm asking you to do this. The Dennery amendment which, in my opinion, solves the problem better than any one of the three propositions before us--I would ask the sponsors of the Flory amendment to withdraw it in favor of the Dennery amendment because the Dennery amendment includes all the provisions that are in the Flory amendment. It also safeguards the civil service system in the state, and I am for civil service. It prevents the exclusion of any of the appointing institutions, as are indicated in Section 9 of the provision. It includes the provision that smaller cities may have civil service systems. It reduces the number, or the size of the population of a city to qualify, from 400,000 as indicated in the Flory amendment to 250,000. I'm asking those of you who are for civil service to vote for the Flory amendment, and if it fails, then please vote for the Dennery amendment.

Thank you.

Further Discussion

MR. STINSON

Mr. Chairman and fellow delegates, due to past experience in the legislature, I'd have to say "amen" to those statements that were made by Mr. Hernandez and someone else. It was before 1940--we thought we had a new... In 1940 we thought we had a new era in Louisiana; it never would go back to what it was before. We put in the civil service thinking that the legislature, certainly by a two-thirds vote, would protect the people. But, in 1948 Governor Long controlled the legislature. The legislature from my parish, when our group for good government would go see him, he says, "Well, Governor Long hasn't told me what to do yet." Well, Governor Long told him, and the people told him in '52, and he didn't come back. Anybody that thinks in public office that you're going to be politically strong by firing everybody and hiring everybody, you're making a very foolish mistake and decision. If that controls your vote, and you think you're going to be a candidate for office and you want to kick everybody out and put your friends in, you're making a mistake. In 1952 I was again in the legislature, and we put in the present provision, and I think it should be continued. I don't think any governor should be given the power to appoint and control the board. That makes good men bad men when they have power. Power goes to people's heads. That's the reason so many kings had their heads chopped off because that's how they got rid of them--power crazy. This is going to create it under this. Please, do not give this control to any governor. I'm not criticizing Governor Edwards; anybody knows he doesn't control the legislature. We have just had a special session. He didn't control it; they did what they wanted to--by two-thirds votes too. If they don't look out, the people might remember that someday. Now, I have faith in the civil service. If you don't like civil service, well say so and vote it out. Don't put a lot of window-dressing like you're trying to do with this amendment. If you do, you're wasting your time. Now, I'd like to read from an article that was in the State Times. It shows through the ages what our founding fathers thought of the constitution and why things of great importance was placed in the constitution. Now, I'm quoting from Daniel Webster. It says "The American Constitution was not written to limit the people--not to limit the people. The people are always free to change it by their vote. It was written to limit the lawmakers, those people who love the government. They love the government because they want to govern." And he concluded, saying "The constitution was made to guard the people against dangers of good intentions. Good intentions will always be pleaded for every assumption of power." Any time anyone assumes power--look at Cuba, the liberator--he liberated them. The only ones he liberated there were those that he executed. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters. Let's put this in the constitution. Protect the people that have those jobs. I'm not trying to protect anyone. I don't have one member of my family on any state payroll under civil service, or any federal payroll. But, let's protect them. In 1940 when I was first elected State Representative, they tried to fire everybody. I think our was one of the few parishes that they didn't do it. They fired them...and whenever you don't have civil service, that's the danger that you have. It will haunt you, if you think it's going to help you politically to get rid of the civil service. We've got to protect those people. Someone said, "Well, they're not dedicated. They may abuse it." Well, if it's abused, try to strengthen it;

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don't try to destroy and get rid of it. I ask you to please vote down this amendment, and let's vote for the committee and make it an independent. Pressure's been tried to be put on the civil service a lot of times. My thought and my belief--it's been a good commission and certainly should not be torn down as this amendment will do. Please vote it down, and let's accept the committee report. Thank you.

Further Discussion

MR. STAGG

Mr. Chairman and fellow delegates, if I can have your attention, I'll try not to spend five minutes in speaking on this amendment. I think that the length of the material in CP 9 and CP 10 as it came from the committee is absolutely appalling. The total number of pages of material in the Executive, the Legislative, the Judicial, Local-Parochial, Bill of Rights, Revenue, Finance and Taxation--everything we have done in this hall since July the fifth total eighty-three pages. The total on civil service as it is presently before this house totals sixty-three pages. Is the civil service tail going to wag the whole damn dog? I am for a system of civil service. When Mr. Flory stood at this microphone to explain his amendment, he said he was speaking on behalf of sixty thousand state employees, of thousands of employees of the city of New Orleans, and thousands of fire and policemen across this state. If those dedicated public employees could but read the Flory amendment and, having read it, understand it, I doubt you would find that his remarks were on their behalf in their opinion. It would be nice in some departments, I think, that when an employee was felt by his employer not to be doing all that he wanted him to do, to just say "Carry your frame, buddy; you're fired." But, it doesn't happen that way because the employees of our government at all levels are protected in their employment against that kind of supervisor or that kind of official. Mr. Flory said "Business wouldn't let an outside consultant hire all your employees." Well, Mr. Flory, I can say to you the employees of this state are not employed on the basis of that nature, and you darn well know it, and it should not be. When Representative Jackson was at the microphone, I could tell from his remarks that he was solely concerned that the system as it presently exists has resulted in fewer black employees than he thought was proper. Well, I say to Representative Jackson, "Don't burn down the whole house in order to cure those deficiencies which can and will be cured." I don't even like the two-thirds amendment by the legislature, or the two-thirds provision by the legislature; maybe three-fourths would be better. I don't often talk on the same side of the question as my friend from East Baton Rouge, Mr. Jenkins, but I certainly agree with what he said today. And being so fully in agreement with it, I ask that my name be placed on the list so I could urge this convention, with all the strength in my command, that you do defeat the Flory amendment. Do not turn over the system of civil service to control by the governor, by his influence on four of the seven members of that commission, and that you preserve and protect the system of civil service by which this state government has prospered in the past. I do urge its defeat; and if you have not made up your mind, for goodness sakes, think what you're doing before you do it.

Recess

[Quorum Call: 105 delegates present and a quorum.]

Further Discussion

MR. SMITH

Mr. Chairman, fellow delegates, I appreciate this break because I think maybe we'll pay a little more attention. I don't have a whole lot to say. I don't get up here very often; the only time I do is when I think it's something worthwhile. I am for good government. I'm a hundred percent for civil service. In 1952, when I was in the legislature, I voted for this civil service; we put it in the constitution; it's now in there and I think it's worked good.

I don't think we should tamper with the civil service. I feel, though, we may shorten it. I think Mr. Dennery has an amendment that will probably keep all the essentials and maybe cut it down, but still keep in the civil service what we need in there. However, this particular amendment we have now, I think, will have the effect of gutting the bill. The legislature by two-thirds vote can... may not be able to repeal civil service, but they'll make it so ineffective that it will not be worthwhile. But, I say, I feel like we ought to go ahead and vote this amendment down, shorten the present law perhaps, but let's keep civil service, gentlemen. You know how it was before we got it. We don't need to try to do anything to hamper civil service, so let's go ahead and defeat this amendment, and go on and adopt maybe a shorter version--Mr. Dennery's amendment--and go on and have a good civil service. I thank you.

Vice Chairman Casey in the Chair

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, I really thought that I had gotten off on the right foot when Tom Stagg got up to talk because I thought he was going to talk in the direction I am; and, low and behold, after making the greatest argument for saying that sixty-three pages is too long to have for civil service, he comes out and is against the amendment and suggests nothing better--not that he probably doesn't have anything better, he just is against the amendment. I rise in support of this amendment. For all you people who get up and talk about return to the spoils systems and some of the younger fellows who have talked, unless you have represented a bunch of these civil service employees, you don't realize that the Civil Service Commission, as it presently is constituted, is just not cutting the mustard; it's not adequate. I have a late opinion here that Moise happened to give me to read something else in it: what happened was this person was terminated because she didn't.... she procrastinated and a few other things like that; ultimately the commission put her back on. But, let's get to the issues of what has been raised with respect to the control of the governor. Some of you fellows who are a little older than I am, or my age, will remember some of these things. Back there when Governor Long was at the height of his power, he attempted to make Lether Frazier, who was either president or vice-president of McNeese, president of L.S.U., and he failed. Governor McKeithen who had appointed a bunch of people on the L.S.U. Board of Supervisors--I don't say that he was definitely interested; I don't say that he went out and really tried to get it--but the word was he was wanting to be president of L.S.U., and he failed. Now, where is all of this rhetoric we hear then; where is the proof of the fact that the governor controls the autonomous body of the Board of Supervisors of L.S.U.? Where is it? I dare say that neither Woody nor Buddy can tell me in the last twenty years whom L.S.U. has recommended for appointment to the Civil Service Commission and who the governor appointed. I bet you that a bunch of you all can't even say who really was appointed by L.S.U. and, more than that, whether that person was a friend of the governor or not. We're just talking in general vague terms when we say, all of a sudden, the governor is going to control the appointment of the L.S.U. Board of... of the L.S.U. president nomination because the governor will somehow or another get complete control of the fourteen-man board of the L.S.U. Board of Supervisors. Well, that's just hard for me to swallow. I can't swallow either that the governor is going to control the president of Southern University with respect to the appointment he will make, particularly when these appointments are going to be on a staggered basis. Now, let's talk about some of the other things with respect to the protection that is afforded by Mr. Flory's amendment, and particularly the two-thirds vote required in the House and Senate to change anything. Recently, there was an attempt, a move made, to make the burden of proof on the appointing authority with respect to the firing of a state employee: that is, that the poor little guy who is fired doesn't have to prove that he was not incompetent--that's always hard to prove--but that the appointing authority who fired him would have to prove, in fact, that he was. The burden of proof is on the employer at this time. The House and Senate thought that that was wrong--that's a civil service rule--so, they tried to get a two-thirds vote of the House and Senate to submit to the people of this state a change with respect to the burden of proof. They failed miserably. Now, you want to tell me that all of a sudden, a good legislature is going to do a flip-flop and destroy the merit system and destroy the civil service system, and that the Civil Service Commission and the people who are supporting it will not be able to get at least fourteen senators to prevent that? I just don't buy that. I am for shortening this particular

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proposal. If you don't like some of the things in it, if you think that the appointees should be appointed for a term of six years rather than four--that's six of one, a half dozen of the other--change that. But, let's not argue the old harem-scarem tactics of the spoils system. Let's get down to the meat of the coconut and pass this amendment, and then dress it up a little more if you choose too.

Further Discussion

MR. JUNEAU

Mr. Chairman and fellow delegates, I'll make my remarks very brief. You know, at the commencement of this Constitutional Convention, I guess that most of us who ran for this office ran on certain platforms. I don't recall anyone, to my knowledge, in this entire convention who had a mandate to change civil service. Now, I'm not talking about changing the language, or the detailed, meticulous language in this convention; I'm talking about changing the basic principle of civil service. Again, I say, I defy anyone to say that they had a mandate from the people of this state to change civil service. Secondly, I don't recall anybody giving a mandate to anybody in this convention to give the governor of this state more power. I find it a little interesting when we come up here and say let's don't talk about the spoils system when three weeks ago we were saying, you better not fool with this because you're talking about the spoils system. If we're going to adopt that philosophy, let's be true. Civil service unquestionably is needed in this state. We went through a tumultuous time in the earlier years of this state which we do not want to relive. I tell you, and in my sincere opinion, if you tamper with civil service--the basic philosophy of civil service as it's known to the people in this state--I tell you we are tampering with something that can materially affect this constitution. To me, that's just a fact. Before we got involved in this convention, we could tell there were four or five items that we were going to fool with that were very touchy: Civil service--everybody says you better watch that one; you go tampering with that one, you're going to really mess up; property tax--you better be careful; and education was another one. I'm telling you--and I hesitate to talk on this subject--but it just got to me that it looked like we were lulling ourselves into a sense of false security. So, in summary, I'll implead with you, and I will not go over in detail what other speakers have told you, but I tell you in all honesty that the changes that are made by this amendment are not mandated by the people; it's not necessary; and it's certainly not consistent with what I think we're trying to do in rewriting this constitution. I implore you and implead with you to reject this amendment.

Questions

MS. ZERVIGON

Mr. Juneau, since the convention, in its wisdom, didn't allow me to ask this question of Mr. Roy, I'll ask of it you. He was referring to the very independent L.S.U. Board of Supervisors who has appointed a very independent member to the Civil Service Commission all these years. Didn't we change that Board of Supervisors to some extent, maybe shortened their terms or something, right before we went on recess?

MR. JUNEAU

In my recollection, the terms are shorter, yes ma'am.

MS. ZERVIGON

They are like less than half as long as they are now, which may mean then they are not quite as independent as they used to be--or at least, that's a possibility?

MR. JUNEAU

That's correct.

MS. ZERVIGON

Thank you.

MR. CHAMPAGNE

Mr. Juneau, did you know, since you and I both represent a portion of the same parish, that I spoke about the spoils system and was concerned the other day, and I am still am now; so I'm not one of those who flipped over. I just wanted you to know that.

MR. JUNEAU

I'm glad you're not one of those, Mr. Champagne.

MR. A. JACKSON

Delegate Juneau, are you aware that in House District No. 2 in Caddo Parish there is a great clamoring to change civil service?

MR. JUNEAU

As I said, Mr. Jackson, to my knowledge, I don't... I think if you were to take a poll in this entire state-- I can't speak for that district, Mr. Jackson in response to your question-- but I think if you would take a poll in this state, my own personal opinion is that the overwhelming majority of this state would reject any substantial change in civil service, which I think this proposal does.

MR. A. JACKSON

Yes, but you made an emphatic statement that no one ran as a candidate to change civil service. That was incorrect. I did.

MR. JUNEAU

I said I didn't know of anyone, Mr. Jackson. If you did, maybe you're one. I'd like to know how ever many did on that same platform.

Further Discussion

MR. RACHAL

Mr. Acting Chairman and delegates, this is a very difficult time to rise. I realize the hour is growing late, and I had thought of not rising until I was surprised by Mr. Juneau's remarks. It's rather interesting, and I wonder if he was trying to say something to us when he said if there were three things that the people did not want us to tamper with or mess with, it was civil service, property tax, and education. Well, we've already messed with property tax and education, and I suppose he's suggesting that now we're on civil service. So, if two out or three isn't much different from one hundred percent. Let me add also that I sincerely admire the members of the Civil Service League and other persons who are so vehemently in defense of the civil service system as it is. I believe that many of them are genuinely sincere. What discourages me so much is that in speaking with many of these people, I cannot seem to get across the idea that nothing is really perfect, and that there are times when there must be consideration for change in keeping with the times in which the present... in which we exist. I cannot support the fact that the statements that are made many times that Louisiana has the best civil service system in the world, or in the country, but I don't know what there is to back it up. I hear just as many who say that civil service is... operates no better in terms of the results than it does in others. I feel that we do need to make some changes. In suggesting that we need to make changes, I do not mean to suggest that I want to gut the Civil Service Commission-- I would like to make provisions whereby the system can be responsive to the needs, not only of the people, but to the managers who must run the federal agencies efficiently, as well as for the employees we say we're trying to protect. I wonder sometimes just what are we trying to protect. In the testimony that I've heard, I heard many managers in this government who complained about the inflexibility of the system to make some of the selections which they chose to make to better run their operations. I have also observed these are times when some of the flexibilities were made to operate when it was convenient, and yet, at other times it could not operate. Now, as I listen to the testimony today, I hear those who, like myself, support this amendment be admonished to have confidence in the system as it presently exists because it's going to change. I've heard those same people say, too, let's have confidence in the legislature, and then now we say can't trust the legislature. If there is anyone who should mistrust the legislature, I think I should head the list. I'm not as knowledgeable as many of you, nor as experienced as you in having observed the workings of the legislature, but I have known enough not to be interested for many years because the operations of that legislature meant no good to me. But, I have noticed a change, and I am willing to stake some of the future and the principles for which I stand upon that legislature; and to relegate provisions whereby we can be flexible to provide a civil service in keeping with the late seventies and the eighties, I'm willing to give some of that confidence to the legislature, as you have asked me to do in other instances. Civil service is a personnel operation. In addition to protecting employees, as I've said, it is--and supporting good government--it also must promote the efficiency of governmental operations. No one with managerial experience, who come into positions of government, is going to arbitrarily remove all people if he expects to continue to run an efficient operation. It just doesn't make sense. I think that the caliber of persons we have in the legislature--and I certainly hope that in the governors we'll have in the future-- that such irresponsible behavior will not take place. I would say that for those of you who have concerns about appointments of two persons by the

governor, it has been admitted by the proposer of this amendment that a certification by the Senate would be accepted as an amendment. If that's the only objection, why not amend the nominations so that we may move forward. The objections by appointments by the governor, I take issue with. There have been those before me who have referred to their experiences in the past. I've had some experiences too. I have noted in the federal civil service example... for example, where the commissioner of the federal civil service are appointed by the presidents, that such a procedure whereby some influence could have been brought to bear has called for some progress having been made in the federal government, in terms of the civil service --because of the pressures brought to bear, if you will--but which changes and flexibilities have not been in violation of a merit system. A merit system which calls for seeking ways by which individuals chosen for employment are those supposedly best qualified.

Mr. Chairman, I'll end by asking the delegates to support the Flory amendment, and I call for the previous question.

[Previous Question ordered.]

Closing

MR. FLORY

Mr. Chairman and delegates to the convention, we now approach the time we're about to vote for something that's extremely crucial to the employees of this state and some of its political subdivisions. I want to clarify the record if I can, for the benefit of some of those who stated from this microphone one or two things, and I recognize that the... they perhaps may not have heard exactly what I said, and I hope they didn't deliberately try to misconstrue something that I might have said in my explanation of this amendment. Specifically, I did not say--nor do I propose--that I speak for the sixty thousand state employees of this state, nor all of the thousands of firemen and policemen in this state. My remarks were--and I repeat again-- nothing that you could do in this convention will aid that sixty thousand employees of the state, or the firemen and policemen throughout this state, and the employees of the city of New Orleans more than by the adoption of this amendment. That's what I said. I honestly and conscientiously believe that, but at no time did I try to convey that I spoke for those people. I can say to you without any reservation whatsoever that I do speak for many, many thousands of those that I mentioned, but never would I say that I spoke for the total amount. Now then, I do not believe that the Public Affairs Research Council, who is financed, I presume, primarily from management sources, would come to the conclusion that they trusted the legislature by a two-thirds vote to amend or change civil service, if they thought for one second that it was going to be detrimental to the civil service system, or to the security of the state employees, or those covered by civil service in this constitution. I don't believe that. You know, the whole process of negotiation hinges on one point, and that's good faith-- good faith between the two parties. If you have no faith in the legislature, if you have no concern for the sixty thousand employees in state civil service and the other thousands of firemen and policemen, then you ought to vote against this amendment. Another remark was made that in relation to the fire and police civil service, that it was purely by seniority. I suggest to you that that's not the case. You first have to pass a qualifying examination and make a passing grade on that, and then you have... the senior man gets it. That's the way we pick the Chief Justice of the Supreme Court of this state, solely and purely by seniority, adopted by this convention. I urge you to search your conscience in the best interest of the thousands of public servants of this state and adopt this amendment. I beg of you that. Mr. Chairman, I ask for a record quorum call and a record vote on the amendment.

Chairman Henry in the Chair

[Record Quorum Call: 111 delegates present and a quorum. Record vote ordered. Division of the Question ordered. Amendment No. 1 adopted: 57-55. Motion to table reconsideration rejected: 51-59.]

MR. JENKINS

Mr. Chairman, I think we need a little soul-searching. I move to reconsider.

MR. HENRY

Well, now, Mr. Flory had moved to reconsider. Mr. Flory, do you insist on the motion...on reconsidering at this time?

All right.

Now, here's the position we find ourselves in. The fact that the previous question has been ordered on the three amendments. I think we are going to have to, under the rules, go ahead and take a vote on the remaining two amendments unless we otherwise suspend the rules. You could insist on reconsidering, as I appreciate it--as we appreciate it right now--but, I don't think you can go further than doing anything until we vote on the other two amendments, Mr. Jenkins.

[Record vote ordered. Amendment No. 2 adopted: 60-54. Motion to reconsider Record vote ordered. Motion rejected: 55-58. Record vote ordered. Amendment No. 3 adopted: 64-49. Motion to reconsider. Record vote ordered. Motion rejected: 57-58.]

MR. HENRY

Now... alright, Mr. Flory. Do you want to reconsider all at this at once, or you want to reconsider them one at a time?

MR. FLORY

Mr. Chairman, I think in fairness to the convention, in light of the way they just voted, that they ought to be considered separately, as they were voted upon separately....

MR. HENRY

All right. Do you want to begin discussing Amendment No. 1, then?

We've got to vote to reconsider first, that's right. So, you want to take the vote on Amendment No. 1 first, and then 2 and 3, or do you want to vote on them all at once?

MR. FLORY

Mr. Chairman, I had wanted originally, to vote on all of them at one time because I think what's involved is the entire civil service system. So that....but my appreciation, when the delegate asked for a division of the question, under the rules, there was a question in my mind whether I had a right to object at that time to a division of the question because I think they are all intermingled with each other. Really, it....

MR. HENRY

Well, Mr. Flory, the gentleman had come up here earlier and had asked both the Clerk and myself if the amendments were divisible. Of course, looking at them, it appeared to me--it appeared to Mr. Poynter--that they were. When, under the rules, a gentleman requests a division of the question, if, in the opinion of the Chair, the question is divisible, then the gentleman or the lady who makes the request automatically has a right to have the question divided.

MR. FLORY

Well, under that, Mr. Chairman, if the delegate has the right to request that, and you've ruled that the question is divisible, then I think I would proceed to discuss them one at a time.

MR. HENRY

You want to talk on your motion to reconsider?
All right, sir.
Mr. Smith, why do you rise, sir?

Substitute Motion

MR. SMITH

I was going to make a motion that we consider this tomorrow. I don't see what good it would do to go over all of this again today. I'd like to make a motion that this be postponed until tomorrow morning.

MR. HENRY

Well, we haven't even voted yet to reconsider, Mr. Smith. There's just a motion to reconsider, don't you see?

MR. SMITH

All right.

Explanation

MR. FLORY

Mr. Chairman and delegates, we're in a parliamentary procedure at this point where, under the rules, the motion to reconsider and lay on the table, was a mere formality as far as the rules of the convention in laying something on the table to say that we have decided the issue, and go on from that. So, that, the position that we are now in, that if you want to sustain the vote that we just took on an adoption of this amendment, then we have to vote because the objection was raised and carried on the issue. I think if there is that concern among the delegates, in not wanting to lay it on the table, it's of such magnitude that we ought to further debate the issue. But, I, personally, of course, would have liked to have seen the vote laid on the table because I think we could have then gone on with this proposal and adopted a proposal and gone into Proposal No. 10 because the people would have decided the issue insofar as civil service is concerned—that is, basically speaking. So, I would ask that you vote...Mr. Chairman, if we reject...if we vote no to reconsider at this time, what's the parliamentary status?

MR. HENRY

If you vote against reconsidering, then, all three sets of amendments are adopted, sir.

Explanation continued

MR. FLORY

So, I would ask that you reject the motion to reconsider at this time, so that the amendments that have been adopted would stay adopted. Let's then go on about the work of the convention. So, I ask you that when the vote comes, to vote no.

Questions

MR. DESHOTELS

Mr. Chairman, I listened to what Mr. Flory...Mr. Flory you've still got the chair. Would you please—I mean the podium—would you please explain again what your opinion is of our position right now? In other words, what happens if we vote yes, and what happens if we vote no?

MR. FLORY

My position, as I appreciate it, and I hope the chair will listen carefully to correct me if I'm wrong, the three amendments have been adopted. Is that correct, Mr. Chairman?

MR. HENRY

That's correct, Mr. Flory.

MR. FLORY

All right. If we vote to reconsider at this time, then that undoes the adoption of the amendments so that the position that we want to take at this time is to vote no on reconsideration to let the adoption of those amendments stand.

I ask you to vote no.

Substitute Motion

MR. SMITH

Mr. Chairman, I'd like to make a substitute motion that we consider this on the next succeeding day, and not take it up now.

MR. HENRY

The gentleman now moves as a substitute, that we reconsider the vote on Amendment No. 2...on Amendment No. 1, tomorrow.

Personal Privilege

MR. NUNEZ

I guess in confusion, just like a lot of other people are, and just like a lot of other people are trying to do the right thing, and pass this, in what we believe is the best interest of the public at this time; I think we've made a number of mistakes, and we don't have many left. I think it must be indicative, if we read that vote, fifty-fifty right on down the line. Maybe a lot of us would like to look a little closer and come up with the right decision. I think that's what, maybe, somebody is trying to tell us in this convention.

MR. HENRY

Well, Senator, if you want to speak on it, come down front, but you're making a statement, now.

Point of Information

MR. SINGLETARY

Mr. Chairman, if we vote not to reconsider, does that mean that we could reconsider it at a later time?

MR. HENRY

All right, I'm going to explain that.

But, gentlemen, now Mr. Singletary has asked a very interesting question, which is indicative of the fact that some people are not paying any attention at all to what's going on in here.

The motion before the delegates now is whether or not we're going to pass over this until tomorrow or not. Mr. Flory had moved to reconsider the vote and lay the motion on the table. You refused to table the motion to reconsider.

Therefore, the discussion was taking place on the reconsideration of the vote, on Amendment No. 1, to which motion Mr. Smith has made a substitute motion that we defer any action on Amendment No. 1 until tomorrow. What was before us right now is whether or not we are going to reconsider the vote on Amendment No. 1 now, or tomorrow. That's what we should address ourselves to right now.

Point of Information

MRS. ZERVIGON

Mr. Chairman, maybe we ought not to take this into consideration trying to write the best constitution we can, and all that kind of stuff. But, if we pass over this until tomorrow, what will we do the remainder of the afternoon?

MR. HENRY

We could, if the delegates were of a mind to, I would assume begin debate on Committee Proposal No. 10. We could adjourn. If we did, hopefully, some of those committees that need to meet could meet. Or we could just adjourn. So, we don't have...we are in an awkward position with respect to the fact that I question the wisdom of leaving this proposal and going to another one until we have resolved it.

Point of Information

MR. TATE

Mr. Chairman, if I understand it, if we don't reconsider the amendment, then it's before us, and then it's open to further amendment and further discussion. Do I understand that correctly?

MR. HENRY

If we don't reconsider it?

MR. TATE

Yes, sir.

MR. HENRY

If we...well, of course, we are not to that point yet. We were to it a minute ago. If this body votes to reconsider, then it opens the whole business to discussion again.

MR. TATE

All right.

MR. HENRY

If this body votes not to reconsider, then the amendments are adopted.

MR. TATE

All right. Then, once the amendments are adopted, are they not open to further amendment?

MR. HENRY

If they're not...you've got to ask me your question again.

MR. TATE

All right. Let's say we had voted...we had tabled the motion to reconsider. So now, we've adopted the amendment. Then, we can have further amendments to the amendment...

MR. HENRY

That's correct, Judge Tate.

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Point of Information

MR. DENNIS

Mr. Chairman, if Mr. Smith's motion to reconsider the amendments on tomorrow is adopted, will that mean we pass over the section, or just the amendment? Won't we still have the section before us, and can't we continue to work on the section?

MR. HENRY

We're still going to have to determine the section. There's not but one section to the proposal, as I appreciate it. Consequently, it would be somewhat, I think, unnecessary for us to begin considering other amendments before we determine what we are going to do with the amendments that are before this body, Judge Dennis.

[Motion for Previous Question on the substitute motion.]

Point of Order

MR. ASSEFF

Point, too.

For ten minutes, Mr. Chairman, I have sought recognition from the chair to speak. I don't know what to do. I want to speak, please, sir.

MR. HENRY

Dr. Asseff, I apologize for not seeing you. With everybody standing up like Mr. Duval, and Mr. Anzalone, and Mr. Roemer, and Reeves, it's hard to tell who wants to do what. I apologize. I'll put you on the list if we ever get to that point.

[Record vote ordered. Motion for the Previous Question rejected: 19-93.]

MR. HENRY

Mr. Roemer is recognized on the motion, to speak on the motion to defer action until tomorrow.

Further Discussion

MR. ROEMER

Mr. Chairman and fellow delegates, I just have a few comments. I don't know all that much about civil service. I've learned something today. But I did observe just a few commonsensical things as I walked about the floor during the debate today. That is that most of you weren't either interested, or didn't give a damn because you were not listening. It was obvious. I talked to some people about football; I talked to some people about the cotton crop; I talked to some people about how long this convention lasted; I talked to some people about the pressure it put on us; I talked to some people about what we are going to do this weekend; I talked to some people about how bad the weather's been. The point is, it seems that on a question of this importance, that we could have listened more--perhaps myself included. I think that Senator Nunez hit this convention right between the eyes, and right on the head, when he said we have made enough mistakes. We can ill afford to continue what has to be considered a blotchy performance up to now in many, many respects. It seems that when the pressure is put on, we seem to do our worse. We seem to backtrack--get bogged down in petty arguments and, most of us seem to turn our minds off in the hopes that by not listening to the facts and just listening to a few pressure groups, we won't have to think about it. We won't have to make up our mind. Somebody else can make up our mind for us. That's what it comes down to.

I have a simple point to make. I think we ought to reconsider the vote. To be honest with you, I was not in favor of the adoption of these amendments. I don't think it's in the civil service best interest. I think we ought to reconsider. Not just because I voted what turned out to be by a narrow majority the wrong way, but because most of you didn't hear the argument. I just have enough faith in the facts, as I understand them, that if you heard them, and if you digested them, and if you can believe in them, then we won't adopt amendments like this.

One final comment. There are those who want to wait until tomorrow. Twice before in this convention, I've waited until tomorrow. I was amazed at the mandate, at the consensus that was pulled together overnight, after a tomorrow. I don't think we can afford another tomorrow on something this important. Because, if you think the pressure is on this afternoon in the security and safety of this

building, can you imagine how it's going to be tonight? Can you imagine what consensus will be pulled together and by whom? I think we ought to reconsider--and today.

Further Discussion

MR. CHATELAIN

Mr. Chairman and fellow delegates, I'd just like to rise and point out a few points that I'm sure that all of you know. But, I think it's time for us to stop for a moment, pause, and reflect on some of the things that's happened since July 5 this year, when I attempt to try to write a better constitution for the State of Louisiana. One of the three gut issues is now before us. The Number 1 gut issue was property tax. In the property tax proposal when it was finally adopted by this convention by a very narrow margin, New Orleans, Shreveport, and north Louisiana supposedly were hurt by the final adoption of the exemptions, etc., that we adopted. So, some of those people already are disgruntled in these areas because of what happened in property taxes.

Education was the second very vital gut issue that we had to debate. On final passage of the education proposal, which was adopted by this convention by seventy-two votes, you must have sixty-seven votes, by a narrow margin of five votes, this convention adopted the education proposal.

In the area of Louisiana that I live in, that's all I hear when I walk in the streets of south Louisiana, is that, "What in the world else are you going to do to us?" We are being bombarded by a very narrow vote on the outcome of the education proposal. I ask you to stop and think awhile. I don't care if you reconsider this afternoon, or tomorrow morning. But, I think that you ought to reconsider this, and reconsider it well. Civil service is the last gut issue that we have to debate. I submit to you that we better not make too many mistakes. I pointed out to you that New Orleans was hurt in the property tax proposal. It seems to me that New Orleans is going to be hurt in this proposal--in the civil service amendment before us now. I would suggest to you fellow delegates, that you reconsider this, and reconsider it well. Thank you.

Questions

MR. STINSON

Mr. Chatelain, I think you've already asked, but I'd like to reemphasize: Don't you agree that of the three, that this is the most important issue insofar as the future successful operation of our state and municipal government--this question of civil service, to have a strong civil service to protect employees?

MR. CHATELAIN

I certainly do, Mr. Stinson. I'll put it in the same category with property tax, education because it is vitally important to many, many working people in this state.

MR. STINSON

Would you estimate in your area, and I'm sure that that it would be the same in ours what...in the more than fifty percent of the people in favor of civil service that will protect the dedicated state employees?

MR. CHATELAIN

What percentage, sir?

MR. STINSON

Over fifty percent.

MR. CHATELAIN

Yes, sir. Definitely.

MR. STINSON

In this constitution to be passed, has to be passed by over fifty percent.

MR. CHATELAIN

That's right. I don't know of any group that's going to be more vocal than those people who have been on civil service, and are... have to look forward to working for the rest of their lives on a state job, or a teaching profession, or some other profession that's so vitally interested to the welfare of this state.

MR. FULCO

Mr. Chatelain, who told you that our section of the state was hurt by the tax formula, or the property tax ...

MR. CHATELAIN

The farmers in north Louisiana, sir.

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MR. FULCO
I say, who told you?

MR. CHATELAIN
The farmers did, sir--the delegates here.

MR. FULCO
The delegates? I'm from Shreveport; I didn't tell you.

MR. CHATELAIN
Yes, sir.

MR. FULCO
Well, let me tell you--Tom Stagg's the only one that might have told you--but, our police jury, our city commissioners, our tax assessor, and our school board said "no; we are satisfied; vote for it." I don't care what Tom Stagg told you.

MR. CHATELAIN
Mr. Fulco, I can only state what was publicly stated in the Shreveport Journal--and the mayor of the city of Bossier City and the mayor of Shreveport, which I think is a duly elected officer in your area who are very vocal on this---I'm using it as a reference.

MR. GOLDMAN
Mr. Chatelain, I'm going to ask the same kind of question that Mr. Fulco asked. You mentioned north Louisiana was hurt. I just came back from there, spent two weeks there, and I've been called and given a lot of compliments by a number of public officials on the property tax. I couldn't find anybody that thought we were hurt. I think even Mr. McDaniel, on our television station in an interview that I saw him on, said that although at first he thought that this was very bad, after thinking about it a while and deliberating on it, he thought the property tax article was a pretty good article now.

MR. CHATELAIN
Well, Mr. Goldman, I'm sure glad to see there's some rays of hope yet for this constitution. I'm certainly hoping that it continues to be those bright rays.

Further Discussion

MR. LANIER
Mr. Chairman and fellow delegates---Mr. Chairman, in particular, I consider this a very important issue that we're on right now, and the reason for it is that in the city of Thibodaux we have just started a civil service system. This was done by Act No. 97 of 1972. Now, when I came here this morning, I had a Committee Proposal No. 9 and a Committee Proposal No. 10 and a Delegate Proposal No. 27. But, after the debate started, I'm suddenly presented with a floor amendment signed by many of the people from the Education Committee, that I understand was discussed only yesterday, that I didn't even see a copy of until this morning. I've also been, through the courtesy of Mr. Flory, given a copy of an amendment that would apply to the parish and fire protection districts and the fire and policemen municipal civil service that I didn't have an opportunity to see until today. Since we're just getting started in the field of civil service where I come from, naturally we're very concerned about what impact and what effect the actions of this convention will have on the system that we have created. I've spent all of today talking to people who I consider knowledgeable in the field of civil service, like Mr. Flory, Mr. Dennery, Tony Rachal, trying to figure out what in the world is going to happen to my town where I was born and raised, and went to school, and married, and am raising my children right now. Now, I favor reconsideration. But, I also wish to have some time to, at least, have an opportunity to consult with the people on my Civil Service Board and as many people at home that know something about this, so I'll know where I stand when I vote on this issue. I think this is very important. That's why I think we need to have some time to consolidate our thoughts. That's why I concur in Mr. Smith's motion that we defer action on the reconsideration until tomorrow. I've stayed on the telephone half the day trying to talk to different people. I have a young attorney right now, who's on our Civil Service Board, doing some research for me so that I'll know and be able to cast an intelligent vote. Now, for those of you that have had long experience with civil service, that are familiar with it, perhaps this is a much easier decision for you than it is for me. I

know that this request is for personal reasons. But, I felt compelled to come up here and tell you how I felt about this. I would like to be given an opportunity--and I believe the people from Lafourche Parish, Mr. Ambroise Landry and Boysie Bollinger, feel the same way--if we're going to cast a vote that's going to affect somebody close to home, we want to, at least, be given an opportunity to know what we're doing when we do it. That's why I ask that you vote for the substitute motion of Mr. Smith. Thank you, Mr. Chairman.

Further Discussion

MR. ASSEFF
Mr. Chairman, delegates, I wasn't going to comment on CP 26 and CP 7 until some of the delegates did. I, too, represent Caddo, and I want to take Mr. Stagg off of a spot, and Mr. Chatelain. I, too, say that CP 26 and CP 7 are unacceptable to my area as they now stand. I did not wish to say that, but I will, though I should be talking about reconsideration. Everybody else did. In my opinion, what we decide on civil service will determine the fate of the proposed constitution. There is little hope of ratification now. We cannot make another mistake. We must consider carefully before we decide. I urge you not to make a quick decision. If we do, we might as well adjourn and go home. Let us wait until Friday. Let us think about it. It is that important. At the moment, no one can obtain sixty-seven votes, anyhow. We might as well wait until tomorrow, contact people, think about it, and then decide because, in my opinion, if we get civil service, I am through with the proposed constitution. It was in my platform---I don't know about anybody else's--that I would support the civil service provision basically as it now stands. Thank you, delegates.

[Previous Question ordered on the substitute motion.]

Closing

MR. SMITH
Mr. Chairman, fellow delegates, I didn't make this motion facetiously. I feel like we've talked on this thing today. Some of us want to talk to some of our people back home and others that are interested in this civil service, because this will gut the whole bill, as I think---I may be wrong--but I feel like it won't hurt anything to put it off till tomorrow morning. We've put everything else off from time to time, and I think this is a very serious thing, and I don't see any reason for going ahead and trying to pass it. It will probably be the same vote; I don't know. But, I ask that you all go ahead, and let's defer this thing. I think we would be doing a great thing for the people of our state.

[Record vote ordered. Substitute motion rejected: 32-82.]

MR. HENRY
Mr. Jenkins had insisted on the motion for reconsideration at this time.

Further Discussion

MR. JENKINS
Mr. Chairman and delegates, I want to urge you to vote in favor of reconsidering this question and reopen it to debate. I want to reemphasize how important and how serious this issue is. Not once during our election campaigns to this convention, not once since then have I heard from the public any dissatisfaction of a substantial nature with our civil service system. It has been a system that has worked well in comparison with other systems that are available to us. If there's anything we need to do, it's to strengthen that system, to take out what political influences are in it, not to do anything that could weaken it. Now, the only thing that I can see that could come about by packing this board with more gubernatorial appointees, or people subject to gubernatorial influence, and the only thing that I could see by leaving these questions to the legislature, by two-thirds vote, would be the possibility that civil service employees would be able to go out and run for election, campaign

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for office, take part in political clubs, have deductions taken out of their salary to go to the political hack who got them in office. The only thing that I can see would be things like that or things where political influence was the sole measure for getting promotions or where the whole merit system were changed to one of seniority—that's the sort of thing that can happen. Or where the rule of three becomes not the rule of three for hiring purposes, but the rule of five or the rule of twenty, whereby a department head can reach down the list and get the twentieth person, ahead of nineteen others who scored better on examinations and on the basis of ability than those ahead. Those are the things that can happen. Why don't we learn from history? History tells us that the two-thirds vote provision was tried before—1948. What happened? We did away with civil service for all practical purposes. It took a new administration, a reform administration, to give it back to the people. You know what's going to happen if we leave this up to a two-thirds vote of the legislature? We're going to have a system where the nonreformers come in; they politicize state employment; then the people are going to get outraged. A reform governor's going to be elected. They're going to have to restore it—probably put it back in the constitution. That's if the people would adopt such a system, and I say again, I don't see why they would. You haven't had people, I don't suppose, in any number, coming and suggesting we change civil service. That hasn't even been a bone of contention. It's been one of the few things in state government that's worked fairly well. I urge you to keep it in substantially the same form, not water it down or leave it subject to a reversion to the spoils system. So, I urge you to vote in favor of reconsideration, and when we reconsider it, I urge you to defeat Mr. Flory's amendments.

Questions

MR. STINSON

Woody, you heard some reference to the fact that the governor couldn't control the LSU board. But, isn't it a fact that that was a fourteen year board and not a six year that's provided for in the future, maybe?

MR. JENKINS

Yes, sir. But, that was Mr. Chris Roy who had made that statement, Mr. Stinson.

MR. STINSON

Well, for once, he told the truth, though, about saying they couldn't control it, and that was because it was a fourteen year board, wasn't it?

MR. JENKINS

Yes, sir. That's right, and it'd be only a six year term under the present proposal we're talking about.

MR. SHANNON

Woody, you made reference to 1948 that they did away with civil service; how was that done?

MR. JENKINS

It was done by vote of the legislature.

MR. SHANNON

What kind of vote?

MR. JENKINS

I believe it was a two-thirds.

MR. SHANNON

It was a majority vote, for your information.

MR. JENKINS

Well, I'm mistaken, but I'm sure that a two-thirds in those circumstances would have been just as easily attainable.

[Previous Question ordered.]

Closing

MR. FLORY

Mr. Chairman and delegates, I rise to ask you to vote no on the motion before this convention at this time. I ask you to consider, if you will, how hard it is for me to believe and to understand a member of the legislature who's not willing

to trust that august body with the decisions affecting its own employees. I can understand losing and wanting to come back and try and try again. I can understand that. I don't believe in using scare tactics, bringing in irrelevant issues. I have presented to this convention today the issues in this amendment, versus the present constitutional provisions, to the best of my ability, as honestly as I know how and as truthfully as I know how. I haven't in no way tried to pressure anybody into voting one way or the other. I have discussed it—intelligently. I hope—in attempting to convince some of the delegates the wisdom of this amendment. That I have done. I thought that was the democratic process. I hope that it remains as such. I ask this convention now to stand by its decision that we made earlier, even though it was by a slight majority, and vote no on this motion, to let these amendments stand adopted as the convention by a majority vote has voted. I ask you to vote no on the motion before you. Mr. Chairman, I ask for a record vote.

Questions

MR. STINSON

Mr. Flory, how do you think by reducing the terms will better the civil service system?

MR. FLORY

Just as I believe that it would better the judiciary as we reduced the term of chief justices or justices of the Supreme Court; we reduced the terms of the court of appeal; we reduced the terms of the Board of Supervisors, and I might say here, Mr. Stinson, that you talk about...someone talked about giving to the governor additional powers. I remind you that we have stripped from the governor many of the powers of appointment that he had—particularly in the filling of vacancies on local levels or in public office—in prior articles, so that by the mere...giving him merely two appointments does not increase his powers. Overall, we have taken from him many of the powers the governor of this state has enjoyed since 1921.

MR. STINSON

Only local appointments, not state appointments. We haven't stripped one from him. In fact, we've given him more, haven't we?

MR. FLORY

No, sir, because, I believe, under the law for statewide officials elected, where there was a vacancy, the governor could appoint to fill those vacancies. We have provided in this constitution that the first assistant shall take and fill that vacancy in case of a vacancy in those statewide elected offices. So, we have taken that away from him on a statewide basis that I can recall.

MR. STINSON

One more question, let me ask: Why do you think it will better the act or the civil service system by changing...by giving two appointments to the governor, and also by changing the people who will recommend...or the colleges?

MR. FLORY

I believe, as I said earlier in my remarks, Mr. Stinson, that the commission that I have proposed in this amendment is by far better able to represent the broad community of this state, and all of the interests of this state, rather than have five private colleges making nominations governing the full sixty thousand people employed in this state. I just believe sincerely that the state ought to have some voice in its own personnel relations. I just believe that. If they are going to have to finance it, then I think they ought to have some voice in its personnel relations. I ask you to vote no on the proposal.

MR. DENNERY

Mr. Flory, in your amendment, I'm somewhat puzzled on Amendment No. 2. You have a Section 3. There appears to be no Section 1 or 2, unless it's in the original, and that original talks about city civil service. Yet, when you talk about, in your amendment that's numbered "3"—although it's not Amendment No. 3; it's part of Amendment No. 2—you give the legislature the right to change in a two-thirds vote, and you also add the problem about fire and police in cities over four hundred thousand. Was there any specific reason for including it in that manner?

MR. FLORY

Yes, sir, there was, because if we transfer to the statutes the present constitutional provision on state and city civil service, there is a provision, as you well know, in state and city civil service--whereas in cities or municipalities over two hundred and fifty thousand, all of the employees come under that one system--so that I had to take that from the present constitutional provision to carry it forward to exclude the fire and police officers in the city of New Orleans or in municipalities over four hundred thousand.

MR. DENNERY

Well, what I'm getting at is: is it your intention to provide that the two-thirds vote could only amend or repeal... rather, amend but not repeal...no, it says "including repeal" the city civil service provisions?

MR. FLORY

No, sir...nor does it say that. It says that they can amend any...or change any provision of state or city civil service...the only thing, they cannot abolish it. It's my intent that the legislature, by a two-thirds vote, can change anything in the present constitution that relates to civil service, plus what this convention adopts, but they cannot abolish it.

MR. DENNERY

Except the provisions about fire and police in the city of New Orleans.

MR. FLORY

That's correct. There will be two systems: one for the state and city, and one for municipal fire and police over thirteen thousand--for those municipalities that have in excess of thirteen thousand population.

MR. DENNERY

Thank you.

Point of Information

MR. DUVAL

Yes, Mr. Chairman, there's some confusion as to whether we vote to reconsider. Are we voting to reconsider each amendment separately, or...

MR. HENRY

That's the way we voted on them, and that's the way the motion was made...

[Record vote ordered. Motion to reconsider the vote by which Amendment No. 1 was adopted, adopted: 60-53. Motion to reconsider the vote by which Amendment No. 2 was adopted. Previous Question ordered on the motion. Motion adopted: 57-56. Motion to reconsider the vote by which Amendment No. 3 was adopted. Previous Question ordered on the motion. Motion rejected: 54-61.]

Reconsideration
Explanation

MR. FLORY

Mr. Chairman and delegates, I know the hour is late, and I know that in the deliberations here today that a great deal of thought has been given to the amendments that I have proposed. I want to tell you I sincerely appreciate that consideration. I think that the amendments that I have proposed--and I want to speak now on Amendment No. 1--is the changing of the Commission of Civil Service. I believe that--and I have said earlier--there were some who objected to not having the appointees--all of them, or at least two of them--confirmed by the Senate. I said then, I would have no objections to the confirmation by the Senate, when, in fact, I would have no objection under the articles that we've already adopted, as far as confirmation, having them all confirmed by the legislature--by the Senate--as is the practice. If this would give to those who object to and who believe that by the appointive process it gives to the commission appointees some extraordinary power that they would not have if they were nominated by some college or university--even though, under that procedure, the governor would continue to appoint them from a list. I don't know of a great deal more that I could say in

support of the amendment that I have proposed in Amendment No. 1, only to tell you that in the last years that the civil service system has been in existence--since 1952--there's never been, to my knowledge, a person that served on the Civil Service Commission that I could consider as employee oriented, knowledgeable about the problems of the state employee, or the average employee, working in public service. I don't say by that that those people that were serving in the position as a commissioner deliberately set out to do things that were detrimental to the employees. I don't mean to infer that at all. I just mean that by experience in their field that they were not attuned to the many problems of the public employee as the problems existed then, and do today. I believe there are many things that ought to be changed in civil service. There are many things that ought to be changed to improve the system. I thought that by transferring to the legislature the authority to make these changes, with a two-thirds vote required, that that was a proper forum in order that everybody could come before a legislative committee and be heard in regard to whatever changes might be proposed, in a calm, deliberative atmosphere. It's been said that the decisions made today--and one of the problems that we have with the commission is that even though they hold public hearings and vote in public on the development of a pay plan, or upon the adoption of rules, that in truth and in fact, the decisions are made behind closed doors, and that the public hearing is mere formality. I have no way of knowing whether that be true or not. I can only suggest to you that incorporated in Amendment No. 1 was a vehicle whereby, I believe, that the state employees could have some input into the affairs of the commission, in the development of a pay plan, in the development of rules, and even in the development of a disciplinary action and ruling upon that. I might say, here and now, that in those systems that have employee representatives elected by the employees--so that I might put to rest the fear that exists in somebody's mind--that automatically, if a man is elected by his peers, he's going to rule with that employee if disciplinary action is taken against that employee. I can only tell you from history, throughout this state, in a majority of the cases, it's just been to the contrary--been to the contrary--and that member has voted against the employee and upheld the administrative action taken, based upon a case that was presented. I know there are those of you, here, that sincerely feel that the governor ought not have the appointive power. I know of no one else to trust in this state, except the chief executive, in the making of appointments. I look back over the years when the appointments have been made by the many governors of the state from recommendations by the private colleges and L.S.U., and again say to you, to my knowledge, no one has ever served on that commission who, I think or I believe, was employee oriented in their views and philosophy. I ask you to reconsider your vote in light of Amendment No. 1 in that it does not--it does not--destroy, disturb, or take away from the statute of civil service in this state. It does give 60,000 state employees--and the many thousands of others--some input into the final decisions made by the Civil Service Commission. I just believe that a man ought to have some voice, however small, in his own destiny. I really don't care, myself, as an individual, how large the commission is. I would not object if there were fifty members on the commission; but if there were only one, small voice behind those closed doors who could represent, philosophically, the employee viewpoint. That's how serious I consider the question of civil service in this state. Yes, I think civil service is sacred, because I think the protection given to employees who work for this state and the political subdivisions, their security is sacred. But, I happen to have that faith that it takes to trust people to do what they believe, honestly, is the best in the interest of the employees of the public bodies of this state. I trust the legislature; I trust the governor, in their wisdom to do what they think is right. I don't mean to tell you that I've always agreed with either--I haven't. But, it's the democratic process, and I know of no better way. I ask you to, once again, vote for this amendment, and let's move a step forward in the treatment of our public employees in this state. I'll be happy to answer any questions, Mr. Chairman.

Questions

MR. CONROY

Mr. Flory, I'm trying to make sure I understand the effect of these amendments. The first amendment sets up a commission and says how it's to be selected. Is that right?

MR. FLORY

For the state.

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MR. CONROY

For the state. The second amendment contains a similar provision with regard to the city system. Then, this Paragraph (3), as I read it, coming down into the second sentence says that "the legislature may repeal or modify any of the provisions of old Article XIV, Section 15." Then, it goes on to say, "or amend, repeal or otherwise modify any provision of this article." Now, does that mean that the legislature, by two-thirds vote, could decide to totally change the composition of the State Civil Service Commission?

MR. FLORY

Yes, sir.

MR. CONROY

That's your intention, is that the legislature could decide that all members were to be appointed by the governor without any nomination; that the legislature could do that?

MR. FLORY

That could happen, or it could require that Tulane University make all the nominations.

MR. DUVAL

Gordon, I think some of us are at cross purposes, and there's varying reasons for the objection to your amendment. I think that the civil service. . . I agree that the civil service law does need some changes, but I think some of the basic objection is that the board you have composed, here, seems to lose a great deal of its autonomy, possibly, in that you have appointments by the . . . two appointments by the governor, and no employee, for instance, is elected from the employees--state employees. Don't you think that this board, maybe, would have less autonomy that it could have by the way it's composed?

MR. FLORY

Mr. Duval, I, from a personal viewpoint, would prefer, and had proposed in committee, that the additional representative be elected by the employees, and require that they maintain their status as employees of the state in order to serve on the commission, or vice versa. If they chose to leave the employ of the state, the office would automatically be vacated. I met with some strenuous objection in the committee on that, who did not believe that the employees ought to serve on civil service commission. But, yet, I tell you in all fairness that from a viewpoint of sixty thousand employees, they want a voice of some kind, which they've never had.

MR. DUVAL

Mr. Flory, isn't it so that employees serve on city. . . on your municipal civil service commissions?

MR. FLORY

Oh, yes, indeed, almost throughout the state in the municipal civil service.

MR. DUVAL

Well, I'm just suggesting to you that perhaps your amendment might have more success in the event that the composition of the board was slightly changed.

MR. NUNEZ

Mr. Flory, I'm trying to find in your amendment--in Amendment No. 1--a provision that would allow an employee to be represented on the board. I assume that you're assuming that the governor or one of the new universities you are placing in here to appoint someone, would appoint an employee orientated board member. Is that correct?

MR. FLORY

I stated earlier, Mr. Nunez. . .

MR. NUNEZ

I didn't know what you stated. . . I didn't hear you earlier, but was that. . .

MR. FLORY

I said that it was my hope, and I had the faith in whoever made the appointment--whoever the governor may be--that he would take into consideration in his two appointments, at least, someone that was employee oriented and, perhaps, even someone who was totally management oriented; and that I was willing to trust, whoever the governor may be, to make that appointment in that fashion, without requiring him to do it in that fashion.

MR. NUNEZ

Would you not believe that the most direct approach would be to put it in here that this is what you want, and this is what ought to be done? If this is what you're saying that you want to do, then maybe that should be the way it is. I. . . . to put an employee representative on the board. But, it's not in here, and I don't think you guarantee that you're going to get it that way.

MR. FLORY

Well, no, sir; I don't have any guarantee that I would get it, nor have I discussed it with him--the governor--whether or not I would get it, or anything about this. But, I can only say to you, I had the faith, in order that he might have the opportunity that he would take that into consideration--the governor, whoever he may be.

I, personally, would rather write it into the constitution and leave it that way where nobody could change it--that the employees would have a right to representation. I thought, in the preparation of this amendment, that it was a compromise between those who believe one way, who believed another way; it was some sort of medium ground that we could get a consensus of this convention on. That's why I took this approach.

MR. ROY

Mr. Flory, do you agree that the board hardly meets enough or represents a broad enough spectrum of the people of this state to represent all the problems and views of sixty thousand state employees--the board, as presently constituted?

MR. FLORY

I don't want to be critical of the commission as it is constituted, Mr. Roy. If I were serving as a member of the commission, I'm sure I would do some things different than the way they do it. I've never been privileged to sit behind the closed doors that. . . with them, so that I don't really understand fully, the problems that can come before them to determine--in order to answer your question--whether the time that they spend is adequate in the solving of the solutions and the problems confronting the state employees, who they are charged with representing. I cannot give you a yes or no.

MR. ROY

But, nobody can find out, and nobody can--not even the legislature--can do anything about it, if, in fact, they're not spending the time, and if this autonomy that we are talking about is really amounting to aloofness, can we?

MR. FLORY

I don't think there's any requirement in the present constitution requiring them to meet any number of times, and if they chose not to meet at all, I think they would have that authority; I don't know. I'd have to check the writing. . . the actual constitution.

MR. JENKINS

Gordon, in discussing this point, you keep saying the civil service commission is supposed to be representing employees, or. . . I seem to get that from your remarks. Actually, they're not supposed to be representing state employees, are they? Aren't they supposed to be representing the state government in administering the employees of the states? Aren't they, really, in a sense, the boss of many of our state employees, aren't they?

MR. FLORY

Mr. Jenkins, it's my appreciation of the civil service system, has two functions: One, is to protect the interests of the employee; the other is to protect the interests of the public at large, in this state. I say to you that in the consideration of past history in civil service, in my judgment, I don't believe that the commission has given adequate consideration to the many problems of the employee. I think they are charged dual, with two responsibilities. One, protecting the rights of the employee; second--and I don't know which order you put them in--but, it's protecting the overall interests of the public.

MR. JENKINS

But, they are supposed to be, then, impartial, not favoring one group or another. They're supposed to sit there. I mean, after all, there is no interest in favoring management in this case because management is state government. These people don't have any benefit from helping shareholders or anything else, like they would in management. Aren't they supposed to be sort of impartial arbiters in this situation?

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MR. FLORY

My point, Mr. Jenkins, is that some of those who have served on the commission, perhaps attorneys representing corporations only, philosophically get to believing the corporate philosophy and, therefore, can't understand the many problems of the employees. I don't fault them for that; I don't mean to say that. I only say to you that the employee viewpoint--the employee viewpoint--has not been considered because the employees have never had the right, behind the closed doors, to express that viewpoint. So that, if you served as an attorney representing only corporations, it would be very difficult for you to serve in my best interests as an employee. That's my point.

MR. HENRY

Are there any other questions?
Mr. Juneau.

MR. JUNEAU

Gordon, I'll apologize if this is somewhat repetitious, but I might have missed it in the original presentation of this thing. What was the philosophy for changing the universities that we had in the present law to this list that you have here? Some were deleted, you know, and some added, obviously.

MR. FLORY

As I told the convention, earlier, there was a division of opinion within our committee and within the delegates here, some who believed that all of the nominating colleges and universities ought to be from the private sector, and that even L.S.U. ought to be taken out as a nominating organization. There were those who thought it ought to be more or all of the colleges of the state system--whether it be L.S.U. or the state college and university system making the nomination. There were some who believed that there ought to be a completely, entirely different method of nominating. So, as a means of compromise in trying to draw together a consensus, after talking for months with many of the delegates here and on our committee, I chose to go with the three private organizations--Centenary, Louisiana College, and Xavier--and take Tulane and Loyola off and let them be the nominating universities in the state. . . in the city civil service system in the city of New Orleans, by name in the constitution or in the statutes. In their place, then, put Xavier and Southern University to give some sort of racial balance in the appointive process in this state. All of these factors, though, were taken into consideration: geography, and all of the other factors that I mentioned; and realizing that the state colleges make appointive recommendations on the municipal level in their area, generally speaking.

MR. JUNEAU

Now, pursuing a little further one of the questions that was asked you by Mr. Conroy: What was the philosophy. . . or what is the philosophy of your amendment with regard to the composition of the board? Do you think it is such that it not be changed? Do you think that's important enough not to be changed, or that it ought to be subject to change?

MR. FLORY

I think that it ought to be subject to change, and I say that for this reason: when this provision was put into the constitution, the personnel policies throughout this country were entirely different than they are today. I don't know what the public personnel policies will be thirty years from today. Some of those here may know what it will be thirty years from now. I don't know. So, that what I'm saying is--and I refer you to some of the comments that PAR made in their booklet--that in order to adapt the changes necessary, that we ought to have some vehicle for that change without having to go the route of a constitutional amendment. Let some deliberative body--which would be the legislature-- have that authority to make that change based upon what was required from the public consensus at that time.

MR. JUNEAU

But, you would have that change go so far as to completely change the philosophy or structure of the very board that you're talking about; is that right?

MR. FLORY

Yes, sir. Again, I don't want to say. . . I didn't want to infer even by saying that they couldn't change that, that I didn't trust the legislature. I think that if I'm willing to trust the legislature in this whole provision, on one part, I ought to be willing to allow them to trust it in the other. The only prohibition I put in there on the legislature was: they could not abolish the system of civil service in the state and

in the municipalities over 400,000. That's the only prohibition, and that. . . the reason for that, of course, being I do not believe that you'd ever get two-thirds vote of the legislature to tamper with the security of the individual employees of this state. There were many, many delegates who told me, though, they did not want to jeopardize that possibility in allowing that possibility that it could be abolished.

Motion

MR. GRAHAM

In view of the hour, and in view of the fact that this will probably go on for several hours, I believe there are a number of delegates who would like to research some of the local effects of the amendments. I would like to move that we revert to other orders.

[Motion adopted: 67-35.]

Report of the Secretary
[II Journal 920]

Announcements
[II Journal 920]

[Adjournment to 9:00 o'clock a.m.,
Friday, December 7, 1973.]

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Friday, December 7, 1973

ROLL CALL

[84 delegates present and a quorum.]

PRAYER

MR. SMITH

Let us pray. Oh gracious, heavenly and merciful Father, we worship Thee as a giver of light and life and as the revealer of a saving and upbuilding truth, and as the giver of every good and perfect gift. We thank Thee for Thy love and Thy mercy in Thy manifold blessings. Be with each of us here today. Guide and direct us in our decisions in this convention. Be with those that are not here for whatever their reason. Help us in all that we do, or say, or think. May the words of our mouths and the meditations of our hearts be accepted in Thy sight, Oh Lord, our strength and our Redeemer. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING FINAL PASSAGE

MR. POYNTER

All unfinished business is Committee Proposal No. 9, introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare.

A proposal making provisions for human resources by providing for state and city civil service.

One section presently under consideration: Section 1 of the proposal. The status at the present time is the convention has adopted a set of three amendments proposed on yesterday by Delegate Flory and thereafter voted to reconsider the vote by which Amendment No. 1 and Amendment No. 2 were adopted, which are presently before the convention at this time.

Personal Privilege

MR. GUARISCO

Some time ago, I asked several...went around and asked the delegates if they would like to visit the only persons in the state, so far, who have not had the opportunity to visit or see the Constitutional Convention--that is, the prisoners at Angola. I had some fifty names on the list--that was about a month ago--anyway, since that time, arrangements have been made with the warden and the timetable would be this way. Next Wednesday the convention, hopefully, would try to break around 2:30 or 3:00. We have made arrangements to have a bus out in front of the White House Inn and those of you who would like to go, I'll pass a tablet around, just sign your name and pass it to your neighbor. The cost will be about... it's eighty-nine dollars per bus--one bus holds forty-six people--so, it will be from two to four dollars at the most--five dollars per person--round trip. So, if you would like to go, the convention will be in adjournment. We will have an opportunity to see something, maybe, that a lot of us haven't seen. Thank you.

Reconsideration

MR. HENRY

All right. We are in the midst of the reconsideration on the Flory amendments to Committee Proposal No. 9.

Further Discussion

MR. WEISS

Mr. Chairman, fellow delegates, I appreciate that we are discussing the floor amendment by Mr. Flory and other delegates

to the human resource proposal, civil service system. I, like other delegates, am not too familiar with constitution law until we became involved in this. After a hundred odd sessions of committee hearings and convention meetings, I've learned a little something about these type of amendments. I think that yesterday many of us who sat and listened were a bit confused yet with the wisdom of the convention, we've reconsidered this very important amendment. I must confess to you at the onset, being from Lake Charles and Calcasieu Parish, that I am definitely committed to the people in that area and to the former governor of Louisiana, Governor Jones, who was responsible for the introduction of the Civil Service Article and the civil service operation in the State of Louisiana from the '40's on. There is no question in my mind; I don't think there is any question in most of yours that the civil service system must perpetuate itself. However, in reading this amendment and listening to the discussion, I find that in close analysis--and I would ask you to bear with me or to help me understand if you feel otherwise--why this is an extremely poor floor amendment. I hope that the convention will definitely vote it down for the following three reasons in close analysis: First of all, it has been discussed that the spoils system is a very dangerous one and has been in the State of Louisiana. There is no need to elaborate on that, I'm sure you all are well aware of the history of Louisiana--the Long Regime and others who have usurped the power of the governorship. "Vacancies"--according to the central portion of the Amendment No. 1--"by expiration of the term of office or otherwise shall be filled by appointment of the governor from nominees" and so on. This expression "or otherwise," I've learned what one or two words can mean "the vacancies otherwise created" to me suggest that there may be removal, at will, by the governor. There may be resignation enforced upon those people who have been appointed to this commission. I can see no other possibility but a strong governor usurping this power by creating a vacancy and reappointing to this position. I think that this alone is sufficient to kill this entire floor amendment. I see no good point, whatsoever, and I do see many good points in this. For example, the sugar-coating on this bitter pill is the five members for four years; the dispersion of the seven-member creation as it is outlined. There are many good points in this floor amendment. I'm sure Mr. Flory and his staff, who spent many, many days and hours and weeks on it, have done well in many respects. But, there are things in here that disturb me a great deal and those of you that feel that you want to perpetuate civil service without the influence of the governor, I think by voting for this will be doing a disservice to the people of the state, and perhaps Mr. Flory and his staff have overlooked this one or two words. If the other objection, which I bring to you attention, is true, then certainly it is possible to completely eliminate the civil service in the State of Louisiana by an act of the legislature. The two-thirds vote argued one way or the other, I don't think is too significant at this time; it's simply stated in words at the end of the third section on Amendment No. 2 that "which are continued by this article or amend, repeal or otherwise modify any provision of this article" and so on--amend, repeal or otherwise modify--repeal is the key word in here. Obviously, the entire Civil Service Act, as we can appreciate it, could be completely removed from the people of the State of Louisiana by repeal of the vote of the legislature by a two-thirds vote. I consider this, too, something that I cannot vote for, and I hope you will appreciate the significance of these one or two words as they present themselves and as I have had the experience now of sitting with outstanding attorneys on my committee in the Declaration of Rights as attorney Guarisco, Roy, Jenkins, Vick, and the like who point out the significance of one or two words. In the wisdom of this convention, it was also pointed out that this has shortened tremendously--and I think this was the desire of all of us--that we shorten these articles and make them simple and allow some leeway for some consideration by the members of the board and others to adjust to a situation over the years. But, this has not shortened one bit--not shortened one bit--the Civil Service Act and article as we appreciate it. It has simply incorporated the entire Civil Service Article in this article and it reads as follows: "all of the provisions of Article XIV, Section 15, of the Constitution of '21 providing"--and so on--"hereby retained and continued in force and effect." This does not shorten the article one iota; this has incorporated another forty, sixty pages in these two pages; this is not shortening the article one iota. I have to object to this floor amendment on these three bases. Those that can point out to me otherwise, I would be happy to listen. But, I consider this in the terms of many who have come to this microphone before, a bad, bad amendment. I hope I have convinced two of you, at least, to vote against this and let's go on with the consideration of a good civil service amendment in the future.

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Questions

MR. AVANT

Dr. Weiss, in your critical analysis of this provision that you made, the sentence, "Vacancies by expiration of the term of office or otherwise shall be filled by appointment of the governor from nominations made in like manner by the president or his successor of that institution who nominated the member whose place is being filled." Did you bother to check and find the source of that particular statement--where it came from?

MR. WEISS

I did not investigate it, but I did question other attorneys as to what vacancies otherwise are created. I asked this at the microphone yesterday, if you were listening. Mr. Dennery said it was in conflict with the other portions of the articles that might be retained, so this is....

MR. AVANT

Would you believe that that is the exact language of Article XIV, Section 15 of the Louisiana Constitution of 1921 that famous Civil Service Amendment we have been talking about?

MR. WEISS

Well, we have been asked to rewrite a constitution that we understand. There are many things in the 1921 Constitution which I don't think anyone understands.

MR. ROY

Dr. Weiss, do you understand that the schedule will not incorporate the present constitutional provisions and that will not go into the new constitution but will simply be some other, like statutory material?

MR. WEISS

Yes.

MR. ROY

Well, don't you realize that then it will cut down the length of the constitution by some forty or fifty pages?

MR. WEISS

But, this is part of the constitution, as I appreciate it. This is not the....

Point of Information

MR. FLORY

I have some amendments that I would like to propose that I believe that could take much of the objections from what is before this convention at this time. With the permission of the convention, I would like to withdraw Amendments Nos. 1 and 2 at this time and have it redrafted to incorporate the changes that I propose to make, which I believe will satisfy many of the objections and would, thereby, save much of the time and debate of this convention. If I would be allowed to withdraw them at this time and have it retyped to incorporate the changes for redistribution to the delegates.

MR. HENRY

Mr. Flory, if you've got something that will improve the quality of the work and also speed up the process, I certainly wouldn't object to it, but you are going to have to make that in the form of a motion.

MR. FLORY

I so move, Mr. Chairman.

MR. HENRY

You move to withdraw Amendments Nos. 1 and 2?
Mrs. Zervigon, you object?

Point of Information

MRS. ZERVIGON

No, Mr. Chairman, I'm just trying to figure out what's going on; I thought we had adopted these amendments.

MR. HENRY

We adopted them, and then we turned right around--and for all practical purposes--adopted them because we are further

considering the Amendments Nos. 1 and 2 that this body decided to reconsider on yesterday. So, it's in a posture of not necessarily being adopted and susceptible to being withdrawn--Amendments Nos. 1 and 2 are, Mrs. Zervigon, as I appreciate it.

Point of Information

MR. ASSEFF

Mr. Chairman, will we be given an opportunity to study the changes before the convention considers them? If so, I have no objection.

MR. HENRY

I'm certain that....

MR. ASSEFF

I'm not saying we won't, I'm just asking for a....

MR. HENRY

No, well, I would certainly think that this convention would not adopt any amendments that it hadn't looked at and thoroughly discussed. I would assume that's what you would consider.

MR. ASSEFF

I would like fifteen or twenty minutes to look them over before we consider them, Mr. Chairman, if he is going to make substantial changes.

MR. HENRY

I think your point is well taken, sir.

Motion

MR. FLORY

Mr. Chairman, the purpose in the motion to withdraw the amendments, I then would propose to stand in recess to have the amendments incorporated and changes incorporated in the amendment that I submitted yesterday, so that they would have it before them for the consideration under debate.

MR. HENRY

All right. Mr. Flory now moves to withdraw Amendments Nos. 1 and 2 for the purpose of redrafting and resubmitting them.

Is there objection?

You object, Mr. Dennery?

Point of Information

MR. DENNERY

Mr. Chairman, I don't object at all. I think it's fine that Mr. Flory wants to withdraw those amendments. I assume, therefore, that when they are withdrawn, my amendments will come before this body.

MR. HENRY

Well, as I appreciate what Mr. Flory is moving to do, Mr. Dennery, is to redraft those amendments with some changes. Now, it's my appreciation if this motion is adopted, that you are incorrect, that we would wait and consider those changes to his amendments.

Point of Information

MR. DENNERY

Well, Mr. Chairman, as you will recall on yesterday, we had a meeting with you--Mr. Flory and I did--at which time I agreed to let Mr. Flory proceed. It seems to me that under these circumstances, Mr. Flory--not deliberately--is taking somewhat an unfair advantage of me. I have not seen his new amendments. I do not know what they contain. My amendments have been filed, and I do not think it would be quite proper to delay the proceedings of this convention in order for Mr. Flory to make these changes without at least the opportunity to consider the ones I have filed.

Point of Information

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MR. KELLY

Mr. Chairman, hasn't it been the normal practice of this convention--like when we want to draw an amendment down just to make a few changes in it--that we submit that amendment right back and continue with the arguments?

MR. HENRY

Well, Mr. Kelly, while that's been the case insofar as technical amendments are concerned, I assume that the amendments that Mr. Flory is discussing are not technical amendments, as such. I don't think we have run into a particular situation as we have right here before us.

Motion

MR. WILLIS

I want to express my agreement with what Mr. Dennery said, Mr. Chairman, that is, to say that to allow Mr. Flory to embellish his amendment to attract sufficient votes is quite an unfair advantage to be taken of Mr. Dennery's proposal which is well thought out--in my opinion.

Substitute Motion

MR. WEISS

If I'm in order, I would like to make a substitute motion at this time that to prevent delay of this convention, that we go on with the Dennery motion...now.

MR. HENRY

Until we decide what we are going to do with reference to the Flory amendments, unless there was....

MR. WEISS

This is an amended motion.

MR. HENRY

Sir?

MR. WEISS

This is a substitute motion.

MR. HENRY

Well, Dr. Weiss, you....

MR. WEISS

This is not in order? A substitute motion, I believe, is in order.

MR. HENRY

What we have now is the Flory amendments up on final passage, if you will.

MR. WEISS

Isn't he...he has made a motion. I would like to make a substitute motion.

MR. HENRY

He is moving to withdraw the amendments and, quite frankly, I don't think your motion to....then as a substitute to his motion is to consider the Dennery amendments is actually proper, quite frankly.

Point of Information

MR. GRAHAM

Mr. Chairman, hasn't Mr. Flory made a motion to withdraw Amendments Nos. 1 and 2 of his amendment --but, that still leaves Amendment No. 3? Wouldn't it be quite complicated if suddenly we jumped to another amendment to this same proposal after having adopted Amendment No. 3 of the Flory amendments?

MR. HENRY

Well, it would appear to me that the delegates are going to have to decide one of two things--whether they want to proceed to the adoption of the Flory amendments or whether they don't--and that's it because we are going to have to stay to do something to clean up with we did yesterday afternoon before we go to another different set of amendments that won't blend into what we presently have before us.

Senator De Blieux.

Personal Privilege

MR. DE BLIEUX

Mr. Chairman and delegates, if Mr. Flory will just accept my amendment that I have proposed, I think it would clear up everything, because the only thing Amendment No. 3, is just repeat what's included in mine--we could all get it straight.

MR. HENRY

Well, gentlemen, rather than trying to complicate this, let's decide what we want to do---now, this body can decide.

Point of Information

MR. BERGERON

Mr. Chairman, would not it be a good idea if we took a short recess and got copies of the proposed changes and looked them over before we voted on Mr. Flory's motion?

MR. HENRY

Well, I think perhaps the delegates would be able to vote more wisely if they knew what was going to be in the amendments. But, we are going to have to decide here in just a minute. Do you have copies of those changes that you propose to make, Mr. Flory?

MR. FLORY

Yes, sir, I have. The staff has prepared them in the form of five amendments to the amendments that were adopted yesterday. My purpose was not to take unfair advantage of Mr. Dennery, but more in trying to give to the delegates the amendments as they would be incorporated in the one that we adopted yesterday so that they would have the total document before them, so they could consider it in that light. But, if there is objections to the withdrawing of my amendments, I will proceed with the five amendments and try to get those adopted into my amendment that I was considering yesterday rather than yield my amendments at this time for consideration of Mr. Dennery's. I was merely trying to expedite the work of the convention.

MR. HENRY

I understand, sir.

I'm going to ask that...Mr. Hardin says those amendments are available. I'm going to ask that the sergeant-at-arms or the Clerk pass those amendments out. We will stand at ease just for a few minutes to let you look over the amendments.

Point of Information

MR. ARNETTE

Mr. Chairman, in other words, we are letting Mr. Flory withdraw his amendments.

MR. HENRY

No, sir, we haven't done that at all. There is a motion to allow him to withdraw the amendments which will have to be acted upon.

MR. ARNETTE

So, in other words, what we are going to do is we are going to read these new sets of amendments; then, we are going to vote on it to see whether we want to hear these before Mr. Dennery's; is that what we are talking about?

MR. HENRY

We are going to pass these amendments out so that the delegates will have an opportunity to look at the amendments, so they can more properly determine how they want to vote on the motion to withdraw the present Flory amendments that we are considering. There have been several suggestions that the delegates would like to know before they vote, and I don't know of any other way to accomplish it. So, I will ask the pages....

MR. ARNETTE

Well, the reason I was just kind of...the reason I was objecting to this procedure is Mr. Dennery has had his amendments filed for days and he told us, even before we came upon this proposal, that he was going to propose those amendments. We had copies of them; we knew what they were....

MR. HENRY

Mr. Arnette, all I'm trying to do is assure that we proceed

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in an orderly fashion, as logically as possible, and as smoothly as possible. It seems that there's a great deal of confusion before this body right now and if taking a five-minute recess to let folks read these amendments will expedite our proceedings, I don't see any reason not to do it. So, we will stand at ease for five minutes.

Recess

[Motion withdrawn.]

Further Discussion

MR. DENNERY

Delegates to the convention, I appear before you for the purpose of opposing the adoption of Mr. Flory's Amendments Nos. 1 and 2, which are before the house at this time. I will not repeat all of the arguments I made yesterday. But, I would point out to you several things. In the arguments that were made in support of Mr. Flory, much was said about the flexibility of civil service in Louisiana. Much was said about the advantages of permitting the legislature by a two-thirds vote to bring this state up to date as far as personnel practices were concerned. Now, I feel much in the same light--and I hope you don't think I'm blowing my own horn--as did Mr. Monday Lowe the other day when he told you that he considered himself to have some expertise when it came to accounting and to pension problems. I feel the same way with regard to civil service. I would point out to you that the flexibility of personnel practices has never been determined by the law as set forth in the 1952 amendment to the constitution. But, the flexibility of personnel practices is based solely upon the ability of the commission, the respective commissions, to amend their rules which have the force and effect of law. It is a lot simpler and a lot more flexible to permit a commission which meets regularly every month, and can meet much more often, if necessary, to amend its rules, than it would be to await a session of the legislature, which is held normally only for two months during every year. Furthermore, certainly, the commission has developed a little more expertise in personnel practices than the members of the legislature as a whole. Now, it will be argued that this has not been proven true in practice. Nevertheless, my amendment which will come up later provides for a change in commissions; provides for a seven-man state commission, just as Mr. Flory's amendment does. It provides for two of the members of that commission to be appointed by the two private universities in this state which are predominately black. It provides for one to be appointed by the only private university in the state which is predominately female, so that we have a complete input from those fields into a new commission. Therefore, it seems to me that flexibility as an argument in favor of Mr. Flory's amendment is a false argument, a fallacious argument. The two prime factors, the two prime features of the system which we have had in Louisiana since 1952--which have established it as one of the better if not the best state civil service system in the United States--are the independence to the commission and a very strong prohibition in the constitution against political activities. Now, the prohibitions against political activities and the prevention of use of political pressures on employees have been the bill of rights for the classified employees in the state and in the city. As you were so well told by the members of the Bill of Rights Committee, those are things which should not be left to the legislature. Now, if you will glance at Mr. Flory's set of second amendments which have now been circulated, you will notice that he has provided for a strong political activities prohibition--very similar; I didn't check it word for word, but I believe very similar to the present one. However, you should also look at his original amendment, and his original amendment permits the amendment, repeal or other modification of any provision of this article, not only of the portions of the constitution which he is making statutory, but any provisions of the Constitutional Article. He can say that the legislature can, therefore, change the whole composition of each of these commissions which are mentioned in here. It can completely change the political activities prohibition. It seems to me that it is foolish to assume that a political body is not going to be apt to look at questions of political prohibitions when it strikes home. The political activities prohibition must be retained in the constitution, not subject to change by legislative action. The little Hatch Act was the state employee's and the city employee's bill of rights. It is the act which protected and freed these employees from the political pressures which they underwent in years gone by. For those of us who are old enough

to remember those times, will remember this well. I cannot emphasize too much to you that the two prime important factors in a true civil service merit system of public employment are an independent commission, completely independent, and a strong political activities prohibition. I urge you to vote against Mr. Flory's amendments.

Questions

MRS. WARREN

Mr. Dennery, something that I have been wanting to know for quite a long time; I had some experience with this a few years ago: the merit system. A young lady took a test. She didn't pass it. She got the job. It caused a lot of confusion. She wrote a note and she said, "You've got to know where the grease is." If I had known this was coming up, I could have brought it and let everybody see a copy of it. I would like to know under that merit system, how did she get a job when she didn't pass it, when she only said she knew where to get the grease from?

MR. DENNERY

Mrs. Warren, without knowing all the facts involved in that case, it's impossible for me to answer it to you. However, I can assure you that the best constitution we write will do no good if you have people elected under it and appointed under it who do not follow it. I don't care what you put in the constitution, it's only as good as the people we elect to office, and the people that those people appoint to office. It's up to us as citizens of this state, to elect the proper people.

Mr. Chairman, I do not often ask for additional time. I've overlooked one item, and I would appreciate about thirty seconds.

I very strongly commend to you the Project of the Constitution, Volume 3, which all of you have. On page 500 and following, is a statement by Mr. Charles E. Dunbar, Jr., who is recognized as the father of civil service in Louisiana. As to the reasons for the adoption of a merit system of constitutional civil service, I could not improve on Mr. Dunbar's language. He is revered in the United States as one of the great civil service leaders of all times. Thank you, Mr. Chairman.

Further Discussion

MR. A. JACKSON

Mr. Chairman, ladies and gentlemen of this convention, I rise in support of Amendments No. 1 and 2, and I do so very mindful of the fact that we need a strong, independent Civil Service Commission in this state. I rise in the full knowledge that men who have served on this commission have made valuable contributions. But, I do not believe that any person in this room can deny that there is great need for change on the part of this Civil Service Commission. I do not believe that any man or woman in this room can overlook the fact that personnel policies are changing all over this country, and that the central question before us today is not whether or not the governor is going to make appointees to this commission because I believe that that rather simple question can be solved by way of the amendments offered. I do not believe that the question is whether or not the new structure, as suggested by this amendment, is going to return the civil service structure to the old Spoils System because I don't believe that anyone in this room can believe that that can ever happen in Louisiana again. I think the central question before us and one that I would ask that you would consider at this time is: what kind of civil service structure can we provide that will be responsive to the needs of civil service in this state? What kind of structure will respond to the needs of the people who are working for state agencies all over this great state in which we live? I stand here today to tell you that people all over this state are saying, people who work at civil service are saying to me as I talk to them that the present Civil Service Commission is not responsive to their needs. I'm not talking about dismissals; I'm talking about the day-to-day decisions that this commission makes that affects the life, the bread and butter and the future of these people who work for state agencies. That's what I'm talking about. Mr. Dennery's correct when he says that it is impossible for the legislature or for any court to make the decisions so needed, that it is necessary and important that the commission is able to make the decision. He is correct. The decisions must be made on a day-to-day basis by the Civil Service Commission. That's why the structure that we include in this constitution is so important. That's why I am supporting

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this amendment; because I believe that the structure that is provided by this amendment will allow us to make the kind of day-to-day decisions that will redound to the benefit of this state in terms of the people having greater faith and having some belief that the Civil Service Commission is going to act in their interest. Now, I'm not suggesting at all that the men who have served are not honorable because they are. But, I am suggesting to you that oftentimes, many times, people who are civil servants believe that...or fail to understand the rulings and the rules and the policies and the procedures of the Civil Service Commission. So, I believe that it's necessary that we change the structure, that we change it in the light of the new personnel practices and policies that are so prevalent across this country. Yesterday, I heard someone suggest that people aren't concerned, that people aren't asking about civil service, that they aren't concerned about changes, that they aren't really clamoring that we make changes. I would ask that those of us who serve in this Constitutional Convention would turn your most sensitive ear to the thousands of people who have been denied the opportunity for jobs in state agencies. I would ask that you turn your most sensitive ear to those dedicated civil servants who feel--maybe not rightly so, but who deep in their heart feel--that the Civil Service Commission has not acted in their best interest. I ask you to turn your most sensitive ear to the fact that as long as a large segment of people in this state feel that they are not a part and parcel of a powerful structure like the Civil Service Commission, that this state is not going to move ahead. I ask you to listen to the voices that cry out today for representation, for someone to be there to at least interpret to them... to the people who make the decisions, their hopes and their aspirations. That's not happening today. As long as we have a large segment of our population not believing in a powerful structure such as the Civil Service Commission, this state is not going to move ahead, and it's not going to serve well all of the people. It is important that we make a change. It is important that we move ahead. It is important that we have representation on the Civil Service Commission--representation for all people, representation that people can believe in. That's why it's necessary to have representation from some of the public colleges. I had no argument--and I am a strong supporter of private education; try to make some contributions to it every day. But, most of the private colleges in this state...

Most of the private colleges in this state and in this nation are restrictive, and are desiring to exclude. While they serve a great and noble purpose, I think we are talking about the people of this state receiving representation from a structure that they will have some input in...that they will have some voice in; that they will have some power over--power in terms of making some determination about their destinies. Ladies and gentlemen, this is a crucial decision. It's a crucial decision for this state. It's a crucial decision for this convention. More importantly, it's a crucial decision for the future. It's a crucial decision for democracy. Whether or not we're going to democratize this structure, rests heavily with your decision. I would ask that you would vote in favor of these amendments because I believe that these amendment democratizes this commission in a manner that it's not had before. I believe that this amendment will restore the integrity to this commission that is so vitally needed. I believe that these amendments will restore our confidence and belief and faith on the part of civil servants all over this state in order that their morale can be lifted, and they can better serve the people of this state, and we can get the full benefit of the tax dollars expended by way of salaries. I would urge your support of these amendments.

Questions

MR. ROEMER

Alphonse, I listened as carefully as I could to your speech, and you made some statements that I'd like you to explain. They sound good, but I don't understand them. For example, you said, "We will never return in this state to the Spoils System." On what do you base that feeling?

MR. A. JACKSON

Well, I base it, Mr. Roemer, on the simple fact that I do not believe that the media will allow this state to return to the yesteryears. I do not believe that the people of this state will stand idly by and allow us to misuse civil servants. I think that the past events, that the whole inertia that we have in terms of public life now, is so intent that no one can escape the scrutiny of the people. So, therefore, I do not believe that it is possible for the Spoils System to return to this state.

MR. ROEMER

Well, maybe you and I disagree on what the Spoils System is. Would you agree that the Spoils System is any system for the selection of people based on anything other than their merit, that is, friendship, color, location, anything else?

MR. A. JACKSON

Well, I think that that's part of a Spoils System, and I do not believe that this amendment would permit that.

MR. ROEMER

It looks like to me it institutionalizes that. The second question is...

MR. A. JACKSON

Well, we disagree.

MR. ROEMER

...you say there are new personnel practices in America that we have to be cognizant of. What are those new personnel practices?

MR. A. JACKSON

Well, I think that we could stand here for hours, Mr. Roemer, and talk about them. But, I think that, for example, the whole business of how we select individuals...the whole testing procedures ought to be reevaluated as it relates to civil service. I think that the whole business...of seniority, while I know it's sacred to some individuals in this room, I think that we need to take a new look at it in some cases and in some of the categories. I think that the oral devices used by the civil service commission are not related and not relevant, and ought to be placed under some new scrutiny. I can go on and on, but that's the kind of vein in which I was addressing myself.

MR. ROEMER

Well, I have one final question. I don't want to be argumentative, and I won't. My final question is: what is the job of civil service? Is it not...it's not to appoint people; isn't it just to test and certify them?

MR. A. JACKSON

Well, as I appreciate the function, Mr. Roemer, it is to administer the personnel policies for civil servants. It's certainly...that's certainly a part of it--testing, but I don't think that that's the full extent, as I appreciate it... the extent of the responsibility of the Civil Service Commission.

MR. ROY

Mr. Jackson, do you realize and do you know that the Civil Service Commission not only makes its own rules, but also interprets its own rules, and that the Supreme Court of Louisiana, nor the legislature, can by any vote...excuse me...the legislature cannot tamper with any rule that it makes?

MR. A. JACKSON

I'm very much aware of that, and that was the basis of my statement when I said that it is so important that we have a Civil Service Commission that reflects the interests of the people because this commission makes day-to-day decisions.

MR. ROY

Do you also realize, though, that the legislature, by a simple majority vote, can reverse or change a ruling of the Supreme Court of Louisiana as long as it was not based on a constitutional interpretation of the Louisiana Constitution?

MR. A. JACKSON

Yes.

MR. ROY

Can you rationalize in your own mind how the legislature may change the decision of a body of seven lawyers and judges who are the Supreme Court of this state, and yet, is not by any vote, allowed to change the ruling or the decision of a body of five people which is appointed by a closed set of institutions?

MR. A. JACKSON

Oh, I think it's unfortunate, but as I indicated earlier, this is a very powerful, powerful structure in this state. As I indicated to someone last evening, if I had my choice, and somebody wanted to give me something, I would ask for civil service.

MR. ASSEFF

Mr. Chairman, delegates, I am in complete agreement with Mr. Dennery, and in complete disagreement with Representative Jackson. In my opinion, the purpose of this amendment is to correct inequities which are said to exist. I realize that there are inequities and that we should correct them. But, to jeopardize our civil service system is not the answer. There are two basic criticisms: one, the state police do not receive the same supplementary pay as sheriffs and their deputies, and municipal police; and two, black universities are not listed among those to recommend names for the Civil Service Commission. I cannot agree that a complete change is going to bring a new light to Louisiana, or improve anything. Of course, it may. It equally may bring the faster. As you know, I introduced Delegate Proposal No. 1, to correct the first, and will offer an amendment at the proper time to assure fair treatment for the state police. I certainly think the black universities should be added to the list of colleges to recommend names for the commission. However, I am unwilling to jeopardize civil service to accomplish the above purposes, or to vest control in one area of this state, or to give control to the governor. It is said that we should trust the legislature. If we really trust the legislature, will someone be so kind as to tell me why the proposed constitution is so long, and so much detail is included? CP26, CP7, the Bill of Rights, Local and Parochial Governments and others--it is apparent that we trust them when it serves our purpose, and don't when it does not. Check the voting records, delegates. I don't trust the legislature in this area. I'm frank about it, and I intend being a member in 1976. The Civil Service Commission--yes, I'm brazen--the Civil Service Commission, as set up in the Flory amendment, gives control to the governor. If the governor cannot control LSU or Southern, then he certainly cannot control Southeastern and Nicholls. We should let those colleges recommend. South Louisiana is ignored. Again, it is argued that we are reducing the length of the constitution. Who's kidding who? We have reduced nothing, for the amendment incorporates by reference Article XIV, Section 15 of the constitution by stating this: "Except as may be inconsistent with the provisions of this article, all of the provisions of Article XIV, Section 15 of the Constitution of 1921, providing for a system of classified civil service for the state and for cities are hereby retained and continued in force, and effect." Constitutional status is, therefore, given to that provision. We have not reduced the length or pages.

But, we will be adopting one of the chief defects of the '21 Constitution--incorporation by reference. Also, it is contended that the two-thirds vote will be difficult to obtain.

It is apparent that we have forgotten the lessons of history. By a little sugar, the governor has obtained a two-thirds vote for taxes. Earl K. Long and Jimmy Davis obtained the two-thirds easily to remove able officials from office because they differed from them. Two members removed by a two-thirds vote, sit in this convention, delegates. I watched legislatures and governors from behind the scenes for over twelve years, and we kid only ourselves if we do not accept facts. There is argument about the attitude of sixty thousand state employees. All are guessing. I add mine. I say the state employees would defeat this amendment three to one, and if it weren't for a possible pay raise for the state police, they'd defeat it by three to one. Are you willing to jeopardize your security, state employees, for a possible salary increase? The political history of this state indicates it would be most unwise. It is said that the Shreveport Times and the Shreveport Journal are unfair to us. The Journal stated that we would need three conventions to draft an acceptable constitution. I'm beginning to believe them. I have no reason to love the press, delegates, for they endorsed my opponent and actively fought me, and they will do it again. I never have received fair treatment from the press, and do not expect it. However, ...and the press can't beat me, incidentally. However, the press is influential on the issues. All the press will need in this amendment, with a coalition of interest groups passing it, to have a field day. I can justify my "no" vote. I hope, delegates, that you can defend your "yes" vote, if you have a political future because your opponents will call your record to the attention of the people, as I have every intention of calling the vote of my legislative opponents in 1975. I beat every interest group represented in this convention, the governor, and the press, and three defeated candidates; and I'll do it again in 1975. I urge you to reject the amendment, and let us correct the inequities. Of course, they exist. I want to correct them, as we consider the committee proposal on civil service. Thank you, Mr. Chairman.

MR. JENKINS

Mr. Chairman, there was some discussion yesterday about what happened in 1948, and whether or not civil service could have been changed by a two-thirds vote or a majority vote. I've since checked, and found that at that time, it took a two-thirds vote to change it. Of course, you know what happened; the two-thirds vote was easily gotten by Earl Long in his first session there, and civil service was gutted. Let me give you a good example of what we're going to face if this convention ignores history, ignores politics and goes along and returns to that system, just like happened in 1948 when the legislature could have changed it by a two-thirds vote. I want to call your attention to this morning's Times Picayune, the news article on the front page: "Civil service's fate undecided." Now, this is a news article, and I want you to consider the first paragraph. "Baton Rouge, Louisiana. CG73 trembled on the brink, Thursday night of leaving the fate of civil service to the whim of the legislature, which a quarter of a century ago destroyed it." Now, that's what the news articles say. You wait till the editorial writers get a hold to it. You just wait for that. Ladies and gentlemen, we can't go back, when you talk about basic reforms in this state, the reasons that held true then are just as true today. The political tendencies of politicians to want jobs and influence over public employees is just as true today as they ever were, and they always will be. Now, look at the appointments in this amendment: one from Southern, one from LSU, as well as the two from the governor, or two elected--whatever it may be. Will the governor control that appointment from LSU and Southern? Well, already, there is considerable influence. You may remember that when the last vacancy occurred on the Civil Service Commission, Governor Edwards demanded that the president of LSU submit the name of a black as one of his three nominees. A black was indeed named. Now, I don't know whether that was coincidence, or not. But, it could have been bowing to pressure. Now, that's what the LSU Board of Supervisors does. It has fourteen-year terms now. Perhaps, there is some control and influence over the LSU president right now. What will happen when you have six-year terms or four-year terms for members of the LSU Board? I don't know. Now, not that we shouldn't have qualified blacks on this commission; certainly, we should. We should have qualified people on this commission at all points. That's why I think that we should go along with Mr. Dennery, and have the president of Dillard University, and the president of Xavier submit nominations. But, I don't want to see any system whereby the governor can put pressure on presidents of public colleges and universities to choose the sort of appointees that he might want.

MR. HENRY

Would you yield to a question?

MR. JENKINS

No, I've got some other things to say. Now, you notice the civil service provision in the present constitution is long. That's true. So what? Has it been the focus of a lot of amendments? Had there been countless amendments on the ballot amending the civil service provisions in our 1921 constitution? No. It hasn't been tampered with at all. The amendments have been in other areas. There's been no demand on the part of the legislature or the public to change the civil service system. The only time there was an amendment was last year to add Dillard and Xavier, and that was defeated. I think it should be done, anyway. But, I think clearly there's no need to change our basic system. Now, look at the politics, if you would, for just a minute. I think this convention has done a pretty good job so far--writing a basic document and accommodating the interests of all the people of this state. Think how many votes this constitution is going to gain for it if we emasculate civil service, or leave it up to the legislature to do that. How many will we gain? I submit, not one, not one, not one. If we do this, though, we have an opportunity to lose thousands and thousands of votes for what would otherwise be a pretty good document. Let me read you some things. We got a memo back in March of this year. A little pamphlet said, "Civil service must be protected." It was from the chairman of the Louisiana State Personnel Council, the president of the Louisiana Chapter of the International Personnel Management Association, and the chairman of the Civil Service Liason Committee. It said this: "The greatest safeguard for the preservation of the merit system is, of course, its perpetuation through embodiment in the state's constitution. Experience has bitterly demonstrated that where a merit system is established in the form of a legislative act, it continuously deteriorates from weakening amendments which are often adopted during times of

political tensions, and for reasons not clearly logical or pertinent to the achievement of good government. On the other hand, a system whose basic and vital provisions are firmly entrenched in the constitution, will survive the periodic attempts to frustrate the principle of merit in public employment through the hurried adoption of unsound and ill-fostered, disabling and crippling legislative amendments. Likewise, when the civil service system, as provided for in the constitution, it can better be defended and protected by the courts, and of course, by the people themselves, for it is the people who decide whether or not they want such a system, in the first place. Of course, even the author of this amendment, I think, should recognize the dangers in it. I quote for you, The Spokesman, a newsletter from the Society of Louisiana Public Employees, of August, 1973, it quoted Delegate Gordon Flory. It said this:

On April 11, Delegate Gordon Flory an AFL-CIO official and member of the subcommittee, stated that "We'll be making a real serious mistake if we were to radically change civil service as it now is contained in the present constitution. We would run the chance of defeating the whole constitution."

I think one of the arguments being raised by a number of our black delegates here is a fallacious one, and I want to talk about it.

Many politicians have used civil service as a scapegoat to deny jobs to our black citizens. They have said, "Civil service won't allow you to be hired," when it wasn't civil service at all. Civil service only tests and certifies the qualifications of people. The appointments are done by other authorities, agency heads, etc. All civil service does, insofar as appointments of people is concerned, is test and certify the top three; that's all it does. Now, earlier this year Governor Edwards requested that the Civil Service Commission allow selective certification of certain black applicants for certain civil service jobs, and what he meant by that was that he wanted the Department of Education to go out and hire scores of people based primarily on race, not on the fact of whether or not they had scored in the top three on the test. He requested this, appeared before the Civil Service Commission. Now, the Civil Service Commission rejected his request, and Harry A. Johnson, Jr., the Chairman of the Commission, sent him a letter. I want to read a little bit from that letter about what he said. He said--and this was to Governor Edwards-- "The problem faced by Superintendent Michot is one which is neither new or unique. In response to the problem the Department of Civil Service recommended and the Civil Service Commission adopted the following rule"--which he spelled out. He said, "You have suggested in your letter, as you did in your appearance before the Commission on February 7, that we might direct the suspension or elimination of some of the test requirements for specific positions and the substitutions of more appropriate requirements for these positions. Your letter of March 8 and your statement on February 7 suggested that the Commission should examine the tests being administered by the Department of Civil Service to determine whether they are adequately job oriented. On that occasion you posed the rhetorical question, 'What difference does it make if a clerk typist knows the names of the first five presidents of the United States?' And the implication fairly to be drawn from that question is that the test for clerk-typist qualification contained such a question." Now, Mr. Johnson in his letter said, "No such question nor any similar question appears on that or any other examination administered by the Department of Civil Service. Rather, we have carefully reviewed a substantial number of the examinations which are administered by the Department of Civil Service, and we declare emphatically that we are satisfied that these examinations are job oriented and professionally constructed fairly to test the qualifications of persons seeking employment in the state service. These examinations have repeatedly met the criteria of federal agencies, which inquire into such matters. The examinations are under continuous review, and where needed, revision. These examinations are not theoretical. Their content is determined in large measure by what the supervisory personnel in the various state agencies outline to the Department of Civil Service as the requirements of knowledge and skill in persons who are to perform a specific needed function." He goes on; he says, "The criticism that these examinations reflect, cultural or racial bias, is a broad and sweeping charge completely lacking in specification. Our review of those examinations searched for any such bias, and in this the Commission had the assistance and counsel of the most capable black member appointed by you, W. S. Finister, Jr. This review did not reveal any such bias, and if anyone will specify in what way any examination does reflect such bias, you can be assured that further review will be made, and if deemed to be justifiable, appropriate action taken." Then he discusses the rule of three which is also coming under

attack. He said, "The State Civil Service Commission has on other occasions been urged to alter or do away with the rule of three, and so far, they have rejected that." He says, "The Commission adheres to the view that the State of Louisiana is entitled to have each opening in the state service filled by the most capable person available. Even with the rule of three, opportunities exist for an appointing authority to make some selection based on factors other than the test, such as interviews, etc.," as he points out. The submission of an entire list of eligibles...

Well, I don't want to bear on the convention. Just let me conclude by saying this: that he points out that if there has been discrimination in the hiring of blacks, it has...

Now, let me go on with what the commissioner of civil service said. He said, "A great many black persons are presently employed in the state service. A substantial number of them hold responsible and well-paying jobs. To be sure, there are not as many blacks employed as there are whites, and there are not as many employed in the higher paying jobs, as many would like to see. This situation has improved in recent years, and hopefully, it will continue to improve. But, the best interests of the State of Louisiana will not be served by putting less qualified persons in the service in lieu of better qualified ones, be they black or white. The public is entitled to the best value that it can get for the tax dollar spent for salaries." Now, then he points out, "The number of black persons employed in the state service is not governed entirely by the scores made on tests given by the Department of Civil Service. Then, he points out that when civil service gave lists to an appointing authority in which at least one black was included on the list, forty percent of those instances resulted in a black being appointed. Now, the average would be thirty-three and a third percent, but when a black was included on the list, the average was forty percent--instead of thirty-three and a third percent--were being appointed by the appointing authorities. Now, he pointed out further--and I'm going to paraphrase it a little bit--that the problem, if it existed, has been essentially on the appointing authorities, not on civil service, and altering the makeup of civil service will not change that. But, he adds this--and after some lengthy, statistical information--"We do not consider that this whole problem is a mere matter of statistics, but we feel that you should be made aware that many eligible blacks, certified by the Department of Civil Service as qualified to hold certain jobs, are not being appointed by the appointing authorities. These statistics should be a clear indication that the limitations on the employment of more blacks in the state service are not being imposed by the action of civil service, but by the appointing authorities." He emphasizes "Appointment is outside the province of civil service. It can only test and certify." Now, what are the new personnel practices that Mr. Jackson referred to earlier? He said, "There are many new personnel practices around the nation." The only one I can think of would be the imposition of quotas, which is exactly what I've been talking about--selective certification. I don't know. But, I certainly don't want to see any system like that. I think our system has worked well in the past in regard to civil service--maybe not the appointing authorities--but civil service has worked well in the past. There have been no complaints. You look around the state. Ninety-eight percent, I'd bet you, of our civil service employees are quite well satisfied with the general makeup of the civil service system. It will be our civil service employees, as well as the good government groups around this state, that get up in arms if we tamper with civil service in this constitution and leave it to the whim of the legislature.

So, I'll try to answer some questions.

Vice Chairman Miller in the Chair

Questions

MR. HAYNES

Delegate Jenkins, you refer to quotas. You've had a hundred percent quotas all the time, and this is what you want to retain. Am I correct in that?

MR. JENKINS

No, I don't think we've had quotas in the past, Mr. Haynes, but I'm concerned, as you have been, about past discriminations, most of it legal in fact....

MR. HAYNES

Could I ask you to look at the state police, and haven't you had a hundred percent quota there?

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MR. JENKINS

I don't know of any legal quota, Mr. Haynes, but I certainly think that as long as we have fair testing procedures, that test those people who come and apply--and we can't make anybody come and apply who doesn't want to--I think that that's the fairest, best way to get qualified people for these state positions.

MR. HAYNES

You refer to letters from the governor. Isn't it true that Governor McKeithen wrote a letter to the employing agencies and to civil service some several years ago during his administration asking that people be employed without regards to race and other superficial factors that are barriers to maintaining a system that keeps people from having life, liberty and the pursuit of happiness?

MR. JENKINS

Yes, he did, Mr. Haynes. In fact this letter is very critical of Governor McKeithen for making such requests and then having department heads, in some cases, that did not do that. But, that's the fault of the appointed department heads, not civil service. Civil service doesn't make the appointments.

MR. HAYNES

It so happens that President Woodin and the black appointee, to whom you referred, are from the same section of the state--from Sicily Island, as I appreciate it. Was your resentment of the letter from the governor asking that somehow we get some representation on this committee, or was your objection to the fact that the governor appointed Mr. Finister, who happens to be a black man.

MR. JENKINS

No, my objection was--and certainly not to Mr. Finister because so far as I know he's done a fine job and has a good background. My objection was that the governor would put, as a prerequisite to appointing someone, a racial qualification-- the fact that he would come and say that the first thing I want is somebody of a particular race. I think that's wrong.

MR. HAYNES

Would you say that up until that...time of that appointment that....

MRS. WARREN

Mr. Jenkins, do you believe that there is any way to keep politics out of civil service, or anything else today?

MR. JENKINS

No, I don't think there is, but I think that we can minimize it.

MRS. WARREN

Thank you. I want to save your time, now, 'cause I asked a question. I want you to answer it.

MR. JENKINS

Well, let me answer it. Let me answer it to my satisfaction, just as you asked the question to your satisfaction. I don't think there is any way to keep it out completely, but I certainly think we can minimize it. I think that in the past twenty-one years, under the new constitutional provision, we have minimized it insofar as we could, constitutionally. I don't want to see any revision and reversion to former practices, which, leaving it up to the legislature, I don't see how it can strengthen it. The only thing it can do is deteriorate it. That's the only thing I can see because it's about as strong as you could make a civil service system right now.

MRS. WARREN

Number two: What would you suggest that they be, appointed or run for it?

MR. JENKINS

I think that Mr. Dennery's proposal....You talking about commission members?

MRS. WARREN

I'm not talking about Mr. Dennery's proposal. I have already read it. I'm asking you a question, Mr. Jenkins, and I don't want you to discuss Mr. Dennery's proposal. I'm going to get to it when he comes to the floor. I want to know from you: how do you suggest that we get these commissioners for civil service--let them run for it or let them be appointed--period?

MR. JENKINS

I think the best way is to allow presidents of certain selected private colleges to make nominations of three. I think that the proposal that Mr. Dennery will make does just that. It allows for some of the colleges that have been on there in the past, plus St. Mary's Dominican College which is a predominately or all woman's college, plus Dillard and Xavier which are predominately, if not all, black colleges. I think that that will give fair representation to everyone. It will be a seven member committee, and yet there won't be any racial quotas or stigmas. I think a commission like that could do a good job and be substantially above gubernatorial influence or legislative influence. I think that's the best way.

MRS. WARREN

Number three: How often does a Civil Service Commission meet now?

MR. JENKINS

How is it made up now?

MRS. WARREN

No, I said how often does it meet?

MR. JENKINS

I'm not sure about their meeting schedule, Mrs. Warren. I'm just not sure about that.

MRS. WARREN

Is it open to the public?

MR. JENKINS

Yes, it is open to the public.

MRS. WARREN

Thank you.

MR. A. JACKSON

Mr. Jenkins, are you aware of the fact that the testing companies themselves have declared that all tests--all tests--are culturally biased?

MR. JENKINS

Well, I'm not sure what testing companies you're talking about, and I'm not sure....

MR. A. JACKSON

I don't care. Any that you think about or any that you're aware of--that there is a voluminous amount of research to substantiate....are you aware that there is a....

MR. JENKINS

No, I'm not aware of that, but if they were, I don't know what that would prove. We live in this culture; we have to be able to function in this culture, and we certainly want our civil service employees to be able to function in this culture.

MR. A. JACKSON

It proves, Mr. Jenkins, that your statement, that the tests used by civil service are not culturally biased, is not true. That's what it proves.

My second question is are you aware of the fact that in the constitutional amendment offered that the university.... Southern University and Grambling College were included, and that this constitutional amendment received more than forty thousand votes? Therefore, your statement, that the changes that included these state colleges would not get the constitution a single vote, is not true.

MR. JENKINS

No, I don't see that, Alphonse, how it's going to get any additional votes other than what it's going to get already.

MR. A. JACKSON

You said that it wouldn't get it a single vote, and we had such a proposition and it received over forty thousand votes.

MR. JENKINS

Well, I don't understand what difference that makes. I think that this constitution is--if you're talking about black people, for example--I think this constitution is acceptable to black people right now because it's a very liberal, progressive document.

MR. A. JACKSON

I'm not talking about black people. I'm talking about this state. Are you aware, Mr. Jenkins, that the courts have already

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declared in several cases that the tests ought to be job oriented?

MR. JENKINS

Well, that's exactly the way these civil service tests are; is job oriented.

MR. A. JACKSON

Well, why is it that they have declared that many of the tests used by employing agencies aren't valid instruments?

MR. JENKINS

Testing companies have so declared, in general, about all tests, you said? Is that what you're talking about?

MR. A. JACKSON

I said the courts have declared.

MR. JENKINS

Well, I don't know what court decision you're talking about, and how that pertains to Louisiana Civil Service.

MR. A. JACKSON

Well, you must be aware of the chicken-plucking case?

MR. WEISS

Delegate Jenkins, would you not say that there is considerable confusion in the minds of some delegates as to the definition of the civil service system, which is a merit system--not a quota system. Would you elaborate on the difference between a quota system and a merit system as it pertains to the Civil Service Act?

MR. JENKINS

Well, I think any system, other than one based on merit, would be a return to the spoils system because it would be a means of rewarding people for past political support or hoping that they will support you in the future. I think that that's what the great reform of the civil service system in this state amounted to, and I think any retreat from the concept of a merit system would be definitely a reversion to the spoils system, whatever current guise it may be under.

Further Discussion

MR. HERNANDEZ

Madam Chairman and ladies and gentlemen of the convention, I spoke at length yesterday, and I'm going to try not to repeat myself. But, I am so thoroughly convinced, firmly and honestly convinced that this amendment will do more harm to more people and to this proposed constitution than any other amendment presented to this convention by destroying the very foundation on which our present merit system is founded. Any true merit system must of necessity be based on competitive examinations, ability to perform, fairly and impartially administered, removed as far as possible from political influence and any outside pressure. This amendment does not adhere to this basic philosophy. You will no doubt recall at about the time this convention started practically every major newspaper in this state vigorously and staunchly supported our present merit system editorially. There were a lot of editorials. Unfortunately, I went off and left some of these editorials that I would like to present to you today, but they were good ones, and they staunchly supported our present merit system. Every state--now, Mr. Jackson, I'm going to direct this remark primarily to you--every state civil service employee, without exception, that I have talked to, has asked me to support the present provision that they know provides the protection they desire, they deserve and need to assure them of their rights. These people that took these state jobs have applied themselves--they have paid into the retirement system--have a right to expect to draw their retirement pay when they have earned it and to live in comfort. They do not want to take....they, when I say...I don't claim to represent every employee in this state; don't misunderstand me. But every single one that has talked to me wants to keep this present merit system that we have to assure them of this retirement that they have earned. That is without exception. Now, Mr. Jackson made the statement earlier--and I don't question his integrity--but he says we will never return to the spoils system. I truly and honestly feel that this is the first step, that this amendment will provide the first step for this return. We can only judge the future by the past, and it's often been said that history repeats itself. Now, in 1940 they pressed...almost the same provision that's in the present constitution was put in the constitution at that time, and they had practically the same provision that Mr. Flory has in his amendment--that by two-

thirds of the vote that it could be amended or changed. In 1948 they did just exactly that thing. They did not repeal it, but they butchered it up so bad the cats wouldn't have it, and at a subsequent special session, it was abolished. Mr. Dunbar, the father of civil service in this state, didn't even object to it because it had been so badly butchered up by this same two-thirds vote of the legislature. Please keep that in mind. We have no assurance, Mr. Jackson, that that can't happen again, and I do believe that this amendment clearly provides the vehicle by which it can be done. Now, ladies and gentlemen, if you listen to nothing else that I say today, I want you to hear this. Each time the people of this state have had an opportunity to express themselves about our merit system, they have voted overwhelmingly in favor of it--each time overwhelmingly in favor of it. I believe that today they would give it even a stronger vote, for civil service has proven that it is successful. It's good for the employees of the state--all the employees of the state that are under civil service--and it's good for the State of Louisiana as a whole. It saves the state money. It is not, as I said yesterday, going to do away with all the deadhead jobs. I don't believe we'll ever... those of us in here will ever see the time that there will not be some. But, it has greatly reduced the number of dead-head jobs.

Finally, I'm going to ask you to remember this--and the reason I point this out, and the only reason--I despise any politician's effort to capitalize on the racial issue for political achievement. Now, I still am bitterly opposed to any attempt to do that. I just want to call your attention

to the fact that we came here to write one constitution for all of the people of this state--not for blacks, not for whites, but for all the people of this state. Please, keep that in mind.

Yes, ma'am. I'm ready to answer questions.

Questions

MRS. WARREN

It's a quick question, too. How many civil service employees does the news media have?

MR. HERNANDEZ

That I have no way of knowing, Mrs. Warren. I have no way of knowing.

MRS. WARREN

Thank you. Well, I mean, they put to you what they want you to know. That's the reason I want to know how many do they have in their employment. They have a way of getting over to the people, the vehicle for which to get over to the people what they want to sell--period. So, I would like to know how many do they have? Now, I'm going to ask some of them. You see, I'm not worried about any political career of mine. It's already made from the beginning.

MR. HERNANDEZ

I have no idea--no way of knowing.

Thank you very much. I urge you: please, defeat this proposed amendment. It is not good for the people of this state.

Further Discussion

MR. STAGG

Madam Chairman, fellow delegates, I will not repeat myself from yesterday, nor will I take the full five minutes. There are a number of delegates who seek changes in the civil service system of Louisiana for reasons to them that are absolutely valid. Some of their reasons address themselves to the procedures and the rules of the commission, which they feel to be unfair to state employees. Their changes do not necessarily address themselves to the makeup or the appointment of the members. Some of those objections are to the methods of testing, as Representative Jackson has so eloquently stated. I'd like to repeat for emphasis that when the Health, Education and Welfare Department of the federal government had occasion to judge those tests--and the makeup of HEW is well known to all of you--their findings as to those tests were not...were that they were not unfairly drawn nor unfairly administered, and that point needs, repeatedly, to be made. I only want to make two other very important points. Yesterday, a number of delegates alluded to the power of the governor and what this convention may have done to limit those powers. Mr. Flory's amendment grants to him an important addition to the powers of the office of governor. The press did adequately report that the governor sent a letter to the president of LSU.

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To refresh your memory, that letter "suggested" I think, to the president of LSU that in his list of three for a new appointment to the commission that a black be named. A list was produced by the president of LSU. A black was included on the list; a black was appointed to the commission, and let me say, parenthetically, it was high time. His name was Watson Finister, and he's the Director of Financial Aid at Southern University, and from all I hear, a gentleman of exceptional quality. The point is not the qualities of Mr. Finister. The point is the power of the governor to make the suggestion to an appointing authority, which was instantly complied with, and you tell me--those of you who support Mr. Flory's position--that the governor has no power to influence the makeup of the commission. The point is absolutely otherwise. He has the power; he will have further powers under the Flory amendment, and I don't believe those powers ought to be given to any governor. The second point I wish to make has to do with the power of the legislature--that power in the Flory amendment which states that "(E). They can amend, repeal or otherwise modify any ... provision of Article XIV, Section 15," or "amend or repeal or modify any provision" of this new constitution by a two-thirds vote. I think that if each of you would reflect on your knowledge of the history of Louisiana for the past forty years, you will know that the adage that says "those who do not remember the lessons of history are condemned to repeat them." The repetition of history of that nature in Louisiana is not desirable to this convention or to the people of this state. My preference would be to eliminate all of the matter in the Flory amendment under the (3) on the second page. As an alternative, perhaps, we might suggest to the delegates that maybe sixty-seven members of this body would vote to make that three-fourths of the vote of the legislature so that they can act, but they can act only when there is a powerfully good and adequate reason to act, and a three-fourths vote would be required. It has been said from this microphone or the one in Independence Hall, that if it is not necessary to change, then it is necessary not to change. Let us, therefore, address ourselves in this debate only to those remedial changes that the passage of time has shown positively to be needed. The Flory amendments are not the answer. The Dennery amendments, with some further changes of a minor nature, will well serve all of the people of Louisiana and all of the employees of the people of Louisiana. Madam Chairman, whatever time I have, I yield back to the next speaker.

Questions

MR. AVANT

Mr. Stagg, I wanted to ask this to Mr. Jenkins, and then to Mr. Hernandez. But, I address my sole question to the so-called extreme satisfaction of the employees in the classified service with the system. I ask you this question. How can an employee in the classified service publicly express his dissatisfaction with the system, and publicly suggest changes in it, when that, in itself, under the terms of the civil service amendment is prohibited political activity?

MR. STAGG

Mr. Avant, I have not, at this microphone, acclaimed the satisfaction of the classified employees with the system, so that question is not properly directed to me. But, in asking your question, you raised the point that the dissatisfaction of the employees expressed in a public manner would be a violation of the political activity clause of the present constitution. That's why this convention is here, Mr. Avant. A number of civil service employees can contact the delegates that represent them. I don't believe that that's a prohibited activity for one citizen to suggest to another who happens to be a delegate to this convention that there are needed changes here.

I believe the state employees who have a difference with the way civil service is being carried on in this state have adequate representatives in this chamber at these desks. I wouldn't want an adequate--more adequate chairman, or champion, than Mr. Jackson who's on his seat with his microphone in his hand speaking on behalf of the public employees of this state--be they black or white. Chris Roy, who handles civil service cases before the commission is an adequate speaker on behalf of the people that are in this classified service.

Neither of those gentlemen would be violating the civil service law by so speaking.

MR. A. JACKSON

Mr. Stagg, did the appointment of Mr. Finister in any way diminish or jeopardize the Civil Service Commission?

MR. STAGG

In no way.

MR. A. JACKSON

Thank you, sir.

MR. STAGG

In no way. I'm going to further answer it to say, in case you missed what I said a while ago, it was high time that a black was a member of the Civil Service Commission. My point was that the governor used the power of his office to put him there. That was what I thought was an inadequate circumstance, not Mr. Finister. He is totally qualified from all I can understand.

MR. A. JACKSON

Was there any other vehicle for a black to get appointed at that time?

MR. STAGG

I should have hoped that one of the appointing authorities, whether it were Dr. Woodin, or any of the other appointing authorities, would be as sensitive to that problem as you have caused this convention to be, and would have acted in a responsible manner on his own motion without having to be kicked in the tail to do it by the governor.

MR. A. JACKSON

It's unfortunate that I haven't had the opportunity to work on them to the extent that I have on some of these.

Further Discussion

MR. FULCO

Madam Chairman and fellow delegates, I only want to briefly comment on some of the comments that have been made before this mike this morning. I may touch on a variety of things very briefly, if you will just be patient.

Now, I've been a strong supporter of civil service throughout my many years, not only in the legislature, but also in government. That goes back, perhaps, forty years. Civil service should be a strong vehicle for the good of the employees of the state. It should be strong for the good of the state. I know something about the spoils system. I saw it work. I was old enough to see it in action. Surely it was chaotic. It was tragic. But, I'll tell you one thing. I don't think that will ever come about again in the future. The people of today--the minds of today, the influence of today, the press, the media--will not permit it to come. The good government, the good people of the state will not permit it to come about. Just like we have not permitted a lot of things to come about that are not in keeping...that are in keeping with the spoils system.

Now, the two-thirds vote is good for taxes, but, it's not good for civil service. If, in principle, I can't see any difference. I think if it's good for...as an anti-tax measure, I think it's good as anti-violence to the civil service program. Now, if it still isn't satisfactory, I would favor, personally, anyone submitting an amendment to make it three-fourths, or even, submitting, or making changes by a constitutional amendment. I would go for either of those amendments, or for both.

Now, I wanted to comment, we've heard so...many delegates--and not so many--some delegates get before this microphone and tell you about what's going to happen to the constitution when it's presented to the people for a vote because of what they are displeased about in certain articles that we have already adopted. We've found that when we were discussing the Bill of Rights that the sections of the Bill of Rights--certain sections--would definitely kill the convention. If there were--if certain sections were adopted, some of the speakers made the statement that they would definitely fight the constitution. Some of those same people have made the same remarks concerning other articles of this constitution. So, I only wanted to say that they're not...because they feel themselves as experts, or the authorities, they can anticipate the outcome of the constitution. Now, if anyone will kill the constitution--which, in my judgment, will be better than what we've got, and should be passed by the people and recommended that it be passed by the people--then, they are the delegates themselves.

I just wanted to make these few brief comments, but let you know, too, that as far as the matter before the House is concerned, I will vote my own conviction as I see it...not because of being influenced by anyone. Thank you.

Questions

MR. LANIER

Mr. Fulco, I'm concerned about your logic on the issue of the press and the people not allowing the gutting of the Civil Service System. Would you agree that under the Flory amendment, this is a possibility, because there's no prohibition against many of the protections that should be there?

MR. FULCO

As far as the opinion of the press, or as far as the opinion of the individual is concerned, I respect that person's opinion. I respect the opinion of the press. But still, I have a right to my own. In my judgment, I will determine that when the time comes. I don't know whether we'll gut it or not. My observation of certain sections of the amendments, of certain paragraphs of the amendments right now, is that some are good, and some are bad. I will vote for the one that I think is good, and not vote for the ones that I think are bad. But, it will be, in my opinion, in my vote, as to whether or not I would consider it gutted or not.

MR. LANIER

The point I'm getting to, Mr. Fulco, is why should we take a chance on a possibility when there is absolutely no possibility of this happening under Mr. Dennery's proposal.

MR. FULCO

Well, that's your opinion, Walter. I respect your opinion. But, I have a right to my own, too.

MR. SMITH

Mr. Fulco, why do you think the legislature, by two-thirds vote should have a right to do away with this civil service...in fact, that's what they would do, don't you think, if.....?

MR. FULCO

No, I definitely do not think, Jasper, that it would do away with civil service. I don't think anything anybody will do will do away with civil service. I think there are enough good people left who appreciate the value of civil service, who will always protect that.

MR. SMITH

Don't you think if we came up with a good civil service--Mr. Dennery's amendment, say--and put it in the constitution, why should it need any changing? Why should...don't you think...let legislature having the right to two-thirds vote to change it would probably gut the whole thing?

MR. FULCO

No more than I think it's going to pass. And speaking of the two-thirds vote, the only way we've ever...the legislature will ever get a two-thirds vote against a good and honorable and just issue, will be at the cost--financial cost--of the state government. It will be trading projects for a vote. That's the only way. Of course, it can happen even in a three-fourth vote.

MR. SMITH

Well, don't you think it's easy to get a two-thirds vote. It's been done in taxes in this administration, and the last administration, if we get enough power behind it, it can be done.

MR. FULCO

Well, if we are going to judge the future by the past, then yes, it can be done. But, I don't think you can necessarily judge the future any longer by the past. This is a new world--a new day, a new era--we're living in.

MR. SMITH

Well, why should we leave it to the legislature to change it? Why shouldn't we pass a good one here, put it in the constitution, and get the....let the legislature go on to other matters....not civil service?

MR. FULCO

Because, Jeff, I rather trust the representatives of the people, the legislature, than five men who could really create catastrophe in the rules of the civil service.

MR. ROY

Mr. Fulco, I don't know if Mr. Lanier or Mr. Smith have bothered to read the latest Amendment No. 7 by Mr. Flory, but it says unequivocally, that the legislature may not change any provision herein set forth with respect to the state or any city civil service commission covered by this section. Now, doesn't that mean that to make any changes of anything we do here today in this article, that we do, that it will take a constitutional amendment to do it?

MR. FULCO

As I understand the amendment, it will not permit the abolishment of the Civil Service Commission. But, of course, two-thirds votes can change your rules.

Further Discussion

MR. WILLIS

Madam Chairman--Chairperson--and fellow delegates, I hope that time has made more converts to reason, and that time can bring about today what reasoning could not yesterday. Reasoning is useless where all is a dream. The amendments we have under consideration supplant a committee proposal by a member of that committee and some others after the proposal is submitted. What must that indicate? The skill to propose what will not happen does not give me sufficient assurance when it could happen under these amendments. It's tantamount to promising me a bridge where there is no river. General Science teaches us that a lot of charcoal and a most precious diamond are made of the same thing--carbon. The only difference between them is the arrangement of their atoms. Political Science teaches us that we must have civil service in our constitution--experience does likewise. But, it most certainly cannot be rewarding if the service is uncivil, and because of disservice--and becomes disservice because it is political and partial--we must never forget that we must never say never unless we say never. What we are partially told by this amendment is not the full explanation of its length, breadth, and depth. As we courageously fight this battle of time, our purpose must be pure. This amendment establishes seven members, four of whom you know what, and four of whom is a majority--fight to arithmetically say. What is not so trite to say is that no man is sagacious or good enough to be trusted with unlimited power. The goat of the power, the more dangerous the abuse, only founded on folly, the folly of this amendment, can this power come to be. I tell you that I am not for one for the money, two for the show, three to get ready, and four to go. I am for defeat of this amendment, and deliberation on either the Dennery or De Bliex amendments because this amendment allows termination of civil service by a cattle-like vehicle towards the spoils system by other than the people who are going to establish this constitution.

Thank you, Madam Chairman.

Questions

MRS. WARREN

Mr. Willis, you mentioned in your opening remarks about building a bridge where there was not any water.

MR. WILLIS

No....where there was no river, madam, you didn't....

MRS. WARREN

No river. No river....that's what I'm trying to say. Thank you for helping me out.

Don't you think that if the people in the time of Noah had of built a bridge, or a boat where there was no river, some of them would have been saved?

MR. WILLIS

Madam, in the time of Noah, as I am apprised in the Bible, there would have been no shores upon which to rest either end of that bridge.

MR. STAGG

....in your remarks you said that charcoal and diamonds are made of the same substance.

MR. WILLIS

Carbon. Yes. General Science tells us that. I can't prove it.

MR. STAGG

Is it not heat and pressure that changes carbons to diamonds? Isn't that some of what's happening on this floor today?

MR. WILLIS

How so eloquent you put it, and scientifically so--and political scientifically so.

MR. FLORY

Following Mr. Stagg's question and your answer about the pressure upon the carbon in making the expensive gem of a diamond, isn't it true that after that pressure's applied, it's far more valuable?

MR. WILLIS

Well, the value very well may be there. I'm not conversant with the value of the one vis-a-vis the other. However, it takes a considerable amount of time to convert carbon to a diamond. It takes a lot of pressure and a lot of heat--ages. It ain't done by revolution--evolution.

MR. ROY

Mr. Willis, I'm really enjoying all of this...these hyperboles that Mr. Stagg and you have been getting into. But, I really think that one of the issues you made is very serious. You said that---where you have absolute power that that, you know, that corrupts almost absolutely. Then one person should run the show. Right?

MR. WILLIS

No, I didn't say that. I can repeat what I said, if you want me to.

MR. ROY

Well, let me, then, say, what I thought you said. In other words. . .

MR. WILLIS

I can't think for you....

MR. ROY

I'm glad you don't. In other words, your point I thought you were making was that you felt that a five man commission would be better if it's completely disassociated from any pressure or heat from the governor.

MR. WILLIS

No, my point is that--and I say it with...try to arithmetically say--is that four is the majority of seven, and that I made no mention about my preference with respect to seven or five. It makes no difference to me. There can be nine.

MR. ROY

Well, then, what you are saying, is that you'd rather have seven people rule on something, maybe, than two-thirds of a hundred and five, or two-thirds of a hundred and thirty-nine. You think that that's a better--that just because you have four of seven, that we should accept their judgment better than, maybe, two-thirds of a hundred and thirty-nine--a hundred and forty-four, rather?

MR. WILLIS

Where is the hundred forty-four?

MR. ROY

One hundred and five members in the House, and thirty-nine in the Senate is one hundred and forty-four. I would think that a hundred and forty-four minds a lot of times is better than four out of seven minds.

MR. WILLIS

I understand that. But, then, if you project your principle, let me say that three million is much better than a hundred forty-four. The first three words of the constitution are "We, the people", and that's what I like.

Further Discussion

MR. ROEMER

I might say at the onset that on the question of coal versus diamonds, it depends on the time as to what the value are; and today's energy crisis, I think coal is worth more than diamonds. I think the whole principle that we are talking about here is that times change and needs change. But some things remain true. I think that the one thing that should remain true in the system of government that we have in this state is the importance, the power, and the necessity of an independent, efficient Civil Service System. I hope this is what we are putting our cerebral matter to today--how best to insure that in the stormy months and years and decades that face us, we will continue to have a Civil Service System that works. One that is free from the heat of the moment, of the power of a single man. The question that I pose in my mind the last two days of debate--and I ask here in the few minutes that remain of this morning--what is the purpose of civil service, and why or how has our system failed as we have it today? I submit for your consideration that the system has not failed in Louisiana, but quite the contrary, has been an outstanding success. Not in all respects, it is not perfect. It was devised and designed by men and women and run by the same. Although we are made from God, He made us with the foresight to allow us error. We have done that in civil service. But, by and large, and day in and day out, civil service is a source of pride to every citizen of Louisiana.

I once again quote from Marlborough, as I did some months back, "When it's not necessary to change, it's a necessary not to change. I don't see, and I have not heard from this podium or any other this week, any necessity for change. So, I submit to you it's a necessary not to change our Civil Service System in Louisiana. Some say it's failed. Why, I ask? Why do you say it's failed? Has it failed because there are only twenty-five percent black people in the civil

service system? Well, I ask you, would you say it was a failure if it was seventy-five percent black? I say you wouldn't, because the percentage of black is not important in civil service. It is the percentage of people who deserve their job and do their job well regardless of whether they be black or white, short or tall, or from Bossier Parish or Calcasieu. You know that's the problem--not what their color is, or not what school they went to, or not how they earned their living, or not who their parents were. Has the system failed because it's beyond the control of the governor? I say no. I say that's the mark of its success. Has it failed because the legislature cannot willy-nilly change the rule of three to that of five? Do not forget what the purpose of civil service is. The most deserving person gets the job. I would rather have the top three be considered, and the best chosen, than the top ten of the top twenty. The system works. It works to the disadvantage of those who are not qualified. Don't forget that; and so it ought to. It works to the advantage of those who are qualified; and so it should. Some people have gotten to this microphone and said we will never return to the spoils system in Louisiana. Poppycock. What is the spoils system? I submit to you that it's any system that selects men and women for employment on reasons other than their service or their ability to serve. That includes their geographical location; that includes their friendship with the governor, or the commissioner of administration; or anybody else in the administration. That includes any quality, whether it be physical, or of their brain, or of their spiritual matter that does not relate to the job to which they are applying. Now, that is the spoils system. We can go back to it in Louisiana. You know how? Not with one job leak, but with baby steps. Like cat feets, we creep in the fog and we wake up on a sunny day and we have in 1980 what we had in 1940--a system that will not work--a system that does not meet the needs of civil service.

An additional point was made from this mike, that is that there are new practices of personnel in America. Well, you know what those new practices are? They are the quota system. I submit to you that it's no more freedom to exclude people on a basis of race, than it is to include people on the basis of race. Now, perhaps I'm wrong, but that's my personal opinion, and that's why I will have to vote against amendments like this which tamper with the overriding principle of civil service; and that is that it takes the best people--the best people--regardless of any other consideration.

Thank you.

Recess

Personal Privilege

MR. ROY

Madam Chairman, ladies and gentlemen of the convention, I just want to explain that I was in error when I thought that the amendments that Mr. Flory has put on the desk were before the convention. I just don't want to be misinterpreted and Matt Sutherland came up and said, "Man, you're misleading." I didn't mean to. I was not paying attention. I was upstairs talking to these kids and didn't realize that Mr. Flory had withdrawn his motion to withdraw his amendment. So, to the extent that I said that Mr. Flory's amendment would provide that you could not tamper with what we do in this article--even by a two-thirds vote--and it would take a constitutional amendment, that is....incorrect. The amendments on my desk...that we are not at that point, yet. Mr. Bollinger showed me my error, and I just wanted to tell you that I was not trying to mislead anybody in my questioning Mr. Fulco. Thank you.

Further Discussion

MR. NUNEZ

I was deliberating whether to sit in my chair and be a pressurized diamond and remain so, or get up here and allow myself to be cracked, tarnished, or what have you. But, after ten days of the special session, let me assure you, if pressure makes diamonds, we all became one.

It is a difficult problem. But I think because it is difficult, I've decided that I should say what I believe and in hopes that it would help some of you in making a decision which....I think a decision is imminent that we make in this particular difficult problem; and especially in lieu of the fact that there are many friends of all.... from the firemen and police who want consideration--which I think they should have--a number of the state police are back here looking for consideration, and I think that they should have. Certainly I believe that the civil service, as we have known it in this state over the past years, has worked. I believe it has worked well. Let me tell you from a personal standpoint, and I would venture to say that any legislator that got before you today, or had the opportunity to get before you, would say the same thing. If there is one agency

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in this state that I, as a senator, and this is my twelfth year--or going on twelfth year--has not been able to tamper with, has not been able to interfere with, has not been able to get one bit of consideration, that's civil service as we know it today. I've called, and I stand here guilty before you, and tried to find out--we get calls, and I guess by the very nature of our political being, you try to help people whenever you can, and when someone calls me and wants to know can I help them?--I try to help. I have never, at one time, been given consideration in helping a person, either--and I'm not saying I try to move them up or down the list--but I've tried to find out where they were, and why they were there. The best answer I can get is they are seventh, they're eighth, they're ninth, or tenth, and they're not the top three or they won't be considered. Now, if this is bad, if this is wrong, we ought to change it. But, if you want to get the best qualified people, if you want to get people that have been tested properly, if you want to get people that can do the job, I think we should not tamper with it. The many tests that I've taken and come out on the lower end of it, I was dissatisfied with the test and said there was probably something wrong with the testing procedure. But there were people higher than me on there, and I had a right to complain, I thought. I think that's probably what we're hearing from. I believe that the selection process that goes on in civil service is a good one. I should not--it would have been very easy for me to sit in my chair and vote the way I possibly could have made a lot of friends--but I just could not sit there and see a system that I believe that has worked for this state, that has done this state a tremendous service, be destroyed or tampered with, without saying what I feel. There were times--and I understand this in recent history--where to get a promotion in this state, you had to have political recommendation. I can tell you I haven't had that experience in the past eight or nine or ten or twelve years. I don't think it's going on today. Whether we change it, and it goes back, I think it's speculative. I think only history will tell. But, whether you want to take that chance or not, I think it's going to be incumbent upon you and I to make that decision here today. Pardon?

So, I would ask you. I don't know what the solution is. I'm sure there are some things in the civil service proposal that we should change. I, personally, believe that is the firemen and policemen from the New Orleans area, or any area, want to be under State Civil Service, we should give them that opportunity. I mentioned the State Police. We vote, the legislature voted a raise for State Police several years ago. We found the money. Civil service turned those people down. The courts upheld civil service and said we were going to abide by the court's decision. Now, maybe we should allow the legislature to raise certain groups of people in civil service without the civil service board concurring. I did it. I'd do it again. We ought to consider those type of things. But, I just don't believe we should radically depart from civil service as we know it in this state today, and take a chance....and take a chance. I think we have to compromise all of our positions. I heard your chairman make a speech before my Chamber of Commerce the other night, and I was amazed to find out, to discover that out of two hundred and fifty people, there were only about ten said they were going to vote for the constitution. I was just amazed. It was in my district. Maybe I was at fault. I was waiting until we finish to try to sell it. We have made some errors. I think we can correct them. I don't think we are going to be allowed too many more errors. I think this is one place....one place where we are again, are tampering with the basic grassroots feeling of the people of this state. I hope we can come up with a solution to our problem that will be acceptable to the various groups that are involved in it--the various segments of our society--and something that would be acceptable for the people because I don't think we are going to be allowed too many more....

Further Discussion

MR. HAYES

Ladies and gentlemen, I've heard a lot about the civil service of the state, and sometimes I don't know whether it's the civil service system or whether this is a civil war. It appears that somewhere back in the '40's or sometime or another there was one spoils system that caused some political problems, and that we have substituted for that spoils system another spoils system that's guaranteed by the constitution of the State of Louisiana--that is the civil service system that we have now. I've heard a lot of speakers speak on this: if you are on a pretty fair end of it, you can't find anything wrong with it. I've studied the civil service system; I've gone down to the civil service system, and I've found, and I looked it over for every parish in the state. I found one black person making eight hundred dollars--I should have his name; I don't have it--in the entire civil service system. About the average salary you'll find is around four hundred dollars. It appears that this guaranteed system of spoils is a social club that discriminates based on academic excellence. That is: some test or something that's prepared by somebody because, number one,

you don't have enough jobs. Now, simply because you don't have enough jobs, now, suppose, let's say, this was picking cotton. You wouldn't have a test for that because almost anybody could pick cotton, and then you wouldn't have to discriminate. This whole thing of jobs is based on survival. Now, had a . . . it will show itself up if come to the question of rationing gas. You will see its true picture. You'll find out, then, exactly who will get gas; it will be just like jobs when you don't have enough. You'll find some way to keep people from getting these jobs, and you're going to eliminate them based on something you've done to them at some other time. Now, predating the constitution of the State of Louisiana, black people were prohibited from being educated. At the same time, our good civil service system, in its wisdom, decides that you're going to now have to take a test that's equal to everybody else. So, this is supposed to be a good system, so everybody defends it on that basis. You can't have a fair testing system starting now based on an entirely unequal educational system up until two or three days ago. So, now, we have one amendment after another. I don't know if I had to vote on either one of these just which one would be the best one. What we need is a slice of the pie--the same thing we'll need when the gas is rationed, you'll need some gas in the tank. I would like to see some jobs for everybody in the State of Louisiana, and whatever method we can come up with that will guarantee that, that is what I would like to see. Thank you.

Further Discussion

MR. KILBOURNE

Madam Acting Chairman, fellow delegates, there isn't much that I can say here that hasn't already been said. But, I, in listening to this debate, it occurred to me that there are a number of younger delegates here who might feel that the things that happened thirty years ago are ancient history. I would have the feeling that thirty years from now you might not feel that way. This is a very vexing question, I know. Those who say that things that have happened in the past cannot or will not happen again are surely naive, or they are simply deluding themselves. I haven't ever had any experience with civil service, but I have been an observer of our government for many, many years. I know this from the slight knowledge of history that I have, that there are some things that will always be with us, as long as there are human beings on this earth: among them are greed, avarice, the love of money, and the love of power--most of all, the love of power. In the book of Proverbs we note that it says that "the love of money is the root of all evil." But, I think, perhaps, the love of power is even greater. George Washington warned in his farewell address about the love of power and proneness to abuse it that predominates in the human breast. My feeling is simply this--and I've never been what you would call an enthusiastic supporter of civil service--but the people of this state have spoken when they have had a chance, and I believe that they. . . I believe it is near and dear to the hearts of the majority of the people. I note that the last time--and this may be ancient history to some, too; twenty-three years ago--I note when they voted on this present constitutional amendment that's in the constitution at this time, the vote was 306,000 for and 90,000 against, which was quite a vote at that time. I do feel, if Mr. Flory's amendment is adopted, that you just as well take civil service out of the constitution altogether. Now, if the majority of this convention feels that we should take it out of the constitution, let's be forthright and take it out--leave it to the lawmakers of the future. But, I certainly hope that we won't be. . . won't do it by indirection, by putting something in here that we will. . . the people will be told that civil service is protected in the constitution, when in reality, in my humble judgment, it will not be worth the paper it is written on. Thank you very much.

Chairman Henry in the Chair

Further Discussion

MRS. ZERVIGON

Mr. Chairman and delegates, most of the people who have gotten up and spoken before you, today, have spoken against Amendment No. 1 of Mr. Flory's. I'd like to speak, primarily, against Amendment No. 2 because very little of it has been brought to your attention. Amendment No. 2 is aimed solely and only, as I read it, at New Orleans. What it would do to the present constitution is to raise the ceiling on a mandatory city civil service from 250,000 to 400,000. Now, the reason for that that was expressed by Mr.

Avant in a question the other day was that if you left it at 250,000, you might make changes in the Baton Rouge city civil service system. Rather than do that, because they knew that the citizens of Baton Rouge would object to changes in their city civil service system, they raised it to 400,000, and then proceeded to make vast changes in the city civil service system of New Orleans. For example, if you will read carefully Mr. Flory's Amendment No. 2, paragraph (3), you will notice that anything--anything--in the old constitution or in Mr. Flory's proposal may be changed--anything except a separate fire and police municipal civil service for New Orleans. Now, who wants a separate fire and police municipal service for New Orleans? As far as I have found out, as far as anyone has ever told me, it is certain firemen and policemen, only. The sanitation workers don't care to have the fire and police separated out from our system, nor do the rest of the municipal employees. The policemen and firemen are, by no means, unanimous on this. Another thing that was said earlier this morning is that civil servants were at a disadvantage because they couldn't lobby. Let me tell you, they can lobby, and they've been doing it pretty heavy. I've gotten a whole bunch of phone calls at my house from widows of firemen who wanted to make sure their pensions were preserved, from firemen who wanted to make sure that they could go to the legislature for a pay raise, from firemen who wanted a municipal fire and police civil service. But, that's who wants this separate system, is certain firemen and policemen in the city. Now, do the citizens of the city of New Orleans want this system? I think not. All of the mail that I've gotten from just plain old regular citizens on this subject says, "Let's keep our system more or less as it is." Not the commission; almost everyone I've talked to wants black representation on the commission, but the system, the system which specifies hiring on merit, promotion on performance, prohibiting from politics of employees, prohibiting of pressure being brought on employees to put them into politics, prohibiting of discrimination on race, sex, or other non applicable bases, impartial commission hearing appeals from job firings with appeal to the court, and that sort of thing. The system, they want more or less the same. Now, has the system, in the past, discriminated against the blacks, or against the poorly educated, and, perhaps, against the elderly? Yes, it definitely has; the system, itself, has. The tests for job positions in New Orleans are now being combed to make certain that there is as little cultural bias as possible. Mr. Jackson made the point this morning that all tests are culturally biased and, yet, if you're going to claim that you're hiring on merit, there must be some sort of a test. If all tests are culturally biased, then, let's, as Mr. Kilbourne said, do away with the civil service system and not institute a different system, call it by the civil service name, but have it not be civil service. So, I ask you, please don't do this inflammatory thing to the citizens of the city of New Orleans. They're satisfied with the system. They don't mind a few changes to insure certain racial representation on the commission which they have now, but would rather be assured. That's no problem. But, to make basic changes in the system, to take one-third of the employees out of the system makes no sense at all. There's nobody asking for it, and I urge you to defeat Amendment No. 2.

Further Discussion

MR. LANDRUM

Mr. Chairman, fellow delegates, I would like to follow along with Mrs. Zervigon on Amendment No. 2, first, by saying that I am opposed to the idea of policemen and firemen having a separate system. We do not grant the same thing for garbage workers in New Orleans, for nurses in New Orleans, so, by no means could I stand here and say to you that I am for giving firemen and policemen a separate civil service system. Now, many things I've heard said here today and yesterday talking about qualifications. I'm for having black representation. We have talked about the past. Let the past be a lesson for us, but let the past, also, be a lesson to guide ourselves, today. Let today's action--and when I say today's action, I'm speaking about the convention, now--the action of this very convention. Suppose this convention was the civil service commission. If this convention, or rather, if the personnel staff was the civil service commission, I stand here today and say to you, we would have very, very few black representation. Now, that is quite obvious, here, with this convention. I say even further, we would have even fewer blacks here today, employed with this convention, had there not been some black representation on that committee. Now, when I speak to you about black people, understand me clearly. I don't believe there is one man or woman in this building, or in this state, more concerned or more patriotic towards this state and this country as I. I love Louisiana; I love America, and as one

gentleman asked a question: What would the attitude be if we had seventy-five percent black? Yes, I would fight that system because I think it would be a wrong system. We've spent our time talking about pleasing labor, pleasing the press, pleasing the governor, pleasing our constituents; but, seldom do we hear anybody say anything about pleasing God. I believe that you should think about your God, and most of us are serving the same God. If we serve the same God, then we ought to ask ourselves, sometime, "Am I pleasing God?" Now, maybe the news media might not like it; maybe some of your constituents might not like it; maybe labor might not like it. But, I'd rather to please God, any day, than to have labor, my constituents, the news media--I'd rather have God standing with me, any day, than to have all combined standing behind me.

Further Discussion

MR. SMITH

Mr. Chairman, fellow delegates, I had my say, yesterday. I'm a hundred percent for civil service. I think we should go ahead and defeat this amendment. If we want to do away with civil service, then go ahead and vote for this amendment. It's a bad amendment, particularly, Section 2, giving the legislature the power to change it. They may not be able to repeal it, but they'll gut it so, it just won't be any good at all. So, I say, let's go ahead and adopt Mr. Dennery's amendment when it comes up and defeat this amendment.

Mr. Speaker, do we have anymore. . .many more on the list?

MR. HENRY

Yes, sir. There's several speakers, Mr. Smith.

MR. SMITH

Of course, I think we are. . .if some of them will yield, I think we've heard enough. We are ready to vote; we're just killing time. That was my main getting up here, and go ahead and move the previous question. But, if there are others, I'm not going to cut off debate. But, if the others would yield, I'll move for the previous question. But, I won't insist, if they want to talk.

Further Discussion

MR. ABRAHAM

Mr. Chairman, ladies and gentlemen, when I came down to this convention, I was convinced in my own mind that many things could be cut out of the constitution, and should be cut out. One of the things I felt should be taken out should be all of the language of the Civil Service Article because I felt it was too long. I thought it could very easily be shortened. When I received Committee Proposals No. 9 and 10, I was unhappy because it contained all of the information from the existing constitution. I still thought it was too long. When the debate began yesterday, I thought maybe that the Flory amendment would be a reasonable solution to this, and at first, I was in favor of it. But, after listening to two days of debate on this particular amendment, I find that the debate has centered along two lines. One line of argument dealt with the composition of the board, the other line of debate dealt with the structure, or whether or not the structure of civil service should be in the constitution. I think that what we need to do is to, first, address ourselves to whether or not we're going to structure civil service in the constitution, and then we can decide from there what the composition of the board will be. After listening to two days of debate, it seems to me that our choice lies, actually, between two ends--two extremes. One would be the De Blieux amendment which completely takes it out of the constitution and leaves it in the hands of the legislature. The other would be along the lines of the Dennery amendment which sets up the basis structure within the constitution. I have become convinced from the debate that has occurred that the Dennery proposal is the right way to go, that we do need to structure the framework of civil service in the constitution. My recommendation would be that we proceed along these lines; and then, when we start talking about the composition of the Civil Service Commission, we tackle that problem in itself and not try to handle both issues right now, because I don't think the amendment before us deals or can handle both of these issues. I, therefore, think that the proper way to go would be to go along with the Dennery amendment. Then, we can debate the merits or demerits of how the commission should be structured.

Further Discussion

MR. TOBIAS

Mr. Chairman, fellow delegates, what is the issue before us?

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Well, I think that in all sincerity--and I doubt if anyone would dispute it, even though they would be very unlikely to admit it--this is that the one question that is presented by this amendment is whether labor will be able to unionize civil service in this state. I don't think any of us are kidding ourselves when we think that that's not one of the underlying reasons for this amendment. Historically, in this state, one of two groups has controlled this legislature. It's either the governor, or it's labor--organized labor. If the governor is a weak governor or owes a lot to labor to cut for his election, you know whose back is going to get scratched. If you don't think that what I'm saying is true, I suggest you look at Amendment No. 6 of the Flory amendments that he proposes to introduce if this amendment is adopted, and read that last phrase. Does this state believe, or do the citizens of this state believe that civil servants should strike? I don't know; I honestly don't know. But, I know that a lot of people would consider it very inconvenient if their garbage was not picked up on time inside the cities of this state, or if they don't get their mail or something like that. Historically, civil service has been a major issue in this state. In the early 1950's, during the Kennon administration, civil service was placed in the constitution based on a long history thereof. You can . . . if you know the history of this state, it's absolutely essential that we do it at this time, also. The amendment before us offers no protection whatsoever to civil service, to civil servants in this state.

Further Discussion

MR. BURNS

Mr. Chairman and fellow delegates, there's nothing I can say or add to what's been said this morning and so far this afternoon. I certainly don't intend to take up anymore time by trying to add something to it. But, there is one incident that happened today at lunch that, to me, was more impressive and brought to my mind what the present condition is in the State of Louisiana with reference to state employees than all the words I heard this morning put together. A group of us went out to a restaurant for lunch and we had to stand in line. It just so happened--I don't know whether that's one of the things that in divine providence that provided for, or not--but, there were six or seven state employees in uniform was in line right behind us. One of our group turned around while we were waiting and asked these fellows did they believe in civil service. They said, as one, "very much so." They asked him next, was he satisfied with the present civil service. They said they were. It could be strengthened a little here and there, but that, otherwise, they were perfectly satisfied with it. Then, the third question--which I thought was the most important, in the light of what we have been discussing and debating all morning--they asked them, would they like to see it changed so that the legislature, by two-thirds vote, could change the present system around any way they saw fit. They said, "absolutely not." They wanted it left like it is. So, I just pass that on. It's coming from the men who are most affected by this proposed civil service.

Further Discussion

MRS. WARREN

Mr. Chairman and fellow delegates, Mr. Burns just made a statement why he came to this mike, and I want to tell you that's why I'm here too. It was more than one, it was more than two, and it was more than three--and I didn't do it. We went to lunch at the Welfare Building, and as we walked in, Mr. Jackson decided that he would make a kind of a poll of all the workers coming in--black and white. The answers he got was appalling. They thought it was lousy. I had heard people talk about civil service; I had heard them express their opinions and what they thought about it. As a person, I like to live one day at a time. I'm not a civil service worker, and I don't hope to ever be. I think about what Reverend Landrum said over there when he came up here. He said, "We should strive to serve God." That would be great. All we would have to do would be incorporate the Ten Commandments, and then we all could go home. But, I know that this is not true--not here, not in government. We're going to have a few compromises here and a few there. Some is going to want some things, and some is going to want another. As I thought, I thought about what my little girl said to me once when I went and bought her a pair of shoes. I felt them, and I told her, I said, "These shoes fit, and they are pretty." She says, "Well, okay, Momma, buy them." So, I bought them, and I carried them home. They sat up on the closet shelf. She kept saying she wanted another pair of shoes and hounding her daddy about more shoes. He said, "You've got shoes

on the closet shelf, and you don't wear them." She said, "Momma bought them, they fit her, and she wear them." I asked a question this morning about the news media and how many people did they have in civil service. I was asking to help me to find out a little bit more about this thing--civil service--because I had had some experiences with people who thought it was lousy. In some instances, it was rotten. If I had time, I would bring it out. I am from the city of New Orleans, and I want you all to know it. I've been there for a number of years, and I'm not ashamed to say it, over in . . . probably close to thirty years or more. I don't plan to leave; I'm a part of that city, and I don't go along with everything that Reverend Landrum or Mrs. Zervigon says because I have words, and I walk the streets and I talk to people. When I come in here, I'm not going to represent the city, the administration; I'm going to represent people, and I'm going to vote my conscience. I'm not going to let anybody lobby me, and I'm not trying to lobby you. You vote your conscience, and let God be your judge.

Thank you.

Question

MR. LANDRUM

Mrs. Warren, do you know that my remarks had nothing to do with representing no city, no mayor, no governor, no newspaper, no labor group, but representing, first of all, God? That's who I represent, first of all. Now, representing people, trying to do things that I believe God would be pleased with in my action with people--not the mayor. I'm sure you should know better than that.

MRS. WARREN

Reverend Landrum, I say to you, if you're saying that I said it, you're wrong. I just quoted you and what I thought was. But, if that shoe fits your foot, then you wear it.

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, let me say that just because I'm for this amendment does not make me anti-civil service or anti-merit system. I think there's been some statement made that if you're for this amendment, you're for doing away with civil service. Now, let's look at the issue head-on. This amendment is going to--is going to--be amended later, but we've got to pass it to make it as good as it should be. Mr. Denney's amendment, in my judgment, is not nearly as good as the committee proposal, much less what we could do with the other amendments that Mr. Flory has before us, provided that we vote favorably on this one. The purpose of civil service is twofold, as Buddy Roemer said. One, to protect the classified employees, and two, to insure the state that it gets good people in positions. I disagree with him when he says the best, because no test, no little grade score, can tell me who's the best man in here. No I.Q. test would be any basis for me saying that I will vote for Buddy Roemer as judge because his I.Q. is much better than Greg Arnette's, if it is. There's . . . The point that I want to make is that when you talk about a test, only, you provide for--and you older gentlemen know it, and everyone else--what is known as institutionalized discrimination. I don't speak for the blacks; I speak for all working people in this state who are subjected to institutionalized discrimination fostered and perpetuated by the people in power who happen to be much more intelligent than the guys who are working and carrying the load. You all know what I mean. There is no way that a closed institution, which of itself keeps out the average citizen by virtue of fees to be enrolled, can in any way select or represent to the governor people who are in the system and who have worked for it. Sure, Governor Edwards had to finally ask the president of L.S.U., "Put a black so that we can consider him." But, he may have to, in the future, say, "Let's consider a working man, black or white. Let's consider the people against whom we are writing these rules." Institutionalized discrimination is something that we can all accept because we say, "I'm not discriminating against this poor guy because he doesn't have the ability I have. After all, he had the chance, he just didn't make it." Of course, there's a lot of other people that made it possible for Chris Roy to be standing here. You didn't get talked to by any little guy on the street, and you're not going to. Did they talk to you about the judiciary? Did any little people talk to you about the Bill of Rights? Did they talk to you about the Education Article? No. Who talked to you? The people who are in power. All I'm saying is that when you tell me that a commission that has the power to make rules and regulations and then interpret them can consider the plight of

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sixty thousand people in this state and what they do; I say, "Phooey, there's no way." There is no way that closed institutions are going to recommend to the governor, a bricklayer, or a carpenter, or a truck driver, or anybody else to consider for an appointment to the Civil Service Commission. All we want to do here is to make it better. I've been in the arena with civil service. It can be a lot better. If it can't be better, then let's throw away Denny's amendment, too. Let's throw away the committee proposal if, as all these people have said, the thing has worked so beautifully, and it is so great. It is not great. It's good, that's as best you can say for it. It can be made better, but it can't be made better by people who represent, maybe, a hundredth of one percent of the population of this state in education, intelligence, and wealth, sitting back and saying, "We're not going to change it. It's all right because we're not getting complaints from the people who need it changed." Well, you go talk to the people who know; you go ask the little fellows on the street. Our purpose is to write a better constitution. . . and that constitution will be written only, only. . .

MR. HENRY

You've exceeded your time, Mr. Roy.

Further Discussion

MR. JUNEAU

Mr. Chairman and fellow delegates, I must sit here in dismay as many of you have, not necessarily with regard to the civil service amendment, but the decorum of this convention. I would like to attribute that to the issue...of the severity of the issues, seriousness of the issue of civil service, but I think a lot has to do with the House... the Chamber itself. But, aside from that, I think it is befitting that we do have the decorum; we do have the silence, and we do have the attention that for the first time that I think we've had in the course of this convention on this issue, because I think the magnitude of the issue justifies listening, deliberation, and soul-searching thinking. I'm not going to reiterate all of the things that have been before you, but merely to put in perspective as I've found it is so necessary to do during the course of this convention. We tend to explain things after we argue to put it... should I vote red, or should I vote green, or am I voting for Mr. Jones, or am I voting against Mr. Jones. That's the issue I'd like to put before you. In my personal opinion, I think that the majority of the people in this state feel safe, secure in the present civil service system. To me, it is the one shining light that we've had in this state. That is my own personal opinion. I think, my personal opinion in... this view is shared by the overwhelming majority of the people of this state. I submit to you that when you tamper with the one thing--the one thing-- that I think that the people feel is secure and just and good for this state, we're treading on dangerous water. The issue to me is very simple, and this is, basically what you're going to be voting on. If you like the present civil service system like it is, then you should vote against the Flory amendment. On the other hand, if you do not like the present civil service system and you want to subject that entire system to total possible change in this state, well, then vote for Mr. Flory's amendment. That's the issue, because that's the issue I think, when you get to the nutshell is going to be presented to the voters of this state. It's my personal feeling that we would make a drastic mistake in tampering with something that the people feel very secure and confident with. I hope that you sincerely reject whatever personal pressures, whatever personal thoughts or inflictions have made upon you, and that you base your decision on what you think is good for this state. Thank you very much.

Further Discussion

MR. RACHAL

Fellow delegates, I don't really know where we are at this point, but so much debate has taken place and as I tried to listen to it and decipher it and separate what might be truth and fact from oratory and wild statements, I don't really know where we are. But, I felt compelled since I've also been asked as to why I have been supporting this amendment and what is it that I want out of civil service. Let me first of all say that the... any suggestion that you might have that I'm for gutting the civil service system, please remove that from your minds. At the same time, because I'm concerned about what I think are necessary needs to improve a civil service system in keeping with the true principles of merit, let that not be arguments to say that the system is to be gutted. If I had to give any resistance to arguments to perpetuate the system exactly as it is administered in Louisiana at this time, the debate of those supporting that has done more

to turn me from it--and let me give you a few instances why-- I was appalled this morning to listen to speakers at this microphone suggest, for example, that the only reason there are no more blacks in the civil state...civil service in Louisiana is because we've had a fine merit system and we've selected people on merit, and then go on to suggest to me that they should continue to support that fine operation. Well, first of all after the first statement is made I can no longer go on any recommendations made by those people, although I know most of you know better, I'm afraid that you're being influenced by it. Most of us know, that the reason many blacks are not in civil service in this state--probably why I am not in it--is because I could not get in it regardless to what qualifications I have. I remember years ago going to the state civil service building and was made quite clear that I was not welcomed there to solicit an application, let alone submit it. We know that blacks were not welcomed, regardless to qualifications that they may have had. So, don't now tell me that the conditions are like they are because we've had a fine system, that is not true. I am willing to discuss with you, if you're willing to admit, the evils of the past and let's talk about what we can do about them in the future. Sure, I appreciate history, but I think history should teach us also to avoid the mistakes of the past, and not to have fine statements rationalizing some of the actions which have taken place. We find ourselves caught many times between this failure to appoint by an agency head and the civil service system. What has come through to me rather clearly, especially from representatives and from a senator or two, is that the civil service system stands as some kind of protection between them and wild promises they may have had, and so we depend upon the civil service system to give them an excuse to back out of it. That's not what civil service is for. Civil service just is a personnel operation. It is to assure the government, municipal or state, that it has the best people qualified to do the job, but therein comes the rub. I defy anyone to tell me that we're going to have any kind of testing procedure that we can stand behind and say absolutely this system identifies clearly the best qualified person for the job. That is not possible. To say that the only means of determining the best person for a job is through a written test; that is not true. I, too, have had some experiences, not as great as most of you probably, but it has been with civil service and operations whereby we've tried to do something about the misrepresentation of the people. If I adhere to persons who this morning, for example, talking about this constitution in which it says "we the people,"--I'm not a political scientist--but more accurately we need to state that in the past it has been" we, some of the people." When we talk about representation not only in the deliberative bodies like these, but on commissions and others, we are trying to make it such that the high-sounding principles that we expound in fact, are given a chance to act... to be put into practice. Why all the clamor about the representation on the commission; are we afraid? What great difference will two black representatives on a seven member board have? I recognize that this argument has not come out too greatly, but as someone else suggested about something else, it is an underlying concern of many of us. Yet, we want to talk about all of the people of Louisiana; are we continuing to perpetuate the social club of some of the people. I don't know how much more calmly I can make such statements without getting reactions of radicalism or whatever you might suggest.

Further Discussion

MR. J. JACKSON

Mr. Chairman, delegates of the convention, I guess it's been very obvious for the last two days that I have not personally come before you to address you about any concern at this... at any previous point concerning civil service, because I, like Mr. Rachal, was sitting back just observing the kinds of arguments for and against certain proposed and needed changes within our civil service system. First of all, let me say that on yesterday, I raised... I raised the motion to divide Mr. Flory's amendment, not in an attempt--and I stated very clearly to him and prior to me making that motion--not in an attempt to defeat the amendments because there are some aspects of it I strongly agree with, and there are some aspects of it I disagree with. When we talk about the question of minority representation on the civil service commission whether that be state or city civil service, I don't see what the big clamor is all about. I suggest for those who may, and whatever motivation that they embraced, are suggesting that that is a concern to them, but at the same time get up here and suggest that --look at Mr. Denny's amendment-- I suggest that you look at Mr. Flory's, Mr. Denny's, and the committee's proposal because they all provide for some degree minority representation. I do not agree with those opponents of the Flory amendment who say that everything in the civil service system is okay, it's great, it's working well. I say very candidly, it depends on what side of the fence you're on. I agree with Mr. Haynes when he got up this morning and said, what's the difference

in talking about quotas when in effect you do have in practical and in effect, you wind up with the situation that maintains the quota even if that quota happens to be absolute--and I'm saying there are some agencies where that happens. My objection primarily is to Amendment No. 2. As a member of the legislature, I do trust to some degree the legislature and its ability to exercise sound judgment. I was seriously concerned when some arguments were raised--particularly by Mr. Avant-- who said that we raised... he was concerned about if we kept it at two hundred and fifty thousand then that would affect the city civil service of the city of Baton Rouge, but yet instead we're going to raise it to four hundred thousand dollars... four hundred thousand population. But, there was no consideration whatsoever about what effect that was going to have upon our present firemen and police civil service. We trust the legislature to make all the changes and to that, I agree, but there was one exception, -- and I've got to agree with Ms. Zervigon--if we trust them, then let's make that exception apply across the board. Let it apply also whether New Orleans firemen and police are going to be allowed to remain in the system or leave the system. Let me suggest to you one of my other concerns: seniority is good, and it's just like if you know,-- it's according on which side of the fence you're on--in those parishes where blacks have had to ingress into the system at the same time, seniority equally works for everyone. But, presently under the city civil service we don't have that it's a criteria. So, we're going to move our system out into a seniority system where less than seven percent or four percent of the force, particularly of the police department, are the minority group. That's one of my strong objections to it. I candidly say that without any reservation. Now, one of the other things kind of--I throw out-- is that I voted when I could not get the same consideration for my sanitation workers, and my garbage workers, and my health nurses, and all the other civil servants. When I couldn't get that consideration to allow them to come to the legislature I said, "Well, I will support the firemen and policemen that come to the legislature," and the records will show that. I, also, by that same token allowed the legislature to increase the burdens of... well, not the burdens... but increase the financial expenditures of our city, I voted for that. But, I am at this point concerned as to what kinds of input will the governing authority and the people of the city of New Orleans have in terms of our firemen and policemen when we give them total economy as expressed in the last paragraph of the second... amendment.

Motion

MR. CHATELAIN

I would like to offer a proposition to those gentlemen... ladies and gentlemen, if they would agree to yield, I'd like to move the previous question. I think all of us have heard enough in the last two days of this rhetoric. I can certainly speak for my five--minutes allotted and probably not make any points, but it would make a lot of noise. I would certainly ask that those yield.

Now, Mr. Chairman, I feel that after two days of debate on this very important subject that we should move the previous question.

Move the previous question, Mr. Chairman.

[Previous Question ordered.]

Closing

MR. FLORY

Mr. Chairman and delegates, I will try to be brief. Let me start out by saying to you that I had hoped to propose this morning some amendments that I thought would correct many of the objections that many of the delegates had in having taken away the appointments by the governor, letting the civil service... the classified employees elect those two people, retaining the five colleges that are named in the state civil service system and then going and putting in that, a Hatch Act changing it to six year terms instead of the four that's in the proposed amendment. Then saying further that nothing that was contained in this article could be changed by the legislature. But, the detail as to civil service would be transferred and could be by a two-thirds vote, and I really don't care whether it's two-thirds or three-quarters vote of the legislature, so long as we have some vehicle over and above the ivory tower that the commissioners sit in on the Civil Service Commission to review their decisions which the state... as controls the state's employees personnel policies. Now, let me... the amendment that's before you has been designed, or else it's been stated that it's black in nature, that it's anti-God, perhaps, that it's strictly for the unions to control and unionize

the civil service of this state, I submit to you, I couldn't organize any employee of any employer unless they were dissatisfied with the treatments that they were getting. I now have in the unions of this state in excess of twenty-one thousand public employees of the State of Louisiana with contracts throughout practically every department of the state. But every time we negotiate a contract as a provision nothing herein shall conflict with the provisions of civil service; nothing. A great deal has been said about Amendment No. 2; Amendment No. 2 is necessary if we're going to take the firemen and the policemen in the city of New Orleans, and place them in the same type of system that the other firemen and policemen throughout this state in all municipalities over thirteen thousand are now under. That's the issue. To put New Orleans with the rest of the state. But, New Orleans would still have its own five-member board for firemen and policemen, and it shall have its own board of the city employees, and the city council would have to prove everything they did... everything they did. A lot's been said about Mr. Denner's proposal-- if you want to give the commission more power than they've got today, you vote for Mr. Denner's proposal. If you want to retain the burden of proof on the employees instead of the employer, you vote for Mr. Denner's proposal. But, I for one happen to believe, that an individual is innocent... innocent if you will, until he's proven guilty. But, not under civil service in this state, and we're the only state in the nation... the only state where the burden of proof is on the employee instead of the employer, and the civil servant is guilty until he proves his innocence. If you believe that a man ought to be innocent until he's proven guilty, vote for these amendments.

You believe that the employer... that the burden of proof ought to remain on that poor employee, vote against these amendments and vote for Mr. Denner's proposal. I'm willing to incorporate in these amendments before you now, if they're adopted, I propose to come immediately right behind it and strip these amendments out and incorporate what I have proposed to you: six year terms, the five colleges that the classified employees elect two members, put in the Hatch Act, and all of these provisions in these amendments could not be changed by the legislature with any vote, but the rest of it could be changed with a two-thirds vote--of if you want a three-quarters vote, I don't mind that, I don't mind that--and I want to say something to Mr. Tobias. I think it's an insult to the integrity of the governors who have served this state and the fine men of the legislature and ladies of the legislature, to say that they have been controlled in the past by labor or by anybody else. I suggest to you, Mr. Tobias, that if they've been controlled by labor, there are a great many things that would be much better in this state today than they are...

much better. I ask you to adopt Amendments Nos. 1, and 2 so that I can then come back and make changes.....

[Record vote ordered. Division of the Question ordered.]

Point of Information

MR. BURSON

Mr. Chairman, are we voting at this time on the motion to reconsider or on the amendments themselves?

MR. HENRY

We're voting on final passage on the amendments.

[Amendment No. 1 rejected: 45-61. Motion to reconsider tabled. Record vote ordered. Amendment No. 2 rejected: 48-59. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Next set of amendments sent up by Delegate Denner. O.K. I want to say this: The pages are getting ready to pass out the Denner amendment. Hæretofore, a previous set of amendments have been passed out. Mr. Denner, as I appreciate it, has made some changes with respect to the first two pages only of those amendments. However, to make sure that there is not any confusion or try to hopefully reduce it, the set that's being passed out now is the Denner amendment in its entirety and including a reprint of the seven pages, I believe, that didn't change. You can tell them apart real easy because they got two staples in them.

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Point of Information

MR. ABRAHAM

I have a question for the Chair.

I just want to clear it up, but as it stands now, we have Committee Proposal No. 9 now which only consists of the first page still on the books and everything else has been removed by the third Flory amendment; is that correct?

MR. HENRY

As I appreciate it, that's generally correct; yes, sir.

Point of Information

MR. JENKINS

Point of information, Mr. Chairman. If we were to adopt Mr. Dennery's amendment, would it be appropriate at that time for me to move that we suspend our rules to consider it lettered paragraph by lettered paragraph as we did before? In other words, so if we adopted it, it won't finally be adopted but rather that we can then consider it part by part; would that be appropriate if we adopted this?

MR. HENRY

I'm not sure that I..you said, if we adopt the amendment, then could we consider it letter paragraph by letter? Well, it's already adopted, and I don't understand what you are talking about, Mr. Jenkins. Did you not say, "If we adopt the Dennery amendment or if we take it up"?

MR. JENKINS

You see, it's being considered as a single section now.

MR. HENRY

That's correct.

MR. JENKINS

But, we will certainly want to analyze it in more detail than we are going to be able to give it as a nine-page amendment. What I'm saying that...wouldn't that really be just like an original committee proposal once we adopted it? Couldn't we then move to suspend the rules to vote on it paragraph by paragraph, so that we could amend it paragraph by paragraph and....

MR. HENRY

If you suspended the rules, you could do that, Mr. Jenkins. Yes, sir.

Point of Order

MR. TATE

Mr. Chairman, as I understand the parliamentary situation, we have already adopted the third Flory amendment which has, in effect, taken away the committee draft. So, presumably, the Dennery amendment is--if and when we adopt it--will be the major item of business. Now, the only other approach that seemed to have been submitted in the amendments was the De Blieux approach--the one paragraph. I'm just wondering as a matter of enquiry, if there would not be...it wouldn't be sensible for us to... someone to make a motion to advance the De Blieux amendment, vote on that one way or another. Once it's out, then the Dennery amendments are before us.

MR. HENRY

Well, if someone wants to make that motion, the motion would be in order. But, now yesterday, in talking about Mr. Flory and Mr. Dennery, Mr. Dennery said that he had no great objection to going with the Flory amendment first; but, he did want to take up his amendments after that.

Point of Information

MR. ARNETTE

Mr. Chairman, is not the case if we adopt this particular amendment, people can offer any amendments to this amendment as they wish? Is that not correct before it's finally adopted as a section?

MR. HENRY

That's right.

MR. ARNETTE

O.K. So, in other words, Mr. Jenkins wouldn't have to go through the suspending the rules idea. All he would have to do is offer amendments to this amendment--if it is adopted; is that not correct?

MR. HENRY

Well, that's...what he is talking about is an alternative approach. If he gets the rules suspended, he can do that and that was his question; don't you see?

MR. ARNETTE

Well, I was just thinking we could do without suspending the rules, but that's...

MR. HENRY

Well, we're not to that point yet. I think we are climbing the mountain before we get there. We can take care of that once we ever get there.

Personal Privilege

MR. JENKINS

Let me, just by way of explanation. You remember on the previous proposal, I moved that we suspend the rules and consider it letter by letter. But, on this particular proposal, I knew that Mr. Flory had an all encompassing amendment; and I knew that Mr. Dennery had an all encompassing amendment. That's why I didn't at the beginning of this thing move that we suspend the rules to consider it letter by letter. But, that does seem to be the appropriate way and that's why I asked that question.

MR. HENRY

Well, with all due respect, that's fine but what we need to do is go ahead and start the work, then when we get to the point if this amendment is adopted--the amendment may not be adopted, if it is adopted; then, we can decide then how we want to treat it. So, if you will, Mr. Clerk, and if the folks will have a seat and give you their attention, we'll be on our way again.

[Motion to waive reading of the Amendment adopted without objection.]

Explanation

MR. DENNERY

Thank you, Mr. Chairman. Delegates, let me point out what Mr. Champagne was worried about; on page one, in Section 1 in the sixth line I have added the three words "local governmental subdivisions," so that state civil service does not include local governmental subdivisions. On the second page in the section which begins with a nine in parentheses, I have switched the language somewhat now to make it read "employees, deputies, and administrative officers." There was some concern that administrative officers and employees might restrict it to administrative employees alone. Those are the only changes I have made, and they were purely for the purposes of clarification. I can only give you the broad picture of this amendment. It is an attempt to put in as what I consider to be as short a form as possible, a completely self-executing civil service provision into our constitution; it covers state civil service; it covers city civil service in cities over two hundred and fifty thousand. Most of the provisions of the present civil service law are retained in one form or another, although I have shortened the language. The principle differences are that as far as the commissions themselves are concerned in the state commission, I have provided that the nominations be made of seven members instead of five and that the nominations be made by the presidents of the only seven private universities.

Point of Information

MR. FULCO

Point of information. Is it possible for Mr. Dennery to tell us where he is in the explanation, so that we can note....make notes on the margin, please?

Explanation continued

MR. DENNERY

I would be glad to, Mr. Fulco. On page two, I have the provisions for the State Civil Service Commission; instead of a five-member commission, it is a seven-member commission. Instead of the nominees being nominated by Tulane, Loyola, Centenary, Louisiana College and L. S. U., I removed L. S. U. as a public university and inserted Dillard, Xavier, and St. Mary's Dominican, which are the three other private universities in the state. This has two advantages, I believe, and one somewhat might be called a disadvantage. The advantages are: that the two predominately black universities now have the right to nominate people which, although not automatically, will probably guarantee black input into the commission. A predominately female university will undoubtedly provide a female on the commission. The commission is divided...the universities are divided approximately equally as far as religion is concerned based upon the population of the state, approximately as race is concerned on the population of the state. The only disadvantage is that five of these universities are situated within the city of New Orleans, but that is a fact of life. On the premise that we would have private universities making the nominations, we were forced to that position. I would point out that most of these universities have alumnae and alumni scattered throughout the State of Louisiana and there is no reason to believe that the presidents of these universities will restrict their appointments to purely local people. On page three in Subsection (D), I provide for the City Civil Service Commission; it remains three as it is in the present constitution. The only change, insofar as New Orleans is concerned, is that instead of the city council appointing one or nominating one group of appointees, I have substituted Dillard University. I allowed Loyola University and Tulane University to remain as far as New Orleans is concerned. When it comes to other cities in the state if they reach two hundred and fifty thousand...as they reach two hundred and fifty thousand, the governing body of that community has a right to select any three of the universities--which are the seven private universities which were named on the previous page. The prohibitions against political activities which are found in Section (1) on page five are basically the same as the present prohibitions against political activities. On page six, the section dealing with rules and investigations has somewhat broadened the power of the commission in order to make the commission more flexible. We have run into situations--both in the state and in New Orleans--where agencies based upon federal funding and matching funds were concerned, where it was impossible to get classified employees within the standard pay rate range effective at that time. In order to permit flexibility, the commission has been given the power to increase the unclassified service but may later decrease it as funds are found to meet the proper pay plans or as employees are found. In case any city under two hundred and fifty thousand or any city parish form of government chooses to come under this type of civil service, they have the right to do so; that is provided on page seven, eight, and nine of the amendment. There are excluded from the classified service--and I would call to your attention that I have used the technical language. Civil service technically means anyone in the employ of the state. You and I today are civil servants. We are not classified civil servants, we are unclassified civil servants. There are certain unclassified civil service positions which are set forth in my amendment which are basically the same as the present unclassified service. All...I have reduced the language, however, considerably by referring, for example, to the Judiciary Article V and saying that the employees of all offices mentioned in that article will be in the unclassified service.

Mr. Chairman, I think, basically, that's the overall picture of this. I would be pleased to answer whatever questions I am able to.

Point of Information

MR. O'NEILL

Mr. Chairman, my question is directed to you. Would I be in order to move for a suspension of the rules so that this amendment could be considered section by section...paragraph by paragraph...numbered paragraph by numerical paragraph?

MR. HENRY

Mr. O'Neill, you would be in order to make such a motion, yes, sir.

MR. O'NEILL

But...

MR. HENRY

Well, I'm advised by the Clerk that something like this is very difficult to administer, insofar, as the desk is concerned. Now, the Clerk might address himself to those problems.

MR. O'NEILL

Well, if it's too much trouble, I'll withdraw my motion, Mr. Chairman, but it looks like it's going to be pretty difficult to consider all at once and to get questions answered in full scope of it, so I was just trying to ease matters.

MR. HENRY

Mr. Clerk, you might state the problem that you're going to have.

MR. POYNTER

Maybe I...as far as just considering it section...paragraph by paragraph, I don't think you create a problem at all. It's when you start wanting to vote on them and "delete," and you reach some real technical problems on what follows what and what the efficacy of certain votes are, but certainly in terms of procedure of going paragraph by paragraph in consideration... you know, in offering amendments if you want to to Paragraph (A), for example, and then when that's concluded going on to (B), perhaps that even facilitates the desk, Mr. O'Neill.

Point of Information

MR. TATE

Mr. Chairman, up until now, we haven't considered things section by section until they are adopted. Now, assuming the Dennery amendments are going to be adopted--which I just assume it's going to be--might it not be then more appropriate to consider a motion?

MR. HENRY

That's exactly right, Justice Tate, at that point it would be more appropriate to consider it in that fashion--in my judgment. All right, gentlemen, Mr. Dennery had....

Personal Privilege

MR. LANDRUM

Mr. Chairman, Judge Tate, I just don't know; I don't agree with Judge Tate on that. I believe....

May I ask...may I suggest...

MR. HENRY

No, sir. Now, gentlemen, we've got to start considering this at one time or the other. If you want to make a motion to suspend the rules, fine and well and good, let's try it that way. But, we have handled provisions--rather lengthy provisions of a nature--considering them en globo, then you can come back and offer the amendments. But, there is no sense in us getting in a philosophical argument as how we should handle this right now. If we want to try it the other way, move to suspend the rules. If not, let's go ahead and discuss it, sir.

Point of Information

MR. LANDRUM

Well, Mr. Chair, would I be in order now for the motion that we will take a vote on it now because what I see here as far as all the universities from New Orleans, I think we will be wasting a lot of time.

MR. HENRY

Well, that's never been any problem so far with this convention insofar as time is concerned, Reverend Landrum. I'm not trying to put you down, but I think we can handle this thing if we sit in our seats and we pay attention to what's going on but, otherwise, we will be here through Christmas Eve.

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Point of Information

MR. HERNANDEZ

In the event that we do care to amend this proposal of Mr. Dennery's, at which point should we submit our amendments?

MR. HENRY

Well, in the event that you want to amend it, it has to be adopted. Once it is adopted, then amendments to it would be in order, Mr. Hernandez.

MR. HERNANDEZ

Thank you, sir. I just wanted to be sure.

Point of Information

MR. CHATELAIN

Mr. Chairman, couldn't we follow the procedure we've followed in the psst, perhaps, if we adopt his amendment and not lay it on the table, and we could come back and...

MR. HENRY

Well, if you all will just let us get started on this thing, I believe we can take care of it just right.

Questions

MR. DUVAL

Mr. Dennery, the first question I wanted to ask you is that the present constitution deals with fire and policemen in Article XIV, Section 15.1, of the present constitution. You in no way, this.... and, as I understand your amendment, it in no way affects this provision of the present constitution; is that correct?

MR. DENNERY

That's correct, Mr. Duval. The present constitutional situation as far as firemen and policemen are concerned is that in New Orleans they are covered under the general city civil service provisions; they would remain covered under these general civil service provisions. The balance of the state would come under the provisions of what is now 15.1, known as the municipal fire and police system as amended or enlarged, I believe, by certain legislative acts.

MR. DUVAL

Now, Mr. Dennery, I'm interested in....looking over this trying to determine the powers of the commission, insofar as wages are concerned. Now, one thing that concerns me if the commission were to make a ruling on wages, would this supercede any act of the legislature? Would they have predominance insofar as wages over the legislature?

MR. DENNERY

Well, it goes in exactly the opposite, Mr. Duval. The commission recommends a pay plan and amendments to that pay plan. They are recommended to the governing authority, which in this case of the state would be the governor; in the case of the city to the mayor. Until they are approved by the governing authority, they do not become effective and as a practical matter they will not be approved unless and until the legislature finds the funds and appropriates the money to meet the pay plan.

MR. DUVAL

Now, what I'm interested in a legal matter if the State Civil Service Commission recommends they pay a pay, for instance, and the governor approves; is the legislature....is, then, it becomes a force of law at that point?

MR. DENNERY

Yes, I believe it does. I think there have been some cases to that effect, Mr. Duval.

MR. DUVAL

Now, what if the legislature passes a law raising the salary of let's say state policemen? Would the Civil Service Commission be able to block the implementation of that wage?

MR. DENNERY

Under the present constitution, they would be in a position

to do so, and that right has been upheld. I did not make any change in my proposal, nor in my amendment.

MR. DUVAL

Thank you.

MR. LANIER

Mr. Dennery, Thibodaux just got civil service by Act No. 97 of 1972. We have a one board system since we have a volunteer fire department. We don't have paid firemen in Thibodaux; it's completely volunteer. Would your proposal in any way affect the civil service system that we presently have established in the city of Thibodaux?

MR. DENNERY

When Thibodaux reaches two hundred fifty thousand, the answer is yes. Until then, no.

MR. LANIER

O. K. Good.

Secondly, I note in your proposal, that for the boards of other cities, that they shall be composed of three, and that they are nominated by these universities in New Orleans.

MR. DENNERY

No, any three of the first seven universities named. The governing authority selects those three.

MR. LANIER

Well, what I'm getting at is, the board that is set up in Thibodaux under Act 97 is a five person board rather than a three person board. Would we still be O. K. in our five person board? Or would we have to go to a three person board?

MR. DENNERY

When you reach two hundred and fifty thousand.

MR. LANIER

When we reach two hundred fifty thousand. But, prior to that time, this provision....

MR. DENNERY

This has no effect until you are at least two hundred and fifty thousand, Mr. Lanier. After that, it would become effective.

MR. LANIER

Thank you.

MR. AVANT

Mr. Dennery, my question addresses itself to your Section (J), or Paragraph (J), which is on page 6 of your amendment. Now, that, as I understand it, is a restatement in whole, or in part, or maybe with some additions of what was Paragraph (I), or is Paragraph (I), of the present Article XIV, Section 15, is it not, sir?

MR. DENNERY

I think basically that is a correct statement.

MR. AVANT

Now, that vests in the commission rule-making powers in certain areas, and in those areas those rules have the effect of law.

MR. DENNERY

Yes, sir.

MR. AVANT

In those areas where the commission is given the right to make rules under the jurisprudence and the decisions of the Supreme Court, the legislature has no authority whatsoever, do they?

MR. DENNERY

That's not completely correct, Mr. Avant.

MR. AVANT

All right. Tell me.

MR. DENNERY

Well, for instance, as far as retirement and pension provisions are concerned, a civil service rule has been held invalid because it goes against what the legislature....

MR. AVANT

All right, now....

Specifically, it was under Section (I) that the Supreme Court was able to say that a minimum pay scale for state troopers, adopted by the legislature, was unconstitutional because the Civil Service Commission refused to implement it. Is that not correct?

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- MR. DENNERY
Well, it didn't change its pay plan. I wouldn't say implement it, but the pay plan....it did not change its pay plan.
- MR. AVANT
Now, in addition to the many, many areas in which the commission was given the right under Article XIV, Section 15, to make these rules that have the force of law, I notice in your section, you have added an area which I don't find in the present constitution. That is, to enact rules with respect to employee training and safety. This is a rather long constitutional provision in our present constitution, but I have read it a number of times. I cannot now, and do not remember having ever seen that particular area in there. Is that new?
- MR. DENNERY
Let me see which one...oh, employee training and safety provision?
- MR. AVANT
Yes.
- MR. DENNERY
I believe it is new, Mr. Avant. I would have to go check my earlier drafts to see. But I believe that was added.
- MR. AVANT
It's not in the present constitution, is it?
- MR. DENNERY
No, I don't think it is. I think you are correct, sir.
- MR. AVANT
Well, this would give to the Civil Service Commission, would it not, sir, and take away from the legislature, an additional area beyond that dictated by the present constitution; that is, with respect to employee training and safety? Is that not so?
- MR. DENNERY
Well, Mr. Avant, I'm not sure that the commission hasn't done this already. As a matter of fact, those rules for employee training and safety would just be guidelines for various departments to use. Now, I take it, to the extent that they conflicted with a general statute, similar to the pension ruling of the courts, the same thing would apply.
- MR. AVANT
Well, we would be taking a calculated risk in that area, would we not, if we left this employee training and safety in there?
- MR. DENNERY
Well, I....if you choose to call it a calculated risk. I would choose to call it a method of making more flexible the present Civil Service System, and more useful to the administration.
- MR. AVANT
Well, to get right down to it, to take again the case of the state police--if the legislature, or the superintendent of the state police, in their wisdom, instituted a particular program dealing with the safety of those troopers, say certain equipment that had to be on the vehicles, or the fact that they couldn't make patrols one man to a vehicle (they had to have two men to a vehicle), or if they required that they had to go a certain period of training--say on the pistol range or the submachine gun range, or whatever they do--if the Civil Service Commission didn't agree with it, then under this provision it couldn't be done, could it? Isn't that a fact?
- MR. DENNERY
I take it that's a fact, Mr. Avant. I can't conceive that that would occur. But I take it that that is a fact that it could occur.
- MR. AVANT
Is that any more inconceivable than...conceivable than the idea that the legislature's going to wake up one day and gut the Civil Service System?
- MR. DENNERY
To my mind, it is less....it is more....excuse me, it is less conceivable.
- MR. WEISS
Those of us not too knowledgeable about the details rely a great deal on the committee report. Could you point out the exact difference between your report as abstracted--basically you say the committee proposal--all the changes that your report renders that is different than a committee proposal?
- MR. DENNERY
Dr. Weiss, I suppose I could do that, but it has been done by the staff. They have a complete report which compares Delegate Proposal 27 which is basically the same as this amendment and Committee Proposal No. 9. I think it would be far better to pass that out among the delegates, than to take the time of this convention to try to go through it.
- MR. WEISS
Could I have a copy of that?
- MR. DENNERY
I'm sure we can afford you--or all delegates, if they want them a copy.
- MR. HAYES
Mr. Dennery, I see...I see what's supposed to happen in case the governor does appoint someone. But, what happens in case the particular university fails to submit the names?
- MR. DENNERY
Well, that is the...status in the present law, Mr. Hayes. It is never...that situation has never occurred. I did not feel it was necessary to place this in here--any solution for that possibility. I would not object if you chose to place an amendment in there. You see, what happens, actually, as a practical matter, is that an appointee remains in office until his successor is duly appointed and qualified. I do believe that the other members of the commission, the Civil Service League, the governor, the man, or whoever it might be, would certainly get on the president of the university in question and require him to submit the nomination.
- MR. HAYES
The next question was, in the event one of the universities would close--I didn't see any provisions for that--but I guess...anything that can happen, will. Based on that, I thought since you put it in on the governor, I just wanted to bring it to your attention that it wasn't in there.
- MR. HAYNES
Excuse me, Delegate Dennery, I have implicit confidence in your knowledge of civil service.
- MR. DENNERY
Thank you, sir.
- MR. HAYNES
I have three very quick questions and then, I have an amendment I wish to offer to reinstitute the system we had prior to 1863, which I think would satisfy a lot of the problems that confront us in this convention.
Would you have any serious objections to adding Grambling College so that north Louisiana could be represented in the nominations for these positions, since we have it all skewed in the direction of New Orleans--and I can understand that very clearly, too.
- MR. DENNERY
Well, I would have no personal objection, no, sir. But, I think it would--I believe Grambling is a state university, is it not?
- MR. HAYNES
It's a state institution.
- MR. DENNERY
So I have....my proposal was to have all private universities. I would have no objection at all. But, I chose to use private universities because I feel very strongly that we should keep the appointment of the commissioners as far removed from politics as is humanly possible.
- MR. HAYNES
I can appreciate that. This is one of the things I resented. We've impeached every governor that we've had since Huey Long, here today, in the debate--in this convention.
My second question, since New Orleans is approximately fifty percent each way, now, and about seventy-seven percent of the students in the New Orleans public school system represent the predominant minority in the state, would you have any objection to adding Xavier University to sort of equalize the nominations from the...for the city?
- MR. DENNERY
You mean in the New Orleans commission?
- MR. HAYNES
In the New Orleans commission.

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MR. DENNERY

Well, of course, that would give four people on the Civil Service Commission. I don't think it should be four. I would have no objection, sir, if you chose to make it five and added both Xavier and St. Mary's Dominican. That would give five.

MR. HAYNES

We'll do that. We'll make those....

My third question. In discussing with you, it seems that we have thirty--thirty-nine--persons qualified for the state police according to the civil service requirements. I have my serious concerns about those qualifications, of course. We have five hundred thirty-nine certified--by civil service--for welfare. Yet, these people can't get jobs. Would you accept an amendment to either make it statutory, or mandate that the governor, through executive order, would require fair employment, or employment in these positions without regards to race?

MR. DENNERY

Well, of course, the amendment contains exactly the lack of provision. It does not mandate the governor, but it does say that there shall be no discrimination when it comes to employment--no discrimination because of race, because of religion, or because of political affiliations. Now, you are suggesting, as I understand it, that the constitution contain a provision which would mandate the governor to cause all of the department heads to appoint, in view of that, in light of that nondiscriminatory provision, in a nondiscriminatory manner. It seems to me that our Bill of Rights already requires the governor to do exactly this. I should think that the governor, and all of the state appointing authorities, are under an obligation, or will be, when this is adopted, and the constitution is adopted, under the Bill of Rights, and under this, to be completely color-blind when it comes to appointments.

MR. LANDRUM

Mr. Dennery, tell me, don't you think that with all the universities coming from New Orleans, making up this commission, don't you think you are creating enemies for the city? In my opinion, I believe New Orleans--many people across the state bear ill-feeling toward the city now--now to have the Civil Service of the State of Louisiana with all the universities located in the city, don't you think that's creating more enemies for the city?

MR. DENNERY

Well, Reverend Landrum, I had to make a choice, I suppose, based upon a philosophical problem. I felt that I should keep removed from any political taint, whatever, the appointment of the commission as to the Civil Service Commission. I felt that the best way to do that was to use private universities. It is a fact of life that of the seven private universities in Louisiana, five happen to be located in New Orleans. I would point out to you that alumni from Tulane, from Loyola, from Xavier, from Dillard, and from St. Mary's Dominican, are scattered throughout the State of Louisiana. I do not believe, sir, that the presidents of these five universities are so provincial as to appoint only people from their localities. I do believe that they would seek advice from their alumni throughout the state, all of whom are quite loyal to their universities, and seek advice as to what people might be capable from those particular areas to be named as nominees to be presented to the governor. Now, I mentioned--I stated in the beginning--that that on its face appears to be a disadvantage. I do not believe it to be. I think it is the lesser of two evils if you choose to put it that way.

MR. LANDRUM

Now, the...one other question I would like to ask you. I mean, I disagree with you on that. The burden of proof on appealed--now I know you are considered as one of the best legal minds in the country--

MR. DENNERY

Thank you. Pretty broad statement, but I thank you.

MR. LANDRUM

Well, and I mean I agree with that, but now the burden of proof on appeal as to the facts shall be on the employee.

MR. DENNERY

All right, Reverend, let me answer that question. It's a very interesting question and I've discussed it at length with some of the delegates here--Mr. Roy mentioned that he and I had discussed it. In the first place, the burden of proof has been placed on the employee in Louisiana since 1952. That's the present state of the law. There has been no change in the law. Based upon the fact that the burden of proof is upon the employee, all Civil Service Commissions' rules require that if a civil service employee is to be fired or demoted or punished in any way, the exact reasons, with date, place, and everything else, must be set forth, because it is well recognized

that it is a little more difficult to prove a negative than to prove a positive. However, you must remember this, that when the employee appears before a commission and denies that he has done what he is alleged to have done in order to cause his dismissal, and this cause must be expressed in writing as the constitution requires; as soon as he has done this, the burden of going forward immediately shifts to the appointing authority who must then prove his case. Now, it is my considered opinion, after having served on this commission for ten years, that the employee is in a much better position under this setup, than if we permitted the state, with all of its assets, and all of its legal counsel and everything else, to present a case on the day of the trial, which the employee was not really in a position to defend.

Furthermore, I would call your attention to the fact that although Mr. Roy, in his discussion on the previous amendment, used the word "innocent until proven guilty," this is not a criminal case. Remember that. There is no crime associated with civil service dismissal. An employee is dismissed for cause. That cause must be expressed in writing. It must be a just cause. The burden of proof is to...is placed on the employee...although it may sound ridiculous to so state, it benefits the employee, in my opinion, and has so proven.

MR. LANDRUM

Well, the word "cause" is used in the '21 Constitution too. I just ...disagree with you.

MR. DENNERY

Well, of course, the courts have interpreted what cause for dismissal is. It's got to be pretty good cause before you can dismiss.

MRS. WARREN

Reverend Landrum asked you one of the questions I wanted so I won't go into it about a person having to prove himself when he is accused of something.

MR. DENNERY

It wasn't "accused," Mrs. Warren. Let's use specifically, now.

MRS. WARREN

Well, I mean, maybe I used the wrong word. But he said it.

MR. DENNERY

All right.

MRS. WARREN

I would ask this question, and I am ignorant. Somebody else wanted to know it so I'm going to ask it. Does garbage people have to take examinations?

MR. DENNERY

Does garbage people have to take examinations?

MRS. WARREN

Right. To work....

MR. DENNERY

It is my recollection that the position of garbage collectors in the city of New Orleans is what is known as a noncompetitive class and they do not have to take examinations. Approximately fifty percent of the employees in the State of Louisiana and I believe almost the same percentage in the city of New Orleans do not have to take competitive examinations.

MRS. WARREN

One more question.

When the garbage...since you are familiar with New Orleans and I am, too--when the garbage people went out on strike, why is it none of them lost their jobs?

MR. DENNERY

Well, now, Mrs. Warren, you are going to have to ask the mayor of the city that question. I can't possibly answer that.

MRS. WARREN

Well, I don't mind asking him. He looks just like you. I'm sorry you can't.

MR. DENNERY

Well, I can't possibly...well, I can't answer that question.

MRS. WARREN

I'm...Mr. Chairman, I was just asking him a question.

MR. DENNERY

All right. Go ahead, Mrs. Warren.

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MRS. WARREN

The next thing I wanted to know is, why classified civil service workers and unclassified ones, some can participate in political processes some can't.

MR. DENNERY

Well, my understanding of the law, Mrs. Warren, is that an unclassified employee is...does what he wants. He is selected by his employer--maybe because of the color of his hair, of his skin, of his political affiliations, or what have you. He can be fired at will. He has no job security. It's not a merit system. That individual, the unclassified person, can participate in political activities. The classified employee may not participate in political activities. The reason for that is grounded in historical fact, particularly in Louisiana, but not only in Louisiana. If you recall, there is a Hatch Act in the federal government that says basically the same thing. Any classified employee, in order to have security of his job, should be prohibited from participating in political activities. Otherwise, his ultimate employer can force him to participate.

MRS. WARREN

Yes, sir. But, with the political spoil that we've got in our Executive Branch today, it could easily work that way, too, couldn't it?

MR. DENNERY

Not as far as classified employees, Mrs. Warren.

MR. ABRAHAM

Moise, I have several questions.

First of all, on page 2 where you talk about the terms, is it your intent that these terms would be for overlapping--would be overlapping terms?

MR. DENNERY

Mack, I've decided that that shouldn't be specifically in the constitution. It's in my delegate proposal. I think it's Number 28 or 29, which is a transitional article. It takes care of the overlapping terms. I would, however, have no objection to an amendment which uses the word "overlapping." As you know, if we are...if the convention is kind enough to adopt my amendment...amendments to it may be...will be submitted.

MR. ABRAHAM

When a...another question, now, where we are talking about the...nominating procedure from these various presidents, if we wanted to get statewide distribution here, we could simply amend this to read that not more than one member could come from a congressional district and that would handle that, would it not?

MR. DENNERY

Yes, sir.

MR. ABRAHAM

The other question I have where we...on page 4, we talk about the departments of civil service. It's not your intent that these would be one of the departments in the...one of the twenty major departments in the Executive Article that we specified, is it?

MR. DENNERY

Not necessarily. It could very well be. But it's not necessarily one of them. I believe it's set up in that chart we had in our committee to be one of the departments.

MR. ABRAHAM

It would be a department itself--if we use the word department.

On page 5 where you say that the number to be certified shall be not less than three, as I...if I interpret this correctly, does not prevent the commission, in adopting its rules, or setting up its rules, to certify more than three if it so desires, would it?

MR. DENNERY

That's quite correct. That's the law right now.

MR. ABRAHAM

Where we say "no person shall solicit contributions for a political purpose from any classified employee," that is the law right now. But, if I understand you correctly, there are unclassified employees which come under civil service, are there not?

MR. DENNERY

No...the unclassified employee is as if you were not a civil service employee in the normal sense of the word. Technically, anybody who works--the governor is a civil service employee, but he's unclassified.

MR. ABRAHAM

The other question I would have is that if we agree in text with the text of your amendment...if we agreed in principle with the general text of your amendment here, we could go ahead and adopt that. Then, if there is any particular item in here that were not satisfactory...it could be amended, could it not?

MR. DENNERY

That's correct, Mr. Abraham.

MR. STAGG

Mr. Dennery, in the bottom of page 1 and the top of page 2, there is a considerable listing of people who are exempt or are not under the classified service. In about line 12, it mentions the offices of the governor. If I'm not too far wrong on my facts here, in recent months, the Centrex operators were changed from, I think, classified service, to be a part of the Division of Administration. I believe in addition to that, the guards out here on the parking lot may have similarly, or some other groups of employees were moved to the Division of Administration and, therefore, I presume, out from under the classified service.

When you say here simply, "the offices of the governor," how far does that extend and what is the ability of the governor to move people who are protected by being classified employees and shoved over into unclassified positions, and, thereby, able to be fired without cause.

MR. DENNERY

Mr. Stagg, the only way I can answer that question is to refer you to a case in New Orleans many years ago when the mayor of the city at that time did exactly what you suggest could be done. The court slapped him down and said you could not enlarge "the office of the governor" by taking in extraneous divisions and say they are part of his office. It means the office of the governor in a normal sense of the word.

MR. J. JACKSON

Now, Mr. Dennery, in that the commission has the right to set rules which have the effect of law and I understand you provide that there is an appeal to the commission, but is there any place within your provision that would allow for a judicial review of a commission's ruling?

MR. DENNERY

Mr. Jackson, the...let me find it...the...it's in here. I just don't remember exactly where it is--on page 7? Yes. That...makes the decision of the commission final on the facts, but subject to review on any question of law, court of appeal.

MR. ANZALONE

Mr. Dennery, I'll get back to the burden of proof on appeal--the facts shall be...the burden shall be on the employee. Would you please explain to this convention how a complaint is filed, how it is subsequently tried, and how the shifting of the burden is transferred from the employee back to the commission?

MR. DENNERY

Well, not to the commission, but to the appointing authority. The normal procedure that has been followed through the years, Mr. Anzalone...Mr. Anzalone, excuse me...the appointing authority has to write a letter of dismissal. In this letter of dismissal, he sets forth the cause for the dismissal, or for whatever other disciplinary action is taken. Within a certain period of time fixed by the rules, usually thirty days, the employee has a right to appeal by writing a simple letter to the commission in question, setting forth why those facts are not true, or why if true, they do not constitute cause. The commission then fixes this matter for hearing.

At the trial, the adversary parties, or the employee "appellant" as he is called, and the department head or appointing authority "appellee." At the beginning of the trial, it is incumbent upon the employee to show either one of the two things I just stated--either that the facts are not true or that the facts, if true, do not constitute cause for dismissal. All he needs to do is make a prima facie case of this, at which point the burden of going forward immediately shifts to the appointing authority, who must establish beyond per adventure of a doubt, that these facts are true.

MR. ANZALONE

Mr. Moise, a great deal of criticism has...been given to the Civil Service System because complaints can be filed by people who are never known to the person who's going to be fired. Is this true?

MR. DENNERY

I don't quite follow you, Joe.

MR. ANZALONE

Well, for instance, if I were to file a complaint against you, who would be a fellow civil service employee....

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MR. DENNERY

Are you talking now about a complaint of violation of, say, a political activities law, or something like that?

MR. ANZALONE

Well, any reason to get you fired.

MR. DENNERY

Well, now....let me see if I can explain it in this way. There are two types of hearings before the Civil Service Commission. They can make an investigation of a violation of the civil service law, and any citizen can file a complaint on that. But, if he files it, he's got to sign his name to it, and all of the facts are there for the employee who is charged with having violated the civil service law. Otherwise, the appointing authority is the only person who can actually sign the letter of dismissal. Now, it may very well be true that that particular individual is not personally known to the appointing authority, or vice versa. If it's a particularly large department, quite frequently the department head does not know all of his employees.

MR. ANZALONE

We still seem to be escaping what I'm trying to get after. If I want to report you, a fellow civil servant, for some activity which would cause you to lose your job, do you have the right at any stage of the proceedings, to know who I am and have the right to cross-examine me?

MR. DENNERY

If it's for a violation of the civil service law, the answer would be yes. If, however, the department head receives information from a fellow employee, I do not know that he is required to give that information out. Joe, I just can't answer positively yes or no on that particular point.

MR. ANZALONE

Do you think it should be?

MR. DENNERY

Well, I think you have the same problem, I suppose, that the police departments have--probably should be to a certain extent. Possibly not completely.

Vice Chairman Casey in the Chair

MR. TAPPER

Number one, Moise, for the life of me, I cannot understand how we arrived at the theory or principle or what-have-you that the private schools should be the ones nominating the people on the board. Don't you know that I believe that there are more students in the public institutions in this state than there are in the private institutions. Didn't you know that I believe that at least Louisiana State University and Southern, and possibly some of the others, have an equal right to nominate, if any one of them has a right to nominate to the Civil Service Commission.

MR. DENNERY

Until you just told me, I did not know. I do now.

MR. TAPPER

Mr. Acting Chairman, I had asked the question, and Mr. Dennery was not afforded the opportunity to answer it. Do you remember the question, Mr. Dennery, or do you want me to put it to you again?

MR. DENNERY

You mean about the private and public institutions.

MR. TAPPER

Yes. Why just private institutions and not public institutions?

MR. DENNERY

Well, the reason, Mr. Tapper, is my firm conviction that one, if not the most important features of a good civil service system in this state is to have as independent a commission as can be arrived at. I felt that the college president method, having worked since 1952 pretty successfully with four private universities and one public institution, there was no reason not to continue with the university president theory. I chose to enlarge the number by two, to make it seven. It happens that there are seven private universities. Therefore, it seemed to me that this would remove it one step further, possible, from any complaint that politics was involved in the appointment.

MR. TAPPER

In other words, Mr. Dennery, you're telling us that there would be...or there is less politics in private institutions than there are in public institutions; so, you're telling us that you'd have less discrimination and partiality and favoritism by having the private institutions recommend, rather than the public institutions. That's what you're telling us.

MR. DENNERY

What I am saying, Mr. Tapper, is that I believe I have removed it as far as it can be removed. I did not say it was one hundred percent removed. But, I felt that it was as far removed as it could be.

MR. TAPPER

But, did you know, Mr. Dennery, that the private institutions represent only a small segment of the people in the population in this state, whereas the public institutions represent the large majority of the people in the state?

MR. DENNERY

Well, when we talk about colleges, Mr. Tapper, there is a difference; obviously, there have been more students at the public institutions than there are in the private institutions. To that extent, your statement is correct. Neither public nor private universities really represent a vast majority of the people in the state of Louisiana.

MR. TAPPER

Well, then, don't you believe that we should just exclude all of these institutions, per se, and let's have some other body or maybe the governor or someone else appoint these people, instead of singling out just the private institutions to do this. What is it...this is an archaic thing, isn't it, Mr. Dennery? What I mean is...you know, this is a hold-over from the old days, so to speak. Do we really need this type of government in Louisiana?

MR. DENNERY

Well, Senator, let me put it this way...

MR. TAPPER

Thank you, I'm not a Senator, but I appreciate it.

MR. DENNERY

I mean Representative. Excuse me. I don't know whether you should thank me or not. There have been many arguments made on that, and there's good logic on both sides.

As you know, Mr. Tapper, there have been suggestions made over the years that the governor by himself appoint the members of the Civil Service Commission. But, this has never become very popular. At the present time, the governor appoints the members of the commission from lists of three names submitted by each of the five university presidents. As a practical matter, on many occasions throughout the years in the State of Louisiana, the college president has not named, or has included in his nominees, other than his own college graduates. Now, it is true that they do not represent as many people. But, they are further removed from the possibility--I don't say the actuality--but the possibility of political control, than are the state universities...

MR. TAPPER

I understand that. They're also further removed from the people, also, Mr. Dennery, don't you think? Let me ask one further question? In your proposal, as I read it, once the charges are made against an employee, then the burden shifts from the employer to the employee, and the employee then has to disprove the charges made against him. Don't you think that that's a little harsh?

MR. DENNERY

Well, now, I'm sorry you didn't hear my explanation of that before, Mr. Tapper. But, my explanation was based upon the fact that if, as you know, if the prosecution--if you wish to call it that, although this is not a criminal matter--has the right to bring all of its forces to bear the first go-around, and has the ability to present all sorts of facts that the employee knew nothing about, it becomes very difficult at that point for the employee to disprove, even though the department must carry the burden of proof. The system, as it's presently used, provides that the appointing authority or the dismissing authority, if you will, must set up chapter and verse in his letter of dismissal, the cause for which the disciplinary action is taken. Once a prima facie case is made by the employee, the burden immediately shifts back to the appointing

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authority, who must then fully prove beyond any doubt the allegations which are contained in his letter of disciplinary action. Over the years we have found that this favors the employee much more than the employer.

MR. TAPPER

Mr. Dennery, one final question, would you object to my putting an amendment on to do what you said your proposal does because I don't think it does that. Would you agree to allow me to put an amendment on which would shift the burden back from the employee to the employer?

MR. DENNERY

I would argue against it, but I would certainly agree to let you submit it.

MR. TAPPER

Well, why would you argue against shifting the burden to the employer, Mr. Dennery?

MR. DENNERY

Because I think it's much safer for the employee as it is, Mr. Tapper. I have told you that.

MR. WILLIS

Mr. Dennery, I refer you to that passage which states that... I had it underlined here...which states on page 6, "rules adopted pursuant hereto shall have the effect of law." In the Legislative Article, and pursuant to good common sense, the laws are promulgated. Now, if these rules have the effect of law, where is the provision whereby the rules of the Civil Service Commission will be promulgated?

MR. DENNERY

Well, Mr. Willis, as a practical matter, what happens is a rule can only be adopted after a public hearing, as it states in here somewhere. Once the rule is adopted, it is filed with the secretary of the commission. That constitutes the promulgation. There is no specific provisions for promulgation, per se.

MR. WILLIS

Well, isn't that a defect insofar as that's concerned with respect to universal applicability throughout the state?

MR. DENNERY

No. It would have to be filed with the secretary of the commission. It's available to everyone at that time.

MR. WILLIS

Well, talking about that availability, I tell you that I wrote to the Civil Service Commission, about seven or eight days...nine or ten days ago, asking them for some information to which I have received no response.

MR. DENNERY

Well, I'll have to ask Mr. Sexton, who's in the audience somewhere, to answer your letter today.

MR. WILLIS

Well, he has already told me he would, but after some coaxing.

MR. DENNERY

O.K.

MR. A. JACKSON

Mr. Dennery, did you intend to include, or keep in your proposal the prohibition against civil servants to make a contribution to political parties, as is described in this circular? In that it is now a part of the Internal Revenue Code, as I read the language on page 5, it prohibits them from making the check-off. Is that correct? Did you intend to include that in there?

MR. DENNERY

Well, at the time I included it in it, the language was taken from the present section. I was not aware of the letter which is the circular which went out on the date of April 2, Mr. Jackson, until just now. I just received a copy of it.

MR. A. JACKSON

But, you do agree that it prevents civil servants from making the check-off?

MR. DENNERY

It would appear to unless the commission has ruled that the contrary since that time. I'm not sure whether the commission has ruled on this.

MR. A. JACKSON

According to their ruling, there is a prohibition. But, I have one other question. On page 8, on the Section O, is it correct that local governing bodies could place employees that are now exempted from civil service under a civil service system? For example, suppose a local school board wanted to place all of the school teachers under civil service. Wouldn't this be possible under your Section O?

MR. DENNERY

I think that's the same provision that's in the present law. I think...

MR. A. JACKSON

That's not my question.

MR. DENNERY

No, no, I'm trying to--if you'll pardon me, Representative Jackson--I'm trying to recall if there have been any rulings on this to my knowledge. It is my recollection, sir, that the legislature has always had the right to do this, although, I believe that the civil service system would be applicable to any or all parish employees. I do not think that would include the school board employees.

MR. A. JACKSON

It says, though, sir, "or by the respective local governing bodies."

MR. DENNERY

Well, I would assume, sir, if the school board...I don't think the school board could do that. As I understand, the school system is set up with a teacher tenure law, anyway.

MR. A. JACKSON

But, it says "nothing in this section shall prevent the establishment by the legislature, or by the respective local governing bodies, in any one or more parishes." Then, he goes on to say, "including those herein and above exempted."

MR. DENNERY

Well, do you...would you include, sir, school board employees as employees of the parish? I would think not.

MR. A. JACKSON

Of course, they are.

MR. DENNERY

I would think they are employees of the school board, rather than of the parish, as such.

MR. A. JACKSON

That's a local governing...a school board is a local governing body.

MR. DENNERY

I don't know that I can answer the question any more than that, Mr. Jackson. I do not believe this has ever been done, nor do I think it's ever been contemplated, nor do I think it's possible.

MR. JENKINS

Mr. Dennery, as I've said before, I think that you have a good overall approach to civil service here. There are one or two things that I might disagree with and want to change. But, really, what you're asking us to do, if we vote for this amendment, is to accept this as a working draft. Then, you would expect us to go back lettered paragraph by lettered paragraph, debate it on its merits, offer amendments, and by sixty-seven votes, adopt or reject each given lettered paragraph. Isn't that correct?

MR. DENNERY

I would think so. Yes, sir.

MR. JENKINS

So, even though we may disagree with parts of it, that's not a reason to vote against this if we think this would be a good working draft.

MR. DENNERY

That's correct, Representative Jenkins.

MR. HERNANDEZ

Mr. Dennery, I notice here...I think I have the answer,

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but I just want to be sure that I'm correct in this. On page 2, where it says "the lieutenant governor, each mayor and city attorney of the several cities, of police juries, of school boards, of assessors, and all offices provided for in Article V of this Constitution except the clerks of court, and so forth." Now, is the reason that you didn't list sheriffs, deputies, clerks of court deputies for the reason that they are listed in Article V of this constitution?

MR. DENNERY

Yes, sir. I believe they are all covered there, and I thought it would shorten this language considerably by referring to another article in the constitution.

MR. HERNANDEZ

I thought it was correct. Just wanted to be sure, sir. Thank you.

MR. DENNERY

Thank you.

MR. LANIER

Mr. Dennery, I'm looking at your Paragraph (N), Acceptance of Act; Other Cities, Parishes, City and Parish Governed Jointly. If one of these units of government would elect to choose the provisions of your proposal, they could do so under this provision. Is that correct?

MR. DENNERY

That's correct, sir.

MR. LANIER

However, am I correct in saying that under your Paragraph (O), that if they chose not to go under these provisions, nevertheless, these units of government could get a legislative act which would create a different form of civil service than that provided for in this proposal.

MR. DENNERY

That's correct, Mr. Lanier because there are many communities which might want to have a civil service system, but not to the extent of the one set forth in here, which is designed primarily for a larger community and for the state. Many communities would not have the financial ability to support a complete civil service system of this type. They might well have their financial responsibility and desire to have a smaller type civil service commission which they could present to the legislature, and thereby have it enacted.

MR. LANIER

Therefore, this last paragraph really gives you the flexibility legislatively to mold a civil service system to fit the needs of particular parishes or municipalities under the required amount of your proposal.

MR. DENNERY

That's correct, sir. That was the purpose of it.

MR. LANIER

Now, the other thing, if a city were to elect to come under the provisions of your proposal, after they have adopted civil service, could they by a similar vote, elect to get out of civil service?

MR. DENNERY

I'm sure they could, sir. Yes, sir.

MR. PLANCHARD

Mr. Dennery, some of my questions as to some of the unclassified employees has been answered, in particular about the sheriffs and the assessors. But, I notice on page 1, we have exempt from the unclassified service, the registrars of voters. Does that also include the employees of the registrar of voters?

MR. DENNERY

No, sir.

MR. PLANCHARD

Do you consider them as employees of the parish?

MR. DENNERY

Well, in some instances they are, sir; if they are parish employees, they're excluded. In some areas, for instance, in New Orleans, as I recall, they are city employees...oh, they are in the state service in New Orleans...some of them are parish employees, and therefore they would be excluded, anyway.

MR. PLANCHARD

Well, I wanted to know if you included or considered them as parish employees, or if you would consider putting them in the unclassified section.

MR. DENNERY

Well, as I understand it, from the way I have this drawn, if they are a local governmental subdivision, they are not covered under the state civil service. That would include a parish, for instance, and a city, except that the cities over two hundred and fifty thousand are specifically included--their employees are. Therefore, if the registrar of voters in your particular parish is a parochial employee, then his people would not be included in the classified service...they wouldn't be part of the state service. On the other hand, if they happened to be a state employee, only the registrar would be exempt, or in the unclassified service.

MR. WINCHESTER

You did not think schoolteachers could be included in the civil service organization? Does that also apply to employees of an assessor's office?

MR. DENNERY

Oh, yes. There's no question about that, Mr. Winchester. It clearly states that assessors are excluded and all deputies, employees, and administrative assistants of deputies.

MR. WINCHESTER

But, in this where it says that regardless of these exemptions, that would not let you then put them back in?

MR. DENNERY

I would not think so, sir, unless the parish wanted to. Now, if the parish wants to put the assessors under a parochial civil service system, that's the parish's problem. That's not under this act, under this law. It would have to go to the legislature, or else they would have to adopt it themselves.

MR. WINCHESTER

You could not do it under this?

MR. DENNERY

No, sir.

MR. WINCHESTER

Thank you, sir.

MR. CASEY

That's all the questions, Mr. Dennery.

MR. DENNERY

Thank you, Mr. Chairman, and I thank the delegates very much for their kind attention, and I trust you will see fit to adopt this amendment.

MR. CASEY

I see Mr. Willis has a question.

MR. WILLIS

Mr. Dennery, may I ask you one question with respect to that last question asked you by Mr. Winchester? I refer you to the next to last line on page 8, which says, you have excluded sheriffs, assessors and so forth, which says that "the civil service is not prevented from establishing," and so forth, "including those here and after exempted from the state classified service," so that you could put under civil service, deputy assessors and deputy sheriffs and deputy clerks; could you not?

MR. DENNERY

The legislature has always had that power, Mr. Willis. The legislature has always had the power to add to the classified service.

MR. WILLIS

Well, it says here, "or by the respective local governing body." That's an addition, isn't it? The legislature?

MR. DENNERY

No, sir. No, sir. The parishes always have that right, also.

MR. WILLIS

Thank you.

Further Discussion

MR. DE BLIEUX

Mr. Chairman, and ladies and gentlemen, there's two philosophies here before us with reference to civil service. I'd like to speak to you and ask you to listen carefully. Either you believe that the present civil service provisions which we have in the constitution are adequate, and need no changes and should not be changed, or else they can be improved upon. That's it, and that doesn't make any difference whether you are for the Dennery proposal, or for the De Blieux proposal, or for some other proposal. Now, the difference between what I have set before this convention in my proposal, and what Mr. Dennery has, he believes that this convention and this convention only, should have the right to make any improvements in civil service. We've got one hundred and thirty-two delegates in this convention. Sixty-seven of them can adopt any amendment and make any change in the civil service proposal that we have. Now, there's one hundred and forty-four members of the legislature. It takes twenty-six senators and seventy representatives, or a total of a hundred and six people before any change can be made in civil service under my proposal. Now, if the civil service needs improvement now, why shouldn't it maybe need some improvement four, five, ten years from now? I think civil service has worked for us fairly well. But, I do think that it can be improved upon from time to time. I don't want to make any changes now because the vast number of people I talked to have said, "Don't change civil service." But, yet, then I ask them the question, "Do you think it should ever come a time when we might want to change it?" Oh, yes, but don't change it now. I dare to say that the most of the people you talk to, will probably tell you the same thing. So, I don't want to change it now. But, I'm not saying it should never be changed, and I'm not the one to say that the convention and only the convention has the wisdom to know that what should be in the civil service law and nobody else should have that intellect, or has that intellect. Now, so, I ask you to search your conscience as to what you want in that constitution. Do you want something that cannot be changed whatsoever, except by a constitutional amendment? Then, if you do, you are going to be opposed to what the committee has proposed. You are going to be opposed to what Mr. Dennery has proposed. You are going to be opposed to what I have proposed because you want to incorporate what we presently have and put that in the constitution as we have it now--twenty odd pages in our constitution, and make no changes except by constitutional amendment.

All right. Now, if you feel like that it can be improved upon, but you don't want to make any changes now, then you ought to be for my proposal. If you feel like this Constitutional Convention is the only one that has the wisdom to make suggested changes, and then you don't want any changes after the Constitutional Convention makes them, you feel like that we are all omnipotent, and have the intellect to know what should be done in the future. Then, you'd be for Mr. Dennery's proposal because he doesn't want any changes after he gets adopted what he wants. I'm not one of those individuals that feel like that I've got all the knowledge and nobody else knows anything. So, I want to give the people who come after me the right to make some suggestions, too. That's why I propose in my particular amendment that we keep what we've got, that we make no changes now, but give the legislature, who will require a greater number of votes to make a change, than this Constitutional Convention needs in order to make whatever necessary changes that might be fit.

I ask you to vote against the Dennery amendment, and adopt my amendment when it comes up.

Chairman Henry in the Chair

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I urge the rejection of Mr. Dennery's amendment. Now, let me make one thing perfectly clear at this point. That is, that I believe in a strong civil service system, but we've got to define...

I say, let me make this clear; even though I rise to urge, as strongly as I can, the rejection of Mr. Dennery's amendments, I do favor and believe in a strong civil service system. But, I think that we must define our terms. To me, and this is just my opinion, and what I believe, the object of civil service is to secure career employees, the best employees, who will make a career of service in government, to insure that those people will be initially hired on the basis of merit.

They will be promoted on the basis of merit, and that they will not be arbitrarily treated and fired, to give them job security. I have worked with the present civil service provisions in the constitution since they've been there, and they do far more than that. This amendment of Mr. Dennery's even goes further than the present provisions of the constitution. It is an advocacy, a complete advocacy by the one hundred and forty-four elected representatives of the people of this state to five or seven appointed individuals of the entire personnel system of this state. That, to me, is unsound. It's bad. It is bad for the people of the state. It is bad for the state employees. Now, I was most surprised and shocked to see added to the present provisions of the constitution--the new provision which Mr. Dennery, very frankly, admitted was new-- that when it comes to employee training and safety now, no official of this state, and the legislature of this state will have any say-so about those things except the Civil Service Commission. Now, I respectfully submit to you, whether you agree or whether you disagree with the recent legislation that purported to establish a pay plan for state police officers--whether you thought that was good or bad--that you have got to recognize that times do arise when the legislature of this state, and the governor of this state, acting through the processes of law for the enactment of legislation, have got to have the right and they have got to have the power to address themselves to a particular problem because they are the elected officials of this state, the elected representatives of this state, and they are the people in whom the people of the state have placed their confidence and responsibility. Now, you look about, and you ask yourself, we cannot get a physician at Angola. We cannot get psychiatrists at East Louisiana State Hospital and the other state hospitals. Why? I say, because of the present civil service system and the fact that the legislature cannot do anything at all, insofar as the pay of those type of people are concerned. I tell you that when you come along and you engraft upon the provisions of the present constitution, this additional provision, that when it comes to the question of employee training and safety, that the duly constituted elected representatives of the people, the governor and the heads of the various departments have no say-so, no say-so, whatsoever in those particular areas. All of that power, in addition to the power they already have, is vested in an appointed body, completely unresponsive and isolated from the day-to-day facts of life, that you're making a terrible mistake. I admire Mr. Dennery. I know he believes in civil service. I think I believe in civil service. I think we just don't quite agree on what civil service is. But, when he got up here and admitted, as I understand it, that if this amendment is adopted and became the constitution of this state, that neither the legislature, nor the superintendent of the state police could say that a state police patrol car had to be occupied by no less than two troopers, without the approval of the Civil Service Commission. If we do that, then I think we're doing a damn fool thing.

Further Discussion

MR. ALEXANDER

Mr. Chairman, fellow delegates, I rise in support of the Dennery amendment. May I take this opportunity to explain my unusual votes on the Flory amendments of yesterday and today. I supported Amendment No. 1, but I opposed the others. I suppose that's why my position was a little confusing to you. But, let me say what the Dennery amendment does, or the Dennery amendments do. There has been quite a bit of discussion, here, about politics in the civil service system. Well, if we are worried about that, I think the Dennery amendment, or amendments, negate the possibility of a governor, or a sheriff of a parish, or the mayor of a municipality manipulating or controlling either a state civil service system or a local system. It takes out the possibility of spoils because under the provisions of this amendment, if it is administered correctly, there could be no spoils system. Now, I have been among those, who over the years, to complain about discrimination in employment in this state. I know that there has been discrimination, and so do you. Anyone in here over forty years of age can remember when there were no black employees on any payroll, other than menial positions. Is that to say that there were none qualified? Yet, there were none. Now, you know that, and I know it. But, I say to you at this time, that I'm willing to let bygones be bygones on that score, since we cannot correct everything. I say to you that this amendment does make provision for blacks to be represented. I'm not a pessimist; I don't believe, as a friend of mine told me, that the opposition of many of you out there is based on the fact that certain black institutions are being included. I don't believe you're that racist. I have more confidence in human nature than that. Now, let me

warn those of you, especially those of you black delegates who are talking about Southern and Grambling, remember, there are eleven state institutions controlled by the Board of Education--I think there are eleven; I've counted them. Now, if we must include Southern, or if we must include Grambling, then there's no reason why we shouldn't include Northwestern, and Tech, and Southwestern, and Southeastern, and on down the line, is there? So, we must be logical about this thing. If we're going to turn around, now, and discriminate against some other institution in order to include a black institution, then, I think we're going to defeat the whole thing. Now, why does the Dennery amendment, or why do the Dennery amendments stipulate that only private schools, in effect, will be included? For the same reason. What must we do if we're going to include all the institutions in Louisiana, of higher learning? If we leave out just one--I heard somebody say, "Well, Nicholls State was left out"--if we leave out just one, then that one has a right to complain and to oppose the constitution, and to oppose everything we do--just one can claim discrimination, and I would go along with them.

May I ask you to vote for the Dennery amendment. I have many other reasons. I'll be glad to answer questions, if you'll give me a few more minutes, Mr. Chairman--just to answer questions.

Questions

MRS. WARREN

Reverend Alexander, I heard you mention--and I've heard this mentioned quite a bit--the spoils system. Now, we're talking about spoils system, and the only thing I see who to prevent a spoils system is a classified civil service workers. Could you tell me how we could write something in this constitution that would prevent an unclassified spoils system?

MR. ALEXANDER

I don't think we can do that, Mrs. Warren, if you're talking about unclassified employees, because unclassified employees are elected officials and appointive officials. I don't think we can do that.

MRS. WARREN

Reverend Alexander, I only have reference to those that are appointed, and I think that they should be on their merits. I don't think we would have as much spoil at the top as we got in the middle, if we did something about it.

MR. ALEXANDER

Well, there's nothing before us, now, to change the unclassified personnel.

MR. TAPPER

Reverend, I just have one simple question, and that is--really, I don't know why you've taken the position you have. But, my question is: Why private institutions, or why institutions of higher learning, at all?

MR. ALEXANDER

I think the original concept was to take politics out of the civil service system when higher institutions were utilized, originally. I'm speaking about twenty and twenty-five years ago. Okay? Now we've come to the point where we find that if we utilized public institutions, in effect, to my way of thinking, we would give control of the civil service system, or we could give it to the Board of Education, because the Board of Education controls the eleven colleges. Then, we must expand the whole thing, maybe to twenty people, in order to cover the eleven institutions and all the others.

MR. TAPPER

I understand that. Then, what you're saying is that it's better to have a small segment of the people that are really representative of big business and big money and industry to make the decisions of putting people on this civil service commission, instead of the people at large. Is that what you're saying?

Further Discussion

MR. TATE

I've consistently been wrong, so I just want to tell you, as I see the situation, what I intend to do and hope someone with some question will tell me why this analysis is wrong. We adopted the third Flory amendment which, in effect, destroyed the committee proposal. We are now left with the Dennery amendment which is a detailed, but considerably less detailed approach, to regulation of civil service than the committee proposal, and the present

constitution. We are left lurking somewhere. The De Blieux amendment, or any other amendments we want, which has the approach-- personally, when the time comes, I hope to vote for it--to take it all out of the constitution subject to a two-thirds vote. But, as I see it now, we have very little other alternative, to me, to study civil service and to vote on it, than to adopt the Dennery amendment right now, and then take out of it what we don't like. Hopefully, the very first amendment that will come up will give us a chance to vote on the De Blieux amendment. Now, that's my analysis of it as a very bewildered parliamentarian. I've been giving it a lot. . .by the way, Mr. Speaker, if Linda Lovelace would please stop sending me those letters about some recent, other opinions I've written, I would have a little more confidence in making expressions of bewilderment than I have right now.

Question

MR. CHATELAIN

Judge Tate, it seems that we kind of bogged down on who. . . what universities, if any, should be the nominating group to nominate the members of the civil service commission. Judge, would you go along with an idea of the Louisiana Supreme Court nominating all seven of them from one congressional district-- not more than one from each district?

MR. TATE

If you would take away our jurisdiction over pornography, I think I would be very. . .with regard to that, for instance, I think that could be amended out if. . .different methods could be provided by amendment than is there provided, if we are dissatisfied with it. Well, I hope I've contributed to your bewilderment. Thank you very much.

Point of Information

MR. TAPPER

Mr. Chairman, I have some amendments up there. Let me ask a point of information? Are we speaking on the final passage of this amendment, aren't we?

Now, aren't there some amendments on the desk to this amendment, or we have to adopt this first?

MR. POYNTER

You'd have to. . .before they'd be offered, you'd have to adopt this, Mr. Tapper. There were, in similar vein, there were a number of amendments at the desk to the Flory amendment, had it been adopted, you know. So. . .

Further Discussion

MR. TAPPER

Well, in that event, then, I rise in opposition to the amendment for several reasons. One of the most glaring is that the burden of proof is placed upon the employee on appeal. Now, I have an amendment--if this is adopted--then I have an amendment to change that. This is one of the reasons that I'm opposed to it, and I'm opposed to it on another very glaring reason. This archaic business of the private institutions of this state making the recommendations when they only represent a small segment of the people of this state. The Reverend was very able when he spoke about it and explained his position on it. But, you know, when we talk about politics, Reverend, you don't get to be president of a university, whether it be public or private, unless you're a good politician. I know you know that, too, don't you, Mr. Jackson? You've never been president? But, when we talk about politics, there's politics in every walk of life, and you don't find anymore politics than you do in a private institution when somebody is trying to get to be president. Those people have power. But, my main objection is the employee--the employee--having to prove that he didn't do anything wrong. You know, the employer says, this is what he did. They don't prove anything--submit a prima facie case. You know what that is? Those of you who are not lawyers and some of you who are maybe don't know what a prima facie case is. They say that you did this and so. That's a prima facie case. You're removed; you appeal it. On appeal, you have to prove that you did no wrong. Beautiful. Mr. Dennery says, "It's been working for years. This is in the welfare. . .for the welfare of the employee that he has to prove that he hasn't done anything wrong." That's beautiful.

I oppose the amendment; I hope you do. At this time, if I'm in order, Mr. Chairman, I'd like to move to return the amendment and the proposal back to the committee. Is that proper?

MR. HENRY
What did you do? You moved to do what?
Now, you gentlemen get your heads together because the motion is not in order to . . .
All right, gentlemen, let's hold it down.

Motion

MR. TAPPER
I move to table the amendment, Mr. Chairman.
MR. HENRY
The gentleman now moves to table the amendment.
MR. TAPPER
The reason I do that is because the next motion is going to be to recommit the proposal.

[Record vote ordered.]

Point of Information

MR. DUVAL
A point of information, Mr. Chairman. What will be the effect of this amendment if it is tabled? How can the convention, then, hear it again?
MR. HENRY
How can it do what?
MR. DUVAL
How can the convention hear the amendment in the event it's tabled?
MR. HENRY
Call the amendment from the table.
MR. DUVAL
What vote would that take?
MR. HENRY
A two-thirds vote of those present and voting, or a suspension of the rules.

Point of Information

MR. LANIER
Mr. Chairman, if we table this thing, would Mr. Dennery be able to make a few minor changes and come back with the same thing again, with the changes?
MR. HENRY
If you table the amendment, and he can't get his amendment off the table, and he comes up with another amendment that's not identically the same, yes, sir.

[Substitute motion to call for the Previous Question on the entire subject matter.]

Point of Information

MR. DE BLEUX
If the motion to table should be carried, that would not prevent the taking up of other amendments to this particular. . .
MR. HENRY
No, sir; not at all.

Motion

MR. SMITH
Mr. Chairman, I'd like to move at this time that we adjourn until tomorrow morning at 9 o'clock.

[Motion to adjourn withdrawn. Motion to table withdrawn.]

Further Discussion

MR. STOVALL
Mr. Chairman, ladies and gentlemen of the convention, I feel that we need to get before us some vehicle through which we can express our specific desires concerning civil service. I think there are two or three ways to do this. One is to adopt the Dennery amendment; another is to recommit. I think that all of us, here, are interested in a viable and meaningful civil service system for the state. I think that the two extremes have been: one has been concerned about flexibility in the present system. I have been concerned about this; at the same time, I am concerned about maintaining a very strong civil service system. So, some of you have been, possibly, more concerned with stability rather than flexibility. I think what we need to do is to vote either to recommit or to vote on the Dennery amendment. I think that rather than express further views concerning the civil service amendment by Mr. Dennery, which is before us, that the next speaker will make a definite motion, and will have definite suggestions. That's all that I'm going to say about it at this time.

Further Discussion

MR. ABRAHAM
Ladies and gentlemen, I think that the convention has already spoken. I think that we are just wasting a lot of time, here. I think the proper thing for us to do in order to get something before this body and keep our work moving is to go ahead and adopt the Dennery amendment. Use this as the same as a committee proposal, if we should want to, and let's go through it paragraph by paragraph and offer whatever amendments we want because, to me, this gives us the structure or the framework that we need that we can work on. There are many things in here which may not be good, but let's just treat it as a committee proposal. It won't do us any good to recommit because we're going to come right back out with a proposal and have to go through this same thing all over again. So, I would suggest that we do it now. I would like to move the previous question, if the other speakers would waive, but I won't insist on it.

Further Discussion

MR. KELLY
Mr. Chairman, ladies and gentlemen of the convention, I think I've sat here for the last two or three days as patiently and tried to listen as hard as anyone in this convention, because I am the first to admit that I don't know that much about civil service, exactly what it stands for, what its functions are, what its duties are, or the operations of the system at all. I've tried to learn what I could, but it's obvious that there's been battle after battle, here, for the last two days. It's been argumentative; there's no question about that. People are advocates, and I don't deny them that right. But, at the same time, I think what we are primarily concerned in is the stability of the working people of this state, not only with their stability, but with the stability of state government, which goes right along with it. Now, we've got to hit a happy medium, here, somewhere. I don't know what the answer is; I don't have the answer, at this particular time. I'm not an expert, but I know one thing: we have got to do something. What we do at this particular point in this convention, better darn sure be right. This has been expressed up here before, because someone has said many times before, we've made about as many mistakes as we can make. Therefore, what I plan to do, within the next few minutes, I plan to make a motion to recommit this entire article back to this committee. We have heard the arguments, here, for two days, and that the pros and the cons have been brought out. They can take this back into committee, and they can bring us some working document back out of that committee. I think it's clearly understood, within this convention, that people want something shorter than what we've got. Yet, at this particular moment, we don't even have a working document before us. All right. Now, here's what you're cast with, with the Dennery amendment--and there are a lot of good things in Mr. Dennery's amendment, from what I've read. There are a lot of things which I don't necessarily agree with. What I have got to do, and what I'm going to be forced to do, and what you're going to be forced to do is to vote either yes or no on this entire nine page document. Quite frankly, I don't want to have to do that, at this particular time. We're going to spend the next days and the next weeks sitting here, coming with amendment after amendment. I bet you there's a hundred

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and fifty amendments laying back here in this room, right now, just in case this particular article or this particular amendment passes. So, what I submit that we need to do is to get this proposal, this article, back into the committee. Let these people who have definite interests in this try and work out some of their problems. Let's bring it back to us sectionalized, where we can take it step, by step, by step.

In order to do that--and let me explain this, and this is nothing, trying to cut anybody off, trying to play dirty, or anything else. But, under our parliamentary rules, the only way that this can be accomplished, at this particular time, is to make a motion to table Mr. Denney's amendment. Now, once that motion is made--I don't think that that is doing anything unjust to the Denney amendment, anything unjust to the cause which he promotes--all it's going to do is put us in line to come back and make this motion to recommit. We've got to table this amendment, first.

Therefore, Mr. Chairman, I make a motion to table Mr. Denney's amendment.

[Motion to table the Amendment.]

Substitute Motion

MR. PEREZ

I know that this matter needs a lot more consideration, but I don't see any purpose in returning it. I'd like to move at this time as a substitute, that we adjourn until nine o'clock Tuesday, when we can return to the convention hall and have something... machine to vote with.

[Substitute motion rejected. Substitute motion to adjourn to 9:00 o'clock a.m., Friday, December 7, 1973 rejected; 46-47. Record vote ordered on motion to table.]

Point of Information

MR. NUNEZ

If we table the amendment, then what is before the convention?

MR. HENRY

If we table this amendment, we have numerous other amendments up here we could consider.

MR. NUNEZ

If we table the amendment and if we want to reconsider the amendment, the author could not just pull it from the calendar, it would take a two-thirds....

MR. HENRY

He would have to move to call it from the table. It would take a two-thirds vote of those present and voting or either a suspension of the rules.

MR. NUNEZ

A further point of information, Mr. Chairman. Will the machine be working tomorrow?

MR. HENRY

No.

MR. NUNEZ

... the voting machine?

MR. HENRY

No, sir. We've got to get a man from out of somewhere to come down here and work on it.

Point of Information

MR. FULCO

I was going to ask the question you answered about what vote is required to call it from the table. You said two-thirds?

MR. HENRY

Of those present and voting.

MR. FULCO

Two-thirds of those voting?

[2646]

MR. HENRY

Present and voting, sir.

MR. FULCO

Thank you.

Point of Information

MR. DESHOTELS

That applies also to referring it back to committee, that you need a two-thirds vote?

MR. HENRY

No, sir. You don't need a two-thirds vote.

MR. DESHOTELS

What will we need to get it back to committee?

MR. HENRY

Well, you've got to dispose of the amendment in some fashion or other. It's a majority of those present and voting to recommit.

MR. DESHOTELS

In other words, after it has been tabled, we can move to have it recommitted?

MR. HENRY

After the... well, you could have the proposal... you could move to recommit the proposal, you see.

Point of Information

MR. KELLY

Point of information, Mr. Chairman.

If... say you ... the motion carries to table, and the amendment is tabled and then a motion is made to recommit the entire proposal to the committee. Of course, when that committee proposal comes back onto the floor... I meant an amendment just such as Mr. Denney's, could be resubmitted at that time, though; is that correct?

MR. HENRY

Yes, sir. That's absolutely correct.

Point of Information

MR. ARNETTE

Mr. Chairman, maybe I misunderstood something, but I thought once an amendment was tabled like this it could never be brought up again unless it was pulled from the table; is that not correct?

MR. HENRY

Not if the proposition is recommitted. If the initial proposal were to be recommitted, it could come out, Mr. Arnette, just exactly in the same fashion as they initially reported it out of committee.

MR. ARNETTE

No, I don't mean the committee proposal, I mean the amendment. If the amendment is tabled, then you can't ever consider that same amendment again, unless it is brought from the table; is that not correct?

MR. HENRY

The gentleman... you are... I would assume that the purpose for recommitting, would be for the committee to do some additional work to the proposal.

You all hold it down back there, please.

Therefore, if the committee made any change at all in the proposal and reported it out, then the amendment that has been tabled, of course, you could call it from the table, but the same amendment, in my judgment, could be offered because it's to a different proposal, in effect. I don't think there's any inconsistency at all in that.

MR. ARNETTE

If it comes out of the committee in the same form, would you be able to

MR. HENRY

I think if it came out of the committee in the same form,

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then you would have a different ball game altogether.
Mr. Roemer, why do you rise, sir?

MR. ROEMER
Point of information.
That would be true also about the Flory Amendment that we defeated.

MR. HENRY
Absolutely. That's true.

MR. ROEMER
It could be brought back exactly like.....

MR. HENRY
That's right, it certainly could.

[Motion to table rejected: 39-55.
Motion to adjourn to 9:30 o'clock
a.m., Tuesday, December 11, 1973.
Substitute motion to adjourn to
9:00 o'clock a.m., Saturday, De-
cember 9, 1973. Motion for the
Previous Question on the Amend-
ments ruled out of order. Motion
rejected.]

Point of Order

MR. NEWTON
Am I in order for a motion?

MR. HENRY
Well, you're in order for a motion, but I don't know that your motion is in order until you make it, so proceed, Mr. Newton.

MR. NEWTON
All right. Well, it seems to me that a lot of the objection to the proceedings on the Dennery amendment the way it's presented is that it's not in very good form for us to be able to work on. Therefore, I would ask for a suspension of the rules in order to call from the calendar, Mr. Dennery's Delegate Proposal..I believe it's No. 27; is that right, Moise? Make that the next order of business.

MR. HENRY
Mr. Newton, there's really no way to even do that under a suspension of the rules because we have the Dennery amendment before us and there's something that we've got to do one way or the other with the Dennery amendment, and the proposal; don't you see?

You can't even suspend the rules under those circumstances.

[Substitute motion to adjourn to 9:00
o'clock, a.m., Saturday, December 8,
1973 adopted. Adjournment to 9:00
o'clock, a.m., Saturday, December 8,
1973.]

Saturday, December 8, 1973

Motion

ROLL CALL

[72 delegates present and a quorum.]

PRAYER

MR. ALEXANDER

Most holy and eternal God, we come this morning again to thank Thee, Father, for the blessings that Thou has bestowed upon us in days gone by. Bless our efforts here today and throughout this Convention. Bless the participants and those who are in positions of leadership. May whatever we do here redound to Thy glory and Thine honor. In the name of Jesus we pray. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

MR. POYNTER

Committee Proposal No. 9, introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare, and other delegates, members of that committee.

A proposal making provisions for human resources by providing for state and city civil service.

The proposal has one section. One amendment has heretofore--the third Flory amendment--has been adopted which had the effect of deleting the proposal past the first word on page two. Presently under consideration are amendments sent up by Mr. Dennery on yesterday and still under consideration, Mr. Chairman.

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, first, I am representing fifty percent of DeSoto, so I don't know that I'm anything but a hybrid relative to representation. I would say very little except I think some of us are going to be placed in a very awkward position if we are asked to vote on Mr. Dennery's proposal in its entirety. I fear that if I vote yes, it may be construed that I am approving it all. If you vote no, you are opposing it all. I think very highly of Mr. Dennery. I am in general agreement with him. I was adviser to the legislature when he prepared the Civil Service Act of '52 and Senator Ainsworth--now U. S. Circuit Judge Ainsworth--introduced it into the Senate in 1952. But, I must add that Mrs. Dennery is as much an authority on elections as Mr. Dennery is on civil service. I am reluctant to vote for an entire proposal, as I have indicated. I prefer voting by paragraphs. I think we would all be taken off the spot if that were done, and it would save time. Though I am a college professor, generally, I oppose presidents appointing anything because presidents do not reflect the views of their faculties--I thought you might like to know that. I will vote for Mr. Dennery's proposal with two reservations at least. I am unwilling--and Mr. Dennery is aware of this--I am unwilling to agree to a Civil Service Commission with five colleges from the New Orleans area. And, two, as you know by my Delegate Proposal No. 1, I feel that provisions should be made for fair treatment for the state police. I think that much of the criticism of civil service has been the fact that inequities have existed. We have not taken care of those inequities: one is the black colleges represent...recommending for the Civil Service Commission; and two, the state police. There are probably others. I think we would minimize objections if we would face the facts of life and try to solve them. As I said, I shall vote for Mr. Dennery's proposal with those reservations. Thank you.

MR. DUVAL

Mr. Chairman, in the hopes of expediting the convention, I move--if in order--to suspend the rules in order to take up the Dennery amendment paragraph by paragraph.

MR. HENRY

Mr. Duval, the Clerk advises me--and I think he is absolutely correct--that because of the manner in which this amendment is drawn, it just makes it nigh impossible. If it were numbered and so forth, but it's not; it just about makes it impossible to consider it and do anything at all with it, insofar as adopting it paragraph by paragraph. If we ever get it adopted, we could handle it such a manner.

[Motion withdrawn.]

Point of Information

MR. AVANT

It just seems to me that it would be a lot faster if we took the time for somebody to sit down and number these things, if that's the big objection. One person could do it in probably fifteen minutes, and then reerox and distribute the thing, and then proceed page by page and line by line.

MR. POYNTER

Once this happens--if it does happen to be adopted--I don't think there is an overwhelming problem of doing it that way. But, to try to come in now and vote paragraph by paragraph, and it's been suggested, offer amendments, you are in the posture of offering amendments to something that's not adopted--an amendment that's not adopted. Right now, you've got one pending amendment that has no efficacy at all until this convention gives it some efficacy. If you ever give it any, one way or the other, then I think you can start proposing amendments to it. But, now, you are putting yourself in the posture, if you want to do it by a suspension, of amending something that's not there.

Point of Information

MR. ASSEFF

Mr. Chairman, in the past we have divided. I don't see that what the Clerk has said is a problem. If we divide it, then we are voting as we have done in the past--nominations to the Civil Service Commission, etc.--we are adopting it amendment by amendment. Why can't we make it Amendment No. 1, Amendment No. 2, Amendment No. 3?

MR. HENRY

Well, you could do that, but the amendment has already been offered in the fashion that it's in, Doctor.

MR. ASSEFF

The request is that the author do that. If he is unwilling, then, of course, we would have no choice.

MR. HENRY

Well, he is going to have to withdraw it to do that though, Dr. Asseff, because it's not drawn like that right now.

Point of Information

MR. DUVAL

Mr. Chairman, just a point of information. I was wondering, the proposal, apparently, is lettered (A), (B), (C), (D), but in the opinion of the parliamentarian, would that also be a problem if we take it letter by letter rather than paragraph by paragraph--like (A), (B), (C), (D)--would that be also equally as difficult? I'm just trying to figure out some way to get out of the trap we are in right now.

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MR. HENRY

Well, the problem that you get into when you do this--and I know it sounds absolutely ridiculous to you all--but there is a reason for having amendments drafted one, two, three--for having proposals in one, two, three order. Now, it gets awfully difficult to administer up here to decide, all right, we are going to go and just do away with what we have done to this point; we are going to start adopting it paragraph by paragraph, and you are going to adopt a paragraph and offer amendments to other paragraphs that are not even adopted. I just don't know how we can administer it up here. If we make one mistake up here on a very critical circumstance, I know what's going to happen from out there, and it just puts us in a very difficult situation, Mr. Duval. Now, Mr. Dennery wants to... just a minute, Mr.... if this group wants to make a gentlemen's agreement to let the man withdraw his amendments and prepare an Amendment No. 1, Amendment No. 2, so forth, and then come back with them, that's one thing. But, I don't see how we can handle them like this.

Further Discussion

MR. SMITH

Mr. Chairman, since this is the only vehicle we got to amend or do anything with, I would like to make a motion to go ahead and adopt this amendment; then go ahead and amend it--that's the only way I see to go.

MR. HENRY

That's the motion that's pending right now that we are debating, Mr. Smith.

MR. SMITH

I would like to move the adoption of this amendment.

MR. HENRY

Well, Mr. Dennery, has already moved....

MR. SMITH

The previous question on it.

MR. HENRY

All right. Mr. Smith moves the previous question on the Dennery amendment. There are six other speakers.

Point of Information

MR. A. JACKSON

Could we have a gentlemen's agreement that we wouldn't lay it on the table if we adopted the amendment?

MR. HENRY

Well, if that's what you agree to, Mr. Jackson, yes.

MR. A. JACKSON

Well, I'm asking, I'm asking the author and the delegates if we could have such an agreement.

Point of Information

MR. CHAMPAGNE

The question that I want to pose is that since a number of amendments have been offered to it, as it is now, I don't see anything wrong with simply adopting it. Those of you who feel compelled to explain your reason why you did or did not vote for it can simply submit your literature to it and have it included in the minutes--I mean, simply have it included in the Journal. If you feel compelled to explain your reasons--they have done this before--simply submit your literature to them, and they will be on the next day's explanation of what went on. So, you're really not in any kind of a trap; you simply feel that you must explain your position on it; simply vote for it or against it; explain it; have it in the minutes. It doesn't really present a.... I can see that if....

MR. HENRY

Mr. Champagne, I asked you to.... I thought you had a point of order or a point of information.

MR. CHAMPAGNE

That's my point of order; that's what I'm asking. The point is....

MR. HENRY

What is your point?

MR. CHAMPAGNE

The point is that I don't see any big reason why we have to divide this thing up because if we do, we are going to have....

MR. HENRY

Well, now, but you are speaking on how you feel about it. Now, all right. We've got the Dennery delegate proposal which, as I appreciate it, is the same thing that he's offered in this amendment.

Mr. Dennery, is that correct? Does your delegate proposal contain exactly the same thing as your amendment?

MR. DENNERY

No, sir, Mr. Chairman, it does not.

Point of Information

MR. ABRAHAM

Point of information. Even if we were to divide this thing up, paragraph by paragraph, would it not be true that we would first have to adopt a particular paragraph before we could amend it; isn't that correct?

MR. HENRY

That's exactly what part of the problem is with suspending the rules; you're right.

MR. ABRAHAM

So, we could accomplish the same thing, right now, by adopting the whole thing--could we not--and then coming back and amending it paragraph by paragraph.

MR. HENRY

You're right. By the same token, we are not going to accomplish a thing at all talking about "what if a." So, we might as well go ahead and.... Mr. Dennery.

Point of Information

MR. DENNERY

Mr. Chairman, in connection with what Delegate Alphonse Jackson said, it would certainly be one hundred percent agreeable to me, if the convention chooses to adopt my amendment, not to move to reconsider and place on the table, but to immediately thereafter permit amendments to be made.

Point of Information

MR. JUNEAU

Mr. Chairman, did Mr. Smith move the previous question?

MR. HENRY

Well, I didn't know whether he was going to insist on his motion or not. All right. But, Mr. Juneau, you have to understand, with all of these points of information and so forth, we've got to recognize these people.

MR. JUNEAU

I sympathize with you, Mr. Chairman.

MR. HENRY

Thank you; I certainly appreciate it.

Point of Information

MR. RACHAL

I don't know whether it's a point of order, but I would like to suggest.... I would like to make what I think is misinformation. Someone suggested that the only course is to adopt this amendment and then to amend that. I would like to suggest that we could also reject the amendment and proceed to amend what remains of the committee's proposal.

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MR. HENRY

That could happen, too, Mr. Rachal.

Point of Information

MR. MUNSON

Mr. Chairman, wouldn't it--as you said, I believe, a moment ago--wouldn't it simplify the whole thing if Mr. Denny would just withdraw his amendment and let us recess for a few moments and get it in a proper form to which we could vote on it? There is a lot of us don't want to vote on this thing and be recorded as voting for it, and I certainly...many portions of it that I agree with, but some of it I don't. I don't want to be recorded as voting on something that I don't agree with, just to please somebody.

MR. HENRY

Well, if the gentleman wants to withdraw his amendment, sir, that's his prerogative. I'm certain it would speed up things if the gentleman would withdraw his amendment; it would probably speed up things if we would withdraw the proposal, but that's up to the gentleman who's offered the amendments.

Point of Information

[Record vote ordered. Amendment adopted: 64-27.]

MR. DE BLIEUX

Mr. Chairman, regardless of what happens to the Denny amendment, would my amendment be next?

Personal Privilege

MR. HENRY

Senator De Blieux, we've tried to put two or three in front of it, so I just don't know; I think it will be tough. After the way you talked to me in the elevator this morning, I think it will have to be. We can talk to you on this business all day.

MR. WOMACK

Mr. Chairman and fellow delegates, two days ago, the section was adopted on the retirement system. I wasn't here, and there will be some other days I won't be here; maybe I should apologize. But, in that section, as I interpret it--and I haven't gone into it too deep, yet--I believe that puts the full faith and credit or the responsibility for guaranteeing the payments of a retirement system on the general fund of the State of Louisiana, and on the legislature to appropriate the money. Now, that's on municipal and local systems where the state is not involved. To show you what effect that would have in the case of Alexandria--to where they have no funded system--they appropriate each year enough money out of the fund, out of the general fund of the city, to pay those retirees who have a check coming under the system. It raises from that on a low to a high--as far as funding is concerned--the East Baton Rouge Parish system, which is very, very well funded and a very lucrative system. When you go back and look at what the court has ruled in the case of the Port of Baton Rouge, located across the river--whereby four adjoining parishes had the obligation of paying off the bonds, but in order to make the bonds more saleable, they put the full faith and credit of the state behind them. When these four parishes refused to pay the bill, then the general fund of the State of Louisiana has been paying that bill all these years, and we're going to continue to pay it. No suit was ever brought against the parishes, or no claim was ever presented against the parishes, and we've been saddled with that. So, if that provision is not changed--and I'm going to prepare amendments and offer them to this convention--if that provision is not changed, then, any city in the state that refuses to come up with retirement funds and just says, "well, we decided we're not going to do it," then I believe the general fund of the State of Louisiana will be saddled with that local, municipal responsibility. I don't think that that was the intent of this body, and I don't believe that that's what you want to do. I don't believe these parishes and local governments--from all of the crv that I've heard about "get out of our business and leave us alone"--I don't believe they want us to do that.

Motion

MR. BURSON

I wanted to move the previous question since Mr. Smith, as I understood, had done it already, maybe that's superfluous, but I would like to urge the previous question at this time.

[Previous Question ordered: 54-33.]

Point of Information

MR. TAPPER

Is it not true that it takes sixty-seven votes to adopt this section?

MR. HENRY

No, sir, that's not true; it's an amendment. It takes sixty-seven votes to adopt a section or the proposal, but this is an amendment.

MR. TAPPER

Then, it would be a majority of those voting?

MR. HENRY

Present and voting, yes, sir.

Questions

Closing

MR. DENNERY

Mr. Chairman, delegates to the convention, I would point out to you that the amendment before you is basically the same as the present civil service law. I have attempted to make it slightly more flexible than the present civil service law. I would tell you that since 1952, since this relatively long amendment has been in the constitution, there has been but two changes, and they add to the classified service. I would tell you that my amendment guarantees, in my opinion, an independent commission which is a necessity for a decent, good civil service system.

MR. NEWTON

Lantz, don't you think anybody buying bonds from the State of Louisiana would have to look at all the indebtedness that the state might have to local employees before we'd be able to sell our bonds?

MR. WOMACK

Well, I think it would naturally be a responsibility of state government if it'd be looked at. However, I don't really think, Mr. Newton, it would affect the sale of state bonds because the liquidation of the state debt claims the first credit on the state money. Certainly, they would all be always...

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they even come ahead of the employees of the state, I believe, and any other--education, everything else. The first call on the state treasury is for debt liquidation. But, the point that disturbs me is the fact that any day a municipality says we don't have the money--and don't think they won't be doing it--then, you're going to go back and pick up their retirement system. You've already guaranteed it under this provision, and when the first city does it, then every other city in the state is going to do it; so you're automatically transferring, then, to the state responsibility the municipal responsibility of their city police and city firemen. I just want to call your attention to it because I do plan to get into that section and try to come up with some two, three or four amendments that I think will do what needs to be done to keep them in the shape they should be.

MR. TATE

Mr. Womack, would it allay your fears, somewhat, if I told you that Representative Casey and Representative Thompson had called our--Style and Drafting's--attention to the fact that the inadvertent wording that seems to have the state guarantee local retirement systems was the result of a Lanier Amendment that did not have that intention, and that Style and Drafting intends--if the committee agrees--to report this to the floor as a yellow amendment to clarify the floor intent that the state would only guarantee state retirement systems but not local retirement systems. Would that be of some help to the problems?

MR. WOMACK

Well I tell you, I think that's what we're getting at, Judge Tate. Of course there's some other things in it, in the wording of it, that because of the definitions today that's carried forth in many retirement systems, there's some other things that need correcting; but that was one of the flagrant ones that I saw that looked like--just by all means--had to be looked after.

MR. LOWE

Lantz, did you know that when this came on the floor, that there was an amendment that tried to take out of this particular proposal, the guarantee of the full faith and credit of the state, that failed?

MR. WOMACK

Mr. Lowe, that may be right. You know sometimes in a body of this kind--as complicated as this retirement system, especially, and that's probably one of the most complicated things we have in the state--quite often people may not really realize what the impact is on some of these things. I can understand that.

MR. PEREZ

Mr. Womack, do you realize, as far as a parochial employees' retirement system is concerned, that is strictly and one hundred percent controlled by the state legislature, and local government has absolutely nothing to do with its terms and conditions?

MR. WOMACK

The system that I had reference to--and I don't think I mentioned parochial--I said municipal systems, fire and police in particular.

MR. CANNON

Mr. Womack, I would like to just raise a point with you that I think that you're probably in error when you're talking about the Port of Baton Rouge, and it not...I think the case you're talking about is the Kliebert Case, and that has to do with the South Louisiana Port Commission. This was one of the things that we considered on our Subcommittee on Ports and Transportation Special Districts. The South Louisiana Port Commission was not in its constitutional status given full faith and credit of the state behind the sale of its bonds. The Port of Baton Rouge was--specifically behind their general obligation bonds. The Kliebert Case said that by the virtue of their authorization for the South Louisiana Port Commission...by virtue of the fact that they were in the constitution and their bonding authorization was there, this gave full faith and credit behind South Louisiana Port Commission bonds. That was the wording of the Kliebert Case, not the Port of Baton Rouge.

MR. WOMACK

The first responsibility--and if you want to just really get into it--the first obligation of the bonds of the Port of Baton Rouge was the city of Baton Rouge. That's the first obligation. Then, the next obligation was the adjoining

parishes that I mentioned, and since they, neither of them, saw fit to put up their money, then they came back and the full faith and credit of the state was put there. It's just one of these things that helped the sale of the bonds, but the state picked it up.

Personal Privilege

MR. HAYES

Thank you, Mr. Chairman. I want to apologize for using this minute, but I wanted to...I didn't need any correction on what I gave yesterday. Mr. Dennery has a computer print-out for 10-31, where he reports his statistics from, on the civil service for black people in the State of Louisiana. My computer printout sheet was January, 1973, which showed what I had told you yesterday. But, I didn't know that civil service would have a better sheet for the convention by the time that this bill would be discussed here on the floor. But, in fact, they say an average of four hundred dollars. That means that the people are getting, not four hundred dollars, but around three hundred and thirty-five. Now, Mr. Dennery put that on my desk, and most of those people get three hundred and thirty-five dollars. Most of them work at Charity Hospital; so they really don't make four hundred dollars. You take the sheet and look at it. When I looked at the sheet, I saw one making eight hundred dollars. He doesn't need to correct that, but his sheet does show what he says. But, my sheet still shows what it had on it, one making about eight hundred dollars. Now, his sheet, today, at 10-31 is showing an average of four hundred and twenty-seven dollars; but in fact, most of those people are making three hundred and thirty-five dollars. That's what they're making under the civil service system that he's trying to project as being so good. I don't know anything worse. It's not really a spoils system as I see it; it's really a rotten system.

Thank you.

Motion

MR. JENKINS

Earlier I mentioned--seems like about a week ago, but I think it was yesterday--that I'd like to move at this time that we suspend the rules for the purpose of considering the proposal, as it now stands, lettered paragraph by lettered paragraph, with each such lettered paragraph being considered as a section requiring sixty-seven votes for adoption.

MR. HENRY

The gentleman moves for a suspension of the rules... We can do that now because the amendment has been--the Dennery amendment has been adopted. We do have something that we can administer.

Point of Information

MR. DE BLIEUX

I just want to know how that motion would affect my amendment.

MR. HENRY

Well, it depends on where you...what section or paragraph your amendment would apply to. Your amendment would be first, I would assume, because it would take everything else out, as I appreciate it.

Point of Information

MR. TATE

Mr. Chairman, that was exactly my question. I thought that the De Blieux amendment came up first. If it should lose, then it may be appropriate to divide the Dennery amendment, but the first order, I thought, is...

MR. HENRY

I think, probably, you're right, because... Mr. Jenkins, would you hold off and let us get through with this De Blieux amendment? All right. Read the De Blieux amendment.

Vice Chairman Miller in the Chair

Amendment

MR. POYNTER

Amendments sent up by Senator De Blieux on yesterday. Now, there have been a lot of amendments passed out that go to various portions, presuming that the De Blieux amendment, I presume, doesn't pass. The staff, incidentally, is preparing a new set--not a new set--but they're going to redo the Dennery amendment and send you another copy of it with the lines marked on the pages. You ought to be getting that shortly. Senator De Blieux, we're going to have to change your amendment to, in effect, just strike out the Dennery amendment and insert in lieu thereof your language. The instructions need to change; the text would not. The effect of the Dennery amendment--we'll reword it at the desk--the instructions of it will be to: strike out the Dennery amendment just adopted in its entirety and insert in lieu thereof:

"Section 1. The provisions of Article XIV, Section 15, of the Constitution of 1921, providing for a system of classified civil service for the state and for the cities are hereby retained and continued in full force and effect. The legislature, upon a favorable vote of two-thirds of the elected membership of each house, may amend or otherwise modify any other provisions of Article XIV, Section 15, of the Constitution--Now, you had a change there, didn't you? It should read--I'm not sure; maybe you have a corrected copy; it should read "any"--strike out the word "other" and the word "provisions" should be singular. "may amend or otherwise modify any provision of Article XIV, Section 15, of the Constitution of 1921, except the legislature may not abolish the system of classified civil service."

Explanation

MR. DE BLIEUX

Madam Chairman and ladies and gentlemen of the convention, I believe I stated yesterday in the argument on the Dennery amendment that we have to determine which philosophy that we want with reference to civil service: that is, if we think that the present provisions of civil service that we presently have in our constitution are good and cannot be changed, then we don't need the Dennery amendment; we don't need the De Blieux amendment; we don't need any other amendment. We just adopt and incorporate what we've got in the present constitution, and that would be it. But, by this convention you have shown that you believe that the constitutional provisions of civil service can be improved upon. Now, the question you have to determine in your particular minds is: do you think that this constitutional convention is the only one who can improve upon it, or do you think the time will come, sometime in the future, when we may need some other adjustments to that provision? If you do, then you're going to let the legislature or somebody decide what changes will be made in those provisions with reference to civil service. I think that civil service is with us here to stay, and there's no possible chance of anybody abolishing it--at least, I hope not. I have incorporated that into this particular amendment that we would not abolish civil service. But, if it can be improved upon, somebody ought to be able to make that improvement, and I certainly feel like that the legislature would be in a position to do that without having to have a constitutional amendment each and every time that is made. This particular body can make changes in that by only sixty-seven votes out of a hundred and thirty-two. The amendment which I have brought before you, states that the legislature can make changes but only as a result of two-thirds of the vote of each House, which means it would take twenty-six Senators and seventy House members, or a total of a hundred and six people out of a hundred and forty-four to make a change. Therefore, you have built into that amendment the security and stability which I think we need, because at all times, I believe, you'll at least find fourteen rational members of that Senate and thirty-six rational members of the House of Representatives to keep something from being changed willy-nilly, as somebody has stated from this mike before. Now, if we're going to leave something to the whims of the convention by six or seven votes, I don't see why the words "whims of the legislature," with two-thirds vote wouldn't be a little bit more stable. I happen to feel, at this particular time, because of the very touchy nature--and the reports and remarks that I've heard from people on the street, people in civil service, voters, constituents, etc.--that we should not tamper with civil service at this particular time. That's why I want to take the present provisions of civil service and leave them as they are with the right of the legislature to make the changes as the time and progress that we make, would see fit to do. I just feel like that we'd have a whole lot more stable situation, if we required two-thirds vote

of the legislature to make those changes, than we would by only requiring sixty-seven votes here in this constitutional convention to make those changes. I'm not saying that the provisions in the Dennery amendment are not good; I'm not saying that at all. But, I do feel like that it would be better to incorporate those particular changes at a later date, rather than this constitution going to the people with those changes at this particular time, and they feel like that there's nothing else can be done. For that particular reason, I ask you to go along with this amendment. I think it's a good move. It will certainly shorten the constitution tremendously, and everyone is looking for a much shorter constitution. I talked to some people last night, and they told me--there were remarks that were made by several people--"look like you all are putting back in the constitution everything that we want to take out. For that particular reason, it says, it looks like it might not pass." When I told them that that was not true, then they said, well they would take a second look at it. But, that's the reason that a lot of people on the outside now feel like the constitution is going to fail because we're putting right back in it, everything that we ought to be taking out of it. I just feel like that we ought to eliminate the long provisions with reference to civil service, which constitutes at least twenty pages--it's dependent upon what volume you look at--twenty to twenty-six pages of our constitution. I certainly feel like that we ought to take that and put into our statutory law with the right of the legislature, upon two-thirds vote, to make the needed and necessary changes as they may occur.

Madam Chairman, I'll be glad to answer questions.

Questions

MR. CONROY

Senator De Blieux, several times you've referred to, in your argument, to saying that sixty-seven delegates to this convention could change civil service here. But, isn't it a fact that whatever we do here has to be submitted to and approved by the majority of the voters so that the delegates here can't really do anything to civil service without the approval of the voters?

MR. DE BLIEUX

Mr. Conroy, that is right that the constitution has to go to the voters for ratification, but the voters will not have the privilege of changing anything which we propose to them. They either have to take it as we give it to them or reject it in its entirety.

MR. TOBIAS

Senator De Blieux, would you be willing to change your amendment to provide for a three-fourths vote of the legislature, rather than two-thirds?

MR. DE BLIEUX

That's all right with me, Mr. Tobias. I'm not locked into the two-thirds rule. I just felt like that most of all of the other provisions we have that to where the legislature can make changes, we put the stability, we've put two-thirds, like tax changes, etc. I felt like that that would be good. The only provision that I know of that we have in the proposed constitution, with reference to three-fourths vote, is that where that there's a special session of the legislature appropriating money immediately preceding an election for governor. I feel like that this is sufficient to lend that stability, which I think civil service should have and would need. Sometimes it's pretty difficult...it's a situation to get two-thirds vote of the House or two-thirds vote of the Senate on certain measures.

Further Discussion

MR. A. JACKSON

Madam Vice-Chairman, Ladies and gentlemen of this convention, I rise in opposition to the De Blieux amendment. I do so not unmindful of the fact that this amendment provides for the ability of the Louisiana State Legislature to make some changes in the policies and procedures and rules of the State Civil Service Commission. We sorely need to make changes in the personnel procedures of the Civil Service Commission, but I cannot support this amendment because it maintains the present, restrictive, discriminatory structure of the State Civil Service

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Commission. I do not believe that it is in the interest of this state to continue in 1973 an important and powerful structure that excludes black people from representation on the Civil Service Commission. Therefore, I cannot support it. I believe that all of the fair-minded delegates of this convention would agree that it is high time--and I have heard you express the same view from this vantage point--that it is high time that we would have full representation on this important structure. Now, you have criticized the efforts of the governor of this state to include black people on the Civil Service Commission. You said that this was undue pressure and that he should not have this kind of power. Yet, by way of this amendment, you lock in the same system that forced him to make the kind of decision that was made and to exert the kind of effort that was exerted to see that the voices of black people would be heard and would be considered as we make decisions about Louisianians. So, I would suggest to you that we would vote down this amendment because it is undemocratic, because it is unworkable, and because it will maintain a structure that emanates from the past history of this state that would suggest that all people aren't full citizens. Therefore, I do not believe that it is in the interest that we would adopt it. I would ask that you would vote against this amendment.

Further Discussion

MR. FULCO

Before I call the previous question, I just wanted to say this: that the De Blieux amendment guarantees the existence of civil service. Secondly, it provides for a change in the rules by a two-thirds vote, and as I maintained yesterday, I do so today, that the two-thirds vote is sufficient and fair for either confirming or denying any amendment or any change to the rules. So, gentlemen, I think that it would be advisable for us to provide for ourselves in the future a method by which we could make necessary changes in the civil service rules and regulations, but at the same time, guarantee the fact that the civil service will continue to live and exist in the State of Louisiana.

Madam Vice-Chairman, if there's no other speakers, I'll move the previous question.

MS. MILLER

Mr. Fulco, there are three speakers on the list. Do you want to insist on the motion?

MR. FULCO

No, I won't. I'll withdraw the motion.

Questions

MR. LANDRUM

Mr. Fulco, you made the statement yesterday about being concerned about the passage of the final document. Now, don't you think as the system now stands with civil service pertaining to black people, what do you think of the passage--the chances of the passage--of the document?

MR. FULCO

Well, I would hope, Reverend, that you'd look at the overall document rather than any particular part about it. I think the future is going to be good for everybody. If it's been unfair and unjust in the past, I think it...I have faith in humanity that the future is going to be just and fair to all people. I could go into a long discourse about how you feel or how the black people feel because I know how you feel. I know how I have felt in the past, but I'm willing to face up to the future. I'm willing to try and make...contribute to America, toward making a better America for everybody, and that includes race, religion, creeds, nationalities, and otherwise. So, I don't....

MR. LANDRUM

Don't you think it would be a good time now to start. Don't pass it on to another generation, but let's start now. Wouldn't you think that would be the best answer?

MR. FULCO

I think we've already started, Reverend, and I think it's going to continue very well in the future.

Further Discussion

MR. PEREZ

Madam Chairperson and delegates to the convention, in the hope of trying to speed up the deliberations of this body, I, at this time, would just like to note that this amendment is essentially the same amendment that we debated very lengthily--the Flory amendment--and I don't believe that we should unduly discuss this particular matter. Therefore, I would ask that if the other two speakers are willing to waive--I understand there are only two more--I would move the previous question.

[Previous Question ordered.]

Closing

MR. DE BLIEUX

Madam Chairman and ladies and gentlemen of the convention, Mr. Jackson, I would particularly like to address these remarks to you. If you will notice my amendment giving the right of the legislature to make changes, I recognize the points which you have made about civil service at this particular time. I recognize the fact that it can be improved upon. If I did not think that the Dennery amendment could be improved upon, then I would not be in favor of the provision that I have here. I'd be willing to take it and lock it in, and say that we will not make any changes, but since we have recognized the fact that there can be improvements made in the civil service system, by the very reason of the adopting of the Dennery amendment, then I recognize the fact that we can improve on it, and that's why I want the legislature to have the right to do that from time to time. The only difference between Mr. Dennery's approach to the situation and mine is that I just don't feel like that this is the only body who can make those changes. I feel like that we ought to have the right to look at it further. I don't even know how the Dennery amendments will work after we put them into effect. We might find that we've got things that we did not anticipate at that particular time, and we need some other changes. The only way in the world you could make them is by a two-thirds vote of the legislature and a constitutional amendment to the people, and I think that would be most difficult to do, as you well know, because of the past history of civil service. So, therefore, I'm not locking into the law and the constitution all of the things which you spoke about. I'd like to say with reference to the statement that we did somewhat debate this a little bit yesterday, but my amendments are entirely different from those as submitted by Mr. Flory. I think it's a better approach; it's a new approach to the situation. It's something that I think we can go ahead and adopt and get along with the rest of our business here. I, therefore, ask you to approve of these amendments because it will allow the needed changes which ought to be made at the time that they should be made.

I ask, Madam Chairman, a favorable vote on my amendment.

Questions

MR. CHATELAIN

Senator, should the Flory amendment have passed yesterday, would you have withdrawn your amendment, sir?

MR. DE BLIEUX

No.

MR. ALEXANDER

Senator De Blieux, you have expressed some opposition to discrimination in the past on many occasions. Is not your position a little inconsistent with your past to now come up to perpetuate a system that is obviously discriminatory in its very nature, and in all of its operations, to come up with an amendment like this?

MR. DE BLIEUX

Well, Reverend Alexander, no, I think you've misread the amendment. If I was for perpetuating the discrimination in the present system of the civil service, I would not want any changes in it whatsoever, and that's not what I'm advocating here. When I advocate here that the legislature has the right by two-thirds vote to make those changes, I want to take out any discrimination that might be. I think you know

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me well enough that I'm opposed to discrimination in any of its forms; I don't care how it raises its ugly head. This would allow the legislature to remove those very things which you object to.

MR. ALEXANDER

But when you throw the ball to the legislature--for example, in the body where you serve, there are thirty-five white... thirty-nine members and thirty-nine of them are white. Is that not a fact? Do you expect...are you optimistic enough to believe that they're going to improve something like that?

MR. DE BLIEUX

Certainly, we've got enough, Reverend Alexander...I'm white, but I don't discriminate.

MR. ALEXANDER

You're discriminating now.

MR. DE BLIEUX

I don't believe, if the facts are found, there's anyone who has fought harder to get them their rights than I have. I have suffered as a result of that, and I know that there's enough other people in that legislature that feel the same way I do about it. We don't like it; the majority of the people don't want discrimination. I'm real convinced of that. The majority of the whites don't want discrimination. They want a good, fair deal for everybody, and I think that we can get it just as well in that body as we can in this particular body. Those things, of which you spoke about and you were opposed to, they are not going to continue to exist. I can tell you that if...

[Record vote ordered. Amendment rejected: 25-69. Motion to reconsider tabled.]

Personal Privilege

MR. JENKINS

Mr. Chairman, I was going to make that motion on suspending the rules, but we have such a short house that I think it might be difficult to get sixty-seven votes on anything. Maybe the way to do it would be to just go through in order line by line in this thing, as the amendments come up, rather than trying to do it section by section.

Amendment

MR. POYNTER

The first amendment, then, is sent up by Mr. Perez. Now, this is the one...he had several amendments. It's by a full...the text is a full paragraph long setting forth a different definition of State Civil Service.

Amendment No. 1. On page 1 of Amendment No. 1, proposed by Delegate Dennery and adopted by the convention on December 8, delete lines 1 through 7 of the text of said amendment, 1 through 7, and insert in lieu thereof the following: If you look at the Dennery amendment, the effect of the Perez amendment will be to knock out the first paragraph of the text of the Dennery amendment.

"(1) State Civil Service. The state civil service includes all officers and positions of trust or employment in the employ of the state, or any instrumentality thereof, at any joint state and federal agency, joint state and parochial agency or joint state and municipal agency, irrespective of what funds are used to pay for such employment. It shall not include municipal boards of health or local governmental subdivisions."

Explanation

MR. PEREZ

Delegates, this is just a technical amendment. I have checked the amendment with the author, Mr. Dennery, and he is agreeable to it. It's only to clarify, first, the fact that in the State Civil Service System, it does not include municipal boards of health or local governmental subdivisions. It also makes it specific with regard to the joint state and federal, etc. As far as I know, there should be no objection to the amendment. It's simply to clarify.

Questions

MR. NEWTON

John, why are the boards of health exempted? I'm just curious.

MR. PEREZ

I really don't know enough about it except that they are presently exempted under the present Civil Service System. I imagine that there must be a good reason for it. I have no idea except that that is what is in the Dennery amendment. That's what's in the present constitution. I just carried it forward. I just wanted to clarify the language. Thank you.

MR. DENNERY

Mr. Perez, in the second line of your amendment, the third word reads "officers." My amendment says "offices." Is that not a misprint, sir?

MR. PEREZ

Yes, it is, and I will at this time move to withdraw the amendment to, and to reintroduce it to change the word "officers" to "offices."

[Amendment withdrawn and resubmitted with correction.]

Questions

MR. ROEMER

Chal'n, as I understand it now, it was the intent originally of Mr. Dennery's amendment to have this joint state phrase, join with not only federal agencies but parochial agencies, municipal agencies, etc., just like you have it more spelled out. Is that correct?

MR. PEREZ

Yes.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Amendment No. 1. Sent up by Mr. Flory. This is the short one that's got four hundred on it.

On page 1, line 14 in Floor Amendment No. 1, proposed by Delegate Dennery and adopted today, on page 1 of said floor amendment at the end of line 10, delete the word "two" and at the beginning of line 11 delete the words "hundred fifty" and insert in lieu thereof the following:

"four hundred"

Now, in Paragraph (A), that's in the middle of the second paragraph which is Subparagraph (2), State Civil Service. City Civil Service, excuse me, in the middle line, in the third line of that (2), you take out the word "two" and then come down to the next line and take out "hundred fifty" and insert in lieu thereof "four hundred" so it'd read:

"of each city in the state with over four hundred thousand population and every instrumentality thereof".

Explanation

MR. FLORY

Mr. Chairman and delegates, as you know, in the committee's proposal, they had taken under consideration the present constitutional provision which is that the city civil service in the constitution should apply in municipalities over two hundred and fifty thousand. The committee, in their deliberations, decided that it would be better, based upon the population growth of the municipalities throughout the state, some of whom are now approaching the figure of two hundred fifty thousand population, and have their own city civil service system, that it would be better to go to the four hundred thousand population, which originally was intended to cover the city of New Orleans. What this amendment does is to incorporate that figure of four hundred thousand, so that the city civil service provision of the constitution, as originally intended to affect New Orleans, would continue to only affect the city of New Orleans.

Questions

MRS. ZERVIGON

Then, Mr. Flory, what you are telling us is that you are doing this because you really don't believe in changing anybody's city civil service system. You want to leave them all alone?

MR. FLORY

I'm not doing any such thing, Mrs. Zervigon.

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MRS. ZERVIGON

You mean there's only one that you want to change and you want to leave all the rest alone?

MR. FLORY

No, I'm not saying that at all, Mrs. Zervigon.

MRS. ZERVIGON

Well, would you tell us what is your philosophy about changing local city civil service systems that have been established over a long period of time?

MR. FLORY

I would be happy to. In some municipalities in this state, approaching the figure of two hundred fifty thousand population, the city employees are under one system, the fire and police officers are under a separate system. I'd like to see that maintained.

MRS. ZERVIGON

Why is that?

MR. FLORY

Because I think the two systems are better the way they are--one for the city employees which operates under one fashion, the fire and police officers throughout the state, except the city of New Orleans, under another system; and those municipalities over thirteen thousand have a different system that's worked for some thirty-odd years that...and during our hearings in the committee, not a single mayor who had ever worked under the municipal fire and police civil service testified before our committee seeking any changes whatsoever. All of the people that serve under the system were totally satisfied with it, which only can say to me that they are satisfied with the system as it exists, based upon the experiences that they have had with the two types of systems in those types of municipalities.

MRS. ZERVIGON

The mayors from cities over four hundred thousand came and did ask you for changes?

MR. FLORY

The mayor of the city of New Orleans came to the committee and asked that the system that he had be retained the way it was. Yes.

MRS. ZERVIGON

Thank you very much.

MR. FLORY

He said, I believe, also, Mrs. Zervigon, he did not object to the change of four hundred thousand or did he object to seeing any change in the going of the commission to five. There were some other changes he also suggested that he thought that the city civil service employees, state civil service employees ought to be able to engage in political activities insofar as constitutional amendments, ad valorem elections, tax referendums, etc. He also said that.

MR. TATE

Mr. Flory, if your amendment is not adopted, then cities such as Baton Rouge and Shreveport will have a civil service commission chosen, I see, under...on page 3, by...from panels submitted by the universities provided on page 1 which, for instance, would...on page 3, Section 2, it says, "In other cities subject to the provision of this section the presidents of three of those universities will nominate panels." Could you not have the situation that up in Shreveport, or up in Baton Rouge--or here in Baton Rouge--you'd have some...the Civil Service Commission nominated by people totally unfamiliar with conditions in that city? That's a friendly question.

MR. FLORY

I think it's absolutely correct, Judge Tate. I think it's possible that it could be. I, of course, I object to the constitution of the commission as proposed in this amendment that's been adopted. I hope to get some changes made in it. But...

One of the things that I might say that Mrs. Zervigon relates to is that once you have had the system, and then to combine it under... after abolishing one system...is something else. The issue that she raises in bringing the New Orleans fire police officers into the rest of the state under the same type of system is something different entirely, in my opinion.

I ask you to adopt the amendment which merely changes the figure of two hundred and fifty thousand population to four hundred thousand population.

Further Discussion

MR. JACK

Mr. Chairman and fellow members, I notice everybody gets shocked by this microphone. I'm used to holding on it. I'll have to hold my hands back of me, I guess, and start off.

As Mr. Flory explained, the reason for this change in the figure to four hundred thousand instead of that two hundred and fifty thousand, Baton Rouge, Shreveport, and then there'll be other cities that would be, in a few years, placed in the civil service along with New Orleans. Of course, it's apparent, as Judge Tate so well pointed out, which I was going to mention, that in selecting, if we got in that position, for our commission in Shreveport, we'd have to select three colleges; we would select Centenary, I presume, and then two others. They are all in south Louisiana. Five are in New Orleans. That certainly wouldn't be fair to our city. So, this is an excellent amendment. The reason it used to be two hundred and fifty thousand was back when there wasn't any if's or and's, and I imagine that figure first started in 1940. At that time I remember Shreveport was ninety-six or seven thousand. So, I hope you'll adopt the amendment.

Further Discussion

MRS. ZERVIGON

Mrs. Chairperson and delegates, I have no objection to changing the number from two hundred and fifty thousand to four hundred thousand so as not in a back-handed way to affect Mr. Jack's hometown, or Baton Rouge, or something like that--if that's really the intention. What I do object to is the dual position of, "Mary, you wouldn't want to change their systems because it would make them uncomfortable, angry, and it would be politically inflammatory. But, we do think there are a few little changes that need to be made in your system. So, let's isolate you. Let's isolate New Orleans to four hundred thousand, and then every change that's made in the remainder of the article, affects only New Orleans."

So, I just wanted to tell you that I, personally, am going to vote for the four hundred thousand because I have no intention of changing anybody else's system. I would hope that you delegates from the areas that are approaching two hundred and fifty thousand that have your own civil service systems, that like them the way they are, will give some consideration to the Orleans delegates when the time comes to pass on our Civil Service System which has also been in operation a number of years and has worked successfully. By no means is it perfect, and I argue with New Orleans Civil Service, I suppose, as often, as loudly, and languorously as anyone you can name. It's a bone of contention in City Hall. But a lot of the things that we object to in the Civil Service Commission--in the Civil Service Department--cannot be corrected by the methods that are being suggested here. We get annoyed sometimes that the tests are too inflexibly administered. That some of them are too broadly drawn. One of the questions, I understand, on the Clerk-Typist exam is "how many staples can you make from so-and-so many yards of wire." One of the applicants told me that if she had to make her own staples, she didn't really want to work for the city anyway.

That sort of thing, you don't change by changing the make-up of the commission. Those tests are drawn by the members of the Civil Service Department, who are civil service employees themselves, and can't be fired--or can't easily be fired. So, you run into problems that you are trying to solve by methods in which they can't be solved. As someone pointed out to you yesterday, black employment was too slow in coming to the city--far too slow. The main reason for that was when blacks tested in the top three, the appointing authority would hire one of the whites who was also in the top three. It took a considerable amount of sitting on some of the department heads to have blacks hired. The department heads in New Orleans have now been sat on. We are getting blacks hired now. But don't stick us, our fire and police departments, in the Fire and Police Municipal Civil Service where you are promoted only on seniority, when it took us so many years to get blacks hired in those departments in the first place. You'll now stick us in a place where we can never recruit again because they know that it will be twenty or thirty years before they get promoted. That sort of change is the sort of change that we don't need. The kinds of changes that are needed will not be accomplished by the sorts of things that are being suggested to you, so, put the four hundred thousand in. It makes sense. But after that, leave us alone. Please....leave us alone.

Thank you very much.

Question

MR. WEISS

Delegate Zervigon, I just wonder whether we shouldn't go ahead and leave the figure at two hundred and fifty thousand in light of the fact that the larger a community, the more need for civil service

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is the real issue, rather than who will appoint them, and from what area. This can be altered later in the course of handling this amendment, don't you think?

MRS. ZERVIGON

No, Dr. Weias, I don't. I don't think that's the issue. That was your original question. I don't think that's the issue because as I understand it, the cities that are approaching two hundred and fifty thousand have city civil service systems now with which they are relatively satisfied. There is nothing in the way of personnel practices that's always totally satisfactory to everybody...nothing...ever. That sort of system doesn't exist and can't be devised. But, those cities have civil service systems, so I don't believe that's what's at issue.

Further Discussion

MR. J. JACKSON

Madam Chairman, delegates to the convention, again today I rise to bring something to your attention. As it relates to the amendment, I have no objections to it because based on some conversation, particularly two days ago, I do recognize that if you kept it at two hundred and fifty thousand, that that may have some effects on some existing civil service system which I don't know the ramifications of. But I do know that when you do raise it to the four hundred thousand, that any amendment addressing itself to municipal and fire--municipal, fire, and policeman system will directly relate it, as Mrs. Zervigon said, to the city of New Orleans.

Now yesterday, I attempted to, very briefly, to explain to you the kinds of problems that I had with the original amendment as introduced. I'd like to also bring to your attention that presently, there is a suit filed against our present municipal and fire...municipal, fire and policeman association, concerning what you have heard in this convention as relates to civil service at all--you know in toto--problems of hiring, and problems of, particularly, promotions. I suggest to you that ultimately that question has to be decided by this four hundred thousand dollar...I mean this four hundred thousand population limit. There also was an action by the City Council, and I stand corrected if someone here would like to do so, but the City Council, recognizing the need for minority representation, particularly at a high level in our fireman and policeman association passed a city ordinance saying something to the effect that for future employment within the fire and police...department...and most civil service departments, that it will be relegated to the residents of the city. I am saying to you presently, our population is about fifty-fifty, which was another avenue to allow municipal--allow for blacks to get involved in the Civil Service System--to make it begin to work from other areas. I'm seriously concerned, now--and I'm not a lawyer--so I guess if the system is taken out and placed with another...with the state system, we might just have to transfer the suit. But, I am particularly concerned as to why now, after so many years, that if it worked, particularly after hearing so many delegates across the state saying that we've got to raise this figure because I don't know the impact on our City Civil Service. When you get delegates from the city of New Orleans saying to you what it is going to do, there seems to be maybe not the kind of parochial commitment--or not the same kind of even consideration that we are attempting to give those civil service systems with populations approaching two hundred and fifty thousand.

I suggest to you seriously, that I have, as a delegate to this convention, and I guess I am going to repeat it when it comes up again, supported all kinds of moves and amendments to enhance the position of firemen and policemen, particularly from the city of New Orleans. I think, as a delegate, I think as a person charged with some sort of responsibility, that I've got to create the kinds of balance that's necessary between that of the labor movement, and that of the City Council and the government and the people of the city of New Orleans. I suggest to you seriously that you vote for the four hundred thousand amendment; because I don't want to do any adverse things to affect your Civil Service System. But, I think there are too much at stake, particularly as relates to our firemen and policemen, to all of a sudden just come and say, well, we are going to transfer them only in the name of uniformity--only in the name of uniformity and one state system. I'm saying that we want it uniformity and let's go back to two hundred fifty thousand. But, I know in this case, uniformity is not the question.

So, I ask that you support Mr. Flory's amendment as introduced.

Further Discussion

MR. CHATELAIN

Madam Chairperson and fellow delegates, I rise not strongly opposed to this amendment. However, I am going to vote against it,

and for these reasons. I think the Dennery amendments been pretty well accepted by most delegates here. If you will go back to what we did in Local and Parochial Government, under Section 8 (D), you will find that when two or more cities in a parish want to join together, they can, in fact, create a local home rule government. I suggest to you, fellow delegates, that in the years to come, that the fast growing population that we now have, that you are going to find many, many areas of Louisiana, particularly in south Louisiana, desirous of taking advantage of the new provisions of the Local and Parochial Government, that will be accepted by the people of this state. I believe that with these views in mind, and the fact that under the Dennery amendment which was adopted here this morning, if you will turn to page 7, under Section 2, which says "Cities," then you go on down to (N) which you see there, "Acceptance of Act; Other Cities, Parishes, City and Parish Governed Jointly," you will find that in that area, in that section of this amendment, that any city having a population exceeding ten thousand, but not exceeding two hundred and fifty thousand, and any parish, or any parish governed jointly with one or more cities in the plan of government, they may take advantage of this. I don't know exactly what this would do to this provision in the Dennery amendment. I believe by increasing to four hundred thousand, that you are going to preclude a lot of people who might want to...in the very near future...perhaps take advantage of this.

Now, I discussed this with Mr. Dennery. I'm not quite sure that I want to strongly oppose my New Orleans friends. But, I do believe that we can't go wrong by leaving it at two hundred and fifty thousand because we are only dealing with one area of our state, and that is the city of New Orleans, in the foreseeable future. I don't see any reason why we should leave out other sections of the state just to take care of this situation. I would only urge that you strongly look at this before you cast your vote. Thank you.

Questions

MR. ALEXANDER

Mr. Chatelain, let me see if I may get a little clarification here. Originally, I felt that this provision, of course, applied to New Orleans, and the only other cities that could be affected eventually would be Shreveport and Baton Rouge. Now, you raise another question. You infer that, for example, Lafayette and St. Landry may combine to form a unit where you may have at least two hundred thousand people now. Is that the angle from which you may be discussing this?

MR. CHATELAIN

That's exactly right, Reverend Alexander. It's a possibility that according to provisions of local government, that you can...more than one parish can join together. I see no need of just arbitrarily reducing it from two hundred fifty thousand...I mean, increasing it from two hundred fifty thousand to four hundred thousand.

MR. ALEXANDER

Is there any basic reason for the fear of the cities of Baton Rouge and Shreveport, that they would exceed two hundred and fifty thousand and arbitrarily be thrown under the state system without their consent?

MR. CHATELAIN

Well, no, sir, I don't think so because the provision of the Dennery amendment, they may elect to do so. It's not obligatory.

MR. ALEXANDER

They may elect to do so?
Thank you.

MRS. MILLER

Mr. Fontenot, you wanted the floor?

MR. FONTENOT

I move the previous question.

[Previous question ordered. Record vote ordered. Amendment adopted: 71-12. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments, also sent up by Delegate Flory, coauthored by Mr. Jack and Mr. Fulco.

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Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the Convention on December 8, (it's listed 7; it needs to be 8) on page 1 of said floor amendment, at the end of line 12, after the word and punctuation "thereof." change the period "." to a comma "," and add the following:

"except paid firemen and municipal policemen, who are hereby expressly excluded."

[Amendment withdrawn.]

Amendments

MR. POYNTER

These are lengthy amendments. Go on for . . . these are two page amendments--Kelly and Roemer.

Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the convention on the 8th, on page 2, line 23, following the word "of" and before the word "members" delete the word "seven" and insert in lieu thereof the word "five".

Amendment No. 2. On page 1, line 14, in the amendment adopted on the 8th, Mr. Dennery, on page 2 of the amendments, line 24, following the word and punctuation "state," and before the word "of" delete the word "four" and insert in lieu thereof the word "three".

Amendment No. 3. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the convention on December 8, 1973, on page 2, delete lines 25 and 26, both inclusive, in their entirety, and insert in lieu thereof the following:

"(1) Appointment; Election. Four members shall be appointed by the governor as hereinafter provided, for terms of six years. One member shall be an employee in the classified service of the state, elected to the commission by classified state employees. The employee member shall serve a term of six years."

Amendment No. 4. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the convention on December 8, 1973, on page 2, delete lines 28 through 30, both inclusive, in their entirety, and insert in lieu thereof the following:

"Louisiana College, Xavier University of Louisiana, and Louisiana State University and Agricultural and Mechanical College at Baton Rouge,"

Amendment No. 5. On page 3 of the amendment between lines 8 and 9, insert the following:

"The election of the members representing classified city employees shall be called by the governor and held at least sixty days prior to the expiration of that term. In the case of a vacancy prior to the expiration of a term in the office of the member representing classified employees, an election to fill the vacancy for the unexpired term shall be held within thirty days after the vacancy occurs.

Amendment No. 6. On page 5 of the amendment, line 25, after the word "office" and before the word "semicolon" add the following:

"except to seek election as a classified state employee serving on the State Civil Service Commission".

At this time, prior to the actual submission of it, he wishes to withdraw 5 and 6 which were intended to be technical in nature to implement the provisions of 1 through 4 with the view that he would offer those later on. They go to pages further into the proposal, as amended, at any rate. So, he, at the present time, is just going to offer the first four amendments, deleting, at the present time, Amendment No. 5 and Amendment No. 6.

[Amendments Nos. 5 and 6 withdrawn.]

Explanation

MR. KELLY

Madam Chairman, members of the convention, this amendment is directed solely at the makeup of the State Civil Service Board and, in essence, what Amendment No. 1 does, it substitutes a five-man board in lieu of the seven-man board as provided by Mr. Dennery. Of course, Amendment No. 2 is more or less conditioned upon whether Amendment 1 and 3 pass, because if we're going to have a five-man board, we've got to have a three-man quorum. Amendment No. 3, in essence, this is what this plan is going to do: you're going to have five members, four members of whom will be appointed by the governor for six-year terms. They will be appointed just like through the process in Mr. Dennery's amendment, except the three names will be submitted by Centenary

College, Louisiana College, Xavier University, and Louisiana State University. Now, to make up the fifth member of this board, we have provided that there be some employee input into the board, and the fifth member of the board would be an employee in the classified service of the state. He would be elected, or she would be elected to the commission by the classified state employees. That's the essence of it. I think that this is something that everyone can accept. We've heard a divergence of opinions, here, within the past two or three days concerning the makeup of this board. I, for one, don't particularly like to necessarily look at something from the standpoint of representation, and necessarily, well, how many south Louisiana schools do you have? How many north Louisiana schools do you have? How many black universities do you have? How many white universities, etc.? I think that this amendment will take care of most anyone's problems concerning that. We have the Louisiana University located here in Baton Rouge; we've got Xavier University which is a predominantly black university; Louisiana College there in Alexandria; Centenary College on up in the northern part of the state. One of the most important aspects of the amendment, as I see it and as I feel it, is the fact that one of the employees in the classified service of this state will serve on this board. Apparently, we have sat here for two or three days and rejected the idea of the rules and regulations of the commission being changed by any vote within the legislature. That's the way it stands right now. Mr. Dennery's amendment, so to speak, is the law, at this particular time. Accordingly, I think if that board is going to have that much power, as apparently they are going to have, and continue with the power that they've had in the past, then we, in fact, need for the working people of this state to have one of their people on this particular board.

I'd ask that you adopt the amendment.

Point of Information

MR. DUVAL

I'm just trying to understand how the amendments fit into Mr. Dennery's amendment. I note that on the amendments it says, "page 1, line 14 of the Dennery Amendment adopted December 7." Well, I don't understand how it fits into

MR. POYNTER

Keep on going on. That just identifies where the Dennery amendment came in. They'll go on and say, on the page of the amendment and the line of the amendment.

MR. DUVAL

I see. Thank you, thank you.

Questions

MR. JENKINS

Mr. Kelly, don't you think that the method of selecting members of the commission has worked well in the past, insofar as having fair and competent people on the commission?

MR. KELLY

I'm not here, Woody, to say that the people who are now serving on the commission are not fair and competent people. But, I meant, they deal primarily with the lives of the classified employees of this state, and I see no reason whatsoever why those classified employees can't have at least one voice on that particular board.

MR. JENKINS

But, they're not representing, they're not there to represent the employees, are they? They're there to administer the employees on behalf of the state, aren't they?

MR. KELLY

They're there to administer and to represent, as far as I see this thing. I think it's a two way street, and I said that up here yesterday afternoon. I think that you've got the interests of the state to be concerned with, with fairly administering the services that are provided by the state and the employees who work through these services. Yet, at the same time, if we're going to be dealing with sixty thousand-employees of this state, I think that they have got to be treated fairly and equitably. I'm not saying that they have or they haven't, at this particular time. I'm simply saying that this will give them a voice on the commission.

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MR. JENKINS

Well, don't you think if we have the civil service employees of the state involved in an election for one of their number to be on this commission, that you're going to have the following situation arise: you're going to have the candidates running for that spot, making promises to civil service employees, and then once that person is elected, that he'll be engaged in reclassification efforts, changes in job descriptions, promotional efforts in order to placate and satisfy those who helped him get elected?

MR. KELLY

I don't necessarily see it that way. I think, quite frankly, that most of the employees within this system would be just happy to have a man sitting there, that they would really know exactly what was going on. They could say that they had some true employment representation there on that board. Now, what a man does concerning his political promises, and what he does concerning his political obligations, of course, that is something that I can't answer, at this particular time.

MR. JENKINS

But, the way it is with private college presidents selecting and nominating these three who, one of whom are selected by the governor, they don't have any obligations to any particular group. They don't have any commitments; they don't have to worry about a constituency that they are doing favors for or that they're currying favor with, do they?

MR. KELLY

No, that's true, Woody. They don't have to worry about anything. But, at the same time, there are four people going to be on this commission who are not necessarily going to be employee oriented. I meant, that's, in essence, what you're saying. At this particular point you're saying that the commission, as it's set up, as I understand what you are trying to say through your questions, is that these people are not necessarily interested in what the employee thinks, and all this, strictly concerned with administering the system. Well, maybe that's true, but when you're administering the system, you necessarily affect the lives and the livelihoods of all of these various employees. What is wrong with them having one member on that commission?

MR. JENKINS

Well, when you say that it's been done fairly and competently in the past, to me, it seems like you endorse the present system, rather than taking a chance of getting a political factor into it, both from, of course, that you would maintain the L.S.U. appointee even though the L.S.U. board members would be appointed by one governor, probably; and then allowing this politicking within the classified service.

MR. KELLY

You know, you misstated what I said. I said I was not here to say whether or not that the present commission, as it's made up, had handled the business of the commission in any other manner than fairly and competently. I don't know whether they have or whether they haven't. That was my statement. The point being is I would like to see the sixty thousand various employees that are certified through this particular system, I'd like to see them have one representative on that particular board. I mean, if you're against the concept, you're just against the concept.

MRS. ZERVIGON

Mr. Kelly, in assuming that the employees need representation on the commission, you're assuming that there is another side, at least. Would you concede that in questions before the commission there are often two other sides? One, the taxpayers at large, to make sure that their money is being well spent. The other, the management side of the labor-management relations.

MR. KELLY

Yes.

MRS. ZERVIGON

Well, who represents those two other sides?

MR. KELLY

Well, it's not a question, Mary. I would say that when you're talking about the state, you're more or less talking about the management. As far as I'm concerned. . .

MRS. ZERVIGON

Who, who is talking about the state, and in what context?

MR. KELLY

Well, I don't understand your question. What are you talking about?

MRS. ZERVIGON

Well, you are saying that employees need representation on the commission. You agree that there are at least two other sides of these questions. One, the taxpayers side, and the other, the management side. I asked you who represented them, and you said something about when you're talking about the state, you're talking about management. I wasn't talking about the state. I was talking about the management part of the state and the taxpayers part of the state which is not necessarily management oriented. There are plenty of labor folks in that taxpaying body.

MR. KELLY

This isn't a question. Let me answer. . .

MRS. ZERVIGON

It's not a question of representation?

MR. KELLY

It's not a question, necessarily, of representation. You're sitting there trying to distinguish between what's management, what's the taxpayers' interests, what is the state. Well, it's obvious. We all know what the state is. I meant, all I'm saying is that there's two sides to this thing. You've got the state's side which includes the taxpayers' side, if you want to look at it that way, and then you've got the lives and livelihood of some sixty thousand people within this state that are covered under this particular system. I meant, if you want to disregard those sixty thousand people, vote against the amendment.

MRS. ZERVIGON

Well, nobody has been questioning who ought to be regarded and who ought to be disregarded. You just said that they need representation. I was wondering if there were another side whether they didn't need representation as well.

MR. KELLY

Well, I think that the state is adequately represented. The governor is making four appointments under this. . . under my proposal.

Pardon.

MRS. ZERVIGON

He's limited to among certain nominations.

MR. KELLY

Well, of course. I meant, Mary, let's don't play games about those nominations, etc. going to the governor. I don't think any of us are that politically naive.

MRS. ZERVIGON

Well, let me ask you another question. As I understand what civil service. . . the civil service system is all about, number one, it's open to the public. Aren't all meetings open to the public? So, it isn't that they are secret and the employees can't know what's going on.

MR. KELLY

It's a matter of having some employee input into this commission. If you're against that concept, you just have to vote against the amendment. That's all I can tell you.

MRS. ZERVIGON

But they are open to the public?

MR. KELLY

Pardon.

MRS. ZERVIGON

The meetings are open to the public?

MR. KELLY

The meetings are open to the public, I assume, and that's not even the point. The point is, in other words, you're dealing with these people, this commission. Now, you can look at it from the state's side. I'm going to look at it from two sides--the state's side and the employees' side. That's the two sides that are involved. I want to see the employees' side at least have some input into this commission. That's all I'm asking.

MRS. ZERVIGON

Well, let me ask you one more question. Let me ask you one

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more question. As I've always seen it described in the literature about civil service, the commission is called a quasi-judicial body; they are appealable to the court and that sort of thing. They are passing judgment on employee appeals, which make them quasi-judicial. That would be the description of a quasi-judicial body. So, when you say that employees need representation, isn't that akin to saying "I assume that the judge, being an employee of the state, always represents the prosecution, who is also an employee of the state, and therefore, the defense should always have a representative on the judicial bench of this state?"

MR. KELLY

No, that's not the issue at all, Mary. You're trying to confuse the issue. It's obvious that you're against the amendment. Let me tell you something about judges: in other words, you're talking about you've cast this thing into a situation of where you say, all right, you've got a five-man court which performs quasi-judicial functions. That's fine. I meant, I try lawsuits everyday, throughout this state, and some of those judges we think are plaintiff oriented, some of them we think are defense oriented. I meant, that's just something that we all live with, within the system. That's something that we're going to live with, within this system. Now, let me tell you something: the state, or the almighty state which you seem like you are so worried about is going to have four members on this commission. All I'm asking is that these sixty thousand employees out here at least have someone who can express their views within the commission.

MR. BURSON

Mr. Kelly, do you feel, as I do, that the biggest problem that we have with civil service and public service, in the United States today, is that too often the interests of the particular bureaucracy involved as over against a particular state management interest become predominant, and the public, who is supposed to be served and the service of whom civil service was created in the first place, seems to be forgotten in the whole process?

MR. KELLY

I would have to agree with you to a certain extent.

MR. BURSON

Well, then would you further take that concern and apply it to this particular situation and feel that what we ought to aim for on the Civil Service Commission is a type of judicial body that would be fit to look at the thing relatively objectively, and hopefully, reach decisions in accordance with the public interests as distinguished from the employee interests or the interests of the management of the particular governmental body involved?

MR. KELLY

I have no argument about that, Jack. I think that the way you get to the public's true interests is you got, possibly, one side represented here, you've got one side represented over here, and somewhere--I meant--with the two inputs into the system, they are going to come up with something which is good, or which is best, in their determination, for the public. I meant, you're dealing with human decisions, here, let's face it; just like in the judiciary. I meant, those are human decisions. Maybe they are based on law, some of them are based on fact, some of them are based on nothing, sometimes. But, I meant, that's neither here nor there. These people do strive to do what's right. We're not only concerned, here--we jumped off on the quasi-judicial functions of this particular commission, but as I understand, and I don't claim to be an expert within the field of the service, here. But, as I understand the makeup of the present commission, they have vast rule making powers, etc., policymaking powers, etc. We're not just concerned, necessarily, with whether or not--when this thing is judged--whether a man loses a job or whether he doesn't lose his job. Besides, I meant, this one employee oriented person is liable to be just as hard on his coworkers as anyone else. You'd have to assume that everyone is going to approach this thing in a fair and equitable manner. I'm not asking that the employees be granted anything extra. I am simply asking that they be allowed to have someone on that commission which could put some employee ideas, some employee oriented thinking into the commission. That's all.

MR. BURSON

Do you get. . .do you agree with my general basic point that the public interests. . .that an attempt, at least, should be made to define the public interests as distinguished from competing parties at a particular hearing, and that that is what should govern the decisions as much as possible?

MR. KELLY

I agree with that. In other words, I think what we've got to do is you've got the public's position to be concerned about, but let's don't forget the employee that's being tried, if you want to put it like that. I meant, his interest has got to be considered, too. Now, let's say this: this employee member of this commission is not going to be an advocate, he's going to be a judge. I would assume that the employee that's having problems and is appearing before the commission is going to have his own lawyer or his own advocate. So, I mean, all I am looking for is to see some employee input on to this board.

MR. DENNERY

Mr. Kelly, are you aware that in the body of my amendment, on page 2, line 31, specifically, that the presidents of the seven universities named are directed to give due consideration to representation of all groups in the making of their nominations, sir?

MR. KELLY

Yeah, Moise, I see that written in there, and that's. . . quite frankly, I meant, that looks nice on paper, but it just. . . It says that they are to give due consideration." Once again, that's a judgment call. I meant, who is to say that what they give consideration to and what they don't give consideration to? I'm not doubting that they will; I'm not doubting that they won't. All I'm doing with this amendment is that I'm guaranteeing some employee input on to this commission--one out of five. I cannot understand, for the life of me, why that frightens people.

MR. DENNERY

Well, may I ask you this question, please, sir?

MR. KELLY

Yes, sir.

MR. DENNERY

Are you aware that that particular provision was placed into this article, or this amendment, after it was originally drafted, as a result of some conversations had between representatives of labor and me, in an effort to guarantee an employee viewpoint, with the understanding that the labor representatives more or less agreed that in the trial of appeals, it might not be a good idea to have an employee sitting on the board? As a matter of fact, at one time it was suggested that they be recused in such a situation. This is an attempt, at least on my part, to accommodate this to the very problem that you suggest. Are you also aware, sir, that there is nothing in this amendment, to my knowledge, nor is there anything in the present civil service law which prohibits a state employee from being a member of the Civil Service Commission?

MR. KELLY

That's beside the point, Moise, and I think, possibly, that you have made an effort to guarantee these things. I'm not going to stop with an effort. If my amendment passes, it's going to be. We're going to have some employee input on to that commission. It's not going to be a matter of some president of some college, some representative giving due consideration to the employee oriented person who receives a nomination or not. There's going to be no efforts. If my amendment passes, the effort part is nil. We're going to have employee representation on this commission. It's that simple.

MR. DERBES

Don, haven't you, in fact, created a statewide elective office with a limited constituency?

MR. KELLY

No, I don't necessarily think so. I don't look at this from the standpoint of an office. I think these people. . .there's a limited constituency, you might say. I meant, I don't care how. . .that's the reason I deleted Amendments 5 and 6, because we can determine how the election process would be held, etc., and that needs to be worked on. Mrs. Duncan is working on it for me at this particular time.

MR. DERBES

But, in any case, the election that would occur would be statewide among those who would be able to vote, namely, those members of the system. Isn't that correct?

MR. KELLY

That's true.

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MR. DERBES

What do you envision as the platform of the various candidates who would be running? This may seem a bit premature, but. . .

MR. KELLY

I guess you've answered your own question. I can't answer what their platform would be. I'm not concerned about what their platform would be.

MR. DERBES

No, but as Mr. Jenkins, I think, correctly pointed out, wouldn't you think it would be a matter of, perhaps, promising certain specific reclassifications of certain jobs, trading off of support statewide? Wouldn't you see that as a distinct possibility?

MR. KELLY

Well, if that's part of the idea of bargaining and negotiations, etc., I meant, whatever promises that man wants to make, that's his business. If he wants to come on to that board advocating some changes within the system which are valid changes that need to be made in view of the interests of the employees throughout the state, there's nothing wrong with him doing that. He's simply one man out of five, once again. That's the whole idea, is the input on to the commission. This man can promise the moon. Now, whether he can deliver it or not, that's his problem.

MR. CASEY

Mr. Kelly, it's my appreciation of the concept of the civil service nominations through the various presidents of the universities that through their nominations, the representation would be completely, we would hope, unbiased and unprejudiced. Is that really not the concept of it, as it has been in the past?

MR. KELLY

There's nothing. . .that is the idea behind. . .

MR. CASEY

That's the ideal. . .

MR. KELLY

That's the ideal situation.

MR. CASEY

Now, through your recommendation of appointing someone to represent a certain special interest, are we not then going in a one hundred and eighty degree direction from that concept? Instead of representing three million eight hundred thousand people in Louisiana, only four of those members will, and one will represent sixty thousand, with a limited constituency, as pointed out by Mr. Derbes. Is that really what's happening?

MR. KELLY

If you want to analyze it in that manner, Tom, that's fine.

MR. CASEY

I have to.

MR. KELLY

Well, that's fine, and I have no objection to you analyzing it in that manner. In other words, you take your four people that are going to be representing the state, and you can talk about three hundred and something thousand people all you want to. I don't know that much about the commission. But, just apparently, I meant, these people are concerned with the state's business a little more, possibly, than they are the employees well-being. All I'm asking is for one member on a five-man commission so that the employees--the certified employees--of this state can have a true, active voice on that commission. That's all.

Further Discussion

MR. A. JACKSON

Madam Vice Chairman, ladies and gentlemen of this convention, I rise in opposition to this amendment. I do so because I believe that it does violence to the whole concept of trying to provide a commission that would have sufficient representation to make the changes that are needed in order to have this important structure responsive to state employees. Now, I'm certainly not opposed to state employees having representation. But, I cannot vote for this amendment because it reduces the number of people that are going to be on the Civil Service Commission. For the life of me, I cannot understand the logic of Mr. Kelly when he says that we

ought to have input on this commission; yet, he reduces the membership. That is contrary. Now, everybody in this room would admit that we have some policies and some rules and some procedures that ought to be changed, and that the day to day operations must be supervised, and these changes must be made by the commission itself. Then, that if this is true, then we need a broader representation than we have. I think Mr. Dennery recognizes this, and this is why he has expanded the commission. I think the fact that we have excluded Southern University--and I don't want to stand here repeatedly and sound like a racist, but I just have to remind you that if we are talking about a structure that's going to be making decisions for all of the people, then we cannot rely entirely upon private colleges. We cannot rely on representation from institutions who have not, in the past, demonstrated their sensitivity for the needs and to the needs of all of the people. I certainly sympathize with the position that state employees ought to have representation, but I cannot, for the life of me, understand why we have to provide the representation by reducing the membership of this important structure. I think it is contrary to what we have set forth as democratic ideas and ideals for this important structure. I would urge the delegates to vote against it, and see if we can't move on and solve the problem in another fashion and leave the commission broadly structured so that we can have the input necessary to change the restrictive policies and procedures and rule making authority of this important governmental structure.

Vice Chairman Casey in the Chair

Questions

MR. WILLIS

Delegate Jackson, don't you think that all of the commission members were, once upon a time, employees? Don't you think they started at the bottom?

MR. A. JACKSON

All of the commission members?

MR. WILLIS

Yes, the members of this Civil Service Commission.

MR. A. JACKSON

No, not necessarily.

MR. WILLIS

Well, then they must have inherited something. They got to work, and they got to work for somebody.

MR. A. JACKSON

Well. . .

MR. WILLIS

I'm not talking about under civil service. They had to have been employees.

MR. A. JACKSON

Oh, yes, I. . .you know, except for some of you rich folk like you, have always been self-employed.

MR. WILLIS

My dear fellow, I remember my first pair of shoes. I started with bare feet, but I endured them for a longer time than some. Don't you think that the so-called employee viewpoint which is mentioned, which may be laudatory, but, which if taken to its final point may be contrary to the public interests, or ultimately stifle it?

MR. A. JACKSON

No, I don't agree with that, Mr. Willis. I can't stand here and say that I agree with it. My primary objection to this amendment is that it restricts the ability of the commission to be responsive to the needs of the state employees. That's my primary objections to it.

MR. WILLIS

Well, I embrace all your objections, and I feel as you do. But, my point was that under the guidelines established by Mr. Dennery, further in the proposal, the institutions chosen to choose these seven members can take into consideration these so-called employee viewpoints without carrying it to their full point.

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MR. A. JACKSON

I would agree with that.

MR. ROEMER

In reflection, don't you think you share or, at least, are more in sympathy with these amendments, and the proponents of them, than you are with the opponents of them, in light of some of the questions you're just answering?

MR. A. JACKSON

Well, Buddy, I think that I've got a primary and a fundamental objection to the concept set forth by the amendments. I certainly share with one of the objectives. I certainly sympathize with them, and I think that this convention ought to give due consideration to it. But, I cannot vote for it because it does violence to something that I believe to be fundamental in terms of a change by way of the structure of the commission. That's my primary objections.

MR. ROEMER

Well, I have one final question is that, I respect your view, but I would call your attention to a statement that you made that in effect, Mr. Denney's amendment had broadened the board. I suggest to you, it has not. If you look at the composition of that, it would broaden it from five to seven, but they seem to come from the same neighborhood.

MR. A. JACKSON

Well, I quarrel with the named institutions, and if you will move among your sheets there, you will find an amendment by me that I think will make some significant changes that I hope that you will consider. But, what I'm saying is that the overall structure as proposed by the Denney amendment, provides for the kind of broadened representation that I think to be important, is what I...

Further Discussion

MR. ALEXANDER

Mr. Acting Chairman, delegates, ladies and gentlemen, I rise in opposition to this amendment for the following reasons: Number 1, the sponsor of this amendment has expressed the opinion that politics would not be brought into the civil service system as a result of the provision to add a member through election by civil service employees. Most of you here are elected members of this body. Some of you are also elected members of the state legislature. Now, how many of you can honestly say that you don't receive communications, telephone calls, or some other kinds of pressure from your constituency? I say to you that if we adopt this amendment, then the sixty thousand classified employees of this state would become the constituency of one member of the commission. I can't understand, for the life of me, how we could ever conceive that these employees would not call that man, would not demand of him, that he stand up for certain principles, and that he become susceptible to all of the pressures that any other political elected official would be susceptible to. Now, we know that to be a fact. I can see that as a fact. That's a definite fact. Now, you're talking about anticipating anything. I can anticipate that if I jump from the top of this building, then I don't think I would be no more. I don't have to argue about that. I don't think even the undertaker, or the physician would refute that fact. So, I know that there will be pressure. Now, let me say this: the provisions of...under the provisions of this amendment, the employee would become a politician to some extent. Why? Now, we have denied this right to the teachers. We'll say that a teacher...this convention has said that a teacher in the parish of Avoyelles cannot run for the school board because he will be controlling his own employment, etc. and etc. Now, why are we going to permit an individual who is employed in state civil service to be a member of the state civil service system? Now, the next bad feature of this amendment is that it reduces membership. Now, whenever you reduce membership, whenever you constrict, then there's the danger of excluding somebody, and that's exactly what this does: it excludes somebody. It excludes one of the black colleges. Now if that's going to cause somebody to vote the other way, then I'm sorry. I'll yield to questions.

Questions

MR. ABRAHAM

Mr. Alexander, I agree very much with some of the things

you've said. Let me ask you, how much do the members of the commission get paid? Do you have any idea? Are they paid on a per diem basis or salary?

MR. ALEXANDER

I understand they are nonpaid persons.

MR. ABRAHAM

So, if this employee were to be elected, he would have to be elected on a statewide basis, would he not?

MR. ALEXANDER

Right.

MR. ABRAHAM

In order to get elected, he probably would have to travel statewide, in order to get support, would he not?

MR. ALEXANDER

No doubt about that.

MR. ABRAHAM

Where do you think the finances for this type of campaign would come from?

MR. ALEXANDER

From someone who wants to influence him.

MR. SCHMITT

Did we decide earlier that all of our state judges were to be elected?

MR. ALEXANDER

In effect, yes.

MR. SCHMITT

I think we did, didn't we?

MR. ALEXANDER

We did. Yes.

MR. SCHMITT

Now, do these state judges decide cases from districts other than those within their jurisdiction?

MR. ALEXANDER

Yes.

MR. SCHMITT

No, they don't...

MR. ALEXANDER

Well, what about a Supreme Court judge...

MR. SCHMITT

Would you like to see us go back and allow the people from Jefferson Parish to elect the judges from Orleans, and the people from Orleans elect the judges from Plaquemines? Do you think that would be a fair situation?

MR. ALEXANDER

That would not be fair, Mr. Schmitt, but suppose we go back to the Supreme Court. The Supreme Court decides decisions that may...one may be elected from Orleans, but a case may originate in Shreveport.

MR. SCHMITT

That's correct. In other words, their jurisdiction is the entire State of Louisiana. So, then, do you favor that we should elect judges who are not domiciled to the State of Louisiana to the Supreme Court, so they could be completely objective?

MR. ALEXANDER

No, I don't think we should.

MR. SCHMITT

I don't think that's a rational argument that you're bringing forward.

MR. ALEXANDER

I don't think we should. But, I'm not saying don't elect people from the state---I'm not saying that anyone from outside of the state should be elected. The only thing I'm saying is that if you elect a civil service employee to the Civil Service Board, you subject him to political pressure, and you make him a politician.

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MR. SCHMITT
Do you realize...

MR. CASEY
You've exceeded your time, Reverend Alexander.

Further Discussion

MR. BURSON
Mr. Chairman, fellow delegates, I have restrained my well-known impulse to speak on this topic until now. But, it seems to me that this amendment should be opposed because it is grounded in a fundamental misconception that I feel infects the whole idea of civil service in our time. That is, that the civil service system is organized for the benefit of the employees, rather than for the public whom they are supposed to serve. This is the reason why I voted yesterday to allow the legislature, by two-thirds vote, to change the system because I feel that the legislature, far more than any bureaucracy, represents the interests of the man on the street who's forgotten in all of this stuff. Bureaucracy has a life of its own, and too often, civil service, in my opinion, is used as an excuse or a shield for people who are not doing their jobs. I am sympathetic to Mr. William Buckley's contention that in New York City, you may date the decline of city services such as garbage collection, from the date when the appointment of garbage collectors was taken away from Tammany Hall leaders and given to civil service because when your garbage didn't get picked up in the old days, you called your ward leader and told him, "If it doesn't get picked up, I'm going to vote against you in the next election," and he immediately got something done about it. Today, by the time you get through the review boards, and the other mechanisms that we have used to insulate people from being corrected for malfeasance, the garbage rots in the street. I'm just offering the simple proposition to you, that in all the rhetoric that we've heard up here so far on civil service, we have heard very little to point out that civil service has some disadvantages as well as advantages. I am wholeheartedly in favor of the advantages. I think there's no question but what the civil service system has guaranteed a better quality of public employment. I am in favor of insulating civil service employees from being thrown out every time there's a change of administration. But, I submit to you that you cannot on the one hand, ask for the protection of civil service, and then, still want to retain the right to full political participation because the two are incongruous. I submit in conjunction with this amendment, that you cannot ask to retain the protections of civil service, and then on the one hand, ask to elect the judge on the court that's going to hear your case, and that's what this amounts to in my view. I feel that, as Mr. Dennery pointed out, that if you allow people who are outside of the political process to have a primary voice in making these selections, that they will in good conscience see to it that all interests in the society are represented. But, most of all, the public interest, that thing which is so hard to define, and so elusive at times, should be the dominant interest on the Civil Service Board. I'm not convinced, by the way, that it has been the dominant interest on the Civil Service Board in Louisiana up to date, as a lot of people apparently are. But, be that as it may, I'm quite sure, that if we start holding elections by the people who will be before the boards, that we are asking that person who is elected to "represent" the public employees on that board, to perform an impossible task. He would not be human if he could be elected by a group, and not be partial to their interest when they appear before that board. That simply isn't in accordance with human nature. That, regardless of what we do in this convention, will not change. I'll answer any questions.

Vice Chairman Miller in the Chair

Questions

MR. E. J. LANDRY
Mr. Burson, don't we elect the judge now, to hear my case?

MR. BURSON
Yee, sir. That's right, and the judge hears the appeals from the Civil Service Board, and there's your election right there, that ultimately insures that the public interest at the highest level of the judiciary will be maintained.

MR. E. J. LANDRY
Well, we elect him now, and he hears my case, doesn't he?

MR. BURSON
Yes, sir, but he hears both sides, and both sides get to vote on him.

MR. DERBES
Jack, all the people elect the judges, right?

MR. BURSON
That's correct.

MR. DERBES
Just civil litigants don't elect civil judges, or criminal defendants elect criminal judges; isn't that correct?

MR. BURSON
That's a right, and plaintiffs don't elect judges or defendants don't elect them; they both do.

MR. KELLY
Jack, to carry out this philosophy that you've expounded on there, concerning the election of the judge who's going to be hearing the case, and so forth...I mean if we carried that to the logical conclusion, then we really shouldn't elect any judges in the State of Louisiana. They should be appointed, and let me give an example. I'm involved in an automobile collision in Natchitoches Parish, and I sue the Traveler's Insurance Company. I'm a voter there. I voted for my judge. Now, did Traveler's vote for him? No. I think that we see equity within that system. If you win, you win; if you lose, you lose.

MR. BURSON
...The lawyer represents Traveler's, and the agents who sell Traveler's elected him.

MR. ALEXANDER
Mr. Burson, judges usually rule on the law, do they not?

MR. BURSON
They're supposed to, the law and the facts.

MR. ALEXANDER
But, in the case of a criminal, who in most instances is a lawyer...I mean a layman, would he be permitted...who's charged before the court, would he be permitted to sit on his own jury?

MR. BURSON
It's not the custom, as far as I'm aware. No, sir.

MR. ALEXANDER
Would not the effect of this amendment be to place a civil servant on his own jury, on his own case?

MR. BURSON
That is exactly the reason why I, as you, Reverend Alexander, oppose it.

MR. WILLIS
Jack, in legal parlance, this commission that we're talking about, is what is known as an administrative tribunal. Isn't that correct?

MR. BURSON
Or quasi-judicial.

MR. WILLIS
Well, I'm coming to that.
Generally, it's an administrative tribunal, and it is one with quasi-judicial and quasi-legislative functions.

MR. BURSON
Yes, sir.

MR. WILLIS
Rule-making is legislative, and judicial is when they decide that the controversy is as between the employee and the state, so to speak. It's the employee, himself, whether he did or did not. Now, in...to your knowledge, do you know of any such tribunal established by any civilized government whereby part of them are appointed in a manner, and another part is elected by part of the people?

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MR. BURSON

I know of no administrative tribunal at all that has any elected members.

MR. FLORY

Mr. Burson, isn't it true that when a judge hears an appeal, he only hears the appeal on the points of law?

MR. BURSON

Well, in Louisiana, he has a right to review the facts, also.

MR. FLORY

Not in civil service. Did you read the civil service law?

MR. BURSON

No, I thought you were talking about judges in...

MR. FLORY

No, we're talking about civil service now.

MR. BURSON

No, I think you're correct. In other words, the board is the finder of fact, and then he reviews and sees whether they applied the law correctly...

MR. FLORY

And, the decision of the commission is final as to the facts. Is that not correct?

MR. BURSON

As far as I'm aware, that's generally true, yes.

MR. FLORY

Isn't it also true that the commission has other functions than as the development of rules and the administrative procedures, particularly with reference to the development of pay plans?

MR. BURSON

Well, Mr. Flory, again, now, as far as...

MR. FLORY

Is it true, or not?

MR. BURSON

Yes, sir, but in my view, in making those rules, again, the dominant interest should not be whether the employees want them, or whether the employer wants them, but whether they are good for the public interest because the public, the taxpayers, are paying the bills for public service.

MR. FLORY

But, don't you think that that employee ought to have the right to at least say what he thinks in that regard?

MR. BURSON

I certainly do.

MR. FLORY

Behind that closed door.

MR. BURSON

I think he ought to have the right to express his views, but it seems to me that this can be taken care of by the procedures and statutes by which you set this thing up. I don't think that you necessarily have to have a member to have the employee views expressed.

MR. FLORY

Do you, as an attorney, have the right to any say-so as to the minimum prices you charge in legal cases?

MR. BURSON

We are all supposed to follow, generally, a minimum fee schedule which is set by the Bar Association.

MR. FLORY

But, you're a member of the bar?

MR. BURSON

Yes, sir.

MR. FLORY

You have a right to participate in that?

MR. BURSON

Yes, sir.

MR. FLORY

Thank you.

MR. ROEMER

Jack, did you read the research done by the research staff on civil service, and other state constitutions?

MR. BURSON

I did.

MR. ROEMER

Well, then, you know that Colorado has two members elected by the state civil service employees on a five member board; do you not?

MR. BURSON

That's correct.

MR. ROEMER

Well, you failed to bring that out in your talk. You also showed, probably, some nonknowledge about Natchitoches Parish. You know that Traveler's Insurance has never won a case there.

MR. BURSON

The only thing that I would say about the Colorado incident is: I recall that research from reading that memorandum yesterday, most of these states don't have all this stuff...all this detail in the constitution, either. They've got it in primarily as a statutory matter.

MR. AVANT

Jack, did I understand you to say in response to a question by Mr. Willis, as I was walking in the door, that you knew of no administrative tribunal which had an elected member on it? Did you make that statement?

MR. BURSON

That's exercising a quasi-judicial function. I can't think of one right offhand...

MR. AVANT

Well, what do you call the Public Service Commission?

MR. BURSON

I don't think that that's partly elected and part appointed. I think it's all elected.

MR. AVANT

Well, that's right. I may have misunderstood what you said. Now, there's one other thing that I want to ask...

MR. BURSON

Well, the first question was did I know of any that were part elected and part appointed.

MR. AVANT

Now, there's another thing that I want to ask you. There's been a lot of talk about letting the defendant sit on the jury because what Mr. Kelly's amendment would require would be that there would be a classified employee on this. Now, that's not a good analogy at all, is it?

MR. BURSON

No, it really isn't, but it's not an analogy that I made. It's one that someone made to question.

MR. AVANT

Well, I understand that. But, you are familiar with the provisions of the uniform code of military justice, are you not?

MR. BURSON

Not really specifically.

MR. AVANT

Well, you do know that under the uniform code of military justice, if an enlisted man is tried before a court-martial, that there must be representation of enlisted men on that general court-martial; don't you?

MR. BURSON

I've heard that, yes, sir.

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[*Quorum Call: 73 delegates present and a quorum.*]

Motion

MR. DENNERY

Madam Chairman, it seems to me, we have a very small house today. We are talking about awfully important matters. I would hate to see us make a mistake. I would, therefore, move to proceed to other orders of business.

MRS. MILLER

The previous question has been called, Mr. Dennery.

MR. DENNERY

Then, I move we adjourn, Madam Chairman.

[*Motion to adjourn to 9:00 o'clock a.m., Tuesday, December 11, 1973. Record vote ordered. Motion rejected: 38-39. Amendments declared not divisible.*]

Point of Information

MR. ROEMER

Could it not be possible for this body to agree to reduce the membership from seven to five, but not agree on its actual composition? Therefore, couldn't we put "1" and "2" together and see if we can reduce it to five, then "3" can stand alone--and that is the employee--and then "4" could stand alone--and that is the colleges.

MR. POYNTER

I would certainly say the convention could decide to do that. But in terms of the divisibility, he sent up to effect the changes set forth that he has proposed; I still don't think they are divisible because it would put the present proposal in the posture of having reduced the membership, yet, having appointments and nominations--if you will--still coming from seven sources. Again, in my opinion, and, of course, these are fine line things at times it would not be....

MR. ROEMER

I'll abide by your ruling if that's it; I just wanted to discuss it, fine.

MR. POYNTER

Of course, I would say this, if you voted, you know, if you voted for it you could always....the amendments can be amended, that's the second point I want to make.

MRS. MILLER

Mr. Kelly, are you going to close on this?

Closing

MR. KELLY

Yes, ma'am. Ladies and gentlemen of the convention, we've heard a lot of talk up here about the state and this unbiased body that we are dealing with here. I have heard for the last two or three days scare tactics used at this microphone about those sixty thousand employees out there that are going to vote on this constitution when it comes up. Everybody seems concerned, "Oh, we've got to come up with civil service. We've got to do it right." I'm concerned. I said that from this microphone yesterday. Let me tell you something: If you are really interested in those sixty thousand employees out there; and if you are really interested in making them happy; and if you are really interested in providing something in this document that will put sixty thousand people--fifty thousand of them maybe, forty thousand of them--at the polls to help us pass this constitution, then you vote for my amendment. For those of you who want to sit up here and oppose these sixty thousand people throughout the state--laboring people, working people, people that go to work at 8:00 and get off at 5:00, or go to work at 7:30, they are not self-employed--who else is going to take care of them; who's going to take care of them? Are these

appointees from Tulane University, from this university, some professors, some lawyers, are they going to really look after the interest of this working man? You answer that and then I'll tell you what you do: You vote against my amendment; and you go back home; and you explain in each and every one of your communities that you voted against the civil service employees of this state having a representative on the commission. Now, if you want to do that, and you can explain it, then you vote against my amendment and go back home and tell them that.

Questions

MR. ROEMER

Mr. Kelly, there have been those that objected to our amendment because they said it's unprecedented to have employees represented in a board like this. Is it not true that across America now in corporation after corporation, that employees are represented on the board now, that that's the coming thing in this country?

MR. KELLY

There's no question about that.

MR. ROEMER

Isn't it also true that those who say that we are trying to reduce the base representation by having the commission at five members, don't know the history of the commission? Isn't it at five members already?

MR. KELLY

That's correct. I might add that under this particular plan which we have proposed here, Buddy, in other words, it's not all concentrated into the south Louisiana area, you've got Louisiana State here in Baton Rouge, some out of New Orleans, one out of Alexandria for central Louisiana, and Centenary College in Shreveport. Now, that's pretty across the board representation as I see it.

Before I answer Mr. Duval, too, I would like to say that concerning employee representation on boards and so forth, it's been brought to my attention that state employees already engage in statewide limited elections: (1) the Louisiana State Employees' Retirement System; the Louisiana Teachers' Retirement System; and the State Troopers' Retirement System. It has been brought to my attention that this has all worked very well in the past.

MR. DUVAL

Mr. Kelly, do you know that I'm not certain, in my infinite wisdom, how to compose this board. But, I wanted to bring out something in this question that has not been brought out before, and I think to be equitable it should be brought out. Are you aware that for all cities from thirteen thousand to two hundred and fifty thousand--involving firemen and policemen--that there are two representatives of the firemen and policemen on those boards that are elected by the employees and the other three are appointed; did you know that?

MR. KELLY

Yes.

MR. DUVAL

...that it's in our constitution now and that it's worked actually pretty well.

MR. KELLY

I might also add that this is done in Colorado; it's also done in Maine.

MR. DUVAL

I'm talking about Louisiana in this one that it is done.

MR. KELLY

Right, I understand and your point is well taken.

MR. BERGERON

Don, I believe you have answered my question. But, I will direct you to Amendment No. 3 and reading "One member shall be an employee in the classified service of the state, elected to the committee by classified state employees." Well, it's not so much the board member elected from the classified employees that I'm concerned with, but the manner in which he is elected. I believe you just answered that, but would you clarify that?

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MR. KELLY

Well, he would be elected by the classified state employees. In other words, within a limited...only classified statewide employees could vote on this particular man; it would be a vote within the system, you might say.

MR. BERGERON

Such as the retirement...

MR. KELLY

That's correct.

MR. BERGERON

Thank you.

[Record vote ordered. Amendments rejected: 33-47. Motion to reconsider tabled. Motion to adjourn to 9:00 o'clock a.m., Tuesday, December 11, 1973. Substitute motion to adjourn to 10:00 o'clock a.m., Tuesday, December 11, 1973 adopted: 50-19. Adjournment to 10:00 o'clock a.m., Tuesday, December 11, 1973.]

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Tuesday, December 11, 1973

ROLL CALL

[67 delegates present and a quorum.]

PRAYER

MR. ALEXANDER

This morning, our Heavenly Father, we come again to thank Thee for all of Thy blessings bestowed upon us. We pray that Your presence will go with us, guide us, and keep us. Develop among us that love that Jesus displayed while He was here on earth when He said to us, "Love one another as ye have... as I have loved you." Bless our efforts here today and throughout this convention. Bless the leadership of this convention and of our state. Bless all participants herein. Guide us in our deliberations, both today and in subsequent days, and when we shall have terminated our coils and our struggles in this world, we pray that You'll admit us into Thy presence where we shall praise Thee forever. In the name of Jesus, Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

[Oath of Office administered to Louis Jones. II Journal 932.]

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

MR. POYNTER

Regular Order No. 1. Unfinished business. On unfinished business, of course, is Committee Proposal No. 9 introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare, and other delegates, members of that committee; a proposal making provisions for human resources by providing for state, city...state and city civil service.

Of course, the status of the proposal, the convention first adopted Amendment No. 3 proposed by Mr. Flory which deleted the bulk of the proposal. Subsequently, on its last day of meeting, December 8, adopted the Dennery amendment...adopted the Dennery amendment to the proposed amendment. In addition thereto, two amendments have to date presently been adopted to the Dennery amendment; in particular, an amendment proposed to Subparagraph 1 of Paragraph (A) proposed by Delegate Perez, and adopted on the eighth; also, an amendment to Paragraph (A) proposed by Mr. ... going into Subparagraph 2, proposed by Mr. Flory and adopted by the convention on December 8.

Amendment

MR. POYNTER

Amendment sent up by Mr. Champagne, Mr. Abraham, and Mr. Chatelain.

Amendment No. 1. Page 1, In Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the convention Saturday:

On page 2 of the amendment, at the end of line 24, immediately after the word and punctuation "quorum.", add the following sentence:

"No more than one member shall be from each congressional district."

Explanation

MR. CHAMPAGNE

Mr. Chairman, ladies and gentlemen, this is a very...simple amendment, and I think there should be a very little cause for objection. What it does is that it assures that no more than one member shall be from each congressional district. This...to those of you who feel, as some of us do, that the appointing universities are, in general, centralized in New Orleans, this assures that while they recommend that eventually the seven member board, or whatever members we eventually decided should be, shall...no two shall be from the same district. This gives us representation spread over the state. I think it's a good amendment, and I urge your adoption of the amendment.

Questions

MR. BOLLINGER

Mr. Champagne, I'm not sure if I'm for or against your amendment yet, but by placing it in Subparagraph (C), do you not possibly destroy the concept of seven members; or, if not, destroy the concept of seven members, destroy the way that they will be appointed in the future in the rest of the article; should I say?

MR. CHAMPAGNE

No, sir, Mr. Bollinger, what this does is it allows seven members, but simply that no more than one of those members can eventually be appointed from each district. Now, in making their suggestions, the presidents of these universities would attempt to get people who are from various...congressional districts. Of course, we all know that the metropolitan area of New Orleans would reflect three congressional districts in general. So, you would still have three people from that general area. The other members would have to be in other areas of the state. I think it's a good amendment for those people who might feel that certain areas would get predominantly, the members from that area.

Any other questions, I'll be glad to answer them. Otherwise, I urge your adoption of the amendment. I honestly think it's a good one. I don't see any reason why you should object.

MR. FLORY

Mr. Champagne, in providing the...for the constitution...of the board here, are you assuming with your amendment that the composition of the commission will remain as presently in Mr. Dennery's amendment?

MR. CHAMPAGNE

It wouldn't make any difference, Mr. Flory, if it was five, seven, nine, or whatever membership it would be. Of course... nine, you would have a problem. That's correct. Assuming it's seven or eight or less.

MR. FLORY

Suppose this convention adopted a commission that called for two members to be elected by the classified employees. What would be the case in that situation?

MR. CHAMPAGNE

I see no reason why they shouldn't be from different congressional districts.

MR. FLORY

You wouldn't think that the employees ought to be able to select whoever they wanted irrespective of congressional districts?

MR. CHAMPAGNE

I would think so. But on the other basis, then I would allow the appointments to be from other districts than those elected.

MR. FLORY

But let them elect whoever they wanted to from whatever congressional district they may be in.

MR. CHAMPAGNE

I would...agree to that.

MR. FLORY

So that if the convention ultimately adopts the proposal to allow two members of the commission to be elected, you would then be willing to go back and change your amendment in order to accomplish that end?

MR. CHAMPAGNE

No appointment. That's right, sir. I would be willing to do that.

[Previous Question ordered. Amendment adopted: 63-13. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next amendment sent up by Mr. Hayes and Mr. Chatelain. Amendment No. 1. In Floor Amendment No. 1 by Mr. Dennery, adopted Saturday, on page 3 --page 3-- line 8, at the end of the line, add the following:

"Should one of the nominating authorities fail to submit nominees in the time required, or should one of the named institutions

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cease to exist, the governor shall make the appointment to the commission."

Explanation

MR. HAYES

Ladies and gentlemen, this is a...this amendment, I feel, is technical in nature. The...there are provisions for the appointment being made in case the governor fails to perform. But, there are no provisions in the amendment in the event the institutions fail to perform, or, in the event the institutions fail or cease to exist. So, we decided to offer this amendment; I think, for the most part, there appeared to be no objection from the...from Mr. Dennery on this. I think it's more or less technical. There would be some provisions for continuity. In the event some institution would cease to exist, or would fail to perform, then there would be a way to fill these positions without amending the constitution.

So, I would urge you to support the amendment.

Questions

MR. DENNERY

Mr. Hayes, as you so stated, you realized you were correct in stating I had no objection. I would point out to you that on page 4, line 9, a similar amendment should be inserted with regard to the city commission. In other words, you have...your amendment refers only to the state commission. I ask, do you propose to submit a similar one with regard to the city?

MR. HAYES

Well, I could do that. That's an oversight on my part. Yeah, I could do the same thing. Yes.

MR. RIECKE

You state in your amendment "during the time required". Is there anywhere else in this thing that tells you what the time required is?

MR. HAYES

During the...what you say, now? I don't get you?

MR. RIECKE

You say if the...if any of the nominating authorities fail to nominate in the time required. What do you mean by "the time required"? Thirty days, or sixty days?

MR. HAYES

There are no provisions at all that I can see....

MR. RIECKE

Well, they ought to have some time in there; don't you think?

MR. HAYES

As I appreciate it, they didn't have anything for the nominating authorities. It's only that the governor was....the governor had a time limitation. But there were no requirements for the nominating institutions.

MR. RIECKE

O. K.

MR. DENNERY

Mr. Hayes, just previous to your amendment where it would fit in there, it says that "within thirty days after a vacancy occurs, the appointing...the president must submit his nominations to the governor, and that the governor must act within thirty days."

MR. HAYES

Right. Within thirty days. That's correct.

MR. DENNERY

So, there is a thirty day provision, is there not?

MR. HAYES

There is a thirty day provision for the governor. That's right.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Amendments sent up by Mr. Alphonse Jackson, Mr. Juneau, as follows:

Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Dennery and adopted by the Convention on December the 8th, page 2 of said amendment, at the beginning of line 28, delete the words "Dillard University" and insert in lieu thereof "Southern University". Similarly, in the Dennery amendment, on page 2, line 29, after the word and punctuation "South," delete the words "St. Mary's Dominican College" and insert in lieu thereof the following: "Louisiana State University".

Explanation

MR. JUNEAU

Mr. Chairman and fellow delegates, this amendment does not affect the total number of the composition of the board which is seven under the Dennery amendment. What it does do, and what I want to be very candid about, it changes the concept of an all private institution-type board to include public institutions. It does not affect that portion of the composition which would have to do with the representation of the blacks. By the same token, it was my own personal feeling and that of Mr. Jackson that it would be important at least from the public standpoint to have input from the public institutions. What we did was, we pick the institution which was the biggest in the state, which was L.S.U., and by the same token pick the biggest black institution which was public in nature, and that was Southern. We put those in the lieu of St. Mary's of New Orleans, number one, and Xavier. Secondly, the reason for doing this, it gives more diversification, I think, throughout the state as opposed to totally centralization in the New Orleans area. I'd be open to any questions.

Questions

MR. BOLLINGER

Pat, could you tell the convention the reason, or your interpretation of the reason, why university presidents are used to appoint rather than, say, the governor appoint him, or someone else appointing members to the Civil Service Commission?

MR. JUNEAU

Well, as I understand, the thrust of the position as it is now under the present law is just to bring it one step further removed from the body politic. That's why they get university presidents.

MR. BOLLINGER

Is that not the reason that private universities are used rather than public university heads--to remove it from politics?

MR. JUNEAU

That, of course, is the philosophy that Mr. Dennery talked about. He indicated it just depends what philosophy you want to adopt. It just seems to me though, Boysie, that... I think that the public institutions of this state, when we're talking about public money and public employees, that it wouldn't do violence to that concept to have the public institutions in some way involved in that determination.

MR. BOLLINGER

But, why, in your opinion, would university heads be more capable, say, than the Public Service Commission or the House of Representatives or the Supreme Court, or anybody else, to appoint members. Since... I think it's been pretty well established that public university presidents are not.... or have not divorced themselves from politics.

MR. JUNEAU

Well, let me answer the question this way: I'm not attacking in this amendment, nor any of the previous amendments, the concept of college presidents. That's what the present law is; I'm not tampering with that. By the same token, I'm just saying it's a matter of philosophy, I think, that the private... that the public institutions in this state at least should have some role in determining the composition of this Civil Service Commission. Additionally, I think, this amendment gets it all out of an all Orleans appointment. I think it gives a little bit more for diversification within the state.

MR. JENKINS

Pat, isn't it true, though, by the amendment we just adopted, we're going to have people from throughout the state on this group, since no two can be from any one congressional district?

MR. JUNEAU

Well, that may be true, and you'd probably end up with people

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who went to school at those particular institutions who live elsewhere in the state. I'm just thinking... I say that if an individual went to the public school system--be it Southern or be it Louisiana State University--that I think that the broadening or the concepts that they may have may be a little bit different than what they got through that private institution.

MR. JENKINS

Don't you agree though that in the past the appointments from the private schools have not necessarily been from among their own alumni; in fact, they've been, in probably most cases people from other schools and from other parts of the state?

MR. JUNEAU

I really don't have any particular violence, Woody, to the people that they have appointed. I'm just saying, as a matter of philosophy, I just don't adopt the principle that it should be all private schools in this state.

MR. JENKINS

Also, isn't it true that college presidents are likely to be even more political... public college presidents are likely to be even more political in the future, than in the past, under the Education Article we've adopted, inasmuch as each particular board would be appointed by, theoretically, one governor during his term of office.

MR. JUNEAU

I really don't know if he would be more.... I guess it would just depend on the individual, Woody. What would be true today might not be true tomorrow. I really can't answer that.

MR. JENKINS

One other question: Isn't the concept of having these nominees submitted by presidents of private colleges--isn't the idea behind that the fact that you're likely to get people of quality who are not going to have a political axe to grind or any special interest one way or the other in the civil service system?

MR. JUNEAU

Well, I wouldn't agree with that, Woody. The inference would be that a public institution is not capable of appointing people of quality, and I don't subscribe to that philosophy.

MR. SUTHERLAND

Pat, I noticed in your first amendment you're substituting Southern University for Dillard University...

MR. JUNEAU

Yes, sir.

MR. SUTHERLAND

... and we just finished adopting an amendment saying that if any institution ceases to exist, the governor will fill the vacancy. Now, there is a possibility, as you well recognize, that Southern as an institution may cease to exist.

MR. JUNEAU

As would be the case, as I understand, the plight of private institutions would probably be the same.

MR. SUTHERLAND

Well, I think there's a bigger chance of the public institution, as such, being discontinued than the private institution. I just point out to you that there is this possibility. We don't know what we're going to finally wind up with, but if we start having the governor make a couple of appointments and then filling vacancies with this, we could have a problem.

MR. WILLIS

Pat, don't you think that the concept of attributing to the private institutions the power or the capacity to appoint these members to the commission, that your amendment derogates from the... what we impute to them in that we assume that they won't... that they will appoint somebody who graduated from that college? For instance, and to exemplify my question: Do you think that St. Mary's Dominican--which you wish to strike out and supplant with someone else, like Southern--do you think that St. Mary's Dominican would always nominate, of the three that it nominates to the governor, someone who graduated from the institution?

MR. JUNEAU

Not necessarily, but by the same token, Burt, it would seem logical to me that if a corporation that I was the president

of were charged with the responsibility of designating someone, that would be someone who in the sphere of my corporate business I've come in contact with. I'm just saying I'm trying to broaden that horizon which would be somewhat limited under the proposal that's before this convention. I might add, we've expanded the concept of this board from five to seven. Now, I might leave it alone at five, but we have gone to seven; and if we have gone to seven, I'm not talking about changing the majority vote of the board.

Further Discussion

MS. ZERVIGON

Mr. Chairman and delegates, this amendment is not one that I feel tremendously strong about, but I just want to point out to you that it's based on some false assumptions, in my mind. For example, one of the objections to the Denny proposal as drawn is that most of the colleges are in New Orleans. We have tried to correct that by passing an amendment offered by Mr. Champagne, for which I voted, saying that there must be a geographical distribution of the members of the commission. Or, will there be a geographical distribution of the institutions? It seems to me that doesn't matter a whole lot so long as the people whom they appoint are geographically distributed, because the false assumption upon which wanting the institutions to be geographically disbursed is based is that, number one; they will appoint one of their alumni and one of their alumni that is geo... tied, at least in their sympathies, to the geographical area in which the institution exist; and, number two, that the president who is making these nominations is from that area. Now, that's absolutely not so. The president of Tulane is not from New Orleans; the president of Dillard is not from New Orleans. The president of St. Mary's Dominican is not from New Orleans at this time. They all came from outside to be appointed to that post. There is almost more traveling from job to job, from state to state, among college presidents as there is with oil company executives, telephone company executives; there's just a whole lot of moving around because there are not that many college presidencies within one town. That's a false assumption. That these folks will be more responsive to the people is, in my mind at least, a questionable assumption. If you will remember, there was a tremendous amount of unrest a year or two ago, accusing the president of Southern in Baton Rouge and the president of Southern in New Orleans as being unresponsive to the people. There hasn't been much of that in the private colleges in Louisiana, more by luck than for any other reason. But, college presidents on all campuses, both public and private, are accused from time to time of not being responsive to the people. That is not a unique thing that happens only in private institutions. While it may be true of public institutions that there is no weeding out or selection as the freshman class enters, you better believe there is a lot of weeding out after that. The figures are almost horrifying. So, whether the weeding out of students takes place right after the high school graduation or right after the freshman year, as far as I'm concerned, is a distinction without a difference. So, as you cast your vote on this amendment, please cast it on the basis of whether you want private institutions or public institutions on a realistic basis that has nothing to do with geography, nothing necessarily to do with responsiveness, but really a more philosophical thing: should this power be all in the hands of presidents of private universities or not? Let me point out to you one more thing just so you won't be disappointed, because some of you may have been expecting me to say this. When you remove St. Mary's Dominican College from the appointing bunch, you're removing the only female college president that has the power to appoint under the Denny plan. Now, it may be that she will not always be a female, but as the thing now stands--and there may someday be a female president of Southern in Baton Rouge; I think it's kind of way down the line; I could be wrong--as it now stands, that's the only female with appointive powers under the Denny plan. Under the Juneau plan, there are no females appointed. So, I just... there are other under-represented groups besides north Louisiana and the blacks, and I thought I would point one of them out to you. Thank you very much.

[Previous Question ordered.]

Closing

MR. JACKSON, A.

Mr. Chairman and ladies and gentlemen, just briefly, this amendment is designed to add significantly to the ability of the Civil Service Commission to respond to the needs of public employees. Now, I know of all of the arguments that have been made relative to the need to keep politics out of the Public Service Commission... I mean out of the Civil Service Commission. I, for one, would like to see the commission steer clear of politics. I do not believe by adding the public colleges and universities to the panel that we are embroiling the commission in politics. I think what we are doing is making it possible for a true representation. I think that L.S.U. and Southern University as additions to the panel will provide for

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the first time a kind of representation from the general public that is sorely needed. I think you will have from these two institutions individuals that will be sensitive to the problems that confront public employees. So, I would urge, in the name of democratizing this panel, that we would add these two institutions to the panel that is responsible for appointing members to the Civil Service Commission. This does not preclude women from participating. I think that these institutions will be sensitive to the fact that we need women on this commission. I support it; my record is rather clear on the inclusion of women in all strata of government. So, I would not stand here and suggest that we ought to have any sort of panel that would preclude women from true representation. I believe that they ought to be there. I believe that the institutions that will make up this panel, including Southern University and L.S.U., will be sensitive to the fact that we need women as a part of the Civil Service Commission. I urge your adoption. I think it will add to the quality of the decision. It will make the Civil Service Commission sensitive; it will democratize it, and state government will be much more efficient because we have made these changes. I urge the adoption of this amendment.

Questions

MR. ALEXANDER

Mr. Jackson, assuming that Southern University and L.S.U. are public institutions, and they supplant St. Mary's Dominican College and Dillard University, which are private institutions, now, the first question--I'm going to ask you both of them so you can answer-- the first question is: How do you justify mixing private institutions with public institutions in this way and still exclude all the other public institutions like Northeast, Northwest, Southwest, etc.?

MR. JACKSON, A.

Well, I justify it on the basis that we ought to balance the interests across this state and that we have two university systems in the state, the L.S.U. system and the Southern University system. Since we have given this kind of status to these two educational enterprises at the higher education level, I think it is appropriate that we would use them as part of the ... as part of the panel to select the commission members.

MR. ALEXANDER

The second quick question: I think you asserted the fact that women should be represented here. ...

MR. JACKSON, A.

Yes, by all means.

MR. ALEXANDER

... by appointment. Now, since ... so far as I can remember in the history of these institutions and the boards that have governed them, there aren't any women now, and there hasn't been.

[Record vote ordered. Amendment rejected:
28-54. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Next set of amendments sent up by Delegates Kelly, Roemer, and A. Jackson.

Amendment No. 1. In Floor Amendment No. 1. proposed by Delegate Dennery and adopted by the Convention, Saturday, on page 2 of the amendment, strike out lines 27 through 35, both inclusive, in their entirety, and on page 3, delete lines 1 and 2 in their entirety and insert in lieu thereof the following:

"(2) Nominations. The presidents of Centenary College at Shreveport, Louisiana; Louisiana College at Pineville, Louisiana; Louisiana State University at Baton Rouge, Louisiana; Southern University at Scottsbluff, Louisiana; Tulane University of Louisiana at New Orleans, Louisiana; and Xavier University at New Orleans, Louisiana, after giving due consideration to representation of all groups, each shall nominate three persons. One member of the commission shall be appointed by the governor from the three persons nominated by each president. One member of the commission shall be elected by the classified employees of the state from their number as provided by law. A vacancy for any cause shall be filled by appointment or election in accordance with the procedure or law governing the original appointment or election, and from the same source. Within thirty days'.

Explanation

MR. KELLY

Mr. Chairman, ladies and gentlemen of the convention, this

deals primarily with the same concept that we debated and argued, I think rather thoroughly, last Saturday. I won't make any bones about it. In other words, the primary consideration and the primary thing that I'm interested in is to have one employee representative on the commission. Now, last Saturday morning we went with a five-man board. This amendment gives the seven-man board, of course, which would reduce, you might say, the representation of the employee onto this particular board. It would be six nominated by the various college presidents: namely, Centenary, Louisiana College--we substitute L.S.U. in--Southern University, Tulane, and Xavier which makes up the six universities making the nomination. Then, the seventh member would be the employee commissioner who would be elected by the classified employees of the state. As I attempted to argue last Saturday morning, I just think that it's an absolute necessity that we give the employees some representation onto this board. This reduces, you might say, his percentage of representation as related to the amendment that was offered last Saturday. I just can't conceive of how this convention or the people throughout the State of Louisiana would object to the employees who are governed by this very system having one spokesman on this commission. I heartily urge that you support this amendment. As I stated last Saturday morning, if you want to give this constitution a little boost, then I think this would be a good place to do it, because I think that we can safely say that there is some sixty thousand employees throughout the State of Louisiana, covered under this particular system, that would heartily endorse this amendment, and possibly this proposal with this amendment included in it.

Questions

MR. TOBIAS

Don, I'm reading your amendment. It does basically three things; it would change two of the colleges to two state universities?

MR. KELLY

That's correct.

MR. TOBIAS

It would also allow one member to be elected by the employees of civil service?

MR. KELLY

That's correct.

MR. TOBIAS

Now, have we not in effect rejected the concept just a few moments ago with respect to Louisiana State University and Southern University as representing the appointing agencies on the board?

MR. KELLY

Well, I think that's apparent. I think that was the amendment earlier, but that's neither here nor there.

MR. TOBIAS

Do you have another amendment that would just simply allow for one of the seven members to be elected by the members of civil service?

MR. KELLY

I do not have such an amendment drawn at this time.

MR. ABRAHAM

Don, as I understand, the thrust of the various arguments that's been proposed on the makeup of the commission was that to try to remove it as much as possible from the arena of direct politics. My question is: Why, if assuming we do want employee representation, why should he not be appointed the same as the other members, rather than elected?

MR. KELLY

Well, I see nothing wrong... I'd see nothing wrong with the employees in a limited election. I mean it's not like we're making this a statewide election with the people of the State of Louisiana, or the entire constituency of the State of Louisiana, voting upon this particular representative, but I meant I see nothing wrong with having the civil service employees themselves decide who is going to be their representative onto this commission. No, I wouldn't be in favor of an election, you might say, within the entire state for all the electors of the state to vote on. Don't really have any objection to one of them being appointed.

MR. RIECKE

... there's sixty thousand employees; they would have to

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have an election of sixty thousand people to vote on one employee -- one member of the commission? Wouldn't that be rather cumbersome?

MR. KELLY

I wouldn't think so. It's my understanding that the Louisiana State Police Association does it within their retirement system for the representatives. There are two or three others that... the Teachers' Association, I think, has representatives on the retirement systems that are elected by the -- I guess, the L.E.A. or the L.T.A.-- the local organizations.

MR. RIECKE

How would these sixty thousand people scattered all over the state know of the qualifications of a person in order to vote intelligently on them without a campaign by that man for that position? This would put it into politics, wouldn't it?

MR. KELLY

Well, it would put it into politics within the political realm of the people that are governed by this very commission, Mr. Riecke. I see nothing wrong with that.

MR. BERGERON

Don, we have one member on your amendment which is elected by the members of the civil service throughout the state....

MR. KELLY

Would you speak just a little louder? I'm having trouble hearing you.

MR. BERGERON

All right. I said we have one member under your amendment which would be elected from the civil service members throughout the state. If, for some reason or another, this man was to resign -- for reasons of health or other reasons--who would do the... would this vacancy be filled by appointment or election?

MR. KELLY

It says that "a vacancy for any cause shall be filled by appointment or election in accordance with the procedure of law governing the original appointment or election, and from the same source within thirty days," so I guess

MR. BERGERON

So, he would be elected.

MR. KELLY

He would be elected again. Right.

MR. BERGERON

Thank you.

MR. JENKINS

Don, don't you really make a bad analogy when you make an analogy between this and the retirement systems of the state, because in the case of those retirement systems, you're not dealing with public funds at all, but funds belonging to those employees? The board that administers those funds is simply like the board of a credit union. It's not a controversial thing where people get out and campaign and spend a lot of money and have favors to pay off, and things like this. But, under your system, wouldn't that just be the case?

MR. KELLY

No, Woody. In other words, there is a distinction, and it's not a complete or exact analogy, but let's just say this, that when we put this representative, this employee representative, onto this commission, I think they... the employees of this state have a vital interest in what goes on within that commission. I meant, we're concerned with their wage increases at this particular time, what they start, how they are employed, how they are terminated--just a barrage of things--and their own job security. Now, what is wrong with them having some vital interest in those items?

MR. JENKINS

Well, isn't....

MR. KELLY

To me, that is more important than the money that you refer to within the retirement system.

MR. JENKINS

Isn't the purpose of having people appointed from these private colleges the idea that you're going to try to get fair and impartial people with no axe to grind? Wouldn't this person

who would be chosen in this way be really almost like a lobbyist, a spokesman for a group, always trying to lead the commission in one particular direction rather than trying to be what the Civil Service Commission is--a fair and impartial body with no interest one way or the other?

MR. KELLY

Let me tell you something, Woody; you can look at this thing from two respects. You say that you're concerned about fairness and impartiality. Okay. Maybe that an employee might be employee-oriented. Quite frankly, I've seen other occasions and other analogies where people a lot of times bend over backwards to make sure that they do not receive criticism, say, along those lines. At the same time, are we to understand that some professor from Tulane University or somewhere else who, quite frankly--or some of the other private institutions--does not have the relationship with the working class of people within this state and are we to say that is fairness and impartiality for a man that is so separated from the working people of this state? I just can't see your argument...

MR. JENKINS

Well, hasn't it worked well in the past; and if it hasn't, why haven't we had state employees calling us? Did you know that the state employees in my district have told me that they're well satisfied with the system the way it is?

MR. KELLY

I think, when they talk in terms of that, the employees of this state are interested in one thing and that's job security. That's the ones that are already covered under this commission, Woody. I don't think that there's any employee in this state covered under the Civil Service Commission who would not readily agree that anywhere that there can be improvement toward the working people of this state, that they would be against that. Now, as far as letting the legislature tamper with their job security, I think it's evident that they don't want the legislature being able to tamper with their job security which they enjoy at this particular time under the present system.

[Previous Question ordered. Amendment rejected: 36-49. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Next set of amendments sent up by Dr. Asseff as follows: Amendment No. 1. In Floor Amendment No. 1 proposed by Delegate Dennery and adopted on December 8, Saturday, on page 2 of said amendment delete lines 27 through 32, both inclusive, in their entirety, and insert in lieu thereof the following:

"(2) Nominations. After giving due consideration to representation of all groups, the presidents of Centenary College, Louisiana College, and the University of Southwestern Louisiana, each shall nominate three persons; the presidents of Dillard University and Xavier University of Louisiana, acting jointly, shall nominate three persons; and, the presidents of Tulane University of Louisiana and Loyola University of the South, acting jointly, shall nominate three persons. One mem--"

Explanation

MR. ASSEFF

Mr. Chairman, delegates, in the view of the fact that the convention is in the "no" mood, it might be well for me to hold mine over until next week. I agree with Mr. Dennery that the Civil Service Commission should be independent. I also agree with the concept. But, I cannot agree with the change he is making in the composition of the commission. Since he stated that the present setup has worked well, it is difficult for me to understand the increase from five to seven members with five of the seven nominating colleges being located in New Orleans--regardless of the residence or sex of the presidents and regardless of how well they may do. I cannot support this. My amendment retains the present setup--five-member commission--but I make two changes to correct inequities: (1) We, in the present composition, we do not include black universities on the list of nominating universities; and we do not list a south Louisiana University. I retain Centenary College, Louisiana College; I combined Loyola and Tulane for one; Xavier and Dillard for one; and I add the University of Southwest Louisiana--the principle is the same. Under the present provision, L.S.U. is a public institution. I am replacing it with U.S.L. I am rather

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reluctant to decide whether to include Loyola or Tulane, or Dillard or Xavier; I would be willing to accept either. But, I don't want to give the impression I'm showing favoritism, and that is the purpose of the amendment. As it now stands, I am willing to accept the civil service provision. I am unwilling to accept the composition of the commission. I think many people will not accept five nominations being made by universities located in New Orleans. I have nothing against New Orleans nor against the universities involved. I do object to five from the same area, whether they are from my area or your area.

Further Discussion

MR. ALEXANDER

Mr. Chairman and delegates, the delegates to this convention have spoken repeatedly on this issue. First, the delegates have said, in no uncertain terms, that they are desirous of increasing the number from five to seven. I think that's definite and positive. Expanding the commission is one of the best ways to give wider representation. Second, the delegates to this convention have said without equivocation that they want women represented on this commission. The original Denney amendment guarantees that, in that, St. Mary's Dominican College would be one of the appointees. Thirdly, the convention has said, in no uncertain terms, that blacks should be guaranteed representation. This amendment, in my way of thinking, does violence to all three concepts. I think all of these concepts have been adopted and any attempt to change or alter them has been rejected repeatedly by the delegates to this convention. I say to you that since this is the worse of the worse and since this one does more violence than all the others combined, I am asking you to vote against this one, if possible, unanimously.

Thank you so very much.

[Previous Question ordered.]

Closing

MR. ASSEFF

Mr. Chairman, delegates, I would like to answer Reverend Alexander, because I feel that he has not stated the facts correctly. The present commission is composed of five members. The burden of proof to increase it to seven is therefore upon the person who sponsors it. I have no opposition to seven, if we can find colleges and universities outside of the same city. (2), We do have a black representative from either Xavier or Dillard. That is one out of five or approximately twenty percent which is about what the black population is. It would vary five or six percent about twenty-five or twenty-seven percent. Well, you can't represent everything. Women can be represented, as I see no reason if we are going to say these universities are so objective, so fair they are going to take everything into consideration--and that is what has been said--why can't they take sex into consideration? I see no reason why they cannot. If you wish to reject it, reject on the facts and not on the basis that it is being unfair to anyone because I think that the amendment is fair. I don't believe that many people...I know I am unwilling to accept the entire proposal if five colleges nominating come from the city of New Orleans, and I think that will be true of many people. Thank you.

Questions

MR. GINN

Dr. Asseff, you said you wanted to be fair with this amendment and all of that. I read Southwestern in that bill. What happened to Northeast, or Louisiana Tech, or someone like that?

MR. ASSEFF

I have no objections; I simply selected one, and U.S.L. because it is the largest in south Louisiana. I would have no objections to Southeastern; in fact, I included that first. I have no objections. I just want south Louisiana to make its own nomination; that is all. Thank you.

MR. ALEXANDER

I'm sorry. Since you have stated that women possibly could be represented under your amendment--with possibly one exception throughout the history of civil service--do you know whether any women have served?

MR. ASSEFF

I'm sorry, I cannot hear your question, Reverend Alexander.

MR. ALEXANDER

I say do you know without...with one exception, do you know of any women who have been appointed by any of these institutions?

MR. ASSEFF

I have no idea who's been appointed, Reverend Alexander. I have no assurance that five to seven will correct anything. Hasn't the argument been made that the present system has worked well? If it has, why increase the membership? I see no reason why these universities may not nominate a woman. I see no reason why St. Mary's Dominican could not nominate three men. Now, you give me a college outside of Orleans, and I'll go along with you.

MR. ALEXANDER

Dr. Asseff, are you aware of the fact that there is an amendment pending to disperse memberships so that no more than one individual can be appointed from a congressional district?

MR. ASSEFF

Are you aware of the fact that it takes it exactly one month, under a U. S. Supreme Court decision, to acquire residence in any congressional district, Reverend Alexander--so that is meaningless?

[Record vote ordered. Amendment rejected:
15-70. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment reads as follows: In Floor Amendment No. 1 proposed by Delegate Denney and adopted by the convention on December 8, page 2 of the floor amendment, line 22, immediately following the partial word and punctuation "nation," delete the remainder of line 22, delete lines 23 through 35, both inclusive, in their entirety, and on page 3, delete lines 1 through 8, both inclusive in their entirety and insert in lieu thereof the following: "There is hereby created and established a State Civil Service Commission to be composed of seven members who are citizens and qualified voters of the State of Louisiana. Five members of the commission shall constitute a quorum. The seven commissioners shall be appointed by the governor for a term of six years as follows: The presidents of Louisiana State University and Agricultural and Mechanical College at Baton Rouge, Louisiana; Centenary College at Shreveport, Louisiana; Louisiana College at Pineville, Louisiana; Southern University at Scotlandville, Louisiana; and Xavier University at New Orleans, Louisiana, shall each nominate three persons, and one member of the commission shall be appointed by the governor from three persons nominated by each president. Two members of the commission shall be elected by the classified employees of the state as provided by law. Vacancies by expiration of the term of office or otherwise shall be filled by appointment of the governor from nominations made in like manner by the president (or his successor) of that institution who nominated the member whose place is being filled, and by election, as provided by law, for members representing the classified employees. It shall be the duty of the presidents of Xavier University and Southern University to, within thirty days after the effective date of this constitution, make such nominations, and thereafter within thirty days after any vacancy occurs, it shall be the duty of the presidents of each of said institutions to make such nominations. Within thirty days of the expiration of the terms of the members of said commission previously nominated by the presidents of Loyola University and Tulane University and serving at the effective date of this constitution, an election shall be held, as provided by law, to elect two members to represent the classified employees.

All appointments as hereinabove provided shall be made by the governor without confirmation of the Senate."

We need a technical change here to the instructions to clarify, with respect to the amendments previously adopted. With respect to page 2 of the amendment, it ought to include deleting all amendments thereto. It's my understanding being that if this amendment adopted, a similar amendment would be proposed but somewhat different. But, stop short on page 3 of deleting the amendment added by the Hayes amendment--the Hayes amendment which reads: "Should one of the nominating authorities fail to submit nominees in the time required, or should one of the institutions cease to exist, the governor shall make the appointment to the commission" would stay in.

Explanation

MR. FLORY

Mr. Chairman and delegates to the convention, last week when

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we first started consideration of the civil service proposal, I had submitted three amendments, one of which was adopted and left only page one of the committee's proposal. The other two related to the appointment, procedures, and numbers of the commission.... both as it relates to the State Civil Service Commission and the City Civil Service Commission in municipalities over four hundred thousand. What this amendment does...is an amendment that I had asked that, and to be allowed to withdraw the other two amendments the other day in order to make some corrections inasmuch as I had talked to a number of delegates who were opposed to the governor having the appointive power to appoint two members of the commission. Parliamentary rules being what they were at that time--and still are-- Mr. Dennery objected to me withdrawing the amendment for the purposes of making changes--and I don't fault him for that. It was a parliamentary move in his behalf, which I think was entirely his prerogative. As a consequence, I had to withdraw that motion and go ahead on the merits of the amendments that I had submitted. The discussion that was held on the floor of the convention at that time, related to the--as I said--the power of the governor to make the appointments insofar as two members were concerned from state civil service. What this amendment does is retains five colleges, three of which now make nominations and the governor appoints from those nominations. The three colleges that are retained--as is the present constitution--Louisiana State University, Louisiana College, and Centenary College. Those three colleges are retained as to make nominations. I have added Xavier University at New Orleans and Southern University at Scotlandville to comprise the five nominating universities. The other two members would be elected by the classified employees--which there are some forty-nine thousand I understand, in the state of the sixty thousand employees that the state has. The election would work basically the same as it does with the State Employee's Retirement Board, with the retirement board--in that case--which sends out the ballots to each participant in the retirement system and they then mail their ballots back and they are tabulated in public. The same procedure here would be used, whereby, the Department of Civil Service would be the one that would send out the ballots to employees in the classified service--all of whom the department has on record, their names and addresses--they would be allowed to vote secret ballot and then they would be tabulated in public. A great deal has been said about the employees having the right in order to elect a member of the commission or two members of the commission. Some say that it would politicize the commission; some say that it would be expensive for a state employee to campaign for this particular office. I submit to you that that is not true. Politics and campaign in this type of an election are not done as in civil politics. If the members--and I don't recall exactly how many of them are elected; I think five on the State Employee's Retirement System, as well as the Teacher Retirement System, also elected--and they are able to police the investments and control of the funds in excess of a billion and a half dollars. Then, I see no reason why they couldn't conscientiously administer the affairs of the Department of Civil Service and the implementation of pay plans, the development of rules, and the hearing of the disciplinary cases. This is not without precedence in that the employees elect representatives for the Civil Service Commission almost throughout the state on the municipal level without--the except rather of the city of New Orleans. I would ask that you adopt this amendment to give the employees of this state some voice in the development of a pay plan, the development of rules which govern them in their everyday work. Now, they say that an employee sitting on the Civil Service Commission would be prone, on disciplinary cases, to vote for the employee who had been disciplined. All I can tell you is--based upon those systems where the employees do elect a representative--that has not been the case. I would venture a guess to say that in the majority of the cases, the employee representative that had been elected by his peers normally follows the administrative disciplinary action that has taken place, and upholds the administration based upon the facts developed in the case. So, you will not find that the employee just upholds the employee who has been disciplined merely for the sake of being an employee representative and upholding the employee. I ask that you adopt the amendment. Mr. Chairman, I will answer any questions.

Questions

MRS. ZERVIGON

Mr. Flory, first a point of clarification. Is it your intention to delete Mr. Champagne's amendment which demanded that the representation be dispersed geographically throughout the state?

MR. FLORY

No, my purpose was to make it apply only to the appointed members. I asked Mr. Champagne at the...I have not done that in my amendment. I think the desk has made the technical correction. If my amendment were adopted, it would do that to say that only the appointed members..no two appointed members could come from the same congressional district.

MRS. ZERVIGON

How can that be done at the desk?

MR. FLORY

I say that no two appointed members could come from the same congressional district.

MRS. ZERVIGON

You mean, we are going to have to amend it again?

MR. FLORY

No, if my amendment is adopted, it's my understanding that the desk has made the technical corrections to do that if the amendment's adopted.

MRS. ZERVIGON

May I ask the desk that question? You left the Hayes amendment, but other than that you said, "deleting all amendments thereto"; didn't you?

MR. POYNTER

As I understood what you asked, Mr. Flory, would be to keep the Hayes amendment but it would be necessary for Mr. Champagne to reoffer his amendment. Now, if you want to withdraw this, we can insert that language in the text of your amendment, whichever you prefer.

MR. FLORY

I thought the desk had made the correction. My amendment does delete the Champagne amendment based upon the fact that he agreed at the time that he had his amendment under discussion, that if this was adopted, that it would apply only to those that were appointed. I would have to come back with an amendment to provide that only the appointed members, no two of which could come from the same congressional district.

MRS. ZERVIGON

Well, in addition to that, would you point out to us exactly the differences between this amendment and the various Kelly and Roemer amendments and other amendments that went the route of adding public as opposed to... private as opposed to public colleges. It seems to me yours combines two different philosophies: one, the inserting of public institutions, and the other, electing from the employees--which we beat several times both Saturday and today. I was just wondering what exactly you had done in the way of making your amendment different that would make it more acceptable to the body.

MR. FLORY

No, this amendment has been on file, Mrs. Zervigon, since the first...when we discussed and I offered a motion to withdraw the amendments the other day to make corrections. These amendments were before the convention at that time. This is the only time I have had an opportunity to present these amendments. Therefore, what it does, is exactly what you said in that you have three private colleges, two state universities making nominations, and you have two members of the commission being elected by the classified employees of the state.

MR. JENKINS

Gordon, I have been trying to compare your amendment to some others. It seems as though yours is exactly the same as Don Kelly's amendment, insofar, as adding L.S.U. and Southern. The only difference is you take out Tulane and put in another elected employee so that you have two employees; is that correct?

MR. FLORY

I have two employees elected, Mr. Jenkins. As I said the other day, there were many who objected to the governor. In my original amendment it called for seven members and it called for the governor to make two appointments--five nominating colleges and two to be appointed by the governor. What this does is to allow the two to be elected by the employees in the classified service.

MR. JENKINS

In the past--I noticed you take out Loyola and Tulane--

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in the past haven't Loyola and Tulane both presented the commission with good commissioners that have served well?

MR. FLORY

They have made...they have complied with the constitutional provisions and made nominations to the governor and the governor has made those appointments.

MR. JENKINS

Let me ask you another thing: Under your amendment really four out of the seven would be from either public colleges or public employees; isn't that correct?

MR. FLORY

Mathematically, that's correct.

MR. CHATELAIN

Mr. Flory, how will you estimate that the two members of the civil service, throughout the state, would be elected? I see you have five to be appointed by the governor, and two members of the commission to be appointed by the governor from recommendations of the civil service. How do you think this would go about, or what would be the mechanics of this, sir?

MR. FLORY

Of the election?

MR. CHATELAIN

Yes, sir.

MR. FLORY

I say, as provided by law, and I think the election procedure could be set up by law, as I mentioned, as it is done in the same manner in which the state employees' retirement system, elects, I think, it's five members. I'm quoting from memory now, but I think it's five members, elected statewide from all of the participants in the retirement system. The civil service department has on file every classified employee's name and address who works for the State of Louisiana. They would be nominated in accordance with the provisions of the law. The department would mail out ballots of those running in the election. The employee, when he received it, would cast his ballot, place it in a blank envelope, place that envelope in another envelope. It would go back to the commission, they would be opened in public. The first envelope would be opened. They would be co-mingled then together in the blank envelope, they would then be opened and counted.

MR. CHATELAIN

You don't think that the hierarchy of the association would have any influence on anyone, then, in your opinion?

MR. FLORY

Not in my judgment. A man gets his ballot at his home. He casts his ballot at home, and puts it back in the mail.

[Previous Question ordered. Record vote ordered. Amendment rejected: 34-54. Motion to reconsider tabled.]

Amendment

MR. POYNTER

I have another set of amendments sent up by Delegates Kelly, Roemer, Bergeron, Alphonse Jackson.

Amendment No. 1. In the floor amendment proposed by Delegate Denny, and adopted Saturday, page 2 of the amendment, delete lines 27 through 35, both inclusive in their entirety. On page 3, delete lines 1 and 2 in their entirety, and insert in lieu thereof the following: "Nominations. The presidents of Centenary College in Shreveport, Louisiana; Dillard University at New Orleans, Louisiana; Louisiana College at Pineville, Louisiana; Loyola University of the South at New Orleans, Louisiana; Tulane University at New Orleans, Louisiana; and Xavier University at New Orleans. After giving due consideration to representation to all groups, each shall nominate three persons. One member of the commission shall be appointed by the governor from three persons nominated by the president. One member of the commission shall be elected by the classified employees of the state from their number, as provided by law. A vacancy for any cause shall be filled by appointment, or elected in the course or procedure of law governing the original appointment or election, and from the same source. Within thirty days."

Explanation

MR. KELLY

Mr. Chairman, ladies and gentlemen of the convention, we're back with the same concept of trying to get an employee representative on to the Civil Service Commission. Now, there are no public schools listed in this particular amendment. We're dealing primarily with private institutions, and the only one...

Point of Information

MRS. BRIEN

Mr. Chairman, isn't that the same amendment the convention's been rejecting, two or three times, already?

MR. HENRY

Well, it's the same concept, but it's not the same amendment. Mrs. Brien. Some people just keep going and going. You know how Mr. Gravel and Mr. Kelly get, some days. So, I guess we'll have to listen.

Proceed.

Explanation continued

MR. KELLY

I tell you what, Mr. Chairman...I'll tell you and I'll tell the rest of this convention, you all can go back home if you want to, and tell these people that are employed under this particular commission that you denied them a voice on this commission. Now, you can do that. But, I'm not going to, not at all. So, back to the amendment as it stands. In other words, we've got six private institutions. Now, this is the same thing that has been passed by this convention at this time. We're taking out one private college, and that's the St. Mary's Dominican, or some small private institution there in New Orleans. We're removing that institution. We are leaving Centenary in north Louisiana; we are leaving Dillard, Louisiana College, Loyola, Tulane, and Xavier, and then asking for one thing: that you give the civil service employees of this state the right to elect one member to serve on this commission. That is the only change, aside from what has already been passed. In other words, you've got a seven-man board that has already been passed by this convention. You've got seven private institutions that are going to make the nominations. Now, what is so wrong with saying, all right, let six of these private institutions make the nominations, and let the civil service employees of the state elect one of their number to serve on this particular commission. Now, this is a definite change from what was done earlier, and some people have valid... not necessarily valid objections, but in their own mind they were valid objections, as to placing public institutions as one of the nomination members of the group. There are no public institutions. Southern University is not included. Louisiana State University at Baton Rouge is not included. There's no Southwesterns, no Northwesterns, no Southeasterns; there are no public institutions. There are six private institutions, just like has already been passed in the Denny amendment, with one exception. One person who would sit on this commission would be a certified employee of the state. I ask that you give this amendment your favorable consideration.

Question

MR. TOBIAS

Don, would you be willing to accept an amendment that would state that the elected member of the commission would be ineligible to ever be reelected to that office?

MR. KELLY

That's fine with me. I have no objection. In other words, I think that possibly that might even be a good amendment. That would mean that there would be no certified employee of the state that would become so entrenched, in other words; it would give different people, different certified employees throughout the state, a chance to serve in this capacity. I would personally have no objection to such an amendment.

Further Discussion

MR. BERGERON

Mr. Chairman and delegates to the convention, I won't rise before you and tell you that I'm an expert on civil service in

the State of Louisiana. I voted for the Dennery amendment, and if you'll check my voting pattern, I haven't voted to change any of the colleges, private institutions which will be doing the nominating for the members of the Civil Service Commission. Yes, we did change St. Mary's Dominican College, an all-woman college. But, we did provide for one member to be elected. Now, who's to say this member will not be a woman? Why not allow the employees of the civil service system throughout the state to have one member on this board—one member who represents the views of sixty thousand workers. Now, previously, we set the precedent of electing officials throughout the state. I feel it's a good process. I feel this is one case where we should have an election. I've heard from this platform that you want public institutions to do nominations to the Civil Service Commission because they are closer to the working class throughout the State of Louisiana. Why not have a member who's elected? How much closer can you get to the working class of the people of Louisiana, than one from among their own ranks? I also feel that this one member, one member, we're not talking about a majority, or a controlling factor; we're talking about one out of seven. I feel he could be helpful in relating the views of the people in civil service to the commission. I won't take up any more of your time because I feel this matter has been discussed thoroughly. I feel we've heard all aspects of it. I would simply urge you to let the working class of this state have a voice in the system which governs them. Thank you.

Further Discussion

MR. REEVES

Mr. Chairman and members of the convention, I realize many of you aren't listening to what's going on, and you've made up your mind, and it's become a solid, concrete wall. No amount of screaming by me or listening to the intelligent debate by some of the other delegates could dig into this solid concrete wall that you have. Well, let me just for a moment, involve you with what you've done in the past. In you, good government, excellent government, pseudo-government—individuals sitting out there, listen just a moment. On the Executive Article, you voted, along with me, and you debated continually, and from this podium, many, many delegates came forth and said that people of the State of Louisiana must not be denied representation, must not be denied the sacred right to vote on certain elected officials. We were able to place these elected officials back in the hands of the elected...of the electors, and rightfully so. But then, your hypocritical little minds, all of a sudden, just change when it comes to civil service system. You don't want sixty thousand civil service employees to have any representation. Now, you explain this to me. In your little explanation, the only thing that you've been able to say is: "woo, woo," we don't want the civil service system to be involved in politics. I say to you that's hogwash. The civil service system has always been involved in politics. It always will be involved in politics because the political system is either a political system behind a closed door, with individuals that are trying to put forth their own ideas across, or it's out there in the ballot box, and sixty thousand civil service employees need one representative on a Civil Service Commission. That's all Mr. Kelly and Mr. Roemer, and Mr. Bergeron, and Mr. Jackson are asking, that these individuals be not denied the most sacred right that there is, the right of simple representation. Now, as Mr. Kelly said before, you may go home and tell these people, no, we thought you didn't have the intelligence; we thought you couldn't get up and figure out an individual to represent you on a civil service system; we thought the technicalities were just a little bit too great, as Mr. Riecke said. Now, how in the world, is sixty thousand people going to get together and elect somebody to be their representative? Now, you've just said that, I think here, the technicalities are too much for these people. Well, I'll say that the technicalities are not too much, and my voice and my vote is going to be for having the people of the civil service system having a right to elect a representative to voice their opinion on the Civil Service Commission. That's all we're asking. I think that this is all that any intelligent human being could ask. But, again, I realize that some of you're attacking your hand, and you're saying, "Oh, no; oh, no, we can't give representation to people because you know what they'll do." Representation to people's wrong. Well, you're just little people, just sit back with your hypocritical minds, and think about it. You gave representation once to people because that was you. Let's give it to all the people, including the people of the civil service system. Let's give them a voice in their representative.

Further Discussion

MR. STAGG

Mr. Chairman, Mr. Reeves got up here and asked everybody to think about what they're doing, and tried to equate it with what was done on the election of the statewide elected officials. Then, he said that the delegates sitting out there in front of them were possessed of hypocritical, little minds. I wonder if that's the way you get people to change their minds. I move the previous question on his amendment.

[Previous Question ordered.]

Closing

MR. KELLY

Ladies and gentlemen of the convention, I just want to reiterate one thing because this is the issue involved. There's one issue involved here. In the past in some of these other amendments that have been up here, there have been more than one issue. In other words, whether you're going to substitute public institutions for private institutions, etc. There's one issue involved in this amendment. We're leaving Mr. Dennery's proposal as it absolutely stands except we're removing one of the private institutions, and giving the people, the civil servants of this state, the right to elect one of their members to serve on a seven-man commission. I ask that you support it.

[Record vote ordered. Amendment adopted:
52-41. Motion to reconsider tabled.]

Amendment

MR. POYNTER

I have a set of amendments that go to both (C) and (D), sent up by Mr. Avant.

Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the Convention Saturday, on page 2, at the end of line 26, immediately after the word and punctuation "years." add the following: "No person shall ever be appointed to serve for more than one term of office on the commission."

Amendment No. 2. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted on the eighth, page 3, line 15, immediately after the word and punctuation "provided." and before the word "The" insert the following sentence: "No person shall ever be appointed to serve for more than one term of office on a city commission."

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, this is a very simple amendment, and I think the reasons behind it should be rather obvious. This entire system, supposedly, is nonpolitical, nonpartisan, disinterested operation of a personnel system amongst state and city employees by individuals who are appointed upon the recommendation of the presidents of certain private institutions, primarily, until this most recent amendment was adopted, which gave one member in the State Classified Service the right to be on this board, so as to insure a completely nonpolitical system. Now, under those circumstances, and in line with that philosophy, if you accept that philosophy, it seems to me that it is necessary that we add the provision that no such individual shall serve more than one six-year term on this commission, so as to prevent the system becoming frozen by lack of input and contributions from a wide and varied body of individuals who may be appointed by this process from time to time. I think that, perhaps, some of the objection and some of the dissatisfaction that has been expressed as to the present system, would have been avoided if we had this provision in the present constitution. Now, that, without any disrespect or any criticism of any member of the commission, past or present, who has been on there and has served. But, I do know of a number of members who have served on that commission for at least twelve years, and maybe, some longer—at least two terms. Now, it seems to me that that is directly contrary and at odds with what you are trying to accomplish with this philosophy that's expressed. I won't take any more of your time. I think that you understand the purpose of the amendment. I think that it will actually strengthen the system rather than weaken it. I ask your favorable vote.

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Questions

MR. ROEMER

Jack, as I read your amendment, it does not apply to the elected person. Is that correct?

MR. AVANT

No, it does not, Mr. Roemer. As far as I am concerned, I would have no objection, once my amendment is adopted, if someone wanted to amend my amendment. But, I didn't want to withdraw it and get into all that, get bogged down and all that process. My amendment goes to the appointed members and provides that "no person will be appointed to more than one term on either a State or a City Civil Service Commission.

MR. ROEMER

I understand. Yours was prepared before it. . .

MR. AVANT

It was prepared before the Kelly amendment was adopted, and I just didn't want to get bogged down in all of that withdrawing it and resubmitting it and all. . .

MR. ROEMER

But, if adopted, you're saying that you will support to make it all inclusive?

MR. AVANT

I said I wouldn't object to it. I won't be up here fussing about it. I've got to think about it a little bit.

MR. LANIER

Mr. Avant, in line with what Mr. Roemer was saying, why would you treat the elected member different than the appointed members? They're all members of the same board.

MR. AVANT

I'm not treating him any different, Mr. Lanier. My amendment was drawn—I thought I answered that question—my amendment was drawn and had been up there before the Kelly amendment was ever adopted. I just didn't want to withdraw it and resubmit it and go through all that malarkey. If somebody wants to adopt. . . offer an amendment to my amendment, if it's adopted, to make this restriction apply to the elected members, I promise you, I will not be up here fussing about it.

MR. LANIER

Now, secondly, don't you feel that your amendment would create the situation that where a person has been there for six years and was getting some expertise in the job, that suddenly they would have to be removed?

MR. AVANT

Mr. Lanier, it's my understanding that these people are appointed to this thing, supposedly, because they already have this expertise. I think that expertise from various sources would be desirable, rather than to create a bureaucracy that kind of becomes frozen in itself and gets stultified and doesn't have any new thoughts or any new ideas. I think that the entire system, in accordance with the philosophy of the people who promote that system, will be improved, if you adopt my amendment.

MR. TOBIAS

Mr. Avant, are you aware that I have an amendment that would require that the elected member would not be eligible for reelection?

MR. AVANT

I know you asked me if I wanted to pull mine down and put that on it, and I said no. But, I didn't know that you actually had sent up an amendment to that effect. But, I promise you, you won't see me up here opposing it.

Further Discussion

MR. JENKINS

Mr. Chairman, delegates, I want to urge you to vote against this amendment for this reason: you have some good people serving on the commission, now. For example, the chairman, Mr. Harry A. Johnson, Jr., people who have built up some expertise, who understand these problems. I don't see any reason that their experience and knowledge should be thrown out the window. Normally, anyone who is appointed to this position is going to have to be reappointed by a different governor. If a different governor saw fit to appoint this person, it would probably

indicate that this person is pretty well qualified and must be doing a pretty good job on the commission. I just don't see any reason that we should automatically rule out that expertise. Now, as far as these people being involved in politics and things like that, putting a one term limit does nothing to further limit their political activity. Under Subsection (1) of Mr. Dennery's proposal, you'll see that no member of any Civil Service Commission can be a candidate for political office, or engage in political activity, or serve on a political party committee, or contribute to a campaign, or anything like that. So, these people are not going to be involved in partisan politics either way. I just don't see why we should say that good people who understand these problems, who have some experience, and who might be appointed by a different governor should be ruled out of serving on these commissions. So, I urge you to vote against. . .

Questions

MR. LANIER

Mr. Jenkins, these people on this Civil Service Board, they won't have staggered terms, will they?

MR. JENKINS

I thought that they would, Mr. Lanier, but I'd have to check it to be sure. I'm just not sure about that.

MR. LANIER

Well, if they don't have staggered terms, that means that they'd all go off at the same time. Is that right?

MR. JENKINS

That would be true, if they didn't have staggered terms.

MR. LANIER

So, the governor would have all these appointments at one shot, if they don't have staggered terms?

MR. JENKINS

That would be correct.

You could have a revolution in the commission and have no expertise remaining, if that were the case. But, I'm not sure whether it is or not.

[Previous Question ordered.]

Closing

MR. AVANT

I'd like to answer the so-called criticism --I don't mean that disrespectfully--made by Mr. Jenkins and Mr. Lanier. In the first place, it's my understanding the provision calls for staggered terms. But, the idea that the governor is going to stack the commission--even if they don't provide for staggered terms--is absolutely ludicrous to me, because the governor has got to pick from three people, none of whom he has any voice in naming. They are named by the presidents of these colleges. Now, one thing that I want you to bear in mind is that if a given college president has named an individual previously, and nominated him, and he has been appointed by the governor and has served on this commission, the best way in the world to insure that he goes back is when you submit the three names again, submit his name, and two people that you know are completely unacceptable to the governor. That way, you will insure that your choice will continue to serve on this commission. Now, I have not got up here and made any charges that anybody who has ever served on this commission has participated in politics or tried to politicize the commission. My point is simply this: that you need to change--on a commission of this type--you need to have new input, you have to have a fresh point of view. For that reason, because of the very nature of this commission, a six-year term is long enough for one particular individual to serve. They are appointed, originally, based upon their expertise and knowledge of personnel matters. Certainly, no one person is indispensable; and certainly, college presidents can find a number of people. They've got to appoint three, in the first place--they've got to nominate three, in the first place. So, they've got to find at least three that they are willing to recommend. I think that the entire system will be strengthened and that many of the criticisms of the system will be silent by this simple amendment. I strenuously ask you to support it.

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[Amendment rejected: 30-59. Motion to reconsider tabled.]

Recess

[Quorum Call: 68 delegates present and a quorum.]

Amendment

MR. POYNTER

Delegate Abraham sends up amendments. Mr. Abraham.

Amendment No. 1. In Floor Amendment No. 1 proposed by Delegate Denney and adopted Saturday, on page 2, line 26 of the text of the amendment immediately after the word "for" and before the word "terms" insert the word "overlapping."

Explanation

MR. ABRAHAM

Ladies and gentlemen, I think it's the intent of most of us, or the understanding, that these members do serve overlapping terms. However, the way the proposal reads, it simply says that they shall serve "for terms of six years," without anything to signify whether or not they would be overlapping or not. All this amendment does is insert the word "overlapping" to insure that these members will serve for overlapping terms, and that there will be some continuity to the commission. I ask the adoption of the amendment.

Questions

MR. NEWTON

Mr. Abraham, I'm basically in agreement with your amendment, but I'd like to know how you propose to implement it.

MR. ABRAHAM

I have not placed any provision for implementation in here. However, I think that we would have to provide in the schedule or somewhere for the implementation of these type of terms, the same as we have done elsewhere.

MR. NEWTON

You propose to put it in a scheduled provision. Is that right?

MR. ABRAHAM

Probably so.

MR. DENNEY

Mr. Abraham, are you aware that Delegate Proposal No. 28, which can be pulled from the calendar, provides for the transition of State Civil Service Commission members and City Civil Service Commission members, in order to answer the question which was just put to you?

MR. ABRAHAM

I remember now that you reminded me of it. That's true, yes.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Mr. Tobias sends up amendments at the present time, which read as follows:

Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Kelly, adopted by the convention on today, on line 13 of said amendment after the word and punctuation "law," insert the following:

"The elected member shall be ineligible for reelection to the commission."

Explanation

MR. TOBIAS

Mr. Chairman, fellow delegates, this amendment is different from the amendment which Mr. Avant offered in this respect: a member of the . . . a classified employee of the civil service system still must continue to work while he's a member of the

commission. There has to be some means of insulating this employee from the pressures that may be brought to bear upon him by his fellow employees. It is true that his fellow employees, while he is working, can more or less not talk to him--give him the silent treatment--and pressure him in that respect. But, at least, it will in some small way--this amendment--will take him directly out of the political limelight, or whatever, that may develop because he sought election to the Civil Service Board. I urge its adoption.

Questions

MR. FLORY

Mr. Tobias, are you saying, in effect, that the . . . by your amendment only the elected representative can't succeed himself?

MR. TOBIAS

Right, I'm trying to insulate him from his fellow employees, in other words, to take him out of the political . . . the politics of being elected to a board. I think that as long as he is a . . . it will provide the independence which we are hoping that the appointed members of the board appointed by private institutions will have.

MR. FLORY

You think that's all right, but just leave the appointed members to serve as long as they can play politics and get reappointed?

MR. TOBIAS

I have voted for the other . . . that amendment.

MR. ROEMER

Max, it seems that we are inclined to look with suspicion on a lot of these potential appointments and people who have been elected, and it seems that's what you're doing here. What about the other side of the coin, Max, that if the guy spends six years and does a good job, gains experience and is representing the employees? We're going to deny him the right to run and get reelected by the people he served so well?

MR. TOBIAS

I am attempting, by this amendment, to limit him and to protect him from the pressures--some of the pressures--that may be brought to bear upon him. In other words, to keep him from having to vote on an issue on employees merits . . . on the merits simply because he is the elected employee . . . elected representative and feels that in order to get reelected, he's going to have to vote that way.

MR. ROEMER

I understand that, but what about when the guy runs for the office the first time. Doesn't he realize that there are going to be these pressures on him? If he can't take it, then he won't run for reelection. I just cannot see, you know, protecting a man who doesn't need protection. He ought to know when he runs for the job what it entails.

MR. TOBIAS

We disagree.

MR. BERGERON

Max, you're just trying to keep this one elected member to the commission in an independent position. Am I correct?

MR. TOBIAS

As much as possible; definitely.

MR. BERGERON

You just want him . . . more or less, you want the changeover every term?

MR. TOBIAS

Right.

MR. BERGERON

Right; I agree with you.

MR. TOBIAS

In other words, sort of as a lay judge on a commission. In other words, the voice of the servants . . . of the civil servants of the state.

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MRS. ZERVIGON

Max, to follow up on Mr. Roemer's questions, if the member nominated by Loyola University wanted to be renominated by Loyola University, what sorts of favors could he do for that university in line with his job?

MR. TOBIAS

Possibly have better garbage collection or something. I don't know. I don't think he has anything.

MRS. ZERVIGON

But, if an elected member wanted to do favors to be reelected, there are certain things that he could fudge on?

MR. TOBIAS

I think he definitely could.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I rise in objection to the amendment for singling out the elected representative of the classified employees of the state, and say that he can be elected and he can serve one term, but that he can't succeed himself; or that he could, perhaps, fill an unexpired term, and he couldn't succeed himself. Let me say to you this: that I voted to have the appointed members limited to one term, and I would not have voted against this amendment had that other amendment been adopted. But, when you choose to leave the appointed member to play politics to get appointed and to keep being appointed and reappointed, and then say to the elected representative, "No, just because you do a good job and you're elected by your fellow workers, we're going to deny you the right to run for reelection," now, I say, let's be consistent. If we're going to adopt this and put it in there as regards the classified employee, then I think it's good for the appointive members, also. But, this convention has already spoken on that issue in rejecting the limitation of one term to the appointed officials. So, I suggest to you that we ought to reject this amendment, and I ask you to reject this amendment. It's unfair to put the employees who are elected in one category, and those who are appointed in a higher category; to say that just because they are appointed, they don't play politics, and particularly when they are appointed upon the recommendation of a private college. But, if that man is elected by forty-nine thousand state employees and does a good job, he can't run for reelection. I ask you to reject the amendment.

[Previous Question ordered.]

Closing

MR. TOBIAS

Ladies and gentlemen, I think that one must realize that when you assume that someone doesn't vote with you, you assume he must be representing the other side. I think that that's a false assumption that some people might make. All I'm saying is that if we're going to have an elected member of the board who is elected by the civil service employees, he should function simply as a lay judge, and he should be insulated as much as possible from his...the pressures of his fellow employees and the pressures of reelection. I urge the adoption of the amendment.

[Amendment rejected: 28-57. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments is sent up by Delegates Casey and Dennery.

Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the convention on the 8th, on page 2, line 27 of the text of the amendment, in Floor Amendment No. 1, proposed by Delegates Kelly, et al, and adopted by the convention on December 11, (now if you follow this, this amends the Kelly amendment) on line 6 of the Kelly amendment, immediately after the word and punctuation "Louisiana;" and before the word "and" insert the words and punctuation "Louisiana State University and Agricultural and Mechanical College at Baton Rouge, Louisiana;" and on line 11 thereof, immediately after the word and punctuation "president." delete the remainder of the line and delete line 12 in its entirety and on line 13, at the beginning of the line, delete the words and punctuation "their number as

provided by law." and on line 14, immediately after the word "appointment" and before the word "in" delete the words "or election" and on line 15, immediately after the word "procedure" and before the word "governing" delete the words "or law" and on line 16, immediately after the word "appointment" and before the word and punctuation ", and" delete the words "or election."

Explanation

MR. CASEY

Mr. Chairman and delegates, I feel quite strongly that the convention erred in adopting the Kelly amendment earlier providing for the appointment of six members of the Civil Service Commission through nomination by the presidents of various universities, and a further provision for the election of one member. There was much discussion on...there was much discussion on Saturday, particularly, referring to the fact that this is the board of managers for the personnel department of the State of Louisiana, that that particular board or commission should not contain an employee who, in fact, provides not only for regulations, but is also a judge--is a judge, judging other employees where complaints are lodged, where grievances are lodged to the Civil Service Commission. What is done by this particular amendment is to merely provide that in lieu of this particular employee who might be elected by the classified employees of the State of Louisiana, to satisfy a small group of the citizens of Louisiana--approximately forty thousand people--as compared to the three million, eight hundred thousand that we have in the State of Louisiana today, that this board of commissions should rightfully represent. This attempt is to take that one particular representative out who is elected, and substitute in lieu thereof someone nominated by LSU, Baton Rouge. That's merely the intention of this particular amendment. As you know, LSU-Baton Rouge is contained in today's constitution. So, in some small respect, we are returning most of the commission to the status that the Civil Service Commission enjoys today.

I would urge you, very strongly, to reconsider the position which you adopted by adopting the Kelly amendment, and change at least that part of it to eliminate the election of an employee which rightfully should not have a position on a board that governs employment practices, hiring, firing, various regulations and procedures for the entire personnel department of the State of Louisiana for the classified service of civil service. I urge the adoption of this amendment.

Questions

MR. KELLY

Tom, how did you vote this morning on the amendment which would have placed Southern and Louisiana State University into a nominating position? The Louisiana State University is a public institution, is it not?

MR. CASEY

It is. Frankly, my main philosophy is that we should not have a public institution, frankly.

MR. KELLY

How did you vote?...How did you vote....?

MR. CASEY

I just finished answering it. But, this is far better as far as I am concerned. I submit to you my humble opinion. That's all it represents, that this is far better than having an election process whereby one of seven members is an elected individual where there's an elective process through the employees of the State of Louisiana.

MR. KELLY

I'm going to press you to answer my question.

How did you vote this morning when we tried to place LSU into a nominating position? You voted against that. Did you not?

MR. CASEY

I have...Mr. Kelly, I have consistently voted to maintain as far as possible, private institutions on the nominating list of those nominating individuals for the Civil Service Commission.

First, Mr. Kelly, if I could just answer your question, we had not adopted your amendment at that time, Mr. Kelly, when we were so voting.

MR. KELLY

I'm going to ask you one final time. Did you vote for or against placing LSU into a nominating position this morning?

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MR. CASEY

Well, my answer was that I've consistently voted to maintain private institutions. So, I think I voted more than once against LSU being on this nominating commission. Right.

MR. KELLY

So, you voted "no." Is that correct?

MR. CASEY

If it was this morning, last Saturday, last Friday, any other time, I voted "no" consistently.

Further Discussion

MR. ROEMER

Mr. Chairman and fellow delegates, I arise to oppose this amendment. Let me explain again, perhaps in more clear terms than Mr. Casey did, exactly what his amendment does. It, in effect, negates those directly opposite to the amendment--the Kelly amendment that we passed just a few hours ago, which gave us a seven-man State Civil Service Board, six of them appointed from educational institutions in this state, and one, only one of the seven elected. This amendment would take that elected person, eliminate them, and replace them by an appointee from the Louisiana State University System. I am not opposed to LSU having the power to, or the right to nominate someone to this most important board. That's not my reason for opposition. I'm opposing it because it eliminates the hard work that we put in, and the clear vote that we made this morning, in allowing one of these seven members to be elected from the people that are most effected by civil service, and that is the civil service employees.

I don't wish, and I don't think you want me to rehash all the arguments that we use to successfully pass the election of one man this morning. But they center around the fact, not only the importance of the board, but also what's done on other boards and in other states. For example: in Colorado, in their State Civil Service Commission, they have two members elected. What we've done today in this convention is not unprecedented. What we've done today in this convention is, at least to the majority of us, a step forward for civil service in this state. I don't think that it's in our best interest as a body, or in the best interest of the state that we represent, to undo now what we did just a few hours ago after several days of debate, and after several attempts at reaching a fair compromise. I urge you to stick by our decision of early this morning, and allow for a meaningful board composed of seven members, six of whom are appointed from educational institutions, and one as elected by the civil service employees of this state. I think that Mr. Casey, when he makes the argument that the one elected representative is of a narrow base, fails in that argument quite clearly in the sense that you see on your desk now, an amendment from Mr. Casey which just affects the railroad employees of the state. If you talk about narrow amendments and narrow boards, how more narrow can you be? I think that what we did this morning is a step forward for civil service. I urge you to vote against this amendment, and let's stick with our better judgment and a positive vote that we've already made.

Questions

MRS. ZERVIGON

Mr. Roemer, you're opposed to taking votes on amendments, the concept of which is already lost?

MR. ROEMER

Say that again.

MRS. ZERVIGON

I say, you're saying you're opposed to taking a vote on an amendment, the concept of which has already lost at one point or another in time?

MR. ROEMER

No. I'm not opposed to taking votes. I just urge you to vote no.

MRS. ZERVIGON

It seems to me that you have brought up amendments with this concept in it a number of times and been defeated. I was just wondering how this last vote that you finally brought it up again, fits in with your philosophy along these lines.

MR. ROEMER

Well, it's a good point, and understand the difference. I'm

not opposed to him bringing it up, I'm just opposed to you voting for it.

MRS. ZERVIGON

Let me ask you one more question.

Did you submit an amendment to have a teacher representative help on each school board?

MR. ROEMER

No, I did not.

MRS. ZERVIGON

As a matter of fact, the new constitution, as we've written, forbids that, doesn't it?

MR. ROEMER

Yes.

MRS. ZERVIGON

Do we have an A.A.U.P. representative on the LSU Board?

MR. ROEMER

No.

MRS. ZERVIGON

So, not all boards are really constructed to be representative. Isn't that not so?

MR. ROEMER

That's definitely true.

MRS. ZERVIGON

Did you....

MR. ROEMER

We're just trying, Mrs. Zervigon, to make this board representative.

MRS. ZERVIGON

Did you submit an amendment that there should be one elected from the unclassified service as well?

MR. ROEMER

No.

MRS. ZERVIGON

Did you submit....an amendment saying there should be a representative of the department heads?

MR. ROEMER

No.

MRS. ZERVIGON

So, you only want one group represented. You also did not submit an amendment that would make this one per congressional district appointed or elected from congressional districts.

MR. ROEMER

Well, Mrs. Zervigon, to answer your question about just having one group represented, the one group that we now have represented, happens to be the clear and overwhelming majority of the group involved. I hope you realize that.

MRS. ZERVIGON

No, sir. I believe that the overwhelming majority of the people affected by the Civil Service Commission is the taxpayers of this state. Would you not agree?

MR. ROEMER

It's certainly true. I have considered....

MRS. ZERVIGON

You have considered nobody.

MR. ROEMER

Let me tell you something, Mrs. Zervigon, out of the seven representatives that we have on this board, there is no guarantee that any of them are going to represent the taxpayers, and you know that.

Further Discussion

MR. VELAZQUEZ

Mr. Chairman and fellow delegates, I rise to oppose this amendment. I think that we've been trying to strive for balance,

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and the Kelly amendment earlier today was an attempt to try to put some balance into the problems that we've had of the people who are arguing whether we should have state institutions, or private institutions; whether the institutions should be north or whether they should be south. I think that by going ahead and putting LSU in—which is a fine institution, an institution which I have nothing against—an institution which has done a great job here in Louisiana, that we are insulting all the other fine state institutions. What about USL, what about Louisiana Tech, what about Northwestern, what about Southern, what about Northeastern, what about Southeastern, what about Nicholls State, what about Grambling? If we're going to have a public institution in here, let's try to figure out some way to balance it. We just can't be, every time you have a hole somewhere, or there's a job available, or an appointment available, you're going to give it to LSU? I think that Mr. Kelly, this morning, tried to balance out the warring factions here in this convention. I think that we have to try to have that balance; that by putting LSU in and deleting the man who represents the classified employees themselves, we destroy the balance that we got in the amendment this morning--the early amendment by Mr...Kelly.

I urge you to vote against this Dennery-Casey amendment.
Thank you.

Further Discussion

MR. DENNERY

Mr. Chairman, delegates to the convention, I rise in support of this amendment. I have studiously avoided taking the floor this morning because I thought you had heard enough of me the other...several days. However, I think that the Kelly amendment which was adopted this morning is, as Mr. Perez would call it, a bad, bad, bad amendment. It seems to me that we are overlooking the true nature of civil service. Don't forget that civil service in one phase, protects employees. But, in another phase, at least the equal of that, if not the greater, it installs in the state service a merit system for the benefit of all of the citizens of the State of Louisiana. Now, it seems to me that the fair method of appointing a commission, is to get as independent a commission as it is possible to get. I thought that the method that we had adopted originally, with the seven private universities, was exactly that. This morning, the convention in its wisdom, removed one of those seven universities and substituted in place thereof, a representative to be elected from the classified service by the members of the classified service. As Mrs. Zervino pointed out in her questioning of Mr. Roemer, and as I don't believe Mr. Roemer successfully answered, the entire state should be represented on this commission. This should be no one group, specifically required to have representation. As I stated in an answer to a question the other day, there's no objection to an employee being appointed to the commission. There's no objection to have the voice of the classified employees represented on the commission. There is, in my mind, an objection to requiring that one group of citizens in this state, even though they be the employees of the State of Louisiana, be required to have representation. Management has no formal representation; the employee should have no formalized representation.

Input into the commission may be gained by the employees, and is, as a matter of fact, and not behind the closed doors that have been mentioned. All of these meetings of the commission are open. The law requires them to be open. The employees and their representatives have a perfect right, and as a matter of fact, do appear before the commission and give input into the rules.

When it comes to trying a case, however, don't forget, an employee normally is the one who appeals to the Civil Service Commission to determine if his disciplinary action, which was taken against him, either in the nature of dismissal or suspension, was proper. It seems to me that it is exceedingly difficult to permit another classified employee to pass upon this, and to require another classified employee to pass upon this. I repeat, the important one of the very corner stones of a good civil service system, a sound merit system, is to have a completely independent commission.

I urge you to adopt this amendment.

Questions

MR. SHANNON

Mr. Dennery, have you ever had employees under your supervision?

MR. DENNERY

Yea, sir.

MR. SHANNON

How many?

MR. DENNERY

Well, when I was a member of the State Civil Service Commission, I suppose you could say forty thousands, but, other than that, in my own personal business, relatively few.

MR. SHANNON

Then you have no input as far as an employee is concerned?

MR. DENNERY

Well, I did when I was on the Civil Service Commission, Mr. Shannon, that's exactly....

MR. HENRY

The gentleman has exceeded his time.

Further Discussion

MR. KELLY

Mr. Chairman, ladies and gentlemen of the convention, I rise in opposition to this amendment. This convention spoke clearly earlier today. We've worked hard since last Saturday to try and reach what we all felt was agreeable to all interests within this convention. We finally ended up with six private institutions making nominations for appointment by the governor. We finally saw fit to give the people who are really concerned adequate representation on this board. We did not do further violence as has been alleged by some people in this convention, to the entire concept by replacing a number of these public institutions...private institutions with public institutions. In fact, the very authors of this amendment, fought all morning and voted against the idea of substituting these public institutions for private institutions. Now, all of a sudden, they want a public institution to make an appointment. They say "to heck with the working man." To heck with the sixty-something thousand employees throughout the State of Louisiana who I guarantee you are happy with what has been passed here so far. I ask us one more time, let's vote this amendment down. Let's forget this. The employees of this state are satisfied at this point. They have adequate representation. The other side, the state, the taxpayers, etc., they are adequately represented on this board by six members being nominated by private institutions. So, let's vote this amendment down and move on with the business of this convention.

Questions

MR. GOLDMAN

Mr. Kelly, I wanted to ask this question of Moise Dennery, but his time ran out. Mr. Dennery stated that management has no representation on this commission. Would you consider the presidents of universities managers?

MR. KELLY

I certainly would. I would think that they would be management oriented.

MR. GOLDMAN

Would you consider the governor of the state as the manager?

MR. KELLY

Yes, I certainly would. I would say he's the greatest manager of the state.

MR. NUNEZ

Yes. Your consideration of the people mentioned--manager--stems from what source of...what do you consider that they are managers--as elected officials they are managers?

MR. KELLY

I'm sorry, Sammy, I don't understand your question.

MR. NUNEZ

Well, I'm trying to get out...I'm trying to determine... you made a statement when they asked you a question, would you consider the appointments of LSU managers. Does it have to be a manager in fact? You mentioned, I don't.....

MR. KELLY

No, I think you misunderstood his question. I think he stated....I think Mr. Goldman said would I consider the presidents who make these nominations to be managers? Of course, my answer to that was yes, because they quite naturally manage the particular institution of which they are....

[Previous Question ordered.]

Closing

MR. CASEY

Thank you, Mr. Chairman.

Mr. Chairman and delegates, I will attempt to be very brief in closing, and I'll certainly yield to questions thereafter, Mr. Roemer.

But, I do want to impress upon you this thought. That I'm not sure, I'm just not certain that the convention has spoken that clearly on this particular issue. I think we ought to just try it once more, or, as they say, once more with feeling, because I think the composition of the commission is that important that we should give completely thoughtful process to this particular problem. The idea of the Civil Service Commission, and the idea of nomination by the presidents of the colleges and universities, is to have a completely, as far as humanly possible, a completely unbiased and unprejudiced board that can intelligently regulate the personnel affairs of the State of Louisiana for the employees in the classified service.

It also has a quasi-judicial function as shown on page 6, Section (L) where it says, "not only is a regulatory body, but also hears appeals on personnel matters." I just don't understand how you can have an employee working as an employee, receiving wages as an employee, subjected to the regulations established by the commission who in turn, then, runs for election and acts as a judge on the very rules that he is operating under. The Civil Service Commission is the Board of Directors for the personnel section of the State of Louisiana. How many corporations, Mr. Roemer, how many corporations, Mr. Kelly, have employee representation on their board of directors?

Also, it was well pointed out by many of the speakers on last Saturday, that what kind of animal do we have here? As you may recall, it was attempted to have five appointed members and two elective members last weekend. This time, we have six appointed and one elective. What kind of creature do we have here? Who has ever heard of a mixture of this type as I think was appropriately pointed out by, possibly, Delegate Willis on last Saturday. Whoever heard of a mixture of appointive and elective body of this type?

Also, as Mr. Tobias pointed out last weekend, what kind of platform is this gentleman going to run on? Is he going to work on pay increases, easier suspension regulations from employment, tougher demotion regulations, greater employment conditions for the employees for the State of Louisiana? This is the function of the commission. I can imagine it could lead to all sorts of problems and chaos if we would have a mixture of this type. I urge you, in all sincerity after giving careful, thoughtful consideration to this problem, that we make an intelligent decision on this, and that we vote for this amendment and eliminate the election process for a classified employee.

[Record vote ordered. Amendment rejected:
35-66. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment No. 1, sent up by Delegate Casey: On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Denny and adopted by the convention on the eighth, on page 2 of that amendment, line 18 of the text of that amendment, immediately after the word "machines", change the period to a semi-colon and add the following:

"Railroad (and this word is incorrect. It should be employees) employees whose working conditions and retirement benefits are regulated by federal agencies in accordance with federal statutory law."

Explanation

MR. CASEY

Mr. Chairman and delegates, as somebody mentioned earlier, I should have gotten one of our new delegates to coauthor this by Mr. Jones who just joined the convention today. So, this could be called the Casey-Jones amendment....

MR. HENRY

Oh, Mr. Casey, just explain it. Hear? I'm surprised.

MR. CASEY

But, this is submitted merely in an attempt to clarify what is felt might be a technicality. At this time, there are problems in the area of the Port of New Orleans with the New Orleans Public Belt Railroad which may, eventually, and there is some discussion

in this area, may eventually be taken over by the operation of the Port of New Orleans. Railroad employees at this time, as probably Mr. Flory could indicate, have the right to strike or organize the unions, and things of this type. It's merely submitted to clarify the possibility that if railroads...if the New Orleans Public Belt Railroad would be taken over by the Port of New Orleans, that the employment practices of railroad employees would not be affected. That's the only purpose of this.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

The next set of amendments sent up goes to Paragraph (C), sent up by Delegate Abraham. Now the copies are not out yet. But, they have gone to the pages to be distributed at the present time.

Amendment No. 1. In the Denny floor amendment adopted by the convention on December 8, on page 2, line 27, in Floor Amendment No. 1, proposed by Delegate Kelly and adopted by the convention on December 11, today, on line 11 of the Kelly amendment, immediately after the punctuation...word and punctuation "president.", delete the remainder of the line. Delete lines 12 through 17 in their entirety and insert in lieu thereof the following:

"One member of the commission shall be appointed by the governor from a list of three nominations made by the president of LSU, the Agricultural and Mechanical College in Baton Rouge, such nominees to be selected from the classified employees of the state. A vacancy for any cause shall be filled by appointment in accordance with the procedure governing the original appointment, and from the same source period within thirty days."

Explanation

MR. ABRAHAM

Ladies and gentlemen, I have no real objection to an employee being represented on the Civil Service Commission. However, I do object to the situation of having to elect this employee because I think this really is going to put this person on the Civil Service Commission in an unfair position. Here he is, is going to be an elected member of the commission, and he's going to have to be dealing with six members who are appointed. What my amendment attempts to do, it provides for a member from the classified employees, but this member will be selected through the same nominating procedures as the other members of the commission. What I have done here is simply said that the president of LSU will make three nominations from the classified employees, and the governor, then, will select one. I think that we really are going to put this person in a bad position in having to deal with the commission because he's going to be the lone elected member, having to deal with six appointed members. I think this would be a much better way of handling it. This gives those of you who want representation from the employees, this gives you the representation. Now, some of you may say there is no way for the president of LSU to know whom to select. Well, this president of LSU can select a representative here just as well as the employees of the state can because the employees of the state are going to have to vote on people, and they're not going to know just who they're really voting on. So, I see nothing wrong...

Questions

MR. FLORY

Mr. Abraham, isn't it true that under your amendment, the president of LSU, whose employees are under civil service, could pick those three names from among his employees at LSU, and submit them, and the governor would have to appoint somebody from LSU?

MR. ABRAHAM

Well, under the present system right now, the president of LSU could pick some employees from LSU.

MR. FLORY

Yes, but under what this convention's already adopted, we're not under the present system. We've provided that an employee be elected from the forty-nine thousand other classified employees; haven't we?

MR. ABRAHAM

Well, this person could be appointed from the forty-nine thousand employees.

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MR. JENKINS

Mr. Abraham, under the provision as it stands now, we have a situation where one of these members will be elected by the classified employees. But, we also have, later on, in Subsection (I), the prohibition against political activities. How can you possibly reconcile having an election among classified employees, apparently involving campaigning, expenditure of funds, solicitation of votes, with the prohibition against political activities in Subsection (I)?

MR. ABRAHAM

You can't reconcile it. This amendment attempts to take this election process out so that the person will not have to campaign. He will be appointed.

MR. ROEMER

Well, Mr. Abraham, is it not true that what you are doing with your amendment is agreeing that one of the seven members of the board will represent the employees, but you're insuring that he doesn't have to represent anybody but the person that nominates him? Isn't that not true?

MR. ABRAHAM

No, I'm not agreeing. I'm conceding the fact that the convention apparently wants to have some representation on the board from the employees. Even though I don't agree with it, I will concede that fact. What I am attempting to do is take the election out of it so that the person will not have to campaign; he will not have to make campaign promises that he may not be able to keep. This puts the appointment process back in where he has more independence, and he can represent everyone without any worrying about whether he's going to run for election or not.

MR. ROEMER

Well, Max, do you think that everybody that runs for office makes false promises in this sort of context? I mean, did you run for your office?

MR. ABRAHAM

I didn't say that, Buddy. To answer your question, no. I didn't run for my office. But, I didn't say that he made false promises. I said he may make some promises he may not be able to keep.

MR. ROEMER

Well, looking at it as objectively as we can, if we're going to have one of these members an employee of the civil service system, you'd rather have him appointed from a list of three nominees, than elected by the employees. Is that correct?

MR. ABRAHAM

That's correct.

MR. WILLIS

Mr. Abraham, if your amendment is adopted, then the legislature will not have the ordeal of providing for an election code for those type of employees--the sixty thousand civil service, which will be statewide--and you'll save, and you'll protect the public purse; won't you, to save the cost of that election?

MR. ABRAHAM

That's correct.

MR. WILLIS

That's a tremendous saving, isn't it?

MR. ABRAHAM

Correct.

MR. WOMACK

Mr. Abraham, doesn't it quite often take more politics to get appointed than it does elected?

MR. ABRAHAM

I don't agree with that. You're probably in a better position to answer that than I am.

[Previous Question ordered. Amendment rejected: 27-66. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next amendment's also sent up by Delegate Abraham.

Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the Convention, on page 2, at the end of line 24, delete Floor Amendment No. 1, proposed by Delegate Champagne, and adopted by the convention on the eleventh, insert in lieu thereof the following:--Mr. Abraham, the Champagne amendment has been gone so it's just a process of inserting this language someplace. It went out the door with the Kelly amendment that was...the Flory.

Explanation

MR. ABRAHAM

Ladies and gentlemen, this actually is, more or less, a technical amendment from the standpoint that we have provided now for an elected member. We also have already adopted a provision which states that there shall not be more than one member from the each congressional district. Well, this brings up the problem, that if you've already got six appointed members, then it limits the districts from which the elected member can come. So, this simply says that no member may be...no more than one may be appointed from each congressional district. It allows the elective member to run statewide.

Explanation

MR. CHAMPAGNE

I just wanted to get up and say that I had no objections to this amendment, that actually, when you start electing and appointing, then you are, by its very nature, indicating that there is a difference. So, for those of you who feel we are making a difference, for those who are appointed, we are. Now, we are saying that no more than one appointed member can be from any district. The elected one could be from the same district as an appointed one is. I would have no objections to this, and this was in response to the question that Mr. Flory asked me when I first presented my amendment.

Questions

MR. ALEXANDER

Mr. Champagne, would not this amendment correct the so-called abuses that some had complained about, that the Dennery amendment would favor New Orleans or some other section where there is a concentration of colleges, and disperse them?

MR. CHAMPAGNE

That's right, Reverend. The only thing is, the only difference in this amendment and the one that we adopted is that we inserted the word "appointed" so that the people who are going to elect him, might elect one from a district that already has an appointed delegate. So, that's the only difference--the word "appointed".

MR. ROEMER

Walter, do you share my concern about this amendment--if you'll look at it closely--in that, it really leaves it up to the governor to make these political appointments, in effect, statewide, one from each congressional district. I mean the various colleges appoint the best people they see how, right?

MR. CHAMPAGNE

Right.

MR. ROEMER

It might be that most all of these appointments are from one or two areas. They're good people; the colleges think they're the best people; and there's only one or two left from these certain districts, and the governor just gets to pick them with no basis whatsoever, except geographical spread. Don't you see that there's a danger in the enforcement of this amendment?

MR. CHAMPAGNE

The danger in the here, Mr. Roemer, that you have, though, I have to agree, is that we've spoke a lot about people from all over the state. I do believe that this would provide them from different areas of the state. You do face the possibility that you may not get...you may lose a real outstanding individual because they already have an appointment from that district, but I think that the majority of the people of the state would feel better if they did have this dispersion throughout the state.

MR. ROEMER

I agree. I'm just worried about how you enforce the thing.

Further Discussion

MR. RACHAL

Mr. Chairman, fellow delegates, I must rise in opposition to this amendment. It slipped by this morning while I tried to get some data rather than speak from some personal feeling. Some of...let me say first that I'm very much in sympathy with those who are concerned that all of the commissioners might well come from one district. I would not want to see that happen. By the same token, I would not want to have a commission that was forced to have representation, and to pass up persons whom the nominators would like to give. In speaking of that concern, I note that the present commission of five members are not all from New Orleans. Three of the present five commissioners are from other cities than New Orleans. I would hate to see a restriction that would mean, for example, that if LSU ends up when we finish here in being able to nominate, could not nominate an alumnus from New Orleans, for example, because the nomination of Tulane is already serving from that area. At the present time Louisiana College's nominee is not from Alexandria, but from Lafayette. I think that the colleges which now nominate could be asked to take this into consideration. But, I would hate to think that we would force the college to move to another area. In the case of having added new nominees to the list of nominators, it would mean that New Orleans is automatically eliminated, Baton Rouge would be eliminated, and the other cities now represented were automatically out, and you would force the nominator to nominate persons from other districts. Let me repeat that I sympathize with the objective of this amendment, but I sincerely believe that it would be unduly restrictive to the colleges which will make the nominations. On that basis, not one of a bias, that I strongly urge that you defeat this amendment which would be a very difficult one to enforce, and one which I think could lead to the kinds of practices which Mr. Roemer pointed out. I urge the defeat of this amendment.

[Previous Question ordered. Amendment rejected: 37-51. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment sent up by Delegates Flory and Jack: this goes back to Paragraph (A) at the beginning of the Dennery amendment. In the Dennery amendment, adopted by the convention Saturday, on page 1 of the Floor Amendment, at the end of line 12, after the word and punctuation "thereof," change the period to a comma "," and add the following: "except paid firemen and municipal policemen, who are hereby expressly excluded."

Point of Information

MR. DENNERY

Mr. Chairman, I was under the impression that we were going at this on a lettered paragraph by lettered paragraph formula. Now, we're going back to Paragraph (A)?

MR. HENRY

This is one, as I understand it, he withdrew earlier, and it's the only amendment that we have in (A), (B), or (C) now before going on, Mr. Dennery. That's why we're doing it. Of course, we've got ourselves in such a predicament here, without being able to adopt these paragraphs, that we'll probably be Christmas Eve getting through here.

Explanation

MR. JACK

Mr. Chairman, fellow delegates, if you will look at page 1 of the Dennery amendment, beginning at line 8, we've already changed the two hundred and fifty thousand to four hundred thousand. So, with this one-and-a-half sentence amendment, it will make that Paragraph 2--give me your attention, please--it will make it read as follows: on line 8 of the Dennery amendment, page 1, will read, "City Civil Service; The city civil service includes all offices, and positions of trust or employment in the employ of each city in the state with over four hundred thousand population, and every instrumentality thereof, except paid firemen and municipal policemen, who are hereby expressly excluded." This simply will place the firemen and policemen in New Orleans, and if there were any other cities

over four hundred thousand in the same constitutional position as the firemen and police, municipal police, in any other city in Louisiana over thirteen thousand. Back in 1940, when we first started these three civil services, the city of New Orleans employees, the state employees, and the state firemen and municipal police, we wanted--and the police and firemen in New Orleans wanted--to be included with the other firemen and police. You couldn't do it with the great number of legislators in New Orleans. At that time, it took two-thirds. Now, the vast majority of the firemen and police in New Orleans want to be in the law, in this constitution with the other firemen and police in this state. On each of your desks, you have a letter from Clarence J. Perez, president of the New Orleans Firefighters Association, that attests to that fact. Now, Proposal No. 10, which will come after the Proposal No. 9, that is the state and municipal firemen's proposal for all cities of not less than thirteen thousand. Before we reach that Proposal No. 10, we have to include the firemen and police in New Orleans, we have to take them out of the Dennery amendment, which replaced Proposal No. 9. As you know, and the best example I probably can give you on why all police and municipal...all firemen and municipal police, within these populations, should be together, is like, for instance, my profession. If you are a lawyer, under the law in Louisiana, you must be a member of the State Bar Association. Now, suppose we had this situation: that all lawyers outside of New Orleans had to be members of the State Bar Association, and nobody else in that State Bar Association would be lawyers. But, in New Orleans suppose we had a law that down there the lawyers could not be a member of the State Bar Association, but they had to be in New Orleans a member of a New Orleans association that was made up of lawyers in New Orleans, doctors in New Orleans, real estate people in New Orleans, dentists in New Orleans, and a lot of other trades and professions. That would not be right to the lawyers in New Orleans, and to the lawyers in the rest of the state. They should, all lawyers, where it's a compulsory requirement they belong to the State Bar Association, that they all belong to it, and not some of them exempt because we are subject to punishment under the State Bar Association and other things. Now, the same applies to firemen and police. You shouldn't have part of them in New Orleans not under it, and the rest of them under it. They went to be under the State Firemen and Police Association. Now, that in a nutshell is the situation. We've got lots of amendments here, and I have refrained from speaking on the others. But, this has been a thing for years that should be decided, so I ask you to adopt this amendment, and then, when we reach Proposal No. 10 that we adopt that. Now, in order to carry out the full effect of taking the firemen and municipal policemen out of this Proposal No. 9, which is the Dennery amendment, you will have, Mr. Flory, after this one, will take up two short amendments at the latter part of the Dennery one because there is still the wording "two hundred and fifty thousand," and also, it's to meet another little requirement of the optional civil services for cities smaller than the four hundred thousand. So, I ask you to go along with this amendment. Thank you.

Questions

MR. ABRAHAM

Mr. Jack, I'm a little bit confused now. Apparently, we agree that we should have a state civil service system and a city civil service system, which I understand is to take care of these cities over four hundred thousand.

MR. JACK

To take care of what?

MR. ABRAHAM

To take care of the cities over four hundred thousand population. Now, this amendment here will take out the firemen and the policemen. I don't understand why you're taking out that particular segment of the employees. Why don't you just take all the other employees out also, and do away with the city system? I thought the purpose of the city system was in order to take care of all of its employees.

MR. JACK

The firemen and policemen really have no more business being in the New Orleans city employees' civil service, than a state employee does. They're just a different type of the employee. For instance, as I said, I hate to go over these academic things. I've said them so much here. But, a fireman and a policeman to begin with, the policeman enforces city laws, federal laws, state laws. He is paid an additional salary by the state. A fireman protects and puts out fires on city property, on federal property, on state property, on everybody's

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property. They are just not like the ordinary run of city employee, and if you will read the present constitutional provisions regarding the firemen and police, you'll find it is different, their civil service from the New Orleans civil service. All of them should be able to be under...all firemen and police, in my opinion...

MR. ABRAHAM

Don't the garbage workers in New Orleans pick up garbage from the federal buildings, and the state buildings, also?

MR. JACK

What's that?

MR. ABRAHAM

Don't the garbage workers, which are city employees, they don't pick up the garbage from the federal or state offices or anything like that?

MR. JACK

I'm not going to say anything about anybody, but I think that's a ridiculous analogy on it--where the garbage is picked up. I don't want to low rate them. I wish we could find some that would pick up some garbage.

MR. CHATELAIN

Delegate Jack, I noticed here a couple of days ago we got this amended from two hundred and fifty thousand to four hundred thousand. It was said by Mrs. Zervigon and others, "It's all right to go...exempt the city of New Orleans." It, of course, precluded all the other parishes and cities in the State of Louisiana even for the immediate future. You just made a statement that the city of New Orleans is different from any other city. You referred to the letter that was sent out by Mr. Clarence Perez. The statement...the letterhead here is that it's a local AFL-CIO union letterhead and he represents the local AFL-CIO unions in the city of New Orleans; is that correct, sir?

MR. JACK

I don't know who all everybody represents, I just call your attention to where he says this, "Our association represents virtually a hundred percent of the members of the New Orleans Fire Department. The members have voted ninety-eight percent in favor of being included in the fire and police civil service."

MR. CHATELAIN

On the one hand you are talking about a union organization, which this gentleman heads, and on the other hand we are talking about civil service in the constitution of Louisiana. I'm confused there, sir.

MR. JACK

This has, as far as I'm concerned, nothing to do with unions or nonunions. This thing goes back to where 1940 when a lot of you wasn't even born; of course, you were and I was. They should have always been in the regular state police and firemen civil service--that's my position--it has nothing to do with union and nonunion, but everybody has the right to express their opinion, whether it be an employee, or lawyer, or doctor, or union, or nonunion. This letter was placed on people's desk because it shows what the firemen and police in New Orleans want.

MR. CHATELAIN

Well, Mr. Jack, isn't it a fact, though, that this amendment will, in fact, bring about a union and civil service merger in the city of New Orleans contrary to the wishes of the people in the city of New Orleans, is that correct, sir?

MR. JACK

Well, I don't know what the people in the city of New Orleans want.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I rise to ask you to support this amendment. What it does: at the present time, the constitution provides that in municipalities having a population of thirteen thousand or more, but less than two hundred and fifty thousand, that they shall come under the municipal fire and police...state municipal fire and police civil service. That system was spelled out in the constitution and has three appointed members, one elected from the firemen and one elected from the policemen. The state fire examiner conducts the examinations in all the municipalities for the municipalities in

the promotional schedule on the qualifications. He sets the qualifications, and he comes under the state civil service system and is hired by them and is under civil service himself. Now, what this does is exclude from the city civil service system those paid firemen and municipal policemen who are expressly excluded from that provision on page one. Now, I ask you to adopt the amendment. You ask me, "Why do the New Orleans firemen and policemen want to come under the state municipal fire and police civil service?" They want to join the rest of the state; they want to be under the same type of system, governed under the same rules, same regulations as are the other firemen and policemen throughout this state in those municipalities that I have mentioned and in the fire protection districts, the parish fire districts, etc. So, I ask you to adopt this amendment.

Questions

MR. LANIER

Mr. Flory, how would this affect a municipality that had paid policemen, but volunteer firemen?

MR. FLORY

This will not affect them in any way, Mr. Lanier, in this particular section. Later on, on page, I believe it's eight or nine I'll have an amendment to take care of that situation which clearly specifies those that would be included. But, I had to put this in as an exclusion in the city civil service system on page one--and I don't have my proposal with me--but, I could tell you where it fits in the...but, what you are talking about--where it has the paid fire and police department, I don't propose to change that at all. What this does, though, is except from the city civil service system these paid firemen and municipal policemen.

MR. LANIER

Well, is it your intention by this amendment that this would apply to the situation where the municipality, or the parish, or the combination thereof had both paid firemen and paid policemen?

MR. FLORY

It only applies to those, yes.

MR. LANIER

This would not apply to the situation where you only had paid policemen, but volunteer firemen?

MR. FLORY

No, no.

MR. LANIER

...and, in particular, by this you are not intending to affect a situation like the city of Thibodaux, for example, which exists under Act 97 of 1972 where we have one civil service board because we have paid policemen but volunteer firemen?

MR. FLORY

No, I do not propose to tamper with that whatsoever.

MR. ROEMER

Mr. Flory, are the other firemen and policemen in the state under the state civil service system or under their respective city civil service system?

MR. FLORY

They are under state municipal fire and police civil service if their municipality is over thirteen thousand and less than two hundred and fifty thousand.

MR. ROEMER

I understand. So, what all of this would do would be to take those...the only city affected is New Orleans, that would put them like the rest of the state; right?

MR. FLORY

That's correct.

MR. ROEMER

Thank you.

MRS. ZERVIGON

Mr. Flory, under the state municipal fire and police civil service are only uniformed firemen and policemen affected

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or are the other employees of those departments affected as well?

MR. FLORY

For as the uniform....

MRS. ZERVIGON

...for an example, are secretaries affected or which service are they in?

MR. FLORY

I don't believe that the secretaries are in...under the civil service systems; I don't believe they are.

MRS. ZERVIGON

So, you would have an anomaly in which a secretary in the Department of Sanitation would be in the classified service. But, a secretary in the Department of Fire would be an unclassified employee of the city.

MR. FLORY

If a secretary worked for the chief of the fire department, the chief's not under civil service....

MRS. ZERVIGON

No, sir, I understand that. I'm not asking you that. I'm asking you....other secretaries in the department; they must have other correspondence that goes out other than from the chief.

MR. FLORY

Mr. Dennery, I see, has handed you the constitution, perhaps you would be kind enough to read it.

MRS. ZERVIGON

It says "There is created in the municipal government a classified civil service embracing the positions of employment, the officers and employees of the municipal fire and police services." That sounds like all employees, doesn't it?

MR. FLORY

I didn't understand you.

MRS. ZERVIGON

I said that sounds pretty well like all employees of the department.

MR. FLORY

Well, it sounds that way.

MRS. ZERVIGON

Thank you.

MR. KEAN

Mr. Flory, there are substantial differences between the civil service as it presently exists under the city civil service system and the so called civil service that is provided for under the municipal fire and police civil service system, are there not?

MR. FLORY

Yes, sir, there is substantial difference in the city civil service system as it relates to municipal fire and police civil service, particularly, in the field of examinations. For example, in the city of New Orleans we've got one man that's been thirteen years as an acting captain and he's got no credit for that whatsoever and he has been working at a lesser rate of pay. The real problem that's brought about in the city civil service system is they don't give an examination but about every five years: the list is only good for three years. So, when the list...comes up time for an appointment, there is nobody on the list. The chief, or whoever it is, details a man in there and says either you perform the job--and you don't get any raise in pay for it. Then, when it comes up and he does take the test, after four or five years, and if he has refused it under those conditions, he is bypassed automatically--that's part of the problem.

Further Discussion

MR. J. JACKSON

Mr. Chairman, delegates to this convention, let me say that I don't intend to come up here and constantly try to beat over your heads my strong opposition to this amendment because I have talked on two occasions. I believe in true conscience that no one can say whatsoever that if the cause was righteous, whether

it was for labor, whether its for a municipal government that I haven't supported it. I think in cases of firemen and policemen, contrary to what people feel that my inclinations towards, particularly policemen, my record will show that I have supported every move to enhance the retirement systems and the benefits for firemen and policemen. But, like I told you on Saturday, there comes a point where we must have, in my opinion, some balance. I believe that this amendment, as proposed, would do serious problems and create more serious problems for some of my concerns. I do not think that we ought to have within the city of New Orleans one civil service system for one class of employees if you are not going to extend that to the others. I do not believe, in light of the present action going on in the city of New Orleans relative to suits filed against our local firemen and policemen about, not only the hiring practices but their promotional practices, that we ought to, at this point, change the system and go under another system. I do not believe, in light of the city council ordinance to enhance more black participation in the police force in the city whose population is presently approaching fifty-fifty, that we ought to change and set up a new civil service system within the city. But, more so, I'm concerned about the kinds of effects that are presently also going on in our city. As I look at the city council's budget and I look at where the money is going, and I look at to where it is being taken away from. I can see in the future, particularly if this board has the power of: (1) of providing salaries--and I want to suggest that I would think that this board would most likely be firemen and policemen orientated, that I can see an increase in cost at the expense of other classified employees in the city of New Orleans. In the area of discipline, I'm not saying that presently right now the present system works adequately. But, don't let me...and I don't want to even imply that I am in full agreement with the way civil service works now. But, when it comes down to the area of discipline, particularly of certain actions of certain police officers, I'm doubly concerned when we talk about having a board that's going to be composed....that's going to be set up strictly for firemen and policemen. I think that based on the actions that we have done presently in allowing them to come to the legislature; allowing the legislature to increase the benefits; that we have given the kinds of latitude where grievances need to be addressed, particularly in the fact that every ruling of the Civil Service Commission--even the present one--is open to judicial review. In addition, the fact that we are going to allow--as I understand--some flexibility on the part of the legislature to make certain timely adaptations to the civil service system. I say to the people in Baton Rouge, I mean if we are going to be fair about it, let's lower this percentage back to two hundred and fifty thousand. I say to the people who find it's working in your part of the state, I say to you, "Right on." But, in the city of New Orleans the problem is too complex. I personally as one delegate, I'm not going to come up here any more. But, I personally believe that this is not the way to correct the problems of the present civil service system as it relates to firemen and policemen. Personally, I do not think, I do not feel, that we ought to create such an imbalance between other classified employees and other employees of the city of New Orleans. I know that this is primarily aimed at the city of New Orleans. I recognize that at some points we have got to have uniformity. But, at some points where something has worked--like in the city of Baton Rouge--it ought to be allowed to work and the people within that locale resolve their problems. Finally, let me say that on the seniority problem where it has worked throughout the State of Louisiana without any problems, when you have a police and a firemen force that's less than six percent and you take somebody out of the present system and put them under the seniority system, I suggest to you that when it comes down to the motion and mobility within the department that, as far as minorities are concerned, that that's seriously going to hinder our....

Further Discussion

MR. DENNERY

Mr. Chairman, delegates, Mr. Juneau asked me a while ago if I felt somewhat like a battleship that was running through a field and having torpedoes shot at it. I must confess, I'm gradually getting that feeling. This is a very bad torpedo which has been fired, specifically at the city of New Orleans. Now, let me straighten out something that the delegate from Caddo Parish said. There is no one, one single statewide fire and police civil service. There is an act and under that act there are a number of boards. Every city that has one of these has its own board. What does this amendment do? It takes those who are under a board in New Orleans and puts them under an entirely different board; it messes up the whole pay plan of the city of New Orleans. We have had firemen and policemen in the city of New Orleans under civil service since

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1942 when the Sam Jones administration adopted a civil service law applicable to municipalities. The firemen and policemen in this state came two years later and got a fire and police municipal system. But, it didn't apply to the city of New Orleans and there is no reason for it to apply to the city of New Orleans. There's no statement...no basis for Mr. Jack's statement that firemen and policemen are a different kettle of fish; they are municipal employees just like everybody else is. Are you going to mix up the budget of the entire city of New Orleans? And, mind you, this law only affects the city of New Orleans. Mr. Chairman...Mr. Jack knows full well that I don't have to belong to the same bar association that he does in the city of Shreveport in order to practice law in New Orleans. There is no reason for the firemen and policemen in New Orleans necessarily to be under the same fire and police system as the ones in Baton Rouge or elsewhere are concerned. Now, what kind of a system is it compared to the one that we have? In New Orleans we have a merit system; it's based upon the constitutional merit system which has been in effect since 1952 statewide and since 1942 as far as the city of New Orleans is concerned. I'll answer your questions when I've completed, Mr. Jack, and I'm delighted to see you're paying attention now. I don't have.... there are no firemen and policemen in this state who have to belong to a statewide system they are governed by individual boards. Now, we in New Orleans have a very fine system; we are very proud of it. Despite what has been told you, we've given many, many promotional tests. In the position of fire captain alone, for example, since 1962 through 1973, we've had about eight of them. We give all the promotional tests that are necessary. Furthermore, we promote based upon merit. We do not promote based upon seniority alone. Now, it is true that in a municipal fire and police you have to take a qualifying examination and a promotional examination. But, if you pass that promotional examination, the appointing authority must select the senior person. You cannot select anyone else, despite the fact that the other person might be more meritorious and might be of greater benefit to the city fire department or the city police department. You have received a document sent out by the Fire Fighter's Association in New Orleans. I would point out to you that on Friday--while we were arguing civil service up here--the civil service league had a luncheon at home to present the Dunbar awards, which is done annually for many, many years. At that particular luncheon, twenty-five percent of the entire audience was composed of police officers of the city of New Orleans. Now, don't tell me that the police officers in the city of New Orleans don't like their civil service system; they do. The city of New Orleans likes their own civil service system. I urge you, I urge you with every fiber in my being to defeat this amendment.

Further Discussion

MRS. ZERVIGON

Mr. Chairman, delegates, I'll attempt to be brief, but I just want to reiterate what I said to you on Saturday when I supported Mr. Flory's amendment to raise the ceiling to four hundred thousand. The reason for submission of that amendment, Mr. Flory said, was because we don't want to change the systems in Shreveport and Baton Rouge. O. K. Let's don't change their systems. But, let's don't come and make vast changes in our system either. You have heard from some firemen on this who claim to represent about ninety-eight percent of the firemen and ninety-eight of the firemen in New Orleans are union members. You have not heard--and the committee heard very briefly--from the policemen. The police union has not nearly the representation proportionately of the police department. Therefore, this you have also not heard from the Fraternal Order of Police, which is an association, not a union, or any others. You haven't heard from the Black Police Officer's Association on this. They don't like it, but they are not as good at lobbying as some of the other folks from whom you have heard. Now, it's my opinion that what a good union officer does is to come and ask for things--just because he asks doesn't mean we got to give it to him, no way. As I was telling Mr. Roemer earlier, my children ask me for candy all the time, but I only give it to them part of the time. There are certain things that we want that would be unfair to everybody else. It seems to me that it is unfair to split off two departments of city government in New Orleans--containing about a third of the employees--separate them out from the system containing two-thirds of the employees and treat them differently. It's not easy these days in a large metropolitan system to recruit firemen and policemen. If a really bright young person wants to join the system and advance quickly because he thinks he is very talented, this fire and police municipal civil service stops him; he'll go do something

else. In addition to that, it leaves open the possibility in New Orleans that a secretary working from eight to four in the fire department will be paid on a different salary scale than the secretary working from eight to four in the Sanitation Department. Why? It doesn't make any sense at all. The whole idea behind the uniform pay plan is it is to be uniform. In addition to that, the firemen and policemen are now some of the best paid employees we have. The average income of people working for the fire department is higher than any other income of any other department in the city government. So, they are not being misused. The source of things that Mr. Flory is talking about--the exam for sergeants--not being given often enough in their...in the police department and lieutenant in the fire department is by no means stopped by having a separate commission; it's by no means stopped. How are you going to staff that commission? Are you going to staff that commission by and large with civil service employees? They could bog down the same way. The commission--there's no way to tell how it's going to work, but there are certain things that do not happen because of how a commission is appointed, but it just doesn't bear on the facts. So, please, leave us alone. Leave us with our recruitment programs intact. Leave us with our college program at Loyola intact; it gives someone an impetus to go there that may go....

Further Discussion

MR. TAPPER

Mr. Chairman, fellow delegates, I think just about everything has been said. I believe we all know what this is about. I rise in support of the amendment. I would like to make one observation Mrs. Zervigon, we are not talking about ice cream and candy, we are talking about people who risk their lives every day. I don't think they should be on the same level as those people who work in offices. I hope that you will adopt the amendment. I will not answer any questions. I move the previous question.

Further Discussion

MR. CHATELAIN

Mr. Chairman and fellow delegates, I really don't know why I stick my big nose in other people's business in many ways. But, I feel sometimes that other people's business becomes mine. I said I rise in opposition to this amendment, and I think you will too if you think about it awhile. Let's try to think about it together. State civil service is good. We're trying to hammer out a good state civil service for the people of this state. I think we're doing a good job. This afternoon, after many votes, we finally gave out of a seven man commission, the state employees one member of that commission and this is fine. I had no great opposition to this, but what we're trying to do now goes far beyond this. This is really not an issue anymore of civil service. This becomes a union issue; an issue that involves union people in the city of New Orleans, and if we let them get by with this amendment, you're going to find it will do violence to the entire program of civil service. I say that the immediate goals and immediate problems of the people of the city of New Orleans is a problem that will eventually hurt all of us in the State of Louisiana. Their problem is merit system versus seniority system. This is the crux of the whole thing. This is what we're talking about, and I say to you if you vote for this amendment, you're voting against the good for the majority of the people of the State of Louisiana. I urge you vote against this bad, bad amendment, and then you will be voting for the state civil service employees in this state. I urge you vote against this amendment.

Questions

MS. ZERVIGON

Mr. Chatelain, Mr. Tapper was referring to these people as being people who put their lives on the line every day. I don't question that, but do you realize that the people most liable to injury and death on the job in New Orleans are the sanitation workers?

MR. CHATELAIN

I do.

MS. ZERVIGON

Do you realize that in Jefferson Parish it's the street's workers who are most liable to injury and death on the job?

MR. CHATELAIN

I do, Mary.

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MS. ZERVIGON

Do you know what the primary cause of death on the job of a fireman is?

MR. CHATELAIN

I do.

MS. ZERVIGON

A heart attack.

MR. BERGERON

Mr. Champagne, it's been brought up before that the policemen in New Orleans haven't been heard from on this issue. Do you know that there's a gentleman in the audience in the back who is a legal spokesman for "PANO" which is a patrolmen's association; "SANO" which is an association of supervisors in the fraternal order of police, and he advises--and the fraternal order of police is not a union--would you know that this gentleman informs me that these organizations are in favor of this change?

MR. CHATELAIN

I certainly am sure that that organization would be, sir. But, I'm speaking now for the majority of the civil service employees in the State of Louisiana, Mr. Bergeron, and I feel this is not good for the majority of the people of the State of Louisiana.

MR. BERGERON

I'm just speaking for the majority....

[Previous Question ordered.]

Closing

MR. FLORY

Mr. Chairman and delegates, in closing let me say this; that it is a little bit surprising to have a man from Lafayette come before this mike and ask you to vote against this amendment when his municipality has been operating under State, and Fire, and Municipal Police Civil Service for about thirty-five years. Let me tell you this: Not a single mayor, city councilman, came before the Committee on Education and offered a single suggestion of improvement for the municipal... State Municipal, Fire, and Police Civil Service. Not a single mayor, not a single city councilman! The only mayor that came before the committee was the mayor of the city of New Orleans who was opposed to it. I've made no bones about that. They don't want to because they don't want to pay these people when they put them in a higher bracket. They don't want to pay them! They want to make the examinations on a routine basis. The chief testified before the committee. He said that they now give examinations about every two years because they don't have the money to fill the positions. Now, is that fair? Is that fair? Merely because they won't have the money to fill the position, yet they want to make a man work in a higher classification but they don't want to pay him for that extra work. Now, you're talking about merit versus seniority; the city of New Orleans gives credit for seniority when they do give the examinations. Remember this: Even though the city of New Orleans would come under the State, Municipal, Fire and Police Civil Service, they would still have a local Fire and Police Civil Service Board. It would be in the city of New Orleans, of New Orleans residence, and the city council of New Orleans would have to approve any budgetary items passed by that group. The city council of New Orleans retains sole authority as to the establishment of pay scales, etc. That board doesn't have anything to do with setting salaries and so forth. Now, the only chief other than the city of New Orleans that came before our committee said any knucklehead could pass the qualifying exam. The qualifying score in his particular case was seventy-five, and yet he said any knucklehead could pass it--he made eighty-three--and they hired him from out of state and he wasn't the high man. I ask you to adopt this amendment. We're going to get into--when we complete this proposal--on State, Municipal, Fire, and Police Civil Service, and if Mr. Jackson has reservations about this amendment, it's my proposal to turn that matter over to the legislature, to let them take and make whatever change is necessary with a two-thirds vote. I ask you to adopt this amendment. Yes, the firemen--almost unanimously--the patrolmen, supervisors, police officers are all for it in the city of New Orleans. They've asked for it. To answer Mrs. Zervigon's question she asked me a moment ago about secretaries in the civil service in the fire department, they don't have secretaries in those departments except on an assigned basis. They're not within that fire department, and in a lot of areas throughout the state in the municipal services, they have unclassified secretaries in the fire departments, or

the chief has the option to put that position under civil service if he wants to. He can ask the board to put that classification under civil service. Now then, Mr. Dennery said that this was going to mess up the entire budget for the city of New Orleans. Nothing could be further from the truth--nothing whatsoever--because if that budget is going to be messed up, the City Council is going to do it because they've got sole authority to run that budget--the City Council and the mayor of the city of New Orleans. This doesn't change that one iota--one iota. I ask you to adopt the amendment.

Questions

MS. ZERVIGON

The other police chief who testified before your committee, from what city was he?

MR. FLORY

The police chief?

MS. ZERVIGON

Yes, sir. You said the New Orleans Police Chief testified and one other police chief?

MR. FLORY

One other police chief testified; he was from Lafayette.

MS. ZERVIGON

Where is Mr. Chatelain from?

MR. FLORY

He's from Lafayette.

MS. ZERVIGON

Not everybody in Lafayette is satisfied, would you say?

MR. FLORY

But the chief that testified had only been in Lafayette about six months, I believe, when he testified.

MR. RIECKE

I'd like to move that the gentleman be given two minutes more to answer the questions.

MR. HENRY

You're the only one that has a question, Mr. Riecke. Proceed.

MR. RIECKE

All right. Is it true that... isn't it true that it was testified before our committee that the average fireman's salary was eleven thousand dollars a year in New Orleans?

MR. FLORY

Who testified to that?

MR. RIECKE

Do you agree with that?

MR. FLORY

No, sir. I don't agree with that.

MR. RIECKE

They showed the information to our committee that that was the case.

MR. FLORY

I don't believe. I didn't see those figures, Mr. Riecke. You, maybe, had access to the information....

MR. RIECKE

The mayor got that out and circulated it among us.

MR. FLORY

Well, he didn't give it to the rest of the committee members. He must have just gave it to the New Orleans delegates.

MR. RIECKE

Probably. One other question: the chief of police of the city of New Orleans has stated that if the seniority system were put into effect, that these young men who go to college and study crime courses and adjust themselves for better policemen and study this crime problem, they would not be able to get promotions under the seniority system; is that correct?

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MR. FLORY

No, sir, it is not correct. It would help them pass the examination better.

MR. RIECKE

But they would have to get in line with seniority with the older policemen?

MR. FLORY

First, they'd have to pass the examination. They'd have to qualify in that respect, and then the senior man under the Municipal Fire and Police Civil Service gets the job.

MR. RIECKE

Regardless of the qualifications?

MR. FLORY

No, he's qualified already because he passed the examination. Mr. Chairman, I suggest the absence of a quorum and ask for a record vote.

[Quorum Call: 93 delegates present and a quorum. Record vote ordered. Amendment adopted: 61-38. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments sent up by Mr. Flory read as follows:

Amendment No. 1. On page 1, line 14 in the Denny amendment adopted Saturday, on page 3 of the amendment, delete lines 9 through 35, both inclusive in their entirety, and on page 4, delete lines 1 through 9, both inclusive in their entirety, and insert in lieu thereof the following:

"(D) City Civil Service Commission; Nomination; Appointment; Vacancies; Transition

There is hereby created and established a city civil service commission for each city having a population in excess of four hundred thousand according to the latest decennial census of the United States. Each such city civil service commission shall be composed of five citizens who are qualified voters of the city in which they serve, three of whom shall constitute a quorum. One member of each city civil service commission shall be appointed by the governing authority of the city by its own selection and one member of such commission shall be elected by the employees of the city in the classified service from their membership. The terms of the members of the city civil service commission shall be six years.

(1) New Orleans; Nomination and Appointment. In the city of New Orleans the presidents of Tulane University of Louisiana; Loyola University of the South and Dillard University shall each nominate three persons and one member of the commission shall be appointed by the governing authority of the city of New Orleans from three persons nominated by each president.

(2) Other Cities; Nomination and Appointment. In other cities subject to the provisions of this section, three members of the commission shall be nominated from any of the three universities named in Section 1 in accordance with the procedure therein provided.

(3) Vacancies. Vacancies by expiration of the term of office or otherwise shall be filled by appointment of the governing body, or by election, or by nomination as herein provided in the same manner as the original appointments were made, and it shall be the duty of the governing body to make such appointments or conduct such election and of the said presidents to make such nomination within thirty days after the occurrence of any vacancy.

(4) Transition. Within thirty days of the effective date of this constitution, it shall be the duty of the president of Dillard University to make such nominations to the governing body of the city of New Orleans. Within thirty days from the effective date of this constitution an election shall be held within the classified service of the city of New Orleans for the purpose of naming a member of said commission."

Explanation

MR. FLORY

Mr. Chairman and delegates, when that lion answers that telephone, that's when Mr. Goldman is really in trouble.

The amendment that I have here at the present time--the employees in the city of New Orleans in the classified service have a commission comprised of three members: one from nominations made by Tulane and Loyola, and the city

council makes one upon its own motion. This amendment changes that, increasing the commission from three to five members, to have Tulane, Loyola and Dillard University each nominating three people and the city council appointing one from the list submitted by those organizations. The city council still retains its rights under this amendment to appoint one from whomever they choose, and then the classified employees in the city of New Orleans, excluding the fire and policemen, would vote to elect one member, which is precedent for what we did this morning in the state. Bear in mind that in those municipalities throughout the state, many of whom--and just as I said here the other day--if you noticed in the Baton Rouge Morning Advocate, the city of Baton Rouge, the employees, just elected this past week their representative on the city commission here in East Baton Rouge Parish. It also provides that in those municipalities, who in the future might exceed four hundred thousand, that the nominating universities would be any of the nominating universities in Section 1 already adopted by this convention, and one would be elected. It further provides that if the nominating university fails to make nominations, that the governing authority of the city of New Orleans would make the appointments. It also provides in the transition that within thirty days after the adoption and effective date of this constitution, Dillard University would submit three names for nomination to the city council, would make the appointments, and they would proceed to conduct the election among the classified employees then covered under the city civil service system.

I ask for the adoption of the amendment.

Further Discussion

MR. DENNERY

Mr. Chairman, delegates to the convention, I'm forced to take the floor again to oppose this amendment. This changes, basically, a civil service system which has existed in its present form since 1942. The amendment which was adopted on Saturday made one change in that system by adding one other university as a nominating authority and removing the right of the city council to name someone. This amendment leaves those same three universities, and now adds one to be appointed by the governing authority, and one to be elected by the classified employees. I can only tell you that, as someone who has been involved deeply with civil service for many, many years, I find this to be a bad amendment. I think we are losing the whole idea of having a completely independent civil service commission. What disturbs me, probably a little bit more than that, is that there are those in this convention who feel that they know what's best for New Orleans even when they don't live there. You have shown that insofar as the fire and police are concerned, and now you want to change our own system which we have had in operation since 1942. Yet, you ask us not to fool with your systems; don't touch the systems we have; don't let the constitutional form of civil service stay at two hundred and fifty thousand. Change it to four hundred thousand so our civil service systems will remain inviolate. I can see no earthly reason to change just for change's sake, and yet, that is what this amendment proposes to do. We have a system which has worked. You have taken the firemen and the policemen out of it. No one can come here and say the other employees in the city of New Orleans have voted against what we have now. No one can make that statement successfully, and no one will. The citizens of the city of New Orleans adopted a charter some years ago, which has a standby provision in it in the event, through some unforeseen circumstances, the constitutional civil service were repealed. It provides what is presently before you, not what is in this amendment. The citizens of New Orleans adopted that charter by an overwhelming vote. I can see no conceivable reason for this convention to want to change what has been in existence successfully for this length of time. I urge you to vote against this amendment.

Thank you.

[Previous Question ordered.]

Closing

MR. FLORY

Mr. Chairman and delegates, in closing let me say this: that this is in keeping with the amendment adopted as far as the constitution of the State Civil Service Commission this morning, in that it provides for the election of one member of the commission

by the employees in the classified service in the city of New Orleans. It goes one step further and gives to the governing authority the right to make an appointment, as they have always had, from whomever they choose to serve on a city civil service commission. I think that's wise in that the city governing authority needs input into the commission as well as do the employees, and that's the reason it's drawn in this fashion. The mayor of the city of New Orleans, when he testified before our committee, said he had no objection to increasing the size of the commission from three to five; so that the size of the commission is no problem whatsoever. I know some of the people that have served in the past on that commission. This does not disturb that except that it does continue the appointment of Tulane, Loyola; it adds Dillard as an appointing university, and it retains the right of the city council to govern or to make an appointment from whomever they choose, and allows the election of one from the classified service.

Mr. Chairman, I ask for the adoption of the amendment so that we might pattern city civil service as it is done, not only in the rest of the municipalities...in a lot of the municipalities throughout this state, and also as we have already constituted the commission on State Civil Service. I'll be happy to yield to any questions, Mr. Chairman.

Questions

MR. CASEY

Mr. Flory, without the adoption of your amendment, is it not possible that through the nomination process an employee can be nominated for a position on the Civil Service Commission?

MR. FLORY

My understanding, Mr. Casey, there's no prohibition in the law at this time from one of the presidents of the university or the city council from making such appointments. However, I know of no such appointments having been made in past years.

MR. CASEY

In your reference to the mayor, was that only that he did not object to a five-member commission, but there was not conversation relative to the election of a classified...

MR. FLORY

I made it only to the size, and I did not discuss specifics with him because we had not formulated specifics at that time.

MR. CASEY

I just wanted to clarify that point. Thank you.

MR. FLORY

I ask for a record vote, Mr. Chairman.

[Record vote ordered. Amendment rejected: 39-55. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments sent up by Delegate Johnny Jackson. Amendment No. 1. On page 1, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the convention on December 8, 1973, on page 3, line 13 of the text immediately after the word "of" and before the word "members" delete the word "three" and insert in lieu thereof the word "five" and on line 14 at the beginning of the line delete the word "two" and insert in lieu thereof the word "three" and on line 19 immediately after the word and punctuation "South," and before the words "and Tulane" insert the following: "St. Mary's Dominican College, Xavier College of Louisiana,"

Explanation

MR. J. JACKSON

Mr. Chairman and ladies and gentlemen of the convention, this amendment was drawn on Saturday of last week. I understand as a result of the convention's action this morning, that St. Mary's Dominican was taken off the State Civil Service and was moved, and in place of that, an elected representative.

I suggest to you that in light of the fact that the convention has rejected the Flory amendments, that what this attempts to do is to expand the commission from a three-member commission to a five-member commission, providing for representation of Dillard University...providing...adding back St. Mary's Dominican College...yeah...and Xavier University. I ask that you favor adoption of the amendment.

[Previous Question ordered.]

Closing

MR. J. JACKSON

So as there will not be any misinterpretation, Mr. Chairman, about my familiarity with the amendment, let me suggest to you that presently the composition is Dillard, Tulane, Loyola. What I attempt to do, as Mr. Dennery, when he first introduced his amendment, suggested that in order to provide for representation of all segments of the population, including females, we added the addition of Xavier and St. Mary's Dominican College. We would bring the commission from three up to five.

I ask your favorable adoption of the amendment.

[Amendment adopted: 79-12. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Next set of amendments sent up by Delegate Hayes as follows: Amendment No. 1. Page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted on the eighth, page 4, line 9, at the end of the line add the following:

"Should one of the nominating authorities fail to submit nominees at the time required, or should one of the named institutions cease to exist, the governing authority of the city shall make the appointment to the commission."

Explanation

MR. HAYES

Ladies and gentlemen, this is just a technical amendment to the Hayes-Chatelain amendment of this morning. It did not include the cities. This amendment would just include the cities. So, I urge your favorable support of this amendment to further include the cities.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

The next set of amendments sent up by Delegate Abraham. On page 1, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the convention on Saturday, on page 3 of the text of the amendment, line 14, at the end of the line, after the word "serve" add the word "overlapping".

Explanation

MR. ABRAHAM

Ladies and gentlemen, this is a companion amendment to the one we adopted earlier on the state commission which simply provides for overlapping terms for the city as well as for the state.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

The first set of amendments to (G) sent up by Delegates Alphonse Jackson, Anzalone and Rachal.

Amendment No. 1. In Floor Amendment proposed by Delegate Dennery and adopted by the convention on the eighth, on page 5 of the text, line 2, after the word "than" and before the... semi-colon, delete the word "three" and insert in lieu thereof the word "five."

Explanation

MR. ANZALONE

Mr. Chairman and ladies and gentlemen of the convention, this amendment deals with the long-standing rule that you've heard so much about of three in the Civil Service System. Basically, what it proposes to do is not to leave it up to the Civil Service Commission to decide whether or not to increase the number to a number that they would decide; but to constitutionally provide that there will be a rule of five, rather than three. In attempt-

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ing to explain why we are offering this amendment, the rule of three means that if ten people take an examination, even though all ten are qualified, seventy percent of these people are going to be rejected. You may say that this is good--good for employment--good for the people of the state. But, let's view the rule of three as opposed to other qualifying tests that are given across the state.

Now I am an attorney by profession. We are different from lawyers because we don't make as much money as they do. Mr. Champagne, we smile, where bond attorneys never smile. But, seriously speaking, I am qualified to practice law in the State of Louisiana, not because I hold LLB degree, but because I happened to have passed the State Bar Examination. I can't tell you the grade that I made on that test. I don't care. They sent me a little piece of paper and they said, "Joe, you passed. Come be sworn in." That was fine with me. Dr. Weiss, you and your group, wherever you are, you don't practice medicine because you hold an M. D. degree. You practice medicine because you have passed your State Board. I'll wager that Dr. Weiss doesn't know the grade that he made on his State Boards, either.

Some may think that this is right and just, this rule of three. The most important, it's fair for all concerned. Now, in the cases of lawyers and doctors, you passed the test, and you practice. In the case of the lawyers, you are entrusted with the care, protection of your client's basic legal rights, their businesses, their properties and as some of us hope to feel, entrusted with making civilization just a little bit better because we are here. Why we are able to practice in our chosen field is because we passed the tests. After successfully completing the State Boards, the doctors of medicine are entrusted with the care of our personal health. Why? Because they passed the test.

Now, let's take the case of a college graduate who aspires to be a welfare visitor--maybe not so high an ambition, but nevertheless an ambition. Of necessity, he or she cannot be self-employed. In most cases, they have to work for government. So they take a test--not a bar examination, not a State Medical Society test, but a Civil Service Examination and passes it. Now, I would assume that if a law student passes a State Bar Examination, and a senior medical student passes the State Medical Board, and they are qualified to practice in their chosen profession, why not a college graduate who wishes to be a welfare visitor? But, this is not the case.

Suppose we went into the law school senior class one year and say, "Now boys, seventy percent of you all are all that we need out of this year's graduating class--thirty percent are not going to be able to practice law next year. Or suppose we told the doctors that we don't need all of you all--twenty percent are not going to make it. I bet you they'd raise so much hell you'd never hear the end of it. But this is exactly what we are doing in other areas and with other college graduates. Only a percentage--only a percentage. Now I wish to remind you that you have heard many, many times over the past, that every politician who runs for office is going to begin to run the state on sound business procedures. I think sometimes that maybe the reason that business has come so far, and government is always promising to adopt these sound business procedures, is that government has got all of the tests to get all of the brains. In the business world, only some of us do-dos are left to run it. I submit to you that the government that runs the people will never be appreciated by demanding a fictitious and super-qualifying procedure which is oriented to the textbook and away from the people that are seeking the employment. You can scream politics, favoritism, nepotism, but nowhere in this proposal with the rule of five, does it say that an unqualified person is going to be hired--nowhere. Every person who passes the test is qualified, is entitled to go to work. I would remind you that there is a story that Albert Einstein once failed algebra, and I personally know an imminent surgeon who thinks that Shakespeare invented a fishing reel. I submit to you that it is not all in the textbook test. It is a great deal to do which cannot be tested on paper, that has to do with the man himself whom you are attempting to employ.

The government of this state is getting larger. You are getting more and more applications. You are going to have more and more competition. Why not raise the number from three to a more realistic number of five? I ask your favorable adoption.

Questions

MR. ALEXANDER

Mr. Anzalone, traditionally my problem with Civil Service has been that when a black, or blacks, take examination, and they fail, or one falls within the three, he may be the top man. But he's still not hired by the hiring officer. Now, I'm just wondering what will your amendment do to remedy a situation of that sort?

MR. ANZALONE

Well, Reverend Alexander, my...your question is geared to a racial issue. My amendment is not. My amendment simply is proffered for the purpose of saying that with more and more competition for state jobs, I think that we should take a realistic approach and increase the number of persons who can be hired from three to five. Now, this in no way guarantees a hiring practice based on a racial equivalent, or a racial quota, or something like that. It's not intended to do that at all. It's just simply intended that I can't see any reason where ten people would take a test, and seventy percent of them would be automatically excluded.

MR. ALEXANDER

All right, now. If you were going to substitute the word five for three; which means that instead of three eligibles from whom the employing agent may select, he may select from five. Now traditionally, this has been my problem that he lets--if a black is among those three--he refuses to hire at times, and permit the list to expire six months. Now, may he not do the same thing... would not this aggravate my problem?

MR. ANZALONE

Well, I don't think so.

MR. ALEXANDER

Even though it is not designed to...discrimination...it would aggravate my problem.

MR. ANZALONE

What you are trying to say now is that you've got one shot in three, and you don't particularly want one shot in five.

MR. ALEXANDER

That's right, because there will only be five eligibles left on the pole to die.

MR. SHANNON

Mr. Anzalone, isn't it a fact that industry used to clamor for the high grade students in the colleges, and now they are coming down and they are getting some of the B's and C's?

MR. ANZALONE

Yes, sir. They are looking for us common folks now, as I understand it.

In further answering your question, Mr. Shannon, I always heard that the guy that made the top grade of the class wasn't worth nothing to nobody.

MR. DUVAL

Mr. Anzalone, as I understand this amendment, it would certainly make the local legislators in a better position to get jobs. Isn't that one of the primary purposes of this amendment?

MR. ANZALONE

Well, not unless they applied for it and they were not qualified under the three ruling, they could come qualify it under the five rule. Yes, sir.

Are you saying, Mr. Stanwood, that some of our legislators are in need of increasing this rule because they are not smart enough to pass the test now? Shame on you.

Further Discussion

MR. JENKINS

Mr. Chairman, I rise in opposition to this amendment because I think it allows more political influence to be exercised in the selection of people for civil service jobs and promotions. The larger the list you have, the more opportunity there is for influence. For one thing, more people will be on the list, including those that some politician is promoting. Those who the politicians are promoting are more likely to be on the list, the bigger the list is. Moreover, standards on the average are likely to be lower because, whether we like it or not, in general, the civil service testing system is a pretty good indication of the qualifications of a person and his likelihood to perform successfully in the job. If we allow lesser qualified people to be chosen over higher qualified people, then all we can do is help deteriorate the system.

Now, let me give you an example of how increasing the list will work to the disadvantage of minorities. I think that minority groups have been some of the people who have been trying to see the rule of three expanded to a rule of five or a higher number.

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I want to explain how that works. Many people say the civil service system is discriminatory. I defy that statement. Here's some statistics to prove it. Right now, 24.....Let me give you an example of how a weakening of the rule of three can help discriminate against minority groups. At present, 24.9 percent of all civil service employees are black. That's compared with the population in the state of maybe twenty-nine or thirty percent, compared with registered voters lists of about twenty percent. Now, it's true that on the average, these employees make less money than people who are not black. But remember, too, that in the population at large, those statistics are much greater. There's a much greater disparity between the amounts made by blacks and whites in the system at large and under civil service. In fact, the disparity is about half as large under civil service as it is in Louisiana society at large. But the most interesting statistic I've found would compare the Civil Service System to a noncompetitive system. Look at the State Highway Department, if you would. I checked with civil service last week and they told me that seventy percent of all highway department employees are chosen on a noncompetitive basis. Seventy percent of the employees of the Highway Department are selected on basically a political criteria--not on the basis of civil service. Now, does that help minority groups? Well, I found out this, that of those seventy percent of the Highway Department employees chosen on a noncompetitive basis, less than one percent are black--.6 percent are black. Now, that's if you put things on a political basis. A merit system is the best friend of anyone who's going to be discriminated against because it reduces discretion. Now, under the Civil Service System, when a black person has been included on the list of three, forty percent of the time, a black person has been chosen. On the average, it would be thirty-three and a third. Anything that expands the list and grants more discretion to the appointing authority, increases the chance for unjust discrimination.

But, more importantly, I think any expansion of the list again will lead to a deterioration of the civil service--of our public employees. If the fifth man on the list can be chosen ahead of number 1, 2, 3, 4, and the 5th man may have made a 70 on the test and scored low on interviews and other things, it's going to hurt morale of people, because they are going to know that the best qualified are not chosen....

.....and it's going to overall lower the quality of civil service in this state.

Further Discussion

MR. DENNERY

Mr. Chairman and delegates, I would only point one thing out to you, and that is that the provision that is sought to be amended provides that the list shall contain not less than three names. It does not mean that in the event it's necessary to increase that number, that a commission could not so increase it. Thus far, in the history of civil service in Louisiana, and the rule has always been a rule of not less than three, to my knowledge the commission has never increased it. But I do not believe that the increase is required. It seems to me if it is required, any commission will certainly recognize this and thereby increase it. Furthermore, if there are more than...if there is more than one position to be filled, the list is increased so that it's three or four or five, as the case may be. What this amendment seeks to do, is to say that in every instance, at least five names must be certified to the appointing authority. As was so ably pointed out by Mr. Jenkins, this allows for more--not less--political influence. It provides for less merit rather than more merit. This is a merit system of public employment that we are trying to adopt here. I, therefore, urge you to defeat this amendment.

Questions

MR. HAYES

Mr. Dennery, you refer to what Mr. Jenkins, I guess...don't you believe that the blacks could make it about as well if we didn't have a Civil Service System under the system since the mode of what they get is about three hundred and thirty dollars?

MR. DENNERY

I don't quite understand your question.

MR. HAYES

Don't you believe that the blacks would fare just about as good if we didn't have a Civil Service System since the mode is about three hundred and thirty-five dollars?

MR. DENNERY

No, sir, I do not because without a Civil Service System, there is unlimited discretion in appointment. With unlimited

discretion in appointment--as has been shown--the blacks do not fare as well.

MR. FLORY

Mr. Dennery, I believe if I read your proposal correctly, you have changed the present constitution to exclude, in the exclusions, in that now your proposal includes common laborers, Laborers I, II, Utility Workers I and II, this sort of classification. Isn't that correct?

MR. DENNERY

You mean in the classified service?

MR. FLORY

Yes, and also in the competitive field.

MR. DENNERY

No, it's not necessarily in the competitive field, I don't believe, Mr. Flory.

MR. FLORY

Well, isn't it true in the present constitution, they are exempt from civil service?

MR. DENNERY

No, they are not exempt at all. They might be exempt from competitive examination.

MR. FLORY

I think you'll find they are exempt, but that's not my question.

MR. DENNERY

No, once....I beg your pardon, once they are employed, they are under the Civil Service System.

MR. FLORY

Once they are employed. But, they don't have to be in a competitive examination, and the laborers per se are excluded in the present constitutional provision. I'll show it to you when you get back.

MR. DENNERY

Yes, from competitive examination.

MR. FLORY

Now, how long has that been in the present constitution, "not less than three?"

MR. DENNERY

As far as I know, it was in the present constitution, it was put in there in 1952. But, even before that in the 1942 amendment which was a statute which was later changed, it was a rule of three.

MR. FLORY

Are you familiar with the fact that the legislature, by Concurrent Resolutions the majority of the voters of the legislature asked the Civil Service Commission to change the rule of three to not less than five?

MR. DENNERY

I believe that was done, yes, sir. I don't have a copy of the Resolution, but I believe that was done.

MR. FLORY

Do you know that the Civil Service Commission has not considered that as yet?

MR. DENNERY

No, I do not know that they had not considered that as yet. I would assume....

MR. FLORY

Well, they haven't adopted it, have they?

MR. DENNERY

I would assume....I would assume....no, I don't think they have adopted, Mr. Flory, and for the very reasons that were pointed out by Mr. Jenkins.

MR. FLORY

Could you tell me the difference between a Utility Worker I and a Utility Worker II, for example?

MR. DENNERY

No...can I tell you that? No, sir, I don't have the classification plan in front of me.

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MR. FLORY

All right, they say that the only difference....

MR. HENRY

The gentleman has exceeded his time.

Further Discussion

MR. WOMACK

Mr. Chairman and fellow members, I've saved back a little time. I think this is the first time I've been up here in about a week or ten days, two weeks. I rise in support of this, and I'm going to give you a few reasons why. Number one is I question the statement that Mr. Jenkins made that almost three-fourths of all the highway employees came up through the noncompetitive route, when I go and look and I find that only just about three classifications of jobs --when you get out in the field, that's labor, utility, bridgeman, etc--is chosen without civil service competition. A crew of seven, nine, or eleven people out in the field only is permitted one of that classification. Now, it is true that a number of these people are chosen at that level because of the promotional factors and policies that the Highway Department has. I like the promotional practices. You not only save a lot of money, but you give people advancement. If an individual is qualified, then I like to see him promoted when a better job is offered. But, there's no promotional policies on secretaries, clerks--all of those jobs--engineers, engineering aids. All of those start off classified from the word go. Now, let me tell you a few of the things you run into. On a field of three to be selected, and civil service walks in--in the..I will use Franklin Parish as an example; we have a job in Franklin Parish as a highway patrolman or State Police--they walk in and said, "We will make Troop F competitive." That covers everything from Arcadia, Louisiana, which is two-thirds across the state, to the Mississippi River and comes from the Arkansas line halfway or one-third of the way down the State of Louisiana. In that, we have three colleges and universities; a lot of urban population. When you add military service of ten points under certain categories, it is almost utterly impossible for ever a citizen of Franklin Parish to become an employee of the Louisiana State Police, because by the time we fight Louisiana Tech University, Northeast University and the urban population where they quite often have some advantages, you'll never get the one that you can hire locally. "Well, we'll send you a good one in from somewhere else." That sounds pretty good. Now, let me give you another example. You have a clerical job. They come back, and we're going to have that on the district basis. So, that goes from the west side of Winnfield Parish, two-thirds across Louisiana, to the Mississippi River. One of the clerical positions you've never heard of, and if they take one fifty or a hundred miles away from home, they're taking it as a stopgap to stay there long enough to find another job. When you look at a list and you find two from Winn Parish looking for a job in Franklin Parish and you find one from down in the lower end of LaSalle Parish say, "Well, we want to come up there because we have nothing else to do right now." Where, on the other hand, you could have an individual number four or number five on that list as local, established, out of a good citizenry, one-tenth of one point, and 86.3, where the number three person is an 86.4, well, you're not qualified. Now, as far as saying this works against minorities, I'm not worried about minorities. If they meet. . .if they are on that list and they are capable of having the job, I want to offer it to the best person for the job. I don't care who he is. I feel that. . .and I have fought this civil service hierarchy or whatever you want to call it. Any day you walk into that Civil Service Commission, you walk in there as a peon, as a political degre that's in there looking for something that shouldn't be done to start with. That's the way you're confronted when you walk in. I really think if you want something done with civil service, the best thing to do is to get an individual in the political figure and walk in and say, "For God's sakes, don't do it," and the odds are, you're going to get it. So, I'd urge the support of this amendment.

Further Discussion

MR. DE BLIEUX

Mr. Chairman, ladies and gentlemen of the convention, I could not resist, after hearing Mr. Womack and his argument, because I think that's the best argument that's been advanced all day today against this particular provision. He's made a very good argument why we shouldn't expand it. If you want to politicize civil service, just expand it to three. If you want to try to get the best employee and cut out all the political shenanigans, you ought to cut it down to two. Now you can just pay careful

attention to what he's just told you, and use your good judgment whether or not you want civil service to work or not. I ask you to vote against this amendment.

Questions

MR. WILLIS

Senator, I applaud your argument, but in projection of it, don't you think that as we remove ourselves from the rule of three and go beyond to the rule of five or seven, that we go from the merit system to the demerit system?

MR. DE BLIEUX

Absolutely. That's what you're doing. The more you expand it, the less. . .the more you can discriminate and the less qualified employee you're going to get.

MR. WOMACK

Senator, realizing that this country, as a political country, that government is the biggest thing we have, since when did it get so corrupt for politics to be politics in this country what we have?

MR. DE BLIEUX

Mr. Womack, as you well know, a lot of times politicians do things purely for politics. I think sometimes that we can separate the politics from the good of the country and start working for the good of the country and the community which we are supposed to serve, we will ultimately be better politicians rather than working for how we can get more votes.

MR. WOMACK

Senator, have you ever heard of a number three, number four, number five man on the list being a hardworking individual that was dedicated, where the number one and number two person might be one that's been laid off from every job in the country, that's too lazy to work?

MR. DE BLIEUX

I believe civil service works better than that, Mr. Womack.

MR. VELAZQUEZ

Senator De Blieux, going back to your mathematical projection, you say that having two would be better than having three?

MR. DE BLIEUX

I believe that we would have a better system. It would be less discrimination if we're working only from two rather than from three. Yes, I did.

MR. VELAZQUEZ

Okay, then, going along mathematically as you said, wouldn't having one be better than having two?

MR. DE BLIEUX

It might be better than that, too, Mr. Velazquez. That might be the best system.

MR. VELAZQUEZ

Continuing mathematically, then, if one is better than two, if two is better than three and one is better than two, it would seem to me that zero would be the best answer you could get. That way, you wouldn't have to hire anybody.

MR. DE BLIEUX

Well, you've got to have some selection.

MR. ANZALONE

Senator De Blieux, when was the rule of three first placed as a rule of the Civil Service Commission?

MR. DE BLIEUX

I believe it was placed in there when it was first adopted, Mr. Anzaloe.

MR. ANZALONE

What year was that, sir?

MR. DE BLIEUX

That was adopted. . .I think the civil service that we are presently operating under was adopted in 1954.

MR. ANZALONE

Would you say that today there are a great deal more applicants for the open positions in this state or less applicants?

MR. DE BLIEUX

I don't know. There probably may be, percentage wise, may be less because we have a whole lot more. . .

MR. ANZALONE

I didn't ask you "may," Senator, because I know the answer. I just want to see if you know it.

MR. DE BLIEUX

The. . . we have more population now, than we had in the. . . the qualification. . . that is, the pay of individuals, usually, are better outside of civil service than they are in civil service. At that particular time. . .

MR. ANZALONE

Senator, I'm talking about applications. . .

MR. DE BLIEUX

At that particular time when it was first adopted, things were harder and tougher to get a job, and we had a lot of civil service applications.

MR. ANZALONE

Applications per job. We have more now than we had then. It would seem to me, don't you think, that if in 1952 where you had an average of five and the rule of three, that where you now have eleven to thirteen, that a rule of five makes just a little bit more sense?

MR. DE BLIEUX

Not necessarily so. You're still trying to get the best qualified employee.

MR. ANZALONE

What is the best qualified employee, Senator?

MR. DE BLIEUX

I would feel like that the ones within the top three would be the better qualified.

MR. ANZALONE

On the basis of what?

MR. DE BLIEUX

The basis of grade.

MR. ANZALONE

Do you think that a doctor of medicine who is a surgeon should be qualified in English?

MR. DE BLIEUX

Well, I don't know what reference your question has to civil service, Mr. Anzalone.

MR. ANZALONE

Look at one one time, and you will see.

MR. CHAMPAGNE

Senator, do you know of anything that prevents a person who possibly missed the first three going back and studying and get ready and come back again and try next time?

MR. DE BLIEUX

What is that?

MR. CHAMPAGNE

If they missed the first three, they can go home and study and come back again in a while.

MR. DE BLIEUX

Well, you can take another examination, yea. That's right. You can always try to improve your grade. That's why I think that the rule of three is much better than a rule of five, or six, or seven.

MR. CHAMPAGNE

Do you know, Senator, that one individual thought maybe I was something like a legislator or. . .

MR. HENRY

The gentleman has exceeded his time.

Closing

MR. A. JACKSON

Thank you, Mr. Chairman.

Mr. Chairman and ladies and gentlemen, I ask you to vote for this amendment because I believe that we need to say to all of the people of this state that we care about them, and that the Civil Service Commission is going to operate in the interest of all of the people. Now, I've listened very carefully to the arguments made against this amendment. Someone suggested that minorities ought not to be concerned about increasing the number because they fare better under the present rule. I'd simply like to point out-- while I don't think that this is a racial consideration at all-- what is the central question, here, is whether or not we're going to provide a greater opportunity for the selecting agencies to find the very best person for a position. Now, I think that Mr. Anzalone is correct when he said that in 1952 we could afford to be selective, and that we could talk about having three. But, when we have three times as many applications, it would seem to me that we ought to have greater latitude, and we ought to be able to look at all of the people who have qualified, all of the people who have made high scores, and look at some of the other qualifications. We have individuals who are secretaries who have scored high on the tests, but can't get along with people, simply because we are confined to the rule of three. We have individuals in high positions who know nothing at all about how to deal with some of the day to day in-house operations, although they are able to pass tests because they are test-wise and because they have been taking tests. But, they still can't do the job. So, what we ought to be able to do is to select individuals, all of whom. . . from a list that will reflect the kind of needs that we have based on the individual who can best do the job. Now, when we talk about minorities, yes, we have about twelve thousand minorities employed in this state, but they all are out at Southern University and Grambling College and in the charity hospitals and intra-level jobs. Mr. Jenkins talks about the fact that this will allow for political interference, and he talked about the fact that the higher we go, the fewer blacks we receive. . . we find. Well, you know, the higher we go in civil service jobs, the fewer blacks we find. The fact is that blacks are not being considered because of the closed nature of the civil service rules and regulations that we have in this state. Now, I think that this amendment is in the interest of all of the people, both black and white. I believe that this amendment will democratize the Civil Service Commission. Now, the committee's proposal recognized this problem and increased the number from three to five. If we had been considering the committee's proposal, you would have had a chance to see this recommendation. So, I think that these gentlemen and ladies recognize that we ought to make changes, that it was in the interest of this state to make changes. Now, let's put aside the racial question, and let's look at the increased number of applications we have. Let's look at the kinds of needs that we have in state government, and let's look at the importance of having all people feel good about the Civil Service Commission and vote for this amendment.

Questions

MR. NUNEZ

Mr. Jackson, the way I understand, you want to take the top three and make it the top five?

MR. A. JACKSON

Right.

MR. NUNEZ

I understand, if you recall, I think there was a resolution in the legislature to go a little further than that. Am I right on that?

MR. A. JACKSON

Well, I think the resolution simply urged and requested the Civil Service Commission to make the change. The Civil Service Commission, up to this day, has refused to do so. . . has failed to do so.

MR. NUNEZ

Well, let me ask you one more question. If you. . .

MR. HENRY

The gentleman has exceeded his time, Senator. He's exceeded his time.

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[Record vote ordered. Amendment rejected:
37-58. Motion to reconsider tabled.]

Personal Privilege

MR. WOMACK

Mr. Chairman, fellow delegates, maybe I was in error a while ago when I said that seventy-one or two percent wasn't right. It could be right because everybody that's been there as many as eighteen years--and there's a good many thousand of them--took absolutely nothing. They were blanketed in without any civil service, without any passing or anything else. So, that factor, if you add those thousands to it, that percentage factor could be a little higher than I had anticipated.

Amendment

MR. POYNTER

The next set of amendments sent up by Delegate Jenkins to the proposal.

Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Denney and adopted by the convention, Saturday, page 5 of the text of the amendment, at the end of line 9, insert the following:

"No distinction shall be made among applicants on the basis of their affiliation or nonaffiliation with any private organization."

[Amendment withdrawn.]

Amendment

MR. POYNTER

The next set of amendments sent up by Delegate Flory.

Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Denney and adopted Saturday, on page 4, line 34, immediately after the word and punctuation "efficiency," delete the remainder of the line and insert in lieu thereof the following:

"fitness, and length of service, as"

Explanation

MR. FLORY

Mr. Chairman and delegates to the convention, this is in the way of a technical amendment in that it's the present policy of the Civil Service Commission to give consideration to the length of service. I believe I'm correct that it's sixty percent versus forty percent which consideration the forty percent being given in the way of length of service. All this says is that in the development of the competitive examination, the person being promoted will be given. . .at least consideration will be given to length of service. That's all it says. I ask for the adoption of the amendment.

Questions

MR. WOMACK

Mr. Flory, the one thing that disturbs me in this is that if civil service gives consideration to it, that doesn't mean a thing in the world--absolutely nothing.

MR. FLORY

Well, no, sir; I can't enter into their minds and thoughts, but I. . .all I am saying here is that they'll take into consideration the man's length of service, or the lady's length of service, in the development of competitive examinations.

MR. WOMACK

Well, now, the only thing I can use is my criteria for feeling this way. I'll ask you to comment on it, if you'd care to, that in the prevailing wage deal it also said that the Commissioner of Labor shall take into consideration the prevailing wage. He went ahead and established it, and when he was questioned, he said, "I considered it. It makes no difference, I considered it." So, I mean, it didn't mean anything. He didn't use it, he just said he considered it. I'm just wondering if this would be another situation of that kind.

MR. FLORY

I would hope not, but that's to the extent that all I asked is that it be given consideration.

MR. STAGG

Mr. Flory, does this implead into the merit system of civil service an additional consideration on longevity of service?

MR. FLORY

No, all it says is that they will take into consideration a man's length of service in the competitive examination to be given for promotions, etc. Of course, he can't have length of service as a consideration for hiring purposes. They do that now, Mr. Stagg.

MR. STAGG

For promotions, then, we would be impleading into this an element of seniority. Is that correct, under this amendment?

MR. FLORY

Call it seniority, length of service, how many days or how many years you've been on the job. It's the same thing they do today.

MR. JENKINS

Now, Gordon, on this amendment, you don't say anything about consideration will be given. You say, don't you, that the system will be based on merit, efficiency, fitness and length of service? You put length of service as a coequal standard there with merit, don't you?

MR. FLORY

No, sir. It says "under a general system," Mr. Jenkins. A general system based upon merit, efficiency, length of service and fitness in length of service. All of them.. all it means is, that all of them be given consideration when you get right down to it, under a general system of that type.

MR. JENKINS

Well, when the Civil Service Commission determines something like merit, or efficiency or fitness, it naturally would and does normally consider experience insofar as that is related to merit and fitness. But, simply length of service has no merit at all does it?

MR. FLORY

Why, certainly it does, has about forty percent today. Yes, sir.

MR. JENKINS

No, but I mean it is not a plus factor, the fact that someone has served a length of time should not be a plus factor, unless, that in some way is reflected in his own fitness or efficiency or merit.

MR. FLORY

Well, Mr. Jenkins, I don't know how you could say that a man served on a job for fifteen years that that experience would not at least, improve his ability to perform that particular function.

MR. JENKINS

Well, then in cases where that is correct, then it is covered by the words "merit, efficiency, and fitness," isn't it?

MR. FLORY

He may be there one day; he may be there ten years. The two people competing against each other--all this says is that length of service will be given consideration. A lot of times in the taking of an examination, with experience--four years of experience-- you could offset four years of college, one year of college, two years of college, etc., and, in order to qualify for the examination, to take the promotion. This is a consideration of length of service. This is what we're talking about.

[Previous Question ordered. Amendment adopted: 45-44.]

Personal Privilege

MR. VELAZQUEZ

I challenge the vote of Delegate Vesich, I don't believe he's here.

MR. HENRY
Delegate who?

MR. VELAZQUEZ
Vesich.

MR. HENRY
Vesich is not here, that's correct. Was his machine voted?

Now, gentlemen, this is the second time in about the last fifteen minutes that somebody has voted a machine of someone who is not here. There's suppose to be some honor, and some integrity amongst this bunch. These are the rules that you adopted, and I'm going to insist that nobody vote anybody else's machine, let alone someone who is not here. Thank you for pointing that out, Mr. Velazquez.

Personal Privilege

MR. WOMACK

Mr. Chairman, you overlooked the fact that there's also some pork in pork and beans; didn't you?
The Chairman was talking about all the honor, I just thought maybe he wanted to add sarcastically, there's a little pork in pork and beans, too.

MR. HENRY

And, there's a lot of bull in some members of
All right. Mr. Roemer.

Point of Information

MR. ROEMER

Mr. Chairman, what does, in light of the allegation and your substantiation of that allegation just made. In light of that, what does that do to our vote?

MR. HENRY

If Mr. Vesich is recorded as voting yes,....

MR. ROEMER

Which he is.

MR. HENRY

... then that would mean that the amendment is defeated because the vote would be 44 to 44. So, the amendment is defeated.

[Amendment rejected: 44-44. Motion to table reconsideration.]

Personal Privilege

MR. PEREZ

Mr. Chairman and delegates, I want to apologize to all this delegation. I thought I was at my desk and I was at Mr. Vesich's desk, and I inadvertently voted his machine. When I didn't see my light change, and I came up to my machine, so I'm the guilty party, but I apologize to the convention. But, it was not done on purpose.

[Motion rejected: 43-48.]

Motion

MR. FLORY

I now move to proceed with the vote on reconsideration.

MR. HENRY

All right.

Reconsideration

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I ask you to vote yes on this motion because all we're talking about--one of the four factors that will be considered, will be a man's length of service--that he devotes to public employment to the State of Louisiana. That's all I ask, is it be given consideration. The commission can consider it, the department should consider it and reject it. But, at least,

let's say that they should at least give it consideration. That's all the amendment does.

Questions

MR. TOBIAS

Mr. Flory, I'm little confused about one thing in the amendment. The way you have it drawn, it would read: "under a general system based upon merit, efficiency, fitness and length of service" as determined by...as ascertained by examination. How do you ascertain....

MR. FLORY

Insofar as practical, I believe that you forgot to read some of it, didn't you?

MR. TOBIAS

Well, I realize that, but what I'm saying is, how do you determine length of service by examination?

MR. FLORY

Well, you'd use length of service as a means of qualifying in order to take the examination in many occasions, Mr. Tobias.

To give you an example, if a particular job classification requires a college degree, you can substitute, if you've had four years of experience you can substitute that for, for example, one year of college.

MR. HENRY

Would you yield to a question from Mr. Willis?
Gentleman yields.

MR. WILLIS

Mr. Flory, rather than burden the commission with that consideration, don't you think that if a person has longevity or length of service that that will show up in the exam?

MR. FLORY

Perhaps it will, perhaps it will not, Mr. Willis. Insofar as a person just completing a college degree may not be, because of changes in curricula and updating of curricula, that person who's been on the job for ten years who may have had the same type of degree may not have had access to that updated curricula as a man just coming out of college taking that examination.

MR. WILLIS

Well, now if he doesn't have that, do you think that should be given merit when he has served and has not learned on the job with the same degree?

MR. FLORY

Well, to give you an example, Mr. Willis, if you take the classification as an administrative assistant; the classification as an administrative assistant requires a rather comprehensive examination in order to be a supervisor, if you will, as the administrator's assistant. It's the same classification whether it be in a department head---a department with six employees or six hundred. So, that the material they give you to study in order to be an administrative assistant is so extensive, if you pass that examination--you made a hundred on it--you could be the personnel manager for General Motors-- whereas, you may not be required to fill a position only supervising five employees.

Point of Information

MR. CHATELAIN

I'm opposed to the amendment. I want to vote as strong as I can against the amendment; on what's happening now, how must I vote, sir?

MR. FLORY

Just look at my light and vote the opposite way.

MR. HENRY

Well, you would vote "red". You don't want to reconsider it, sir, because the amendment is dead unless we vote to reconsider it.

MR. CHATELAIN

Well, that's what I... how soon can I do that, sir?

MR. HENRY

As soon as you'll quit talking.

Further Discussion

MR. JENKINS

Mr. Chairman, delegates, I wish you would look at this proposal as it would read with Mr. Flory's amendment. It says, "Permanent appointments and promotions in the classified state and city civil service shall be made only after certification by the appropriate department of civil service under a general system based on merit, efficiency, fitness and length of service." Now, Mr. Flory says that will allow the commission to give consideration to length of service. Does that also mean the commission can give consideration to merit, and consideration to fitness? Well, how much consideration? Will they give almost all consideration maybe to length of service, and just a little bit of consideration based on merit? I guess so. If all that means is they're going to give consideration to these things. It doesn't say that though; it says it's going to be based on four things: merit, efficiency, fitness, and length of service. We could have a situation arise where in order to be promoted in the state service you have to . . . it'd only be eligible to people who had served an extremely long period of time. We could make merit a minor factor. Now, we're talking about the guts of civil service. The guts of civil service is that it's a merit system. Seniority is important only as it pertains to merit, not independently. So, let's don't gut the civil service system. Let's don't allow length of service to be highly emphasized and merit de-emphasized. So, let's vote against reconsidering this amendment.

Questions

MR. LANIER

Mr. Jenkins, did you understand Mr. Flory as I did, that length of service could be used as a criteria for taking the examination?

MR. JENKINS

Yes, Mr. Lanier, that's what I understood.

MR. LANIER

Now, if you make length of service of equal status with these other types of qualifications constitutionally, would it then not be possible for the board to say that unless you have fifteen years service you can't even take this test?

MR. JENKINS

I don't see they couldn't?

MRS. WARREN

Maybe, I'm getting a little bit confused about a question that Mr. Lanier asked, but the one that I had in my mind: when a person has been selected for civil service, he's been selected on merit; am I right?

MR. JENKINS

Yes, ma'am. Supposed to be.

MRS. WARREN

I'll grant you that. Now, if he's been already selected on merit and he has had a number of years of experience because he's been in service for a number of years; does he think that would give him a plus?

MR. JENKINS

Well, experience may give a person a plus, it may not. If the experience is related to merit, yes. Some people have a lot of experience and have no merit related to that experience. But, certainly the Civil Service Commission considers experience now. They may, for example, require that a person have ten years' experience in a certain field, but not necessarily with the state. We're not talking there about length of service with the state. They may require experience, but that experience can be with the federal government or private business, or whatever.

MRS. WARREN

Well, what makes it so different that their experience will be demanded from some other agency other than their state, or our state?

MR. JENKINS

Well, the system that it's important to preserve here is a merit system, Mrs. Warren, based on the abilities of the person, not upon any mere length of time that he may have served with the state -- or with anybody else for that matter--as these things relate to merit they are valid considerations. But, Mr. Flory's

amendment would not necessarily have length of service relate to merit; it would be an independent factor, unrelated to it.

MRS. WARREN

Mr. Jenkins, if your statement is true--and I'm trying to ask a question--you just said that we have certain merits, I mean certain qualifications that they have to set up under other agencies other than the state. So, I'm really trying to find out what makes the difference. If they have experience in the state, and they've done a good job, what makes it so much better to have the experience of coming from some other place?

MR. JENKINS

Well, there's no way that experience with the state is going to hurt them, it's going to be a plus factor. But, to make it one of the major criteria would be a mistake, I think.

Further Discussion

MR. J. JACKSON

Mr. Chairman and delegates to the convention, I'll make my remarks very short. I am concerned to the extent that we do have problems with the civil service system. If you put a constitution of status in there for its length of service, then in effect what you're doing is rewarding a system that has discriminated in the past when it comes down to promotion, and those are my concerns.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I just want to ask you to please direct your attention just for a moment to Section(J) of Paragraph(J) of this provision. It's on page 6, which deals with the rule-making powers of the State and the City Civil Service Commission. As you know, this commission has the power to make rules under the system interpreting any provision of the system and that those rules had the effect of law. Now, all this amendment does, and it's all that it does, is say that they will consider . . . they will consider length of service in connection with promotion in the system. Now, what they choose to do under their rule-making power; how they choose to handle it is entirely within the discretion of this independent commission. The only reason I got up here is because I just don't see how any intelligent human being who's read this proposal can get up here and tell you that this amendment guts the system. That just ain't so.

Questions

MR. HAYES

Mr. Avant, this will... this involves promoting people in the system; is that correct?

MR. AVANT

That's right. I don't know how you would consider length of service in determining who you were going to appoint from outside the system to come in the system when they had never been in the system before, Mr. Hayes.

MR. HAYES

It has nothing to do with people who are not in the system, I mean bringing people into the system.

MR. AVANT

I see no way in the world for it to apply to that situation.

[Previous Question ordered.]

Closing

MR. FLORY

Mr. Chairman and delegates, I'll try to be very brief because--and I want to make one point to you-- it was tried... if someone tried to construe what I said that length of service could substitute in lieu of an examination, that is absolutely not true. What I said was, and meant to infer, if I didn't make it clear was: in order to qualify... in order... he might take the examination. He can substitute length of service sometimes for so many years of college or a degree in order to give him the right just to take the examination. This is one of the considerations that could be given to a length of service. The second consideration that might be given; is if there became a layoff, then it would be used

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in the inverse order in that the youngest man would be laid off and the oldest man would stay on the job. This is merely asking that a consideration be given to length of service. Mr. Chairman, I ask for... I suggest....

Questions

MR. JENKINS

Gordon, Mr. Avant said that this would pertain only to promotion and not to initial hiring. But in fact, couldn't this be used to make sure that any time there is a vote... an opening in a given classification, it is filled by promotion and not by some new outside person? For example, suppose there's a position called "surveyor five" and it requires ... the civil service system says that it requires five years of experience with the state. That would mean that a person with twenty years of experience who doesn't work for the state would not be allowed to take the examination and fill that position, but only someone with a certain amount of experience with the state; isn't that true?

MR. FLORY

Mr. Jenkins, if you can foresee that commission that you said was so outstanding and nonpolitical making that type of a judgment, that theoretical possibility exists. But, at the same time, it also means that in the case of an Auditor I or II, that they could take from the outside and hire a person who's had two or three years of experience just out of college working for Sears, Roebuck, and put him in the Division of Administration as an Auditor II. It also means that.

Mr. Chairman, I suggest the absence of a quorum and ask for a record vote.

[Quorum Call: 88 delegates present and a quorum. Motion to reconsider adopted: 48-47.]

Further Discussion

MR. JENKINS

Mr. Chairman, I'm not going to bore you again, but this is the guts of the civil service system. This would allow it to be destroyed, and so I urge you to vote against this amendment.

[Previous Question ordered. Record vote ordered. Amendment adopted: 49-46.]

Amendment

MR. POYNTER

The next set of amendments sent up by Delegate Landrum, Delegate Tapper, Delegate Schmitt.

Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the convention Saturday, page 5 of the floor amendment, delete lines 10 through 20, both inclusive, in their entirety and insert in lieu thereof the following:

"(H) Appeals. (1) Disciplinary Actions. No person who has gained permanent status in the classified state or city service shall be subjected to disciplinary action except for cause expressed in writing. Any classified employee subjected to such disciplinary action shall have the right of appeal to the appropriate commission. The burden of proof on appeal, as to the facts, shall be on the appointing authority.

(2) Discrimination. No classified employee shall be discriminated against by any reason of his political or religious beliefs, sex, or race. Any classified employee so discriminated against shall have the right of appeal to the appropriate commission. The burden of proof on appeal, as to the facts, shall be upon the employee."

Explanation

MR. LANDRUM

Mr. Chairman, fellow delegates, I will only be here a couple of minutes because I know you are tired and you want to go home and so do I--at least go to my room anyway, or eat, or something. But, this amendment attempts to divide the adopted amendment of Mr. Dennery's into two parts because we feel that it should be in two parts. The first part dealing with the disciplinary action of the employee that the burden of proof should rest with the employer. If the employer is going to take out disciplinary action on employees, then that employer should

be able to show cause why such action is being taken. In the second part of this amendment with the discrimination part of race, color, and religious beliefs, if an individual is going to say that someone or that the appointing authority is discriminating against him, then he should be able to prove himself. He should be able to prove that charge. I believe it is in keeping with our standard of procedures in the courts that one is innocent until proven guilty. We never have a man to prove himself innocent in a court of law, but rather that he has to be proven guilty, and until such time he is proven guilty, he is assumed innocent. We cannot allow people to be out of a payroll...out of salary while they are trying to gather up information to prove their own innocence. I don't think it should be their responsibility to prove their innocence. I believe it should be the responsibility of those who are bringing such charges against him, just as I believe that it should be his responsibility if he is going to claim that someone discriminated against him. We ask for a favorable adoption.

Questions

MR. KELLY

Reverend, actually, the only change that you are making is regard to the disciplinary action? In other words, you're not changing Mr. Dennery's proposal with regard to the discrimination, and by political, religious beliefs, sex, or race? You're making no change there; is that correct?

MR. LANDRUM

That is correct.

MR. KELLY

Your only change is that when a man is charged with a disciplinary action, and he is presumed innocent until he is proven guilty; is that correct?

MR. LANDRUM

That is right, Mr. Kelly. Mr. Dennery's amendment locks both sections together; I mean, on disciplinary action and discrimination and the way the two were so locked, you cannot say that you are for it or against it. So, that's why I believe that it was necessary to separate the two.

MR. FLORY

Reverend Landrum, I don't have any quarrel with your amendment. My question is: Will you explain again--and perhaps I missed your explanation--where in the disciplinary actions you put the burden of proof on the appointing authority, yet, under the classification where if a person is discriminated against--let's say, in the taking of a test, or in a promotional process, or on a lateral transfer--if discrimination exists, why you then put the burden of proof on the employee?

MR. LANDRUM

Mr. Flory, you see many times a man could just say that "I'm being discriminated against." Well, all right, if you are going to say, "I'm being discriminated against", well then, how? That should be the next question. How am I being discriminated? How are you discriminated against? I don't believe it should be the one who is giving the exam. The burden shouldn't be with him to say that "I'm going to defend myself from this charge." I don't believe that.

MR. FLORY

Well, maybe I'm not getting through, Reverend, but...

MR. LANDRUM

Maybe you're getting through, maybe I'm not getting through....

MR. FLORY

...where it says "the burden of proof on appeal." Now, we have already had the classified employee had the right of appeal to the appropriate commission. So, what we are talking about here is the appeal on the facts to the court. Now, then, you are placing still the burden of proof on the employee in the court to prove that he was discriminated against rather than placing the burden of proof on the employer who actually did the discrimination. He ought to be able to...he ought to have to be forced to prove that he didn't discriminate.

MR. LANDRUM

Mr. Flory, maybe you are correct, but I disagree with you. I disagree with you.

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MR. A. JACKSON

Reverend Landrum, how does the first part of your amendment interfere with the governor's executive order against discrimination in...or state agencies? How does it interfere with the affirmative action programs under the Civil Rights Act?

MR. LANDRUM

Mr. Jackson, would you remind repeating that again?

MR. A. JACKSON

Well, my question is: When you place the burden on the employee, as it relates to discrimination, I'm asking you isn't this contradictory to the governor's executive order as it relates to discrimination in state agencies? Also, isn't this contradictory to the affirmative action programs that have been implemented under the Civil Rights Act, Title 7?

MR. LANDRUM

Mr. Jackson, what I'm simply saying is this: That if I accuse an employer of discrimination, then I must be able to say how, how did he discriminate?

MR. A. JACKSON

But, shouldn't this...my question really is shouldn't this burden be on the agency?

MR. LANDRUM

Well, maybe you could tell me how? Well, how could he prove it? I would like a answer from you, if you have the answer.

MR. A. JACKSON

Well, I think that now under the Title 7 action that is being brought the person simply makes a charge...files a charge and it's up to the agency to prove that they have not discriminated.

MR. LANDRUM

But, the agency is not bringing the charges there, Mr. Jackson, the applicant is making the...bringing the charge. But, now, that part of it is not really my amendment to start with; I was dealing with the first part of it, on a disciplinary action. I do feel that disciplinary action should not be the burden of the employee to bring about...to prove his innocence. I believe the burden should rest with the employee.

Further Discussion

MR. SCHMITT

Reverend Landrum was quite correct with reference to disciplinary action. The question is: Who must prove what? I would just like to give you one little example. If Sally Mae hollers that Billy Joe stepped on her foot, under the present system, which would be in effect without the amendment which Mr. Landrum, myself, and Mr. Tapper have introduced--Billy Joe would have to come into the hearing and prove that he never did it. So, the issue before us is if there is doubt, or reasonable doubt, does the person who is the employer get the benefit of this doubt, or does the employee? I think it should be the same as it is in private business with the employee getting the benefit of the doubt. In normal types of arbitration proceedings, the company has to come in and prove that it has good cause for dismissing an individual; I think it should be the same way in this type of case. Next, with reference to the discrimination in the Title 7 action--that's under the Equal Employment Opportunity Commission rulings and so forth--and these do require proof upon the part of the employee that some type of discrimination has been brought against the individual, and he must gather facts in order to show this; he initiates a charge--some federal agency might go and investigate it--but ultimately, whichever way is decided upon, he must go into court and prove his case. So, all this is is the enactment of the present law which is in effect at the present time with private corporations and employees hired by these individual private corporations. Now, I think what is good in the private business world and works very well there will also work well within the civil service structure.

Questions

MR. KELLY

Mr. Schmitt, I think you would agree that there has been some misunderstanding concerning these two burdens of proof in relation to Reverend Landrum's amendment in essence and the logic behind his amendment, and is this not true?

MR. SCHMITT

I can't hear you.

MR. KELLY

Is not the logic behind Reverend Landrum's amendment to the effect that whoever makes the accusation has the burden of proof?

MR. SCHMITT

That's correct.

MR. KELLY

All right, i.e., in the first case, in case of disciplinary actions the commission itself would be...

MR. SCHMITT

That's correct.

MR. KELLY

...the people in authority would be making the accusation against the employee; they would bear the burden of proof.

MR. SCHMITT

That is correct.

MR. KELLY

...the discrimination angle if I, as an individual, holler discrimination then I am making an accusation against the system, so to speak; therefore, I have the burden of proof.

MR. SCHMITT

That is correct.

Further Discussion

MR. DUVAL

There may be some confusion for those few of us who are still here as to what this amendment does--I would just like to bring it out. I'm primarily interested in the first part of the amendment which changes the law in reference to the burden of proof. Of course, we do things sometimes that sound good, but we don't know but what this might affect years of jurisprudence on the subject. How does it work mechanically? What does it mean? What does it do? Have we thought in any depth about it? I've handled several cases like this and in order for the employer, the appointing authority, to terminate the employee: (1) the employer has to give specific written reasons--now, specific written reasons. And, of course, the burden of proof on appeal is on the employee, but the written reasons must be proved and the commission must find as a fact that the employee did, in fact, violate certain rules. Now, in private business--I might point out--you'd be fired because somebody doesn't like the way you blink your eyes or the way you wear your glasses and, generally, people are not terminated unless they are not performing their function in a certain way or not; civil service protects them; civil service makes you have to prove, makes specific written reasons have to be outlined. Now, I think when you switch this around and make it like a criminal case where the burden of proof is on the employer, it's going to be very...even more difficult to terminate people. Sometimes people should be terminated because they are not doing their job and it's mighty difficult, right now, if the cases are read to terminate somebody under civil service. They have to be guilty of a pretty flagrant violation. I don't see why we should make any more difficulties. It is not a criminal proceeding but the orderly operation of state government. I see no reason why we should hamstring it more by making the burden more difficult. It sounds good; it makes you feel good, but practically, it doesn't function very well. Practically, the employee's got plenty of protection under the law right this minute.

Further Discussion

MR. AVANT

Mr. Chairman, fellow delegates, I just want to point out what I consider to be errors in what Mr. Duval has told you. This idea of the burden of proof being on the employee is one of the basic inconsistencies in the present civil service system. Now, this...remember this, under this system an employee to acquire permanent status, first, he has to pass a written examination; he has to be within the top number; and he has to secure the appointment. Then, he has to undergo a probationary period. Only after he undergoes a probationary

period, during which period of time he can be discharged for any reason, does he secure what is known as permanent civil service status. Now, thereafter, he can only be discharged for cause. If he violates some rule, he's incompetent, etc., etc. Now, there is no question of converting this thing into a criminal proceeding or a quasi criminal proceeding, as Mr. Duval said. If that permanent status is going to mean anything, if that civil service status is going to mean anything, it must mean that when the appointing authority points its finger at a given individual who has gone through this test and probationary period, and has permanent status, and says, "You are being fired because you did or you did not do thus and such, or because you are incompetent," it simply means that they have to establish that he actually did those things or that he is, in fact, incompetent--that's all it means. It doesn't mean as in a criminal case that it has to be proven beyond a reasonable doubt. All you have to do is prove it enough to where it's more probable that he is guilty of the violation charged than it is that he is not guilty; you don't have to prove it beyond a reasonable doubt. Now, if you accept the idea of civil service at all, then you have got to accept the concept that if you can only be discharged for cause, then the burden is on the party doing the firing to prove the cause. Under the present law, the burden is on the employee to prove that he didn't do certain things. Well, you know, it's almost impossible for anybody to prove that they didn't do certain things. So, it seems to me, that this is a burden of proof situation under the present constitution, which puts the burden of proof on the employee, is a basic inconsistency within the system itself; it's absolutely inconsistent with any idea of not being able to discharge except for cause. So, for that reason, I urge the adoption of this amendment.

Vice Chairman Casey in the Chair

Questions

MR. FLORY

Mr. Avant, isn't it a fact that Louisiana is the only state in the nation where the burden of proof is on the employee?

MR. AVANT

That is correct, Mr. Flory.

MR. ALEXANDER

Mr. Avant, is the burden of proof on the employee an inconsistency with legal jurisprudence in Louisiana?

MR. AVANT

I'm sorry, Reverend Alexander, I'm having trouble hearing you.

MR. ALEXANDER

I say, "Is the fact that the burden of proof rests on the employee inconsistent with jurisprudence in Louisiana--legally?"

MR. AVANT

Well, no, it's not inconsistent with jurisprudence, Reverend, because our present constitution--the civil service provision--says that "the burden of proof on an appeal in a discharge case is on the employee." I say that it shouldn't be there; it should be on the employer if the system is to mean anything.

MR. ALEXANDER

Well, I know, you're speaking about the system as it is now. I'm speaking about under the penal code in Louisiana. Is not the burden of proof....

MR. AVANT

Well, it's contrary not only...but, it's contrary to the general principle that anywhere that anybody who's making an allegation or supporting the affirmative side of a proposition has got the burden of proving that side. The fellow who says, "I didn't do it," he's not supposed to have to prove anything. You're supposed to have to prove that he did do it.

Further Discussion

MR. DENNERY

Mr. Chairman, those delegates who are present--and I'm glad to see that at least some of us remained here--the question of the burden of proof is a very delicate--or rather a very technical question. This is far, however, from a technical amendment. The law has been in this state now since 1942, and again in 1952, that

the burden of proof is on the employee. Now it has been said that this makes it difficult for the employee to establish that the employer is wrong. You may be interested to know that since 1955, up to date, there were thirteen thousand four hundred and twelve employees in the State Civil Service who were removed for cause. Of those thirteen thousand almost five hundred, only eight hundred and eighty-two filed appeals, because they knew the cause was present. Of the eight hundred and eighty-two, four hundred and seventy-three, or over half, have had their appeals sustained. So, it is not as difficult as some of the speakers might have led you to believe. Let me read you from the decision of the court...courts...decisions of courts of this state, which require the appointing authority to make specific certain and definite charges as to their nature, as well as to the date, time, and place of their occurrence. Now this protects the employee. It is very simple for an employee, when he knows the exact thing for which he has been dismissed, or disciplined, to dispute it. It is very simple for him to do this because he knows that the appointing authority can bring no other evidence than to substantiate what they have alleged as cause. If you put the burden, and this is not a criminal case, this is not a question of someone being guilty until proven innocent; this is a case where the State of Louisiana, through its duly designated appointing authorities, has determined that a particular individual should be discharged. Now, this is basic to the merit system, to permit the state to get rid of nonmeritorious employees. It's to the advantage of the people of the state to permit the state to do this.

Eighteen thousand...excuse me...thirteen thousand, almost five hundred people have been removed since 1955. If we shift the argument, if we shift the burden of proof, what we are doing, in effect, is saying to the State of Louisiana, "We are trying to make it almost impossible for you to discharge a nonmeritorious employee." When the employee comes in and presents his evidence that he was not guilty...excuse me...that he did not do what the appointing authority said he did, or what he did do was not just cause for dismissal, the burden of going forward immediately shifts to the state, to the appointing authority, and they have to prove it. The only time that the burden of proof becomes important, is if you have an extremely close case--an extremely close case--where the commission is unable to determine whether Mr. A is lying or Mr. B is lying. In those few instances, the burden of proof becomes important. That's the only time it becomes important. I urge you to defeat this amendment.

Questions

MR. LANDRUM

Mr. Dennery, you said thirteen thousand dismissed. Of that thirteen thousand, how many appealed?

MR. DENNERY

Eight hundred and eighty-two.

MR. LANDRUM

What was your statement about the remainder?

MR. DENNERY

The others obviously must have known that their cause was not just, or they did not appeal.

MR. LANDRUM

Do you think that they could have felt that they had no power; that they were fighting the power structure that they just could not win even if they would appeal; that they did not have the money to offer to hire an attorney to fight an appeal?

MR. DENNERY

Reverend Landrum, I have been...I sat on that commission for ten years. I never saw anyone complain to that effect. People have appeared without attorneys. The commission has acted, in effect, as their attorney and protected them.

MR. DUVAL

Mr. Dennery, isn't it...didn't you say that those who did appeal, that over fifty percent of them were successful in their appeal?

MR. DENNERY

Yes, sir.

[Previous Question ordered. Quorum Call: 78 delegates present and a quorum.]

Closing

Point of Order

MR. TAPPER

Mr. Assistant Chairman, ladies and gentlemen, just about everything has been said. I think you understand it. For fear that you don't fairly, let me just reiterate that what we are doing here is not changing Number (2) of (H), because that is the way Mr. Denney had originally proposed it. We are changing only Number (1) of (H) which deals with the disciplinary action, and not the discrimination. Now, we've changed it, changed the burden from the employee to the employer, and that is the only change. That is what this amendment is about. I think that in all fairness, you believe that that's the way it should be also.

Now, Mr. Denney says they've had so many thousand cases of dismissals, and only about eight hundred appeals. Well, maybe that could very well have come about as a result of the particular provision that we're trying to change. Maybe the employee felt that it was no use because the employer was more acquainted with the commission than he, or she, could ever be. I'm not saying that's the case. But that could very easily have been the case.

For the life of me, I cannot understand, nor can the other proponents of this amendment understand, why those who are so bent on retaining the Civil Service System as it is, to protect, allegedly, the civil servants of this state; why they, the same people who say they want to protect the civil servants, insist that an employee has a greater right and is more protected when he does not have the right to say, "I am innocent until proven guilty." Now, whether you call it criminal, civil, call it what you may, it isn't a criminal prosecution. No. You don't have to prove it beyond a reasonable doubt. No. A preponderance of the evidence--not even that--more or less a prima facie case is all they have to prove in the....appeal. Ladies and gentlemen, to me, this vote is on the ridiculous. Why....why does the employee have to prove he did not commit an infraction? For the life of me, I cannot understand that. I urge....I urge that you adopt this. If we want to protect the civil servants of this state, then let's do so, and let's do so one hundred percent. I'd like to know the answer to why they don't want this to be done. I haven't heard it yet. Please, adopt this amendment. I ask for a record vote.

[Record vote ordered. Amendment adopted: 42-40. Motion to table reconsideration rejected: 36-40.]

Motion

MR. TAPPER

I now move that we reconsider till the next legislative day... the convention day.

MR. CASEY

Mr. Tapper now moves to reconsider the Landrum amendment on the next convention day which is tomorrow; will have the effect, then, of passing over Section....Paragraph (H) and going on to (I). Is there any objection to the motion to reconsider on the next convention day?

Substitute Motion

MR. DUVAL

As a substitute motion, I move that we reconsider it now.

MR. CASEY

Mr. Duval now offers a substitute motion to reconsider the vote by which the Landrum amendment was adopted on today.

MR. POYNTER

Just want to make it clear. The motion, or the group of motions, counting the original motion, all have to do, not with reconsideration, but when you are going to reconsider.

Mr. Tapper moved to defer the consideration of the motion to reconsider until the next convention day and to which a substitute was made by Mr. Duval that you reconsider at the present time. So, what you are disposing of now is the time or juncture that you will vote to reconsider, not the motion of reconsideration itself.

[Motion withdrawn. Substitute motion adopted: 64-15.]

MR. TAPPER

Is it not a fact that the vote we just took was on reconsideration?

MR. POYNTER

No. Reconsideration at the present time.

MR. TAPPER

No, the vote we just took was whether or not we would reconsider it today. Isn't that right?

MR. POYNTER

That's correct.

MR. TAPPER

So, now, it's up for a vote on the amendment today. Isn't that correct?

MR. POYNTER

Except the motion on the floor right now is to reconsider.

MR. TAPPER

You haven't....called the vote, yet?

MR. POYNTER

No. The motion under the rules of the convention is debatable so there could be discussion on whether....

MR. TAPPER

The Chair put the question--those who are in favor of reconsidering today will vote yes. Those opposed will vote no.

Will you open the machine.

The machine is open.

The vote isn't counted.

If the vote carries, then it's up for reconsideration today to be voted on. Is that not right?

MR. CASEY

Mr. Tapper, I thought the Clerk, I believe the Clerk, in all honesty, had tried to clarify the point that we were merely voting on the time element of reconsideration. The matter up for discussion at this time is the motion to reconsider. I would suggest that we go through the steps of voting yes or no on that, and then if we wish to again discuss the amendment, let's do that.

Point of Information

MR. ARNETTE

Mr. Chairman, Mr. Duval's motion was not that we consider the motion to reconsider. It was that we reconsider. That was the motion as I understood it. It was very plain. Not that we consider the motion to reconsider, but that we actually reconsider that vote. That's the way it was put to the house.

MR. CASEY

I believe the Clerk made it quite clear that it was the time element. If there was any question about it, I would suggest that the convention go through the process of voting on the motion to reconsider at this time--just to solve any problem, Mr. Arnette.

Point of Information

MR. WOMACK

Mr. Acting Chairman, I wonder if you all would adopt a terminology along the line of a farmer's terminology and leave the lawyer's terminology out of it; and I think maybe we'd understand it better.

Point of Information

MR. AVANT

I want....this is a point of information because....this has confused me other than just now. We vote on the motion to reconsider and then to table the motion. O. K. So we say well we don't table the motion to reconsider.

Then, we vote on whether we are going to reconsider....right?

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All right, now, then suppose we vote not to reconsider? The vote on that motion is zero. What does that do to the main proposition? Is it then in the same position it would be if we had voted to table it?

MR. CASEY

Except that it would take a two-thirds vote to remove that motion to reconsider from the table.

MR. AVANT

No, no, no, no, no. We vote on the motion to table, and we don't table it. So, then the question is, are we going to reconsider it? So, we vote that we don't want to reconsider it after we have refused to table the motion to reconsider. Then, I want to know where we stand at that point insofar as the main question is to-wit: the amendment--can we....do we ever again.....?

MR. POYNTER

If amendments were adopted, it stays adopted. The amendments were rejected; it stays rejected. We're just in the same posture.

Point of Information

MR. DERBES

Point of ignorance, Mr. Chairman.
Is there a motion on the floor?

MR. POYNTER

The motion to reconsider is pending.

MR. DERBES

I move the previous question.

[Motion for the Previous Question
rejected: 31-44.]

Motion

MR. DUVAL

Mr. Chairman and fellow delegates, I don't like to cause obstruction in the wheels of the convention. But I think we have a very short house. This is a very serious issue. I don't know to whose advantage it is--the proponents or the opponents--but I would like to move that we return to other orders of the day rather than speak on the merits of this right now because I just think we decided we are making a drastic change here one way or the other. I would like to move that we return to other orders of the day.

Chairman Henry in the Chair

[Motion adopted: 37-36.]

Point of Information

MR. JENKINS

What will this do to the motion to reconsider?

MR. HENRY

Well, we are debating the motion to reconsider at this time. So, we'll continue the debate on that, first order of business tomorrow. I mean, the first order of business when we get on unfinished business.

Announcements

[II Journal 942]

[Adjournment to 9:00 o'clock a.m.,
Wednesday, December 12, 1973.]

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Wednesday, December 12, 1973

ROLL CALL

[73 delegates present and a quorum.]

PRAYER

MR. HEINE

Let us pray.

Our dear heavenly Father, we thank You for this day and for all the blessings that Thou has given us. Lead, guide, and direct us now as we deliberate on the constitution for our state, and that the decisions that are made here will be for the best interests of the majority of the people. Lead, guide, and direct us now, and forgive us of our many sins, for Christ's sake. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Reconsideration

MR. POYNTER

Committee Proposal No. 9, introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare, and other delegates, members of that committee.

A proposal making provisions for human resources by providing for state and city civil service. The status of the proposal: the convention has adopted a number of amendments; primarily has adopted a set of comprehensive amendments proposed by Delegate Denney, which were adopted last Saturday, December 8, 1973; at the present...presently considering amendments thereto; and in particular, on yesterday, prior to adjournment, an amendment was adopted by--as proposed--by Reverend Landrum, dealing with Paragraph (H) dealing with appeals; adopted 52 to 50. The motion to table was defeated; presently have under consideration, before the convention, the motion to reconsider the vote by which the Landrum amendment was adopted.

MR. FLORY

Mr. Chairman and delegates, I rise in support of the amendment.

MR. HENRY

Mr. Flory, now, we're on the question of reconsideration, the motion to reconsider.

Point of Order

MR. FLORY

I understand; and my position at this time, if I'm correct, Mr. Chairman, is if we want to sustain the adoption of this amendment, we have to vote no. Is that correct?

MR. HENRY

That would be correct.

Further Discussion

MR. FLORY

So, if we're in favor of this amendment, we have to vote no because the motion is to reconsider. If we defeat the motion to reconsider, then the amendment automatically stands adopted. So, I ask you to vote no on the motion to reconsider. Our Committee on Education discussed this matter on changing the burden of proof from the employee to the employer at considerable length, both in the subcommittee and in the overall committee. I can tell you, if there was anything in our committee that

was by a unanimous vote, it was on the changing of the burden of proof from the employee to the employer. When this amendment first came up yesterday, I had some reservations about the second portion of the amendment, placing the burden of proof on the employee in those cases where discrimination was brought about on political, religious beliefs, sex or race. I am convinced now that that is the proper procedure, that whoever makes the accusation ought to have to prove the charges, so that I would ask you to vote no on this motion to reconsider so that we can leave adopted the question of whether or not the burden of proof is going to be left on the employee or the employer. I think that it rightfully belongs on the employer who takes the initiative in bringing about a disciplinary action against a particular employee. Again, I say to you that Louisiana is the only state in the nation with a civil service who has the burden of proof on the employee. In the rest of the states the burden of proof is on the employer. It is a mere question of whether a man is innocent until he's proven guilty, or whether he's guilty until he's proven innocent. If you place the burden of proof on the employee, that means that he's guilty until he proves himself innocent. But, if you change the burden of proof to where it rightfully belongs, on the initiating party, then that man is innocent until he's proven guilty. I ask you to vote no on the motion to reconsider.

Further Discussion

MR. LANDRUM

Mr. Chairman and ladies and gentlemen, again, I want to say to you that we must take into consideration the welfare of a man dismissed from a job. That man lives off of money that he earns, whether he's paid weekly, monthly, or semi-monthly. To have this man to spend his savings, should he have any, hiring an attorney to defend him, or whether this man should be placed in a position of being guilty, not having any income, and then at a later date he's proven innocent, what has happened to him while the time he was waiting? He probably has borrowed...made a loan. You have set the gentleman back, or the lady, whichever the case may be. I believe that we should put the burden of proof on the employer. In the case where, for disciplinary action in the areas of discrimination, if I charge someone with any offense, then I should be able to back up that charge with proof. The burden of proof should be on me at that time. I urge that you would defeat the proposal...not the proposal, but for reconsideration.

Further Discussion

MR. DUVAL

Mr. Chairman, fellow delegates, I think it again time that we examine whom we represent here. We're writing a constitution, again, I think, for the people of Louisiana, not for small segments of the people. We seem to have fallen to the tendency that it's very popular and very nice to do things for certain groups of people. But, you're putting this into a rigid document: that is, your constitution. If you do something that isn't well considered, you have to live with it until the constitution is amended. We've already composed a board which is, supposedly, which should be much more employee oriented than the present board. I think that's a without question that the composition of the board that we have proposed will certainly be more employee oriented, which is fine. But, I do not think we should set up a system in this state which makes it more onerous to terminate employees of the civil service system. I think you heard Mr. Denney's statistics yesterday that over half the appeals taken were won by the employee. It's all fine to sit here and wave our banner and say, "Oh, they should be protected," when no other employee in industry is protected except by discrimination. I'm not talking about the discrimination portion of Reverend Landrum's amendment. I'm talking about the everyday running of state business. Now, when are we going to start being concerned with that, ladies and gentlemen? When are we going to start being concerned with how government operates? And, when, it's hard as heck right now, I can tell you--it's hard to dismiss people under the present civil service system. We talk about efficiency in government. Inefficiency has many times been perpetuated by people who are causing disharmony in a department, but cannot be terminated because of the protection, and there should be some protection in the civil service. The main purpose of civil service is to achieve merit, and to do away with the spoils system, and then to give some job security to state employees. But, you don't want to give them a lifetime appointment. Now, what effect will this have? If the cases

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are carefully read, if the cases are carefully read in Louisiana, it can be found that the employee has been mighty doggone protected by the courts and by the law, and we want to do it more. We want to put on our hat and say look what good guys we are. But, have we thought in depth about the effect our actions are going to have on the jurisprudence of this state, on the machinery of state government? Have we really thought about it? It's wonderful and popular and quite demagogic to come up here and say, "We want to help the poor employee who's oppressed by the evil state." Now, that's just wonderful. That's just great. But, what does it mean? The employee is mighty protected right now. They certainly are, and if the cases are read, that can be seen. But, we want to do it more because we want to be the fair-haired boys, but we're not being responsible to the people who elected us. It's high time we stop writing a constitution to please other people rather than the taxpayers of Louisiana. Just let me read you from a couple of cases--I've just gone through this in a second--"Civil service requirement that discharge of employee come from appointed authorities to be strictly construed. An absence of proper notification is fatal to employee's actions. Mere fact that civil employee has disagreements with fellow workers, is unpleasant to work with, experienced difficulty in adjusting to change, lacks adaptability, and demonstrates inability to work with others, is not sufficient cause for removal." Now, that's the case I'm reading from, right here, Carr v. New Orleans Police Department. That's what the cases have said. Now, I defy that person to work in a regular job. I defy him to keep his job. He can't, but he's protected under civil service. So, I recommend to you that we do in fact reconsider this, and think about what we're doing in a little depth, and hear a little discussion. Thank you.

Questions

MRS. WARREN

Mr. Duval, would you say it was more important for a commission to be able to get rid of employees, than justice to prevail?

MR. DUVAL

Mrs. Warren, I think justice prevails in our system now. I think injustice will prevail when people who should be terminated cannot be terminated. When we change our law, why change a law when I think justice is being done right now? I don't think you can complain if you look at the cases and the operation of the commission. Also, Mrs. Warren, the way the commission is composed, now, it's going to be pretty employee-oriented to begin with. So, I don't think you have to worry about justice.

MRS. WARREN

Even at that, Mr. Duval, you went on to elaborate on it, so our position is really different. You think one way, and I think another. But, I asked you the question. Now, the question is: if you are accused of something--I accuse you--I should be able to prove what I say, and that goes for the commission or anybody else; wouldn't you think?

MR. DUVAL

Mrs. Warren, if the cases are read, you'll find that anytime an employee was terminated under Louisiana law, the employee had to have a lead-pipe cinch.

Further Discussion

MR. ALEXANDER

Mr. Chairman, delegates, ladies and gentlemen, I rise to oppose the motion to reconsider for the following reasons: One of the previous speakers alluded to people. Who are these people? These people are sixty thousand employees of the state government of Louisiana. They are people like you and me. They are people who work for a living. They are not all black people, Indians, Japanese, or white. They are people like us. Now, fundamentally in Louisiana, we operate under a legal system. Now, if you will recall, under the jury system which, more or less, originated a long time ago back in Europe, especially in Greece, the original system applied only to criminal cases. But, eventually, it evolved, and now we have a jury system, a criminal jury system, and a civil jury system. Now, what am I saying? That to say to an employee who does not sit in an ivory tower, who is not an executive, who is classified, not unclassified--which indicates that his salary is not in the highest bracket--to say to him that you must

come before this powerful Civil Service Board, which has at its disposal persons with all kinds of expertise--attorneys, labor relations men, certified public accountants--in order to determine our rates of pay, and etc, the board has at its disposal all of these people. Yet, there's one, poor single individual who may be working for six hundred, five hundred dollars per month, comes before this board, and the whole burden of proof is on him when he is charged with insubordination, or some other breach of the rules. Now, I say unto you, ladies and gentlemen, to do that is a violation of the spirit of the criminal court of Louisiana and of the Constitution of Louisiana and of all the laws of Louisiana which pertain to any kind of criminal or civil activity before a bar of justice. Now, I'm asking you to vote against--to vote against--reconsideration and remember that you're talking about people--our people. We're talking about a law that should have been reformed and changed a long time ago. If civil service has had any weakness--and I don't know so much that it has--but, if it has had any weakness, then that weakness has been that the burden of proof has been on the employee, the one who's least able to bear it. Now, if you want to do this, and if you're thinking of England, where common law prevails and you're guilty until proven innocent, then I say to you, naturally, if we were in England, I would go along with you. But, we are in Baton Rouge, Louisiana, United States of America. I'm asking you to vote against the motion that is before us. Thank you.

Further Discussion

MR. TAPPER

Mr. Chairman and fellow delegates, of course, we've been through all of the pros and cons. However, Mr. Duval brought up some of the decisions and reasonings, and I'd like to comment on that. I believe that's a very commendable on the part of the courts and the commission to make those decisions. However, we are here writing a constitution. The next time these provisions are interpreted, and there's a hearing before the commission or before the court, those decisions might go just the opposite. We are here to write a constitution that we hope will stand up in the face of litigation. It's a very simple thing, and I want to reiterate what was said yesterday; in spite of the fact that some of the proponents of the motion to reconsider feel that this is not only to...or rather, civil service is not only to protect the employee, but it is also to protect the employers and state government. To a certain extent, they may be correct. But, they expound very ably that we need civil service for the protection of the employee so that we will not revert to the spoils system that we had in this state years ago. I agree with them to that extent. I agree with them even further that the only reason for civil service is for the protection of the civil servant; and let's make no mistake about it; the people who are there urging that we have civil service, I believe, are very sincere that they want to protect the civil servant. But, when they say that he must prove that he has not done something for which he can be removed, then again, I have to--as I said yesterday--doubt their sincerity to the extent of one hundred percent. I hope and pray that we will not go so far afield that we will, in the view of protecting civil service as such, take away a basic right of the civil servant that we are trying to protect with civil service. I urge that you defeat, and vote red on the motion to reconsider.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, I urge you to vote in favor of the motion to reconsider. We've had a lot of speakers up here extolling the merits of civil service. You know, to give a full hearing to anything, you need to look at both sides. Of course, in my view, and in the view of a lot of people, civil service is a fine thing that does have a few bad features, and one of the bad features is it's very difficult to get rid of somebody that's not doing his job. You know, Walker Percy, who is a native of Louisiana, wrote a novel called Love in the Ruins that I highly recommend to any of you that haven't read it. It's a story that occurs in the 1980's in Louisiana, where there are motels and public buildings that are in ruins, automobiles stalled along the road. It's the ultimate end of the civilization of the half-done job. I feel that in public employment, perhaps more even than in the private sector, the philosophy of the half-done job, the philosophy of more pay for less work has got us in a pickle today. I submit to you, ladies

and gentlemen, that there is no constitutional right to employment by the state. I submit to you that the way the civil service system works today, and the hearings that I've been in on both sides of the fence, is that this burden of proof that rests on the employee is discharged quite simply when he takes the stand and says "it ain't true. I didn't do what they said I did." Then the burden shifts immediately back to the public agency. If you think it's all that easy to discharge a public employee, let me tell you it's not, whether it's a teacher under the teacher tenure law or a civil service employee. I've sat in hearings where, for instance, it was proven beyond the shadow of a doubt that a fireman told the fire chief that he just was not going to attend fire drills, and that fireman was not dismissed. He was reprimanded, suspended for two or three days. I submit to you that in private employment, if you told your employer you weren't going to attend when he was taking inventory, he'd fire you, and there's no burden of proof anywhere. You're gone. I submit to you that the system, as we know it today, has worked well to guarantee the employee all the rights that he ought to have. When you go to changing it, and you go to meddling with it, you're creating a situation where you're going to make it even more difficult than it already is to get rid of somebody who's not doing his job. I submit to you that if somebody's not doing his job, you ought to be able to discharge him--whether he's a public school teacher or a civil service employee or otherwise. You know, I've heard a lot of comments from the podium, pro and con, about lawyers as a profession. But, there's one thing about being a lawyer: you don't have tenure; you don't have civil service; and if you don't do your job, then the public is the jury, and they just don't walk in through the front door. If you do your job, they keep walking in through the front door. I happen to believe that some semblance of that standard is needed in public employment, just as well as in any other type of employment--that you ought to pull your load. If you're not pulling your load, if you're guilty of the kinds of things that the civil service system says that you can be discharged for today, that off at the end, somewhere, you ought to be able to be discharged. I submit to you that we ought to retain the burden of proof as it is under the present system because we're not talking about a criminal charge. We're talking about whether or not a person ought to continue to get a check, to be paid, when he's not delivering, or if he's not delivering, because remember in the end--and I bring to your attention again--that when you talk about civil service, you're not just talking about the rights of these sixty thousand employees that people keep talking about. You're talking about two and one half million citizens of the State of Louisiana who are paying the bills--who, through their state income taxes, through the other taxes that they've paid on gasoline and the other state taxes, are paying the bill...

Further Discussion

MR. ROY

Mr. Chairman and ladies and gentlemen of the convention, you've heard a lot of lawyers get up here, and I just want to explain one thing to you. In deference to Mr. Duval and Mr. Burson, I know they didn't mean to mislead, but the issue is not causes for termination, the issue is burden of proof. Now, when Mr. Duval read this case history and said that they did not fire the person for the causes enumerated, that didn't mean anything with respect to burden of proof. It just meant that the commission said, "irrespective of the reasons for which you say this person did these things, those are not causes for dismissal." We are talking about burden of proof, here. We're talking about a basic question of law. Should a person who discharges another, who wants to change the status quo on the basis of certain allegations, should he be bound to prove those allegations, or should the person against whom these charges are made be bound to disprove them? Now, you get into a real problem when you start trying to talk about disproving a universal negative. I'm sure many of you have had a few little spats with the spouse, one way or the other--a person accuses you of being dishonest. What do you say? How do you prove you're honest? Do you say that I've been dealing with Buzzie Graham for fifty years, and he can say I'm honest? That doesn't prove or disprove the notion that on a particular case you were or were not dishonest. But, the burden should simply be on the person who said you are dishonest because on a certain day you stole something. You can get a hundred witnesses to say Chris Roy didn't steal anything on a certain day. Unless they're with him at every moment, he hasn't disproved anything. But, it ought to be pretty easy for the employer--the appointing authority--to prove that he, in fact, stole it. That's burden of proof. You can listen to all this other gobbledyduke and gook about that's not grounds for termination, that the employee is protected and all that. I agree with you on that, but that's

not what the issue is at this particular time. In those crimes involving the most serious issues of life and death, the state is bound to prove a person guilty of murder beyond reasonable doubt--bound to prove every element of the crime and everything else. But, when it comes to some little guy who is working, maybe, for the appointing authority who is an employee of the state himself and may be just as prejudiced and biased as the most bigoted person in this country--when it comes to that little guy's job, for being terminated, the big-shot employer says, "Bsby, you've got to prove to that commission that I was not wrong in discharging you, that you did not do these things." It's just like Reverend Alexander said, you've got all this power behind the Civil Service Commission, and you've got one little fellow up against it who has got to, generally, go hire some attorney to represent him on a contingent fee basis because he's got nothing. If the attorney wins his case for him, the man is reinstated, his salary is given back to him if the commission decides that it will do so. Of course, he's got to pay his attorney out of it. So, this thing is not strong enough. What ought to be done is when a person is terminated, he ought to automatically shift the burden of proof on the employer. The employer ought to have to prove that the guy was guilty, that he did these things. If he doesn't, then the employee ought to get back on the payrolls. Not only that, he ought to be paid an attorney's fee, because you can say it like you want--and I said it yesterday: "I've been in that arena." I've seen them take game wardens and ship down here to take care of the big hunters out on the coast who live in Avoyelles Parish. They can't say too much about it. What are they going to do, say, "I'm not going to go work on the coast, I'm not going to go do these things?" Heck no, they can't say that. They'll be fired for insubordination, and the burden of proof will be on the poor little game warden to disprove it. Vote against this.

Further Discussion

MR. DENNERY

Mr. Chairman, ladies and gentlemen of the convention, I only want to point out one thing to you. We are now voting on whether or not we should reconsider. When we voted on this motion yesterday, there were 82 delegates present. Today, there are 94. The vote yesterday was 42 to 40. I think it is only fair to this convention, therefore, to reconsider the matter. I urge you to vote to reconsider.

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, I agree completely with Mr. Dennery. Many delegates seem to forget that all of this is in the present constitution, and most people are happy with it. In order to retain it, all they need do is defeat the proposed constitution. Frankly, I am more pleased with the present provision on the composition of the commission than I am with the proposal. Too many people are trying to get the "whole hog," and they may end up with none of it. This is a crucial issue, and regardless of your position, I urge you to reconsider and discuss the matter in greater detail before making a decision. Certainly, a 42 to 40 vote is not indicative of anything except disaster. To prove incompetency, for example, is almost impossible. Have you ever been on that side of the fence? I have. To transfer is usually political. I, therefore urge you to reconsider the issue and to vote on the merits after you have heard it discussed in greater detail than we have heard it today. Thank you, delegates.

MR. FLORY

Would you explain the vote on this issue, Mr. Chairman.

MR. HENRY

Well, it's my understanding that the amendments were adopted--the Landrum amendments were adopted--upon which Mr. Duval moved to reconsider the vote by which they were adopted. If you are happy with the amendments, you vote no. If you're unhappy with the amendments, you vote yes. The Clerk will open the machine.

[Previous Question ordered. Record vote ordered. Motion to reconsider rejected: 39-58.]

Personal Privilege

MRS. ZERVIGON

Mr. Chairman, I just wanted to make my objection to your

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explanation of the vote--of what the vote would do--because it seems to me, a vote to reconsider allows you to reconsider, . . . allows you to make up your mind, especially those of us who had to go off on public information jaunts last night. I just. . . Mr. Flory understood very well, I believe, what the vote to reconsider did. For the rest of us, I think, if you say you want to vote again on this issue, you vote yes. You don't want to vote again on this issue, you vote no, rather than whether or not you were happy on the amendment. You cast your vote on the amendment, on that basis. I just wanted to raise that objection.

MR. HENRY

Your point is well taken, Mrs. Zervigon. I just assumed that everybody did understand. I thought I understood what Mr. Flory was doing, and I was just trying to make it as brief as possible.

Amendment

MR. POYNTER

Copies of the amendment will come out. This amendment sent up by Delegate Jenkins. We've been holding it because it would amend the Landrum amendment which we just refused to be reconsidered.

The amendment would read as follows:

Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Denny and adopted Saturday, on page 5, line 10, in Floor Amendment No. 1, proposed by Delegate Landrum, and adopted yesterday, on line 10 of the floor amendment--that is line 10 of the Landrum amendment--after the word "of" and before the word "his" insert the following:

"his affiliation or nonaffiliation with any private organization,"

Explanation

MR. JENKINS

Mr. Chairman, Reverend Landrum's amendment prohibits certain kinds of discrimination. If you look at his amendment, it says, "No classified employee shall be discriminated against by reason of his political or religious beliefs, sex, or race." I've been following this article very closely, and I've been concerned about it because I think I see a systematic attack upon the concept of civil service, and the principles that have made it work in this state in the past. We provide. . . provided for an election of a classified employee to serve on the board, whom I think will be a lobbyist, an advocate, not an objective arbiter. We've now put the burden of proof and dismissals on the state, even though almost nobody is dismissed, now. We've provided that seniority will be a measure of determining appointments and promotions, although I say, "We're not through with that issue." We've had attempts to do away with the rule of three, and if we did that, of course, that would deteriorate the quality of people being hired and promoted. There will be attempts forthcoming to enlarge the political activities of civil service employees and to . . . other attempts to have the legislature involved in setting pay scales and establishing promotion policies instead of allowing an independent Civil Service Commission to do it. One of the things that I am most concerned about in all of this discussion is who is going to control the employment policies of this state in the years to come? I don't know, but I am particularly concerned that some of our civil service employees might be discriminated against if they're not a member of a labor union. That's why I propose this amendment: to provide that a person's affiliations with a private organization--and I'm particularly thinking here of unions--could not be a reason for favoring or discriminating against him. I am thinking in terms of hiring, in terms of promotions, in terms of pay, in terms of transfers, and all of these different things. I don't know how familiar you are with the situation we had in the Highway Department earlier this year. We had a very unfortunate situation. When the Highway Board voted to designate the AFL-CIO, or an affiliate thereof, as the sole bargaining agent for Highway Department employees, even though only about twenty percent of the workers of the Highway Department were members of that union, and the overwhelming majority of Highway Department employees were totally opposed to designating that union as the sole bargaining agent--that agreement that the Highway Board entered into against the wishes of the employees, against the wishes of a large number of my own constituents was later thrown out by the courts, and I think rightfully so. But, I have a feeling there will be future attempts to make it more onerous for people who aren't members of unions to be in state service and get a fair shake. The civil service system is a system that's supposed to be based on the individual merit of the employee involved--not his group affiliations. He's supposed to be hired on his own merits, pro-

moted on his own merits, paid on his own merits. As government, we have to be particularly fair in that regard. We shouldn't be allowed the leeway that private business is allowed. We need to protect our employees in this way, particularly in view of some of the changes we're making in this article and some that will be proposed in the future. So, I urge the adoption of this amendment.

Further Discussion

MR. BURSON

Mr. Chairman, ladies and gentlemen, Mr. Jenkins and I have been on opposite sides on many major issues in this convention, but I rise to support his amendment one hundred percent. I, too, have a large number of constituents that were offended by the actions of the Highway Board. I, too, share his fear that some of the changes that we have made, here, may be injecting into the equation of civil service in this state a new factor, a factor with which we have not had to deal prior to this time, a factor which could see in this state the same situation that you have had in other states, such as New York City, where vital city services--vital city services, mark you--such as garbage collection, where hospitals--public hospitals--have been shut down in the face of court injunctions prohibiting the strikes. I feel that we should never require in a so-called merit system, such as civil service is supposed to be, membership in a private organization as a prerequisite to employment--no more than we should require that an individual be of a particular race or religious affiliation. Supposedly, in civil service, the sole criteria is merit--the score that the individual makes on a particular test, which is supposed to be indicative of his ability to perform the particular job. That should remain the sole and only criteria. I heartedly urge your support of this amendment. I ask you on this vote, if you have not done so in the past, to give at least equal weight to the public interest--the interest of the two and a half million people of this state--as you give to the particular wishes of an organization or to any particular future political consideration that you may personally have. I think you know what I'm talking about. Therefore, I ask you to support this amendment.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I rise in opposition to this amendment. Mr. Jenkins, last night I watched the ten o'clock news, and I was. . . listened to the television where Mr. Jenkins was quoted as saying my efforts in this convention in regards to civil service was a move to destroy the system of civil service in this state. I don't believe, sincerely, that Mr. Jenkins believes that. I believe my actions prove to the contrary, that I'm a firm believer in civil service. But, the amendment before you right now--Mr. Jenkins knows what he's doing. Even though he didn't talk about what type of an organization he's talking about in here, you know and I know the type of organizations that he's talking about. I think this is a free society; it ought to remain a free society. The amendment that's now before you is plain and simple, directed at one group, one type of an organization, regardless of what it says. I ask you to reject this amendment. This is a very, very serious amendment, even though it sounds innocuous and reads that way. It has very serious and far-reaching ramifications. I ask you to reject the amendment.

I'll yield.

Questions

MR. BURSON

Mr. Flory, my only question is: Do you think that a civil service worker or an applicant for civil service employment should be required, as a precondition of employment, to belong to a union, even though he has, otherwise, the highest qualifications for the job, in order to be employed?

MR. FLORY

No, sir, I do not believe that, Mr. Burson. Under the federal law of this land, you cannot require that, and you know that.

MR. BURSON

Well, then what is the objection to this amendment?

MR. FLORY

Well, in what its purpose is.

MR. BURSON

Well, as I understand it, that would be the only purpose.

MR. FLORY

No, sir, it is not. What this amendment says is that you cannot be designated as a sole bargaining agent for a particular group, even though you may represent 99.9 percent of the membership of that particular department. That's what it means. Under the federal law of this country, you can't require that a person belong to any kind of an organization, prior to his employment --no way, shape, form or fashion. Only by agreement, can you require his continued employment in private industry, as a condition.

MR. BURSON

Mr. Flory, if I thought that this amendment prohibited a majority of a group of workers from adopting a particular organization as their bargaining agent, I would not be for it. But, I disagree with your interpretation of that language.

MR. FLORY

Well, Mr. Burson, I've had long years of experience. All you've got to do is change the word "affiliation" or "nonaffiliation" to "membership" or "nonmembership," and you've got the same thing as "right-to-work." That's what you're talking about, right here.

MR. JENKINS

Gordon, of course, I did not give any interviews, yesterday, and so any remarks that were reported in the news media had to have come from something I said at the mike. I never said at the mike what I was quoted as saying, yesterday. I simply didn't say that, what you heard on the ten o'clock news. I want you to know that.

MR. FLORY

Well, I heard it on the news, and in the same breath, Mr. Jenkins, I said I don't believe that you believe that I would do anything that I thought. . .

MR. JENKINS

No, and I didn't say that, either.

MR. FLORY

All right.

MR. JENKINS

Now, let me ask you: How can this amendment be construed as prohibiting the designation of anyone as a bargaining agent for anyone?

MR. FLORY

Because, let's say, for example, that I had an agreement mutually entered into as the designated bargaining agent for a particular group of employees within a department. We've never and would never. . . have never attempted to get a union shop agreement, and this is what we're talking about, Mr. Jenkins. You know that. You mentioned your objection to the Highway Department situation; that case is still in court. What you're doing here and in your other amendment that you have is trying to decide an issue already in the court.

MR. JENKINS

No, well, I have no intention of offering the other amendment, if this one passes, Mr. Flory.

MR. FLORY

I ask you to reject this amendment.

Further Discussion

MR. ALEXANDER

Mr. Chairman, delegates, ladies and gentlemen, I come to this microphone at this time admitting that despite my appearance--and I weigh about 250 pounds--I am frightened. I am frightened almost to death. I am afraid because of the apparent trend that this convention may take, if we pass this amendment. I know that you are students of history, and you remember the rise of Mussolini in Italy, the rise of Hitler in Germany. The first thing they did was outlaw labor unions. Then, of course, in present day Russia, the labor union is supposed to be in power, in control, which is a farce. What I am saying, here, is when you go to the extremes, one way or the other, you destroy the whole thing. This country--that is the constitution and all of the statutory

laws of this country are based on checks and balances. The three departments of government more or less check and balance each other. I would vote one hundred percent against anything that would come--any resolution or amendment--that would come before this convention to give all power to labor unions, to give a labor union the right to state or to stipulate who is to be hired and who is to be fired, etc., etc. I would vote against that, and so would I when it comes to the employer. I say to you that what we need in Louisiana and what we must have in Louisiana and continue to have is a good system of checks and balances. I say that the adoption of this amendment would be the beginning of the end of that system. When you hear people talking about right-to-work, you know that right-to-work does not mean what it says. Now, I say that it may not be an out and out labor versus management fight, but any large employer will tell you that he would rather run his plant with a good contract with a responsible labor union than to struggle along in the chaos of an open shop situation. Now, we are not asking for that. The only thing I'm asking you to do is vote against this amendment. If you defeat this one, then the next one will not come up, which will more or less stipulate out and out right-to-work. That is the thing that frightens me. Please vote to defeat this amendment.

[Previous Question ordered.]

Closing

MR. JENKINS

Mr. Chairman, I really should have risen to a point of order because the last couple of speakers apparently weren't talking about my amendment. This amendment is an amendment to Reverend Landrum's, the second paragraph of it. In his amendment, he prohibits discrimination because of race, sex, religious or political beliefs. I would add to that list of things which the state cannot discriminate against among the classified employees, their affiliation or non-affiliation with any private organization, and I certainly didn't attempt to mislead anyone, because the purpose of this relates to unions.

Now, just the opposite from outlawing unions, this gives unions constitutional protection because it says that no classified employee could be fired simply because he is a union member. No classified employee could be discriminated against in promotion policies, or pay scales, simply because he's the union member. But by the same token, no classified employee could be discriminated against if he's not a union member in any of these ways. Now, that's all we're talking about here. Whether or not an affiliation with a private organization can be a basis for hiring or promoting people in the classified service. To my way of thinking, it has not been in the past. I fear that it might be in the future because of some of the things that are being suggested here in this Civil Service Article. Now, really, it's a kind of ridiculous to, in any way, equate this with a right-to-work law. I am adamantly opposed to right-to-work laws because those abridge freedom of contract. What we are talking about here is discrimination. We have said, "you can't discriminate on the basis of race. You can't discriminate on the basis of political ideas." Why in the world should the state be allowed to discriminate on the basis of what organization you happen to belong to or not belong to. There is no reason. We can't do justice to the state employees of this state if we allow any such discrimination. If you think that you are doing what the employees want, if you vote against this, you are badly mistaken. In my district in North Baton Rouge, which is almost adjoining the capitol grounds here, I suppose I have more civil service employees than anybody in the state. When this event happened at the Highway Department, my phone rang off the hook. It was a hundred to one against the actions of that body in trying to impose a group on that group of employees. They don't want it. They don't want it without their free choice. They certainly don't want to be discriminated against, whether they are or are not in the union, because they have a right to join it, and they have a right to stay out of it.

So, I urge you to vote for this amendment.

Mr. Chairman, I'd like to ask for a record vote.

Questions

MR. BOLLINGER

Woody, have we not spent approximately two weeks, or the better portion of them, trying to protect the rights of the individuals when employed by the state?

MR. JENKINS

That's right, Boise.

MR. BOLLINGER

Does this not further that protection so that the hiring people cannot discriminate for any means when hiring except by the basis of merit in service and tests and this type of thing?

MR. JENKINS

That's right, Boise.

MR. AVANT

Mr. Jenkins, you are aware of the fact, are you not, that by law, every practicing attorney in the State of Louisiana must be a member of the Louisiana State Bar Association?

MR. JENKINS

Yes, I'm aware of that.

MR. AVANT

If your amendment is passed, it would, in effect, do away with that law, would it not?

MR. JENKINS

No, it would not.

MR. AVANT

I think it would.

MR. JENKINS

Well, I'll be glad to tell you why it would not. First of all, the Bar Association is not a private organization. It is a quasi-public organization. That's the first reason. The second reason is that the only way that a person can practice law is if he's licensed by the state. So, obviously, no one licensed by the state could be hired as an attorney by the state.

[Record vote ordered. Amendments rejected: 47-53. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment sent up by Delegate Flory reads as follows:

Page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted on Saturday, on page 5 of the Dennery Floor Amendment, line 25, after the word "public" and before the words "or be" delete the word and punctuation "office;" and insert in lieu thereof the following:

"office except to seek election as the classified state employee serving on the State Civil Service Commission;"

Explanation

MR. FLORY

Mr. Chairman and delegates, this is a technical amendment. As you recall, the convention decided on the establishment of the commission being appointed by the governor from nominations submitted by six universities. We required in the past that those members and no state employee could run for office; no member of the commission could run for office. Since the convention has decided decisively to allow the classified employees to elect one member of the commission, in order for that provision to be valid, this amendment has to be adopted to make an exception that a classified employee can run for that sole public office, being a member of the Civil Service Commission.

I ask for the adoption of the amendment.

[Amendment reread. Previous Question ordered. Record vote ordered. Amendment adopted: 87-8. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Next amendments also sent up to Paragraph (I) sent up by Delegate Flory; amendment, if you are looking for it, that would set forth a new Subparagraph (3)--sets forth a new Subparagraph (3).

Amendment No. 1, in the Dennery amendment adopted in the convention Saturday, on page 6 of the Dennery amendment between lines 1 and 2 insert the following:

"(3) Political activity is defined as an effort to make... made to insure the election of a candidate for political office or the support of a particular political party in an election. There shall be no prohibition against support of issues involving bonded indebtedness, tax referenda, or constitutional amendments

or the participation or membership in an organization which is not a political organization but which may from time to time express its opinion on political issue....on a political issue."

Explanation

MR. FLORY

Mr. Chairman and delegates, when we had under consideration in the Committee on Education, Health and Welfare, this question of civil service and all its ramifications, it was a long discussion held, particularly in the authority of the local governments and the state, and the responsibility of public servants to those political bodies. There was no effort in our committee to bring about any change in the political activity, or to grant additional political activity to members of the Civil Service System except that there was a strong feeling in the committee that the members of the city Civil Service Commissions, employees, ought to be able to participate in the types of issues going before the public in the way of bonded indebtedness, tax referenda, etc., constitutional amendments. If you recall when the campaign was held to elect candidates to this constitutional convention, there was a ruling issued, and I believe it was by the court, that no classified employee could run as a delegate, could be elected as a delegate to the constitutional convention. We have not still changed that by the adoption...if we adopt the language, it's in (H), I believe it is, and (I). In discussion with the mayor of the city of New Orleans and some of the others representing local government, the question came up as far as pay of local people, when they go before the city council and state government to try to secure additional benefits in the way of added retirement benefits; additional pay; whatever might be a cost item, the city council or the governing body might agree that it was meritorious. But, there would be a lack of funds in order to provide those increased benefits.

The mayor of the city of New Orleans very emphatically stated he thought that they ought to have the right to participate in an election to help raise the fund to pay for those benefits on other issues that might come before them that affected their basic structure of government, or on constitutional amendments that affected their basic constitutional rights. That's what this does, is guarantee them that right to participate only in these types of elections; and further say that participation, membership in an organization which is not a political...allows them to belong to an organization which is not a political organization, but might from time to time express its political views. I ask for the adoption of the amendment, Mr. Chairman.

I'll be happy to answer any questions.

Questions

MR. O'NEILL

Mr. Flory, would unions be considered one of those things that this last subparagraph would exclude?

MR. FLORY

Would it be?

MR. O'NEILL

Yes, sir.

MR. FLORY

Yes, sir. Just like any other organization. Knights of Columbus or any other group.

MR. O'NEILL

Now, take for example state employees who belong to unions. The dues that they collect will go into the union treasury. Is that correct, sir?

MR. FLORY

Yes, sir.

MR. O'NEILL

Now, this union will use those monies for political activities supporting candidates--well, they do, Mr. Flory, yes, sir.

MR. FLORY

No, sir, they don't, Mr. O'Neill. I beg to disagree with you.

MR. O'NEILL

So...the state employees will be having money coming out of their salaries, going into the union which will be used to support candidates for office, and support political activities. Is that right?

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MR. FLORY

No, sir. Not under this, and not under what is the existing practice.

MR. KEAN

Mr. Flory, I understand the first part of your second sentence about bonded indebtedness and tax referenda, etc., but it is not clear to me what an organization is which is not a political organization, but which may, from time to time, express opinion on political issues. I understand you would include a union in that. But supposed you had the employees' social club? Wouldn't that organization, then, simply be a means by which you could completely avoid the prohibition of this section?

MR. FLORY

It could, Mr. Kean, and I have no strong feeling about that last sentence "or the participation." I have no strong feeling because I think that...that's the situation under the law today. But I have no strong feeling and would be willing to delete it. My major concern was trying to give some relief, in particular, local communities where these types of issues come up. The question's been raised about, you know, in the past, where we don't have the money, what can you do to help us secure additional funds? This is a major portion. I'd be more than happy to delete that...

MR. KEAN

....If you'd be willing to delete the last part of that, of your proposed amendment, Mr. Flory, I'd be happy to join with him.

MR. FLORY

Mr. Chairman, with the permission of the convention, I'd be happy to withdraw it and resubmit it, the end of the sentence where it says that.

[Amendment withdrawn without objection.]

Recess

[Quorum Call: 87 delegates present and a quorum.]

MR. HENRY

Read the Denny amendment....the Flory amendments, Mr. Clerk.

Amendment

MR. POYNTER

He's made the following changes with respect to the amendment. On the second line of the text of the amendment...second line... strike out the third word "insure", insert in lieu thereof "support or oppose"... "support or oppose" in lieu of the word "insure."

In addition, on the seventh line, beginning with the portion of the word "constitutional", "tional" put a period after the word, the first full word, "amendment". Delete the remainder of the line and the remainder of the text of the amendment so the text will now read:

"(3) Political activity is defined as an effort made to support or oppose the election of a candidate for political office or the support of a particular political party in an election. There shall be no prohibition against the port of issues involving bonded indebtedness, tax referenda, or constitutional amendment."

Explanation

MR. FLORY

Mr. Chairman, what...this language was taken from the committee's proposal and, I presume, the definition is basically that as in the present constitution as far as political activity. I'm not sure. But, this was taken directly from the committee's proposal, and with this changes, all it does now is prohibit, it defines political activity and allows the civil servants to participate in these types of elections to help the local governmental subdivision and the state in these types of issues.

I ask for the adoption of the amendment.

Questions

MRS. ZERVIGON

Mr. Flory, in order to clarify what you and I discussed at

the microphone, there is no particular reason why you have "support or oppose" as it applies to the candidate, but only "support" as it applies to the particular political party. You really mean "support or oppose" in either case. Isn't that right?

MR. FLORY

"Support or opposed" in either case. Judge Tate suggested the language "support" or "oppose" in lieu of the word "insure" to make it better, more easily...to understand...we are constantly aware of support or opposition to a particular candidate. The same holds true as to a particular political party. I don't think you could have...in opposing a political party, you'd have to do it by the support of another political party.

MRS. ZERVIGON

But, it's not your intention to create a loophole by which a classified employee can say I'm not supporting no one because I'm just opposing the Democrats.

MR. FLORY

No, ma'am.

MRS. ZERVIGON

O. K. The other thing I wanted to ask you is, are you aware that it's my opinion that this is different from the present constitution in that the present constitution just says "political activity," but doesn't really define it, which leaves it up to each commission at present, as I understand that.

MR. FLORY

I wasn't sure whether we had taken it--the committee had taken it from the present constitution, or some proposal that was recommended. We had a...I don't know how many proposals submitted to the committee. But, it was either taken from that the present constitution, but I know this language was taken directly from the committee's proposal.

MRS. ZERVIGON

I think Mr. Duval thinks I'm wrong. It would change our regulations in New Orleans, I'm sure you are aware of, but my mayor does not oppose this sort of amendment. Are you aware of that? That's what you're referring to in the earlier part of your remarks.

MR. FLORY

Yes. Mr. Landrieu...Mayor Landrieu was in favor of this type of amendment that would allow the city employees in the city of New Orleans to take part in these types of elections. He so stated publicly before our committee.

MR. JENKINS

I have a number of questions, Mr. Flory. I want to know what this does.

What you are really doing in this provision, you are defining what the term "political activity" means as stated earlier under Part No. 1 of Subsection (I). Isn't that correct?

MR. FLORY

Let me go back and get the....

MR. JENKINS

Where it says that "no member of any Civil Service Commission of any officer or employee of the classified service shall participate or engage in political activity." Then, really, in Number 3 here, you are defining what political activity is, isn't that correct?

MR. FLORY

Yes.

MR. JENKINS

Now, I'm interested to know, for example, would this allow a civil service employee, since you delimited the definition of political activity--it's pretty broad now--say, to raise funds for COPE, the political arm of the AFL-CIO.

MR. FLORY

To do what?

MR. JENKINS

Raise funds for COPE, the political arm of the AFL-CIO.

MR. FLORY

Mr. Jenkins, if you can show me how you can read that in there, I might agree. But I, that's the furthestest thing from my mind that ever entered into this, but I believe that this changes the

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existing provision at the present time. The present law says you can't contribute funds to political candidates. We don't change that. I haven't changed that at all.

MR. JENKINS

But by defining political activities so narrowly, don't you open the door for things like that?

MR. FLORY

No, sir. No, sir.

MR. JENKINS

Let me ask you further. Would this permit a civil service employee....

MR. FLORY

You read, you read Subsection 2, Mr. Jenkins, it says, "No person shall solicit contributions for political purposes from any classified employee, or official; or use, or attempt to use his position or state to publish or harass the political actions of any such classified employee, and I didn't change that at all.

MR. JENKINS

No. Now, that deals with soliciting from employees. I'm talking about an employee going out and soliciting funds--not for a party faction or candidate, but for an organization.

MR. FLORY

I can't read that in there, Mr. Jenkins, in no way.

MR. JENKINS

Well, is there anything that prohibits that here?

MR. FLORY

Is it what?

MR. JENKINS

Is there any provision of the subsection that prohibits such activity?

MR. FLORY

I don't know. You'll have to ask Mr. Dennery. He wrote it.

MR. JENKINS

Well, I would say, "Yes." The term, political activity--"to engage in political activity", under (1) of Subsection (I) would prohibit it now. But by defining political activity this way, it doesn't seem like it would be prohibited, would it?

MR. FLORY

I don't believe that it could be construed when you say, that you can't solicit funds for political purposes from any classified employee or official; I just don't believe that that was ever intended, nor do I believe that it would be allowed, Mr. Jenkins.

MR. JENKINS

Would this permit, by narrowly defining the term "political activity," would it permit classified employees to go out and assist certain political organizations--not at election time--but in the interim, for instance doing polling, making calls, compiling information and lists and things like that. If this were to support or oppose any candidate or political party in an election....

MR. FLORY

Well, that could be construed, Mr. Jenkins, and I think the court would have to ultimately make a determination; I can't make that determination on the hypothet that you raised because I'm not a lawyer, first; I'm not a judge, second. But, I think the court would have to make that determination based upon the fact that if they did that, and that that organization ultimately supported a particular candidate, his efforts then, would....no questions would be ruled that he was taking part in politics and political activity. I don't think there's any question about that.

MR. JENKINS

But, you defined political activities strictly as at "election time." You say, "defined as an effort made to support or oppose the election of a candidate, or support or oppose of a party in an election."

MR. FLORY

Mr. Jenkins, as a candidate for public office, when you ran, did you just start campaigning when you qualified?

MR. JENKINS

No....But I did a lot of preliminary work that wasn't campaigning, like polling, for example, and compiling information.

MR. FLORY

But that was towards your election, was it not?

MR. JENKINS

No, it was research. I may not have run.

Let me ask you another question.

Suppose the governor told all classified employees to go out and support a two-term amendment that would be on the ballot, like we had in what was it, '66. They could go out, and under duress and coercion from a governor, go out and campaign because they can campaign on constitutional amendments. Isn't that correct?

MR. FLORY

That's correct. They could campaign any way they want to, Mr. Jenkins, which I think is a basic, American right. It's something that affects the basic law of this state. They ought to have a right to ...I think the Supreme Court of the United States is changing that.

[Motion to suspend the rules to allow additional time adopted: 58-28.]

MR. JENKINS

Now, you say there shall be no prohibition against support of issues involving these things: tax referendum, constitutional amendments, etc., "support" apparently includes contributions; does it not?

MR. FLORY

I don't know, Mr. Jenkins, but if my memory serves me right, I believe that there is a statute prohibiting the expenditure of funds either in support of or opposed to constitutional amendments by certain classifications. I'm not sure exactly what that is, but I do believe there's law on that subject.

MR. JENKINS

Yes, but this would supersede it, would it not?

My question is in more particularly; couldn't a governor or say a superintendent of education or someone go around in the education department and dun each employee to support a committee to go out and campaign say for making superintendent of education appointed instead of elected? Couldn't a civil service employee under this be put in a position where he can be subject to coercion either to support or oppose a particular proposition appearing on the ballot?

MR. FLORY

No, sir, not in view of Subsection 2 of Section I.

MR. ALEXANDER

Mr. Flory, it's been inferred by a delegate that maybe labor unions do give money to political campaigns from the treasury. Now, is it not a fact that under the terms of Taft-Hartley, Landrum-Griffin and many other congressional acts that labor unions are definitely and positively prohibited from giving money from their treasuries for any political campaign? Do you know of any violation of that rule?

MR. FLORY

The federal law as I appreciate it, Reverend Alexander, prohibits the use of union funds in any federal election. It does not prohibit the use of union funds in state or local elections.

MR. ALEXANDER

But, it is a practice to violate the spirit of that law in Louisiana?

MR. FLORY

I know of no people even charged with violation let alone convictions.

Mr. Chairman and delegates, all I was trying to do here was to try to give some relief to the local governmental subdivisions who have to raise the money to pay the benefits to their employees. I ask for the adoption of the amendment.

[Previous question ordered. Record vote ordered. Amendment adopted: 89-12. Motion to reconsider tabled.]

Amendment

MR. POYNTER

All right. First set of amendments have been sent up by

Delegates Singletary and Willis, Singletary and Willis amendment.

Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the convention on the 8th, on page 6, of the Dennery amendment, line 22, immediately after the word "shall" and before the word "have" insert the following: "be published and available to the public and".

Explanation

MR. SINGLETARY

Mr. Chairman and ladies and gentlemen, this amendment simply provides that the rules of each commission shall be published and available to the public. Presently, the commissions publish the rules in pamphlet form which are available to the public. This amendment would just insure the continuance of this practice. I spoke to Mr. Forbes with the State Civil Service Commission, he has no objection to the amendment. I move its adoption. I'll yield to any questions, if there are any.

Vice Chairman Miller in the Chair

[Previous Question ordered. Amendment adopted without objection. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Next set of amendments sent up by Delegate Duval.

Amendment No. 1. On page 1, in the Floor Amendment proposed by Delegate Dennery and adopted by the convention on the 8th, on page 6 of the Dennery amendment, line 31, of the text, immediately after the word "governor" and before the words "or the" insert the following: "and the legislature".

Questions

MR. DUVAL

Madam Chairman, fellow delegates, this changes the law. Presently, the Civil Service Commission promulgates pay scales, which when approved by the governor, have the effect of law. It's my opinion that it's better for fiscal responsibility which is something I think we should think about, for the legislature not to modify or amend these pay schedules, but have to approve them because the legislature has to appropriate the money. I think, if we put this into the deliberative process and have some intelligent analysis of the budget, perhaps, the Civil Service Commission working together with the governor and the legislature involving all three... involving at least two branches of government. Actually, if you consider the bureaucracy, three branches of government, and have a dialogue so that something can be worked out without the commission and the governor going ahead and approving a pay plan, and then the legislature sitting there having to find the money for it, and we, the people to have to pay it. I just think it ought to go through the same process as other things. The commission has a lot of autonomy under the Dennery proposal. Their regulations and rule making power have the effect of law. I merely think that their appropriation power which is, this is tantamount to, should not have the effect of law. It should require approval before implementation.

MR. ROEMER

This is a change in the present law; is it not?

MR. DUVAL

Yes.

MR. ROEMER

All right. This would in effect mean that no such raise or change in pay scale could be implemented except during a session of the legislature; is that correct?

MR. DUVAL

Yes.

MR. ROEMER

Do you see any problems there; politically or pressure wise? Would you like to comment on that?

MR. DUVAL

Well, I don't see... as a matter of fact, I think that one thing I've learned from the legislative delegates here is that, they do watch the purse strings. I think, the ones I've seen pretty closely would allow them to watch it. There's no... the other way, they could at least put it through the grist mill and see how it fits into the budget. This way it's not done, the pay raise is implemented by the governor, and the Civil Service Commission, and the legislature's sitting there going to have to find the money somewhere. I just think it's a more intelligent way of doing things than have the commission... have the effect of law in essence, the appropriation. They can't modify it or amend it; they either got to say yes, or no and hopefully, when they say yes, they'll have the money for it.

MR. ROEMER

This is just a pretty substantial change in the law.

MR. DUVAL

Oh, it is.

MR. ROEMER

I just kind of wondered how much thought you had put behind it, Stanley. I'm not questioning that you haven't put any thought, I know you have. But, I'm just a little bit doubtful as to whether it's a positive change in the law or not.

MR. DUVAL

Well, I think it is, because I think we ought to strive for fiscal responsibility. I think that if a commission... we've got this commission--none of whom are responsible to the people being able to promulgate a pay recommendation which has the effect of law -- the legislature which is certainly as the onus of appropriation has to find the money. I think the legislature should then approve the pay plan to make sure the money is there. That's the thought I put behind it. That's my concept of government.

MR. DENNERY

Mr. Duval, if the legislature decides to approve a pay plan at a-- I don't know whether it's an odd year or an even year which is the year they cannot appropriate-- the effect of that approval; it wouldn't have effect in any event until the legislature had an opportunity to increase taxes; is that correct?

MR. DUVAL

Mr. Dennery, it's my understanding, they could appropriate each year.

MR. DENNERY

But, if the money is not there, is what I'm talking about. You would make it ineffective until such time as the money were available.

MR. DUVAL

If the money is not there, that's right, I would hope they wouldn't approve.

MR. DENNERY

Now, if the money is there... if the money is there, what you're saying in effect is, that until the next meeting of the legislature, they cannot approve a new pay plan?

MR. DUVAL

No, sir. Of course, they can approve it; they can appropriate money each year under our proposal.

MR. DENNERY

No, I don't think I made my question clear, Mr. Duval.

MR. DUVAL

Maybe, I didn't understand.

MR. DENNERY

Let us say that the legislature appropriates sufficient funds in personnel to permit an increase in pay. Based upon that, the Civil Service Commission then amends its pay plan, and the governor approves it. We would either have to have a special session or wait until the next year before that could go into effect; is that correct?

MR. DUVAL

If, I understand your question, you mean this is when the

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legislature initiates the pay plan itself; initiates the pay raise itself?

MR. DENNERY

No, it doesn't initiate any pay raise; it merely says well, now look fellows, this year we've got a lot more money than we anticipated, so we're going to be able to appropriate more funds for personnel. Now, thereafter, the pay plan would be adopted presumably by the Civil Service Commission after the usual open hearings and studies, etc. Then it would be presented to the governor and if the governor approves it, it would not be able to be placed into effect until the following session. Don't you think that's a little difficult?

MR. DUVAL

No, I don't because I don't think anything should be beyond the purview of analysis. I don't think anything should have the force of law... of this, where money is involved. Certainly, allow some legislative review in that the legislature is... has to appropriate and find the money; in that the budget process should be observed in that it complies with the basic system of checks and balances that I think is necessary, especially with fiscal responsibility. I don't think it's fiscally responsible to allow an administrative agency to in essence, appropriate funds without legislative approval. That's the basic point of my argument.

MR. DENNERY

Well, you understand, of course, under the way the present system works, Mr. Duval, is that the money... the pay plan doesn't become effective in fact, unless the legislature appropriates the money.

MR. DUVAL

It becomes effective in law though as I read it. It becomes effective in law.

MR. DENNERY

It could. But, obviously, the governor is not going to approve a plan until the money is there to meet it.

MR. DUVAL

Well, I don't know if that's... I just say what could be is one thing, but what should be, is another thing.

MR. DENNERY

Well, now let me ask you one other question, Mr. Duval. Do I understand you to mean that the legislature then has the right to amend or merely to approve or disapprove?

MR. DUVAL

Merely approve or disapprove.

MR. DENNERY

Thank you.

Further Discussion

MR. ROEMER

Madam Chairwoman, Chairperson, Chairlady and fellow delegates, I'm in the perhaps unenviable position of understanding the amendment, but not really understanding what it's going to do either for the state or for civil service. I'm confused as to the need for such an amendment. Under the present law, the governor approves such pay raises. He only approves it, of course, when the money is available in his budget. He presents such a budget to the legislature anyway for their approval. However, it so happens that during the course of a year that surpluses are created in the budget which allows some discretion on the part of governmental spending. I'm afraid if we pass this particular amendment, we're going to limit such pay increases, perhaps, long deserved, to civil service employees only to those relatively few times and those short periods when the legislature is in session. That's what I see is the danger, and I'm just honestly concerned about it. I asked Stanwood, a few questions, and he shed some light on it, but as far as I'm concerned, to pass something that's this much of a change and could be this important I think we need more information, Stanwood. I would ask that you would withdraw it, and perhaps do some research or talk to some of us on this thing. Let's don't kill it or pass it without knowing what we're doing. That's my only reason for being here. I won't take any more of your time. I'm just generally concerned about it.

Questions

MR. ROY

Buddy, I share your concern too, but mine goes a little deeper.

Isn't this... the effect of this amendment to do the following: Let's say the Civil Service Commission and everyone has said they want to be sacrosanct and aloof from politics--and we voted those things down, as you know, in the last few days--determines after a lot of consideration that a pay raise is in order. Now, as you pointed out, the governor says we've got the extra money to do it; aren't we subjecting the pay raises to people who deserve it? Let's assume, for the sake of argument, to the whim and caprice of not only having to get the civil service to go ahead with it, but to get the governor's approval and thereafter the legislature, and you could get into a political squabble between the legislature and the governor, one trying to put the "b" on the other and prevent something. To me, don't you agree that it just amounts to adding another political arm that could result in some type of political chicanery and/or subjecting this to the whimsy caprice of the legislature.

MR. ROEMER

All right. Let me try to be evenhanded in my answer. I see that as a danger. I'm sure that Mr. Duval did not mean that with his amendment. I know he did not mean that. I think what he was trying to do, and it's legitimate, is put the voice of the people behind this pay raise. That is, our legislature. I'm worried about the mechanics of it, and I'm also worried about the politics of it. I think the system works adequately now. I think some of the civil service employees were a little bit upset when the latest pay raise wasn't implemented swiftly, but the money wasn't there. But, the governor had the discretion when he could accumulate the money to provide that pay raise. I like that system, quite frankly, and I'm a little bit doubtful; well, I'm frankly very doubtful about changing it without more research being done. I don't think, we as delegates, understand the importance of this change. I really don't think that.

MR. DENNERY

Mr. Roemer, are you aware that as far as I have been able to determine, there is no other state which would permit the effect of Mr. Duval's amendment, all of the other states provide that the legislature has no review of this sort of thing.

MR. ROEMER

Well, I didn't know that, and that just adds weight to my doubt about it. If he insists on his amendment, I urge that we defeat it.

Further Discussion

MR. WOMACK

Madam Chairman and fellow delegates, I rise in opposition to this amendment. This system has worked very well as it is. The way it works now, the legislature appropriates money to every budgetary unit in the state. It's line itemed in the legislative appropriation with the exception of a few times. When a certain amount of funds are made available and the departments are given the discretion of coming back because of reductions, and changes in the budget, and permitted to resubmit their proposal by line item and then it requires the approval of the budget committee, and the division of administration to change their budget after it's once been submitted. After they do that, then there is an accumulation in a number of these line items to where they have money left over that can't be spent without the approval of the division of administration... the Budget Committee after a change of allocation, transfer is requested of those two sections of state government. In the particular item of personal services which is where the most of the money usually is throughout the agencies, and where that they usually have an accumulation because of attrition and because of retirement of people--you retire an individual at eight hundred dollars a month and replace them at six fifty--and there's quite a saving involved in there, and almost without exception, there is factors in these budgetary units that quite often in the middle of the year they would have almost enough money to implement a pay increase. The civil service has the responsibility of submitting to the governor their proposal in a new pay plan. It's up to the discretion and the wisdom of the Executive Department to either accept or reject that plan. If the Executive Department rejects the plan and sends it back to civil service, as the usual rule, the governor will submit what he thinks is a better proposal. It may be--- and I know in one case--the governor felt that the low paid employees weren't rated quite enough it, and more consideration should be given. Civil service agreed to it and they gave additional consideration to the low paid employees. During the period of a year when inflation is running rampant, you quite often have quite an increase in the income that you didn't anticipate. By the same token, the expenses of these state employees is coming up in proportion to that. It

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becomes necessary to give consideration to their needs for salary adjustments in the middle of a year and not at a legislative session. For that reason, the system has worked good under the circumstances now, and for the most part, implementation of the salary schedule can always be made out of the appropriation that is presently given to the agencies. Keep in mind, that quite a number of times, in fact at all times, a great portion of these salary adjustments is absorbed in federal funds and in funds that doesn't come from the general appropriation of the State of Louisiana. So, all of those things can be weighted. The system is working good like it is now, and I think for the benefit of the employees because they don't have to wait another year or wait until the legislative session at which time we're usually bogged down and overworked in order to get consideration. So, I would urge the defeat of this amendment.

[Previous Question ordered.]

Closing

MR. DUVAL

Madam Chairperson, fellow delegates, I haven't quite understood the specific nature of the objection to this amendment. I might just point out that these people who are worried about change... changing the law have drastically changed the composition of the Civil Service Commission; have drastically changed many other things. I don't know why, all of a sudden, there's a great deal of reluctance to change now. What I'm saying is this, this Civil Service Commission is, as we say, completely detached from your representatives. Its rulings and administrative regulations have the force of law. It, in essence, is a separate branch of government. It cannot be... many of its regulations, which we're not fooling with now can't be vetoed by a living soul. As a matter of fact, the Civil Service Commission in its infinite wisdom blocked a pay raise that the legislature found the money for for state police. This is how awesome and powerful this commission is. We, have again, we have made it more--we have changed the composition; we have changed it drastically. I'm merely saying this, what other body has a right to say, "This money is going to be spent. I don't know where it's coming from"? --- and the governor--what's to say why not put a check on the governor? The governor can say the legislature is going to have to find the money, and me and you can look good." The commission and the governor can look real great. "We're friends of the people; we've raised the money. Now, you find it boys, you go find the money." Now, that can happen. All I'm saying is that, all other appropriations are made during the... in essence are made by the legislature during each session of the legislature; after a review, study of the budget, after accord... there should be a coordination between the commission, the legislature, and the governor. This in my opinion, would produce a fiscal responsibility. I think one thing the people of this state do care about is achieving more efficiency in state government and more fiscal responsibility. I don't see how this can hurt anybody, I don't think the legislature's going to disapprove the plan unless the money is not there. You know the legislature is not overly reluctant to raise salaries, and you know they wouldn't they wouldn't disapprove it unless there was some reason. You know another thing--you know one other thing too--that (Mr. Roemer's antics) you know this: that the legislature are your representatives. You don't know who's going to be on that Civil Service Commission; you don't know who your governor is going to be, but you do have some communication with your legislature. Why strip them of the appropriation power? Why strip them of fiscal responsibility? If any business were run like this, it would go broke overnight. I'm suggesting to you, it's about time we got responsible. Just because they don't get their pay raise right away, I don't think it's going to cause anybody a great deal of concern. All unclassified employees, my friends, have to go through this process. Everybody not in this system has to go through this process. So, I suggest to you, that let's put it through the... why have a Legislative Budget Committee that appropriates the money when your budget's forced on you by the governor and the commission beforehand. So, I suggest to you, you vote for the amendment.

Questions

MR. ROEMER

Stanwood, I ask the age old question--particular of you--why is it necessary to change?

MR. DUVAL

It's necessary to change because I have seen in the past, not being a legislator, but having followed it a little bit,

that there may be a thirty million dollar implementation and then the legislature is going to have to find the money; they find it because once it's approved what the heck are they going to do? I'm saying that's not a very intelligent system. I'm saying it would be a better system....

MR. ROEMER

You want it the other way? You want the legislature to approve the pay raise and let the governor find the money; right?

MR. DUVAL

No, I just assumed the legislature would have to appropriate it, so they have to find it; the governor doesn't have to find it.

MR. ROEMER

Well, I think we understand how those politics are going to work.

MR. WOMACK

Mr. Duval, (1) is: Do you realize that the budget committee doesn't appropriate any money--that's number one?

MR. DUVAL

Well, the legislature appropriates the money; I realize that; yes.

MR. WOMACK

(2) is: That the Civil Service Commission cannot spend one dime; they don't even write their own checks.

MR. DUVAL

I understand that Mr. Womack. I also understand that once a pay raise is approved under the present system it has the force of law; I understand that.

MR. WOMACK

The only thing that the Civil Service Commission does is make a recommendation of a salary schedule--that's the only thing they do.

MR. DUVAL

I understand that. I understand once the governor signs it under the Dennery proposal it has the effect of law--that's what it says.

[Record vote ordered. Amendment rejected:
22-70. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Next set of amendments sent up by Delegates Flory and Hernandez.

Amendment No. 1. On page 1, line 14 in the Dennery amendment, on page 6 of the Dennery amendment, line 14 of the text immediately after the word and punctuation "established." add the following: "Nothing contained herein shall be construed to prevent the legislature from supplementing these uniform pay plans for sworn, commissioned law enforcement officers of the Division of State Police, Department of Public Safety."

Explanation

MR. HERNANDEZ

Madam Chairman, ladies and gentlemen of the convention, I rise in strong support of this amendment for the reasons that I firmly believe that this truly, fine law enforcement organization--that is, the Louisiana State Police--or the real law enforcement agency of the State of Louisiana has not been fairly dealt with under the present law. When a state trooper is employed, he undergoes a rigid training schedule to train him, to take his place as an officer and... efficient and well-disciplined law enforcement organization. He is expected to conform to the provisions of state police; to uphold the dignity of the state police and in the performance of his many duties, and he may be called upon to perform and there can be many and varied duties. I happen to know about some unusual situations that have arisen in our part of the state--and they were unusual--had it not been for the state police, I don't know what would have happened. I regret that all of you do not live in an area that has a troop with the efficiency of Troop H. If you do, you can well follow my thinking in this

matter. Thank God Troop H does have the efficiency and know-how to handle all the many situations that arise due to the presence of Fort Polk in this area. Frankly, I do not know how some of these situations that have arisen could have been contained if the state police had not taken over to properly handle the situation. The legislature has enacted laws and appropriated funds to supplement the pay of other law enforcement officers--both city and state--and that has resulted in their being paid much more than that of the state police, even though, many times there is no comparison in the efficiency of the two. I would like to cite as an example: a Lake Charles police officer--which is among the lowest paid in the state--possessing a college degree has a beginning salary of six hundred and ninety-seven dollars a month. After one year's service this officer's salary will increase at least a hundred and sixty-six dollars and sixty-six cents a month plus any merit raise earned. Therefore, this officer's minimum pay after one year's service must be at least eight hundred and thirteen dollars and sixty-six cents a month. Now, Louisiana State Policemen possessing a college degree has a beginning salary of only four hundred and eighty dollars a month. After one year's service this officer's salary will increase to five hundred and seventy-five dollars a month due to salary adjustment and different classification promoted from trooper to trooper first-class. Now, bear in mind, this five hundred and seventy-five dollars compares to a Lake Charles city policeman of eight hundred and thirteen, sixty-six. Therefore, after one year's service a Lake Charles city police officer possessing a college degree is making two hundred and thirty-eight dollars and sixty-six more per month than a state police officer possessing a college degree. This is definitely not a good situation, for the state police receive no supplemental pay, and under the existing laws cannot receive any supplemental pay. The result is that the Louisiana State Police are among the lowest paid in the entire nation. I sincerely urge you to support this amendment that can provide for the correction of this gross inequity. I do believe this is an inequity under the present law. Thank you very much, ladies and gentlemen.

Questions

MR. DUVAL

Mr. Hernandez, I have some sentiment for what you are trying to do here. But, what I don't understand is by a pretty large vote this group decided not to give the legislature any discretion at all. Now, why do we just give the legislature discretion here as the state police and no other classified employees? How do we justify that?

MR. HERNANDEZ

Mr. Duval, the justification is simply this: in the case of city and parish law enforcement officers, which are not under the direction of the state legislature, they have enacted a program of supplemental pay. Now, if they are going to give supplemental pay to those city and police officers over which they have no control, why should they not extend this same supplemental pay to the state police that are the real law enforcement officers of this state around; it's just to correct an inequity, that is all.

MR. DUVAL

Now, Hernandez, the state police are under the state civil service system; is that right?

MR. HERNANDEZ

The state police are under state civil service; yes, sir.

MR. DUVAL

But, none of the other employees in the state civil service system will be able to be...their pay will not be able to be supplemented; is that right?

MR. HERNANDEZ

That is correct; yes, sir, that is correct. But, Mr. Duval, let me call your attention to the fact that the state does pay the supplemental pay to other officers and if they did not, I would not be here on behalf of this amendment. But, if they are going to do it for other law enforcement officers, I do believe that they should pay the state police the same supplemental pay. We're not asking anything more for the state police than they are already doing for the local--that is--the city and parish law enforcement officers. I urge you to please give this your consideration.

Further Discussion

MR. DENNERY

Madam Acting Chairman and delegates, I hesitate to speak

against this amendment, but I am forced to do so. I know that Mr. Hernandez is a great believer in the civil service system. I know that he believes there is an inequity here that he is trying to correct. The problem is, though, that there are other law enforcement officers in the State of Louisiana besides the state policemen. The pay plan, as fixed by the state under the commission and approved by the governor, tries to keep all of these people approximately on a par. Now, Mr. Hernandez mentioned the difference in pay of college graduates. As a matter of fact, I don't believe...as a matter of fact, there is no requirement--to my knowledge--that state police officers must have college degrees; this is the fact, though, in many municipal departments. The state patrolmen, right now, in their entrance salary get a hundred and fifty dollars more per month than any other entrance salaries which do not require college degrees. Now, what particularly perturbs me about this is the question that Mr. Duval raised. You know Mr. Dunbar, who was the father of civil service in Louisiana, used to have an expression that, "You can't be partially pregnant," and that's what happens here if we permit the legislature to increase one particular classification. Then, we are put in the impossible position of not permitting the legislature to do this for all positions and this is exactly what the whole civil service plan--as presently before you--is aimed at. I urge you, therefore, regretfully--I must confess--but, I nevertheless urge you to defeat this amendment.

Further Discussion

MR. RACHAL

Madam Chairman, delegates, like Mr. Dennery, I rise somewhat reluctantly to speak against this amendment. I do so not because I am opposed to what is the objective is, but because I don't think that this kind of singularly identification is necessary. I rise, too, because it gives me an opportunity to speak again about some of what I consider the inflexibility of the commission. Based on my own experience, I don't see why it is necessary to constitutionalize a particular group of workers in order to give them a differentiation in pay that can...if it can be justified. The uniform pay plan--and I've heard it referred to many times from this mike and the one in the Capitol--as if they are completely inflexible and that is not the case. It is possible to give increased pay to different category of workers based upon hazardous duty and various other factors which can justify that differentiation in pay. If it is felt by the commission that they are duty-bound to some kind of rigid uniform pay plan which does not allow this flexibility, then I suggest that what we need to do is to make certain that it is clear to them that they can. But, to begin to constitutionalize individual groups of workers in order to make certain that they were will be considered for differentiated pay--to me--is unnecessary and unduly burdening the constitutional provision governing civil service. So, I repeat again, that it is not that I am against the state police given differentiated pay if that's what is needed. But, I do not think that this is the means by which it should be given because you begin to show differences. If we are going to establish differentiated pay, then I think we should do it in such a way that will give the ability or legalize the commission to do it, but allow them to do it to whatever groups of workers justify a difference in consideration. So, on that basis, I urge that we defeat this amendment and if necessary, let's put one in that is more in keeping with the constitutional provision.

Question

MR. NUNEZ

Yes, sir, Mr. Rachal, if you believe it's justified--and I do--I think every statistic you find that it is justified. Then, you have tried any other method to give them a raise--including to the legislature, including finding the money--and then you find the courts, because of a constitutional prohibition, they have said it's unconstitutional; then, how else do you do it, than remove the constitutional prohibition?

MR. RACHAL

Well, in my ignorance, Mr. Nunez, I just don't think there is a constitutional restriction; I think it's another instance. I'm glad this is an instance that doesn't have anything to do with race, so maybe I can get...speak of it or you can consider my remarks a little more objective. I have always felt that...I've been concerned about what I consider the inflexibility of the commission. In my experience, I have never been able to understand why it is that a differentiated pay could not be given. I think that within the power of

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Civil Service Commission that it can be done. That was why I stated that I would prefer if it is felt...if the commission feels the interpretation has been that the commission is restricted from doing this, I prefer to have language in the constitution which makes it clear that this is within their power, but that it be given as a broad power to be used at their discretion and not one that's restricted only to state police or only to any other particular group of workers. I would think that we would find in other categories that there are times, if not on a permanent basis, there are times-- another instance that comes to mind--I've heard complaints from the administrators in the health department, for example, of the difficulty in getting psychiatrists; the difficulty in getting other types of workers at Angola and other places. The commission feels that they are duty-bound by the uniform pay plan not to make any differentiation. I say that this, the Civil Service Commission should not be that restricted. I am all for making it clear that that kind of flexibility is within their power. But, I don't want to see it given for one group of workers. Let's make it...if they have it with all of the other powers that the commission has, I don't see that there should be a fear for putting this within their discretion. I think this is discrimination in another form. I doubt that the state police are the only group of workers who are deserving of extra consideration in their pay. So, what I'm asking then, Senator, is the defeat of this specific indication of the constitution. Let's work out something which will make it broader and remove any doubt that the Civil Service Commission does have the authority to grant differentiated pay when it is justified. I urge the defeat of this motion and I would volunteer for collaborating on one which would serve the purpose on a more nondiscriminatory basis.

Further Discussion

MR. DREW

Madam Chairlady, ladies and members of the convention, I rise in very strong support of this amendment. I agree with some of the opponents that it is a deviation from the present plan. I further agree with them that it has been and is within the power of the commission to make these raises, but they have not done it. Now, the figures that I have will vary considerably from those that Mr. Hernandez has and were presented to you for this reason. I am presenting to you the information that has been furnished me as to the take home pay. Let me tell you what the take home pay of a starting state trooper who loses his life on the line every day when he even stops a speeder. Prior to this last raise, his take home pay was approximately three hundred and fifty-five dollars a month. With this pay raise that they have been given--all civil service employees-- I am further informed now that his take home pay is approximately four hundred dollars a month or a little over that. But, let me bring this to your attention which Mr. Hernandez pointed out. I don't believe that we have any law enforcement agency in this state--and I'm not talking down on any other departments--but I don't believe we have any that compare with the efficiency with which our Louisiana State Police work; I see it daily in court; I see it daily in wreck investigations; I see it in every category of their duties and obligations which they so well fulfill. Now, if we are not able through some means--and I know of no other means than this--to guarantee these men an increase, a living wage, to where we will be in competition--just in competition--with local law enforcement officers, how shall we maintain a Louisiana State Police? Why should a man go to work for the Louisiana State Police at a salary of a hundred or a hundred fifty dollars a month less than he can go to work for a city police department, a sheriff's police department and expect that he will eventually get up to somewhere within their pay raise? I think that it is time--and way pass time--that there was a change made to where we can take care of this individual group of which we rely on so much. Most of us, when we think of a state trooper, we think of nothing more than giving a speeding ticket. Some of them have been told that their occupation is no more hazardous than a secretary's. At the same time, I don't see secretaries out drawing the fire of snipers. I don't see secretaries out stopping speeders, never knowing who they may be or what may happen as a result of that, and this is hazard...complete hazard; it's hazard every hour of the day that they are on duty and every hour of the day that they are off-duty because they are subject to call. If there ever was an exception that needed to be made, it is on behalf of the Louisiana State Troopers. I urge you to adopt this amendment.

Further Discussion

MR. KELLY

Madam Chairman, ladies and gentlemen of the convention, I, too, rise in support of this amendment. I might possibly approach

it from a little different angle than has been argued by some of the previous speakers. Quite frankly, what we've got to do is to compare what has already been done in this convention. The argument has been propounded against this amendment that it makes an exception. I say that it does not make an exception. To defeat this amendment would make the exception because this convention, and even before, assuming that this Constitutional Convention, or this proposed constitution is not adopted, it's obvious that the city policemen can receive supplemental pay benefits. They can go to the legislature right now, with the exception possibly of some of the charter cities, and receive pay increases. Now, this convention has seen fit already to make an exception for the city policemen at this particular time. I say to do otherwise in the case of the law enforcement officers of this state, would be a slap in their face. That's what we've got to remember. The exception is already there. If we vote against this amendment, that is where we are going to be making the exception. The exception has been made the general rule concerning law enforcement officers throughout this state. All of them can go to the legislature. So, if that being the case, then, let's let our state troopers also go to the state legislature, and concern themselves with pay increases there. Now, I've had a little experience in this area, too, dealing with state troopers, and so forth. If there's one thing that they cannot understand at this particular time, and I'll dare say I've had four or five in my office over the past four or five years that just could not understand how some few years ago the legislature adopted a pay increase for the state troopers, and it is my understanding, actually appropriated the money, and then, they were unable to receive it. Yet, at the same time, the city police officers of the various cities throughout Louisiana have been coming to the legislature and receiving pay increases and supplemental pay. In view of this, I'm going to ask you to give this your utmost consideration. I'm not asking you to be inconsistent. I'm asking you to be consistent with what the law is at this particular time, and what we have previously adopted in this constitution.

Questions

MR. ALEXANDER

On the basis of the information that I have been given, that we have been given, rather, state police salaries are still in the category of domestic workers and field workers. Now, what I'm trying to determine is how best to cure that inequity and how do those salaries compare with other civil service workers in the state system. I think that's the primary concern of the delegates.

MR. KELLY

Of course, Reverend, I'm not in a position at this particular time to answer exactly how a state trooper's salary compares with all of the other certified employees of the state. I think Mr. Hernandez explicitly brought that out. What we're concerned here with is not necessarily the pay as related to a secretary or to someone else that might be covered under civil service. But, what...how is his salary related to that, say, of a city policeman in the city of Lake Charles? I think Mr. Hernandez brought this out explicitly, and that is the inequity which we are dealing with here. In other words, it is absolutely necessary that we have a program which is conducive to getting good state policemen into the system. I'm not saying that in the past we don't. In my opinion, we have an excellent Louisiana State Police Department, but yet at the same time, in order to be competitive in the future, we're going to have to provide these people with some inducement to go into this field. Otherwise, a person would not be interested. He'd rather go to Lake Charles and go to work as a city policeman in Lake Charles as opposed to becoming a Louisiana State Policeman.

MR. ALEXANDER

Or New Orleans. Now, is this the best way to do it, Mr. Kelly?

MR. KELLY

Reverend, this is the only way I know to do it, is to make this exception. As I have said previously, this convention--and as far as I'm concerned right now--the exception is the general rule anyhow when we are concerning ourselves with law enforcement officers. So, in my opinion, we're not even making an exception here. We're doing nothing more than being consistent with what we have done in the case of all other law enforcement officers.

Further Discussion

MR. NUNEZ

Madam Chairman and ladies and gentlemen of the convention, you know, you try to be consistent in all your voting and all your proposals in this convention, and I think many of us do. I believe that's why we're running about fifty-fifty on all of our votes in this convention on this particular matter. I started out trying to keep civil service as pure as it is now, or it's supposed to be now, because I have a strong belief in it. I think basically civil service has been good for all of our employees, and more particularly, I think they are getting the cream of the crop, or were getting the cream of the crop when it came to our state police. I think we should continue in this. But, let me tell you what happened about 1970. When, after it was brought to the attention of the legislature, that there were certain inequities that existed in salaries in our law enforcement personnel. I'm talking about inequities that exist on the basis of comparative--comparatively speaking with other states in this nation, comparatively speaking with southern states. We were the lowest in the area. Then, around 1970, we passed a supplemental pay for deputy sheriffs. We always had supplemental municipal police, but in 1970, we passed a supplemental pay for deputy sheriffs, giving a deputy sheriff, a beginning deputy, about the same pay as a state police, and I might add, with less rigorous training and with less rigorous requirements for entrance, that is, testing and etc., and I'm not minimizing our sheriffs throughout the state. But, they start on about the same thing. We supplement local deputies if they make three fifty to the tune of a hundred and sixteen dollars or a hundred and thirty-two dollars and a hundred and fifty dollars, which puts them just about in the same category as our state police. We also, about that time, were to determine that it was difficult to get your state police because naturally they were going to the various deputies' or sheriffs' asso...sheriffs throughout the parishes. We supplemented a pay scale for the state police. We not only supplemented it, we implemented it, meaning we found the additional funds to give them that pay scale. That was done through licenses, brake tag stickers, and etc., and there was enough money available. We thought in the legislature that it was a good pay scale. That pay scale was turned down by civil service, as you probably have heard already. The courts upheld civil service. My whole point is that maybe this isn't the way to do it, but I see no other way because the legislature, the prime body that was concerned with raising the funds for these salary increases, had done just that, but it was declared unconstitutional by the courts, upholding the Civil Service Board. I have no concern with that. They were legally within their rights, and their rights to do it. I do concern myself with the fact that your state police in this state are in the same category, and nobody has seen fit to try to raise them, categorically speaking. I don't think we can stand here today and compare a pay scale for a secretary, for a clerk, for a geologist, for an engineer, for a medical man, as you can with the state police. I think they are completely different. Evidently, these other scales, and these other people in these other categories, are somewhat satisfied because I've heard no hue and cry from them, and I've had nobody come to me and tell me, "We should be differently categorized." But, I have with the state police. I think they're completely justified. I think if you had, if you had the basic information that we had when we voted to give them this raise, that you would vote right now the same way. I see no reason why we should not differentiate. I see no reason why we shouldn't take a fine organization, like the Louisiana State Police--I consider them second to none, when it comes to law enforcement, and I think you do also--I think it would be only right and only fitting if this convention would include in this document. We've adopted a lot of things that I don't think was necessary, but we've adopted them, and we've changed civil service completely as we have known it in the past. So, I see no reason, ladies and gentlemen of the convention that we should not adopt this provision, and give to our state police, if just--and it's more than morale reasons because it means dollars in their pockets. Let me tell you something. It was brought out at the hearings that many of our state policemen--and I don't want to sound melodramatic, but it was brought out, and it's a matter of statement of fact--that many of our state police, on the beginning salary schedule with large families, living in large metropolitan areas where the cost of living went high, were actually getting food stamps. I stand to be corrected, if I'm not telling you the truth. I stand to be corrected. So, if the Civil Service Board cannot differentiate or cannot make a different classification for state police, and we are having problems in that category of pay scale for state police, then

I believe, gentlemen and ladies of the convention, that we should...it be incumbent upon us that we should set that scale, or we should allow them, through the constitution, to set a different scale. So, I would ask you, please, to go along with this amendment. I think it's a good one. I think it's something that should have been done, and has not been done, and if we don't do it, I'd venture to say, it will not be done. It's been proven that...they've turned the legislature down, and the courts have upheld the legislature. So, why shouldn't we do it here? Give me one good reason, and I'll vote with you against it. But, I stand at this point that I think it should be in the constitution. I'll yield to any questions, Madam Chairman.

Further Discussion

MR. JACK

Madam Chairman and fellow delegates, as usual, I'll be very, very brief. I said that to see if you were listening. Thank you for listening. Now, I believe in this amendment. I never did believe that the police in New Orleans belonged in the state civil service; I never did believe the state police did. They're all in a different category as employees. Now, that's where the trouble started back in 1940. All of the state except Orleans had a state police and firemen's civil service and the state police got put into the state employees. Now, policing is just a different ballgame from any other kind of employment. It's got to be treated differently to be fair, to protect the people, and if you don't put them in a different system, you're going to have to make an exception. They're in the state employees' system, and so we should make an exception. To me, it's very clear we should adopt this amendment. Thank you.

Further Discussion

MR. WOMACK

Madam Chairman, fellow delegates, and I wish you would listen. I'm not going to rehash but a very little of what has already been said. I will touch on it a little. In 1970 the legislature, I think in its wisdom at that time--I know I sponsored the bill in the House, and I think, with Carl Bauer; I don't remember who in the Senate--but, we passed taxes. Now, I want you to listen to this. We get terribly disturbed about a two to one tax, or a two-thirds tax. The legislature, in the last year that they could raise taxes, passed a tax on the people thirty-two to one; not two to one; thirty-two to one, to pay a supplemental pay to state policemen because they realized that they were deserving of it, had earned it and were entitled to it. Now, keep in mind, this is the year, the last year you could vote taxes before you ran for reelection. That's pretty hard, and thirty-two to one is a pretty sizable majority. One of those didn't know what he was voting on, and two of them is against God. So, that was the three votes that was there. That gives you an idea about what the legislature thought. So, if we're going to say that the legislative body should have the right to tell--and I've heard that this morning a good bit--how we're going to spend money, that was the feeling of the legislature. Now, we passed a tax; we got the money; we designated how it was to be spent, and as you know, it was blocked. Now, we were very kind to the state policemen after this was done. We didn't have enough cars to go around, so we went in and took a portion of the money the next year and bought them some cars so that the state policemen would haven't to push some of these vehicles off to go to work, with the job they have to do. Then, the next time, we came back with a little of the money, and I handled the bill to help supplement their retirement system. Do you know what kind of retirement system they've got? The poorest funded retirement system supported by the State of Louisiana today. Now, you talk about a group of people that's kind of halfway been stepchildren; this group of people has been stepchildren. So, we fought that out. This year we finally took this little supplemental pay and added, and got each one of them his own automobile to where he could work going home, work coming back. We're getting two extra hours of patrolling a day from the average patrolman, not paying overtime, not paying normal time, not paying him for the time. All we're doing is furnishing him a car to ride in. This is his supplemental pay, and this is what he's supposed to feed the family with, this two extra hours he's working without pay for. You can just go on and on and on. Now, looking at the table of organization, you say, well he can climb. Do you know how fast he can climb? Our holier-than-thou Civil Service Commission has set up a table of organization, and you can only have one captain and so many proportions, and that fellow starts as a trooper; he's going to stay as a trooper a long time. As

long as he stays as a trooper, he's going to get that twenty dollars a year raise now, if he does real good. With inflation going up about twelve percent, that twenty dollars will go a long ways toward paying him, especially when the ducks get through with it. He gets about twelve or thirteen dollars. Then, you wonder why he's entitled to food stamps. If he's got any family at all and he's a beginner, he's entitled to food stamps. So, I would urge you at this time--and saying that we're going to set an example--Mr. Rachal, I can understand your being against it. New Orleans has a civil service system that sets the pay of their policemen, but it doesn't prohibit us from supplementing them in the legislature, and we supplement your New Orleans policemen. But, we can't supplement our state policemen. We can supplement the city of New Orleans's responsibility, but we can't supplement the responsibility of the state out of the state general fund. We're supplementing the deputy sheriffs. My deputy sheriffs at home was making far more as a beginning deputy sheriff than a state policeman was that had been there twelve years, and we supplemented him again. It's just a crying shame, and all in the world this does is authorize ; it doesn't direct. It authorizes the legislature in its wisdom, and if they don't feel like it's there, they're not going to pass taxes to put it there. You know, we in the past even had to go far enough, trying to get a little money to state policemen that we could buy them a uniform, and authorize them to buy a meal while they were out on the road because civil service says, "No, sir. We can't pay them. We've got to consider everybody across the board." Even the military, when you go into combat, gives extra combat pay. Every day a state policeman today hits the road, he hits the road in combat. Let's don't kid ourselves. They're in a class of their own. They're in a responsibility of their own. They're doing a creditable job to it, and they're entitled to what we're asking for in this constitution here, and that is the right of the Louisiana legislature to supplement their pay if they see fit. So, I'd urge the adoption of this.

[Previous Question ordered. Record vote ordered. Amendment adopted: 98-8. Motion to reconsider tabled.]

Personal Privilege

MR. DUVAL

Madam Chairperson, fellow delegates, I didn't think that I would ever take the opportunity to rise on a point of personal privilege, but today I feel that I must. I am rather befuddled at the inconsistency of this group. We recently had an amendment which I introduced which would give the legislature merely the power to approve pay recommendations made by the Civil Service Commission. It was soundly rejected, and I understand that. But, now, on the basis that the Civil Service Commission is not political, it should be inviolate, etc., and now, however, we say that...and I voted for the Hernandez amendment, I might point out; but, now we say, though, this group--and some of the people who talked against mine, talked for this--now, we say, fellow delegates, now, we say, it's all right, though, for the Civil Service Commission not to have autonomy where state police are concerned. In that instance, the legislature, who are the watchers of the purse strings of Louisiana, have the final say. Now, you know, if you're going to be intellectually honest with yourself--and it's about time we started--you know that's inconsistent. You know you can't justify it. You know you did it because there's a strong lobby here. You know you haven't been consistent, and doggone it, it's about time. We hear people saying we want elected representation. That's a big cry. Yet, they let appointed commissions have the force of law. Then, they say the state police are excepted from all other employees, and the legislature has the final say here so the whole theory, allegedly, of the Civil Service Commission is put to rest. Therefore, I'm complaining to you, and I feel aggrieved because of the rather regular inconsistency that I have witnessed. I suggest to you to watch what you do, to at least, be honest about it, and not to succumb to every lobby that occurs, and not to succumb to a strong vested interest, who is opposing this constitution to begin with. I'm going to say it just like it is. I have been on the opposite side of organized labor at times, and on the side of some of their proposals. But, I hope and pray that organized labor will be for this constitution after we have finished, because they have dadgum well had their say in it. I hope they, like me, can push to have it passed, and I hope they will not be negative, and merely because we have a sixty day annual session end fighting this. I hope they will unequivocally come out and say, "We support this constitution," and I'll be proud then. Thank you.

Recess

[Quorum Call: 92 delegates present and a quorum.]

Amendment

MR. POYNTER

Mr. Avant.
Hernandez, Riecke, Wattigny, Smith, Sutherland and Conino send up amendments.
These are the lengthy amendments, your two page amendments.

[Motion to waive reading of the Amendment adopted: 53-18.]

MR. POYNTER

Madam Chairman, I do want to point out one change that's been made.

On the sixth line, on the sixth line which begins "United States" of the text of the amendment...sixth line of the text, after the word and punctuation "United States," strike out the remainder of that line. After "United States," strike out the remainder of that line. Strike out the next line in its entirety. On the subsequent line, strike out the word, punctuation, "dates, inclusive; or". That's the only change to the amendment other than the coauthors which have been added.

Explanation

MR. HERNANDEZ

Thank you very much, Madam Chairman. Ladies and gentlemen of the convention, this amendment is no play on words. It tracks the present constitution and restores veterans' preference into the proposed constitution just as it appears in the present constitution, with the exception that the Clerk pointed out. It strikes out the words "after having served between the wartime dates of April 6, 1917 and November 11, 1918," both dates inclusive. That is--that was taken out for the sole reason that a veteran that served during that time cannot be hired on Civil Service. He's just too old for that. So, we took that out, saved a couple of lines, since everybody is interested in conserving time and space; that's all that that does. It...provides the dates that a person must have served to be eligible for this five point, or the ten point preference. It's, as I said, just as it appears in the present constitution, provides for a five point preference to any veteran who had served during these war periods, that had been honorably discharged. It provides for a ten point preference for any veteran that served in that time, that had been honorably discharged; and it goes further to provide for the widow....I mean the wife of a disabled veteran who had served honorably during these periods of time--or one of these periods of time, but was so incapacitated that he was not able to do the work that he was best fitted to do. So, therefore, if he was not able to work, we wanted to fix this so that his widow....I mean his wife....would get this ten point preference; in the event of a veteran that was killed in service, his widow, or, that is, his unremarried widow; or his unremarried mother or father, but only one ten point preference per veteran.

It also provides for preference in layoffs. But, it so points out that if this veteran, or his wife, or whoever is used in this preference, must be equally capable of holding this job.

I would be happy to answer any questions. I see some holding up their hands. I'd rather, rather than attempt to go through all of this, I would rather spend this time answering questions.

Questions

MR. NEWTON

Mr. Hernandez, I've got...people asking me all these questions. Evidently, there's a lot of questions they want to ask... particularly wanted to ask: what about veterans of future wars?--of course, I hope we don't have any. But, assuming that we will have something, would it require, then, a constitutional amendment to grant an exemption to future veterans?

MR. HERNANDEZ

Yes, sir. There is no provision made. The only provision you can make, so far, is to these that have been outlined by the federal government as having earned campaign ribbons during these periods of wartime.

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MR. SINGLETARY

Mr. Hernandez, I believe you said this is the same language as is in the present constitution, word for word?

MR. HERNANDEZ

That's right. Yes, sir. Research drew this amendment up from the existing constitution, yes, sir. The only thing left out--these dates--because World War I veterans would not be eligible for employment, now, on account of their age.

MR. AVANT

Mr. Hernandez, maybe it was because I wasn't listening too good, but you took out the dates, April 6, 1917 to November 11, 1918. Right?

MR. HERNANDEZ

That was only for the reason, Mr. Avant, that a man of that age would not be eligible for work.

MR. AVANT

Yeah. I understand that. But are you sure that none of those people would have spouses or widows who would be entitled to some type of benefit which you are taking away from those spouses or widows by taking that out of there? I mean it would be, probably, unlikely, but, are we certain that in taking that language out, we are not doing something to some unremarried widow or spouse?

MR. HERNANDEZ

Mr. Avant, I think you have an excellent point. For that reason, I deeply regret having struck out those two lines. If the Chairman would go along with it, on account of the reasons that you pointed out, Mr. Avant, I would like to offer a technical amendment...I'd like to withdraw this amendment...offer a technical amendment to restore those...that back in there on account of the very point that you have made, Mr. Avant. It was frankly overlooked on my part.

[Amendment withdrawn and resubmitted with corrections.]

Questions

MR. SLAY

Mr. Hernandez, could not the State Civil Service Department do this on their own without an amendment such as this in the constitution?

MR. HERNANDEZ

No, sir, they could not.

MR. SLAY

In adopting their rules and regulations to go by, they could not....

MR. HERNANDEZ

They have no authority to make provision for veterans' preference without this in the constitution.

MR. DESHOTELS

Mr. Pete, do you know, sir, that I'm in sympathy with what you're trying to do? But do you also know, sir, that on page 6 of the Dennery proposal, that he has a provision which says that the commission shall adopt rules providing for preference in original appointment, layoffs, etc., reinstatements of veterans? Do you also know that if we could keep...our language condensed in line with what he has, and possibly, if you want to put percentages, that you would have my wholehearted support?

MR. HERNANDEZ

Mr. Deshotels, to answer your questions, the veterans service organizations have a strong desire for this same language to be put back as a guarantee to the veterans. They are of the opinion, and I share this opinion with these veterans organizations, that this is of sufficient importance to put in the constitution. They want to spell this out in the constitution so there can be no mistake about it. For that reason, is why. It has worked well, Mr. Deshotels. It is now in the present constitution like you see this now. It has worked well. Everybody's been happy with it. The veterans' organizations feel like that this should be put back in the constitution.

MR. DESHOTELS

But you will agree, though, however, that if we should happen

to have another conflict, such as the Viet Nam conflict, that we would have to have additional amendments to your section to have these veterans of the future given these preferences, don't you?

MR. HERNANDEZ

That is exactly right. But we can't anticipate that, Mr. Deshotels.

MR. DESHOTELS

Don't you think that we could possibly go along with not necessarily the same language that Mr. Dennery has, but something in line with that and what you have, and provide for those future veterans, also, and also protect the ones that we have now?

MR. HERNANDEZ

Well, the federal government hasn't gone to that end. This is copied from the language handed down by the federal government.

MRS. ZERVIGON

Mr. Hernandez, I'm trying to figure out exactly what the philosophy behind this is. You have a benefit on original appointment, but no preference on promotion. Is that correct?

MR. HERNANDEZ

That is correct.

MRS. ZERVIGON

I'm assuming you removed the three point preference there used to be on promotion, right?

MR. HERNANDEZ

No, ma'am. I didn't. The committee did, and I didn't want to, since I sat on this committee, I didn't want to go back.

MRS. ZERVIGON

But I mean it was in the old constitution and it isn't in your proposal.

MR. HERNANDEZ

Well, no, ma'am, it isn't. But, let me tell you why. The employers felt like that if a veteran was given this preference in hiring, that they should be able to, on their own, get the promotions that they were entitled to.

MRS. ZERVIGON

Right. The theory behind that is that you are trying to reassume a person into the work force. Right?

MR. HERNANDEZ

Sorry. I didn't understand you.

MRS. ZERVIGON

You are trying to take someone whose life has been disrupted back into the work force. Isn't that so?

MR. HERNANDEZ

That's exactly correct. Yes, ma'am.

MRS. ZERVIGON

Mr. Pete, are you certain that we should extend this to veterans of World War II? Do you not feel that if they have not come back into the work force that very little can help them?

MR. HERNANDEZ

Mr. Avant called my attention to the fact, which I would like to say now that I appreciate his so doing, because there are wives that are still eligible for work.

MRS. ZERVIGON

No, sir. That isn't really what I mean. I'm saying that if a person has had a job in the private sector for these twenty-five years or so since World War II, what is your philosophy behind giving him a preference in Civil Service in 1973, '75, '76?

MR. HERNANDEZ

So that in the event he has a wife that is working, she will be eligible under the provisions of this for other employment, or that preference in being retained on the job.

MRS. ZERVIGON

Well, let me ask you one further question. If a man sits at a desk in El Paso, Texas, in a uniform, during one of these periods--that's the way Nunez was--during one of these periods you have listed in your amendment, he is eligible for the veteran's preference, right?

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MR. HERNANDEZ

If he served honorably during these periods of time spelled out here.

MRS. ZERVIGON

He didn't have to go overseas?

MR. HERNANDEZ

No, ma'am.

MRS. ZERVIGON

But, if he sits at that desk just one year later, between these periods, he is not eligible for that preference. Isn't that right?

MR. HERNANDEZ

Yes, ma'am, that is...

MRS. ZERVIGON

Even though he may have been drafted. Isn't that correct?

MR. HERNANDEZ

Even though he may be drafted, it was not during wartime service.

MRS. ZERVIGON

Can you explain to me the philosophy for hiring...rewarding one man doing the same job as another, and not rewarding the second person?

MR. HERNANDEZ

I can explain only this way, that this was first intended, a man that was taken out of life there...out of his civilian life, and put in service, this gives him the preference that the federal government has recognized that he deserves, and the state has adopted those same dates.

MRS. ZERVIGON

But only if his life is disrupted during wartime. His life could be disrupted any other time, and he doesn't get the preference?

MR. HERNANDEZ

No, ma'am, he does not get the preference for any other period.

Thank you very much. I deeply appreciate your consideration of this amendment.

Further Discussion

MR. REEVES

Madam Chairperson, and members of the convention, you are sitting there now having filled yourself with a tremendous lunch and some of you are talking, and others are just reminiscing over the good company that you had during lunch, and the things that you discussed, but what we are discussing before you is a constitution for the greatest state in the United States of America; we are here discussing the future of the State of Louisiana. Mr. Hernandez has been in the legislature. I understand he served well. Maybe he will go back some day. But this is not the place--not the place--not the place--for legislation. If I've got to get loud enough to wherever you can hear me, and you'll listen, I want to get loud enough, because I will not ever support meaningless, extemporaneous legislation to be placed in a constitution that's going to be voted on and held in the State of Louisiana for the next fifty years. I will go on record now as being for the veterans that have lived in my past lifetime, and are responsible for me being here today. For if we hadn't had the armed forces of the United States of America, we would not be a free nation. But, I will not go on record as supporting material such as this. This, my friends, is legislation. This, my friends, is the problem we have in the Constitution of 1921. We have, are beset right now, with a three volume, huge, thick constitution that was placed here by my and your predecessors because they were looking to protect special interests. I think nowhere in the future legislatures, or future legislators of the State of Louisiana, will we ever see the five point percentage, or five points given to veterans taken out. But, we should not place all of this material--have you looked at it? Read it. The United States of America is a great nation. But we are a warlike nation--whether you want to believe it, or whether you don't. We're going to have wars in the future of this

country. I don't care how many Tricky-Dickies we got in Washington or not, we're still going to have wars. We're going to be in a war within the next ten to fifteen to twenty years, most probably, according to the statistics. You know what you're going to have to do to protect the veterans of that war? You're going to have to bring on to the citizens of the State of Louisiana another constitutional amendment to protect them. Fifteen more years later, approximately, according to the statistics, you're going to have another war. So, you're going to have to protect these veterans, too. So, you've got to put them in there. Because, see, our wars stopped with the Viet Nam war. The last thing Mr. Hernandez says is "both dates inclusive, or who served in the Viet Nam Theatre between July 1, 1958, and the date the government of the United States declares to be the date of termination of service." This has already been declared. What we're going to have in the future is a constitution laced with amendments. This ain't the way it ought to be done. Now, I realize you have gone against what I--we--hope--or some of us hope is the principles of an idealistic government, and an idealistic constitution. But what you have now is more legislation. I say concretely to you out there, if you vote against this amendment, you're not voting against the veterans of this state. You are not. You are simply voting to exclude this from a constitution where it shouldn't have been to begin with for we, as mature individuals, trust a legislature, elected in a democracy, able to go before the voters, and able for us to have a vote on.

I ask your favorable opposition against this amendment. I realize it's going to take guts--hard, down guts--to sit out there and vote against the veterans, or what you think is the veterans of the state. But it doesn't. It takes guts to be able to say, "This is not--this is not constitutional material." Be it proclaimed throughout the State of Louisiana, that we, as the younger delegates, are looking for a new day in the State of Louisiana--a new constitution for all the people of all the time. I will not support this type of legislation within our constitution. It's going to take you some hard, down, gut-looking fighting to come up and vote against this amendment. But, if you've got it in you, and this is where we're going to find out if you've got it in you or not, we're going to find out if you have the ability to sit down and decide that this is legislation. It belongs in the legislature which meets twice a year right now, or once a year, over in the capitol. This ain't the capitol. We're not the legislature. We are constitutional delegates. If you want to be legislators, there's a campaign coming up in the future. Run and get elected. But, let's don't have legislation in our constitution. Thank you.

Further Discussion

MRS. ZERVIGON

Madam Chairperson and delegates, first I want to tell you I am not a veteran of any war outside the boundaries of this country. So, I don't exactly have an ax to grind. I wouldn't get any benefit under this, anyway.

I'm rising in opposition to the amendment, not only for the reasons Mr. Reeves mentioned, which I think are good ones, but also, I wonder whether we should freeze this concept into the constitution because I question the concept. I think a veteran's preference within five years of service, or if it's the first job a person acquires after service, is a good idea. Reassimilate the person into the work force. That's a good idea, and the government takes the lead on the "Hire the Veterans" campaigns is fine. But I say to you, if a veteran has not had a job since World War II, there's no helping him--absolutely no helping him. If he has had jobs since World War II, then he has already been reassimilated into the work force and needs no benefits. Now, if you are just going to reward this person because he's been under duress, then, perhaps you only ought to reward the person who has served overseas. If you are just going to--if you are going to reward someone because he has given service to his country, then perhaps you ought to award only--the veteran preference only to those who volunteered to serve, and not to those who were dragged off, kicking and screaming under the draft. If you are going to reward service, then, boy, I want mine. I had a Girl Scout Troop. If you think that's not combat, you've never had one. One of the other delegates had an eighth grade Sunday School class. That's worse. I'll give it to him before I take it myself. But I'm telling you, this is not constitutional material. The concept of it, I question.

Questions

MR. NUNEZ

Mrs. Zervigon, I would have preferred to ask Mr. Reeves some of the questions that I wanted to ask, but he's gone, and you're

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there. You question the concept of giving a veteran additional points, or preference points for...on his test...or for his grade, or what have you...what we are doing here? You question the concept of that, or the lengthy amount of material we are putting in the constitution?

MRS. ZERVIGON

Senator Nunez, I question both. I don't question giving preference to someone immediately out of the service. I think we want to assimilate those people back into the work force. I question giving it to him twenty-five years after the war has ended when he sat at a desk in El Paso, and he didn't want to go in the first place, but he was drafted. I just don't see what good it does the state, nor do I see why that particular person deserves a reward from us.

MR. NUNEZ

Did you question the giving of the homestead exemption to the veterans?

MRS. ZERVIGON

Yes. I can, and I did. I think for a first purchase of a home immediately out of the service, that's fine. Twenty-five, thirty years later, if that person can't make it on his own and be a productive member of the society, then it seems to me there is just no helping him, as I've said before. It seems to me that there are plenty of things that society might want to give rewards for--many different kinds of service. To pick only this kind, and to give it to those who gladly volunteered their time, as well as to those who went under duress, to those who were in danger, as well as to those who were not, I just can't understand the concept.

MR. SINGLETARY

Mary, isn't it true that under the Dennery amendment, veterans could be given preferences in promotions? But under Mr. Hernandez's amendment, they could not?

MRS. ZERVIGON

They could never be unless the constitution was amended. Nor could you extend the dates of the wars, nor could you make it applicable only to those overseas, or applicable to everyone who's ever been in the service, or applicable to only draftees, or only volunteers. There's no way to make it either more extensive or less extensive, or more logical, no way at all under this without a constitutional amendment.

MR. ROY

Friendly--it's friendly, Mary. Do you agree that the purpose of civil service tests, of course, is to get as far as possible the best person for the job?

MRS. ZERVIGON

That's supposed to be the concept--merit hiring.

MR. ROY

Do you realize, then, that if, let's say, the standard for a particular job status was a score of eighty or above, and that anybody didn't get eighty or above, just really couldn't bump it most of the time? That is a veteran with a grade of 71 who got ten points, he would bump out the top three who may have eighties on a job--even after you say, like, twenty-five years from the time of the war?

MRS. ZERVIGON

Chris, I don't think that you can apply the veteran's preference to pass a test. But I do believe you can apply the veteran's preference in order to get in the top three when you weren't really in the top three. As you say, it goes against the merit principle, as far as I'm concerned. Now, if we want to violate that principle for the good public purpose of reassimilating someone into the work force, I'm for it. But for other reasons, I just can't see it.

MR. RIECKE

Mary, what difference does it make if a man is drafted or not, as long as he risks his life for his country? Does the fact that he was drafted make that much difference?

MRS. ZERVIGON

Mr. Riecke, it's just that we can't take that into consideration here. I think it makes a heck of a lot of difference whether he

was assigned to El Paso, Puerto Rico, or whether he was in the Japanese Theatre. I think it makes a heck of a difference. There's no flexibility under this thing.

My uncle went to El Paso, and he got a beautiful auntan... didn't particularly like being away from home. But, he had his whole family with him. I don't know whether he needs a reward.

MR. RIECKE

But you said it made a difference to you whether he was drafted or whether he volunteered. I don't think that should make that much difference.

MRS. ZERVIGON

Well, I could argue that either way, Mr. Riecke. I could argue that if a man volunteered to go, he was making a choice himself. The choice was not being enforced on him, and, therefore, he deserves no reward for it. My own personal opinion is that if a man was dragged off kicking and screaming, that...and didn't volunteer to go, and didn't voluntarily risk his life, then he really deserves no reward from us.

For one thing, it discriminates against the elderly, against women who are not drafted, against people with trick knees and flat feet, because those folks are not drafted. It makes no sense to me.

MR. RIECKE

I happen to be one of those delegates who don't have any guts. I'm going to vote for it.

[Previous Question ordered.]

Closing

MR. HERNANDEZ

Madam Chairman, ladies and gentlemen, I took the mike again primarily for the purpose of being able to answer any questions. That's what I was doing back here. I do urge you to seriously consider this.

I had occasion to go through the War Veterans' Home the last part of last week--well, it was last Saturday--and I believe that if I could take some of you people through one of these war veterans' homes, or through some of these veterans' hospitals, that I could get a little bit more consideration from this group. Some of those are still pitiful cases. They are very pitiful. I deeply appreciate Mr. Avant calling my attention to the fact that some of the wives are still eligible for these benefits. We would not, under any circumstance, want to prevent those wives from taking advantage of this. Now, this, as I said before, is almost the same provision that was in the present constitution. We left out promotions for the reasons that one of the veteran's service organizations, and, some of the employers, felt like that after a man gets on, that he should be on his own from there on--that if he deserves a promotion, he will get it. So, that's why we left out this three point preference for a promotion, Mr. Singletary. That was the only reason. The Veterans of Foreign Wars, which I represent, did not favor leaving out the preference in promotion. Some of the other veterans service organizations, and employers--and I can understand why the employers felt that way--they shouldn't have to promote a man unless he has earned it. If there are any questions, I would be happy to attempt to answer your questions.

Questions

MR. ALEXANDER

Mr. Hernandez, is not this concept consistent with federal laws in the same field?

MR. HERNANDEZ

Yes, sir; it's taken from that, Reverend Alexander; it's taken from the federal law.

MR. ALEXANDER

Right. Now, the other complaint is the World War I veteran would be too old for employment. But, isn't it possible that a seventy-five year old man could have married a thirty year old woman and she would still be in the work force?

MR. HERNANDEZ

Yes, sir; that's why we reinstated those dates of World War I, Reverend Alexander. Mr. Avant called that to my attention, and we put those dates back in for the very purpose that you have pointed out.

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MR. GRAHAM

Mr. Hernandez, in your opinion, without your amendment could the legislature provide for the veteran's preference?

MR. HERNANDEZ

Yes, sir; the legislature could provide for some preference, I think without a doubt, Mr. Graham. But, you can readily understand that these veterans that are interested in this and the veteran service organization want to put these provisions in the constitution to assure that they will not be tampered with.

MR. GRAHAM

One more question, Mr. Hernandez. Subject to the provisions already contained in the Dennery amendment, could the Civil Service Commission provide for this veteran's preference?

MR. HERNANDEZ

Yes, sir.

MR. HERNANDEZ

The veteran service organizations you can well understand want this spelled out in the constitution, Mr. Graham.

MRS. MILLER

Would you yield to a question from Chief Giarrusso?

MR. GIARRUSSO

Mr. Hernandez, don't you believe that a man that had his education as well as career interrupted when he had to go to war while other people stayed at home and had an opportunity to make big money and when he came back, he had a very difficult time to get a job, and that he is entitled to some consideration if he takes an examination?

MR. HERNANDEZ

I truly feel that this veteran is deserving of special consideration.

MR. ANZALONE

Do you think that we would ever, the people of the State of Louisiana, elect a legislature that would take away veteran's benefits?

MR. HERNANDEZ

No, sir; I do not.

MR. ANZALONE

Now, you mentioned a few minutes ago that this was a part of the federal law...that it was tracked from the federal law. I ask you, is this in the federal constitution?

MR. HERNANDEZ

No, sir; it's in the state constitution though.

MR. ANZALONE

Now, Mr. Pete, I ask you one further question: that as constitutionalists, rather than legislators, do you think that it is fair to put these people in a position to say that if they vote against this, that they would definitely be voting against veteran's benefits?

MR. HERNANDEZ

That question is something like what you answer yes or no if you've quit beating your wife.

MR. ANZALONE

Yes, sir.

MR. HERNANDEZ

That's about the same thing.

MR. ANZALONE

That's what it was intended to do.

MRS. MILLER

Would you yield to a question from Mr. Stovall?

MR. HERNANDEZ

Yes, ma'am.

MR. STOVALL

Mr. Hernandez, if your amendment is passed, would you then support an amendment stating that "the legislature shall give the veterans' benefits through the Civil Service Commission"

and leave it to them to incorporate the details that you've included here?

MR. HERNANDEZ

Wait a minute. The first part, if this passes? Well, if this passes, no, sir, I'm going to leave it right where it is. I like to quit a winner, Reverend Stovall.

MR. HERNANDEZ

Mr. Dennery, I hope this is a friendly question.

MR. DENNERY

I hope it's friendly, Mr. Pete. You're not suggesting that the amendment, as it stands now without your amendment, does not require veterans' preferences; are you?

MR. HERNANDEZ

Mr. Dennery, I'm sorry, but I couldn't understand you, and I tried.

MR. DENNERY

I say the amendment...my amendment, which was adopted, and presently in lines 15 to 21 on page 6 "requires the commissions to adopt rules providing preferences for original appointments, layoffs, and reinstatements for veterans"; is that not correct?

MR. HERNANDEZ

Yes, sir; that is correct.

MR. DENNERY

And they may adopt rules providing for other veterans' preferences; is that not correct?

MR. HERNANDEZ

Yes, sir.

MR. DENNERY

The basic difference between your amendment and my amendment is that you list all of the dates and so on and so forth and the number of points; is that not correct?

MR. HERNANDEZ

That is correct. As far as the reason, Mr. Dennery, that these veterans that enjoy these preferences definitely want it spelled out in the constitution; the veteran service organization do and there is quite a movement back of it to put this into the constitution.

MR. DENNERY

Thank you, sir.

MR. HERNANDEZ

Ladies and gentlemen, I do urge your consideration of this. I ask you to give it your consideration. I appreciate the time you've given me.

Chairman Henry in the Chair

[Record vote ordered. Amendment adopted: 60-45. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted on Saturday, page 6 of the amendment, at the end of line 21, immediately after the partial word and punctuation "ences." add the following sentence: "No rule, regulation, or practice of the commission, any agency or department, or any officer of the state or any political subdivision shall favor or discriminate against any applicant or employee on the basis of his membership or non-membership in any private organization."

Explanation

MR. JENKINS

Mr. Chairman, delegates, you have three amendments, probably, on your desk by me. I want to be sure you have the right one. I wish you would just throw the other two away, because I am not going to offer those. This one is the one that begins "No rule, regulation, or practice...." and it's at the end of line 21.

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Let me read this one more time: "No rule, regulation, or practice of the commission, any agency or department, or any officer of the state or any political subdivision shall favor or discriminate against any applicant or employee on the basis of his membership or nonmembership in any private organization." So, what we are saying there, is regarding civil service employees in this state or people who are applying to be civil service employees, the fact that they are in a union or not in a union will not be taken into account whenever they are either hired, or promoted, or whatever; it says they will not be favored; it says they will not be discriminated against. Now, I don't know how we could do anything that would provide more justice or fairness than that; it certainly is not anti-labor; it's not anti-union, in fact, it protects unions; it protects the right of people to be in unions and not be discriminated against. It also protects the people of this state, who work for the state, from being forced or discriminated against if they don't join a union--that's all this thing does. The vote this morning was very close, it lost by six votes. Two machines were voted no on that and the people were not here. I don't think that we ought to let that go by without having another opportunity to vote on this matter. I think a lot of people this morning did not understand it. I think that written in the way it is now that it is understandable. The thing that scares me, and the reason I'm offering it again, is because of the opposition expressed to this principle this morning. Why are people afraid of this concept? Do they plan to discriminate against certain persons in state employment because they are not in the union? Is that what we are looking forward to and is that why we didn't want that amendment this morning? I don't know; but, I'm afraid of that. This is fairness and justice. If a person is in a union or not in a union, fine, just leave him alone in state employment; don't promote him; don't hurt him; don't discriminate against him; don't be favorite toward him because of it. So, I urge you to adopt this amendment.

Further Discussion

MR. FLORY

Mr. Chairman, delegates, I rise in opposition to this amendment. This morning when Mr. Jenkins came with that amendment I told you then it was the forerunner to this amendment which, in effect, is nothing but a right-to-work law for state employees--purely and simply, that's exactly what it is. I ask you to reject this amendment and to leave the area of employee-employer relationship open to discussion between the employer and the employees. I ask you to reject the amendment.

Questions

MR. O'NEILL

Gordon, would you define the right-to-work law? My impression is that it is abrogation of security clauses under federal law; would you define it?

MR. FLORY

A right-to-work...what it does is appears in many forms, Mr. O'Neill, but whether its membership or nonmembership in any organization is a prerequisite as are its condition of employment. Also, it prohibits the certification of a particular one bargaining unit.

MR. O'NEILL

How would this prohibit the certification of one bargaining unit?

MR. FLORY

Because you couldn't discriminate...you couldn't sign a contract as the sole bargaining agent, although you might represent a hundred percent of the employees.

MR. O'NEILL

Well, I'm not sure that it says that.

MR. FLORY

Well, 99.9 percent.

MR. O'NEILL

Well, let me ask you, would you believe in discriminating against people on the basis of whether or not they belong to a union?

MR. FLORY

No, sir, nor have we practiced that. Under the present civil service provision and in Mr. Denney's proposal it could not be granted as a prerequisite as a condition of employment; that's already taken care of in the proposal as it now stands.

MR. O'NEILL

Well, if you don't believe that people should be discriminated against, why are you against this then?

MR. FLORY

Because you say, Mr. O'Neill, that I can't in this sign a contract as a sole bargaining agent.

MR. O'NEILL

Well, can't you sign the contract as a sole bargaining agent and yet just not discriminate against those who don't belong to the union? I don't see where it prohibits the signing as the sole bargaining agent; that's done now.

MR. FLORY

Perhaps you don't understand the law and practice as far as what is meant by the term "sole bargaining agent," insofar as the processing of grievances, etc. If I'm the sole bargaining agent in private employment, for example, under the federal law, whether he belongs to the union or not, I still have to represent him. If you take his case to arbitration, I have to pay the cost and yet I can't require him to be a member of the union--that's under the federal law.

MR. O'NEILL

Well, wait now, does the federal law apply to governmental employees?

MR. FLORY

Not in the instance I just mentioned, no. But, if I am recognized as a sole bargaining agent, then in the processing of grievances if they come to me and want me to process his grievance, take his case to arbitration, if I'm the sole bargaining agent, I believe they could require that I do so under the law.

MR. O'NEILL

O.K. Let me ask you. A point was brought up this morning by Mr. Duval, what prerequisites is it going to take for you to support this Civil Service Article? How much more are you going to ask us to do?

MR. FLORY

I'm not asking for this, Mr. O'Neill. Let me say this in reference to your question that Mr. Duval raised this morning. As always has been the case, when this convention is over we will make a determination as to what the contents of this document and based upon that, the delegates to the convention of our organization will make that determination, I won't make that as one individual. I'll only have one individual voice in making that determination.

MR. JENKINS

Mr. Flory, is it my understanding that you are saying that at present it is legal for the State of Louisiana to discriminate against its employees based on whether or not they are in the union; is that the present law?

MR. FLORY

No, sir, that is not the present law; the subject is silent in that regard as long as he belongs to the...he is a classified employee.... you can't require him, as a condition of employment, to belong or not to belong to a union--that's the law today.

MR. JENKINS

Well, isn't that all this says, is that, "No rule, regulation, or practice of the commission, or any agency shall favor or discriminate against any applicant or employee on the--basis of his membership or non-membership in any private organization"?

MR. FLORY

It also has to do, Mr. Jenkins, with the certification procedures as far as certifying bargaining agents. The only reason for having a sole bargaining agent is that the employer doesn't have to deal with three, five, ten, or fifteen different organizations.

MR. JENKINS

How does this pertain to sole bargaining agents?

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MR. FLORY

Mr. Jenkins, I've been over that about three times, in that I think what you do is preclude me by your amendment from signing such an agreement. You stated from this microphone that that's the sole purpose in this amendment and the one that you had before, is to correct the situation you didn't like at the highway department.

MR. JENKINS

No, did you know that's not correct? I said that that's one of the problems that has arisen when too much power is given to certain groups. But, I certainly don't think that this precludes it in any way. What this says is that no person shall be favored or discriminated against because he is either a member of the union or not a member of the union in state employment; didn't you know?

MR. FLORY

That's all right; the work says that you can't favor or discriminate against a man because of membership or nonmembership in the union.

MR. JENKINS

Are you of the opinion, right now, that a state employee can be forced to join a union as a prerequisite for employment?

MR. FLORY

No, sir.

MR. JENKINS

Well, then this could not be a right to work law because this doesn't change that; does it?

MR. FLORY

Yes, sir, it does because you put one....

MR. JENKINS

How?

MR. FLORY

I've said that about three or four times, Mr. Jenkins. I think what you are doing is put up a barrier to me signing such an agreement. I know that your sole motive in this is to try to prohibit a certification as a sole bargaining agent--whether it be my group or anybody else. I think it's much better for an employer to deal with one organization than it is fifteen, as I have seen that happen time and time again.

MR. JENKINS

In other words, what you are saying is, that the way this goes against that principle is if the highway board designated the AFL-CIO as the sole bargaining agent for highway department employees, even though only maybe twenty percent of highway department employees are in the AFL-CIO, that the other eighty percent could not, say, organize in the Teamsters and also negotiate if you have a sole bargaining agreement; is that right?

MR. FLORY

No, but your mathematics are entirely incorrect, Mr. Jenkins, in that we represent a majority of those eligible to join the unit as described by the contract, and it wasn't forced upon them, it was agreed to by the directors of the Department of Highways and entered into by agreement with the highway department board... the board....

MR. JENKINS

But, not by the employees, right?

MR. FLORY

What?

MR. JENKINS

But, not by the employees, right?

MR. FLORY

In that the majority of the employees in the unit asked for it, yes, sir, they voted on it.

MR. JENKINS

The agreement by those majorities is the ones that define the parameters of who would be included, right? But, it was only twenty percent of highway department employees; isn't that correct?

MR. FLORY

No, sir, that is not correct; it is not correct.

MR. JENKINS

Wasn't it nineteen hundred out of seventy-five hundred?

MR. FLORY

No, sir, that is not correct; if you didn't look at the union, as the description of the unit.

MR. JENKINS

Well, is there any way that this can be construed to prohibit unions in this state and state employment?

MR. FLORY

To prohibit unions?

MR. JENKINS

Prohibit people from joining unions.

MR. FLORY

I don't think you could prohibit unions by any state law, Mr. Jenkins.

MR. JENKINS

All this does....

MR. FLORY

...even if it's a constitutional provision.

MR. JENKINS

Isn't, simply, the thing that this does is prohibit discrimination in favor of or against any employee....

MR. FLORY

And, I think it precludes any department head, any state government from signing such an agreement; yes, sir, I do believe that.

MR. KEAN

Mr. Flory, I'm trying to understand your opposition to this amendment. You told Mr. Burson, as I understood the answer to his question, that you did not feel that there could be required membership in a union as a prerequisite to employment in the state service; did you not?

MR. FLORY

That's correct. I don't think you could do that under federal law, Mr. Kean.

MR. KEAN

Now, if you have a contract as such as you had in the highway department, would it be your position then that employees in the highway department could be required to join the union under that contract or have to forfeit their employment if they did not?

MR. FLORY

No, sir. I don't believe I could sign such a contract with the State of Louisiana under no circumstances in light of the civil service provision as is present or as proposed in Mr. Denney's proposal.

MR. KEAN

Then, I don't understand--perhaps you can tell me again--what you think this would do insofar as your union contract?

MR. FLORY

Let's say I got 99.9 percent of the members signed up and represent those employees in a particular department. I am designated by agreement as a sole bargaining agent. If that one employee that may not belong wants to go out and get some other organization to represent him, he could claim discrimination under this provision which would then nullify a certification as a sole bargaining agent.

MR. KEAN

Would that employee--that one employee you're speaking about--have to pay union dues even though he didn't belong to it?

MR. FLORY

No, sir.

MR. KEAN

And the only thing you are concerned about is that under this, that he could go out and ask some other union to represent him other than the one you had signed up....

MR. FLORY

And discriminate against the 99.9 other employees; yes, sir; that's discrimination in reverse.

MR. BURSON

Gordon, this is neither friendly nor unfriendly, I'm trying to make up my mind on this. Now, do I understand your position correctly that--forgetting about compulsory unionism which I think is probably taken care of by the law--but would it be your position that what you are concerned about here is how to operate as a bargaining agent primarily?

MR. FLORY

Correct.

MR. BURSON

So that, this would lead to my next question. Would it be your interpretation that your power as a bargaining agent could extend to contracts which might place, let's say, as a condition for qualifying for promotions, let's say, membership or non-membership in...

MR. FLORY

No, sir, because in every contract that we have in existence, to my knowledge, where a public body is concerned--and there is also civil service in existence--there is a mandatory provision that we require that they sign in there that says "nothing contained herein shall supercede a conflict with any statutory or constitutional civil service provision."

MR. BURSON

So that if the civil service provision says the three highest on the list shall prevail, that's still the law, regardless?

MR. FLORY

In that particular top three, that's correct.

MR. NEWTON

Gordon, are there any state agencies now that you are the sole...that there is a union that's a sole bargaining agent for?

MR. FLORY

Oh, yes. We have a number of contracts in existence where we are the sole bargaining agents with both local government, state government, colleges, and universities.

MR. NEWTON

Would you explain to us what a sole bargaining agent is? I still can't see why this would keep you from being a sole bargaining agent.

MR. FLORY

Well, if I am designated as a sole or any--let's take any organization who might be designated as a sole bargaining agent for a group of employees, it means that the employer has to deal only with that group. The only thing that they can negotiate on is--where you have civil service--is grievance procedures in those sorts of things, so that, you can only deal with one organization instead of a multiplicity of organizations--eight, ten, or fifteen whatever the case may be.

[Previous Question ordered.]

Closing

MR. JENKINS

Mr. Chairman, delegates, this is really a very simple amendment and it does exactly what it says--that a person cannot be favored or discriminated against in state employment because he is either a union member or not a union member. That's not a right to work law; it's not anything related to that. In fact, Mr. Flory admits that under state law you could not have a closed shop right now. My theory is that because of the change in composition of this commission, the emphasis on seniority and other changes, that we might have a day arise when some governor or some commission is going to try to impose a situation where you have to be a union member to get a job, or preference will be given to union members, or the situation might even be reversed; it might even come so that a person would be discriminated against if he is a member of a union, forbidden from getting a job. It may be a situation where you have an anti-union administration take office that would try to hold back the union, try to fire them capriciously and discriminate in promotions. This would prevent both such practices; it's fair and just. I urge you to vote in favor of it.

[2722]

MR. ROY

Woody, I've got a couple of questions, and I'm trying to understand what Gordon was talking about. I'm going to ask you some questions to see if you agree. Let's assume...wouldn't you agree that if you have a labor organization named as the bargaining agent for a subdivision or for the commission and the commission says "Since you represent ninety percent of the employees and ten percent are not members of your organization, we will deal exclusively with you, with respect to wage increases." Don't you agree, then, that if ten percent say "We do not want to be bound by the final determination on the issue of wages because it would be implicit that you would be discriminating against us." You would, in effect, nullify what Gordon is saying may come about; isn't that what this is all about?

MR. JENKINS

In order to answer your question, Chris, I'm going to have to give a little bit of background, and I think I will be able to answer it. You must remember that at present under the Taft-Hartley Act, federal law, private employers are subjected to a situation whereby if you have an election among employees and a majority vote in favor of a certain union, then that union can be designated as a sole bargaining agent. Now, Taft-Hartley does not apply to government. Thus, you do not have to have elections among public employees in order to designate a union as the sole bargaining agent. What was attempted to be accomplished at the highway department was that without an election by the employee, just by fiat of the board, a sole bargaining agent was appointed--namely, the AFL-CIO affiliate. Now, that would mean if a sole bargaining agent were appointed that say the teamsters would not be allowed to negotiate with the highway department even though they had more employees affiliated with that union than with the AFL-CIO affiliate. In fact, the situation is, that there are a number of teamster employees over at the highway department. By designating an AFL-CIO affiliate as the sole bargaining agent, then you prohibit the highway department from negotiating with the teamsters. If we had a provision in our law requiring an election, that would be a different matter but there is no such law and probably there never will be. The thing that I'm trying to say is that civil service, first of all, is an individual matter dependent on the individual characteristics, the merits of the individual civil service employee. No group should be able to be the...designated as the sole bargaining agent for any employee without his permission.

MR. ROY

I understand all what you are saying. Let's forget the highway problem that came about. Isn't it a fact, though, that if your amendment passes and there was a provision which respect to a bargaining agent being appointed that one or two people could say "We will not go along with the increase that ninety-nine other employees want in our wages because you are discriminating against us by virtue of letting a group speak for me when I don't want it to"?

MR. JENKINS

No, it doesn't say anything like that, Chris. There has never been a situation where an individual employee has been prohibited from negotiating. I want to make sure that that does not continue...that that continues, so that in the future no voice of an employee can be snuffed out, and you will tell him that he can't negotiate. Now, whatever is agreed to, he is going to be bound to whether he is in a union or not.

MR. ROY

No, he won't because he can then say he is being discriminated against by virtue of his nonmembership in the union.

MR. JENKINS

Listen, what you must remember, Chris, is that civil service... the commission sets pay scales, the highway department doesn't. I mean there is very little to negotiate about in the first place most all of these decisions are made by civil service. The civil service decision of pay scales is going to be what all employees are bound by.

MR. WILLIS

Mr. Jenkins, I understand Mr. Flory's argument to be that the word in our seal "union justice and confidence" means labor

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union. Now, my question is this: As I understand his arguments, he contends that it's all right to discriminate against employees so long as you don't discriminate against unions; isn't that the thrust of his argument?

MR. JENKINS

I'm not sure, Mr. Willis. But, I think that no person in his right mind who believes in fairness and justice can believe that the affiliation with a private group by one of our state employees should have anything to do with his hiring, his promotion, or anything else.

MR. WILLIS

I agree with you that that is the height of discrimination and the bottom of that judgment, not to vote for the amendment.

[Motion to suspend the rules to allow for additional time adopted: 60-21.]

MR. BURSON

Mr. Jenkins, I'm still trying to make up my mind on this question. One statement that you made in your conclusion here interested me. Are you saying that under the law, as it exists at the present time, that a majority of the workers in the bargaining unit, i.e., for example, a highway worker or some other civil service bargaining unit need not approve of a union before they could become the sole bargaining agent?

MR. JENKINS

That is absolutely correct, Mr. Burson, and that is exactly what the highway department did. There was never an election or anything else and only twenty percent of the highway department employees were affiliated with this particular union that was designated the sole bargaining agent. In fact, we had a situation when this board met over here where the whole building, of the highway building, was full of employees against the thing. We had five hundred and some odd out of seven hundred workers working in that building sign a petition against the AFL-CIO affiliate being designated the sole bargaining agent. But, the Highway Department Board for reasons--which I am sure are their own--voted to designate this group the sole bargaining agent. There was never any election; there was never any legal requirement that there be an election.

MR. BURSON

There is such a legal requirement in the case of private business.

MR. JENKINS

There is in private enterprise because that's covered by Taft-Hartley, but governmental units and employees are exempted from Taft-Hartley.

MR. AVANT

Mr. Jenkins, are you aware of the fact that the ruling of the court in this case that you referred to was based upon the fact that the union represented only about forty-five percent of the employees in the bargaining unit and not a majority, that that was the sole basis for the ruling of the court? Are you aware of that fact?

MR. JENKINS

Mr. Avant, it's been a period of time since I've read the opinion. I did look at it. But, I don't know that. No, I don't know that.

MR. AVANT

Well, I can tell you that that's true.

MR. JENKINS

But, I do know that of the Highway Department employees, that this union has the affiliation of about twenty percent of them, and that there never was an election among the employees.

MR. AVANT

Now, one other thing. Are you aware of the fact that as of right now, insofar as the designated bargaining unit is concerned, that the union has over a majority?

MR. JENKINS

Mr. Avant, I don't know. If you write your rules so that you so limit who is in the bargaining unit, I guess you could write your rules that way. But, I have no objection to someone being designated a bargaining unit for employees. What I do object to is designating them the sole bargaining unit, even though you may have fifty percent of the employees affiliated with another union, and twenty percent with another union, and twenty percent

who aren't affiliated at all. But, that is not what this amendment pertains to. It pertains to the more general question of whether or not the state can discriminate against its employees because they are affiliated or not affiliated with a given union.

MR. AVANT

All right, now, Mr. Jenkins, you have indicated in your remarks that you had quite a bit of knowledge concerning the facts of that particular case. I tell you that there's about a thousand page transcript of the proceedings in that case in my office, and you are invited to come by and read the transcript of testimony, and after you read that, I think you will be in a much better position to correct some of the inaccurate statements that you have made.

MR. JENKINS

Well, Mr. Avant, when I was at the hearing that day--the public hearing--when you had, probably, seven or eight hundred Highway Department employees there testifying against the action of that board, I learned about all I wanted to learn about that unbelievable travesty of justice that occurred at the Highway Department that day--the Highway Department employees overwhelmingly against it. That's . . . that, really, is the motivating factor for me in proposing this change to be sure that in the future we don't have any sort of blatant discrimination against any of our employees in this state based on their affiliations with unions or not.

MR. AVANT

Well, since your mind is closed, I don't suppose it would do any good for you to come and read the facts.

MR. KEAN

Mr. Jenkins, as I understand the law, is it not correct that there is no legal machinery, at the present time, by which you could hold an election for municipal, state, or other governmental employees to designate a bargaining agent for them?

MR. JENKINS

That's correct.

MR. KEAN

So, that all you have now is purely a byplay, a political arrangement between some board or agency and some union purporting to represent some portion of the employees?

MR. JENKINS

That's right; not necessarily a majority, frequently a minority of the employees.

MR. KEAN

This would insure that those employees who did not select to join the union would nonetheless have a right to have their voice heard by that agency or the Civil Service Commission or other agencies that might have some jurisdiction over them, without having to rely solely on the union for that spokespersonship?

MR. JENKINS

That's correct, Mr. Kean, and that's the only way that we can have a viable civil service system, is the people are treated as individuals and granted these rights.

[Record vote ordered. Amendment adopted: 57-50. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment No. 1.

On page 1, in the Dennery amendment adopted by the convention Saturday, on page 7 of the Dennery amendment, delete lines 8, 9, and 10 in their entirety, and insert in lieu thereof the following:

"nesses. The decision of a commission shall be subject to review on any question of law or fact upon appeal to the court of appeal wherein such commis--"

Explanation

MR. BERGERON

Mr. Chairman, fellow delegates, if I could have your attention for just a few minutes, I would like to explain the reason why I offered this amendment. As it stands now, any one of you sitting out here can try a case in district court--in a civil district court. If you appeal that case to the court of appeal, your case will be reviewed on the record of the facts and the law--the facts and the law. The Civil Service Commission upon hearing a case, if it's appealed, that appeal is sent to the court of appeal.

As it stands now, if you hear a case before the Civil Service Commission--and let me say the Civil Service Commission does operate under the Civil Code of Procedure--if you appeal that case, that appeal goes to the court of appeal. So, therefore, the status of the Civil Service Commission is more or less that of a civil district court because the appeal goes to the court of appeal. Anyway, upon that appeal going to the court of appeal, your case is reviewed upon the law. Not upon the law and the facts, but the law. Now, reading my amendment, it changes the wording so it would read, "The decision of a commission shall be subject to review on any question of law or fact upon appeal to the court of appeal." So, what we're . . . I'm trying. . . simply trying to do with this amendment is afford a person who goes before the Civil Service Commission the same right that each and every one of you sitting out there has now. Well, you may say, "Well, what's the difference between the law and the facts?" I am trying a case before the Civil Service Commission. I have proof that I was on the job a certain date, at a certain time. If this decision is ruled against me, either unintentionally or intentionally, and I appeal this case--I go to the court of appeal-- I cannot introduce that evidence before that court. I cannot say I have documented proof that I was on the job, at this place, at this time, on that day. This is not new, this review on law and facts. Out of the twenty-one states which presently have civil service, four of them review cases on the court of appeal by law and facts. Ladies and gentlemen, as I said, I'm not going to take any more of your time. It's a simple amendment. It's geared at giving every person--each and every person, just like yourself and I--the opportunity to have his case heard and have all of the facts brought in. Now, once this case goes to the court of appeal, I cannot introduce any new evidence, I can just have the record introduced of the law and the facts. I would urge the adoption of this amendment. Thank you.

I'll yield to any questions.

Questions

MR. GOLDMAN

Mr. Bergeron, did you know that I agree with you a hundred percent? I would like to go on here as a coauthor, if you'd let me.

MR. BERGERON

Thank you, sir.

MR. TATE

Mr. Bergeron, in other words, you want the same burden of proof in a Civil Service Commission appeal as there is in an ordinary civil proceeding. . . I mean, the same review by the courts on the law and the facts? Is that what you are after?

MR. BERGERON

Yes, sir; that's correct, Judge Tate.

MR. ROY

In other words, Mr. Bergeron, you feel that if a court of appeal can review a jury's findings--a twelve man jury's findings--of fact in civil cases on personal injuries and what have you, that surely it should be able to review the findings of five men who have been appointed by some presidents of different universities with respect to the findings that they make as a matter of fact? Isn't that true?

MR. BERGERON

Yes, sir.

MR. LANIER

Mr. Bergeron, did you know that in view of the stand that this convention took on appellate review of facts in the judiciary, that, really, this is the only logical way that we can go on this particular point?

MR. BERGERON

Thank you, Walter; yes.

MR. GUARISCO

Mr. Bergeron, I also agree with you a hundred percent. But, I'm faced with this particular problem. First of all, I argued till I was blue in the face that the administrative agencies should also. . . should have no greater import upon the popula than the district court has. But, now, I think, with your amendment--which I support and will vote for--it's going to leave a gap or anomaly in the law in that there are other administrative agencies in the state that will not have the benefit

of the review of the fact. Isn't that correct?

MR. BERGERON

I would presume that's correct; yes. I don't know what type of gap it would leave. Tony, let me say this: I feel that the Civil Service Commission is an important commission. I feel that its decisions and the defendants in those cases should simply have the opportunity to have both sides of the law heard--the facts and the law. That's simply what I'm trying to do with this amendment.

MR. ABRAHAM

Mr. Bergeron, it looks to me like this convention has been stampeding along here just hell-bent for the rights of the employee, etc. What's happened to the rights of the employer?

MR. BERGERON

Mr. Abraham, nothing is happening to the rights of the employer, if he is right in dismissing a man or taking disciplinary action against him in a civil service case. Nothing has happened to his rights. I just simply want to afford this gentleman who is the defendant in the case the same rights that you would have, sir, or the same rights that I would have in any type of civil case.

MRS. MILLER

Mr. Bergeron, would it be all right with you if Mr. Lanier and I joined you as coauthors, and ask the Clerk to open the machine to see if there would be others who would join you?

MR. BERGERON

Well, it would certainly be agreeable to me. It might take up some of the convention's time, but I have no objections to allowing. . .

[36 coauthors added to the Amendment.]

MR. DENNERY

Mr. Bergeron, all I would like you to do is to explain to me why you asked the convention to adopt your amendment in view of the provisions that we adopted in the Judiciary Article which says, "as provided by law in the case of review of administrative agency determinations." In other words, other administrative agency determinations are primarily reviewed only on the law. Is that not correct?

MR. BERGERON

If you say so, Mr. Dennery, and if I had that copy right there, I could probably also agree with it. I don't question that.

MR. DENNERY

Well, I'll read it to you, sir. It says, "except as limited to questions of law by this constitution or as provided by law in the case of review of administrative agency determinations, its appellate jurisdiction extends to law and facts." So, why should the Civil Service Commission rulings be distinguished from others? That's the only question I'm trying to find out.

MR. BERGERON

Well, the only way I can. . . let me answer you this way, Mr. Dennery, as I answered Mr. Guarisco and Mr. Abraham: I just feel that this commission is of such importance and that each and every one of us are due our justice in this country as the next man is. I feel that we should be afforded the same right as the average citizen on the street has. When you hear a civil service case, you don't go before a civil district court where you can have your case brought to the court of appeal and can have that case reviewed on the law and the facts. You have no facts in your appeal to the court of appeal. I feel that the justification is there. I feel that every person should be afforded the right to have his case reviewed on the law and the facts, Mr. Dennery.

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MR. DENNERY

Isn't it true, Mr. Bergeron, that in cases before the civil district court or other district courts that the laws of evidence prevail, and you have judges who sit on those cases, and they know which facts to admit and which to refuse admission to; whereas in administrative agency determinations this is not always true?

MR. BERGERON

Yes, sir.

MR. DENNERY

Has there been any dissatisfaction, to your knowledge, with the state of the law which has existed since 1952 in which appeals to the courts of appeal or the Supreme Court have been limited to review only on the law from civil service cases?

MR. BERGERON

I can't accurately answer that, Mr. Dennery. I haven't gone back and checked into the records and seen if there's been any dissatisfaction. But, I will say this, pertaining to the Civil Service Commission on appeals: they have had cases overruled and just dealing with the law. I'm sure it would be most helpful for the judges if they had the facts and the law. I feel that some of the cases could be solved very quickly.

MR. DENNERY

Well, Mr. Bergeron, you realize, of course, that all of the facts are before the court of appeal. They are not deciding this case in a vacuum. They have the same evidence that they would have in any civil case. The only thing that this says is that as to a review as to whether the facts as found by the commission, and as found by the court; presently, the appellate court can reverse on facts alone. In a civil service case, they cannot overturn the facts as found to exist. That's all that means.

Further Discussion

MR. DENNERY

Mr. Chairman, ladies and gentlemen of the convention, it's difficult to appear when thirty-six people have already cosponsored an amendment, but I feel I must call to your attention some of the problems that this will create. At the present time, all of the facts as found by the Civil Service Commission, which must make a finding of facts, are sent up to the court of appeal. They have the entire record; they also have the findings that were made by the Civil Service Commission. They then determine whether based upon those facts the commission has applied the law correctly. They further have the right, in the event there is no evidence to support the facts as found, to overturn on the facts in that instance. But, in the ordinary instance, just as in any other administrative appeal, the facts as found by the administrative agency are presumed to be correct, and they are not subject to review unless there are no facts in the record to support the findings that the commission makes. Now, it seems to me that since we adopted, in Committee Proposal No. 21, Section 10 (B), exactly this concept for cases of review of administrative agency determinations, that there is not reason to change it here. Furthermore, I see no reason to change something that has worked properly and well, to the best of my knowledge, since 1952. There hasn't been any hue and cry raised to change this type of law which is in effect in many, many states, as Mr. Bergeron told you. There are only four states in the whole United States which have review of the facts on civil service cases. I urge you, therefore, to defeat this amendment.

Questions

MR. ROY

But, Mr. Dennery, in the other states that do allow the review of facts, they don't even allow review of facts in civil cases at all, though, do they?

MR. DENNERY

I'm not certain whether they do or they don't, Mr. Roy.

MR. ROY

Isn't Louisiana the only state in the union that allows an appellate court to review the facts of a district court or a district jury in civil cases?

MR. DENNERY

I think that's probably correct.

MR. ROY

Well, then, the point is that in those states even where they don't allow a court's review of facts to be made by an appellate court, in some they do allow a Civil Service Commission's facts to be reviewed primarily because, as you pointed out, they listen to a lot of hearsay garbage, and a lot of times they make their opinions on stuff that is not valid evidence. Isn't that true?

MR. DENNERY

I don't think that's true; no, sir.

MR. LANIER

Mr. Dennery, isn't the reason that we have appellate review of facts in Louisiana a theory which I understand is based on the continental philosophy in this regard, because we feel that it is better justice that if a mistake is made on the facts that this mistake can be corrected on appeal?

MR. DENNERY

I think that's probably true, Mr. Lanier, but I don't think that necessarily applies in cases of administrative bodies as it does in an ordinary lawsuit. That's my whole point, here. The theory of administrative law is not the continental theory that we have adopted. The theory of administrative law has built up, primarily in this country, in the last . . . relatively recent number of years. The whole theory of administrative law is to permit the administrative body to find the facts. This saves the court an untold amount of time. If the facts are obviously wrong, an appellate court has a perfect right to overturn them. If there is not enough evidence to support what the civil service found to be a fact, the court does not have to accept it as a fact. But, if there is evidence there, then it does have to. That's normally what a court does, as you well know, even in a civil case. If there is evidence to support what the trial court found, under normal circumstances, the appellate court accepts those findings.

MR. LANIER

I believe the rule that you're referring to is the manifest error rule, isn't it, Mr. Dennery?

MR. DENNERY

I think it's called that; yes.

MR. LANIER

I believe that is distinguished from the rule, as I understand it, in administrative cases that there must be an absence of facts. Is that not correct?

MR. DENNERY

No, that's not true, sir, not under . . . there've been a number of cases . . . civil service cases which have been overturned on the basis of . . . not on the absence of facts, but on manifest error . . .

MR. LANIER

But, really, don't you believe that justice will be better served if we have appellate review of facts in this type of a case? Further, do you see any great policy reason that would overturn this approach, or that would justify overturning this approach?

MR. DENNERY

Well, Mr. Lanier, the only answer I can give to that . . . to those questions is that if something has worked well this long, I see no reasons, particularly, to change it. As far as any overriding policy question is concerned, no, I can't say that there's an overriding policy question. I think the courts would be better able to answer that than I would.

[Previous Question ordered.]

Closing

MR. BERGERON

Ladies and gentlemen, I won't take up much of your time. I'd just like to bring this out: in the civil district court, a judge hears the facts, he hears the law. If it's appealed, it can be reviewed on the law and the facts which is brought to the court of appeal. On the Civil Service Commission, the members of that commission are actually acting as judges, because they decide on the case. It is then in turn, if appealed, brought to the court of appeal. They do not have review on the facts--review of the law. I would just simply ask you to give the rights to defendants in these type of cases the same rights which are afforded to you. I would urge the adoption of the amendment. Thank you.

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[Amendment adopted: 80-27. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments at the desk goes to Paragraph (M), and are sent up by Delegate Shannon.

Amendment No. 1. In floor amendment proposed by Delegate Denny adopted Saturday, on page 7 of the floor amendment, delete lines 14 through 23, both inclusive, in their entirety and insert in lieu thereof the following:

"(M) Appropriations. (1) State. The legislature shall make adequate annual appropriations to the State Civil Service Commission and to the Department of State Civil Service to enable the commission and the department to carry out efficiently and effectively the provisions of this Section, and the amount so appropriated by the legislature shall not be subject to veto by the governor."

Explanation

MR. SHANNON

Mr. Chairman, ladies and gentlemen of the convention, I have objections to this as is written because it mandates a specific appropriation for an agency and they do not have to line item it. I understand that they have never exceeded this, but actually, it's been a violation of the constitution that it has not been appropriated. That is my reason for offering this amendment at this time. This will do no violence to civil service, and at the same time will give them adequate monies to operate on. At the present time, and in this proposal, it designates seven tenths of one percent of the entire amount of the classified employees payroll to run that agency. I have talked to some people on the Budget Committee and they said that it never has reached that yet, and they never have asked for it yet. But, actually, he told me at the time that it was a direct violation of the constitution. Now, they can ask for this in a lump sum, if they so desire, and they can use this money, as far as I know, in any way that they see fit. Because they could ask for it in a lump sum, it would not be a line item budget, strictly be a lump sum budget. This is the reason that I had for introducing this, also, recently, at the last session of the legislature, we gave a raise of 5.5 percent to the employees of this state. In effect, what this raise would do would be raising the budget of the Civil Service Commission when they would have no more personnel to deal with, or no extra duties to perform. I have made this so it will not be subject--after the legislature approves it--it will not be subject to the veto of the governor to take it out of the political realm. So, I ask for your favorable support of this amendment.

[Previous Question ordered. Amendment adopted: 67-31. Motion to reconsider tabled. Motion to revert to other orders of the day adopted without objection.]

Announcements
[II Journal 949]

[Adjournment to 9:00 o'clock a.m.,
Thursday, December 13, 1973.]

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Thursday, December 13, 1973

ROLL CALL

[74 delegates present and a quorum.]

PRAYER

MR. ABRAHAM

Our Father, we thank Thee for this day. We ask that You watch over us in our deliberations today. Guide us in our efforts. Help us to do what is best for the people of Louisiana. Direct us in our work, and may all our efforts be to Thy end. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Reading of the Proposal

MR. POYNTER

Committee Proposal No. 9, introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare and other delegates, members of that committee.

A proposal making provisions for human resources by providing for state and city civil service.

The status of the proposal is that the convention is still considering amendments, and in particular, amendments to the lengthy Dennery amendment adopted on Saturday. Mr. Chairman, the status of the proposal at the present time with respect to the amendments is that there are a number of amendments now pending to the next paragraph which is (0).

Amendment

MR. POYNTER

Amendments sent up by Mr. Alphonse Jackson as follows:

Amendment No. 1. Page 1, line 14, in Floor Amendment No. 1, proposed by Delegate Dennery and adopted on Saturday, on page 8 of the floor amendment, line 32 thereof, after the partial word and punctuation "islature," and before the words "in one or" delete the words and punctuation "or by the respective local governing body,".

Explanation

MR. JACKSON

Mr. Chairman, ladies and gentlemen of the convention, I do not believe that there is any serious objection to this amendment. I have talked to Mr. Dennery, the author of the amendment, and he indicated that he had no objections to it. All I'm trying to do is to clarify that state employees or parish employees that are now exempted from civil service will not be placed under civil service if the parish authority--local authority--decides that they want to make some change in their status. I don't believe that that has ever been the intention of civil service, nor the Dennery amendment, and I just want to clarify that. I would ask that you would adopt it--simply clarifies the fact that employees that are now exempted and that are not now subject to civil service would not be subjected to it in the future by a decision of the local governing authority. I ask for the adoption.

Questions

MR. LANIER

If you take out this language, would that then mean that a local authority--say under a home rule charter--could not do this?

MR. A. JACKSON

Well, I think it would mean that, those employees that are now exempted, that they would not be able to do it. What I'm talking about...I'm expressly concerned about assessors and school teachers, employees in that category--in those categories--that are now employees of local governing agencies, not being subjected to civil service. They've not been in the past, and I don't think that any of these groups are desirous of being placed under civil

service. To be honest with you, I'm concerned about professional educators. I think the way the language is included in here that a local school board could decide that they wanted to place teachers under civil service, and that's my concern.

MR. LANIER

Well, when we say "local governing authority" or "local governing body" under the Local Government Article, we're only referring--is it not correct--to parishes and municipalities. Isn't that the definition in the Local Government Article?

MR. A. JACKSON

Yes, but I think that when we discussed it and when it was debated, we decided that a school board was a local government body.

MR. LANIER

Didn't we say it was a political subdivision? I think it was Mr. Burson's amendment that put the term "school board" under political subdivision. So, I believe the words "local governing authority" have a different meaning than political subdivision under the local....

MR. A. JACKSON

Well, it may or may not, Mr. Lanier. I think we're really cutting fine hairs here. As I appreciate the situation, you could go either way. There are other categories that I think certainly would fall under this provision that concerns me.

MR. LANIER

Well, let me ask you this, Delegate Jackson. Is it your statement, on this microphone for the record, that it's your appreciation of the definitions under the Local Government Article that "school board" is included under the term "local governing authority"?

MR. A. JACKSON

As I appreciate it and as I understand the language, I would think so.

MR. LANIER

Now, if I was to tell you that that is not accurate, would you agree or disagree with that statement?

MR. A. JACKSON

You know, that's not the first time you've told me something. I mean, I just have some doubts about it. I think that a local school board is a local governing body. I would ask for the adoption of the amendment.

[Previous Question ordered. Amendment adopted; 42-34. Motion to reconsider tabled.]

MR. POYNTER

Amendments sent up by Delegates Ambrose Landry, Mire, et al.

Amendment No. 1. Page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted by the convention on Saturday, on page 8, line 34, after the word and punctuation "employees," delete the remainder of the line in its entirety and on line 35, before the word "or" delete the words "from the state classified service".

Amendment No. 2. On page 1, line 14, in Floor Amendment No. 1, proposed by Delegate Dennery and adopted by the convention, on page 9 of the text of the amendment, line 14, at the end of the line, add the following: "However, nothing in this paragraph shall permit inclusion in the local civil service of officials and employees listed in Paragraph (B) of this section."

Amendment No. 3. In the Dennery amendment on page 9, at the end of line 4, add the following sentence: "No law enacted by the legislature establishing a civil service system applicable to one or more parishes or to one or more municipalities having a population of less than four hundred thousand shall be effective in any parish or in any such municipality until approved by ordinance adopted by the governing authority of the affected parish or municipality."

Explanation

MR. A. LANDRY

Mr. Chairman, ladies and gentlemen of the convention, in order to be consistent with what has been done in the Local Government Article, as you recall in Section 8 under the

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home rule charters, we exempted the sheriffs, the assessors, and the clerks, the district attorneys, the coroners, parish school boards, and the city school boards from being placed under these home charters. This amendment--especially No. 1 and No. 2--only guarantees that if a local parish goes into a civil service system, that the officers listed in Paragraph (B) of the Denny amendment will be exempted from the classified service. Amendment No. 3 only permits the local governing authority, that if the legislature adopts a civil service system for any of the parishes, that it has to be approved by local ordinance. I don't think the first two for sure are not controversial. I spoke to Mr. Denny on those two, and he has no objection to include or to make it clear that those officers were listed in Paragraph (B) of his amendment should be excluded from local civil service if they are so adopted.

I ask, Mr. Chairman, for a favorable vote.

Questions

MR. DE BLIEUX

Mr. Landry, does this amendment have the effect of forever exempting from civil service employees such as those of the sheriffs department, the clerks of court, or assessors?

MR. A. LANDRY

I would say that it would not preclude, unless you would come in with a constitutional amendment.

MR. DE BLIEUX

In other words, that's the only way you could have civil service for it is by constitutional amendment.

MR. A. LANDRY

That's correct.

MR. HENRY

Do you have a question, Mr. Winchester?

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, I hope that most of you heard the questions that I propounded to Mr. Landry when he was explaining this amendment.

Mr. Chairman, I don't know whether anybody is listening to me or not on this, but I think it's very important....

If you know what this amendment does, it forever exempts the sheriffs' employees, the assessors' employees, the clerks' of court employees, and the coroners' employees from civil service. I might tell you what happened a few years ago when Sheriff Cronvich was originally elected sheriff in his parish. He wanted to have a civil service only for the sheriff's employees of his parish. The rest of the sheriffs throughout the state fought it because they thought that would be bad for them because eventually they might be subject to civil service for their employees. They defeated that proposal. Now, I just don't think we should block out and say the legislature could never have civil service employees for a sheriff's office, or a clerk's of court office, or some other office if they wanted it. The only way in the world you can get it, if you adopt this constitutional amendment, is by a constitutional amendment to the new constitution. I just don't believe that is good, and I ask you to vote against this amendment.

Questions

MR. NUNEZ

Senator, you mentioned civil service for Sheriff Cronvich's office. If I remember right, that was passed; wasn't it?

MR. DE BLIEUX

What is that?

MR. NUNEZ

Wasn't that statute passed? Didn't that pass the legislature?

MR. DE BLIEUX

No, it did not pass. I don't believe it passed, Senator Nunez. I might be in error about that because the reason it didn't pass--if I recall correctly--is that because the rest of the sheriffs

got together throughout the state and defeated it in the legislature. It was a proposed constitutional amendment. That's true.

MR. NUNEZ

Excuse me. It passed the House, and you all defeated it in the Senate. That's correct.

MR. DE BLIEUX

Well, maybe that might have been the fact, but as soon as they found out what it was about, they loaded down on us.

MR. ROY

Senator, is there anything in the present constitution with respect to such a broad prohibition?

MR. DE BLIEUX

I don't think that it applies at the present time in the constitution. You could not have civil service for those employees by a legislative act--I'll put it that way--as far as I remember the provisions.

MR. ROY

Well, I missed your response.

MR. DE BLIEUX

But, I don't believe there's a broad prohibition against it that's contained in the present provision. In other words this... I don't believe the legislature could put in a civil service amendment for those. I'm not sure about it; I might be in error about that.

MR. ROY

At this particular time you don't think the legislature could provide that clerks of court and sheriffs and what have you will have civil service for their....

MR. DE BLIEUX

I'm not sure, Mr. Roy, whether or not that they could do it by a simple legislative act or not, but I do know that the proposal that we had in the legislature, some nine or ten years ago, was defeated.

MR. ROY

You don't see any need, then, for this broad prohibition in the constitution, I take it.

MR. DE BLIEUX

Well, the only reason to do that is to be sure that you would have to have a constitutional amendment to have classified service for those employees. I can understand the reason they were opposing this particular amendment to this provision is to be sure that the only way they could do it is by constitutional amendment.

MR. STINSON

Senator De Blieux, are you in favor of those employees being under civil service or not?

MR. DE BLIEUX

Yes, I would be in favor of their being under civil service. I think they ought to.

MR. STINSON

Why?

MR. DE BLIEUX

For the same reason I'm in favor of state people being under civil service. I think that way the jobs would be handed out upon merit rather than as a political favor and how many votes they had in the family.

MR. STINSON

Don't they get elected by how many votes they get--the sheriffs and all?

MR. DE BLIEUX

That's true of the sheriff, but he's elected as an administrative officer. He should be able to do a job with classified service if we see fit to....

MR. STINSON

Well, isn't it a fact, though, that the state elective offices have a number of unclassified employees that don't come under civil service?

Further Discussion

MR. DENNERY

Mr. Chairman and delegates, I did not plan to speak in regard to this amendment, but I was unable to ask a question of Senator De Blieux. I wanted to be sure that everyone understood exactly what this amendment does. Under the present constitution, as it presently exists, the legislature has the right to increase the classified service at any time. Therefore, although these officers—who are forever exempted by virtue of the amendment proposed by Mr. Landry—are presently unclassified, the legislature has always had the right to classify them. I think the act to which Senator De Blieux referred was...an act was introduced by virtue of the present provision in the constitution. As a matter of fact, that's one of the few sections that's ever been amended to the 1952 law, and that one was amended so as to have a period of notification before you could put people in the classified service. Now, the present amendment would remove from the legislature the power to add to the classified service. The amendment which you just adopted would remove that from the power of the local governing body. This amendment would remove it from the power of the legislature as well, and I'm speaking neither for or against the amendment. I just want to be certain that you all understand exactly what is going to happen. This would change the present law, which permits the legislature to put sheriffs, clerks, etc. in the classified service, and would prohibit the legislature from doing that.

Questions

MR. WINCHESTER

Mr. Dennery, in your amendment on page 2, line 19 and 20, "additional positions may be added," what does that mean in reference to deputies?

MR. DENNERY

That has no effect whatsoever. That's additional positions may be added by the respective Civil Service Commissions to the unclassified service—not to the classified service—to the unclassified service. In other words, the State Commission can say that certain positions don't have to take tests in order to get state jobs, but it does not refer to these people at all, Mr. Winchester.

MR. AVANT

Mr. Dennery, under your amendment as it now stands, how would employees of these offices be placed in the classified service, or how could they be placed in the classified...

MR. DENNERY

Well, they could be placed in the classified service, of course, by constitutional amendment. In addition to that, the legislature could create a particular system which could classify these people.

MR. AVANT

Under the terms of your amendment as it now stands?

MR. DENNERY

That's my understanding of it. Yes, sir, Mr. Avant.

MR. HENRY

Would you yield to a question from Mr. Abraham?
The gentleman yields.

MR. ABRAHAM

Moise, as I understand the present constitution, the legislature can add to the list of classified employees of the state civil service system; is that right?

MR. DENNERY

Yes.

MR. ABRAHAM

Well, now doesn't this paragraph deal only with city or parish systems and not....

MR. DENNERY

No, I misunderstood your question. It includes parishes, cities, or state civil service.

MR. ABRAHAM

The present constitution does?

MR. DENNERY

Yes.

MR. ABRAHAM

But, doesn't this particular paragraph deal only with the city and parish civil service systems?

MR. DENNERY

That's, of course, what we're talking about here. These are parish officials.

MR. ABRAHAM

I realize that, but I thought this only dealt with where you established a city civil service system or a parish civil service system, not state.

MR. DENNERY

Well, that's correct, but I still think that under the terms of my amendment as it stands, and in (0), that the legislature could increase the classified service.

MR. ABRAHAM

Well, now what about the language on page 2? It says "additional positions may be added and revoked by rules adopted by the commission..."

MR. DENNERY

That's the question I just answered Mr. Winchester. I just answered that question to Mr. Winchester. That merely says that you can add additional positions to the unclassified—not to the classified—but to the unclassified, and after you add them, you can take those positions out. But, you cannot make those positions, which are unclassified in the amendment, subsequently classified—the commission cannot. Only the legislature or by an amendment to the constitution could they be made classified.

MR. FLORY

Mr. Dennery, my question is relative to Amendment No. 3. Is it not true that at the present time there is statutory civil service for firemen and policemen in municipalities between seventy-five hundred and thirteen thousand, and those municipalities in the future that would come into that category of population would all be nullified if this Amendment No. 3 were adopted, if the city council did not approve such a system? Isn't that correct?

MR. DENNERY

If who did not approve it? I'm sorry.

MR. FLORY

The governing authority didn't first adopt the ordinance.

MR. DENNERY

Well, of course, Amendment No. 3 refers to an act of the legislature, Mr. Flory.

MR. FLORY

I know, but it says those are statutory systems now.

MR. DENNERY

Yes.

MR. FLORY

So that this would, in effect, be repealing those present statutory systems of civil service unless the governing authority, by ordinance or resolution, approved that system as adopted by the legislature; isn't that correct?

MR. DENNERY

Well, it may be. I'm not prepared to answer what the effect would be on systems already in effect. I doubt seriously that those systems presently in effect would be affected by this amendment.

MR. FLORY

But, any group that wanted a civil service system in a municipality in the future couldn't get it, unless they went

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the referendum route, without the approval of the governing authority; isn't that correct?

MR. DENNERY

I think you're right, sir. Yes, sir.

MRS. WARREN

Mr. Dennery, in your opinion, do you think that classified civil service, as under the assessors and the clerks of court and so forth and so on, would be better than the unclassified for the state and for the employees?

MR. DENNERY

Mrs. Warren, that's a very difficult question to answer. I think in some areas some of those positions could well be classified; some others might not be as well classified. I don't think you can make a broad statement that would cover all of them. For instance, just as Sheriff Cronvich came up to Baton Rouge to try to get his employees placed under the classified service, Mr. Chehardy did the same thing with regard to the assessor's office, and that was defeated in the legislature. It may well be that employees in the assessor's office may be better treated--I don't mean better treated--but may be better classified for the state as a whole than unclassified. But I really can't answer that question.

MRS. WARREN

So, one is really a merit system, and one is not?

MR. DENNERY

Well, I believe in the merit system. If I had....

MR. WARREN

I mean, I didn't ask you that. I asked you: one of these is a merit system and one is not?

MR. DENNERY

Why is one in the merit system?

MRS. WARREN

No, no, I said I'm trying to clarify this now. One is a merit system, and one is not. The classified is a merit system, and the unclassified is not.

MR. DENNERY

That's correct.

MRS. WARREN

Thank you.

[Previous Question ordered.]

Closing

MR. A. LANDRY

I just wanted to call your attention to to the fact that under Paragraph (B), which has already been adopted by the convention, the various offices such as clerks, sheriffs, assessors, governor, lieutenant governor--all those offices in Article V of the constitution, which means the courts, the Supreme Court, the district courts--have already been exempted. The only thing we're asking you is that if a local parish or a local municipality adopts a civil service system, that these offices be excluded from that particular civil service system; therefore, I ask for a favorable vote.

Questions

MR. STOVALL

Mr. Landry, the governor of the state is exempt from civil service, isn't he?

MR. A. LANDRY

Yes.

MR. STOVALL

On the basis of your argument, you're suggesting that all of the employees of the state ought also to be exempt.

MR. A. LANDRY

No, sir, you've already put them in the constitution, Reverend Stovall. At the present time, these offices that we are asking to be excluded from local already have been excluded from state civil service. They are unclassified.

MR. STOVALL

Yes, but you're saying that if the assessor and the sheriff and all of these, that they are exempt; isn't that what you're saying?

MR. A. LANDRY

They are excluded, yes, sir.

MR. STOVALL

They are exempt. But, this does not mean that the employees should be....

MR. A. LANDRY

The employees are also excluded under the classified system--under unclassified. In Section (B), if you'll read it, you'll find not only all of the officers, but their employees also are unclassified.

MR. ROY

Mr. Landry, the only thing I'm concerned about is that if ever we decide that we would like to have these deputy clerks, and what have you, in some type of merit system, it would require that we go to the people with some type of real detailed constitutional amendment that would, in effect, just balloon up the constitution, would it not?

MR. A. LANDRY

Chris, I think you'd have to look at Section (B). This only deals with local civil service. Now, I do not know whether we would have to really go with that constitutional amendment or not, but if you'll read Paragraph (B), there's a possibility that we could become unclassified--or reclassified, I should say.

MR. DE BLIEUX

Mr. Landry, if your amendment is adopted, wouldn't it require two elections--one for the constitutional amendment; and then, if that amendment is passed, then the local governing body would have to vote on it?

MR. A. LANDRY

That's if all of my amendment is adopted, but we've divided the question. I don't know what the convention is going to do on either one of them. It's up to the delegates.

MR. DE BLIEUX

But, it would require two elections, if your amendment is adopted, for the local....

MR. A. LANDRY

As far as the local government is concerned, yes.

MR. DE BLIEUX

For instance, suppose our local parish here of East Baton Rouge would want to have one of their either the clerk's office or the sheriff's office--whichever one it'd be--the assessor or the sheriff or the clerk might want to give civil service to his employees, and he wanted that were done, he'd have to come to the legislature first and get a constitutional amendment passed, wouldn't he?

MR. A. LANDRY

I would think so.

MR. DE BLIEUX

And then after that, then we'd have to have a vote of all the electors of the parish of East Baton Rouge, wouldn't we?

MR. A. LANDRY

No, I don't think so.

MR. DE BLIEUX

Under your amendment, wouldn't that be....

MR. A. LANDRY

I think it says that an ordinance--not a vote of the people. If you'll read it, it's "No law enacted by the legislature estab-

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lishing a civil service system applicable to one or more parishes ...shall be effective in any parish or in any municipality until approved by ordinance adopted by the governing authority"—not by a vote of the people.

MR. DE BLIEUX

But, this is one parish; this is one parish, and the language above that says there has to be an election for that.

MR. NUNEZ

Mr. Landry, aren't you saying, in Amendment No. 3 especially, that the only way that the local governing authority would have civil service under their jurisdiction—which would mean garbage workers, sanitary workers, secretaries, or what have you—would be simply to adopt an ordinance and the legislature pass an act? That's all you're saying in here, isn't it?

MR. A. LANDRY

That's correct. I ask for your favorable vote.

[Division of the Question ordered. Record vote ordered. Amendments Nos. 1 and 2 reread and adopted: 76-16. Motion to reconsider tabled. Record vote ordered. Amendment No. 3 adopted: 71-24. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Amendments sent up by Delegate Flory as follows:

Amendment No. 1. Page 1, line 14, in the Dennery amendment, on page 8 of the floor amendment, on line 30, after the word and punctuation "creation." change the period "." to a semicolon ";" and add the word "Prohibition."

Amendment No. 2. In the Dennery amendment, page 9, delete lines 3 and 4 in their entirety and insert in lieu thereof the following: "a population of less than four hundred thousand, in any manner now or hereafter provided by law, except that paid firemen and paid municipal policemen, in a municipality which operates a regularly paid fire and police department and which has a population in excess of thirteen thousand, in all parishes, and in all fire protection districts with paid firemen, are hereby expressly excluded from such civil service system."

Explanation

MR. FLORY

Mr. Chairman and delegates, if you recall, earlier in the week, we adopted an amendment excluding from the city of New Orleans's city system, the firemen and the policemen. What this does is to carry forward that prohibition to say that when the city or the parish civil service system opts to come under the civil service provisions, that it will not include firemen and policemen in those municipalities under four hundred thousand. We've already taken care of the New Orleans situation, and we have constitutional and statutory civil service for the fire and police officers throughout the state—also in parish fire districts and in special fire districts, as we have here in Scotlandville and where the boards, etc....the civil service is already established, and this we carry forward from the other amendment. I ask for the adoption of the amendment.

Questions

MR. LANIER

Mr. Flory, as I understand this amendment, this would apply only in those situations where a municipality that falls in this category has both paid firemen and paid policemen; is that correct?

MR. FLORY

That's correct, Mr. Lanier.

MR. LANIER

This would also cover parish firemen and special district firemen who are paid?

MR. FLORY

That's correct.

MR. LANIER

This proposal here would not apply to a municipality that did not have paid firemen; is that correct?

MR. FLORY

No, sir, it would not in any way, or a fire district that had volunteer firemen.

MR. LANIER

And, as you and I previously discussed on this point, what I'm specifically driving at is that in the city of Thibodaux, pursuant to Act 97 of 1972, we have one civil service board because we had a volunteer fire department, so...

MR. FLORY

Correct. This does not disturb that in any way because in your situation it would create a four-member board which would not be a workable board. So, this excludes that situation. Unless you have a paid fire and police department, you would not be covered under this provision.

MR. LANIER

So, if this is adopted, the present civil service board in places like the city of Thibodaux, and others that are similarly situated, would not be affected by this proposal.

MR. FLORY

You are absolutely correct.

MR. LANIER

And, in situations like we have several fire protection districts that are all volunteer in Lafourche Parish--this would not apply to them either?

MR. FLORY

No, sir.

MR. LANIER

Because, quite obviously, you can't make civil service apply to volunteer people.

MR. FLORY

That's correct.

MR. LANIER

Thank you very much, Mr. Flory.

MR. DENNERY

Mr. Flory, what would the effect of your amendment be with regard to Jefferson Parish, which right now has a parish fire department? Does it....

MR. FLORY

This covers parish fire districts and special districts, Mr. Dennery.

MR. DENNERY

In other words, if the Jefferson Fire Department is presently under the Jefferson Parish civil service, this would remove the firemen from their present civil service system and move them over into the fire and police civil service?

MR. FLORY

It puts all firemen and policemen under the state municipal fire and police service except where they do not have a paid fire and police department.

MR. DENNERY

So, it would remove the ones in Jefferson?

MR. FLORY

If the situation you mentioned is correct, yes, sir.

MR. DENNERY

Thank you.

MS. ZERVIGON

Mr. Flory, what would be the effect of your amendment if Thibodaux should ever decide that they needed a paid fire department? Would their system then automatically be split into two systems?

MR. FLORY

Yes.

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MS. ZERVIGON
Thank you.

MR. FLORY
I presume, in order to be constitutional. I ask for the adoption of the amendment, Mr. Chairman.

[Previous Question ordered. Record vote ordered. Amendments adopted: 65-26. Motion to reconsider tabled.]

Vice Chairman Casey in the Chair

Amendments

MR. POYNTER
Mr. Lanier sends up amendments as follows:
Amendment No. 1. On page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Dennery and adopted Saturday, on page 8 of said amendment, delete line 32 in its entirety, including any amendments thereto, and insert in lieu thereof the following: "islature, or by the respective parish governing authority, in one or".
Amendment No. 2. On page 1, line 14, in the Dennery amendment, on page 9 of the amendment, in line 1, immediately after the word "respective" delete the words "local governing" and at the beginning of line 2, delete "body," and insert in lieu thereof the following: "city governing body,"

Explanation

MR. LANIER
Mr. Chairman and fellow delegates, this amendment applies to Paragraph (O), which is on pages 8 and 9. It's designed to make it absolutely clear what authority in the parish or the municipality has the authority to create a civil service board. Now, we had the amendment by Delegate Alphonse Jackson this morning where he was concerned about the language "local governing body" being construed to mean a school board, therefore giving a school board the authority to set up a civil service system. By taking out all of this language--and the language he took out was "or by the respective local governing body"--we are left with the situation in Paragraph (O) where it could easily be construed to mean that the parish governing authority does not have authority to establish a civil service system. But, if you'll read the clause that starts with the word "or," on the last line, you will see where a city still has the authority to establish a civil service system, so we have a rather anomalous situation where the parish can't do it and the city can do it. My amendment is designed to do what I think Mr. Dennery was trying to do and solve the problem that Mr. Jackson had with the vagueness of the term "local governing body." Now, in local and parochial government, we used the term in our definitions--and it's definition number one under Section 51--"local governmental subdivision" means "any parish or municipality." With reference to the general term affecting all units--and, in particular, school boards-- we used the term "political subdivision." So, the language that I have here, referring to the respective parish governing authority--that clearly shows that this is not the school board or any special district; this is the governing authority of the parish. With reference to the city, we have "city governing authority," and this is intended to mean the city governing authority, and not any other special district or district of that type. I think that this solves the problem, and I would respectfully urge your adoption of this amendment. I'd be happy to answer any questions. I believe Mr. Jackson has one, Mr. Chairman.

Questions

MR. A. JACKSON
Mr. Vice-Chairman, I have several questions. First of all, I would like to ask Delegate Lanier: Would you agree that schoolteachers are parish employees?

[2732]

MR. LANIER
Well, it may be how you define your terms. If you construe them to be employees of the parish governing authority, they are not. If you con...

MR. A. JACKSON
Well, aren't schoolteachers employed by local school boards?

MR. LANIER
They are employees of the school board, which is a single-purpose special district of the parish, but it operates independently of the parish governing authority. I think that's under the present constitution; and I'm not real sure about this because I wasn't on the Education Committee, but I believe they're set up independently--also constitutionally--under the education provision.

MR. A. JACKSON
But, this language, as it is included in this amendment, says that--and if your amendment is adopted--it says that any respective parish governing authority could place all parish employees, including those exempted, in a civil service system. I don't see how your amendment cares for my concern. I mean my real question is that: Isn't it true now that even if the school board didn't do it, if the police jury wanted to place some parish employees, that are now exempted, under civil service, that they would have the right to do so under this amendment?

MR. LANIER
I think that's true, Mr. Jackson, but I think the problem here is not....

MR. A. JACKSON
And, wouldn't this include schoolteachers?

MR. LANIER
I don't see how the police jury can put schoolteachers under police jury civil service. But, let me point this out: I think that perhaps the problem here deals with other language than that which you and I have been dealing with. I think the problem that you raise probably, in my judgment, directs itself to the term "any and all parish employees." I don't think that, really, you and I are quarreling over the authority of the police jury to set up civil service for police jury people.

MR. A. JACKSON
I'm not quarreling at all with that, but I am quarreling with the fact that you are designating a power to a local government agency, or a local government agent, and the language here which says "of all parish employees" certainly, in my opinion, includes schoolteachers. I don't think that that's your intention, nor Mr. Dennery's intention.

MR. LANIER
Well, to further expand on my answer, I believe what we need to do here is, instead of striking out "local governing authority," I think we need to clarify this language of "to any and all parish employees" to show that the legislature could do it for the school people and the parish can do it for the parish people, but that the parish can't do it for the school people. I think that's what both you and I--and Mr. Dennery--want to do, but I think....

MR. A. JACKSON
Well, would you agree that we have not solved the problem by way of your amendment nor my amendment?

MR. LANIER
Well, I think my amendment leaves us in a posture where we can get to the heart of the problem and solve it, whereas your amendment just takes all of this authority away from the police jury to set up a system for their own people and leaves, in the city, the authority to set up a system for the city people--which, in my judgment, is not right. I think we should clarify the language about the police jury being the parish governing authority; then, perhaps you and I and Mr. Dennery can put our heads together and clean up this other language. But, by just striking this authority from the police jury, in my judgment, is not the proper approach to solve this problem.

[Previous Question ordered. Amendments adopted: 64-32. Motion to reconsider tabled.]

Amendment

MR. POYNTER
Next set of amendments sent up by Delegate Avant read as follows:

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In the Dennery amendment adopted Saturday--and, in particular, in the Floor Amendment No. 3 proposed by Delegate Ambroise Landry and adopted by the convention today--on line 1 of the Ambroise Landry Amendment No. 3, immediately after the word "legislature" and before the word "establishing" insert the following: "after the effective date of this constitution".

It would make, Mr. Vice-Chairman, that last paragraph added--Mr. Ambroise Landry's Amendment No. 2 added a paragraph, and then the third amendment added a paragraph--it would make that last paragraph, or last sentence, read, at its beginning:

"No law enacted by the legislature after the effective date of this constitution, establishing a city service system applicable to one or more parishes" etc.

It would make, Mr. Vice-Chairman, that last paragraph added. Mr. Ambroise Landry's Amendment Number 3--Amendment 2--added a paragraph and, then, the third amendment added a paragraph. It would make that last paragraph, or last sentence, read as it's beginning:

"No law enacted by the legislature after the effective date of this constitution establishing a civil service system applicable to one or more parishes,etc."

Explanation

MR. AVANT

Mr. Acting Chairman and fellow delegates, there is some question in the minds of some people, as to whether or not Mr. Landry's Amendment No. 3 would affect presently existing statutory civil service systems. Specifically, there is a statutory civil service system for municipal firemen and policemen in cities having a population in excess of seventy-five hundred but less than thirteen thousand. All this amendment is intended to do is to make it abundantly clear that Mr. Landry's Amendment No. 3 was not intended to affect those presently existing systems and to require that they be abolished unless they are ratified by the local governing authority in the particular municipality affected. I've discussed it with Mr. Landry and he has no objection to it. I am so authorized to state that's all it does. So, I ask your favorable support of the amendment.

[Previous Question ordered. Amendment adopted without objection.]

Amendment

MR. POYNTER

The amendments will be passed out at this time.

In the Dennery Amendment adopted Saturday, on page 9, at the end of line 4, add the following:

"(P) Legislative Authority. The legislature, by the favorable vote of three-fourths of the elected members of each house, may amend or otherwise modify any provision of this Article, except that it may not abolish the system of classified civil service."

Explanation

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, we have seen fit since we have been discussing this civil service proposal to make numerous changes in it. Some of these changes have been made by a majority vote with just a very little over a quorum. I think that we have all--by the votes that's been taken here--agreed that some of these changes should have been made. Now this proposal of mine would just allow the legislature to, by a three-fourths vote--three-fourths vote--to make changes if they should discover that some changes should be made in the future. I would venture to say because of the newness of this proposal, that we are going to find times wherein that some changes should be made. Therefore, I just feel like that it would be a burden upon the electorate to have to submit a constitutional amendment to make those particular changes--particularly if you have to wait until a congressional election sometimes to do it and therefore delaying the time when the changes could be made by...over a year or more. With three-fourths vote of the legislature, I believe that you can certainly be assured that there will be enough stability there to keep some changes from being made without sufficient reflection. Because any ten senators could defeat it in the Senate and a whole lot...with very little more than that of the House of Representatives could do the same. We have got a hundred and forty-four members of the legislature and when you require a three-fourths vote of those

in the Senate, plus three-fourths of those elected to the House--not just the majority voting, as we have done here--but three-fourths of those elected to each house or three-fourths of those elected to each senate--to the senate--I think you've got enough stability to be sure that the changes would be needed changes and that they will be logical, otherwise then we would not make those changes. I ask you to approve this amendment.

Questions

MR. DENNERY

Senator, as you know, or did you know, that I was opposed to your amendment--the philosophy of your amendment? I think that the legislature should not have an opportunity to amend whatever this convention adopts.

MR. DE BLIEUX

Did you say that you were opposed to this amendment?

MR. DENNERY

Yes, sir. Are you aware that I am opposed philosophically to permitting the legislature, under any conditions, to amend the civil service law?--whatever we adopt.

MR. DE BLIEUX

Well, Mr. Dennery, let's put it this way. I just don't feel like I am one of those persons who knows exactly what we should do at all times and that nobody else should have a right to pass upon our judgement.

MR. DENNERY

Well, now, do you agree that the...obviously what you said is correct and I join in that, not only as to you, but also as to me. But, I believe that the people can change this amendment if it is wrong.

MR. DE BLIEUX

If this particular body here can see the need of changes, I think that a legislative body could also see need of changes. I certainly say this, that where we have changed provisions in this proposal by less than a majority of the elected members of this convention, that I certainly think that with three-fourths vote of the elected members--the direct representatives of the people of the State of Louisiana--should have a like right and privilege.

MR. DENNERY

Are you aware, sir, of the vote yesterday in connection with the state police and the right of the legislature to add supplemental pay? Do you recall the vote on that particular amendment? Do you recall that it was ninety-eight to eight?

MR. DE BLIEUX

No, I don't recall the votes on the particular issues that were cast, Mr. Dennery. I'm not...

MR. DENNERY

Well, the journal reflects this and I assume you will accept it.

MR. DE BLIEUX

Well, you may be correct; I'm not disputing your word about that.

MR. DENNERY

My point is, sir, that on that particular amendment there were five speakers for the amendment--three are present members of the legislature, two were former members of the legislature. I take it therefore that the legislature would be subjected to certain pressures in certain areas of civil service. Do you agree with that?

MR. DE BLIEUX

Just like the members of this convention are subjected to the same pressures.

MR. DENNERY

Thank you, sir.

MR. DESHOTELS

Senator De Blieux, you keep harping upon the fact that the convention is divided on the vote on this thing here. Now, won't the people of the state of Louisiana have to vote on this constitution before it is adopted?

MR. DE BLIEUX

Certainly, they will.

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MR. DESHOTELS
All right.

MR. DE BLIEUX
The difference between this and the legislature and this convention and the people is that there won't be enough chance for them to get together and discuss the various issues as we have done here in this convention or as the legislature does in it's deliberations.

MR. DESHOTELS
Fine. Now, haven't we argued for two days in the House of Representatives as to whether we would have a constitutional civil service or a legislative civil service? Haven't we argued that for two days? Didn't we also resolve that we would have a constitutional civil service, and began working on Mr. Denaery's proposal? Isn't that correct?

MR. DE BLIEUX
That is what we have been arguing here is...

MR. DESHOTELS
All right. Don't you think two days is long enough to argue on this one issue? Don't you feel that we have spoken on it, and that we have made up our minds?

MR. DE BLIEUX
Well, Mr. Deshotels, it just results back to this: If you think that you know what's going to happen in the future and that there will never be any need for change, O.K. I would say this: If we think that we are smart enough that we can judge for all of our people at all times and that we shouldn't have any changes, except through a constitutional amendment, then I say vote against this amendment. If you think that somebody else can have a good judgement sometimes, too, and that we are not the smartest people in the world, I'd say vote for the amendment.

MR. DESHOTELS
Well, what about the judgement of this convention; don't you defer to it whenever it has decided an issue? Wouldn't you defer to it?

MR. DE BLIEUX
We have to do that because it's the power.

MR. DESHOTELS
Then, let's do it.

MR. CONROY
Senator De Blieux, in your last sentence you say it may not abolish the system of classified civil service. What do you mean by that, that it couldn't abolish the system? If it restructured it all together, wouldn't it be abolishing it?

MR. DE BLIEUX
Well, no; I don't think so, Mr. Conroy, because it could change it, but it couldn't abolish it. That means that we should always have a system of civil service in the state.

MR. CONROY
What...my question is really, how do you define what a system of civil service is if you don't put any guidelines in as to what it is? Such as, an independent governing...I mean, the appointing or nominating authorities being nonpolitical and independent--at least having that in, and at least having some prohibition against political activities. Aren't those the heart and core of what a civil service system is? Wouldn't you need some definition of what a civil service--classified civil system is --that you say you can't abolish? I don't understand how you can just say we won't abolish civil service.

MR. DE BLIEUX
Well, I think, as we all understand civil service, that it's a merit system. I believe that that would be the court's interpretation of it. For that particular reason, I don't think... and furthermore we have passed those days where that the employees of the state were politicalized. I just don't feel like that you would ever find a legislature that would want to abolish a merit system for its state employees. I just can't conceive of that. That is the only thing that I think that I have enough judgement to predict as to what is going to happen.

MR. WEISS
Delegate De Blieux, hasn't "with legislative authority" the

legislature abolished--at one time in this state--the entire civil service system?

MR. DE BLIEUX
At one time, but that was thirty years ago, Dr. Weiss. I think that the changes in our political make has changed tremendously since then.

MR. WEISS
You don't think history will repeat itself?

MR. DE BLIEUX
I just don't feel like that we could ever...that this state will ever be without a civil service system again.

MR. WEILL
Do you know I've had more calls, personally, by individuals on this matter than any other in the constitution that we've discussed. Every one of them are interested in the legislature and the governor staying out of civil service. Don't you think your floor amendment would put the legislature back into this system again?

MR. DE BLIEUX
No, I do not. I would say this, that you would have a whole lot better chance of having constitutional amendments on civil service with a two-third vote than you would with three-fourths vote if we leave it to the legislature--three-fourths vote. I just think it would be a whole lot harder to change with a three-fourths vote of the legislature than it would be with a constitutional amendment.

MR. NUNEZ
Senator De Blieux, you just made a statement that the legislature would never tamper with civil service. Didn't...isn't it not true at the last regular session, that the legislature passed a resolution suspending the action of the commission with the rule of three and saying they shall use the rule of five? I think at one time they wanted to go down as far as seven. Now...

MR. DE BLIEUX
Mr. Nunez, I never did say the legislature wouldn't tamper. I said the legislature would not abolish it. That's a difference, a lot of difference.

MR. NUNEZ
Well, don't you think there are some things that are...when you set forth without guidelines, if we sit here there is about four or five things in civil service that we all consider sacred. When you start tampering with those sacrecies like the rule of three or five--or whatever you want to and, maybe, picking from additional sources--don't you think that's just for all practical purposes abolishing civil service.

MR. DE BLIEUX
Senator Nunez, haven't we tampered with civil service here? Haven't we made changes in it here? Don't you think those changes that we voted on--those that you voted--don't you think they were necessary and good changes?

MR. NUNEZ
Senator De Blieux, we are here to make those changes. I think the changes we've made have been for the better. But, I think once we get the civil service where we--historically speaking--we get it where it's better than it has been...don't you think there should be some stopgap or some place we should say, "Well this is going to be civil service and it shall not be tampered with."

MR. DE BLIEUX
That's the very reason I put in the three-fourths provision, Senator Nunez, to be sure that it wasn't tampered with, as you say.

MR. FULCO
Senator, hasn't the biggest gripe on the part of the people been about too many amendments--constitutional amendments--that they have to vote on every general election?

MR. DE BLIEUX
That's correct. A lot of good amendments were turned down for that particular reason, Mr. Fulco.

MR. FULCO
Isn't this one way to help solve that problem that the people are having?

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MR. DE BLIEUX

That.....I thought was the whole purpose of this convention, to eliminate the necessity of having to submit numerous constitutional amendments to the people for a vote. They just got fed up and...

MR. FULCO

And one more question.

MR. DE BLIEUX

...and this would eliminate the necessity for that.

MR. FULCO

Isn't a three-fourths vote just about as close as you can get to a constitutional amendment? Won't it make it that--or almost as difficult to pass any changes? So, shouldn't the legislature have that right?

MR. DE BLIEUX

I certainly think so.

MR. JENKINS

Senator De Blieux, you think that three-fourths votes will be a pretty good protection, is that correct?

MR. DE BLIEUX

I certainly do, Mr. Jenkins. I think it would be a lot of protection because in that particular case any ten members of the Senate could block it, or any twenty-six members of the House--twenty-seven members of the House--could block it.

MR. JENKINS

Well, isn't it true in 1948 there was a two-thirds requirement. Governor Long got--easily got--a two-thirds vote. I don't know, maybe, he even got more than two-thirds--maybe he got three-fourths. Isn't that true?

MR. DE BLIEUX

The first time it came up, it failed--it failed to pass. He threw a special session and through that, well he did get a two-thirds vote, that's true.

MR. JENKINS

Don't you think...

MR. DE BLIEUX

But now that...let me tell you this. That was almost thirty years ago and we didn't have "Woody Jenkins" in the legislature at that particular time. So, I think you would have a difficult time of getting something like that through now.

MR. JENKINS

Senator, thank you very much. I guess that was a compliment; I don't know. Don't you think that a new governor in his first term--generally very popular--if he concentrates on an issue like this, which after all is somewhat of a marginal issue from a political standpoint--not like taxes or other things--that he could get a three-fourths vote on something like this, and drastically alter the nature of civil service?

MR. DE BLIEUX

No, Mr. Jenkins, I don't because I just feel...and furthermore I feel like any governor, now, would be committing political suicide to attempt to do something like that.

MR. ROY

Senator, just to set the record straight--I don't know how I'll vote on your amendment--but isn't it a fact that when Earl Long was elected in 1948, we did not have single member districts and Earl Long ran on a ticket and had with him everybody down to the constable level. It was common knowledge that if they voted for Earl Long and his ticket and his representative or his senator they were going to end up doing that to civil service and actually that was almost a vote of the people.

MR. DE BLIEUX

That's correct.

MR. STINSON

Senator De Blieux, you were speaking of the house... now in the Senate, don't you think that if you really put all your power behind any issue you could get--easily get-- three-fourths vote in the senate.

MR. DE BLIEUX

No, I don't, Mr. Stinson.

Further Discussion

MR. SMITH

Mr. Chairman and fellow delegates, I rise against this amendment. I think we should put a good civil service law in the constitution and leave it there and not by any fractional portion there, allow it to be amended. A strong governor can get in and get three-fourths votes. You've seen him get two-thirds on many occasions on taxes. You get a real strong governor--we've had them before--could get almost unanimous legislative approval on anything. We've seen it way back in years and while I was in the legislature. I don't think we should tamper with civil service, once we get it in the constitution, by two-thirds, three-fourths, or five-eighths--it don't make any difference what amount it is. I don't believe we should put that in the constitution because the legislature is going to tamper with it. I believe if we want a good civil service, just leave it where we put it in there and leave it alone. That's...I say let's go ahead and defeat this amendment, go ahead and get a good civil service law and put it in the constitution, and don't have any amendments at all on it to how you can change it in the legislature. I put a two-thirds law in the constitution, myself, and it had been changed on... the taxes have been voted. It can be secured--you know it can, and the three-fourths can--if you get a real strong governor and the legislature would go along with him. So, let's go ahead and keep the...like it is and leave out the three-fourths and two-thirds.

Questions

MR. FULCO

Mr. Smith, weren't you the author of the two-thirds law?

MR. SMITH

Yes, sir, I certainly was.

MR. FULCO

Didn't you consider that a safeguard?

MR. SMITH

No, sir. The first time I put it in, I tried to get a three-fourths law and it failed. So, I came back the next year with a two-thirds and it passed.

MR. FULCO

Well, why are you opposed to a three-fourths now, if you were in favor of a three-fourths law in regard to...in the passage of tax measures.

MR. SMITH

Now, I'm a member of the convention and not of the legislature, Mr. Fulco. It is a little different.

MR. FULCO

Wouldn't you consider it more dangerous at that time than it is today?

MR. SMITH

No, sir.

MR. FULCO

You don't consider that we have better government today than we had when you introduced the two-thirds law?

MR. SMITH

I think you could get a three-fourths, if you need to.

[Amendment withdrawn without objection.]

MR. POYNTER

Mr. Vice-Chairman, that's the only amendments, then, which propose to add paragraphs. We have six amendments which affect various paragraphs heretofore considered and a seventh one by Delegate Alphonse Jackson which we don't have but one copy of yet, Delegate Jackson. That's seven, plus there are two amendments at the desk which are in globo propositions with...which would substitute the text of that amendment for the entire Dennery amendment, as that amendment has been amended. It would be up to you and the pleasure of the convention whether it wants to consider those two in globo amendments first or to go back and start picking up the other seven amendments that we've got.

[Motion to take up the in globo amendments. Substitute motion to take up the amendments section by section.]

MR. JENKINS

Mr. Chairman, I want to speak in favor of Mr. Jackson's motion that we consider the amendments section by section first, rather than the in globo amendments. The reason is that I think we ought to be given an opportunity to make this proposal as good as we can and perfect it before we consider proposals that would do away with it completely. For example, I think Mr. Jackson has an amendment; I have one that would change that seniority thing that we did earlier. So, that that way we'll have an opportunity to have a true comparison between these various in globo amendments versus this article as we have perfected it.

[Previous Question ordered on the motion.
Substitute motion adopted: 77-12.]

MR. POYNTER

Unless someone has some objection, Mr. Vice-Chairman, I presume you just want to start back with (A). Now, we don't have amendments on every paragraph, but there's a total, I think, of some seven or possibly eight on their way. But, unless someone has some objection, I'll just start back on (A) and run through it again.

Amendment

MR. POYNTER

All right. In that light, the first amendment...The first amendment is sent up by Delegate Dennery--I'll get all...I've been holding a good number of these so that you just wouldn't get too much paper on your desk. We'll get all of these amendments out now--sent up by Delegate Dennery:

Amendment No. 1. In the Dennery amendment adopted by the convention on Saturday, on page 1, line 12, of said floor amendment, delete the language added by Floor Amendment No. 1, proposed by Delegate Flory and others, and adopted by the convention on December 11, and insert in lieu the following:
"including firemen and policemen".

Explanation

MR. DENNERY

My amendment would delete the amendment that was adopted by this convention a few days ago which was offered by Mr. Flory. It refers to civil service in the city of New Orleans only. Mr. Flory's amendment changed the two hundred and fifty thousand to four hundred thousand which effectively limits it to the city of New Orleans. Then, excepted from the city civil service "paid firemen and municipal policemen who are hereby expressly excluded." Now, the purpose of that amendment was so that the firemen and the policemen in the city of New Orleans would be covered by a separate board under what is commonly known as the statewide fire and police municipal civil service system. That system provides for individual boards in each community over thirteen thousand and presently up to two hundred and fifty thousand which has a paid fire department and a municipal police department. The city of New Orleans since before there was a municipal fire and police act, has had its firemen and its policemen under the city civil service law which is still in effect, and has been in effect since 1942. Now, the language of Mr. Flory's amendment follows the language that's contained in the present fire and police act. It talks about paid firemen, and the only firemen we have in the city of New Orleans are paid firemen--I don't think we have any volunteer fireman at all-- and it applies to municipal policemen, and of course, we have no parish policemen in New Orleans since the parish and the city are coterminous. The present provisions of the fire and police civil service law seems to indicate that all members of those two departments are under the classified system, including the chiefs of each department. It's not too clear whether they are under the police because apparently something was left out of the law with regard to police. The city of New Orleans has a fire department which is headed by a superintendent of the fire department, and that historically has not been a classified position, but has been a position in the unclassified service. The same is true in the police department. The firemen and the policemen in the city of New Orleans operate under a pure merit system of public employment. The fire and police municipal civil service law is not a pure merit system, but is based primarily upon seniority, which thereby prevents the promotion of anyone to a higher position in that department unless he happens to be the senior person in length of service. Our administration in the city of New Orleans is strongly in favor of retaining the present system. The fire department is almost unanimous in not wanting to retain the present system. The employees of the fire department have voted on this. The police department is not as strong as the fire department in favor of the Flory system. It seems to me that it ill behoves

this convention to change what has been successful in the opinion of the administration of all the city governments that have been in effect since 1942. We have a city charter which was adopted as a home rule charter which recognizes the fact that firemen and policemen are covered under the general civil service laws applicable to all city employees. The people of the city adopted this. There was no question involved at the time. The purpose of my amendment, therefore, is to specifically include firemen and policemen in the city of New Orleans in the city civil service system which governs all of the other employees in the city. These people represent approximately one-third of the employees in the city of New Orleans. I feel that is quite important from our city's point of view that we continue the system that has proven so successful in the past. I respectfully request that you adopt this amendment. Thank you.

Questions

MR. BERGERON

Mr. Dennery, when I ran for this office I made a pledge to the people that I would abide by their wishes. I've received, I'm sure as you have, and many of us here have received much information, phone calls, letters, etc., stating that the police and firemen wanted to go under the state municipal fire and police civil service system. The thing that beholds me is I can't understand, if the system has been so successful, why are these gentlemen up here from the fire department; this gentleman over here from the police department representing the... for the majority of their membership calling for a change?

MR. DENNERY

Well, I suppose the only answer to that, Mr. Bergeron, is that I suppose you might as well get down to the nitty-gritty of it--the fire and police civil... municipal civil service system is basically a union type system. The city civil service system is basically a merit type civil service system. The only reason I can assume that they are in favor of it is that they prefer the union system. I just disagree with them on that. However, the letters that I have gotten and the phone calls I have gotten from the firemen and from the policemen are, as you say, almost all in favor of changing. But, the phone calls and the letters I have received from other citizens in the city of New Orleans are almost unanimous in not wanting this change.

MR. BERGERON

Well, Mr. Dennery, I read a little column in my... I don't want to go too far afield. I read a little column in the newspaper in the area, local newspaper, which is distributed weekly, and I... every week I put my phone number in New Orleans, and Baton Rouge--my address; I tell them what we're doing up here every week; I told them we were on the civil service commission dealing with police and firemen. I have not received one phone call or one letter from any citizen who was opposed to putting the police and firemen under the state municipal fire and police civil service commission. Furthermore, the organization F.O.P., Fraternal Order of Police, is not a union organization. They are also in favor of the change from the system. Thank you, sir.

MRS. WARREN

Mr. Dennery, I'm going to make this short because I was here this morning asking you about the merit system when we were talking about the assessors and the clerks, etc. Now, this merit system that you're talking about--is it good for the goose? Is it good for the gander?

MR. DENNERY

Oh, I don't think there's any question about that; what's good for the goose is good for the gander. What's good for the rest of the people in New Orleans ...

MRS. WARREN

All right. Well, we'll go a little bit further with this. Since we have the municipal fire department for state with this exception of New Orleans, what makes us so different?

MR. DENNERY

Well, Mrs. Warren, the thing that makes us different, I think--there are two things that make us different: Number 1, is that, we have had our firemen and policemen under a specific system since 1942 and the other system wasn't even in effect then. So, we have protected these people since '42, if you want to look at it from the point of view of protection of the employee, and we have also protected the city --and I speak now of you and me

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as citizens of the city--in having a merit type system. The second thing that differs... that I think is different, is that I don't think a department in a city of four hundred... over four hundred thousand people which is infinitely larger than those fire departments and police departments in cities of thirteen thousand need be the same. As a matter of fact, I can see ample reason for there to be difference.

Further Discussion

MS. ZERVIGON

Mr. Acting Chairman, and delegates, I didn't come up here to repeat what I said the other day. I still feel very strongly the same way. I just came to bring up a couple of points that I don't believe were mentioned the other day in opposition to excluding fire and police from our civil service system in New Orleans. In the first place, it's often referred to as a state system. It is really not a state system. It is a municipality with municipality system with a different commission in each municipality. If it were in truth, a state system with a statewide pay plan, I would have less objection to it. If the municipal firemen and policemen in New Orleans wanted to go under a uniform statewide pay plan with all the firemen and policemen in the state, that's beautiful. But, that isn't what's being asked. In the second place, let me in answer to some of the questions Mrs. Warren was asking Mr. Dennery, give my opinion on the goose and gander question--Does New Orleans have to be treated exactly like the rest of the state? I'm speaking only for myself--I'm not speaking for Mr. Dennery and I'm not speaking for any other citizen of New Orleans--but this is my opinion on the subject. If you will look at my voting record on the judicial system in New Orleans, I voted consistently to bring them into the state system because judiciary officers are paid with state money and there is a reason for uniformity. I voted for the six year term. I voted for the Juneau amendment to leave it open to a change by majority of the legislature as all other lower courts are, rather than two-thirds or a referendum of the people, partly because there's a judicial district of the state, and partly because there are times when the rest of the state is right, and New Orleans is wrong, and that's clearly one of them, in my opinion. There are times it seems to me when what's good for New Orleans doesn't affect the rest of the state because we foot our own bills when it comes to fire and police and when, at least for us, what's right for New Orleans is right and what's right for the rest of the state is wrong for us. It is completely illogical as far as I'm concerned, to set up two different systems within a city for different employee groups. If they want to continue it in other cities, that's fine; we don't want to in New Orleans. I considered introducing an amendment that said, "Wherever there is a city civil service, the governing body with a vote of the people may opt to have a unified city civil service system, and thereby, bring fire and police...or keep the option open to bring fire and police into other city civil service systems." But, I don't believe in going around interfering with other people's business that way, and so I didn't do it. I would like you all to return the favor, and don't interfere in our business. Now, why do the firemen in New Orleans and the police want this system? There are a multitude of reasons, but I'll give you one of them: It favors the men presently on the force in that anyone that applies for the job and is hired after them must take their place in line after them for promotion, regardless of competence, regardless of training. As I told you the other day, this affects the city severely in our ability, in my opinion, to recruit new men, both black and white, if you say, "Look, come on now, but you can't expect a promotion for fifteen years because all these guys are in line ahead of you. It also affects, in my opinion, the degree program for policemen at Loyola University in that we can give the people who passed that course and get a degree in criminology, absolutely no benefit for having taken that training. So, we're not trying to impose our system on the rest of the state, even though we do think, at least for New Orleans, it is superior. All we're asking is to be able to maintain this system. Let me make one more point to you. When the fire and police municipal civil service was established, there were no other city civil service systems that I know of. The majority of the employees--fulltime employees--in other municipalities were fire and police. There was a reason to set up a system just only for them. Now, there are other city civil service systems besides New Orleans, but at that time ours was the only one, so our system was set up for all employees, an inclusive system. As far as I'm concerned, for our people that's the only logical way. I don't question the firemen and policemen who come down here saying, "We've got it pretty good, but we want more." That's the function of union officials. But, it seems to me that aside from that you should think about the other employees and about the other citizens of the city. The other citizens of the city who are not fire and policemen, without exception, have spoken to me to keep the system as it is. Are there bugs in it? My God, I could talk to you for hours about the bugs in the city civil service system

in New Orleans. But, let's not replace it with something worse because we don't like what we have. Thank you very much.

Further Discussion

MR. JACK

Mr. Chairman, fellow delegates, we passed on this very same question yesterday. By a vote of 61 to 38 this convention of delegates voted to place the paid firemen and paid municipal policemen under the state police and firemen civil service for cities over thirteen thousand. We're back to the same question-- I don't know how long we can keep going over the same question-- nothing seems to get finalized under our rules. You can change your "a" to "the" or some little thing and reconsider it. Now, Mr. Dennery, as I recall, in his own statement stated the firemen down in New Orleans overwhelmingly wanted to be under the state firemen and police civil service, and by not as big a vote, the police. I don't know where's the information. My information is, no "ifs" or "ands", both those groups want to be under, clearly, unequivocally, under the state fire and police. I know they wanted to be back in 1940, when I was in the House and was a coauthor of the original state firemen and police civil service, and at that time I also spoke in favor of the state employees. We went into it. I went into all of this stuff yesterday. So, I don't know of any reason to rehash it, except to say, "Remember, yesterday, you voted 61 to 38 to bring these police and these firemen of New Orleans-- that is, cities, with the amendment, over four hundred thousand--into the state police and firemen's civil service." We've gone over this; they're entirely different from other city employees; they belong in this other one. Now, I ask that you reject this amendment. If there are any questions, I'll try to answer them.

Question

MR. BERGERON

I said, "I'm having some problems getting an answer to this question." I've been hearing a lot about the merit system...the merit system in New Orleans. What I would like to know, and maybe you could help me out of this question: isn't the merit system as presently exists in Orleans, isn't it based on the formula of seniority and merit--a formula similar to sixty merit, forty seniority? Or, I don't know the correct statistics or correct figures; that's what I'm looking for.

MR. JACK

I don't know the figures down there. I do know that as I said ever since 1940---that's a long time, it's older than you and a lot of you are---that they all, municipal firemen and police, belong under one bill. That's the way I feel.

MR. BERGERON

Thank you.

Further Discussion

MR. D'GEROLAMO

Mr. Chairman, members of the convention, we have heard the problem of civil service with policemen and firemen here now for many days. It has been quite evident for the past, on three different occasions, that the membership of this committee has spoken, and spoken loudly and clearly, that the policemen and firemen of the city of New Orleans who are under the joint civil service system that they have with other Orleans policemen, these firemen and policemen want out. They want to join the state system. The policemen and the firemen in the parish of Jefferson want out. They want to join the state system. These are the people that we are trying to work for. Civil service is a protection, not only for a city, for the employer, but primarily for the employee. I believe this convention would do an unjust thing to all of they firemen of the State of Louisiana, and including New Orleans, if the go and undo the things that they have spoken clearly for. Go on and reject this amendment. I believe, that we have heard about all we need to know about what is going on, and for that reason, I ask for the previous question, Mr. Speaker.

[Previous Question ordered. Record vote ordered. Amendment rejected: 32-70. Motion to reconsider tabled.]

Vice Chairman Miller in the Chair

Amendment

MR. POYNTER

Next set of amendments, Madam Chairman, are being passed out

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at the present time. Going in order, they're sent up by Delegate Casey and Johnny Jackson. Amendments read as follows:

Amendment No. 1. On page 1, in the Floor Amendment proposed by Delegate Dennery, adopted on December the 8th, on page 1 of that Floor Amendment, at the end of line 12 of the text, delete Floor Amendment No. 1, proposed by Delegate Flory and adopted by the convention on December 11th, and insert in lieu thereof the following:

"However, paid firemen and municipal policemen may be excluded if a majority of the electors in the city affected voting at an election held for the purpose consent thereto."

Explanation

MR. CASEY

Madam Chairman and delegates, I believe, that the convention has certainly spoken loud and clear, as many might express it, that firemen and policemen in the city of New Orleans should be excluded from the usual civil service system that we have now and put under a separate system. However, as has been clearly stated, the system that exists at this time in New Orleans is a time-honored system that has been in effect since 1942...since 1942. We, here, are going to legislate, and I use the word in the sense that it's intended to mean, "legislate", not write a constitution, but to legislate the city civil service system in a different fashion than it exists today, and remove one-third of our employees from the system we have now into a completely separate system. You know, and I know, that that is just not right. Mr. Reeves, yesterday, spoke of guts and courage; I think that's something we have to express and show here right now that the...we're going to recognize the different systems that exist in Louisiana today, that we're going to honor them, recognize them for the good job that they have done, and not disturb them and use a completely different system under our new constitution than exists today. You know, and I know, that is just not right. If you read the PAR booklet that came out, that was distributed to you and placed on your desk yesterday or day before yesterday when we started discussing civil service, there's a paragraph in their report says this: "It is questionable whether New Orleans fire and police personnel should be separated from the city civil service system by including them in the municipal fire and police system since this could fragment the present city personnel structure, a system that has operated effectively in the past. Now, why does this body want to do this to the city of New Orleans; I'll never understand. But, if a change is necessary, and let's assume that maybe perhaps, a change might be necessary, maybe not today, but ten years from now. As the Honorable Burton Willis always uses a phrase that sticks very vividly in my mind: "we the people." If that change is necessary, let "we the people" in the city of New Orleans decide if a change is absolutely necessary, not a handful of delegates in the constitutional convention affect an effective structure that has existed in the city of New Orleans for over thirty years. You know, and I know, in your own heart that's just not right. I uphold the privilege and the right of these fine gentlemen here in the back of the room in the audience who have effectively lobbied the fire and police amendment. I certainly will fight for their right and privilege to do that lobbying whenever and wherever possible. But, we delegates have to sometimes say no, and it's very difficult to do that. It's very difficult to remain courageous and tell people that we're very fond of, "No". It's particularly difficult to tell police and firemen no at sometime, the most difficult people in the world to tell no, but we have got to do it. We have got to show courage and wisdom. I, personally, resent the attitude, not of individual delegates, but of the convention as a body in agreeing to haphazardly change a time-honored system. I urge you to approach this with wisdom, with intelligence in a very mature manner and say, "No, we're not going to change the system, but if it's necessary, we'll permit the people in the city of New Orleans to do it." I urge adoption of this amendment.

Questions

MR. BERGERON

Tom, it's a question.

Tom, I'd like to ask you this question: why, for what reasons, are you opposed to bringing the policemen and firemen under the municipal state police and firemen civil service commission?

MR. CASEY

Mr. Bergeron, as I understand, under the police and municipal fire civil service system, if ten or fifteen people take an examination, seniority... you have to pass the exam to be considered for the position. It is my understanding, if the senior party places fifteenth on the exam, that is the prime method of hiring. Whereas, under our present system that we have today, it's more the merit

system. I want to say I know you've asked the question constantly, "Does seniority come into play?" It is my understanding, that it is certainly a factor, but merit... it is also my understanding, that merit is the prime factor and consideration. We want the best possible civil servants that we can get today. I think the method we have today in the city of New Orleans is the best.

MR. LANIER

Tom, does this only apply to the city of New Orleans, or could any city decide that by a vote of their people, to have one or two boards?

MR. CASEY

I think this is in the paragraph that pertains to cities over four hundred thousand, Mr. Lanier. I don't envision that any other city or municipality in the State of Louisiana has that problem.

MR. LANIER

Okay, but you would not be opposed to the people of any municipality making their own self determination on something like this?

MR. CASEY

Mr. Lanier, I'll wholeheartedly support your amendment, if you would introduce that.

Further Discussion

MR. BERGERON

Mrs. Chairwoman, fellow delegates, I hesitate to rise on this issue, and come before you so much calling for the same thing. Now, let me ask you a question. What did we vow to the people of this state when we proposed writing a new constitution? We vowed that we would go and seek the opinions of every citizen in the state. We would abide or try to see their views; see their opinions; find out what they wanted; find out what they wanted changed, and if possible, change it. Now, I have said before, and I will say again--which has been said many, many, many times before you--the policemen and firemen in Orleans are citizens of the state. If the system has worked so well, why are they calling for change? Why? It's been in existence twenty-five years. We, the people, want to keep it in existence in New Orleans. But, we the people, are also the firemen and policemen. I've heard from those "we, the people."

We've heard a lot about the seniority and merit system. The merit system, basically, is what we're under now in the city of Orleans. The last speaker was quite correct. He said seniority does come into play, which it does, which it does come into play. We do not operate strictly under a merit system now. You know, we've decided on this issue many times in the last few days, and I hate to keep posing the question up before you, but the people of New Orleans have not come to me. Not one "we, the people" have come to me, except the gentleman in those stands behind you, and the one-third of the civil service employees in New Orleans. Now, those "we, the people" have come before me and asked for a change. Ladies and gentlemen, that's what I'm going to do. I'm going to abide by their wishes. I'm going to grant them that privilege of change. I would simply urge the defeat of this amendment. Thank you.

Questions

MR. DENNERY

Mr. Bergeron, I assume that you received postcards such as I did, which were printed and read, "Dear Constitutional Delegate, As my elected constitutional delegate, I am calling upon you to vote in favor of placing New Orleans police and firemen under the Municipal Police and Fire Civil Service Act. I support both the Patrolman's Association in New Orleans, Local 641-NUPO, AFL-CIO, and the Firefighters Local 632 AFL-CIO, and their presidents Mr. Irvin L. Magri, Jr. and Mr. Clarence J. Perez, in their efforts to have their police and firemen placed under this municipal police and fire plan. Thank you for your courtesy and attention to this important matter." Is this the type of postcard you got?

MR. BERGERON

Yes, sir. I have received that type of postcard.

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MR. DENNERY

You notice, it says, in their efforts to have their police and firemen placed under it. In other words, Mr. Magri and Mr. Perez seem to think that the firemen and policemen in New Orleans are their firemen and policemen. Do you agree with that?

MR. BERGERON

No, sir. I don't agree with that. I feel that the policemen and fire...they are speaking on behalf of their organization as the representative or chairman for that organization. I'm saying "organization"; I'm talking about groups of police and firemen, and they would simply like to express the views of the people which agree with them, which is by far the majority of the system in New Orleans.

MR. DENNERY

Now, Mr. Bergeron, you asked several people the question about whether or not seniority had anything to do in the merit system, and I believe you wanted to know whether the sixty-fourty percentage was approximately correct.

MR. BERGERON

Yes, sir. I had spoken to you yesterday about it.

MR. DENNERY

Now, do you believe, sir, that if seniority is considered, it should be considered for all practical purposes exclusively in connection with promotion?

MR. BERGERON

Mr. Dennery, I feel that seniority plays a big part in the system. I feel, also, that merit plays a big part in the system. But, I do feel this: I feel if a man has been on the job for four, eight, ten years, whatever, he knows the operations of that job. He knows the procedure, the ins and outa. Now, he may not be a college graduate; he may not have the book learning, and he may not be able to whiz through the test as effectively as others, but he does know his particular jobs and duties. I do feel that that is important. Yes, sir.

MR. DENNERY

Now, do you believe that that--which I agree is important--do you agree that that is the sole test for the ability to lead, and the ability to manage men under you?

MR. BERGERON

I feel that it is one of the factors that come into play. Yes, sir.

MR. DENNERY

I agree with you, sir. It is one of the factors. But, do you agree that the present fire and police civil service system in New Orleans uses that as one of the factors, but that the fire and police municipal plan, which would create an entirely separate board in New Orleans, would not consider that, but would only consider seniority?

MR. BERGERON

Yes, sir, I'm aware of that.

MR. DENNERY

You would believe that if you wanted to be a fireman, knowing that the only way you could be promoted was to serve in that department four, eight, ten, fifteen years, you would be willing to start at this time?

MR. BERGERON

I would be willing to start, yes.

MR. DENNERY

Without any possibility of being promoted, even if you were the greatest leader and fireman in the world?

MR. BERGERON

Well, Mr. Dennery, let me say this...

[Motion to suspend the rules to allow for additional time adopted: 56-19.]

MR. DENNERY

I have one other question, though. Why do you object to giving the right to the people of the city of New Orleans to vote on this?

MR. BERGERON

I do not object to giving the right to the people of New Orleans, the voters. I'm just saying that the people have had their chance to come here and express their views, just as everyone else had. They could have five hundred people in New Orleans sitting in that stand screaming for the objection of taking the police and firemen out of the Orleans system. I do not see any of them; I do not see one of them. I feel it's my reasons for supporting this are justified, and I feel it's the right thing to do.

MR. GOLDMAN

Mr. Bergeron, Messrs. Casey and Jackson's amendment allow the...would allow the electors of the city to vote in an election, to consent to the change in the status of the police and fire department. Is there a provision here to call that election? Wouldn't that be up to the city council, and if they decided not call it, there wouldn't be one?

MR. BERGERON

I was just about to pose that question to you, Mr. Goldman. I see no set time, no set date in that amendment which would call the question to a vote. It could last fifty-two years without being called to a vote.

MR. DERBES

Phillip, I'm a little unclear about your basis for supporting, or rather, for opposing the amendment. Are you saying that your primary or exclusive basis for opposing the amendment is because the firemen and policemen have spoken to you about it, and you wish to represent their wishes?

MR. BERGERON

Well, I wish to represent their wishes in this manner: I wish to represent their wishes in the manner that they are qualified citizens and voters in the city of New Orleans. They, not looking at their standings as police- and firemen, have spoken on this issue, as had every other...the opportunity of every other citizens, and on that grounds, yes. I do support it.

MR. DERBES

Well, if we take the position that city civil service represents more of a merit system, and statewide civil service represents more of the seniority system, as the two compare, what is your basic principle, apart from representing the wishes of the people as you think they have been expressed, what is your basic principle in opposition to city civil service, apart from what you regard as the wishes of the people? In other words, what is the real issue here? Do you understand the question?

MR. BERGERON

I understand the question, but I've just stated the real issue. I'll state another point, too. You know, everyone's been saying, and I guess it relates back to what I've just said, that the systems worked so beautifully for twenty-five years. Jim, you know as well as I do, when a system's working well, you don't have the amount of complaints, the amount of animosity towards the system as you have now. If you're looking for a formula, whether it be sixty-fourty, merit-seniority, or sixty-fourty-seniority or merit...

MR. DERBES

Well, tell me about the complaints, then. That's what I'd like to know. If you tell me that state civil service represents a merit system, or represents a seniority system, and city civil service represents the merit system, then we can sit here and argue about the advantages of one system over another. But, I would like to know the specific complaints that have been leveled, apart from the obvious difference in the systems, I would like to know the specific complaints that have been leveled against the city civil service system, and maybe I'll vote against it, too.

MR. BERGERON

Jim, I'd just say the main complaint is the displeasement with the system. If you...

MR. DERBES

But, why? When people tell you that they oppose something, don't you ask them why? Don't you...do you understand what I'm saying?

MR. BERGERON

Right. I understand what you're saying. If I had the opportunity, I would ask you the question, why are you opposed to taking them out of the system?

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MR. DERBES

Because I'm under the impression that it works well.

MR. BERGERON

Well, these gentlemen aren't.

Chairman Henry in the Chair

Questions

MRS. BRIEN

Mr. Bergeron, do you agree that this amendment is more like a compromise, to leave it up to the people affected, to vote for what they really want?

MR. BERGERON

Yes, ma'am, but it's like an...it's an indefinite compromise, an undefined compromise. It's like, I guess, serving a life term in prison. You don't know when the compromise would be brought about. You don't have any specific date. I would say it's some sort of a compromise, but not one that I would agree with. Yes, ma'am.

MR. KEAN

Mr. Bergeron, as I understood you earlier, you indicated you would have no objection to this matter being left to a vote of the people in Orleans Parish, if they happen to be the only one affected. Did I understand you...that correctly answer Mr. Dennery?

MR. BERGERON

No, sir. I said I felt that the people should have a voice in what's done in the system. I said that this is the opportunity, time and place for that voice to be viewed.

MR. KEAN

Well, do I understand that when we talk about the voice of people, that we're talking about the voice of only the firemen or the policemen, and we're going to not pay any attention to the rest of the voters and people in Orleans Parish when we consider this question?

MR. BERGERON

Yes, sir, but that's the question. They had had the opportunity to cast their voice, to cast their ballot one way or the other. I haven't heard their voice, and I've had open ears, Mr. Kean.

MR. KEAN

Well, have you made any effort to contact the mayor of New Orleans who won by, say, a seventy percent vote in the last election, and discussed with him his feeling about this?

MR. BERGERON

Mr. Kean, I've made a constant effort to contact the people of my district. Those are the wishes that I will abide by in my decisions in the convention--the wishes of the people who elected me to this position--and I have heard from their voice, sir, in the...what you see back here on the rails, the police and firemen. I have not heard anyone opposed to this, and let me say, I have my phone number and address in Baton Rouge and New Orleans in the little local newspaper weekly. They have had the opportunity to contact me. They have not on this particular issue.

MR. KEAN

Do I understand, Mr. Bergeron, that on a matter of this kind, simply because other people in Orleans haven't contacted you, other than the firemen and policemen, you would deny the people of Orleans the right to vote on this particular issue, should they desire to do so?

MR. BERGERON

No, sir. I do not deny them to vote their opinions on this particular issue. My number's 242-6362. They can call me any time they wish.

MR. FLORY

Mr. Bergeron, isn't it true, under what the convention's already adopted, that people are going to have a right to vote on it, when they vote on this constitution?

MR. BERGERON

Yes, Mr. Flory, and in the end result, if the people are not pleased with this, they will have the final voice. As it's been said, we're not legislating; we're handing to them a

document which we've composed. If they do not like it, if they do not want to adopt it, they can simply vote against the constitution. That's their prerogative.

MR. FLORY

Isn't it further true, Mr. Bergeron, that the passing grade in the city of New Orleans is seventy, and in the state civil service, municipal fire and police, it's seventy-five, so that you've got to be more qualified to pass the state examination than you do in the city of New Orleans?

MR. BERGERON

Yes, sir. That is correct.

MR. FLORY

Isn't it further true that some of the problems that...the reason that the firemen and policemen want to be in the state municipal fire and police system, is because under their present conditions, they're mandated to work in a higher classification, but yet, they don't get the benefit of the higher pay, but as under the state system, they do get it?

MR. BERGERON

Yes, sir.

MRS. WARREN

Mr. Bergeron, did you only receive postcards?

MR. BERGERON

No, ma'am. I've received postcards, letters, telephone calls, and personal contact.

MRS. WARREN

So, and you received none from no one else?

MR. BERGERON

No, ma'am.

MRS. WARREN

Do you think that all the controversial issues that have been in this convention should be a matter of the vote of the people before they are accepted, or do you think that they should accept the vote of their elected representatives that they sent here?

MR. BERGERON

Do you mean in the end result?

MRS. WARREN

Right.

MR. BERGERON

I think that the people should have the final say in the end result. I think that is their right, and I would not agree to any other system which we might work out. I think they should vote yes or no on it. Yes, ma'am.

MRS. WARREN

If this is going to be an alternative, it should be statewide?

MR. BERGERON

Yes, ma'am.

MRS. WARREN

Thank you.

MR. LANIER

Mr. Bergeron, do I understand your position correctly that you don't wish to see the people of New Orleans have the right to determine for themselves the way that this thing should be set up?

MR. BERGERON

No, sir. You have completely misunderstood my opinion, and that's unusual for you, Mr. Lanier.

Further Discussion

MR. TOBIAS

Mr. Chairman, fellow delegates, the issue before us again is firemen and policemen in the city of New Orleans. I ask each delegate from outside of the city of New Orleans to ask his or herself why he or she has been voting to exclude firemen and policemen from city civil service in the city of New Orleans. May I suggest to you that the only reason is to appease one

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special interest--the AFL-CIO. Historically, they have opposed constitutional revision in this state. This convention is beginning to look like a ship of fools, and the ship is sinking, fast. What could be more reasonable than to let the people of the city of New Orleans decide whether they want the policemen and firemen included under their own civil service system. Is that asking too much? I think not. It really makes me sick to think that we're being led down a primrose path by one special interest in this state.

Personal Privilege

MR. BURNS

Mr. Chairman and fellow delegates, in the last few days, our Chairman has very properly, and I think of necessity, has admonished us. He's warned us, he's begged us, and he's plead with us to move this convention on, in view of the constantly shortening of time to the deadline. I say to you that there's no way, there's no way that we can finish this convention by January 19, if we're going to day-by-day constantly bring up the same issue to be argued and debated, and it's always the same length of the debate; it's always exactly the same subject matter that's brought to our attention. Now, we're starting at the beginning of this proposal, and going through the exactly the same things that this convention has previously decided in many instance by a substantial majority. There's nothing that I can say except that perhaps we're just sitting back there, and not realizing this. I plead with you fellow delegates, that once we have affirmatively decided on these questions which are not statewide in importance, you might say, if just affects either certain parts of the state, or certain elements. But, they are not of the seriousness of statewide import that should justify this much waste of time on repetition. I don't object to anything being argued here and decided, and then go on to something else. But, what we've spent the last three days doing is going over and over exactly the same thing. I plead with you, along with our Chairman, let's decide these issues once and for all, and then go on to something else. Otherwise, we're never going to finish. Thank you for your time.

Further Discussion

MR. SUTHERLAND

Mr. Chairman, fellow delegates, I ran for this constitutional convention because I thought it would be a historic moment in the history of this state, that I would have an opportunity to come and participate in writing a document that would be the basic law of our state. When I ran for this position, I promised my constituents only one thing, that I would give independent thought, that I would not yield to special interest groups, and I would adopt a constitution that in my opinion was in the best interest of all the people of this state. Now, I happen to serve on the Education and Welfare Committee, and long before we ever started meeting, we received cards asking us to support police and firemen in the city of New Orleans being excluded from the city service system of that city. You people, when you've considered the civil service system decided that two hundred and fifty thousand was too close to your particular cities, and you wanted to limit it to the city of New Orleans, so you increased it to four hundred thousand, and you carried that pretty well. So, you wanted it to be limited to the city of New Orleans, but now, you say, well, why shouldn't the city of New Orleans be similar to everybody else in the state? By gosh, you, by your own vote, made them different. I cannot understand why you are listening to Mr.--I won't mention names, but a delegate from New Orleans says he heard from the people, and he heard from the firemen and policemen, and I did, too. But, now, by this amendment, you're being asked to give the people of New Orleans a chance to express themselves. Now, if you're interested in passing this constitution, you're going to have to have more people vote on it than the police and firemen of the city of New Orleans, or the state police, or any other special interest group. You're going to have to convince the majority of people of this state. Now, if the majority of the people of New Orleans don't approve of this, then, by gosh, do you think they're going to vote for this constitution? I don't. I'd like to give them an opportunity to vote for it because I think that there are some people here who want this constitution prepared so that it will be in their interests, and if it's not in their interests, then they'd just as soon not have a new constitution. But, I'm interested in a new constitution, and I want to give it every opportunity to pass, and I want to be able to go out to the people and say, I am convinced that this

is a better document, and I want to say that we operated as an independent group. When I first came to this convention, I was impressed with the delegates of this Constitutional Convention because I could see that there was a lot of independent thought going on. But, in the last few weeks and the last month, I have not seen that independence, and I believe you're making a serious mistake. You say offer alternatives to the people of the state. Yet, you admit that this affects only the city of New Orleans. We're right back to what you say. You want the state to vote what is good for the city of New Orleans, or do you want to give the people of New Orleans a chance to say what is in their best interest? I mean all of the people of New Orleans, not just some, not just those who happen to belong to a different organization. While I'm on that point, I might say that this issue has been lobbied more than any other issue, both on the floor and in the balcony. I think that some things ought to be looked at, and this is one of them. I resent the lobbying on the floor of this convention, by whomever it's done.

Questions

MR. SHANNON

Mr. Sutherland, are you of the opinion that no matter how much more talk goes on here that no more votes are going to be changed?

MR. SUTHERLAND

Well, you may be right, Mr. Shannon. I don't know. But, I would hope, I would hope that some of these delegates are not so tied up with a special interest group that they won't listen to debate.

MR. SHANNON

I wondered if you would ask the other speakers that are on the list in there if they would waive, and you'd move the previous question.

MR. SUTHERLAND

I have no objection.

MR. BERGERON

Matt, I thank you for not mentioning my name. I'd like to ask you, can you gather from the remarks that I made, don't you feel that the people of Louisiana, and by far, the people of New Orleans through our public information meetings, through the media, and the information we've distributed, don't you feel that they have had ample opportunity to express themselves.

MR. SUTHERLAND

No, sir.

MR. BERGERON

Don't you feel the people who had the final say as to whether they want this provision adopted, whether they vote for the new constitution or not? Don't you believe that?

MR. SUTHERLAND

I tell you this, Mr. Bergeron: I have talked to a lot of people, and the talk I'm getting right now is that this constitution doesn't have a chance, and I want to give it a chance.

MR. BERGERON

I want to give it a chance, too.

MR. SUTHERLAND

All right.

MR. CHAMPAGNE

Do you know, sir, that I am not from New Orleans, but that I feel that if I were in your position in voting on this issue I put myself in the place that if this affected my area, that I would want to be able to make that decision ourselves. I wouldn't want it made by people who have nothing to say about it.

MR. SUTHERLAND

I ask you to support this amendment, please.

Further Discussion

MR. ABRAHAM

Mr. Chairman, fellow delegates, when we came into this convention, I think we were all in agreement that one of the things we wanted to do in this constitution was eliminate the

necessity for the rest of the state voting on issues which affected a local subdivision, or a parish, or a city, and I think we in the adoption of the article on Local and Parochial Government, we reaffirm our purpose here. We adopted a strong local government provision. Throughout here we have said we would give the people involved a chance to vote on the things that affected them locally. We did it in the Judiciary Article with the districts; we did it in the Local Government Article. Right now, I feel that this convention is meddling. We're meddling with something that we don't have anything to say about, or we should not have anything to say about. Now, I'm from Calcasieu Parish. If the people of New Orleans want to have their own civil service system, I think that and we had provided for that in this constitution, and I think it should be up to them to decide which people they're going to include in it. Now, the remark has been made that we're going to give the people of New Orleans a chance to vote on this when they vote on the constitution. Well, no, you're not giving them a chance to vote on this issue when you vote on the constitution because they're going to have to vote on something that affects the whole state. They're not just voting on this one issue; they're voting on all the rest of it. Ladies and gentlemen, I just think we're meddling here. This don't apply to any of us outside the city of New Orleans. Let's let them fight their own battles. Throughout this convention, we've talked about giving the people a right to vote, giving them a chance to express themselves. Well, how can any of us stand up here and say that we're not going to give the people of New Orleans a right to vote on what they want to do on something that applies strictly to them. So, I'd say let's get out of meddling in their affairs, and let them do what they want down there. I urge the adoption of this amendment.

Recess

[Quorum Call: 76 delegates present and a quorum.]

Further Discussion

MR. DERBES

Ladies and gentlemen, if I may have your attention for just a few minutes, I would like to put my two cents in on this issue. I have not been at this microphone very much lately, primarily because many of the things that we have been talking about are not within my particular sphere of knowledge. I have listened rather carefully to the debate that has occurred thus far. I would like to make the following point primarily as a matter of logic, and I do not submit to you a great deal of factual knowledge. I merely draw conclusions or inferences from data supplied by other delegates. It would seem to me that basically the question at hand is whether or not Orleans Parish shall be governed by a civil service system which puts more emphasis on merit than on seniority. That, to me, seems to be the nuts and the bolts of this particular problem. It has been expressed to you that those people who are specifically affected, that is, those employees--namely, the firemen and policemen in Orleans Parish--would prefer the state Civil Service System. I believe that the preference is based, primarily on their desire to see more emphasis placed on seniority rather than merit. I'm going to steal a little bit of Mrs. Brien's thunder here and say to you that I think it's time to hear, perhaps from the Devil's advocate, perhaps from a representative of consumers in this state and by consumers, I mean, those of us who have use for and need for such very important city civil services as fire and police. I simply want to make one point to you, a point that I have experienced for some time in my brief career as an assistant district attorney in Orleans Parish. I have seen in that period of time the caliber of our police department in Orleans Parish improve, in my view, markedly; I attribute that, basically, to a sound civil service system. I suggest to you that when you pick up your telephone and your personal residence may be afire, or when you have need for police services in order to protect yourselves, your family, or your home, I ask you to think about that moment, ladies and gentlemen, when you are selecting a person...when you are calling a person to answer a specific need, to solve a specific problem. I ask you very clearly and very pointedly if, at that time, you would prefer some person whose promotion has been essentially based on seniority or would you prefer some person whose promotion has been more characteristically based on merit? I think, as consumers, as people who are using and have need for very distinct, very important, very personal needs for those city services which are at issue here. Very clearly I, as a consumer of those civil services, would like to see a person come to my door, or answer my fire call, or help me to protect

my family, if that person's promotion; if that person's position in the department is based more on merit than on seniority. I am not opposed to giving some consideration to seniority. But, basically, the question at hand is whether or not the Orleans Parish Civil Service System is functioning adequately. I say to you that as far as I know it is; it is functioning adequately. If the only criticism, if the only substantial criticism that can be levied against it, is that it puts too much emphasis on merit rather than seniority, I suggest to you if you were hiring someone to do a job for you--and that is indeed what you were doing here--how would you base your choice? Would you base your choice on seniority or on merit? The answer to me is clear and unless very specific, very well documented arguments can be advanced against a city civil service system which is functioning quite adequately, I see no reason to disturb it. This convention has seen fit to do otherwise. I suggest to you now that the persons who are affected, namely those persons who have need for city civil services should be permitted to decide how those city civil services are administered; that is the specific point of this amendment. I very strongly urge your support of it. Thank you.

Question

MR. BERGERON

Jim, I just have one point to bring out since we are discussing Mr. Casey's amendment. You know I'm quite in favor of letting the people have a voice as to whether...when a matter pertains to one particular locality. But, before other delegates in this convention--in New Orleans and outside of New Orleans--have decided to do otherwise. Take a look at the judicial system. When we elect...in New Orleans we were the only parish in the state which had twelve-year terms for district court judges. We, delegates of the convention, lowered their terms to six-year terms. Now, it was strictly a local matter strictly a local issue. Why weren't the people in Orleans allowed to decide whether their judges in the district courts should have six or twelve-year terms?

MR. DERBES

Well, frankly, I don't think that germane to the subject matter. I'll say to you quite frankly, Mr. Bergeron, that I voted to give Orleans Parish control over its existing judicial structure. In fact, I voted against six-year terms for Orleans Parish judges. I simply believe that when a system is functioning adequately and efficiently and until specific criticisms are well documented and levied against it and advanced in support of a system that would reform that, I see no reason to disturb the existing system.

Further Discussion

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, I guess outside of Jasper Smith--if you want to speak geographically, I live as far away from New Orleans as any member of this convention. In spite of the previous debate that we've had on this matter, I had some reservation in my mind whether I had voted right or wrong before. I must say in all sincerity that I am not one of those who makes up my mind and asks you not to give me the facts because you might confuse me. I think I have learned today from the debate from this podium a lot of facts that I needed to know to honestly make up my mind and know that I was voting correctly. I am not in any way disparaging on those who may be opposing this amendment. But, I must frankly tell you, when I look at the statute of gentlemen that I see supporting this proposal--and without singling out particular...all of them--but our people like Tom Casey, that I served with in the legislature; Matt Sutherland, that I have enjoyed sitting back there since the fifth of July with; and other members. I have found them to be people who were conscientious, looking for a constitution for the people of the State of Louisiana and not for any special interest group. That has had a lot to do with my decision in addition to the facts that have been furnished to me both by those proponents and by the opponents of this bill. It is my opinion, after hearing the debate from this podium today, that we would be making a serious mistake if we did not adopt this amendment. I think that the old saying about the preacher when he said, "We are going to have to cut all this whiskey drinking out," and the old lady in the audience says, "Amen;" and says, "We are going to have to cut out all this cigarette smoking," and she says, "Amen;" and he says, "We are going to have to cut out all this snuff dipping," and she said, "He had done quit preaching and started meddling." Well, I think we are meddling now, ladies and gentlemen. I seriously

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and earnestly urge you to support this amendment that has been offered by Mr. Casey. I think it will be for the welfare of the entire city of New Orleans and not for some special group.

Questions

MR. BERGERON

Walter, I just like to bring out this one point. If this was offered to the people in the form of an amendment and they were to vote on it, someone would have to campaign on one side or the other.

MR. CHAMPAGNE

Right.

MR. BERGERON

Now, we're talking about policemen and firemen. Policemen and firemen are under civil service. Does not civil service prohibit any type of political activity?

MR. CHAMPAGNE

That's correct, Mr. Bergeron; but, I've had some pretty good phone calls and suggestions and so forth from a lot of people in my area.

MRS. ZERVIGON

Mr. Champagne, isn't it so that Mr. Bergeron's assertion would have been true before the adoption of this new constitution? But, with the Flory amendment of yesterday, we have changed that and while they may not campaign publicly for candidates, they may campaign for or against public issues; is that not the case?

MR. CHAMPAGNE

That's true.

MRS. ZERVIGON

And, isn't it also the case that they have lobbied pretty effectively on a citizen-to-citizen basis which is also permitted presently at this very constitution under the old civil service, isn't that correct?

MR. CHAMPAGNE

That's correct.

MRS. ZERVIGON

Thank you, Mr. Champagne.

Further Discussion

MR. CASEY

Mr. Chairman and delegates, the main objection seems to be that there is no guarantee that there will be an election called. I have prepared an amendment which would require an election within one year of the effective date of this constitution. I now request permission to withdraw this amendment and submit a new amendment calling for an election within one year.

[Amendment withdrawn without objection.]

Amendment

MR. POYNTER

Amendment sent up by Mr. Casey, Mr. Johnny Jackson now reads:

In the Dennerly amendment, on page 1, at the end of line 12 of the text of the amendment, delete Floor Amendment No. 1 proposed by Delegate Flory and others, adopted by the convention on the eleventh, insert in lieu thereof the following: "However, paid firemen and municipal policemen may be excluded if a majority of the electors in the city affected voting at an election held for the purpose consent thereto, provided said election shall be called by the governing authority of the city affected within one year after the effective date of this constitution."

Explanation

MR. CASEY

Mr. Chairman and delegates, I'm sure this eliminates all opposition to the amendment. I ask adoption.

Further Discussion

MR. FLORY

Mr. Chairman, delegates, I rise in opposition to the amendment. We've decided the issue about three times in this

Further Discussion

MR. WILLIS

Mr. Chairman and fellow delegates, to grasp the better course of an issue, we must always endure with becoming and exemplary patience--those whose manners annoy us, whose ideas disturb us, whose practices offend us, whose contentions bore us, and whose facts frighten us; otherwise, we dwell at odds with each other and with ourselves. The frail human tendency to build a wall that shuts out those who differ from us is imprudently to box ourselves in. No matter what minority interest we choose to safeguard--and I don't refer to races or religions. We are, at the same time, members of a larger society and these larger and more inclusive loyalties must be preserved if we are to have equal protection, or for that matter, any protection of the laws--or that kind known as law and order--because the majority of us belong to some minority group. The part is never greater than the whole; it is easier to square a circle than to contend otherwise. Civil servants should enjoy equal status regardless of their type of service. No service is unimportant; it is a disservice to good servants to pretend or provide that some services should be preferred or segregated. That would be the height of discrimination and the bottom of bad judgment. Equal justice under the law means more than that. To cajole for power is no virtue. The best assurance for acceptance of our document is that its provisions are above reproach of favoritism for some. Everything serious is difficult and civil service is serious. The problem challenging us now, on this amendment, should not be what may be popular or make us popular but what is right and proper. We hold within our hands that which is more precious to our people than personal popularity, power or political aggrandizement. It is called equality. No time is a good time to make differences amongst employees of our state or give more privileges or preferences to some. They should be an indivisible and undivided group because they are similarly situated from the standpoint of civil service protection. There should be no last, there should be no first amongst civil servants. Civil service remains...removes the civil servant from the political arena; it insulates him from the political pressures, but it does not relieve him of service to our state civilly. The allegiance of civil servants should be to the people; it is a poor servant who fears the voice of the people. The public servant who fears the people is to be feared. I applaud the system in New Orleans which was the first-born in our state and wish it for every municipality. I deplore the denials of any people the right to decide their destiny. I support the amendment because it is wholesomeness in government. Thank you, Mr. Chairman.

Further Discussion

MR. CHAMPAGNE

Mr. Chairman, ladies and gentlemen, I simply want to make one or two very brief remarks. It has been said that this proposal has been offered to us numerous times. This proposal has not been offered to us previously. This is one which says the people of New Orleans themselves would decide whether they want to be...have their people, their representatives, their firemen, and their policemen in the city of New Orleans remain in a separate system or join the state system. I think that what we, as delegates not in the city of New Orleans, have to think about is how would we in our position, in our area, how we would react to such a proposal? Would we welcome it, or would we prefer someone in New Orleans to make the decision for us? This is the thing that I'm trying in my own mind to rectify. This is an opportunity, and I would bring it out even further, and I think they may do this if they will provide that within a certain period of time the people of New Orleans shall be offered the opportunity to make such a referendum. I said so when I first came in here; when I first spoke to you as a delegate, I was urgently in opposition to anything different from New Orleans and the rest of the state. I was a fundamental in that opinion. I have since found out, and I appreciate very much that this is a New Orleans function. I think that they should make the decision. I think the people of New Orleans are entitled to that, just as I think the people in my district are entitled to make certain sections. I think this is too far-reaching for us to dictate to the people of New Orleans what they shall do. I also fear that we are putting the constitution on the line if we choose one way or the other. But, by doing this, we are allowing them to make their own decisions. I thank you.

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convention already as to the uniformity of the system of fire and police civil service throughout the state in those municipalities over thirteen thousand. I ask you to reject this amendment. I know this sounds as a democratic process. But, let me suggest to you that if it were only those people that actually were affected working under the system voting, that would be one thing. But, the way this is, that's not the case at all. What you have is the resources of the entire city, the parish of Orleans, could get out and use in public literature and buy space on television and in the newspapers in this election, whereas, the employees could not because of lack of resources. The people would not be on an informed election. I ask you to let's stay with the proposal as we have it now and go forward. But, I ask you to reject this amendment.

Further Discussion

MR. JACK

Mr. Chairman, ladies and gentlemen, I'm going to talk on this addition about this election amendment--the one here. Now, we've gone over this same thing time and again. New Orleans ought to be like the rest of the state, a lot of us have been saying that in the legislature for years. We couldn't do it because they had about a fifth of the House members. This is a different ball game with the constitutional convention with a hundred and thirty-two members. New Orleans, as a rule, is looking after New Orleans and not thinking about the rest. Now, I want you to consider this amendment as I interpret it. It provides for an election within a year after the effective of this constitution and that means as to all cities over four hundred thousand. I'm not sure of it, but there is going to be a lawsuit later when other cities get to be four hundred thousand. If you are going to treat one way, you treat the others another way. If it turned out I was right on it that other cities, when they got to be four hundred thousand, could have an election on it, you're going to have a pretty silly situation. You would have Shreveport and other cities that because four hundred thousand that has been under this statewide firemen and police civil service for years and years and say it was working good, then there could be an election there in that city for it. I'm just saying we ought to just quit tampering with this thing. Get the police and firemen that are paid under the statewide civil service where they belong. Let's defeat this amendment.

Questions

MRS. ZERVIGON

Mr. Jack, let me just get your position clear if I may. Are you saying that if we introduced an amendment saying that all cities over thirteen thousand would be mandated to hold this election within a year, you would be able to support it?

MR. JACK

Now, I didn't say under thirteen thousand. I'm thinking about this whole thing mainly as applying to cities over four hundred thousand.

MRS. ZERVIGON

Well, you didn't like singling out cities over four hundred thousand because that treats one city differently than the rest. I'm asking you to pick a figure which would treat all cities alike which you could support.

MR. JACK

I'm just trying to take up, Mrs. Zervigon, what's before this chamber. I don't quite follow you; you're giving me a hypothetical question or what?

MRS. ZERVIGON

Well, I'm just asking you whether or not it's that we are singling out one city that you are opposed to it or whether you would be opposed to this referendum in any case? I'm saying municipal fire and police includes in it all cities over thirteen thousand and whether or not you could support an amendment, if I drew it, that said "all cities over thirteen thousand would have their own civil service system shall hold an election within a year after the effective date of this constitution." Could you support such an amendment?

MR. JACK

Mrs. Zervigon, I take up things as they come, but I want to answer you this way. I don't think this is the subject for voting by the electorate. People send us down here to do our duty. They send people to the legislature. Now, when the first civil service was passed back in 1940, the legislature

is the one that passed those bills. They were not submitted to the people; it's not a type of thing that's submitted to the people. We didn't have voting on the others. You people that are opposed to the firemen in New Orleans and the police there being in the statewide civil service--firemen and police--you keep losing, so now you want to holler this old thing that's been hollered for years, "Let the people vote on it." Now, the people vote on certain things. This is one thing they have never voted on. The only time they did was when the civil service for the state employees got gutted in 1948 and I, along with others, coauthored those bills to put them in the constitution where they could not get gutted by the legislature. I'm not bad-mouthing the legislature. I was a member of it for twenty-four years. But, I know what pressure is and how people can vote there and a popular governor--what he can do. This isn't a subject matter to be submitted to the people--that's my opinion--you can have your opinion.

MRS. ZERVIGON

But, the people did vote on those original amendments, didn't they? You can't amend the constitution?

MR. JACK

In '48? Yes, ma'am; that was the only way to handle it and they sure voted for it. I just don't....

MRS. ZERVIGON

One more thing: you were referring to a statewide system of fire and police; would you be for a unified statewide pay plan for fire and police?

MR. JACK

Look, you just try to just ask me what all in the future I would stand for, I take the things up as they come, Mrs. Zervigon....

[Previous Question ordered. Quorum Call:
95 delegates present and a quorum.]

Closing

MR. CASEY

Mr. Chairman and delegates, I would certainly appreciate your attention in this matter because, although, some members may think that this is a matter which is insignificant by comparison to the problems that we have statewide, the problem of civil service generally is certainly important. I believe, I firmly believe that the problems that each individual municipal and parish has is of also statewide importance. We should give equal dignity and consideration to those problems; give proper consideration to them and, with courage, give a proper vote that we in our hearts know is right. I would submit to you that if you had a private business, as has been aptly pointed out--a corporation, Mr. Roemer, or a small business, Mr. Willis, your law office, for instance--that you would hire, or fire, or promote, or demote on the merit system, not on seniority. Seniority is certainly a consideration and you don't want to lose those people who have experience, who may have some seniority. But, you don't put somebody at the top that is not the best man or the best lady to do the job--you use the merit system. Now, under state, municipal, and police, and fire system the test is given on a pass-fail basis. If fifteen take the test and the senior person is fifteenth on the list, they are the ones that get the original appointment--it is my understanding. However, under the merit system, you have the system of three: those who are the three highest who place on the examination are those that are considered for appointment to the position. This is the system that has existed in the city of New Orleans since 1942 and here we are today lightly considering that particular system which has been in existence for so long and at the twist of a hand which controls a button, which controls the light, which controls the decision--we are lightly taking that responsibility. I submit to you, ladies and gentlemen, that we should not haphazardly change anything in today's constitution but give thoughtful reflection to everything. As Mr. Roemer asked yesterday, I distinctly remember, you happened to be against an amendment because you asked the very question, "Why is the change necessary? Why is the change necessary?" and there has not been one iota of evidence which indicates that this particular change is necessary, has been no sound reasoning whatsoever given to this recommended change. Delegates, I cannot urge you strong enough, with every fiber of my being, that you adopt this amendment and give the people in the city of New Orleans, the people in the city of New Orleans, the opportunity to determine their own future for their own police and firemen. I urge adoption of this amendment.

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Questions

MR. WILLIS

Mr. Casey, I have two questions. Don't you think that democracy is bitter only when it is denied?

MR. CASEY

Absolutely, Mr. Willis.

MR. WILLIS

And, don't you think that counting heads by election is a better way to govern than breaking them or allowing them to be broken?

MR. CASEY

Mr. Willis, you have urged from the beginning of this convention, "We the people," and we can do no better job than let, "we the people of a local area, affecting only them, to decide what their future is." I know that's your philosophy, and I certainly submit that philosophy for decision by this convention.

MR. BERGERON

Tom, I just have a few questions. One of my questions is: This system has been in operation since 1942. Why is it in the same situation as it is now? By next question--I'll let you answer them both at one time--under our city system for police and firemen, we do not have a set date when promotional tests are to be given. Under the state system--you know which we are hearing all about the merit system it's fine--but there is no set date or period of time when the tests are to be given. Under the state system, every eighteen months a test must be given.

MR. CASEY

Mr. Bergeron, you are a delegate to this convention. You have a right through the various amendments and proposals in this article, if there are deficiencies--or if you think there are deficiencies, to recommend changes to those deficiencies. If you feel that set, periodic times for examinations are the biggest fault in our system of civil service, I think you can require, though some sort of amendment, that that be corrected. You have the opportunity, Mr. Bergeron, and you correct the error if there is.

MR. BERGERON

Tom, I'm just saying, the merit system can be the best system in the world. But if the tests are never implemented, it's hardly going to do any good for the system.

MR. CASEY

It may also be required by need. If there are not positions open, there may be not a necessity for the test.

MR. FLORY

Mr. Casey, could you tell me what the qualifications are that a man has to have for the position of superintendent of police, or the fire chief of the city of New Orleans?

MR. CASEY

It is my understanding, Mr. Flory, that that rests with the prerogative of the mayor, the chief executive of the city of New Orleans to make the appointment. Whether there are requirements set down in any law setting forth what guidelines he should follow, you might have to point those out to me because I don't know.

MR. FLORY

That, and the position of the assistant chief, both, are both political appointments, are they not?

MR. CASEY

If you wish to say that political means that an appointment rests in the prerogative of the mayor, or I noticed many delegates here have rested the future of the State of Louisiana through appointments with the governor. If that's political, yes, Mr. Flory.

[Record vote ordered. Amendment adopted: 51-47. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next amendment goes to (B), and it's sent up by... Delegate Vick.

Amendment No. 1. On page 1, line 14, in the Dennery amendment, on page 2 of the Dennery amendment, line 12, after the words and punctuation "lieutenant governor," before the words "each mayor" insert the words "attorney general".

Explanation

MR. DENNERY

Mr. Chairman and fellow delegates, this is a technical amendment in its classic form. The attorney general was in...is in the Constitution of 1921 in this provision. He is in the committee's proposal. Mr. Dennery assures me that it was an oversight that he was left out. Unless there are questions, I ask your favorable adoption to restore what was a clerical mistake.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

The next amendment sent up by Delegate Champagne. This goes to Paragraph (C). There needs to be a technical correction to the instructions of it. It reads "In the Dennery Amendment adopted on...adopted last Saturday, on page 2 of the amendment at the end of line 24, immediately after the word and punctuation "quorum," and here's where we need to add the insert, strike out "Convention Floor Amendment No. 1 proposed by Delegate Champagne and adopted on the eleventh of December," and insert in lieu thereof the following sentence...

"No more than one appointed member shall be from each congressional district."

Explanation

MR. CHAMPAGNE

This is a technical amendment. As you will recall, you adopted the previous amendment by a vote of 63 to 13 which is the ratio of five to one. At that time, you all agreed it was a good amendment, in majority, and Mr. Flory questioned of me that if one of the ...one of the members would subsequently be elected, one or more, which we decided to do, the majority of this convention did elect one of the members of this commission. He asked would I have----- at that time, come back and make an amendment to say that no more than one appointed member shall be from each congressional district. This is what this amendment does. I think that it's a good amendment. I think it may have some weaknesses, but certainly it will strengthen, in the eyes of a lot of people in this state, that these appointments shall not be dominated by the colleges that exist in New Orleans, but shall be divided throughout the state. All of the organizations that I belong to statewide have representation on this basis. I think we should encourage representation to this committee. I offer your....I suggest that you adopt the amendment. If you don't do so, then you are going to require that the elected member would have to run, possibly, from only one district. This would be wrong.

I urge your adoption of the amendment. I should see no reason for opposition. I would answer any questions on the subject.

[Previous Question ordered. Record vote ordered. Amendments adopted: 93-3. Motion to reconsider tabled.]

Amendments

MR. POYNTER

The next set of amendments sent up by Delegates Flory and Dennery together.

Set of three amendments; in the Dennery amendment, page 3, end of line 11 in the Flory amendment, delete the word "to". At the beginning of line 12, delete the words "hundred fifty" and insert in lieu thereof "four hundred".

Amendment 2. On page 4 of the Dennery amendment, line 22 after the partial word "ceding", delete the remainder of the line and insert in lieu thereof the following: "four hundred thousand."

I've got a third amendment makes the same change, on page 7, at the end of line 30.

MR. HENRY

It's an ecumenical amendment.

Explanation

MR. FLORY

Mr. Chairman and delegates, this is a joint amendment, you might say. Mr. Dennery said he wanted to ask me to put on there "under duress"—his name under duress. All it is, though, is a technical amendment where the figure, two hundred and fifty thousand appeared in the proposal. We've changed that figure in the other places to four hundred thousand. This just makes it coincide with those other provisions.

[Amendments adopted without objection.]

MR. POYNTER

The next set of amendments are sent up by Delegate Johnny Jackaon.

MR. HENRY

Is Mr. Jackaon here? Delegate Johnny Jackson?
Pass over it.

Amendment

MR. POYNTER

Mr. Chairman, I might say it's my understanding that these amendments were worked out between Mr. Jackson and the staff, and I understand there may be some controversy about them. They were technical and necessary in some measure to implement the amendment that Johnny Jackson did pass on a previous day.

MR. HENRY

Is anyone familiar with these amendments?
All right. Let's pass over them for a minute and maybe someone can get familiar with them.
Mr. Dennery, are you familiar with them?
Would you like to handle them?

Explanation

MR. DENNERY

Mr. Chairman and delegates, the purpose of this amendment is to correct an inconsistency now that there has been a previous amendment as far as the city commission in New Orleans is concerned. The provisions of the city act now say five instead of three members. The way...my amendment reads, it permits...it provides that three of the college presidents mentioned in the previous section, "which three members shall be selected by the governing body of the city, which is over four hundred thousand, shall be the appointing agents and make the nominations for the appointment." Mr. Jackson wants to change that so that there will be five members of other commissions as well as that in New Orleans.

Now, the second part of his amendment, however, is slightly different. I think it will accommodate the people from outside of New Orleans because it permits them to select any five universities in the State of Louisiana, whether they be public universities, or private universities. Since these presidents will nominate city officials, in other words, members of the City Civil Service Commission, the necessity of private universities is not as great as it was with the state. It will permit the individual communities to select those five universities that that community desires to select. I think it is a very sound amendment. It certainly should be changed to provide for five commissioners since the balance of the amendment deals with five commissioners, and I should think that the authority granted to the governing body of the particular city to select the five universities is a sound one.

Question

MR. ALEXANDER

Mr. Dennery, unlike the other systems, under the terms of this amendment, the governing body would be permitted to select any five institutions in the state?

MR. DENNERY

Of higher learning. Yes, sir.

MR. ALEXANDER

Is that right?
Then, if that governing body decides to discriminate and exclude certain institutions, it may do so. Is that correct?

MR. DENNERY

Reverend Alexander, I would agree with you, but I assume that Mr. Jackson considered that—since he drew this. I didn't see it before today.

MR. ALEXANDER

....You didn't see it?

MR. DENNERY

No. I mean I saw it when it was passed out, and Johnny had told me he was going to draw an amendment. He didn't mention that he was going to change the universities.

If any question is on that, Mr. Chairman, I think it would be better to wait until Mr. Jackson returns because he may have had reasons that he didn't tell me about.

MR. ALEXANDER

I think so. Unless there is some clarifying language, somewhere.

MR. DENNERY

Thank you.

MR. DENNERY

Mr. Chairman, I suggest that since there is a question about this, that we may pass over it until Mr. Jackson returns. I didn't think there was any problem.

Motion

MR. HAYNES

I move that we pass over this until Mr. Jackson is here.

MR. HENRY

Why don't we just withdraw it for the time being? Would that be fair enough, Mr. Haynes?
Would you mind doing that?

MR. HAYNES

I'll be glad to accept.

[Amendments withdrawn without objection.]

Amendment

MR. POYNTER

The next amendment goes to Paragraph (G) sent up by Delegate Jenkins.

Amendment No. 1. In the Dennery amendment on page 4, line 34 of the text of the same, delete Floor Amendment No. 1 proposed by Delegate Flory and adopted by the convention on December 11 and insert in lieu thereof the following:

"Fitness, and experience, as"

Explanation

MR. JENKINS

Mr. Chairman and delegates, if you'd turn to page 4 of Mr. Dennery's amendment, at the bottom, you'll see where originally he provided that civil service appointments and promotions would be based on merit, efficiency, and fitness. Then Mr. Flory included the term, "length of service," so that there would be four bases for promotions and appointments. This amendment would delete Mr. Flory's terms, "length of service," and insert in lieu of that the word, "experience," so that you'd have it based on four things: merit, efficiency, fitness, and experience. Now there is a big difference between length of service on the one hand, and experience on the other. I think when the convention, if you will remember, by a very narrow vote, it was a forty-four to forty-four vote at first, voted in favor of length of service being included. I think the convention was thinking in terms of experience—that we were saying that experience will be a factor in promotions and appointments in civil service. Certainly, experience is now a factor, and should be a factor in civil service appointments and promotions.

But, length of service is something different. Length of service is strictly seniority. That pertains to whether or not a person has been working for the state for a certain length of time; and, not only for the state, but for a given department, and sometimes, even a given unit within a particular department. I think here, we're really talking about the guts of civil service when you talk about seniority. Civil service is a merit system. It has, in the past, been based on merit, efficiency, fitness and experience. It has not been based on length of service because length of service and experience are two different things. If there is one problem that I think many of us have with the article, it is this: the fact that we are including seniority in here.

You notice the way this provision stands, the Civil Service Commission could, by rule, put all emphasis on length of service. They could make civil service wholly based on seniority; in fact, if you would examine the contract entered into between the AFL-CIO and

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the highway department, you would see there that in promotions, a person would first of all have to be employed by the department in a given unit; and, if there were no other qualified person in that unit, then as long as he was qualified, he would have to be hired, and no outsider could be hired. In fact, they could not even go outside a given unit such as a gang--a work crew--for a promotion. Now, that's the sort of arbitrariness that we're faced with if seniority becomes a factor in civil service appointments or promotions, or, in fact, it would even be worse if seniority became the key thing that's emphasized.

So, what I'm saying is, let's take out "length of service" and put in "experience." That will allow us to go out and, if we can, get a man with ten years' experience or twenty years' experience; that that will outweigh the fact that a man has been serving with the state for a year or two. Experience is really the point if we are going to base it on merit--not length of service. So, I urge you to adopt this amendment.

Questions

MR. ROY

Mr. Jenkins, could experience be a...an indefinable type of word, though, in that context? Or, are you talking about if a person came in from the army and had experience in a particular field, he would automatically have more fitness for the job than a person who had been with the department more number of years.

MR. JENKINS

No, I don't think that it's an arbitrary or indefinable thing. What they normally will say is, for example, they will consider the fact that a person has maybe ten years' experience working as a carpenter, if it's something like that. Or, two years' experience as a physician, or whatever it may be under the particular classification. But the Civil Service Commission does not require that that experience be just with the state. Now, state employment will count as experience, but it would not be in and of itself superior to other experience. You see, what...the way the thing stands right now, you could have a state employee with six months service, who could be given preference over a man with five years' experience outside of state service. That wouldn't be reasonable.

MR. ROY

No, but you could very easily have a man with ten years' service being bumped by somebody who has eleven years, in the army, of experience, couldn't you?

MR. JENKINS

Well, certainly, if all other factors were equal, that could be a possibility. But if there was any other difference in test scores, or whatever; efficiency, or other fitness characteristics, certainly I don't think that would apply. But remember, too, we are talking here about these people being in the top three. If they are that close together, they are all going to be in the top three, and the appointing authority can choose whomever the appointing authority wanted to.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I rise in opposition to the amendment to say to you that what we are talking about are factors, and factors only, which civil service takes into consideration in the...promotional field. Now, when you talk about experience versus length of service, I think everybody understands what length of service refers to. But, when you get into the area of experience--and certainly the state wants the experience--I don't mean that, but let's take for example, and we've had a number of these happening in recent years--not only here, but everywhere else--where a man, let's say, is retired from industry; or let's say he is retired from the federal government, then, in a particular field, what Mr. Jenkins is saying is that he wants that person to have credit and consideration for that experience even though he may be on a twenty thousand dollar a year retirement from the federal government, in the state employment here. What you are doing by that is depriving the faithful servants of this state, who have given their life and dedication of service to this state. Now, all I had said the other day, and I've had some conversation with people in civil service; I know what they do with regard to length of service today, they do give credit, they do give consideration to length of service. All we were doing the other day was constitutionalizing what is the actual practice in the Civil Service System today. I am told that in practically every system to my knowledge, that consideration is given to length of service; so that I ask you not to substitute the word "experience," and leave the word "length of service" in there,

because everybody knows exactly what that means; and, it refers to the years of length of service that person may have had in his particular position, or in his particular employment with the State of Louisiana or with a local governmental subdivision. I think it's extremely important, as a factor in keeping the dedicated employees that we have in this state. So, this is one of the incentives that they have to retain in state employment, is to know that they're going to be given some consideration, if they give their life to state government--that they'll be given some consideration when a promotion comes about, in order to be considered for that position. I ask you to reject this amendment.

Questions

MR. ROY

Mr. Flory, where you have length of service in a particular position, would you agree with me that that is something that we could all understand since it deals with a particular work project? Would you agree with that?

MR. FLORY

Absolutely.

MR. ROY

Now, when you talk about the word "experience" though, as for example Mr. Jenkins used with respect to a carpenter, it could be that we'd be looking for a finished carpenter--a guy who does cabinet work--and the commission could, in its discretion, say that a rough-out carpenter had the experience equivalent to ten years; which would bump a guy in length of service who maybe had only three years as a finished carpenter. Isn't that...?

MR. FLORY

That's correct, because he may serve ten years as a carpenter, and still not be able to be a carpenter superintendent as it requires him to read blueprints, supervise people, etc., yet he has the ten years' experience.

MR. ROY

The point is....

MR. FLORY

But, if he were...had ten years as length of service as that superintendent, in that particular employment of the state, doing that type of work, then that could be considered.

MR. ROY

The point is that the word "experience" will be at the whim and discretion of some people who may want to favor a guy and say he's got the experience over somebody who's had a lot of length of service.

MR. FLORY

That's absolutely correct; particularly, let's take the electrical field where you said that you had experience in the electrical industry. Well, there are hundreds of different positions in the electrical industry, even though he may have basic knowledge of electricity, and yet he couldn't qualify for a particular position as an electrician or a classification of that type. So, there is a great deal of difference between actual experience in a field, and the length of service in the particular employment.

I ask you to reject the amendment.

MR. WEISS

Delegate Flory, would you envision an equalization-type formula which would include merit, efficiency, fitness, length of service and experience in this type of selection process whereby merit is the predominant factor?

MR. FLORY

Mr. Weiss, if I understand your question correctly, I have no quarrel with just adding the word "experience," but leaving in there as a consideration, the man's length of service. Because as I've said before, this is one of the strong factors in keeping good, faithful employees in state government. But, I think to take out the words "length of service" and substitute the word "experience" is detrimental to this provision of the constitution.

[Previous Question ordered.]

Closing

MR. JENKINS

Mr. Chairman, I want to read to you briefly from the

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agreement entered into earlier this year between the AFL-CIO and the Department of Highways so that we can show, really, the issue in question here. Take the question of promotions; Article VIII of that agreement says this:

"It is the policy, wherever practicable to fill vacancies or new jobs by promotion of employees from the next lower level job class on the basis of their, one; seniority, and second; qualifications."

Now, listen to this further. "Any vacancy in a parish maintenance gang below the highway maintenance superintendent level shall be filled by promotion of the best qualified employee with the greatest departmental seniority, working within the work unit where the vacancy exists. If there are no qualified employees (in other words, if nobody passes the test) in the work unit, employees working in other work units within that maintenance unit will next be considered." In other words, if there's anybody with any length of service, if he is...meets the bare, minimum requirements, he's got to get the job. I think that's the goal we are talking about here. Let me show you just how far that goes. It even goes so far as to say, employees shall not be transferred from one work unit or gang to another work unit or gang for the purpose of promotion."

The whole concept of making length of service--or seniority--as one of these standards, is contrary to the basic philosophy of civil service which is based on merit. Now, insofar as length of service is part of someone's experience, it's total, overall experience, sure it has to do with merit. But the fact that a person has merely served, to give him advantages over others who have more experience, is illogical and can only lead to a deterioration of our merit system in this state. Experience includes length of service, but is not limited to length of service. It includes many other things. Let's--so often in our discussion, we have got off the track. The train we're supposed to be riding is the one that says we get the best qualified people we can to serve the people of this state in state employment. That's why we should base it on merit factors such as experience, and not length of service.

So, I urge the adoption of this amendment.

Questions

MR. ROEMER

Woody, what did the old constitution, or the present civil service provisions read in regard length of service? Anything?

MR. JENKINS

No, I think it was silent on that.

MR. ROEMER

Aren't what you are trying to do is to insure that merit will have as great a place in the civil service promotion regulations as possible? Is that not true?

MR. JENKINS

Yes, really what I'm trying to do is to see that there's no drastic alteration in civil service. It's been based on merit before. I don't want to see that changed and make it a seniority system in any way, shape, or form.

MR. ROEMER

In addition, in your opinion, isn't it true, that you're trying to draw out, to make clear to us, that the relationship between merit and experience is a much closer one than the relationship between merit and length of service? Is that not also true?

MR. JENKINS

That's right, Buddy. I think when the convention acted on this before, they thought they were putting experience in there because we didn't talk about the subject that much. But, length of service is not broad enough. It ought to be experience.

MR. FLORY

Mr. Jenkins, didn't you say that provision read that the man with the most...the best qualifications, and the most length of service would be filling the position? Isn't that what you said?

MR. JENKINS

That was one part of it. Of course, that in and of itself is ambiguous because, unless you have a man that meets both those things, it wouldn't be relevant. But, later on it says that promotion shall be based on the fact that a person meets the seniority requirements. Because if there's any qualified person

that meets the bare minimum standards, who's presently working, he has to be promoted ahead of all the others.

MR. FLORY

That's where there is no people available that are....

MR. HENRY

The gentleman's exceeded his time.

[Record vote ordered. Amendment rejected: 44-48. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments goes to Paragraph (J), sent up by Delegates Newton and Flory: Amendment No. 1. In the Dennery amendment, on page 6, line 21, of said Dennery amendment, at the end of the last line in the Floor Amendment Proposed by Delegate Jenkins and adopted by the convention on December 12, immediately after the words "private organization" change the period "." to a semicolon ";" and add the following: "provided that this shall not prohibit any state agency, department or political subdivision from contracting with an employee organization with respect to wages, hours, grievances, working conditions or other conditions of employment in a manner not prohibited by any civil service law or valid rule or regulation of a commission."

[Motion to pass over the amendment adopted without objection.]

Amendment

MR. POYNTER

Next set of amendments, then, is sent up by Delegate Alphonse Jackson, Delegate Lanier, and Delegate Dennery. Relates to Paragraph (?).

Amendment No. 1. In the Dennery amendment, on page 8, line 34, immediately after the word and punctuation "employees," insert the following: "except teaching and professional staffs, and administrative officers of schools,"

Explanation

MR. A. JACKSON

Mr. Chairman, ladies and gentlemen, this amendment clarifies the questions that were raised this morning by way or for the decision relative to whether or not school teachers would be required to become a part of civil service by a local governing authority. I think that we've worked it out, and I think that this language clarifies the question, and I would move the adoption.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Next set of amendments would be the Newton amendments we just passed over, and the distribution copies just arrived here, and the pages will have them passed out in just a minute. Amendments sent up by Delegates Newton and Flory, just read.

Explanation

MR. NEWTON

Mr. Chairman, ladies and gentlemen of the convention, I, bring this amendment to the floor because I think possibly yesterday we went a little too far when we adopted the Jenkins amendment. Now, I think that you would agree with me that no union should be allowed to have what we call a union shop in this state, which would require union membership as a condition of employment. Originally, I supported...I was in favor of the Jenkins amendment when he first brought it forward because I did not want any possibility of the requirement of a union shop in the state. However, I do believe that under the proper conditions, that is--I don't want to have to set those out here either--but, I do believe that if the employees of a proper bargaining unit want to have the union to be their bargaining agent, then I think they have that

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right, and I think that the union has the right to be that bargaining agent. Now, this amendment is designed to be assured that there is a possibility that the union could be bargaining agents for proper bargaining units within civil service. I'll be glad to yield to any questions; if there are serious technical questions on it, I would ask Mr. Avant to come forward.

Questions

MRS. ZERVIGON

Mr. Newton, can state employees collectively bargain on wages and hours at present?

MR. NEWTON

I'm sorry, I can't hear you.

MRS. ZERVIGON

Can state employees collectively bargain as to wages and hours at present?

MR. NEWTON

Mary, I asked that very same question, and it's my understanding, as far as state employees, civil service employees, no. But, that there are unions that are bargaining agents and bargain for hours and wages with some of the city employees and things of this nature. Yes, that is being done, in certain instances.

MRS. ZERVIGON

Well, I know that that's not true in my city. They may not bargain for wages and hours, but...

MR. NEWTON

No, and I don't believe they would be able to under this proposal, either, Mary; it's my understanding that they would not.

MRS. ZERVIGON

Well, tell me why the words "wages and hours" are in there, then.

MR. NEWTON

Because if we under some statutory civil service systems, it would be necessary to include this language because that is the way they are presently operating.

MRS. ZERVIGON

So, it's your opinion that in some of the other city civil service systems, they may presently bargain for wages and hours.

MR. NEWTON

That is my understanding, Mary.

MRS. ZERVIGON

Mr. Newton, isn't it correct that nothing in this proposal applies to any of those systems, that this applies only to the state and cities over four hundred thousand, mandatorily? Isn't that correct?

MR. NEWTON

Mary, I'll have to check on this a minute, and try to answer your question then.

MRS. ZERVIGON

Because I believe if you want to change those statutes, the way to do it would be statutorially, and that what you're doing now is making a substantial change in the state civil service system.

MR. NEWTON

I don't have the Jenkins amendment in front of me right now, but I do believe this language is necessary.

MR. DREW

Autley, the way you have this amendment drawn, it does not in any way, take into consideration the wishes of the employees, does it? It's strictly the right of a employee organization to say a union, to enter into a contract with the department of the state, without the employees having anything to say about it one way or the other. You are ratifying that type of procedure by this amendment, aren't you?

MR. NEWTON

This amendment does not say anything about the requirements, the procedures for setting up the bargaining unit, no.

MR. DREW

But, what you are doing is you are granting the right for a political organization to enter into the contract with a department to represent its employees without ever consulting the employees in any manner. Isn't that what it does?

MR. NEWTON

I don't think that that's what this does. I think the legislature could set up the proper procedures, or the Civil Service Commission, for determining how these things would be worked out.

MR. TOBIAS

Mr. Newton, would you please explain to me again how this does not provide for a union shop?

MR. NEWTON

This does not...

MR. TOBIAS

Doesn't this, in effect, require it? I mean that's the way I read it.

MR. NEWTON

No, this does not require a union shop. A union shop requires that the membership in the union is a condition of employment. There are other provisions in the Denney proposal which would prohibit this.

MR. TOBIAS

Let me ask you this: What does the phrase...what is an "other condition of employment"? Couldn't that apply to anything? In other words, couldn't the state agency get together with the union, and say, "This is a condition of employment?"

MR. NEWTON

I don't think that the state agency could do any such thing, Mr. Tobias. I think it could come from the legislature; I think it could happen. It could happen now.

MR. KEAN

Mr. Newton, as I read this in conjunction with the Jenkins amendment, which was adopted, it seems to me that it has the effect of completely negating the prior provision against discrimination because it first says you can't discriminate, and then it goes on to say that provided this shall not prohibit and so forth. But, in the circumstances, wouldn't you think...

MR. NEWTON

I don't follow that, Gordon, at all. It says that you can't discriminate, but that you can have a contract. Now, if you think discrimination is having a bargaining agent and a bargaining union, well, then, I hope it does.

MR. KEAN

My question is that the first part says you can't discriminate, and then you say that "provided this shall not prohibit any state agency from having a contract with respect to these items, not prohibited by any civil service law." So, it seems to me that if you had a contract, you could, under those circumstances, discriminate; could you not?

MR. NEWTON

I disagree. I disagree. This is an exception to the so-called discrimination rule. I regret the necessity to bring this forward, but I think that the Jenkins amendment went too far, and I think we've just gone completely overboard on it.

MR. DENNEY

Mr. Newton, this...the way this language reads, it says, "in a manner not prohibited by any civil service law," and so forth. Now, what we have so far adopted is a provision that the commission shall fix the pay plan, and the pay plan is then approved by the governor after the legislature has appropriated the necessary funds. So, that is no prohibition against the negotiation, and yet, how can you provide for a negotiation for wages and hours when those are fixed by the commission? It seems to me that this is a direct conflict with the theory of the law, not only as it stands today, but as we have thus far adopted a civil service law. Furthermore, would this not permit a negotiated contract which would require length of service to be ninety-nine percent, and merit, efficiency, and fitness to be one percent? Would that also not cut at the heart of the merit system?

MR. NEWTON

I certainly don't think so because it says, "not inconsistent with any valid..."

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MR. DENNERY

No, no, no, it doesn't say "not inconsistent"; it says "not prohibited," and that's what the question is I'm asking you. Why should you use the language "prohibited"?

MR. NEWTON

I'm sorry, Moise, I didn't follow you.

MR. DENNERY

Your amendment says, "in a manner not prohibited." Now, you just said it's not inconsistent, but that's an altogether different word from "prohibited." Were it "inconsistent" I might be able to go along with it.

MR. NEWTON

Well, not at this time.

MR. JENKINS

I'm still not clear on what "other conditions of employment" means. Does that mean like that a condition of employment might be whether or not a person is in a union?

MR. NEWTON

Well, of course, I think that your amendment would keep that from happening, Mr. Jenkins.

MR. JENKINS

Well, but you...is this intended to be an exception to my amendment, or a clarification of it, or what?

MR. NEWTON

It's supposed to be an exception to your amendment.

MR. JENKINS

Well, then, if it's an exception, this would be an exception to it, that you might require people to be in a union. Wouldn't that be an exception to it?

MR. NEWTON

Well, like I said, I told Harmon a minute ago, there are other provisions in the Dennery amendment which would prohibit, in effect, membership in a union being a condition of employment.

MR. JENKINS

Which provisions are those?

MR. NEWTON

I don't know; I don't have it in front of me. I talked to Moise about this yesterday, and he assures me that it is in there. I also have assurances of Mr. Flory, that he would not make any effort to change that provisions.

MR. JENKINS

You mean, in other words, we're supposed to...Mr. Flory's not going to be around, maybe, for fifty years, you know, writing contracts for state employees.

MR. NEWTON

I'm talking about in this convention, to change the prohibition against membership in the union as a condition of employment.

MR. JENKINS

Well, aren't wages, hours, and grievance procedures all established by civil service rules?

MR. NEWTON

Mr. Jenkins, I explained that a minute ago. It's my understanding that they are not in certain instances of, in some city employments, and I'm not terribly familiar with this. Mr. Avant is, and I'm sure he could answer that question.

MR. JENKINS

Well, why don't you, make this, then, applicable just to city civil service, not to state, if there...?

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I ask you to adopt this amendment. It does not do what some people have, in their line of questioning, attempted to convey to the convention that it would do. Let me call your attention to the language of the amendment adopted yesterday, proposed by Mr. Jenkins, when it says that "no rule, regulation, or practice of the commission, any agency, or department, or any officer of the state, or any

political subdivision shall favor or discriminate upon the basis of membership or nonmembership." Now, what that says, in effect, is, as I tried to convey to the convention yesterday, would prohibit me from signing any type of an agreement, even though they may be willing to sign such an agreement covering certain conditions of work. Bear in mind, again, that what the Jenkins amendment applies to is both those employees in civil service and those employees outside of civil service, so that, I'd have some contracts in existence today, in those subdivisions that do not have civil service. Consequently, it's necessary that we place into the contract the hours of work, the rates of pay that are negotiated between the employees and the employer. But, we said in the final conclusion there of that amendment, anything that's not prohibited...employment, in a manner not prohibited by any civil service law, or valid rule or regulation of a commission, so that if you have a Civil Service Commission, and they have rules to set the working conditions, and the city council, for example, set the salaries, under the procedure, this would not affect that at all. The only type of a contract that I could sign would be those items not covered and mandated by civil service. But, when you adopted an amendment yesterday, you covered both civil service and non-civil service, so that what you have done by the adoption of the Jenkins amendment yesterday is prohibited me from signing any type of a contract or an agreement. Now, I don't believe this convention has the authority, or would try to abrogate contracts, even those that we have in existence today. But, further yet, are those in existence, that might come into existence in the future, particularly those where you do not have civil service. But, under the Jenkins amendment, and we researched this quite thoroughly, it's our consideration that you have prohibited us from signing any type of an agreement when you say that they cannot favor a group by the signing of a contract. That, then, would be prohibited. So, I would ask you to adopt this amendment. I did not delete, or did I attempt to delete, the Jenkins amendment. I understood yesterday, and Mr. Jenkins in his line of questioning, and it was statements made from this microphone, no one wanted to stop us from making legitimate contracts. Yet, that's exactly what, I think, the amendment did do, although I do not believe that it was the intention of the author to do that, so that I ask you to adopt the amendment, to clarify, to mean exactly what I think the intentions were. I'll be happy to answer any question, Mr. Chairman.

Questions

MR. JENKINS

Mr. Flory, under Subsection (J), the rule-making authority of the commission, provides there that the commission and the commission alone shall have authority to adopt a uniform pay and classification plan, and regulate employment conditions, and so forth. What could an agreement between an employee organization and a state agency agree to with respect to those things?

MR. FLORY

Primarily, grievance procedures, some orderly process whereby they could process their grievances.

MR. JENKINS

Well, now, there is a method of appeals set forth under Subsection (L), appeals to rulings of the commission, and also of...there are appeals procedures for people who are discriminated against, or whatever. Don't those cover grievances?

MR. FLORY

No, we're talking about everyday grievances that never get to the appeal level, and never get to the commission. This is grievances within the day-to-day operation of state government within a particular department or agency.

MR. JENKINS

Well, then, inasmuch as pay scales and working conditions and so forth, are covered by civil service...

MR. FLORY

I couldn't contract for that under any circumstances.

MR. JENKINS

So, then, you don't need that language. Why don't you just say "grievances," then?

MR. FLORY

Because your amendment covered both civil service and non-civil service workers, Mr. Jenkins.

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I ask for the adoption of the amendment.

MR. DENNERY

Mr. Flory, I asked Mr. Newton the question, is there any reason why that word "prohibited" in the second to last sentence couldn't be changed to "inconsistent"?

MR. FLORY

I didn't understand you. I'm sorry, Mr. Dennery.

MR. DENNERY

In the second to last sentence of your amendment, you provide "in a manner not prohibited by any civil service law, or valid rule or regulation." Would that be just as satisfactory for your purposes if it said, "in a manner not inconsistent with"?

MR. FLORY

No, I think in all fairness, Mr. Dennery, what we're talking about, of those standards and rules and regulations that are former rules and regulations that are of a Civil Service Commission. Now, when you get into the term "inconsistent therewith," of course, you get into an area of question, and consequently, it winds up in court. We took this from the same concept that Local Government used in their article, and said that they could do it unless it was prohibited by general state law, so that, I think it's in the same concept that we have adopted in the other articles of this convention.

MR. DENNERY

Well, what you are suggesting, then, is that a Civil Service Commission could then adopt a rule which would say that anything inconsistent with the rules of the civil service law is prohibited. So, you achieve the same results. Is that correct?

MR. FLORY

I'm not an attorney, but I'll take your word for it and all the contracts, as I stated yesterday, that we signed that cover classified employees has a stipulation: nothing in that contract can be inconsistent or in conflict with state or constitutional civil service.

MR. DENNERY

Well, that's why, Mr. Flory, I had made the suggestion. If it were possibly for you to change the word "prohibited" to "inconsistent," it seems to me that this amendment would be satisfactory, but otherwise, I'm afraid I'd have to argue against it.

MR. FLORY

I'd have to consult...get some legal advice, as I'm not an attorney, as you well know, and you are, so you have me at a disadvantage in this particular instance.

MR. TOBIAS

Mr. Flory, could you explain to me the phrase "other conditions of employment"? In other words, the way your phrase reads, it says "provided that this shall not prohibit any state agency," etc., "from contracting with an employee organization with respect to other working conditions." What's an "other working condition"?

MR. FLORY

Well, other conditions of employment might be that; let's take in a...this is now relative to the noncivil service area, particularly where they had to report that they're working, let's say, in a parish road system, and that the people required that they report at the barn every morning, and yet they worked twenty miles away, that'd be one thing. But, if, on the other hand, they required that the job was twenty miles away, and they required those people to drive their own car that twenty miles, back that twenty miles without any compensation, this would be a negotiable item. This would be another condition of employment. That's just one example.

MR. DENNIS

Mr. Flory, as I read your amendment, with regard to civil service workers, all it does...it doesn't give you the right to get the state to enter a contract in violation of civil service rules; it simply gives you the right to sit down and talk with the state agencies, ideally, before the rules are passed, so that they will know what the employees feel about this.

MR. FLORY

That's correct. Gives me only the right, Judge, to sign

a contract that's in conformity with civil service. It says I can't find anything in contrary to it.

MR. DENNIS

As I read Mr. Jenkins' amendment, you might not be able to do that, if you didn't have your amendment.

MR. FLORY

That's correct, and that's the reason for the amendment, to make it clear.

[Quorum Call: 92 delegates present and a quorum. Amendment withdrawn without objection.]

Amendment

MR. POYNTER

The change is on the second to last line of the text: strike out the words "prohibited by", and insert in lieu thereof, "inconsistent with this constitution or", so, it would read, "provided that this shall not prohibit any state agency, department of political subdivision, from contracting with an employee organization with respect to wages, hours, grievances, working conditions or other conditions of employment in a manner not inconsistent with this constitution or any civil service law, or valid rule or regulation of a commission."

Explanation

MR. FLORY

Mr. Chairman, delegates, at the suggestion of Mr. Dennery, when he was at the microphone, take out the word "prohibited," and add in its place "inconsistent with," and also they had asked that we put in there "not inconsistent with this constitution or any civil service law, or valid rule or regulation of a commission." I think this takes care of most of the objections that I know of, and I would ask for the adoption of the amendment.

Questions

MR. ROEMER

Gordon, what about the objections to "hours and wages" being in there? Would you like to address a few remarks to that?

MR. FLORY

Well, as I said earlier, Mr. Roemer, all this applies to, actually, at the present time, if you have a civil service system, and the commission establishes those conditions, those hours, those wages, itself, with the approval of the governing authority. What we're referring to is necessary, due to the adoption and the language of the Jenkins amendment where it applies to noncivil service, so that when we're talking about negotiating for hours, wages, working conditions, etc., we're talking basically about those conditions of noncivil service personnel.

MR. ROEMER

I understand. One final question: in regard to the sentiments of the employees themselves, what's your...how does what we do in your amendment affect that; for instance, Delegate Drew asked you from this mike, if we adopted this amendment, the one prior to yours, we would in effect, negate the wishes, perhaps, of employees who desired not to belong to a union. Would your amendment affect that, their wishes, in any way?

MR. FLORY

No, sir, nor would I want to impose upon those who don't want to belong, a requirement that they do belong. This strictly leaves it up to the individual and that's where it ought to belong.

MR. ROEMER

Would this allow...your amendment allow the commission to bargain or to determine a sole bargaining agent, and deny the right to the individual employees to try to get representatives from another bargaining agent?

MR. FLORY

Well, first, let me say this that the commission, I don't believe that you'd conduct negotiations with the commission. I think it'd have to be with the department head or with the municipality, or whoever it may be, so that you wouldn't actually

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negotiate with the commission, But, you could not negotiate on those items or any items which were contrary to the rules and regulations of a commission.

MR. ROEMER

All right. But, let me make my question more specific, then. Could a department determine that they wish that their employees have, as their sole bargaining agent, Union XYZ? Could a group of employees in that same department determine that they wished to have another bargaining agent, and so have that agent? Would you prevent that?

MR. FLORY

I think the Jenkins amendment allowed that, and I don't change that, but I think he also... what he did do was prohibit me or anybody from signing an agreement, and that was a necessity for this.

MR. ROEMER

Thank you.

MR. FLORY

I ask for the adoption of the amendment, Mr. Chairman.

MR. JENKINS

Gordon, does this mean that with regard to noncivil service employees that some state employees or local employees could be required to join a union because of a contract entered into between a political subdivision and an employee organization?

MR. FLORY

I'm not sure, Mr. Jenkins, what the situation would be if there is no law on the subject, where you don't have a Civil Service Commission, etc. As you know, there is at this time in the Congress, legislation pending which would bring governmental employees under Taft... under the National Labor Relations Act. Whether that comes about or not, I don't know. That's something for the future. But, I'm not sure, legally speaking, whether you could or could not in the absence of any prohibition at this time.

MR. JENKINS

So, in other words, let's take, like, say, the East Baton Rouge Parish Sheriff's Department. Those deputies, I don't believe, are under any form of civil service. If the sheriff decided to enter into a contract with, say, an affiliate of the AFL-CIO, making it a prerequisite for employment, that a deputy would have to belong to the AFL-CIO. You're not sure whether or not...

MR. FLORY

Oh, no, I'm positive he can't do that.

MR. JENKINS

Why not?

MR. FLORY

Because a closed shop's illegal.

MR. JENKINS

Under what?

MR. FLORY

Under the federal law.

MR. JENKINS

As it pertains to governmental employees?

MR. FLORY

I think the closed shop's illegal, period.

MR. JENKINS

Under Taft-Hartley?

MR. FLORY

Yea, sir.

MR. JENKINS

Well, Taft-Hartley doesn't apply to governmental units.

MR. FLORY

I think when you're talking about a closed shop, that's a illegal. You said it as a prerequisite for employment, and...

MR. JENKINS

Well, if the Taft-Hartley doesn't apply to governmental units, then...

MR. FLORY

I'm not sure it doesn't in that particular case, Mr. Jenkins, and that's the reason I asked you before, but I think under the federal law, you cannot sign a closed shop agreement.

MR. JENKINS

But, that's only for private employment, is it not?

MR. FLORY

I can't answer that, but categorically.

MR. JENKINS

Well, can you categorically tell us that if the sheriff's department systematically discriminated against nonunion deputies, or would that be legal?

MR. FLORY

I think it would be in violation of the constitution and your amendment.

Further Discussion

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, I have to rise in opposition to this amendment, and if you'll give me a few moments of your time, I think I can show you a sound basis for opposing it. The criticism with the... that has been made against the Jenkins' amendment which was adopted was that it might prohibit a union from representing state employees. There is nothing in the Jenkins' amendment that would do that. The only thing the Jenkins' amendment does is says that no agency or department shall have a rule or regulation which will discriminate or favor an individual because he does or does not belong to a labor union, and that's all it says. That's the Jenkins' amendment right there. Now, I have been told by one man in particular, and a couple of them back of the rail, that I'm anti-union. Well, let me set you straight on that. I am not anti-union, but we have a little different idea of what a union is. In my book the union is those men and women who are paying the dues to that union organization. That is the union to me, not the men sitting behind the rail in this House in the convention here today. Now, let's get on to the amendment under consideration. Under this amendment, do you know who's been left out? Do you know who's been left out? The most important person involved in the whole thing, and that is the employees. The employees are totally disregarded, and if this amendment is adopted, either Mr. Flory's union--or if some other union came in here--they could enter into contracts with every agency and department of this state government without the consent of one employee of that department and be the bargaining agent for the employees of that department. Under this amendment, it constitutionalizes the authority to enter into a labor contract without ever consulting the important people--the working men and women of the state. That's exactly what this amendment does. I think if you adopt this amendment, you will have done more violence to this whole proposal. Let's take a look--as I said--at the people who are ultimately and most importantly involved, and that is the employees, the members or those who may not care to be members. The Jenkins' amendment does not prohibit joining a union. It says that if you join one you cannot be discriminated against. Likewise, it says if you join one, you cannot be given favors because you belong to a union, and that's all it says. Let's take a look at the welfare of the people, the employees, and defeat this amendment.

Further Discussion

MR. TOBIAS

Mr. Chairman, fellow delegates, I agree fully with what Mr. Drew just stated. I would point out this: the phrase, "other conditions of employment," under the terms of this if there is no constitutional prohibition, law or regulation of a commission prohibiting a condition of employment that would say that you cannot become an employee unless you're a member of a union, then that would be perfectly proper under this. In other words, it allows a state agency, or the head of that state agency, to conspire--and I regret to have to use that word--but to conspire to restrict employees to those who are members of a union. That's a condition of employment. That's a condition before they can be employed. It's as simple as that.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I'm going to ask you to do just two things...three things--listen and read and think. Now, the Jenkins' amendment, if you will recall during the course of the debate on that amendment yesterday, various people who were proponents of that amendment were asked not once but several times, as I recall, if it was the intent of that amendment and the purpose of that amendment to outlaw any type of collective bargaining contract --just do away with them; make them unconstitutional --and time and time again they said no, that's not what we want. That's not what we want. Well, if you read that amendment carefully--very carefully--I think that you will be forced to come to the conclusion that there is a very substantial likelihood that that is exactly what it does. So, acting in complete good faith and taking these gentlemen at their word, I tried to prepare an amendment that would eliminate that possibility and yet not disrupt the idea of civil service or do anything that what appeared to be the majority of the sentiment of this convention didn't want to do. So, I ask you to simply read this amendment. This simply says that this Jenkins' amendment "shall not prohibit any state agency, department or political subdivision from contracting with an employee organization--all right, now look down here--"in a manner not" prohibited by "any civil service law or valid rule or regulation of a commission." Now, all of these...now we changed that. We thought--again in good faith, I did--that if we took out that language "not prohibited by" and said "in a manner not inconsistent with this constitution or any civil service law or valid rule or regulation of a commission," that that would satisfy the objections, but it didn't. But, let's look at what we have done and the way it reads now. They can make a contract only so long as it is "not inconsistent"--(1)--"with any provision of the constitution," (2)"any civil service law or valid rule or regulation of a commission." Now, that means either the State Commission or any city commission. Now, I just want to ask you in all candor and all honesty and all fairness, do you for one minute think that the Civil Service Commission or the legislature is going to allow these dire things that people seem to be concerned about to happen? Certainly not! Absolutely not! This amendment has one purpose and one purpose only, and that is: to permit and recognize the right of collective bargaining insofar as it is not inconsistent with the constitution or the law or any "rule or regulation of a civil service commission." Now, I want to tell you something else while I'm up here. I happen to know a little bit about these contracts that we've been referring to. I'd like for you to read them. Practically every section, every clause, every page--not once, but fifty times--says "insofar as is permitted by civil service rules and regulations; so long as not in conflict with civil service rules and regulations." Every single one of those contracts before it's ever entered into is submitted to civil service, and their opinion is sought as to whether there is any provision that conflicts, and do they have any objections thereto. Now, those are facts, not fiction.

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, this is not the time for rhetoric, and I'm going to be as precise and brief as I can be. Yesterday when Mr. Jenkins came up with his first amendment to this section--the little short, one-sentence version--I voted for it because in reading that I could see that there was no way that collective bargaining was prohibited. Contrary to Mr. Flory's opinion, and others, I said you all are seeing bugger-bears when there are none there. There's nothing wrong with this; it's innocuous. It was defeated. The next time Mr. Jenkins came up with the amendment, that is sought to be amended at this time, I read it more closely. Gordon Flory got up here and said on several occasions, in his opinion, it violated the concept of collective bargaining. When he was asked to explain it, he really couldn't because it was hard to see. I sat back and I started reading it. Finally, when you all moved for the question, I realized that, in my judgment, seven out of ten times I would think a court would conclude that it did prohibit collective bargaining to the extent that when Woody closed, I asked him from the mike "don't you believe that in the end a person who refuses to join a union--and by which union's efforts, a contract is entered into with the Civil Service Commission for certain job work conditions and all--that he could get up and vitiate that contract, not on the basis that he was not a member of the union, but on the basis that this language when you read it says that he can claim some type of discrimination; that is: he says this union agent bargained certain conditions for me which you civil service people concluded and agreed to and with which I disagree; therefore, I'm discriminated against.

Now, in my judgment I think it would knock out collective bargaining, but Woody and all the folks who voted for it said that's not our intention. So, Mr. Avant comes with something that clearly, on its face, all it does is say we will make sure that Mr. Jenkins' amendment yesterday does not abrogate the idea or the concept of collective bargaining, and that's all we're dealing with here because it says that any time this agent is dealing with anything that's "inconsistent with this constitution," with "any rule or regulation of the commission," it will not be tolerated. At that point, I ask you, what is the concern of those, who said they were not opposed to collective bargaining, asking you to vote against this? I ask you to vote for it because, in my judgment as an attorney and in good faith, I believe that Mr. Jenkins' amendments yesterday--even though he didn't mean for it to--will preclude collective bargaining being engaged with the Civil Service Commission by anyone, and they will have a right to get it knocked out. If I am wrong--if I am wrong as a matter of law--then, what's wrong with this particular provision that allows specifically for collective bargaining. I ask you, I urge you, that, on the basis of that, to please vote for this amendment because it does nothing more than clarify what we did yesterday; and that is what you thought, clearly, you were doing yesterday; and there's no mistake about it at this time. Thank you.

Questions

MR. DREW

Chris, by the Jenkins' amendment merely stating that an agency or commission cannot discriminate whether you belong to a union or don't belong to a union, how do you interpret that as prohibiting collective bargaining?

MR. ROY

Very easily, Harmon. I say that when that employee--that one out of a hundred--who says that you, my employer, the civil service people entered into a contract with all these other people, and you provided that I'm going to have to wear safety equipment on the job because that's what the collective agents bargained for, that's discriminating against me; and I don't want to do it. Now, let me say, Harmon, I'm not absolutely positive that a court would interpret it that way, but it's my judgment that the language, as you read it, says that, that he could contend he's discriminated against as a result of your bargaining with the particular group of people that he did not belong to.

MR. DREW

I think you're stretching it real far, Chris, when you go that far on it, but let me ask you this: do you know of any constitutional provision or any rule of any commissions or agencies in this state that prohibit unionization or collective bargaining?

MR. ROY

No, I don't, but there's no such provision as the Jenkins' provision in any present constitutional provision either.

MR. DREW

But do you think that the fact that it says that you can't favor or discriminate just because they do or do not belong to a union, do you still say that would prohibit unionization?

MR. ROY

That's not what it says. It says that the one individual who does not belong, who says that he's discriminated against because the contract was entered into between the union people and the employer, in his judgment, disfavors him. He doesn't like it so he knocks out or vitiates the whole agreement.

MR. CHATELAIN

Delegate Roy, I know you're very well versed on this amendment and civil service and so forth. I'm trying to find out this: my clerk of court back home and my assessor's office is not involved with any kind of civil service. According to how I interpret this... in other words, a union can walk in there and tell these employees that's a condition of employment; is that correct, sir?

MR. ROY

No.

MR. CHATELAIN

Well, what is the facts, then?

MR. ROY

This, Mr. Chatelain, deals with our present civil service

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provision that we passed, which is Mr. Dennery's work, and does not deal with clerks of court and what have you.

MR. CHATELAIN

Well, you say here that any political subdivision...it "shall not prohibit any political subdivision," Mr. Roy, insofar as if it's not "inconsistent with this constitution." It seems to me like--I'm just an old country boy--but it seems to me like you're opening the doors to the clerks of court throughout this state and to also the assessors' office to move in and say look we want to bring civil service to you.

MR. ROY

Well, no, the civil service...the local governmental body--as I understand this last amendment that was passed--would have to...the clerks of court provided that they couldn't be forced to go into civil service.

Further Discussion

MR. JENKINS

Mr. Chairman, it's been said that the amendment adopted yesterday somehow precludes collective bargaining. That's not true at all. What that amendment says is that no "state agency or department, nor the Civil Service Commission, nor any political subdivision can discriminate against or favor any employee by virtue of his affiliations or nonaffiliations with any organization. With regard to collective bargaining, certainly, collective bargaining is permitted under that. The only caveat--the only thing I would say--would be, in relation to the remarks that have been made, would be that if one group of employees gets to bargain with the department, then the other employees of the department also get to bargain, and that no one little clique, or group, or union, or whatever it may be in the particular circumstance, would be the only one that would get to bargain. If you're going to have a meeting between employees and the department head, then just the representatives of the union would not be the only one that would be allowed to sit down there and bargain. Now, if you don't discriminate--if you allow all elements of the employees to come and be represented there, or to come themselves--then you're not discriminating. It would be within the purview of my amendment, but if you said that one little group of employees gets to come and bargain and nobody else, yes, that would be prohibited because that would be discriminating against a group of employees by virtue of their affiliations or nonaffiliations with a union. Now, it's said somehow that this amendment, that we're considering now, allows collective bargaining. It does not. Nowhere is there any collective bargaining in this amendment. This says that a political subdivision or a department or agency of the state can enter into a contract with an employee organization--can have two employees in it; it can have twenty percent of the employees, as at the highway department. That's bargaining with a small group of employees' representatives, but that's not collective bargaining on behalf of all employees. Notice that there's no requirement that a majority of the employees be represented. Now, it's been said that well, under court decision, if a majority of the employees of the particular work unit are in the union, then that union can bargain on behalf of all the employees. But notice it may just be a bare majority of the union members who even favor that sole bargaining agent. They may want to join the union, but they may not want to preclude their fellow employees who are not in the union from also bargaining. So, if you had fifty-one percent of a particular category of employees in the union and twenty-six percent or half of them were in favor of this sole bargaining agent agreement, then they could force the other seventy-four percent of employees to be bound by whatever they'd come up with. Now, I asked the question earlier whether or not in the local sheriff's department a small handful of people could claim to represent all employees and can go and bargain with the sheriff and require that you must be a member of a union in order to work as a deputy there. I got no answer to that. Certainly, perhaps they could bargain to say that everybody would have to join the union within thirty days after the agreement was reached. That's not the way we should run this state government or its political subdivisions. Civil service is something that ought to be based on individual merit. All our employees ought to be recognized as individuals and have a right to appear before their supervisors or their department head, state their grievances, state their demands and be dealt with. But for somebody to be designated to speak for them, without even a voice on their behalf, is basically unfair and unjust.

[2754]

So, I'd urge you to vote against this amendment.

[Previous Question ordered.]

Closing

MR. FLORY

Mr. Chairman and delegates, in closing, let me ask you to vote for this amendment. In good faith I withdrew the amendment, and it was stated that this would take out the objections some of them had if I inserted the words "not inconsistent with this constitution or any civil service law or valid rule or regulation of a commission." Now, Mr. Avant said that when these contracts are submitted to civil service, and they have suggested changes--I hasten to tell you where they have suggested those changes--we have gone back and made those changes in accordance with the requests of civil service. Now, I don't know how much fairer I can be than just that --- want to abide by the civil service rules and regulations, believe in them, help promote them, but yet here you are faced with scare tactics on theoretical propositions that might come about and try to create doubt in the minds of the delegates of this convention. I sincerely tell you this is needed in light of the Jenkins' amendment of yesterday, if you expect us to have any right whatsoever in order to sign any type of a contract, even with those political subdivisions that do not have civil service. I ask you in good conscience and good faith to adopt this amendment so that we can keep faith with what was stated from this microphone yesterday, that there was no intent to abrogate contracts or was there any intention to prohibit the signing of contracts. In that light, Mr. Chairman, I ask for the adoption of this amendment.

I suggest the absence of a quorum and request a record vote.

[Quorum Call: 94 delegates present and a quorum. Record vote ordered. Amendment adopted: 51-48. Motion to reconsider tabled: 51-59.]

Amendment

MR. POYNTER

Amendment No. 1. In the Dennery amendment on page 2 of the Dennery amendment, line 11, immediately after the words and punctuation "deputies, and" and before the word "officers" strike out the word "administrative".

Explanation

MR. DENNERY

Mr. Chairman and delegates, it was pointed out to me that the word "administrative" really doesn't mean too much in the location in which it is found, and I agree with that. I think it got in there inadvertently because there was a previous word "administrative" in connection with the schools and the colleges. I, therefore, urge the adoption of this amendment. It's more or less of a technical nature.

Vice Chairman Casey in the Chair

[Amendment adopted without objection.]

Amendment

MR. POYNTER

The amendment reads as follows:

Amendment No. 1. On page 1, in the Dennery amendment on page 3 of the Dennery amendment, delete lines 27 and 28, both inclusive in their entirety, and insert in lieu thereof the following: "dents of any five institutions of higher education in the state, which five institutions shall be selected by the govern-".

Explanation

MR. J. JACKSON

Mr. Chairman, delegates to the convention, on yesterday I passed an amendment which allowed to increase the New Orleans Civil Service from three members to five members. Inadvertently, in making this change, there was some reference to other cities who had reached the population that would require that they would set up a civil service, and where I had increased it to five in New Orleans, we still left a figure of 3. What this was intended to do is to technically correct, as it related to other cities who were going to reach a stage to select a civil service system, that said that they can select--I mean, the presidents of the

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five institutions in the state and which institutions should be selected by the governing authority. So, technically, I'm changing it from three to five to correspond with the amendment that I introduced and was passed on yesterday.

Questions

MS. ZERVIGON

Mr. Jackson, I can't find my copy. The only change you're making is from the number 3 to the number 5?

MR. J. JACKSON
Right.

MS. ZERVIGON

Well, may I ask you a question, please, about the thing as it would stand in either case, and that is: how often may the governing authority change these choices once they've made them? Suppose in a college nearby submitted a list of three that the governing authority didn't particularly like, could they then change that college and replace it with another college to get a different three names?

MR. J. JACKSON

That's not my understanding, Mrs. Zervigon. Under the Denny amendment as written, it would allow the colleges to select three, and if one of those three did not want to submit the names that the governing authority as desired, they could say well, substitute it. So I don't think that's the intent, but technically, I was attempting to correct the figure from 3 to 5.

MR. ALEXANDER

Mr. Jackson, whereas, in other sections of the Denny amendment, the institutions are named, but here you don't name the institutions, and you stipulate that any five institutions in the state--which could be almost any kind--there's no restrictions; so it could be five white institutions without black representation; isn't that right?

MR. JACKSON

I gather that it could, Reverend Alexander, but I think if you read the Denny amendment when it relates to three, it doesn't necessarily spell out those three institutions. It gives the governing authority, who may not want to select from these five in New Orleans--maybe want to select a combination of some in New Orleans, some in Lafayette, particularly like Lafayette, like if they wanted to...well, they've got, as I understand it, an approaching civil service system--but let's say some place where you have a local college and they may not be included under the five that's mentioned in the city of New Orleans, it gives the governing authority of that locality the latitude to select a combination of universities.

MR. ALEXANDER

Of course, in the Denny amendment, the institutions are named. Whereas, in yours they are not named and they may be either private or public because it says that "which five institutions shall be selected by the governor." That's any five.

MR. J. JACKSON

By the governing authority.

MR. ALEXANDER

Yes, right.

MR. J. JACKSON

Yes, right. I recognize that, Rev.

MR. ALEXANDER

You recognize that as a real problem; don't you?

MR. J. JACKSON

Well, I don't necessarily see it as a problem. I can't necessarily say that if in Shreveport that they reach the point where they want a four hundred thousand...and they want to select a civil service system that they must be selected from the five universities in New Orleans. I'm not prepared to force that on them.

MR. ALEXANDER

Yes, but suppose Lake Charles sets up a system, do you think it's possible that they would reach over to New Orleans and select one of the black institutions, or to Baton Rouge, or to Grambling?

MR. J. JACKSON

I would hope that they would. I'm just saying that if you look into the future...

MR. ALEXANDER

I'm afraid they wouldn't.

MR. J. JACKSON

Well, Reverend, that's a possibility that exists, but I don't know if I could mandate that forever and ever--every civil service system that's created--that the New Orleans universities are going to be the nominating body. I'm not prepared to do that.

MR. ALEXANDER

Not necessarily New Orleans.

MR. J. JACKSON

They could very well make it public and say well, we'll take USL, we'll take two from New Orleans; we may take LSU; and we may take Southern.

MR. ALEXANDER

No, now not necessarily New Orleans universities, Mr. Jackson, don't you think? I have reference to black universities anywhere. See, there are two other black universities that are public in Louisiana.

MR. J. JACKSON

Rev., I recognize that's a problem. If you want to amend it, I would have no objection, but I did not see it as a serious problem that you have pointed out. Really, the intent of this is really to be more technical than to be substantive.

[Previous Question ordered.]

Closing

MR. J. JACKSON

To belated fears of those delegates that feel as though we may be excluding, in the future, some other black colleges, I would like to just bring it to their attention that presently under the Denny amendment with three colleges, it closes the field more narrow. So, I suggest to you that this is basically a technical amendment rather than a substantive amendment. I ask your favorable adoption of this technical amendment.

[Amendment adopted: 69-18. Motion to reconsider tabled.]

Chairman Henry in the Chair

Amendment

MR. POYNTER

The next set of amendments...finally getting down to the two amendments which were in globo proposition. Now, Senator De Blieux, your in globo amendment was up here first. I presume you want the Pugh-De Blieux amendment, as opposed to the first one you sent up. Is that correct? The Pugh-De Blieux amendment first. Isn't that right?

I might point out, Delegate Pugh has sent up two amendments to this amendment in the event that his basic amendment should be passed. So, you might want to make sure that you do have the correct amendment which was passed out on yesterday. It's two pages--three pages in length--a short paragraph on the third page, just passed out, I believe, perhaps, they're still in the process of passing them out, were two proposed amendments by Delegate Pugh to this set in the event it should be adopted. Reads as follows:
On page 1, delete lines 13 through 32.....

[Motion to waive the reading of the amendment adopted without objection. Motion to limit debate on the Amendment to thirty minutes adopted without objection.]

Explanation

MR. PUGH

Mr. Chairman, fellow delegates, Tuesday night I dictated what you now have before you. Senator De Blieux assisted me in that endeavor. What you have was indicated on the cover sheet. I suggested to you that we might do one of three things relating

to civil service: 1. To place all of the present civil service provisions as contained in the 1921 Constitution within the 1974 Constitution. I suggested another alternative might be to amend, as we have been doing since this was dictated, not knowing, in many instances, the effect of those amendments. Lastly, or thirdly, I suggested to you that we might consider doing this; take the commission, as they were then passed by this body. The structure of the commission, leave it alone. In addition to that, to lock in the appropriations at seven-tenths of one percent of the salaries. Then, I suggested your consideration in taking all of the present 1921 Code of Statutes, correction, 1921 Constitutional Provisions, and create in Louisiana a civil service code. To lay the fears of those who felt that the legislature might do something relating to civil service, there is a provision prohibiting the legislature from abolishing civil service. It also requires a three-fourths vote of each member of the total House—not those present—but the total House, before this code could be amended. I suggest to you that if you take three-fourths of each House, that's a three-fourths of the legislature, that, in effect, you are insuring civil service perhaps even in a better manner than were it in the constitution. I do not believe we can put all of this in the constitution. I believe that for three days we have passed amendments, or worked on amendments, that, as a person who I think has a fair knowledge of the law, I've found myself concerned with what they meant.

As an illustration. We had a situation where Delegate Jenkins comes up with one amendment, then Delegates Newton and Flory come up with another amendment. I listened to both of them intently. I'm not satisfied with either one of them do. I think I have a fair grasp of the law. In addition to that, since Saturday, gentlemen, we have passed four amendments by more than sixty-seven votes. Look at this article. This article was presented to us by means of a Denny amendment, which I have no quarrel with; instead of section by section, it was presented as alphabetical subparagraphs. By alphabetical subparagraphs, all you needed was a majority vote. Man, wouldn't it have been nice when we were dealing with Local Government, when we were dealing with Taxation, when we were dealing with Executive, if they had all been alphabetical subparagraphs? Then we could have amended and amended and amended merely by a majority. Now the four amendments which got more than sixty-seven votes or more, were two of Mr. Flory's, and two of Mr. Landry's. Those four amendments are on one of the sheets that was just passed out. If you will join with me in resolving this octopus, by placing it in a code where it belongs, the simple amendment will take care of the four things that you thought enough of to vote in excess of sixty-seven votes. The only other provision you thought enough of, was the one of Mr. Champagne's. I have it on a separate sheet because it relates to the creation, and the matters relating to the commission. By this amendment, you will lock the commission in the constitution. You will lock the concept of civil service in the constitution. You will lock into the constitution the appropriations and the requirements that the local commissions appropriate. You will lock everything that's in the present constitution into a Civil Service Code—all of the jurisprudence that we have relating to the existing constitutional provisions will remain the same. They'll all be applicable to it. We'll have in one neat, little volume, everything that there was and is relating to civil service. Those of you who are concerned about whether or not the legislature can change it, conscientiously think if it takes three-fourths of each House, or a total, therefore, of three-fourths of the legislature, is it conceivable that the legislature that so few people trust can do anything with this? I suggest to you, gentlemen, that you are doing this state a great service by freezing into a code, the law that they know. We can go to everybody and say, "We left you where we found you." As far as civil service is concerned, we took what you had and we left what you had. We don't have to try to explain to countless thousands of state employees whether or not something they are interested in has been monkeyed with, tampered with, amended, changed, resolved. All of those questions are out of the way. I am not unmindful of the fact that something not too dissimilar to this, you have considered unfavorably.

In connection with that consideration, I call your attention to the fact that the concepts embodied here were not in there. I have waited two days to discuss this with you. Therefore, those of you who felt strongly about your earlier position, I beg your indulgence. I do so because I think this issue is important enough for a resolution in this matter. How proudly can we go back to these people and tell them, "We left you where we found you." We decided that civil service, through the years, had developed to the point where we did not have the expertise to monkey with it. I'll publicly admit it that I don't have that expertise. I'm grown enough to recognize that the people through the years have developed what is known to be one of the best civil service systems in the world. I'm willing to take it today at face value. I'm willing to leave it the way I found it.

I make no apologies to anyone about my inability to treat this subject in a porcupine method. I believe what we have done in the last four days, by less than what any other section would have required, is less than adequate for our task. I believe we owe the people more when we took our oaths saying we would do what we are now called on to do as a Constitutional Convention. If we had three or four years where we could work out all of these delicate problems, how nice it would be. Unfortunately, we do not. For three or four days we worked to the Denny amendment....

As I was stating to you, gentlemen, in all sincerity, I would not be here if I were not as serious as I am about where we are today in civil service. I'll candidly admit to you that I'm opposed by some people in this endeavor. I respect them for their views. I disagree that this convention should, tonight, or tomorrow, or sometime soon, lacking the passage of this amendment, have thrust upon the question to it, "Do we take the Denny amendment as now hodgepodge and vote it out as an article?" I suggest to you that had we had the opportunity, and I fought no one on this—had we had the opportunity to consider this in the cool light of a sixty-seven go, less than sixty-seven fail analysis, we wouldn't be at the problem where we are today where so many people have candidly told me, "I just don't believe I can vote for this article in the shape in which it's in. I don't imply. I don't suggest. I'm not an alarmist. I, personally, have a great deal of reservation and difficulty in pushing a green light for this article as it stands. If you wish to take those provisions that you, in your wisdom, thought enough of to vote at least sixty-seven for, then it's easy enough to take my concept, and with my concept, put those amendments in it. It wouldn't take five minutes. If you wanted to take the Champagne one, also, which is nothing more than kind of making it a little easier to understand, you can put that in there. I'm not suggesting to you that if you pass my amendment, that you've got to go through all of this again. That will not be necessary. You may take my amendment, if you are willing to do so, and on that foundation, we can build a house with a roof on it this evening. We can be completed with the Civil Service Article before we go home tonight. Short of that, it's anybody's guess if the finger of fate says "no" instead of "yes" on this article as a whole, where we—or for that matter, this convention, or the people of Louisiana—will be. I know that many of you have had this matter discussed by not only myself, but others. I have tried to basically leave you alone except run around and explain it to each person. Since then, people have asked me, "When's it coming up?" I say, it's coming out of the chute when they allow it to come out. It's here, gentlemen. I don't want to impose upon the opponents by taking more than my allotted time. I appreciate the courtesy and the consideration and the willingness that you have expressed by listening to me because I can look out there and see that you have given me your attention. I appreciate it.

I will be happy to yield to any questions for what little time I have left.

Questions

MR. HAYES

Mr. Pugh, how many amendments have we added since you drew this up?

MR. PUGH

Mr. Hayes, we have...I can't tell you the total number... but I can tell you that there have been five that got sixty-seven votes....

MR. HAYES

Since you've....

MR. PUGH

....I can tell you that we had a Jenkins one that went fifty-one, I think; we had one a minute ago that went fifty. I can tell you we took the Orleans policemen and firemen in; I can tell you we took them out. I can tell you both of those actions were done with less than sixty-seven. I can tell you we can raise an open shop and close the shop with less than sixty-seven...all in a matter of twenty-four hours.

MR. HERNANDEZ

Mr. Pugh, about twice you made the statement that you could go home and tell the people that you left them where they found them. But yours is not exactly that way, the way I read it here. It provides for a seven-member commission, six to be appointed by the governor, and one to be elected from the membership. That is a departure from the present constitution?

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MR. PUGH

That's absolutely correct. If I misled you, I certainly didn't mean to because I prefaced my remarks with the fact that I had taken the commission structure as this group had passed it and took it from there. If I had misled you, I apologize.

MR. HERNANDEZ

Thank you.

MR. PUGH

I don't mind telling the people that's what I did.

Further Discussion

MR. DENNERY

Mr. Chairman and delegates to the convention, I listened very carefully to Mr. Pugh's talk. I would first tell you that Mr. Pugh's idea was one of the first ideas I worked with when I discussed civil service as far as this constitution is concerned. Obviously, the shorter the provision, the better. But, after much soul searching, I came to the conclusion that we should imbed in our constitution a Civil Service Article. That we should not leave this article subject to being amended even by a super majority of both houses of the legislature.

Now, I have sat here very attentively since my amendment was adopted last week. I voted against some of the amendments to my amendment. But I can tell you in good conscience, that although there are some things in the proposal as it now stands, with which I do not agree, nevertheless, I think that this proposal, as it now stands, as amended, is a viable and good Civil Service Article. It is the type of article that I think people who support civil service can, in good conscience, support. I do not agree with Mr. Flory that "it has been terribly cut up." There are a few sections in here, that there is only actually, as far as I am concerned, the only amendment which was adopted which violates the basic principle of civil service as I see it, was one which was adopted about ninety-eight to eight. That dealt with the state troopers' pay plan. But, I don't think that will kill civil service. I think the enlargement of the commission to seven rather than five by having one of these people elected by the classified employees is not as good as having all seven named from nominations of the presidents of the various universities. But, I don't think it is inimical to civil service. I think all of these amendments are well considered. They come from people with good conscience. I do not think that the article as it presently stands, is a bad article. I, in good conscience, can vote for this article.

I do not believe, however, that I can in good conscience vote for the amendment as proposed by Mr. Pugh. Because, I cannot in good conscience vote for any Civil Service Article which is not completely within the confines of the constitution. To me, that is a basic necessity as far as this state is concerned. I, therefore urge you to vote against the Pugh amendment.

I'll be pleased to answer any questions.

Questions

MR. GRAHAM

Mr. Dennery, how many other states have civil service imbedded in their constitution?

MR. DENNERY

I'm not sure I can answer that, Mr. Graham. I don't think there are too many.

MR. GRAHAM

Isn't it a fact that it is a small minority of the states?

MR. DENNERY

I would think so. Yes, sir.

MR. GRAHAM

If this amendment passes, would not we still have civil service in our constitution?

MR. DENNERY

No, we would have the type of civil service in our constitution that we had in 1942, which was a Legislative Act which by subsequent constitutional amendment, could only be amended or repealed by a two-thirds vote of the legislature. In 1948, it was completely gutted.

MR. GRAHAM

Mr. Dennery, one other question, realizing that the members of the legislature are elected by the same people that are elected....the majority of this delegation here--don't you think that the members of the legislature will be responsive to the wishes of the general public to the electorate, and with the coverage by

the press now, and the vast emphasis that we have on civil service, that the chance would be almost zero that more than two-thirds, or that three-fourths of the legislature would vote to violate the general principles of civil service?

MR. DENNERY

Mr. Graham, the best way I can answer that question is to tell you that on yesterday, by a vote of, I think, ninety-three to eight, one of the prime principles of civil service was violated by this constitution.

MR. GRAHAM

By this body.

MR. DENNERY

Yes. By this body.

MR. FULCO

Delegate Dennery, you're talking about your amendment with all of the amendments that have been adopted today, would be a viable article for civil service, and that it would be acceptable to you?

MR. DENNERY

Yes, sir.

MR. FULCO

That you...would you recommend it to the people in an attempt to pass the constitution, Delegate Dennery?

MR. DENNERY

Yes, sir, Mr. Fulco.....

MR. FULCO

Well, I'm glad to hear it. I didn't know it....I wanted to be sure I understood you. Thank you.

MR. DENNERY

In good conscience, I can do that.

MR. FULCO

Thank you.

MR. FLORY

Mr. Dennery, I may be incorrect, but I think I heard you say that you didn't agree with me. That I said that it had been cut up. I think you are....

MR. DENNERY

No, no. No, no, no, no. I didn't use your name, Mr. Flory.

MR. FLORY

You used my name....I think it was in error. But, I just wanted....

MR. DENNERY

Well, if I did, I didn't mean to, Mr. Flory.

MR. DE BLIEUX

Mr. Dennery, when we state that three, that it could only be changed by three-fourths vote of the legislature, do you really feel like that we would have more than ten people in the Senate, or twenty-seven people in the House, that would be...would not be responsible people to, therefore, keep from gutting civil service, or something of that sort? Isn't it an indictment upon our whole electorate, in electing our legislature? Aren't you saying that the legislature is not to be trusted?

MR. DENNERY

Mr. De Blieux....Senator De Blieux, let me explain that a little further. I don't believe any legislature would pull the guts out of this Civil Service Article in one fell swoop. I would agree with you there. But, I think they would nip at it--yes, sir. I think that when pressure groups come to the legislature, and they have something which seems to be inequitable, they could very well get a three-fourths vote. I think that ultimately would serve to gut the whole system....

MR. HENRY

You've exceeded your time.

Further Discussion

MR. JENKINS

Mr. Chairman, I certainly agree with Mr. Pugh that a provision like this really shouldn't be in the constitution. The only thing is that history has shown us that unless it is in the constitution, civil service can be gutted. It happened right here in Louisiana. The year was 1948. It took a two-thirds vote then. I don't see how

a three-fourths vote now would make any difference. We have debated civil service at length. I think this body understands more about civil service than any legislature probably does because we have debated it point by point, item by item. You know, in the legislature, we have not had many of the advantages that we've had here in this convention. If we were debating civil service, we wouldn't debate it for a week. We'd debate it for a half hour, or an hour, maybe. You know, in the legislature, when a bill is proposed and it goes to committee and it's amended, do you know on the floor of the legislature, you never see the changes made by the committee. The only copy you have is the original bill as introduced. Then, when an amendment is proposed, it's not printed and distributed like it is here. It's read one time. People vote repeatedly on items that they've never even read, amending a document that is not a document they have before them. Now, if you think that leaving it to the legislature means that it's going to be studied, and considered thoughtfully, and only after long, serious consideration, is a single change going to be made, you are mistaken. Things rush through there late one night when everybody's in a good mood like that. Three-fourths of a vote is nothing to get. The past has shown us we need constitutional protection for civil servants. Now listen, I haven't gotten everything I wanted in this civil service article. I'm not completely satisfied with it. But I think it retains most of the principles of civil service. I think we can live with it. I think that what we have now is much better than what we are likely to get from the legislature, because the interest, the political interest of a legislator is opposite from civil service. The interest of a legislator is to be able to get jobs for his constituents....to have state employees helping him in his campaigns; to have his friends promoted and get pay raises. All those things are contrary to the principles of civil service. Entrusting civil service to the legislature is like giving cookies to a child to safeguard. It's something you shouldn't expect. So, I'd like for us to take what we have here, we still have a chance to make some modifications and refinements and perfections, but take what we have here and run with it. That's the best we are going to do in civil service in this state. If we don't, a powerful governor will come along like in 1948, one....late one night an amendment will come up to a bill, and civil service, as we know it in this state, will be radically changed--fatally altered. So, I'd like to ask you to reject Mr. Pugh's amendment.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, I'm going to be very brief. Maybe it's because I'm a member of the legislature that I kind of resent the implications that you cannot trust the legislature. Let me remind you, that legislature is composed of people just like you and I. The difficulty with this constitutional convention is that we want to legislate rather than constitutionalize. I remind you of that once more. Now, let me say this. In checking over these amendments, there is not one single amendment that we adopted to the Denny proposal where there was an objection, it was adopted by three-fourths of the members, the elected members of this convention. Not one single one. Now, if we can't come to any conclusion on it any more than that, I just can't see how one hundred and forty-four members of the legislature--just like people, you and I--can make any changes that we wouldn't approve of in the legislature. I believe that we can trust this convention, and we have by making these amendments. We ought to be able to trust the people we elect to the legislature. Let's don't indict every legislator that's elected from here on out by saying we've got to put this in the constitution because three-fourths of the legislature may change it. That's wrong. That's wrong. Now, ladies and gentlemen, I suggest in your good conscience, decide whether or not you are going to trust people that you elect to office or don't trust them. That's what's involved in this amendment. I ask you to support it.

[Previous Question ordered.]

Closing

MR. PUGH

Mr. Chairman and fellow delegates, Mr. Bergeron reminded me that his amendment which provided for review had more than sixty-seven. His, also, would be on my list. Several people told me that if I had that in there, they would vote for me. I am pleased he told me. Let me tell you that every, everything in the present 1921 Constitution relating to civil service, originated in the legislature. Every constitutional provision necessarily originates in the legislature.

Mr. Jenkins says, "I can tell people that most of it's alright." I would prefer to tell people all of it is alright. I prefer to tell them, "Ladies and gentlemen, we left you where we found you."

I don't believe the legislature, requiring a three-fourths vote of both Houses, will lightly treat civil service. There are too many people affected by it. I don't consider that a problem. Let me tell the people all of it's alright. Not just most of it. Tell them we left you where we found you.

Thank you again for your consideration.

[Record vote ordered. Amendment rejected: 47-56. Motion to reconsider tabled.]

Amendment

MR. POYNTER

We have an amendment just sent up by Delegates Lanier, Alexander, Chatelain, and Willis.

Amendment reads as follows: In the Denny amendment on page 9, in Floor Amendment No. 1, proposed by Delegate Flory and adopted by the convention on the thirteenth, on line 2 of the Flory amendment after the word "law" change the comma "," to a period "." and delete lines 3 through 9, both inclusive, in their entirety and insert in lieu thereof the following: "However, in any municipality having a population in excess of thirteen thousand which has a regularly paid fire and paid municipal fire department, and in all parishes and fire protection districts having paid firemen, the said firemen and policemen are expressly excluded from a civil service system so established unless a majority of the electors therein, in an election held for the purpose, consent to their inclusion. The election shall be held in accordance with the provisions of--establish pursuant to Article VI, Section 26, of this constitution."

Explanation

MR. LANIER

Mr. Chairman and fellow delegates, you have previously voted for the city of New Orleans or the people of the city of New Orleans to have the right to vote on whether or not they would have one civil service system for all employees in the city or a separate one for municipal fire and policemen. This amendment is designed to extend the right to vote on that same issue to municipalities of a population in excess of thirteen thousand but less than four hundred thousand. In other words, if the people in New Orleans have a right to vote on this issue, I feel it is only fair that the other people in the state, in the other municipalities or other parishes should have the same right. Now, the way this thing is drawn up it provides that the election will be held in accordance with the provisions of Article VI, Section 26, of this constitution. Now, this is in the Local Government Article and that particular provision provides for a uniform procedure for calling, and conducting, and canvassing the returns of certain special elections and is designed to have a uniform procedure for all elections that are noncandidate elections. In other words, this would be a yes or no proposition and would be done in accordance with that procedure, which is a uniform procedure for bond issues, etc. This thing is set up so that there is no automatic inclusion; there must be an election. In other words, right now, all across the states you have many municipalities that have two civil service boards; they have one for the firemen and policemen and one for all of the other employees. It is not the intent of this amendment to disturb that situation where they are already existing. But, it is designed to give those municipalities the right to have an election, if they so desire, to determine the inclusion of the firemen and policemen into the city system or for new cities that are coming under this program; at the time when they come under the program they can put on the ballot whether or not there will be two boards or one board. Since we have chosen to give the people in New Orleans the right to do this, I feel that it is only fair to do this with other places and this is the purpose of this amendment. I will be happy to try to answer any questions, Mr. Chairman.

Questions

MR. ROEMER

Walter, you're trying to do by....you're trying to undo the present system; right?

MR. LANIER

No.

MR. ROEMER

Well, you have done that; right?

MR. LANIER

I do not think so. I think the Article XIV, Section 15.1,

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will stay in effect. However, if the people of a municipality say...desire that all employees would be handled under one system, such as the system in New Orleans, they can vote to do so. If they do not vote to do so, they will automatically have two systems--one for the firemen and policemen and two for everybody else.

MR. ROEMER
Just as they do presently?

MR. LANIER
Yes.

MR. ROEMER
All right. Now, why are we given the right to merge? To what advantage is this? I don't understand the logic of your amendment, it seems....the way the system is now, do you have a list of compliants about that system, or do you have personal.....

MR. LANIER
As I understand it, there are certain advantages and disadvantages to both systems. What I'm saying here is that we do have two systems, this will not disturb the two systems. All we are doing is let the people, themselves, decide which system they wish to have.
...and, quite frankly to me, that's very logical, Mr. Roemer.

MR. ROY
Mr. Lanier, where is the limitation at the four hundred thousand level?

MR. LANIER
That's included in the stuff that comes above this where this is inserted in.

MR. ROY
In other words, you don't think there is any ambiguity, then, once you say that....

MR. LANIER
Not at all, Mr. Roy.

MR. ROY
...and, not even for parishes when you're talking about fire protection districts? That wasn't in the one above was it?

MR. LANIER
Yes; this was the Flory amendment this morning--you have some situations where you have. Now, with reference to the parishes that have paid firemen or the fire protection districts that have paid firemen, of course, there could well be no other system for them to merge in, so there would be no necessity for an election. But, if there was another system, then you could have an election to merge them if that was the will of the people in that particular district. But, you see, this applies in two different situations; it applies in the municipality that has regularly paid firemen and regularly paid policemen. It would not apply in the city where you only had paid policemen and no paid firemen; I think we brought out that point this morning with Mr. Flory. It also applies--and Mr. Flory brought this to my attention, quite frankly--in the situation where you have a parish paid fire department or a fire protection district that has paid firemen, it would not apply in a fire protection district that does not have paid firemen--where you have volunteer firemen in a fire protection district--which, as you know, is quite prevalent in your parish or your home parish and my parish.

MR. ROY
Well, how many people are we trying to accommodate with another exception to the general rule that we have been trying to apply to all people in this state by this amendment, now?

MR. LANIER
Quite frankly, Mr. Roy, I think what I'm trying to do here is be consistent in our philosophy that we have established in the situation of New Orleans. I voted to bring New Orleans into the state. I saw no reason why they should have one system and everybody else had to be under another system, and I voted that way. This convention has now decided that New Orleans has the right to vote which way they want to go and what I'm saying is, I believe everybody else ought to have that same right.

MR. ROY
But, isn't that because New Orleans for some thirty-odd

years has had a system that they have worked with and what you are trying to do now is to give to people who never had any semblance of the New Orleans system, the right to choose that in lieu of what we have given them for the past twenty years?

MR. LANIER
Yes, I think the people should have the right to choose if New Orleans has the right to choose.

MR. ROY
But, New Orleans is not choosing; New Orleans has...
Isn't it a fact that New Orleans would merely have the right to continue with what it has and has worked with for many years and it's not the same situation as where you are trying to give other people the right to utilize the New Orleans system?

MR. LANIER
Quite frankly, Mr. Roy, I never thought I would see the day when you would be against giving people the right.

MRS. ZERVIGON
Mr. Lanier, in following up on Mr. Roy's question. Isn't it a fact that what you are doing is setting out some consistency here in our article in that any city--if your amendment is adopted--any city which has its own city civil service system has the right to choose whether it's a unified system or not?

MR. LANIER
That's correct.

MRS. ZERVIGON
But, that in other cities where there is not a city civil service system and the main body of the employees happen to be firemen and policemen it will stay municipal fire and police, until such time as they adopt a municipal city civil service.

MR. LANIER
That is correct; they are automatically in the dual system unless they vote affirmatively not to be in the dual system.

MRS. ZERVIGON
But, it is consistency. What you are aiming at is consistency and uniformity?

MR. LANIER
Yes.

MRS. ZERVIGON
...from city to city. Thank you.

MR. JACK
Mr. Lanier, since the New Orleans one passed, have you had anybody phone you or outsider come up here to get you to introduce this, or is this just you doing it on your own hook?

MR. LANIER
I would say, primarily, this is the brainstorm of myself and my cosponsors of this matter. However, in my opinion, Mr. Jack, I think that we should try to be consistent in what we are doing and have a constant strain of philosophy in this article. I know sometimes it's been difficult for us to do that but, in my judgment, if the people of New Orleans are going to have the right to vote as to which way they want to go, I, quite frankly, feel everybody else should.

MR. JACK
All right. You answered the question, you are running off there and I'm going to be out of time if you don't watch it; I have other questions. Now, where you are from--Thibodaux--you have a population of about fourteen thousand--that's right, isn't it?

MR. LANIER
A little over fifteen.

MR. JACK
...and, you don't have a paid fire or police department?

MR. LANIER
We have paid police but not fire.

MR. JACK

All right, not the fire one. Are you about to get a paid policeman and this would give you an election; is that the idea?

MR. LANIER

Sir?

MR. JACK

Are you about to get paid firemen?

MR. LANIER

I really don't think there is any chance of us having paid firemen in Thibodaux because, quite frankly, we feel we have the greatest volunteer fire department in the State of Louisiana.

MR. JACK

O.K. Then, you are just trying to decide for the other people of Louisiana that they want this, whether they want it or not; is that right?

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I hesitate to rise at this point to oppose this amendment on the basis in which I tend to do so. But, the amendment that Mr. Lanier proposes to amend is one that I went to him with, checked it with him word for word, got his approval on it before I had even proposed the amendment. It was my understanding he was in accordance with the provisions of that amendment. Be that at it may, let me tell you what this amendment does. At the present time, you have state and municipal fire and police civil service in municipalities between seventy-five hundred and thirteen thousand today--statutory civil service. This amendment says that when they reach the population bracket of thirteen thousand, then they got to call an election to see if they want to abolish that system or not. What you're doing by this amendment is providing a vehicle, whereby, you can abrogate a system that is now in effect in the statutes of this state. I ask you to reject the amendment.

[Previous Question ordered. Record vote ordered.]

Closing

MR. LANIER

Mr. Chairman, fellow delegates, in response to what Mr. Flory pointed out, I wish to confirm to the convention that he did confer with me in his amendment, and I did check it over word for word. We actually counseled on it several times and got it in language that we thought was appropriate and it is not my intent by this to change the concept that we were discussing at that time. However, I am adding to that concept a concept that was adopted by this convention, which I think is only logically consistent, that if New Orleans has the right to choose, why shouldn't somebody else have the right to choose? Now, if there are statutory systems that exist below thirteen thousand, then, quite frankly, we could easily amend this to provide--instead of thirteen thousand--seventy-five hundred. I was not aware of those statutory systems, quite frankly, at the time that I drew this up. But, to me, in order to be logically consistent, I believe, that we should make the right available to people in municipalities to vote on this type of a thing if they are going to have that right in the city of New Orleans and this is really basically what I am saying and, on that basis, I would urge your adoption of this amendment.

Questions

MR. ALEXANDER

Mr. Lanier, is it not a fact that this convention has given to cities of a population in excess of four hundred thousand the right to choose by referendum?

MR. LANIER

That's my understanding, Reverend Alexander.

MR. ALEXANDER

Well, do you feel it would be discrimination against those

with a population between thirteen thousand and four hundred thousand if they could not do the same thing?

MR. LANIER

I think in order for us to be logically consistent, quite frankly, they should have the same rights.

MR. ALEXANDER

And anybody who votes against this, naturally, is inconsistent; would he not be?

MR. LANIER

That's my judgment, Reverend.

[Amendment adopted: 57-44. Motion to reconsider tabled.]

Personal Privilege

MR. O'NEILL

Mr. Chairman, ladies and gentlemen, this is the first time I've taken the floor during the debate on this entire civil service proposal. I've asked questions; I've lobbied, but now I would simply like to say a couple of things. Yesterday in a series of amendments certain motives were ascribed to the majority of us which were not our motives at all--we had anti-labor; we had right-to-work labels hung upon us when we weren't for those things at all, and I resent that very much. I take issue with it and I deny being either of those things. When I voted yesterday, I voted with one intent in mind, to try and do the right thing. I hope that you will do the right thing now. That's all I have to say. I have no other intentions than honest ones, and I hope that yours are at least the same.

Recess

[Quorum Call: 86 delegates present and a quorum.]

Amendment

MR. POYNTER

All right. To cut to brief: In the Dennery amendment and in particular in the Lanier amendment adopted thereto to page 9, on the third line of the amendment just adopted by Mr. Lanier, after the word "municipal" and before the word "department" strike out the word "fire" and insert in lieu thereof the word "police"; that's right in the middle of the third or almost in the middle of the third line.

Explanation

MR. LANIER

Mr. Chairman, this was brought to my attention after I got back down that the word "fire" the second word "fire" on line 3 should have been "police"; this is to be "paid municipal police department." In other words, the regularly paid fire and paid municipal police department and this is a technical amendment to make that change. I move it's adoption.

[Amendment adopted without objection. Previous Question ordered on the entire subject matter. Motion to recess rejected: 30-60.]

Closing

MR. RACHAL

Mr. Chairman and delegates, I suppose I should start by saying, "Do you remember, I was the one who introduced this proposal to the convention?" I am closing, technically, because the first twelve lines still remain as the committee's proposal. But, I rise to close on this proposal in favor of it--let me say that first--and to urge its adoption. When I started, I mentioned that a few people are neutral about civil service--either they were for it or against it, most probably violently one way or the other. As I listened to the discussion and the result of it, I'm still not sure that we really understand what civil service is really supposed to be. Although many of the things that I personally had hoped to achieve have been achieved in this article, much remains if we are to have the kind of personnel management operation in the state that is desirable. However, I think that we have done well. In my opening remarks I pointed out the

salient issues that we have identified from the discussions in the...on civil service---one had to do with the membership of the commission--that efforts should be made to make it more responsive to the people which it served; we have done that. The nominators of the members of the commission was an issue. We have made a change there. Another issue had to do with the autonomy of the commission and this is one area in which I'm not certain we have done very much about. On the other hand, I'm not certain that we should attempt to constitutionalize what the commission should do. I am hopeful that the change in the composition--and with some of the other amendments which are now parts of the article which we have passed--will help to bring about a kind of flexibility and a response to the needs of the government in this state to bring about a system of civil service that will both meet the principles of civil service, as well as give to the people and to those who lead in the agencies confidence that the system is to the best of the stability attempting to carry out the principles of a merit system while, at the same time, serving the personnel needs of the state. Some of the other salient issues, which I question as being constitutional material, of course, we did nothing about--that had to do with testing. Some questions were raised about certification and while we discussed this to some length, it remains that the certification of the three best qualified among those who have competed. Several other items have been attached. We have included items pro.....allegedly, to be in the interest of employees. We considered, at some length, the burden of proof, another one of the salient issues and, in fact, have placed the burden of proof on the employer. While there--as I said--much that remains to be done to make...the kind of civil service system I would like, I recognize that all of it can not be done through constitutional provisions. I feel that in spite of the fact that not as much has been accomplished as I would like that, in fact, we have an article with which we can live and an article which if followed by those who will monitor its life in the future, that we can improve upon many of the compliants and criticisms that were given to this committee and that have been expressed upon the delegates during the course of debate. With that as a background and without going into much of the debate regarding some of the issues because they were on the floor today and

....I would urge the adoption of this section.

[Section failed to pass: 66-36. Motion to reconsider the vote by which the Section failed to pass. Previous Question ordered on the motion.]

Closing

MR. JENKINS

Mr. Chairman, I just think that this is about the best we're going to do. We've hashed this out for a week now. There's some good things about it and bad things about it. Or, we could go on endlessly. We've got other things to do--we've got natural resources; we've got taxes; we've got general government; constitutional revision--and I think that this is a compromise proposal that makes a lot of improvements in some ways, yet at the same time it does not do any violence to the nature of civil service. So, I want to urge you to vote in favor of it.

[Record vote ordered. Quorum Call: 101 delegates present and a quorum. Motion to reconsider adopted: 65-36.]

Reconsideration
Explanation

MR. DENNERY

Mr. Chairman, ladies and gentlemen, we're going to vote now on the Civil Service Article again. It lacked one vote of passage. There were sixty-six votes in favor of Section 1, and Section 1 is the entire proposal for civil service. What disturbs me is that if this article does not pass at this time, we will be without any article concerning civil service; the committee will have to come back with another proposal, presumably; and this, I tell you--as I said before--is now a viable civil service system for the State of Louisiana and for municipalities over four hundred thousand. I think it is a good article as it is now written. I think it is the type of article that I can, in good conscience, support, and I will support it. The delegates have shown that a vast majority, in any event, are in favor of civil service in the constitution. I urge you to adopt this proposal as it is now. There are many people in here who have certain faults to find with certain specific por-

tions of the amendment, but by and large, I assure you that it is a good article. I urge its adoption. Thank you, Mr. Chairman. Mr. Chairman, before I leave the podium, I would also like to personally thank the delegates for the attention they have shown this matter over the past several days. It has been a very difficult article to discuss because of the nature in which it has occurred. I personally want to express my deepest and sincerest appreciation to the delegates of this convention for the attention they have shown to it. Thank you, Mr. Chairman.

Questions

MR. ANZALONE

Mr. Dennery, would you direct some of your comments, please, to the possibility of the civil service system in the State of Louisiana being a statutory provision, rather than a constitutional one, in view of the defeat of this article and in view of the time schedule of this convention?

MR. DENNERY

Well, Mr. Anzalone, I have already expressed myself on the proposition that, philosophically, I think the Civil Service Article should be in the constitution and should not be a legislative provision. I would hope that even in the event the delegates do not vote sixty-seven votes yea at the next vote, that, nevertheless, the committee will come back with a constitutional type of civil service.

MS. ZERVIGON

Mr. Dennery, would you say that perhaps the one thing we have a fair amount of unanimity among the group on is that there should be something with regard to civil service in the constitution?

MR. DENNERY

Yea, ma'am, I certainly would say that.

MS. ZERVIGON

You don't find this the perfect article, do you?

MR. DENNERY

No, Ms. Zervigon, I don't think any of our articles are perfect.

MS. ZERVIGON

Could you conceive of an article other than this one that it would be very easy to get sixty-seven votes for?

MR. DENNERY

No, I do not; I cannot conceive of such an article.

MS. ZERVIGON

So, perhaps the best thing to do is sort of live with it?

MR. DENNERY

I hope we do.

MR. DENNIS

Moiae, is it true that, as this article now stands, it will allow municipalities in excess of thirteen thousand and under two hundred and fifty thousand to take their firemen out of civil service?

MR. DENNERY

Judge Dennis, I'm not a hundred percent certain that it will. As I read the Section (0), which was the section affected by Mr. Lanier's amendment, Section(0) provides for future municipalities adopting a civil service law--either by the municipality or the parish, or through legislative action. I do not know, and I do not qualify as an expert to tell you that Mr. Lanier's amendment affects any fire and police system which presently is in effect in a municipality which presently has its own civil service. I do not believe it will.

MR. STINSON

I refer you to the Lanier amendment. Mr Lanier came over and says--it says that those who have a civil service are excluded from "a" civil service--he says it should have been "this" civil service. But, when it says "a," don't you agree that they don't have any?

MR. DENNERY

It could mean that, yes, Mr. Stinson.

MR. STINSON

In other words, my Bossier City policemen--if I vote for this--they possibly would not have a civil service. Is that right?

MR. DENNERY

Oh, no, I don't mean that. I think if you vote for this as it stands now, the present fire....

MR. STINSON

Why couldn't Style and Drafting change it where they completely reverse the meaning; it couldn't possibly do that?

MR. DENNERY

I'm not sure I understand your question, Mr. Stinson.

MR. AVANT

Now, Mr. Dennery, it's a fact--is it not, sir --that at the same time the civil service amendment was placed in the constitution, Article XIV, Section 15--which is the state civil service and civil service system in New Orleans--that at the same time there was enacted a state fire and police civil service system, which is Article XIV, Section 15.1?

MR. DENNERY

Yes, sir.

MR. AVANT

And, ever since that date, all municipalities with a population in excess of thirteen thousand and under two hundred and fifty thousand, which operate a paid fire and police department--their firemen and policemen come under that system; is that not right?

MR. DENNERY

As far as I know, that is correct, Mr. Avant.

MR. AVANT

Now, is it not a fact that Mr. Lanier's amendment will have the effect of removing those firemen and policemen from any civil service system until an election has been called and a majority of the electors in that municipality vote to include them in the system, which they have been under for some twenty-five years?

MR. DENNERY

Well, Mr. Avant, that's not the way I understood the amendment. Now, it is conceivable that the amendment does read that way, but I did not believe it read that way.

Further Discussion

MR. ALEXANDER

Mr. Chairman, delegates, ladies and gentlemen--and I'm going to speak as I do in church and say brothers and sisters--I come to you at this time in the spirit of the Christ, in the spirit of the prophets, and those who have spoken religiously. I'm not going to preach a sermon, but I just want to talk a little common sense, as Thomas Paine did a long time ago. If you will read through this section and the amendments, and if there are any of you out there who know me, you know that I have hated--I have detested--the civil service system in this state from its inception because I believed, deep down in my heart, that it discriminated against blacks. I'm not sure that that's not true even now, but all of that is beside the point. Let me ask you. How many of you out there have what you want? How many of you get everything you want and everything your heart desires? How many of you don't settle for the second best and the third best, and even the tenth best sometimes? Now, there's an old saying: all or nothing. But, how many of you are willing to go along with all or nothing? You know what nothing means? Death. Let me further say there isn't a one of you out there who would not march to this microphone and admit that there's something in this article that you don't like. I'm sure every delegate to this convention can find something in this article he does not like, or she doesn't like; and everyone most likely will find something that you do like. But, now, don't do as the kid who, when he dropped out of the game, wanted to take his ball and go home. We're not writing a constitution for one group of people. I know there's sections in here that blacks don't like; I know there are sections in here that labor doesn't like; I know there are sections that the city of New Orleans and its mayor don't like; I'm well aware of those facts.

But, we're not writing a constitution for the city of New Orleans, for labor, for blacks, for women, or any one particular group; we're writing a constitution for three million, six hundred thousand people from the Gulf of Mexico to the Arkansas border, and from Mississippi to Texas--for all the people of Louisiana. Since we're only one vote short, I plead with you, I beg you, not to ditch us at this point. Don't despair; don't give up the ship; don't quit now, because if we don't pass this article, we're going to lose time, and we may not finish this constitution. If we don't finish this constitution, all of us are going to be in trouble, and I don't want to be in that kind of trouble. Please give us that one vote.

Further Discussion

MR. STAGG

Mr. Chairman, fellow delegates, the Journals of the last five days will show that I am manifestly unhappy with many of the things that we were presented to vote for or against; but we do no longer have the luxury of time with which further to manure this article. There are many things about it I don't like; there are many things equally that I do like. But, there are reasons to vote yes, and there are reasons to vote no; and some of the reasons that I have heard in the last fifteen minutes for voting no absolutely are appalling. If you have some narrow interest that you are here to serve, so be it; but, if you view the general interest of this convention and of the people of this state, then I wish you would reconsider your no vote, as you should, and vote to pass this bill. Let's go on to the other pressing matters before this convention.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, as I stated to Mr. Dennery in my questions of him--and as he stated to you--when the civil service system was put in the constitution--I believe it was in 1950--Article XIV, Section 15, covering state employees and providing a constitutional civil service system for the city of New Orleans, at the same time there was placed in the constitution Article XIV, Section 15.1, which created the state municipal fire and police civil service system. Now, that system applies to every municipality in the state having a population in excess of thirteen thousand and maintaining a paid fire and police department. It does not apply to the city of Thibodaux, from which Mr. Lanier hails, because they don't maintain a paid fire and police department. That system is administered by a local board, three members of which are appointed, and two members of which are elected: one from the fire department and one from the police department. This amendment permits any city presently covered under that...it doesn't permit it; this amendment does away with that system in its entirety, unless and until an election is called in which the people vote to include their firemen and policemen in that system. Now, that's what this amendment does. That's why I cannot vote for this section. All I ask you to do is to read the amendment.

Questions

MR. KEAN

Mr. Avant, as I understand Mr. Lanier's amendment, that amendment added additional language to Section (O), or Subsection (O), of this section; did it not?

MR. AVANT

Yes.

MR. KEAN

And Section (O) of this section provides a means by which a governing authority of a city could establish a city civil service system; does it not?

MR. AVANT

Yes.

MR. KEAN

And, Mr. Lanier's amendment, under those circumstances, would make it possible to include fire- and policemen in that system if a vote was held and the vote was favorable to such inclusion; would it not?

MR. AVANT

But, they are already covered, Mr. Kean, under the state

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system-- that's the point I'm trying to make--and it takes them out from under that.

MR. KEAN

As I appreciate it, though, they remain in the state system--the XIV, Section 15.1--would stay in that system unless the city established a civil service system under this section, and there was an election held which decided to include them in that city civil service system.

MR. AVANT

Mr. Kean, I don't interpret it that way; I'm sorry. I just disagree with you, sir. I think it definitely does not do that.

MR. DENNERY

Mr. Avant, did I understand you to say that in the event a municipality or parish over thirteen thousand adopted a regular civil service system, that under those circumstances the fire and police people would not be under any system?

MR. AVANT

I say, as I interpret this, Mr. Dennery, they are not going to be under any system, period, unless the city has an election and votes to include them.

MR. DENNERY

Well, now, Mr. Avant, it would be true--would it not --that those people...I will assume that we will adopt a fire and police civil service system similar to the one we presently have. Now, on that assumption, the firemen and policemen in such a community will be covered, will they not?

MR. AVANT

If it's adopted.

MR. DENNERY

No, no, no, not if it's adopted--well, if the constitution's adopted, yes. Now, if the constitution's adopted, that particular parish or city which wants to have its own civil service system can have it; right?

MR. AVANT

Not insofar as firemen or policemen are concerned, if the present system is continued, Mr. Dennery.

MR. DENNERY

Correct. In other words, if they adopt their own system, firemen and policemen are specifically, by this amendment, excluded from such a new system--unless the people in that area subsequently vote to include them. Is that correct?

MR. AVANT

I don't agree that that's correct, Mr. Dennery, not as you have stated it. No, sir, I do not.

MR. DENNERY

Well, Mr. Avant, it says the firemen and policemen are expressly excluded from a civil service system so established. You'll agree that they are therefore excluded from such a city civil service system; therefore, if they are excluded from that, they will remain under their present one. Then it goes on to say "unless a majority of the electors in the particular area, in an election held for that purpose, consent to their inclusion in the overall system." Is that not correct?

MR. AVANT

Let me just check one thing in the amendment. No, I don't agree with that, Mr. Dennery, because this goes beyond just municipalities.

MR. DENNERY

Thank you very much.

Further Discussion

MR. FLORY

Mr. Chairman, delegates, until the Lanier amendment was adopted, I had proposed to vote for this article. I spent the last eight or nine months working on the Committee, on the Subcommittee, of Education, Health, and Welfare, which had under

consideration this subject matter. I gave a lot of hours of work, a lot of hours of thought, a lot of hours of consultation with people in authority--people with concern of civil service. I am a dedicated believer in the system of civil service; but when you take, from existing circumstances, six or so municipalities that fall in the category from seventy-five hundred population to thirteen thousand and say that, when they reach that population figure, then the governing authority...they're not under the civil service system they're now under, which is statutory fire and police civil service--identical to that in the constitutional provision, except for the size of the board--and say that they were then going to call an election to determine whether or not they're going to be under that same system they may have been under for twenty or thirty years, and we're going to create a unified system whereby we're going to put all the employees under one, where the problems are not the same, I can't vote for this article. Yet, I gave that much time to its consideration. Don't be misled; don't be misled into believing that if this article is defeated, that civil service in this state is dead. That's not true. Mr. Dennery himself has got Delegate Proposal No. 27 on the floor of this convention up for consideration tomorrow morning--if this convention wants to do it--almost identical with the amendment that this convention adopted last week. So, don't be misled into believing that if you vote against this article, you're against civil service, or you're for killing civil service in this state. That's just not true. I ask you to reject this proposal. They said they want to keep New Orleans like it is; the convention decided that issue. I was willing to swallow that, and that is a bitter pill--a bitter pill. Yet, I was going to vote for this proposal. But, when you turn around on the same basis--the same people--and say we want to take something away from those municipalities that now have it, I don't buy that philosophy; I don't buy that at all.

I ask you to concur with me and reject this proposal.

Further Discussion

MR. PUGH

Mr. Chairman and fellow delegates, a suggestion was made a minute ago that if you voted against this, that you had some interest. I shall vote against it, and I have no interest. I took an oath as to my duties and that is the reason I will cast my vote against it.

Further Discussion

MR. ROY

Mr. Chairman and ladies and gentlemen of the convention, I want to just discuss briefly where we are and then ask for your consideration a certain way, and maybe even for the consideration of Mr. Lanier and Alexander, Chatelain and Willis. The amendment to allow the fire and police people in New Orleans to be an exception to the rule passed by only four votes. I voted against it, but I didn't make any talk against it because it was close enough where I felt that I didn't really know the answer to it, but I just thought New Orleans should be like the rest of the state--thought Tom Caey did a good job and once it passed that was one thing, but as usual in this convention--and there was a reason that you could justify that we did that to New Orleans. For thirty years they've had a special system and they've gone along with it, and it was kind of hard to say that maybe we should take them out of what they had. But, the old thing comes along, you scratch my back, I scratch yours. If you've got something, then I have to have the exact same thing, and low and behold, out of the blue without any request, without anybody asking for it, without any clamor for it, with nothing, we get the Lanier amendment which says, in essence, well, New Orleans has it; of course, some of those voted to give it to New Orleans that way; therefore, let's do it to the rest of us. Let's do it to the rest of these firemen and policemen, notwithstanding that they didn't ask for it. Notwithstanding that no city people came here and said they wanted it or anything else, let's go ahead and force upon them the option to make a choice that will be determined by the electorate of the local governmental body as to whether they stay where they have been for years, and years, or whether they are going to go under some other system that the city fathers will choose for them. I say that in all honesty, because you know that firemen and policemen are not permitted under their rules to engage in a heck of a lot of political activity with respect to electing mayors and city councilmen. Now, where are they going to be when the mayors and the city councilmen with the money and the political finesse they've got, call the election before the electorate and spend the money and say vote to take your firemen out of Section 15.1 of the present constitution, and bring them in under this city agreement that we have because it may cost the city people less money and a bunch of other things. You know what's going to happen; you

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know it, durn good and well. Those firemen who have been under a system for years and years are going to be under something totally new. I'm against that, there was no need for this. I went and asked, Mr. Lanier, would you please agree then, if you're going to allow this change, why not let the firemen and policemen of those cities of over thirteen thousand and less than four hundred thousand-- why not let them vote to whether to come out of the system that they're presently in or stay in it -- after all that's kind of democratic. It's their system; it's for them. It has nothing to do with whether they fight fires good or bad or whether they protect you or not. But, no compromise again. No, we won it and we're going to keep it. Well, if that's the way it's going to be, I ask you, and I've only said it once before because I don't believe in voting against something, after all the good work we've done in this proposal, I ask you to vote against it, or vote to wait until tomorrow to consider it, and maybe, maybe we can prevail upon the authors of the Lanier amendment to do one or two things: to pull it so that we can get this thing passed fully or to at least allow the firemen and policemen to make the choice. Thank you.

Further Discussion

MR. VICK

Mr. Chairman and fellow delegates. I want to say from the outset, that I am for, very affirmatively, for the concept of civil service. But, I am now and have been since the onset of this constitution or this convention, a constitutional purist, and what does that mean? I am against, vehemently against the plethora of statutory material that has been placed in this constitution, and this article is a classic example of it. I urge those of you who have not read the PAR analysis, to do so. I do not think that PAR could ever be considered anticivil service. I have listened to Mr. Dennery's arguments on the subject and I respect them, but I do not share them. He does not trust the legislature in this field. That's where Mr. Dennery and I disagree. I think it is almost insulting to say that if a three-fourths vote is required that the legislature should not be trusted. That's an extraordinary statement. Mr. Chairman, I think that the debate on this subject, if debated, can be called, as evidenced, a deep-seeded unhappiness, frustration, contempt for civil service as it has operated for the last number of years in this state. I am not sure why, never having been a civil servant in the classified service, I am not sure why but there is an underlying complaint of the delegates that I have talked to on this subject. Some attributed to arrogance, arrogance of the commission, arrogance of the administrators. I don't know if that's the case, but nevertheless, there is such unhappiness with the Civil Service Commission as presently constituted or as they do business that I think someone, perhaps, Mr. Dennery, who is our in-house expert on this area, should perhaps come up and give us a catharsis, and tell it like is. What's wrong with civil service as it operates in this state? I don't know, and I have heard very little on the subject from this podium, but there is something wrong somewhere. I want to conclude by saying I am for civil service, but I am against this proposal. Thank you, Mr. Chairman and fellow delegates.

Motion

MR. TOBIAS

Mr. Chairman, I move the previous question, and I suggest the absence of a quorum.

[Quorum Call: 88 delegates present and a quorum. Motion for the Previous Question rejected: 36-55. Motion to limit debate to fifteen minutes. Substitute motion to limit debate to the speakers on the list. Substitute motion adopted: 57-37.]

Further Discussion

MR. JACK

Mr. Chairman and members, I'm against the adoption of the section because I'm afraid after the Lanier amendment, we're going to really, if we leave that, gut civil service. Now, this thing-- I want you to listen carefully to it. We've had the New Orleans policemen and firemen under the New Orleans city for years, since 1940. We've had the other firemen and police under another one, the same number of years. I never did think the New Orleans police and firemen should be under a city one. We tried in the legislature, as I explained--and I have to hurry along--we couldn't change it. Now, all of this got off on the track of trying to put the New Orleans firemen and police under the state firemen and police civil service; that was tried out. New Orleans or those supporting that view won; that ended that matter. We had a vote on it. Now, I'm not--I have to use the name to call the amendments--then came

Mr. Lanier's amendment which was not asked for. He has no way of knowing whether these people and all these other people want his amendment. I had talked to him; he's going to talk; he can tell you that. His city is fourteen thousand--Thibodaux. We fixed the amendments and all so it wouldn't bother his volunteer fire department he keeps bragging on. Now, he's inflicted the Lanier amendment that's gutting the civil service, that's why I am not going to vote for this section. I am not going to vote. I'm going to vote no when that machine's opened. Now, ladies and gentlemen, let me tell you this, if we defeat the adoption of Section 1, it goes back to committee. It'll get straightened out; you bet your boots. There was another proposal defeated, the one on taxation. It got straightened back in the committee, and this will. But, we want to come up with a good civil service for state employees, city employees, police and firemen. We can do it, if we defeat... adopted this whole section, get this back to committee, work until midnight, if necessary. One trouble is, we're not... it's killing us doing it, but we can survive it-- if we'll just keep plowing on and get down here in the morning--I notice every day an hour is lost on everything. Now, let's just defeat adoption of this section, defeat this reconsideration, get it back into committee, and I feel sure that committee will take out the Lanier amendment. It'll be fine. Now, if you leave in this Lanier amendment, and you adopt this section, then these cities like Shreveport, and others, if they'd had the city... the civil service there for all those years, if they've ... changed by election, there's no provision to change back. Those things were overlooked. This thing is not clear, so I hope you'll go along with that. Thank you.

Further Discussion

MR. DENNIS

Mr. Chairman and fellow delegates, I am very concerned about the question that has arisen about the fate of the firemen in cities of over thirteen thousand population, if we adopt this section. Now, Mr. Avant says that it might lead to throwing them out of any kind of civil service system. Mr. Dennery and Mr. Kean in their questions indicate that's not so. When I asked Mr. Dennery the question earlier, when he was on the microphone, he seemed unsure. I have since talked to him and he says reading it all in context, it won't endanger these jobs being taken out of all civil service systems. However, and I think he may be right, but it's hard to follow all of these amendments the way they've come on. I think he's right, but I'm not absolutely certain, and I think many of you may have doubts in your mind. So, Mr. Chairman, if I'm in order at this time, I'd like to move that we defer action on this section until tomorrow, and that you request the staff, if possible, to get us all a cut and clip copy of the section as it stands at the present time, also if possible, ask the staff to digest the section as it stands at the present time with all of its amendments.

MR. HENRY

You'd move to defer action until tomorrow, Judge?
The gentleman now moves to... well, then Judge Dennis, is your motion to adjourn or to defer action or temporarily pass over it? I'm not.... I had some....

MR. DENNIS

Mr. Chairman, what I would seek to accomplish is simply laying this matter aside until tomorrow and asking the staff to prepare a cut and clip copy, and if possible, a digest of the section and proposal as it stands right now.

[Motion to return the proposal to the calendar rejected: 33-63. Quorum Call: 94 delegates present and a quorum.]

Point of Information

MR. CHATELAIN

Mr. Chairman, there's so much confusion here this afternoon, or this evening rather, how in the world can you... you have something up for final passage, and now here at the last minute come up with an amendment to the thing. I want you to explain it to me, please, sir.

MR. HENRY

I'm not sure that I can understand it for you, Mr. Chatelain, but the gentleman had moved the adoption of Section 1. There was debate on Section 1. We didn't have any additional amendments on Section 1. Mr. Floy has offered amendments to Section 1. The previous question has not been ordered on Section 1, consequently, amendments to Section 1 are in order. That's exactly the way it happened, sir.

Mr. Chatelain.

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[Motion to adjourn to 9:00 o'clock a.m., Friday, December 14, 1973 rejected: 19-70. Motion for the Previous Question on the entire subject matter rejected: 35-55.]

Point of Order

MR. SCHMITT

The amendment deletes what we've previously adopted. Does it attempt to substitute anything, therein? Therefore, I would suggest that we take a two-thirds vote before we can even consider this.

MR. HENRY

I would ask that the Clerk read the amendment and give me a copy of it, please, sir.

Amendment

MR. POYNTER

The amendment reads as follows:
Amendment No. 1. Page 1, line 14, in Floor Amendment No. 1 proposed by Delegate Denny and adopted by the convention on the eighth, page 9, delete Floor Amendment No. 1 proposed by Delegates Lanier and others, and all floor amendments thereto and restore the language of Convention Floor Amendment No. 1, proposed to said page by Delegate Flory and adopted by the convention on today.

MR. HENRY

Now, Mr. Clerk, if you will look at your copy and give us just a minute, please, sir.

It's my appreciation, Mr. Schmitt, that what the amendment does is undo what the Lanier amendment did, plus it undoes his technical amendment.

Now, am I correct, Mr. Clerk?

MR. POYNTER

That's correct, and restores back, then, language of the Flory amendment which was earlier adopted in the day. So, it undoes two amendments and restores a third amendment previously adopted.

MR. SCHMITT

This is not reconsideration, then?

MR. HENRY

I think your appropriate concern would be a point of order as to whether or not these amendments are in order at this time.

[Chair declined to rule. Question put to the Convention. Previous Question ordered. Amendment reread. Amendment declared in order: 54-39.]

Explanation

MR. FLORY

Mr. Chairman and delegates, what this amendment does basically, is to delete the Lanier amendment and reinsert the language that he and I had both together agreed upon in the earlier amendments. I said earlier when I spoke, I was prepared to vote for this article under those circumstances on what he and I had agreed on in that particular subject matter. I still am prepared if this amendment is adopted to vote for this article. I want to vote for it. I believe in civil service. I believe that when you tamper with the municipalities that now have fire and police civil service, in that category between seventy-five hundred and thirteen thousand, that you are being totally unfair. I don't believe that that's what this convention wants. I ask you to seriously consider this amendment and put it back in the framework which Mr. Lanier and I agreed upon and adopt this article. Because, I believe in civil service. I believe in what has been adopted, even though I don't agree with all of it. I know that it's the work of this convention. I know you put a great deal of time and effort into the consideration of this most serious subject matter; serious of nature to the employees of this state and of its political subdivisions, so that I ask you to adopt this amendment.

Questions

MR. DUVAL

Mr. Flory, just so we can...I'd like to understand what

precisely is your objection to the Lanier amendment. I realize it's stringent and serious. I'd like to know what is your objection to the Lanier amendment. How do you think it's going to injure civil service?

MR. FLORY

Mr. Duval, at the present time, in the municipalities between seventy-five hundred and thirteen thousand, they now come under statutory fire and police civil service which is statewide. All municipalities within that population bracket.

If there is a municipality that doesn't have a city civil service system, when they reach that population of thirteen thousand, what they do is...come under this provision. Then they have to call an election within one year, and then take those people out from under the system that they've been under for maybe thirty or forty--thirty years.

MR. DUVAL

Mr. Flory...

MR. FLORY

...unless they have, I am told, some ramifications in those municipalities above thirteen thousand. That, I'm not quite sure of. But I know it affects those between those population brackets.

MR. DUVAL

Now, there's been some confusion, this amendment wouldn't in any way take these people out of civil service, would it? The Lanier amendment would not take anybody out of some civil service system.

MR. FLORY

I think it could very well do that, Mr. Duval, for the period of at least until they called the elections.

MR. DUVAL

Wouldn't they be under that system, sir, until they had another system through an election?

MR. FLORY

That, I'm not sure of. I have reason to believe that they would be under no civil service provisions so long as the municipality opted to come under this section of the constitution and thereby calling an election until such time. Then, I think that I... I'm not sure that it would have any civil service.

MR. DUVAL

Well, I don't know where you see that in here. But it seems to me, sir, that isn't it the basic intention here, of the amendment, as to whether cities would either have the right to have their own systems, or go under fourteen...what is now Article XIV, Section 15.1? Isn't that the basic thrust of the amendment?

MR. FLORY

The basic thrust of the amendment, as it relates to those above thirteen thousand, is that.

MR. DUVAL

But you don't have, as I understand you are objecting to then, is not giving people the right to determine what type of civil service system they want to be under. That's not your objection, then?

MR. FLORY

My objection is that they've been working under that system for thirty years and are happy with it, why change that system?

MR. DUVAL

Well, why did we change the Civil Service System completely here--the composition of the board, the burden of proof, and many other things? Why did we change those?

MR. FLORY

Because those people are not satisfied; they were not satisfied, Mr. Duval.

MR. DUVAL

One more question and I won't belabor this, Mr. Flory. But, then, why not give the people that we're talking about the people--why not give the people in the municipalities a right to choose their own system, then? What about those people that we've forgotten?

MR. FLORY

If you limit the election to those people who have to work and live under civil service, I would have no objections.

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MR. SINGLETARY

Mr. Flory, I'm trying to get straight on this thing. Your original amendment provided that in areas over thirteen thousand, fire and policemen were excluded. It seems to me that all the Lanier amendment, it does, is say that they are excluded unless there is an election to include them. Is that right?

MR. FLORY

But, it goes further, Mr. Singletary, that when that municipality comes up to that population, you have to bear in mind they'd been operating for years under an already statutory civil service system which is, in as far as the provisions, are identical with the exception of the board structure so that then, when they reached the population bracket at thirteen thousand, then the only way you can do it is that the municipality calls the election to have established a unified system for the other city employees and put them all under that system, and take them away from that.

MR. SINGLETARY

I'm still having trouble following....your thing...I don't know.

MRS. ZERVIGON

Mr. Flory, Mr. Lanier's amendment applied to those cities voting to go under the civil service--constitutional civil service system as it applies to other cities. Isn't that correct?

MR. FLORY

I didn't understand you, Mrs. Zervigon.

MRS. ZERVIGON

Mr. Lanier's amendment goes to that paragraph describing the civil service systems of those cities who vote to go under a constitutional city civil service. Is that right?

MR. FLORY

I can't hear you.....I can't hear you, Mrs. Zervigon. I'm sorry.

MRS. ZERVIGON

I'm saying that Mr. Lanier's amendment went to that paragraph describing city civil service for other cities who choose to go under this constitutional city civil service system. Isn't that correct?

MR. FLORY

It's for those municipalities who ought to come under this provision of the constitution.

MRS. ZERVIGON

Yes. Many of the cities--in fact, most--who have their own city civil service systems have statutory systems. Isn't that correct? Therefore, are not under this, but are set up separately. Isn't that so?

MR. FLORY

That's correct, but if they opt to come under it, then they can take the firemen and policemen out from under statutory firemen and police civil service, or out from under this constitutional provision. If we adopt a constitution....fire and police civil service.

MRS. ZERVIGON

Now, the next proposal that we consider is going to be Proposal 10 which deals specifically with fire and police municipal civil service. Isn't that correct?

MR. FLORY

I presume that that's what's on the docket for consideration.

MRS. ZERVIGON

Now, if you read this with your fears and mine, wouldn't the place to cure your fears be in that proposal? Couldn't we add a clause in that proposal that would say that "if a city opts to come under constitutional city civil service, then the fire and police are treated by the voters as they please, but must be included either in that city civil service, or in 15.1--the old 15.1--not giving the option to abolish civil service for fire and police altogether. Isn't that the appropriate place to cure your fears?

MR. FLORY

No, ma'am, because I don't believe in having two conflicting provisions, that we know are conflicting, when we adopt it in the constitution.

MRS. ZERVIGON

Mr. Flory, you are saying you are afraid what this might mean. You're not saying that you think it definitely does mean....

MR. FLORY

No, I didn't say I was afraid of what it might mean. I said "I know in my judgment what it means in certain municipalities." The question was raised, and I said I'm not sure about that question. There's no question in my mind about what the Lanier amendment does in certain situations that I have mentioned.

MRS. ZERVIGON

Well, Mr. Flory, isn't it correct that not one city in this state, other than New Orleans, has a constitutional city civil service system? They are all statutory--all the others?

MR. FLORY

I'm not arguing that point, Mrs. Zervigon....

They do have constitutional fire and police civil service, though.

[Motion to suspend the rules to allow for additional time adopted: 55-14.]

Questions

MR. LANDRUM

Mr. Flory, the name Lanier, you've constantly mentioned the Lanier amendment, yet in your amendment, you use an "all floor amendments, thereto." Now, if you were just concerned about the Lanier amendment, why would you have that clause there, and all floor amendments thereto?

MR. FLORY

It is my understanding that he offered a subsequent technical amendment to his own amendment. So, I have to delete that, also, in order to reinstate the language as it actually was that he and I agreed upon.

MR. LANDRUM

What about the Casey and Jackson amendment?

MR. FLORY

I don't tamper with that at all.

MR. LANDRUM

In other words, the only amendment is the Lanier amendment and....

MR. FLORY

His technical amendment.

MR. LANDRUM

....and another amendment by Lanier?

MR. FLORY

That's correct. I do not tamper with the Casey-Johnny Jackson amendment at all. I said I was going to vote for the proposal even though I had to vote with that amendment on there. But, I was in a position to do that even though it was a bitter pill for me to swallow. But, I don't, by this amendment, Reverend Landrum, don't tamper with that at all. The only thing this does is delete the Lanier amendment and the one that he offered subsequent to that which was a technical amendment to his own amendment, and reinstates the language that he and I had both agreed upon.

MR. ROEMER

Gordon, is it your understanding of the Lanier amendment, that under systems now in cities thirteen thousand up, exclusive of New Orleans where the systems are split, they would remain separated except by a vote of the people? Is that correct?

MR. FLORY

There is some doubt on that point, Mr. Roemer; and that's the question that was raised earlier is that I said that I'm not sure about. I have reason to believe, and I've been told that they do, it does affect those about thirteen thousand to four hundred thousand. I'm not sure of that.

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But, I'm sure it would in a parish fire district, or in a special fire district where you have, let's say, in a...you wanted to set up a parish...police jury wanted to set up a system of civil service for its employees, and you had a parish fire district there. I think it could come under Mr. Lanier's amendment. Is there....

MR. HENRY

Would you yield to one question from Mr. Lanier, and this will be it?

MR. LANIER

Mr. Flory, did you know that I now know what it's like to be in the eye of a hurricane?
Did you also know that I've talked to three....

MR. FLORY

I thought you'd been in a hurricane before, Mr....

MR. LANIER

I have.
I have talked to two of my coauthors. I hadn't had a chance to talk to Reverend Alexander. But the three of us--Mr. Willis and Mr. Chatelain--rather than be obstructionist, are willing to go along with your amendment to delete our amendment.

MR. FLORY

I commend you for your generosity. I propose to vote for the article.

[Previous Question ordered. Record vote ordered. Amendment adopted: 85-16. Motion to reconsider tabled. Motion for the Previous Question on the Section. Substitute motion to adjourn sine die. Substitute motion rejected: 5-94. Motion for the Previous Question on the Section rejected: 38-59.]

Further Discussion

MR. ARNETTE

I wish to thank those of you who have voted to give me the privilege of speaking now. I'll try not to take up too much of your time. I've remained quiet throughout this Civil Service Article--or relatively quiet. I think I asked a couple of questions. But, more, and more, and more I am worried--greatly worried--about what is going to happen to this document. I am greatly, greatly worried about some of the things that we are doing. This particular proposal failed for one reason, and one reason only the first time it came up for a vote. A certain special interest group only got ninety-nine point forty-four one hundredths percent of what they wanted in this particular article. There was one thing extra they wanted. Now they got that, too. They came in the back door. They didn't go through the normal procedure of taking it off the table. No, they came in through the back door to get an amendment in to change something back from what we had already laid on the table. Now, they are going to pass this particular proposal to my great dismay. I really can't understand it. I voted for this article the first time it came up because I thought this was the best the people of Louisiana could get in spite of what had been done here. But, I think this last particular thing that has been done is getting to be the last straw. We started out in this article possibly making some good changes--changes for the better I thought--I voted for several of them. The composition of the board needed to be changed. That was a good change. Several other things needed to be changed. But the thing that worries me more than anything, and I've been seeing it coming for the last couple of months, is the independence of these delegates in this convention is no longer. They--we are as independent as one delegate said--a bunch of jelly beans. That's about right. We're as independent as a bunch of jelly beans. Somebody pulls the string, and there's the vote. It goes right up on the board. Ladies and gentlemen, I tell you, if this convention doesn't get back to being independent again, the people of Louisiana--its got damned little chance now--it's not going to have a snow ball's chance in hell of passing, if they find out that all we do is one guy pushes his button, and everybody else follows suit. I'll tell you, that's what's happening. If you people can go along doing this and look yourself in the mirror in the morning, that's fine. But I tell you, if I would do it, I couldn't stand to see myself. I would suggest that many of the delegates here, instead of worrying about a few votes they might get in the next political race, would start worrying about what is good for the State of Louisiana. I thought that was the reason we were here. But, it seems we're no longer worried about that.

We're worried about this special interest group; and that special interest group; and some other special interest group. I--I'm really, really worried about the fate of this constitution. I was going to support it practically no matter what we put in it as long as it was a little bit better than what we had before. But now I'm worried that it's not going to be any better. I'm worried that it's actually going to be worse. The delegates to the convention aren't what they were when they started out. They aren't independent. They're just following suit. Might....
...worry about the state, please. That's all I'm asking you to do.

Further Discussion

MR. SMITH

Mr. Chairman, fellow delegates, I'm going to make a motion. But, before I do, I want to say with all my command, I resent what Mr. Arnette has said. I think it's out of order. I don't appreciate it. I'm about as independent as anybody here and I think he ought to come up here and apologize to this body. He gets mad--people do--and go bad-mouthing the convention, and bad-mouthing the delegates. I think you were out of order, and I certainly think you should apologize.
But this time, I think you are about ready to quit.
I now move the previous question.

[Motion for the Previous Question on the Section adopted: 52-41. Previous Question ordered. Section adopted: 83-19. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal adopted: 80-22. Motion to reconsider tabled.]

Personal Privilege

MR. JACK

I'll be brief on personal privilege. I'm not going to call names, but the time is long past due for people when they get mad, get dissatisfied, lose a vote, to get up here, run down the constitution--as I use the term, and Jap's been using it since--bad-mouthing it; that's the best term going. All that does without any facts, gets in newspapers; they write editorials. Like a member of the House of Representatives, he bad-mouthed the constitution. They had an editorial in one of the Shreveport papers, not a single fact stated. Now, ladies and gentlemen of this convention, nobody could possibly approve of everything or disapprove of everything. The thing to do is for us to keep our "cool." We're working awfully hard; everybody is. Now, next time I hear somebody get up here, talk against this just because they didn't win the thing--I've lost a lot of them--I'm not going to listen to them. That is just... we are down here to come up with something good. The present constitution won't work, and it's up to us. It's not like a super salesman but to get the true facts. When you say those ugly things about this without any foundation, it's just not right. We are all in a bad humor tonight; we're overworked--all that--but we've got to quit running down the work we're doing. All it does is get in the papers and a misinterpretation. I think to date these delegates have all shown that they're hard workers, they're knowledgeable; come from all walks of life, that to date I think we've got a constitution we later can be proud of, and I figure the rest of it is going to be. So, let's just quit running it down without rhyme or reason. That's all I want to say.

Personal Privilege

MR. ARNETTE

To my knowledge, I have not gotten up here any time before and said anything bad about this constitution or its chances of passing or failing. I still hope we can pass this constitution; that's always been my hope. I think we can make some significant changes. The reason I got up here was not because I was dissatisfied with any particular article or anything else. What I got up here and what I talked about was the attitudes of the delegates and how they seemed to have changed in my eyes. I may be completely wrong, but I don't think I am. I'll stand by what I said before, and I don't think I need to make an apology to anyone. Thank you.

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*[Motion to revert to other orders of
the day adopted without objection.]*

REPORTS OF COMMITTEES
[II Journal 964]

Notice of Motion to Discharge

*[Adjournment to 9:00 o'clock a.m.,
Friday, December 14, 1973.]*

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Friday, December 14, 1973

ROLL CALL

[72 delegates present and a quorum.]

PRAYER

MR. BURNS

Our heavenly Father, Thou giver of all good and perfect gifts, we pause at this time of the year to thank Thee for the greatest gift of all, Thy son, Jesus Christ. As his birthday approaches, we ask that you would make us more and more aware of the great significance of that event. We ask that you would be with us again today in our work and our deliberation. May with Thy help it be in the spirit or atmosphere of harmony and good will. We ask all these things in Jesus' name. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

REPORTS OF COMMITTEES LYING OVER

PROPOSALS ON THIRD READING AND FINAL PASSAGE

[Motion to take Committee Proposal No. 10 out of its regular order adopted without objection.]

Reading of the Proposal

MR. POYNTER

Committee Proposal No. 10, introduced by Delegate Aertker, Chairman on behalf of the Committee of Education and Welfare, and other delegates who are members of that committee.

A proposal making provisions for human resources by providing for a municipal fire and police civil service--as I appreciate it once again, this proposal, a lengthy proposal, setting forth one section dealing with municipal fire and police civil service.

[Motion to waive reading of the Proposal adopted without objection.]

Explanation

MR. RACHAL

Mr. Chairman, fellow delegates, this morning we continue with civil service but with a committee proposal which though, continues with state as establishing a municipal fire and police civil service and each municipality operating a regularly paid fire and police department and has a population of not less than thirteen thousand. The present constitution, the Constitution of 1921, provides for the same, but with municipalities with a population of more than thirteen thousand but less than two hundred and fifty thousand. This proposal before us extends that limitation to...eliminates any limitation which then includes all municipalities which have paid fire and police departments. However, you are aware that that will be in conflict with a provision which was passed yesterday? I should also point out that like the Committee Proposal No. 9 establishing the state and city civil service, the municipal fire and police is self-operative in that all of the necessary provisions in order to operate are included in the constitution. There are no references, otherwise, or there are no further provisions to be provided by the legislature or otherwise. A review of the 1921 Constitution, as well as Committee Proposal No. 10, will show that except for the removal of the limitation on the population that the other provisions of the 1921 Constitution providing for municipal fire and police has been repeated in Committee Proposal No. 10. It provides for a board, a five member board, which gets its membership by having an institution of higher education nominate four persons from which two are appointed to serve on the board. The governing

authority of the municipality involved selects a person or appoints a person. The members of the fire department in that area elect a person to the board. Also, the police department in that municipality elects a person to the board. The others, without going into a great deal of detail, the provisions are also provided for the filling of vacancies which, of course, repeats the original manner in which the person was appointed; it picks up the election of officers and spells them out. The remainder of the proposal really is a repeat of what exists in the present constitution. Mr. Chairman, I would like to suggest that...rather than an hour and a half lecture here on the Committee Proposal No. 10, which from this point actually tracts the provision provided in the present constitution, that much more may be gained by a discussion through questions that the delegates may have about Committee Proposal No. 10. If there is no objection to that procedure, I would like to stop my presentation and yield to questions.

Questions

MR. JUNEAU

Tony, it might help, though, if you would just basically tell us what changes were made in this proposal from what the existing law is; could you do that for us?

MR. RACHAL

I think that's what I've done; I could repeat those.

MR. JUNEAU

Well, I've heard them, but I think that's the important thing that a lot of us are interested in.

MR. RACHAL

All right. Let me repeat those. The changes as I can best ascertain them, as I understand them, is that the present constitution provides for a municipal fire and police for all municipalities of not less than thirteen thousand nor more than two hundred and fifty thousand. Committee Proposal No. 10 removes the limitation of the two hundred and fifty thousand, which means then, that this proposal advocates a municipal fire and police for all municipalities over thirteen thousand. Mr. Juneau, that basically is the change from the present constitution which is also, of course, repeated in the statutes. But, that basically is the change and from that point all of the provisions in the present constitution are repeated in this committee proposal.

MR. RIECKE

Mr. Rachal, as I understand it, the firemen and policemen of New Orleans are now under the regular Civil Service Commission; is that correct?

MR. RACHAL

That's right.

MR. RIECKE

And, you're taking them out from that regular Civil Service commission and creating a board...a commission board just for those... for the firemen and policemen; is that correct?

MR. RACHAL

That's what this proposal does; yes.

MR. RIECKE

All right. Now, what institutions recommend that board and how are they appointed?

MR. RACHAL

Well, now in New Orleans, of course, it doesn't....

MR. RIECKE

I know what it is now; what is it under the new proposal?

MR. RACHAL

No. Let me make that clear, you see, now that New Orleans police and fire are under the city civil service, it does not come under this at all.

MR. RIECKE

You are taking it out from that?

MR. RACHAL

No. Oh, now yesterday we voted to maintain that--the convention did.

MR. RIECKE

Yes.

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MR. RACHAL

What I was trying to explain that presently, by the constitution, New Orleans is exempted from the municipal fire and police.

MR. RIECKE

I know that.

MR. RACHAL

...so, there is no institution now nominating because there is no board in New Orleans for fire and police. Now, if we were to...if this provision prevails, and over the vote of the convention yesterday, it would mean that an institution in the New Orleans area would submit four nominees from which two would be appointed to the board.

MR. RIECKE

What institution?

MR. RACHAL

Well, that would have to be decided.

MR. RIECKE

By whom?

MR. RACHAL

By the governing authority of New Orleans.

MR. RIECKE

Does that say so in the amendment?

MR. RACHAL

It doesn't, but the general provision for all municipalities has it that an institution and in any...and that that...where there is only one, of course, has no selection to be made but where there are more than one the use of an institution is decided upon by governing authority of that municipality.

MR. RIECKE

As I understand it, there are five on that board, correct?

MR. RACHAL

Right.

MR. RIECKE

One representative of the police and one of the employee-- police employees--and one representing the fire employees, and the other three appointed by selection from an institution recommendation?

MR. RACHAL

Now, one is selected by the governing authority on its own choice.

MR. RIECKE

Yes.

MR. RACHAL

The other two are selected from among four nominees from an institution of higher education.

MR. RIECKE

So that the whole Civil Service Commission, then, would comprise two selected by the employees and one by the governing authority? I thought you said that some educational institution would recommend.

MR. RACHAL

Right; that's a right. The governing authority appoints one from whatever source it desires. Then, it also appoints two from four nominees made by an institution of higher learning. So, the governing authority actually does appoint three; two of them, though, are appointed from among four nominees from an institution of higher education.

MR. RIECKE

There's five all together?

MR. RACHAL

Five, all together--two employee representatives and three otherwise.

I would move the adoption of Committee Proposal No. 10.

Amendment

MR. POYNTER

Mr. Bergeron offers it.

Amendment No. 1. On page 1, line 12, following the word and punctuation "Section 1 (A)" delete the remainder of the line 12 and delete lines 13 through 21, both inclusive, in their entirety and insert in lieu thereof the following:

"There is hereby created and established a system of fire and police civil service which, notwithstanding any other provision of this article, shall be applicable to all municipalities with a population in excess of thirteen thousand which operate a regularly paid fire and municipal police department and all parishes and all fire protection districts which operate a regularly paid fire department. Except as may be inconsistent with the provisions of this Section, the provisions of Article XIV, Section 15.1 of the Constitution of 1921, are hereby retained and continued in force and effect as statutes. The legislature upon the favorable vote of two-thirds of the elected membership of each house may amend or otherwise modify any of said provisions of Article XIV, Section 15.1 of the 1921 Constitution except that the legislature may not abolish the system of classified civil service for such firemen and municipal policemen or make it inapplicable to any municipality which has a population in excess of thirteen thousand according to the latest decennial census of the United States or to any parish or fire protection district having a regularly paid fire department."

Explanation

MR. BERGERON

Mr. Chairman, ladies and gentlemen, I'm offering this amendment to Proposal No. 10 of the Committee on Education and Welfare dealing with civil service. The reason I offer this amendment is to set up, create and establish, and contain-- I should say retain--the system of municipal fire and police civil service in Louisiana. What we have done is take out the prohibition of any municipality with a population of over two hundred and fifty thousand having a municipal fire and police civil service system. So, I tell you now, that this would include New Orleans into the system. I've sat down and I've listened to the debate for the past few days as most of you have; it's been long; it's been hard. I want to extend my gratitude to you, the delegates of the Constitutional Convention, for sitting down and paying the interest you have in the debate which is going on and as a matter of fact, listening to me over the past few days in what I had to offer. Sure we have problems in civil service. Sure we have problems in the police and fire municipal civil service system. But nothing we can do will completely correct it; nothing we will do will completely correct those inequities. Now, I'm sure that everyone sitting out there will agree that there are inequities in our system because the system that--any system we devise--is only as good as the people who maintain and operate that system. As I've said, I've sat there and listened to the debate over the last few days and, in my judgment, I have not been pleased or have not been satisfied, I should say, with the outcome thus far. There just hasn't been valid or enough valid arguments and points as to why we should retain the New Orleans fire and policemen under the Orleans civil service system. Now, what I'm going to try to do is give you a few examples of why I think this system should be changed--maybe I can bring some new points into the situation; maybe I can bring some things up which haven't been discussed. But, if some of this has been discussed, I would appreciate it if you could bear with me because this is most important. I know we all realize that this is a very, very important situation we are dealing with here. Let me first go back and go through my amendment and show you some of the things we've done. We have created the system for municipal fire and police throughout the State of Louisiana. We've also added...or we've also deleted the two hundred and fifty thousand prohibition which would enable Orleans to come under this system. I have added that "the legislature upon a favorable vote of two-thirds of the elected membership of each House may amend or otherwise modify any of said provisions of Article XIV, Section 15.1 of the '21 Constitution except that the legislature may not abolish the system of classified service for such firemen and municipal policemen or make it inapplicable to all municipalities which have a population in excess of thirteen thousand." So, what we have done, is we've allowed for change in the future--if the need arises. We have set out a prohibition that the system cannot be abolished which I'm sure that each and everyone of us knows that the system of municipal civil service for police and firemen in the State of Louisiana will not be abolished. Now, Article XIV, Section 15.1 simply deals with a municipal police and fire civil service; it has their duties, their regulations, their powers, their terms, the board, and so forth. So, this provision, this proposal only deals with Article XIV, Section 15.1. So, that's all we are trying to tamper with here. Yesterday we adopted a provision in Proposal No. 9--of Mr. Denney's amendment I should say--which calls for

an election by the people of New Orleans as to whether their police and firemen should stay under the municipal...should stay under the city civil service system or be transferred into the municipal fire and police state system. Now, let me just point out a few, a few, now this is only a few problems which may arise from this system. First of all, we are going to have to educate the public as to the workings of civil service. Now, we know--and I consider all of us here highly intelligent people--we know and we've sat down and we've read and discussed civil service for over nine months--nine months--and we are still not clear in most instances dealing with civil service; we still are not as fully informed as we should be about the operations of the system. Now, we're talking about educating the city of New Orleans which has a population of over five hundred thousand people as to the workings of civil service--that's the basic step if we are to have an independent vote which is based on the facts. The second problem that I see could arise--it's more or less in the same line of explanation--we're going to have to inform the people the difference between the city civil service system and the state municipal fire and police service system. So, not only are we going to have to go back and tell them first of all how civil service operates; we're going to have to go back and explain the difference between the two systems. I can see this problem: we're going to have two years before the ballot is brought to the polls so we can just inform the public of what we are doing. Third, but not last, the problem which has confronted me is we are going to have to explain them...explain to the people of New Orleans why there should be two systems for civil service. Why should the rest of the State of Louisiana be under one system and why should New Orleans be under a separate system? By the very adoption of the amendment yesterday which put in this--calling for the election--we have set in some problems with the constitution. First of all, we're going to cause, I feel, a political issue. Now, you don't think they are going to call an election for just this one issue on the ballot. We had an election in New Orleans last month; we dealt with the mayoral candidates; we dealt with all our parochial offices, the district attorney. We had a very, very light turnout in New Orleans; it was predicted about fifty to sixty... about sixty percent...sixty-five percent. So, we're not going to have this one issue on the voting poll. We're going to have it thrown with other issues at the polls, maybe even political offices which I can foresee easily. So, the first thing that's going to happen is a candidate is going to be running for an office and he's going to say, "I'm for the city of New Orleans, the police and firemen going under the state municipal firemen and police civil service system," and right away you are going to make it a political issue although, in many cases, I feel it's been a political issue for many years but the problem that will cause is that I do not feel that the firemen and policemen in New Orleans would have adequate funds. I don't feel that our provisions would allow them adequately to carry out this campaign--the provisions we've adopted thus far. Sure, they can campaign on a person-to-person basis, but you are dealing with three hundred... over three hundred thousand people when you are dealing with just the city of Orleans. You know, I would like to just point out some of the specifics that I see, some of the inequities that I see, and maybe you will see under our city civil service system as opposed to our state fire and police municipal city civil service system. Well, first of all, let's go back to what we've been calling the proposed merit system which has been in effect. The merit system--well, let me tell you something about this merit system. A man has to-- in New Orleans now--a man has to be on the police force for three years before he is even eligible to take the merit system test which, also, seniority comes into play on that merit system test. But, he has to have seniority, I'll say, before he is eligible to take that test; he has to have three years seniority; he has to be there three years.

[Record Quorum Call: 85 delegates present and a quorum. Motion to suspend the rules to allow additional time adopted: 64-9.]

Explanation continued

Thank you, ladies and gentlemen, for allowing me the opportunity to continue with the explanation of my amendment. I was explaining the so-called merit system that we operate under now in Louisiana. Under the city system which our policemen and firemen in New Orleans are in or operate under, they have to be on the force for three years before they are eligible to take the so-called merit test which is based on a percentage, some of it to sixty-forty--I don't know the exact percentages, they vary from time to time--merit and seniority. Under the state system there is no seniority until an applicant first passes his test; he has to pass this test before there is any

consideration of seniority--that's the first step. A passing grade is seventy-five under the state system; under our city system it's seventy. Now, we had a big call yesterday for the most qualified...the past few days for qualified men, for qualified people in our office as police and firemen. I think if we have a man who passes the test with a seventy-five, as opposed to one passing a test with a seventy, I feel that it is some difference; maybe under the state system we do have the most qualified men. Even though the test in Orleans is seventy for passing and seventy-five under the state system, the policemen and firemen still wish to go under this system. I suggest to you this; I suggest to you as a colleague has suggested to you before, when there is no need for change, do not change. But, when there is dissatisfaction with the system; when there is compliant with the system, there is no other alternative than change. Now, you hear the argument: "Well, sure, but why can't we do it under our present system? Why can't we change it, the inequities, under our present system?" I'm sure any of my distinguished colleagues will suggest that there are inequities in our present civil service system in New Orleans; they know that as well as I know that. We've had the system for thirty-one years, but has it been changed? Have there been laws set up guaranteeing that every eighteen months, or every two years, or a specific said amount of time, there will be a promotional examination given, so the men who pass that examination may qualify for a higher position? No. So, under our merit system, after we are on the force for three years... It could be ten years before a promotional examination is called; it could be five years; it could be three years---there is no set time period. Under the municipal firemen and policemen civil service for the state there is a set period of eighteen months; every eighteen months a promotional examination is to be given. If there are open promotions available, those who qualify for those promotion will surely be considered. You know one other thing just caught my eye when I was looking over our proposal last night; let me explain it to you this way. Under Proposal No. 9, we have allowed for a municipal fire and police representative from the ranks of the state to be elected to the commission. Under city civil service, we have no such representative--no such representative. Ladies and gentlemen, let me just put the question to you this way: We have been...this issue has been before me for the last nine months--nine months. I've studied the facts on both sides. I've looked over the question. I've come up with a decision that there is sufficient information to justify change. The people who operate under this system are the people who have to live under this system. The firemen and policemen in New Orleans have to be operated under this system. Why, why will you not allow them the opportunity to come under a system which they deem more desirable; which they and I both feel will be more beneficial to the people of the state and to the policemen? I would urge the adoption of the amendment. Thank you.

Questions

MR. JUNEAU

Phil, I want to see if I understand your amendment. It does, does it not, change a vote which we just took in the past two days with regard to the people of Orleans Parish determining whether or not that's what they want? Your amendment does that, doesn't it?

MR. BERGERON

Well, I feel that this amendment, if it were adopted, what would happen was it would be probably sent first of all to Style and Drafting to see if there is, in fact, a direct conflict.

MR. JUNEAU

Well, let me ask the question a little more direct, then. Isn't the intent of your proposal to reverse what we did the past two days with regard to the amendment concerning the people of Orleans to determine whether they wanted it or they didn't want it?

MR. BERGERON

Well, let me say this, Pat. We haven't done that in the last two days; that amendment was offered last night. Now, I tried and I was all set to offer an amendment last night which would have satisfied the problem. Unfortunately, I couldn't get the amendment up. We have adopted that amendment last night; it hasn't changed what we've done in the last two days. My intent, and I feel the intent of the amendment is to put Orleans police and firemen under the state municipal fire and police service system. Yes.

MR. JUNEAU

All right. More specifically then, if your amendment was adopted, then we would have something contrary to the amendment which you said was passed by this convention last night?

MR. BERGERON

Now, I answered your question that way...the first question that way. I said if this amendment were adopted, it would be sent back, I'm sure, to the Style and Drafting Committee first of all to see if there is a direct conflict. Second of all, I'm sure it would come back to the people of the convention. I'm sure we would abide by the Style and Drafting Committee's views and we would have to settle the conflict.

MR. JUNEAU

Well, don't you have language in there that says "nothing in this article notwithstanding that this shall occur? Wouldn't this be a subsequently adopted amendment or the latest expression by this convention which, in essence, it wouldn't even be a question for Style and Drafting; you would be asking this convention to reverse what it did last night?"

MR. BERGERON

Yes, that's probably what would happen and I would say this: That...I'm glad you brought that out, it would be the latest concurrence of the convention, and I've said that all along. I said when I came up here--my opening statement--this amendment would bring Orleans police and firemen under the state municipal fire and police civil service system; that's what this amendment would do. It would also create, and set up, and constitutionalize our present system in this constitution which we are adopting now, which we are writing now.

MR. HERNANDEZ

Mr. Bergeron, your amendment makes no provision for a referendum to the various towns as they reach this population of thirteen thousand.

MR. BERGERON

I can't hear you, sir.

MR. HERNANDEZ

Your amendment makes no provision for a referendum to the people of any municipality that reaches the thirteen thousand requirement.

MR. BERGERON

A referendum?

MR. HERNANDEZ

Yes, to the towns and cities that reach the population of thirteen thousand. In other words, they have this system regardless of whether they want it or not.

MR. BERGERON

Yes, sir. That is correct.

MR. HERNANDEZ

There's no provisional...That's a change from the present law; is it not?

MR. BERGERON

No, sir, that's not a change from the present law. This system is implemented now in every municipality with a population of thirteen thousand or over.

MR. HERNANDEZ

But, there is no provision in the present law for a referendum for a city to determine whether or not they want civil service.

MR. BERGERON

No, sir, not to my knowledge, as there also is no provision in the present law which would allow a city who has police and fire city civil service to change to that state system. No, sir, the only way to make either one of those changes, as I see, is through constitutional amendments.

MR. CHAMPAGNE

Mr. Bergeron, my question is somewhat similar to Mr. Juneau's. I see in this proposal a definite reversal of what was adopted yesterday. Would you agree with me? In other words, let's not talk about style and drafting. Let's just say, is it...

MR. BERGERON

I'll stop you right here, Mr. Champagne. I agree. The intent of this amendment is to put the fire and policemen of New Orleans under the state system, and I've been fighting that for the last three days. Yes, sir. That's been my viewpoint all along.

MR. CHAMPAGNE

I see. In other words, what we're trying to do is rehash what we did last night; is that right?

MR. BERGERON

When we say rehash what we did last night, let me suggest to you, sir, that we had a fifty to forty-seven vote on this. It was a very close decision, and I feel that the decision is of such importance that maybe someone did not sit down. Maybe someone had something else on their mind and was not listening to the facts, was not listening to all the arguments and points brought out.

MR. CHAMPAGNE

Okay. Do you realize my only purpose in getting up is to raise a red flag to this convention to say that, in case someone didn't notice it, what we're trying to do is reverse what we did last night? Thank you.

MR. BERGERON

Thank you, Mr. Champagne.

MRS. WARREN

Mr. Bergeron, is this the first time in the history of this convention that you have heard that we are trying to reverse something? Have we not reversed and went forward, and reversed and went forward, and reversed?

MR. BERGERON

Mrs. Warren, you're quite correct; I'm sure all of us here will agree to that. We never know what's going to happen from day to day. That's been the way we've operated in the past, and as I said when I first came up--I'm sure you were listening--the intent of this was to put Orleans police and firemen under the state system. That is what I brought out in my very opening discussion, and you're quite correct. There has been no prohibition against reversing a decision, at least as far as the way we have operated thus far.

MRS. WARREN

It's been reversing, and everybody seems to be upset about another reverse. What does that suggest to you?

MR. LANIER

Mr. Bergeron, I'm looking at your amendment here, and it refers to all municipalities with a population in excess of thirteen thousand "which operate a regularly paid fire and municipal police department." By using the conjunctive "and" there, do you mean that both of these conditions must exist in the municipality before they come under this system-- i.e. they must have both a paid fire department and a paid police department?

MR. BERGERON

Yes, sir. That's the way I view the system.

MR. LANIER

And this would not be construed to apply to a city that would, say, only have a paid police department but not, say, a volunteer fire department. It would not apply to them; is that correct?

MR. BERGERON

I believe you're correct, sir.

MR. LANIER

In other words, for example, a city like Thibodaux, that has an all volunteer fire department and has a single civil service board under Act 97 of 1972, would not be affected by your amendment. Is that correct?

MR. BERGERON

That's correct, sir.

MR. LANIER

In other words, this is, as I understand it, intended to apply to parish and fire protection districts that have regularly paid fire departments. It would not apply to situations like in my parish where they have fire protection districts that are all volunteer.

MR. BERGERON

Yes, you are correct, Walter. If you would deem it necessary to correct this to correct your system, I would have no objections to it.

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MR. LANIER

You would have no objections to me tacking on an amendment to say that this would not apply to a municipality that only has a paid police department but a volunteer fire department?

MR. BERGERON

No, sir. I was referring back to the "and". Police department and--wait, let me find the exact language--"operates a regularly paid fire and police municipal department." That's the language I was referring to.

MR. LANIER

Right. This is not intended to apply in the situation where you have a paid police department and a volunteer fire department?

MR. BERGERON

No, my intent was that.

MR. LANIER

To apply to a town like Thibodaux?

MR. BERGERON

My intent was to make it apply to a municipality which had a paid fire and police...municipal police department. My intent was to make it apply to Thibodaux, which Thibodaux is part of the rest of the state. But, being from New Orleans, I am not as familiar with your problems, as you are not as familiar with my problems. If you said that there is a conflict or a problem created with this language, well certainly, offer your amendment.

MR. LANIER

Well, now, quite frankly, you've got me confused, Mr. Bergeron, because originally you said by using the conjunctive "and" that both paid departments have to exist before this was applicable; is that correct?

MR. BERGERON

Walter, that's what I said in the very beginning.

MR. LANIER

Well, if you have a volunteer fire department, they're not paid; are they?

Further Discussion

MS. ZERVICON

Mr. Chairman and delegates, I think this is not the ordinary case of fighting and losing and coming to fight again. We've done that time and time again in this convention, and I believe it's legitimate. What this is a case of is fighting, reaching a reasonable compromise, and trying to overturn that compromise. Once we reached our compromise on the elected officials, we didn't come back and overturn that. Once we reached our compromise on the split session of the legislature--leaving it up to the wisdom of the legislature--we didn't come back and compromise on that. We didn't revoke the sovereign immunity compromise. We didn't revoke the police jury powers compromise leaving that to a vote of the local area. This is a viable compromise. It's really very similar to putting an alternative on the ballot, but that alternative will appear within a year of the adoption of the constitution and will only appear in the area affected. Now, let me give you a little bit of information about the fire department in New Orleans because you've heard so much in the way of criticism of this department in recent days. For example, are exams for promotion ever given? You'd better believe it. In the past thirteen years they've given promotional exams twenty-two times. For the rank of fire captain, they've given promotional exams seven times for that rank alone. Now, the reason they had to give that exam so often is that there is an in-time service requirement in a lower grade. As soon as they get enough people eligible, they give the exam again. There is a reason why the exam is not given more frequently, and that is: that when a register is made up, instead of retesting those guys every six months, they just keep them on the register until they promote them. It's the same sort of giving of a benefit to a guy, who is presently in the service of the fire department, that is being recommended to you. But, I may suggest to you: it is a little bit more reasonable because the register is made up on the basis of other qualifications other than seniority. As I say, in-time service in a particular grade is one of the things taken into account, but not the only thing. My major point here is that exams are given and are given frequently, as frequently as are necessary. Now, what sorts of benefits do the firemen get from the city? In the first place, we just signed a collective bargaining agreement; so the city

hasn't prevented unionism, as a matter of fact. We think it's a good idea. It helps us know what the people in the department are thinking. It gives us a mechanism to work out disagreements so that they may become agreements. But, in addition to that, there've been two five percent pay increases in the past two years. All city employees receive the tenure award if they are continuous employees of the city. Their safety equipment, paid for by the city, the city allows deductions from union members' pay checks on a sign off of that union member. In other words, the city is the dues collecting agent for the union. The Blue Cross payments have been increased over the years, and now it's forty dollars a day room coverage and unscheduled out-patient coverage. There's been increasing compensatory time off from straight time to time and a half. There's a yearly uniform allowance. The fire fighters work week has been reduced. It's presently twenty-four hours on and forty-eight hours off. In addition to that the fire fighters get what's called a "Kelly Day." A "Kelly Day" is one twenty-four hour period with pay--off. The employees are allowed to convert sick leave to cash payments on his termination from the department. The sum to be computed for total retirement is the highest consecutive pay in a thirty-six month period rather than a sixty month period, which as you can see would raise it. An employee's vesting rights, or an option to stay in the retirement system despite resigning or in some cases dismissal, has reduced from fifteen years to ten years. The city combines an employee's annual leave and sick leave, along with workmen's comp, to provide full payment to employees while incapacitated. There's no requirement to do this; that's just one of the things the city does for its employees. If the employee exceeds the amount provided for workmen's compensation, the city picks up the remainder to protect its employees. Now, what are the firemen dissatisfied with? Well, I imagine they want more. Don't we all? But, still compared to other sorts of employees, the benefits received by these departments--members of these departments--is considerable, including special millages levied to give police and firemen bonuses at the end of the year, special uniform allowances, special committees set up to negotiate differences with the cities which don't exist in other departments, and that sort of thing. In addition to that, let me make one more point to you that's been made before, but as far as I'm concerned, it's one of the crucial points. New Orleans is a large metropolitan area, forty-five to fifty percent black, with a long history of racism--not the overt kind, but just the kind where you don't go out and try and overcome past decades of doing bad to folks. It's only within the past few years--past few years--that we have been actively recruiting black policemen and black firemen. At present, one of the top three officers in the police department is black, and his predecessor was also black. That man did not work his way up through the ranks. He's a very qualified guy, but he did not aerve twenty-five years on the department before he got that job. He's doing a creditable job, as did Mr. Case that preceded him. I've heard absolutely no criticism of these men. What I have heard is that, in the first place, it helps black recruitment, and in the second place, black kids have somebody to identify with in that department. It doesn't look like the big white papa figure. We haven't yet achieved this in the fire department. We don't want to just stick anybody in the top ranks, and of a thousand and twenty members of that department, only twenty-six are black. But, we've got an actively...an active recruiting program which is federally funded, and we hope in the near future to have someone at the top of that department. So, I urge you: vote down this reconsideration.

Further Discussion

MR. STAGG

Mr. Chairman and fellow delegates, last night I read over again CP 10, which is the subject matter of today's deliberation. At that time, there were in existence in this hall, or in the machinery of this convention, an amendment to CP 10 proposed to be presented by Mr. Flory, and there was another amendment proposed to be introduced on today by Mr. Dennery. In comparing the two proposed amendments, I note that Mr. Flory's amendment was not presented, but a slight change was made in it, and it was proposed by Mr. Bergeron. The effect of that slight change was to eliminate one of the significant things we did on yesterday. This you should be aware of. But if you would take out your copy of CP 10 and look at only two or three provisions of it with me, you would see that there is and will be when we finish here today a significant amount of stuff that is almost unable to be explained. If you would look on page 8 in line 23 and 24 and 25, which allows this municipal board to employ a part-time secretary for "not to exceed twenty dollars a month," are we going to send this over to be part of the statutes? If you would look at a more glaring inconsistency on page 16, you'll find that this so called fire

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and police civil service provision only covers firemen. It does not cover policemen by its own language. If you would look further in the proposal, beginning at line 20 on page 26 where it sets out various departmental classifications, as I understand it from our local fire and police civil service commission or board, the only way they've been able to work around these problems of these classifications is to get some trumped up opinion from the state attorney general allowing them to operate their system outside these exact words. Yet, Mr. Bergeron's amendment and other amendments send this into the statutes bodily without change. More importantly, by the very language of this Bergeron proposal, you'll find that by a two-thirds vote of the legislature they can amend or otherwise modify any or all of the provisions of this document. Gentlemen, I think that while we must do something, the route to the doing of it should not and ought not begin in the Bergeron amendment, and I urge its defeat.

Further Discussion

MR. TOBIAS

Mr. Chairman, fellow delegates, I rise again today to speak against this particular amendment. Yesterday evening the delegate, who is appointed to this convention, rose and said--who was appointed to represent labor--rose and said he accepted defeat on the New Orleans issue. I wonder if he's going to stick with that today. We've considered this issue five, six, seven times--a number of times--and I don't think anybody here has not made up his mind on it, or hasn't had someone make up his mind for him. We're running out of time, ladies and gentlemen, and I'm using up part of it now which I hate to do. I urge the defeat of this amendment.

Further Discussion

MR. JUNEAU

Mr. Chairman and fellow delegates, I tell you in all due candor the issues involved in the civil service articles are almost beyond my comprehension. They've been very meticulous and very detailed, and for that reason, I really haven't taken a participation in it because I didn't think that I had enough knowledge to impart to this convention that would be of great value. But, by the same token, you don't have to have any knowledge about civil service to know what is right and wrong, and what is fair play and what is not fair play. I do recall last night that we were embroiled in a controversy over Mr. Lanier's amendment--an amendment which was adopted by this convention, and I do recall that subsequently we could not get final passage--and Mr. Lanier and his coauthors said in an effort to get this convention rolling we will accede to what, apparently, this convention wants to do, and we will withdraw that amendment. The response, as I recall, was from the people who opposed that amendment, we are satisfied with the context of the proposal which is before this convention. Now, I am not completely satisfied with the article that we adopted last night, but I accept it. As Mr. Dennery says, in his opinion he thought it was an acceptable compromise on the issue of civil service and retained the general principles of civil service. Then, today I submit to you: we're playing foul ball. Those who said yesterday it's acceptable, say today we want another crack at the apple. We want to destroy what you said yesterday was fair and equitable. I want to clarify one gross misconception in my opinion. When you use language in an article which says, nothing in here which will be inconsistent with the article, that is not, ladies and gentlemen, anything for Style and Drafting to tamper with. That is a substantive change which is a backdoor language which is used when you want to reverse something that is done previously. What I am telling you here: we are running out of time. I, and many of you here, have accepted the will of the majority of this convention, and I'm merely asking you to move this convention on and reject what I consider to be an attempt to reverse what we did only as close as of last night. Thank you very much.

Questions

MR. BERGERON

Pat, in the very beginning when I offered my amendment, didn't I say that this amendment will bring Orleans into the municipal police and fire civil service system? Did you not hear me make that statement?

MR. JUNEAU

That's absolutely correct.

MR. BERGERON

All right. Let me just ask you one other question. Pat, someone brought out that this would--this vote by the legislature--would only be applicable to firemen. Don't you realize... Do you know that the constitution and the statutes have more or less been combined, and that they are incorporated; therefore, we take care of the police and the firemen?

MR. JUNEAU

In all due candor, Mr. Bergeron, I'm not exactly sure what the answer to that question is, but that's not what concerns me about your amendment. What concerns me about your amendment is undoing, specifically, what we did yesterday. What further concerns me is the answer to your question that this is something to be referred to Style and Drafting, which Style and Drafting has nothing whatsoever to do with. It's a substantive change to completely reverse the one amendment we passed yesterday which is a compromise amendment.

Further Discussion

MR. E. J. LANDRY

Mr. Chairman, ladies and gentlemen, if only I could get your attention for a minute. How much I have enjoyed your discussions, you'll never know. Up to this point, I have not missed one discussion; I have not missed one vote. The only thing I'm asking for you to do at this time for me is to listen to me because you have taught me--you have taught me what to say at this time. So, I'm going to give back to you what you've given to me if you'll just listen. What it takes to have you listen is a miracle of some kind that I wish could be worked at this time. I've enjoyed the rules of the game. I have nothing to say adversely against anyone who tries to win a point. The fact is I admire Casey. When Casey comes to bat and he uses compromises to overturn, I have nothing but admiration, as long as the man plays the game by the rules. Those of us who disagree with what you are doing or what some of you are doing, still want to play by the rules. Ladies and gentlemen of the convention, this point at this particular time is a point having to do with human resources--human resources, people--people who are dissatisfied. That's the issue. I'm on this committee; I listened for six months to people--many, many people who came out of this system are dissatisfied. I realize that something needs to be done, and this is the time to do it. It's not too late; it's just the right time. Now, let me tell you something. I happen to belong to a group of people involved in the system--a state system. There was a time when we were involved in parochial systems. You've heard a lot about the city of New Orleans. There was a time when they operated separately in the school system of the State of Louisiana. But, there came a time when they wanted to belong to the State of Louisiana--when things were rough, when finances were low. Now, let me tell you something. I'm doing a service to the State of Louisiana when I help to put the state, the police and firemen of the city of New Orleans into a system that can be upgraded. We have upgraded to a great extent the teachers of this state into a system that requires qualifications for all of the teachers of the State of Louisiana into one system. There was a time when you had parochial considerations, different systems, different pay scales; that was no good. It was only by collective bargaining--some of you are adverse to it; some of you think it's wrong. It is only a principle of social justice that comes about by collective bargaining. The people have to have a right to do what they're doing in order to get attention. Now, the basic concept here, people, is the last opportunity to give these people an opportunity to become part of a state system that will upgrade human resources, morale. This state has not served well when the morale is low, when the employees and the workers are not satisfied. This state has not served well. Help the State of Louisiana; help New Orleans; help all of these people to get what they deserve. This amendment attempts to do that. Yes, it is a reconsideration under the rules. I'm not against that; I'm for it. Otherwise, I never would have had an opportunity to talk to you. People, vote for this amendment and give these people an opportunity to become part of the state.

Further Discussion

MR. J. JACKSON

Mr. Chairman, delegates to the convention, it seems like--and I just can reflect just on yesterday--with the advent of the Lanier amendment, there was a situation whereby people in other parts of the state felt that there was some drastic action that was being taken to affect their civil service, their firemen, and policemen. I think we heard some great oratory on yesterday as to the wrongness of...the vast wrongness of the Lanier amend-

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ment. I heard it said that on yesterday, we ought not have conflict in amendments...conflict in provisions. If this passes, truly this will be a conflict in provisions as opposed to that which we have now in Committee Proposal No. 9.

Now, on yesterday, I've got to admit to you, I was late. But, I came back, and I was informed that our local firemen and policemen will remain in the system provided that the people of the city of New Orleans would have the opportunity to vote whether they wanted them to go into the state system or not. As someone said, you know it's a bitter pill on both sides of the fence. It's a bitter pill for me because you presently take a force--and particularly I am concerned about what we are presently trying to do to enhance minority participation. You take a department which is primarily based--promotion is based on the merit system, and you put them in a system where if, upon examination, seniority is the prime factor; it seems to me if it's a good for the goose, it ought to be good for the gander. If people in Caddo Parish, and people throughout the state say that their civil service system has been working effectively for thirty years, and that it ought not be tampered with, then, I say that although I have serious problems with our present civil service as it exists in New Orleans, that it is a city system. I ask that you give the same sort of consideration and reject then, the Bergeron amendment. Because, I cannot conceive, particularly, I think, that we've reached some sort of compromise. We'll let the people decide. But, I cannot see coming back again this way to rehash the issue which this convention spent at least two days--three days--resolving. I think by the vote on yesterday by fifty-seven plus, we resolved that. If the firemen and policemen and the people of the city of New Orleans want to put their money in the state system, then they can so do it. I suggest to you that I could very well see someone coming behind after this amendment, introducing an amendment and suggest that the firemen and policemen of the parish of Caddo, or those where, even in Baton Rouge, that they also...that the people there could take a vote to decide whether they remain in the state system.

I just think it's highly unfair. I think we've debated this issue. I think we've reached what I'm pleased with. I understand that although all parties may not be pleased with it, at least it lets the people decide. So, I ask you to reject the Bergeron amendment. I yield to any questions.

Questions

MRS. ZERVIGON

Mr. Jackson, how many letters or post cards did you have from firemen? Maybe twenty--twenty-five?

MR. J. JACKSON

I don't know if I got that many, Mrs. Zervigon. I did talk to the captain of the fire department--you know.

MRS. ZERVIGON

There are a thousand men in that department. Is that correct? I mean that's what my figures show.

Then how many contacts did you have from policemen on this subject?

MR. J. JACKSON

None.

MRS. ZERVIGON

Neither did I. So, even assuming there's something like five hundred people in that department that would agree with this. Let me ask you this question. Of the eight thousand five hundred other city employees in New Orleans, how many of them contacted you and asked you to change civil service?

MR. J. JACKSON

There were some that had contacted me about attempting to correct what they felt were some of the inequities. I think we did some of that in Committee Proposal No. 9.

MRS. ZERVIGON

Representation on the commission, primarily?

MR. J. JACKSON

Right.

MRS. ZERVIGON

But, not this fire and police business.

MR. J. JACKSON

Well, just let me say this, now....

MRS. ZERVIGON

Well, let me ask you one more question. How many citizens of the city asked you to change--split out the fire and policemen from the system?

MR. J. JACKSON

None. None.

MRS. ZERVIGON

So, generally, we're listening to a fairly small number, would you say, of employees as opposed to the vast majority of the employees who have not contacted you and asked you to do this thing. Is that correct?

MR. J. JACKSON

I would assume so. But, I've got to recognize in earnestly that they are represented here by their lobbying organization.

But, regardless of even that, Mrs. Zervigon, my concern is that particularly, I wanted to make sure that the Civil Service System is responsive to the employees of the city. For me to come up here and particularly fight for minority participation, and then tie the hands of the commissioner that says that this person must be promoted on seniority rule, negates every effort that I've done here in this convention.

MRS. ZERVIGON

Well, let me ask you one more question.

The point has been made that the firemen are here to speak to us, and there aren't any other citizens here. Isn't it correct that some of these people are here--on pay--from their organizations; and that there are other people who just find it very difficult as plain old citizens to come up here--especially if they are satisfied with the system? Isn't that consistent with the kinds of lobbying we've had on other articles that people who were generally satisfied and have jobs to do elsewhere, just don't quit their jobs and come up here?

MR. J. JACKSON

Well, Mrs. Zervigon, I could say that you're true. But, I don't want to hassle about the operations of the union and the manner in which they lobby. You, know, I think....

MRS. ZERVIGON

No, it's a good thing. I believe it brings us plenty of information, but it doesn't necessarily bring us all the information. Would you agree?

MR. J. JACKSON

Yes. Right. Right.

MR. E. J. LANDRY

Mr. Jackson, isn't it a good thing that we have representation from all forces, including Mrs. Zervigon, who represents the mayor, Mr. Flory, who represents the working man....

MR. J. JACKSON

There's no doubt in my mind.

MR. E. J. LANDRY

...people like myself who represents just ordinary people?

MR. J. JACKSON

Right. There's no doubt in my mind.

MR. E. J. LANDRY

.... legislators and a cross section of everybody?

MR. J. JACKSON

Yeah....I....

MR. E. J. LANDRY

Isn't it true?

MR. J. JACKSON

In fact, I'm glad it's that way.

MR. E. J. LANDRY

Isn't that a wonderful thing, now.

Getting to the real point, Mr. Chairman, isn't it....I have been....have you and I been made fully aware now of the fact that the state system is an upgraded system....that the state system is much superior....from all I've learned in six months in committee, you have to take a test, first, Mr. Jackson. You have to qualify. Seniority is not the main factor.

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MR. J. JACKSON

Well, that's the same way presently, but it's based on the merits. You take the examination, the promotion....

MR. E. J. LANDRY

You have the...the state system is a far superior merit system, as I understand it. Then, seniority plays a part. Now, all the delegates have to understand that, Mr. Jackson. They don't fully....

Point of Order

MR. KEAN

Questions ought to be questions, and not for the purpose of making another speech. Mr. Landry spoke out his time, and I think he ought not be allowed additional time to speak again.

MR. HENRY

Your point is well taken, Mr. Kean. I'd ask that you just ask a question, Mr. Landry.

MR. E. J. LANDRY

Well, did you understand that all these things that I have heard during the six months period of time are the main essentials in this argument?

MR. J. JACKSON

I can understand that, but I can state it to you that...

I've lived in the city of New Orleans for thirty years, and I'm familiar.

Further Discussion

MRS. WARREN

Mr. Chairman and delegates, and as one of our speakers said yesterday--brothers and sisters--I can remember once, it was on a very, very sad occasion when a lady said to another lady when she had lost her husband, "I feel so sorry for you because I know exactly what you are going through."

The lady wiped her tears and looked at her and said, "I don't know how you can know what I'm going through with cause you ain't never traveled this road before. Your husband is still alive."

I say that to you. I said once before at this microphone, I did not come here for a compromise. I did not campaign on a compromise. I'm going to repeat something that I said when I got a loaf of bread, "When you are bogged down to your ass in alligators, it's hard to remember that your original purpose was to drain the swamp." I want the Times-Picayune to print it. I am an independent. I vote my convictions. I have heard justice, and I have heard political justice. I don't want anybody to get confused on where I stand. Not that I don't have faith to believe that things will be changed. I say to you today, "A little child shall lead them." I want you to read it one day. I want to tell you where you can find it--a little child shall lead them. I've heard many come to me and say I'm talking about you voting for this because this is going to help blacks, you vote for this because this is going to do this, that, and the other for you. I say to you, those things are going to be changed according to a little black book that I know that these things are going to happen. Don't you be confused, delegates, about whether we are coming back once again. It has been set a pattern in this convention that if once

you don't succeed, then you try and try again. Why it's so unfair that one who is with strong convictions would not try to try again. I say to those who say that I represent the city, and I want them to have a chance to vote on what they want to, read the Times-Picayune this morning on the voting, asking us to vote in the election tomorrow. It tells you how the Times-Picayune thinks about their candidates. But other organizations are not quite up to them. I say to you, if you want justice, if you don't want child abuse--and this is one of the greatest forms of it--to single out one city's fire department and police department from the rest of the state, if this is not segregation or child abuse in its worse form, I want you to tell me. Please let justice prevail. Then, if you want justice, and you want all the cities to have the same thing, put it in there that they have the same thing, and let's all go home and be happy. But don't kid yourself about the fact that you are trying to get justice. You are trying to get political justice. I'm not so naive as not to know what political justice is all about.

I yield to any questions from anybody. Thank you.

Point of Information

MR. SHANNON

Mr. Chairman, how many more speakers on the list?

MR. HENRY

Two more speakers.

Motion

MR. SHANNON

I move that we vote on this after those two...we limit it to two more speakers.

MR. HENRY

I...there are three speakers on the list--there are three speakers on the list.

MR. SHANNON

Well, I move that we limit it to those three people on the list.

[Motion adopted without objection.]

Further Discussion

MR. JACK

Mr. Chairman and gentlemen, I had not intended to speak except for something that one other speaker mentioned. I think we all know how we're going to vote. But one speaker was of the opinion, from what he said, and what I gathered, that on Proposal No. 9, would vote...would bind you on Proposal No. 10. Well, that is just not correct. They are two different things--just like--suppose Proposal No. 9 was a lawsuit, I or any other lawyer had filed, and Proposal No. 10 was another one. Now if I settled one case for a client, even if it arose out of the same wreck, that wouldn't mean that the other one had to be settled. Now, without going into a lot of detail, you remember it was agreed, so to speak, and by me and different others, remember the passage of the section was in danger. It couldn't pass. Now, when Mr. Lanier withdrew, or acceded, to getting his out of there, that amendment he had, then we all, nearly, almost unanimously voted to pass the whole section. Now, that had to do with what originally was Proposal No. 9. We are dealing with No. 10. There were people even absent. They certainly couldn't be bound by something when they weren't even there. We are representing people in Louisiana under Proposal No. 9, which been disposed of by more or less a compromise. This is an entirely new thing, ball game, if you want to say, or like another law suit. We are dealing with it now. I'm going to vote just like I voted on the other...my own conscience...and I'm in favor of this amendment because I've always believed from 1940, when we first started fooling with civil service, that the New Orleans firemen and police should be under the same one with the rest of the police and firemen of this state. They are entirely different from the other employees. That's the way I am. I just wanted to express this because there's no settlement of Proposal No. 9--10--by what was done on 9. So, I'm in favor of this amendment. Thank you.

Questions

MR. ROEMER

Wellborn, you were clearing up mistakes, or at least what you thought was a mistake made by previous speakers. Is that not correct?

MR. JACK

What's that?

MR. ROEMER

Didn't you address your remarks to the misconception of a previous speaker, as you termed it?

MR. JACK

That is correct. That is my idea.

MR. ROEMER

I understand that. Didn't you also hear a previous speaker talk about "Caydo"? Would you like to clear up where "Caydo" is?

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MR. JACK

Well, now, the Indians used to call it "Caydo", I understand. We mispronounced it, called it Caddo, and there's more of us than the Indians, so we called it Caddo.

MR. JUNEAU

Mr. Jack, I don't quite understand what you said. You said there is no connection between what we are voting on now, and what we voted on yesterday. I call your attention to the amendment wherein it says "notwithstanding any other provision in this article." Now, isn't it true, Mr. Jack, with that language in there, that it would definitely have the effect of negating the amendment which we passed last night, relating to the city of New Orleans?

MR. JACK

Well, yes it would. But that's what--listen, this Proposal No. 10 has been down here as material. If we did our duty, which I have, I have discussed Proposal No. 10 which covers all cities--thirteen...over thirteen thousand. Now, I've told people I'm for Proposal No. 10. Now, if you don't think that not just having experience, but being a lawyer and knowing something about compromising cases and claims, that I'm going to tell people I'm for Proposal No. 10, and then have something down here where that it was on Proposal No. 9, like another lawsuit, that that's going to settle their lawsuit No. 10. That would be ridiculous for me to be there.

MR. JUNEAU

Well, Mr. Jack, I just wanted to make this point, you're not telling this convention that the language I just quoted to you does not have the effect of changing something we did yesterday. That's....I just wanted to make that clear.

MR. JACK

It does have effect; but, also, the No. 9, of course, we've changed it, we're trying to change that, you know, to get the police and firemen out into the regular system. They were under the state and city one. But, there are entirely two things, in my opinion: Number 9 is one lawsuit, so to speak; Number 10 is another one, and we weren't bound by what happened in nine.

Further Discussion

MR. CASEY

Mr. Chairman and delegates, initially I'd like to say that I certainly appreciate the straightforwardness and forthrightness whereby Mr. Bergeron has readily admitted that this amendment completely changes the amendment submitted by me on yesterday. He pulls no bones about it, and answers without hesitation. So, this is not a sneaky approach at all. It is open, forthright, and there is no question about it, that to put it plainly, it guts us completely from what we did yesterday.

I appreciate, also, the support rendered by many people outside of the city of New Orleans, who spoke for my amendment on yesterday; for instance, Mr. Champagne, Mr. Willis, and Mr. Drew, who, without hesitation, came to our assistance and submitted for your....for your decision, the idea that we should not change.... that we should not change a system of civil service for our fire and police in the city of New Orleans, that has been in effect since 1942. There has been little, and preferably no, evidence submitted to you, to indicate why, in Heaven's name, the state system for municipal, fire, and police is a better system than at the city civil service system which is in existence today.

As we discussed yesterday, and as I explained yesterday, the city system of civil service is merit, whereby you take a person or an individual for a position from the three highest that have scored on a test or examination. Under the state system for municipal, police, and fire, as I said on yesterday, you can have fifteen people taking examinations. Because of the factor of seniority, if the senior person places fifteenth on the examination, that is the person that is chosen for that position. You know, and I know, that is no way to run a business, and this is no way to draft and sculpture a constitution. This is not the way to do it, to completely gut to the detriment of a certain area, a system that has been in existence for thirty years. You know in your heart it's just not right. You know, and I know, that it's extremely difficult to tell the fine gentleman in the rear of this convention hall, one word, when one word has to be used sometime. That word is "No!" You have got to say "no" sometimes. It's awfully difficult to tell these fine people who have every right to be here, to lobby for their cause, you have got to tell them "no." Any politician--let's face it, everyone of us here are politicians. That's why we're here. Any politician who doesn't know how to say no, isn't worth his salt as a politician. Now, those who believe in all honesty that a yes vote, in principle, is

the best thing to do, I respect your vote. But for God's sake, don't be committed in advance on something that can be extremely detrimental to a certain area of your fair state. A lot of people complain, I know, about dealing only with matters that affect the city of New Orleans. That's absolutely ridiculous. I don't mind dealing with matters that affect Lafourche Parish, or Caddo (or Caydo), however you want to say it, Mr. Roemer. Those matters are my matters. I am a representative to a state body. Whether it be here, or in the legislature, I am delighted to assist and deal with matters that affect any area of our state. I want to impress upon you, also, that one of our fair delegates, Mr. Willis, has tried to impress upon you consistently that there is nothing wrong with the concept of "we the people." That's what we are gutting. We are taking away from "we the people" of the city of New Orleans, the right to determine its own fate in the matter of its own municipal, fire and police civil service system.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I rise in support of this amendment. A great deal has been said from this microphone this morning regarding a statement that I made yesterday in reference to Committee Proposal No. 9. I said then that I was in a position to support Proposal No. 9 until the Lanier amendment went on it--even though it was a bitter pill for me to swallow. I did that, after the Lanier amendment was removed. But I, at no time, said that I would not try to the very bitter end to try to change that particular provision, even to the extent that when Style and Drafting comes back with its final report, I still have that prerogative. I didn't ask anybody else to give up their rights under that system. I didn't intend to give up mine. Now, the question's been stated from this microphone, that you keep coming back and keeping coming back; but, let me suggest to you the facts that this convention, on two or three occasions, adopted the...fact to bring the city of New Orleans into the rest of the state with the fire and police civil service. But it was the city of New Orleans who kept coming back, and kept coming back, until they finally, by a fifty-one to forty-seven vote, were able to sustain their position. I don't quarrel with that. That's the name of the game. But to say that I am wrong when I attempt to do it, I think, is not giving me the same advantage in which they take.

Now, Mr. Casey said something about "don't get committed in advance." Well, I can say to you from this microphone that a number of the delegates from New Orleans were committed when they came to this convention on that issue. And they haven't waived one iota--not one.

Now, Mr. Lanier, this does in no way affect your situation in the city of Thibodaux. The way this amendment is worded, it could not apply to the city of Thibodaux because you do not have a paid fire department. You have a volunteer fire department, and consequently, the city of Thibodaux is fully protected in this amendment. That's what was intended. That's exactly what it does. The bottom phrase refers to those types of situations so that what this amendment does is to take care and put all of the firemen and policemen in this state, and municipalities over thirteen thousand, in the same type system--identically the same. Now, remember this, in those municipalities between seventy-five and a hundred and thirteen thousand, their system is statutory and is verbatim, word for word, as the constitutional provision for cities of thirteen thousand to two hundred and fifty thousand, with one exception--one exception--and that is the size of the board. In the municipalities of thirteen thousand and more, a fireman representative, and a police representative sit on those boards. That's the entire difference. The city of New Orleans, the firemen and policemen want to come under this system because they would be given representation on the fire and police civil service board. The firemen would elect one, the policemen would elect one. A great deal has been said by Mrs. Zervigon about the delegates, or the people here representing the firemen and policemen, are paid, perhaps, by their own people. That, perhaps is true. But I suggest to you that the city of New Orleans has had lobbyists sitting up there paid by the city of New Orleans ever since this convention started. Nothing wrong with that. Nobody said a word about that. But, it's wrong when a private, poor little old fireman, who's risked his life every time he puts that uniform on, or a policeman comes up here to represent himself. It seems to be some stigma attached to him when that happens. But I suggest to you, that that's not the case.

Let me say to you again. In all of the weeks and months our committee studied this subject, not a single mayor, not a single public official elected, came before that committee and offered any opposition to the fire and police civil service of a municipality that served under this system. Not a one--not

a one. That's on the basis of some thirty years of experience.
I ask for the adoption of this amendment.

[Quorum Call: 102 delegates present
and a quorum. Record vote ordered.
Amendment rejected: 52-54. Motion
to reconsider tabled: 60-46.]

Closing

MR. BERGERON

Ladies and gentlemen, I'd like to bring out a few facts in closing.

You know, I respect my good friend, Mr. Burt Willis. I served on the Judiciary Committee with him. I've found him to be a most knowledgeable person. But you see, the problem is, Burt is not from New Orleans. Now, let me bring this out to you. In New Orleans last month, we had an election. Our mayor was reelected. Our mayor was against the policemen and firemen going under the State Municipal Fire and Police Civil Service Commission. Now, let me pose this question to you. How are the fire and policemen of New Orleans going to fight the administration? How are they to have enough pull and enough votes, and enough time, and effort and funds to oppose the administration? That's one year away after this constitution's adopted. We'll still have our present administration. I pose it to you. Can they do it? I think not. I think not. What we're doing is involving civil service employees in a highly political question which should not be a highly political question. Ladies and gentlemen, we have a big decision to make here. This decision was made yesterday by a vote of sixty-one to thirty-eight saying that we should go under the police...the State Municipal Fire and Police Civil Service Commission. The so-called compromise we agreed to... we agreed to...falls very short of a sufficient compromise. Those problems I present to you, I would please ask you to search your conscience and give the people who operate, who work, who support their families by the salaries they make, give them a chance to go under the system which they would like to operate under. I would simply urge the adoption of the amendment.

Thank you very much.

Questions

MR. LANIER

Mr. Bergeron, when our little discussion was terminated when you made your initial presentation, there was some confusion over the language of your amendment. Now, to get the record straight on this, when you say "a regularly paid fire and municipal police department," you mean this to apply to a municipality that has both of those?

MR. BERGERON

Correct, Walter. It has to have...the municipality has to have a regularly paid policemen and fire department. If the municipality has one paid and one more voluntary, this will not apply to them.

MR. LANIER

Now, further, in the bottom, here, it says that "the legislature may not abolish the system of classified civil service for such firemen and municipal policemen." You're referring there, I assume, to the paid firemen and the paid policemen. Is that correct?

MR. BERGERON

That is correct.

MR. LANIER

Then, when you say "or make it inapplicable to any municipality which has a population in excess of thirteen thousand," what you are referring to by the word "it" is the system dealing with the paid firemen and the paid policemen. Is that correct?

MR. BERGERON

That is correct.

MR. LANIER

So, in no way would this be applicable to a municipality that had, say, paid policemen and not paid firemen?

MR. BERGERON

You are correct.

Mr. Chairman, I think we've been up here and we've discussed the problems of civil service in state and police systems for three days, now. Mr. Lanier had posed his question to me earlier, and I said I would straighten it up. I will not yield any further simply because I believe that we've heard as much as we're going to hear. The delegates have made up their minds, and they know what decisions they will cast. Thank you very much.

Amendments

MR. POYNTER

Mr. Dennery sends up amendments at this time.

Amendment No. 1. On page 1, line 16, after the word "thousand" and before the word "according" insert the words "nor more than four hundred thousand".

Amendment No. 2. On page 1, at the end of line 21, after the word and punctuation "services." add the following:

"However, in cities over four hundred thousand, if a majority of the electors voting at an election held for the purpose consent thereto, the paid firemen and municipal policemen may be included in the municipal fire and police civil service."

Amendment No. 3. On page 1, delete lines 22 through 32, both inclusive, in their entirety.

Amendment No. 4. On pages 2 through 46, delete lines 1 through 32, both inclusive in their entirety.

Amendment No. 5. On page 47, delete line 1 in its entirety and on line 2, delete the paragraph enumerated "(A-5)"and insert in lieu thereof "(B)."

Explanation

MR. DENNERY

Mr. Chairman and delegates, this amendment is basically, really, almost the same as Mr. Bergeron's, except it provides that...it limits it to four hundred thousand so it would include New... exclude New Orleans, and it provides for the New Orleans vote, which we agreed upon yesterday. It keeps in the law--the present law--for firemen and policemen. Now, this is often an attempt to do basically the same thing as Mr. Bergeron wanted to do, remove the mass of language from the constitution since it is already in a statute. I submit it for that purpose. Be pleased to answer any questions, Mr. Chairman.

Questions

MR. ROEMER

Mr. Dennery, just for emphasis's sake, what you are saying in your amendment is, in effect, deleting most of the pages of this Committee Proposal No. 10, but still adhering to what we passed yesterday, vis-a-vis New Orleans. Is that not correct?

MR. DENNERY

To keep those pages, or to delete those pages?

MR. ROEMER

To delete them.

MR. DENNERY

Yes, sir.

MR. ROEMER

Okay, but you still have our provision for an election in the city of New Orleans?

MR. DENNERY

Yes, sir.

MR. ROEMER

That being the only such election to be held in this regard?

MR. DENNERY

Unless another city comes over four hundred thousand; yes, sir.

MR. FLORY

Mr. Chairman, I would like to ask if we could have about a one-minute recess?

[Quorum Call: 98 delegates present
and a quorum. Amendment withdrawn.]

Amendments

MR. POYNTER

Amendments sent up by Delegates Dennery and Flory.

Amendment No. 1. On page 1, line 12, following the word and punctuation "Section 1. (A)" delete the remainder of line 12, delete lines 13 through 32, both inclusive, in their entirety and insert in lieu thereof the following:

"There is hereby created and established a system of fire and police civil service which shall be applicable to all municipalities with a population in excess of thirteen thousand which operate a regularly paid fire and municipal police department and all parishes and all fire protection districts which operate a regularly paid fire department. Except as may be inconsistent with the provisions of this Section, the provisions of Article XIV, Section 15.1 of the Constitution of 1921, are hereby retained and continued in force and effect as statutes. The legislature upon the favorable vote of two-thirds of the elected membership of each house may amend or otherwise modify any of said provisions of Article XIV, Section 15.1 of the 1921 Constitution except that the legislature may not abolish the system of classified civil service for such firemen and municipal policemen or make it inapplicable to any municipality which has a population in excess of thirteen thousand according to the latest decennial census of the United States or to any parish or fire protection district having a regularly paid fire department. However, in municipalities with a population in excess of four hundred thousand paid firemen and municipal policemen shall be included if a majority of the electors in the city affected voting at an election held for the purpose consent thereto, provided such an election shall be called by the governing authority of the city affected within one year after the effective date of this constitution."

Amendment No. 2. Delete lines 1 through 32, both inclusive, in their entirety, on pages 2 through 46, and on page 47, delete lines 1 through 16, both inclusive, in their entirety.

(Amendment No. 2 deletes the remainder of the proposal.)

Explanation

MR. FLORY

Mr. Chairman and delegates, yesterday we had a technical amendment--Mr. Dennery and Mr. Flory and Mr. Dennery did. Mr. Dennery was under duress, he said. In this case, it's Mr. Flory under duress. What this amendment does is to transfer the existing provisions of the constitution relating to fire and police civil service to the statutes, allowing the legislature, by a two-thirds vote, to change the provisions thereof. It does not disturb the New Orleans situation. It excepts the language. . .it includes the language of the Casey amendment of yesterday, and said that they have to have the election within one year, and if a majority of the voters vote in favor thereof, then they come under the state fire and police civil service system.

Amendment No. 2 deletes the rest of the entire forty-seven pages of the proposal.

Questions

MR. GOLDMAN

Mr. Flory, since the . . .in this last line, here, the last sentence, "shall be called by the governing authority of the city affected within one year after the effective date of this constitution," would that preempt any other city that reaches four hundred thousand from having an election like that if it. . .maybe it would be ten years after this constitution is adopted?

MR. FLORY

No. No, they would already be under the system, Mr. Goldman, because they would have been in the system when they reached. . . by virtue of the fact that they were within the population bracket of thirteen thousand to four hundred thousand.

MR. ALEXANDER

Mr. Flory, for more than a week we have been talking about four hundred thousand, which means New Orleans, and over thirteen thousand. Is there any logical reason why cities under thirteen thousand are almost forbidden to have a civil service system?

MR. FLORY

No, sir, Mr. Alexander. As a matter of fact, they do have civil service. It's statutory today; it's verbatim as the constitutional provision. The only exception is that the constitutional system in municipalities thirteen thousand to four hundred. . .or two hundred and fifty thousand has a five man board. The population

bracket seventy-five hundred to thirteen thousand has a three man board. The consideration being that under seventy-five hundred, you don't have enough employees, really, to establish a civil service system. This was the original logic, I understand, in arriving at the figure of population of seventy-five hundred, because you only have about eight or nine, ten, perhaps, firemen and about that many policemen. . .

MR. ALEXANDER

The legislature is freer to tamper with them than with the other systems. Is that correct?

MR. FLORY

We. . .this doesn't affect those systems at all.

MR. ALEXANDER

But, the legislature can. . .which means that the legislature can. . .

MR. FLORY

They can do it today with a simple majority vote.

MR. CHATELAIN

Delegate Flory, it seems like that we're getting closer and closer together, and someday we may vote together. But, the point I'm concerned about. . .

MR. FLORY

I welcome that day.

MR. CHATELAIN

Thank you. As we. . .you and I spoke a few minutes ago. When I speak. . .when I relate to the city of Lafayette, of course, I'm concerned with the whole south Louisiana sections. Many of our cities are comparable to ours with the problems of ours, above thirteen thousand. As I understand your amendment, it would keep the copy of the 15.5 as is. It would not change any of the operation of my fire department or police department?

MR. FLORY

It would retain 15.1 of the present constitution, which is fire and police civil service, as statutes, and would not change it in any way unless the legislature, at some future date, by a two-thirds vote of the legislature of both houses changed it.

MR. CHATELAIN

Well, that would be all. . .in other words, what you see in this 15.5--15.1--would be retained in statutes until changed by two-thirds of the legislature?

MR. FLORY

That is correct.

MRS. CORNE

Mr. Flory, referring to your. . .the very last sentence of this article where you refer to the elections, after an election has been held and voted by the majority of the people, then does this decision remain final forever?

MR. FLORY

I would presume so, unless the legislature, at some future date, changed it by a two-thirds vote.

MRS. CORNE

The legislature could mandate the municipality to have another election, periodically; is that it?

MR. FLORY

I believe they could change the provisions, but I don't know whether they could take them out from under it because there's no vehicle, Mrs. Corne, to do it, because we say that they can't abolish the system of civil service.

MRS. CORNE

Yes, that is correct.

MR. DREW

Cordon, down in the prohibition it refers to not abolishing a system of classified civil service. But, I'm wondering what the significance of leaving the 'classified' out in line 2, in the. . .

MR. FLORY

I can't hear you, Mr. Drew. I'm sorry.

MR. DREW

In the delegate proposal it says "there shall be a classified

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civil service." Now, that "classified" has been left out in the first sentence of the amendment. Is there any significance to that? It does use it as to what may not be abolished, but it does not use it in the first two sentences, there. Should it be included?

MR. FLORY

Are you saying in the first sentence, "There is hereby created and established a 'classified' system?"

MR. DREW

It's used. . . that's the way it is in the committee proposal. "There shall be a classified civil service for fire and police." Now, we are not using the word "classified" in creating. . .

MR. FLORY

Evidently, it's just a technical error, Mr. Drew. If you notice in the second sentence, we use the term "a system of classified civil service—may not abolish the system of classified civil service for such firemen and policemen."

MR. HAYES

Mr. Flory, you said, here, that having "municipalities with a population in excess of four hundred thousand that paid firemen and municipal policemen shall be included if a majority of the electors in the city affected voting at an election held for the purpose consent thereto, providing said election shall be called by the governing authority of the city affected within one year." Now, it appears that this depends upon whether or not the city calls the election. Is that correct—only if they call it?

MR. FLORY

No, this mandates, in my judgment, that to say that the city of . . . we're talking about the city of New Orleans, and within one year after the effective date of this constitution, they would have to call the election.

MR. HAYES

"Provided said election shall be called by the governing authority of the city affected within one year," does that mandate the city to do something?

MR. FLORY

In my judgment it does; yes, sir. That was the intent, as I understand it, of Mr. Casey's amendment.

MR. LEBLEU

Mr. Flory, in effect, what this amendment does. . . Can you hear me all right?

In effect, what this amendment does is take the municipal civil service for cities over thirteen thousand up to four hundred thousand out of the present constitution and put it in the statutes, changeable with a two-thirds vote? Is that, in effect, what it does?

MR. FLORY

That's correct; yes, sir.

MR. STINSON

You don't agree that if you don't delete that word "provided," you're not going to have anything? Why you. . . you don't need "provided." Don't you think you should say that "the municipalities shall call"? "Provided" is a condition on the fact that if they call it. If you don't leave it in there, there's no. . . you can't force them to call the election, can you?

MR. FLORY

I think you're correct, Mr. Stinson. It was my understanding that Mr. Casey and Mr. Jackson were agreeable that the election should be called, was mandated. It was my understanding that their intent was to mandate the council to call the election in order to resolve the issue, once and for all. I'll be happy to withdraw the amendment, Mr. Chairman, with the permission of the convention, to strike that word "provided," and to add the word that Mr. Drew suggested in order to be sure that there's no misunderstanding about what we're talking about.

MR. CHATELAIN

May I ask Mr. Flory: if you withdraw this, sir, and come back with it, could I become a coauthor of your amendment?

MR. FLORY

That would really be a combine.

[Amendment withdrawn.]

MR. HENRY

Mr. Flory reintroduces or reoffers amendments.

Amendment

MR. POYNTER

All right, there are three changes. In the text, two changes. On the second line, after the words "system of" insert the word "classified."

On the fourth to last line, strike out the word "provided" at the end of the line.

The third change, add Mr. Chatelain as a coauthor.

MR. FLORY

Mr. Chairman, there have been a number of them ask to open the machine and wanted to coauthor it, if it would be permissible.

I now ask for the adoption of the amendment.

[Three coauthors added to the Amendment.]

Further Discussion

MR. LEBLEU

Mr. Chairman and fellow delegates, I just want to bring this to your attention, and see if you see this amendment as I understand it. Presently, the municipal civil service is in the constitution. It takes a two-thirds vote for a joint resolution through the legislature plus a vote of the people to change it. This amendment would change all that and put the present requirements of the constitution in the statutes and require only a two-thirds vote of the legislature to change those. The convention voted overwhelmingly, yesterday, against a three-fourths majority of the legislature to change the provisions of the state civil service. I just wonder if you realize what we're about to do, and if the people who are concerned with the municipal civil service really want this taken out of the constitution and placed in the statutes. I just throw that out for your consideration, and ask you if you understand this amendment the way I do.

Questions

MR. DESHOTELS

Mr. LeBleu, why do you think that we have in this instance for firemen and policemen a suggested legislative civil service, whereas for the other civil service employees we've just adopted a constitutional civil service?

MR. LEBLEU

Well, that was the point that I was bringing up, Mr. Deshotels. I wonder why we're requiring that the state civil service be placed in the constitution and, yet, the municipal civil service we are leaving to the whims of the legislature.

MR. DESHOTELS

Do you know that I don't know the answer to that question either?

MR. WEISS

Delegate LeBleu, isn't the most important state operation that anyone can think of, the firemen and the policemen?

MR. LEBLEU

Yes, sir.

MR. WEISS

Why is it, then, that they should be separated from the other civil service employees by allowing the legislature to control their civil service operations?

MR. LEBLEU

I can't answer that, Dr. Weiss, but I think under this proposal, Amendment No. 2 would take all of the committee proposal and delete it, which I. . . as I understand it, is some of the provisions of the present constitution. So that it, in effect, would shorten our constitution. All right, but I just wonder whether that's really what the convention wants to do.

Further Discussion

MR. WEISS

I know the hour is late. I don't mean to delay anyone. This looks like an ideal amendment, but poor legislation is passed in haste. I wonder if this is poor legislation. Now, Delegate LeBleu is also a Representative from our area. He's been unable to answer this question, and I thought this body voted, without question,

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that this civil service that we have in Louisiana would not be in the hands of either the legislature or the governor. I believe the article as passed, previously, specifically spelled that out. It is constitutional material. This, although constitutionally written, is controlled by the legislature, and I would like some comment and discussion in this regard from those members in this body that can tell me that this is not now a legislative matter rather than a constitutional one.

[Previous Question ordered. Record vote ordered. Amendment adopted: 97-13. Motion to reconsider tabled.]

Recess

[Quorum Call: 69 delegates present and a quorum.]

Amendment

MR. POYNTER

Next set of amendments is offered by Delegate Jenkins: Amendment No. 1. On page 1, line 12, in Floor Amendment No. 1 proposed by Delegate Dennery, and adopted by the convention on today, at the end of the text of the amendment, add a new paragraph: "(B)"

[Amendment withdrawn.]

Amendment

MR. POYNTER

Mr. Schmitt, do you want your amendment? Amendment reads as follows: (It amends the Dennery amendment adopted today.) On page 1 of the floor amendment, at the end of the seventh line, add the following: "Permanent appointments and promotions in municipal fire and police civil service shall be made only after certification by the applicable Municipal Police and Fire Civil Service Board under a general system based upon merit, efficiency, fitness, and length of service, as ascertained by examination, which, as far as practical, shall be competitive."

Explanation

MR. SCHMITT

I do not feel that seniority should be the sole criterion for advancement within this system. When seniority is the sole criterion, injustice and inefficiency can result. A young person or a person newly eligible, particularly the minorities, to apply for a position on civil service, would be prevented from advancement. If this amendment is not adopted, that would result. This amendment would allow new ideas in the minorities to enter into the system. The original amendment, as proposed by Mr. Flory and Dennery, would require a two-thirds vote of the legislature to change any of the provisions which exist in the 1921 Constitution in Section 15.1. This will drastically prevent any possible change to the system in the future. You've seen how labor has prevented this independent body from adopting a proposal by denying it the two-thirds vote necessary to complete the other proposal. This is with a larger minority representation than presently does exist, or probably will exist in the legislature for a long time to come. It will be easier, in my opinion, for labor to rally one-third of the votes in the legislature to prevent a change in this particular aspect, than it was for them to obtain the one-third vote before the Constitutional Convention. If my amendment, or a similar one, is not adopted, the minorities will get the worst of two worlds. They'll get the worst of the present one because it will essentially prevent any minorities from getting ahead, other than in the parish of Orleans, into positions of power for the next ten or fifteen years. In the future, when the minorities will eventually have the opportunity to come ahead, labor will then have the opportunity of pushing forward and getting the two-thirds vote to change it so it'd be based on the merit system, and thus, perhaps, still preventing blacks from getting their necessary part of control in our future in the State of Louisiana. I feel that this amendment is a necessary amendment. It's necessary to prevent injustice

in our system; it's necessary to guarantee that within this new system, the minorities and youth will have a chance of advancing their ideas and ideals into the future. I feel that without this amendment, we will be seriously castrating the possibility in the future of our legislature changing this particular section. I feel that without this amendment, there is no chance for change, there is no chance for progress in the particular system in which this is concerned. I feel that seniority will continue to be the main criteria, if not the sole criterion for even the possibility of taking an examination within the system. I, therefore, urge your adoption and consideration of this amendment. Thank you very much.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I ask you to reject the amendment. The theory of the amendment that we adopted earlier was to just contain a short, concise statement in the constitution relative to the fire and police civil service, and to say that they could not abolish the classified system of civil service, and let the legislature take care of the details and provisions of the civil service system as it relates to firemen and policemen. I ask you to reject this amendment, and let the legislature take care of these types of things where both sides can be heard, who are affected by this type of an amendment. I ask you to reject the amendment.

[Previous Question ordered. Record vote ordered.]

Closing

MR. SCHMITT

This is the same section which we adopted in Committee Proposal No. 9, Section (G). I feel that it is a fair and an equitable situation. It will give the minorities and the youth the opportunity to get in positions of control, and to allow them to have the same rights of advancement as others do within our system. I believe that justice demands that we adopt this amendment. Otherwise, they will not see the chance to even participate in the future of our state in this system for the next five, ten or fifteen years. Thank you.

Questions

MR. J. JACKSON

Mr. Schmitt, is not this basically the same amendment that was adopted in Committee Proposal No. 9?

MR. SCHMITT

It is verbatim the same.

MR. J. JACKSON

So, why can you...why are we hearing at present that there is some opposition to putting it now in Committee Proposal No. 10?

MR. SCHMITT

Because I think that what has happened in the past, that these areas have been primarily segregated throughout the state, and this would...actually, without this amendment, it would prevent blacks from getting into positions of power in the police and the fire departments.

MR. ROEMER

"Jay," what's done now on these types of promotion under the system?

MR. SCHMITT

Under the present system, if you don't have a...the person with the highest seniority is first on the list. Once you pass, everyone is put into the same ball park, no matter what your score was on the examination, or what other qualifications that you might have.

MR. ROEMER

So, what your trying to do is make sure that merit and efficiency and these sort of things get equal footing with seniority; is that not true?

MR. SCHMITT

That's correct, and this also allows for seniority to

be placed in there as one of the criteria, but not the sole criterion.

MR. ROEMER
 Isn't this exactly what we did in the other committee proposal?

MR. SCHMITT
 Yes, it is.

MR. ROEMER
 Thank you.

MR. CHATELAIN
 Mr. Schmitt, isn't it a fact that your amendment provides for both combination of merit and seniority?

MR. SCHMITT
 That's correct.

MR. CHATELAIN
 In other words, if a person has...want to be promoted, and he's been on the force a good while, it would give him some advantage to be promoted.

MR. SCHMITT
 That's correct.

MR. CHATELAIN
 That's correct. I think you've got a fine bill here, Mr...

MR. SCHMITT
 Thank you, sir.

MR. WILLIS
 Mr. Schmitt, isn't what you mean to say in this amendment, that the appointments and so forth--a certification by the applicable Municipal Police and Fire Civil Service Board under a general system based upon merit, giving consideration to efficiency, fitness, length of service and experience--you don't have it here--as ascertained by examination? In other words, based upon merit, primarily, giving considerations to those four ingredients, and ascertained by an examination.

MR. SCHMITT
 I think this allows the flexibility there for them to make the necessary changes that I feel will be important to prevent seniority from being the sole criterion, and if we reject this amendment, seniority will be the sole criterion.

MR. WILLIS
 No, if you've made your answer clear, my question is not clear, then. Is it what you mean that you want merit to be primary, instead of demerit, and that the consideration to determine merit are those three ingredients of efficiency, fitness, and length of service, and that the ascertainment of that merit, the final drop of the axe, will be the examination itself. Isn't that correct?

MR. SCHMITT
 Yes, sir.

MR. WILLIS
 It doesn't quite say that. I'm going to vote for you though.

MR. SCHMITT
 Thank you, sir.

MR. HAYES
 Mr. Schmitt, do you know of any integrated fire departments in the state anywhere?

MR. SCHMITT
 Orleans Parish.

MR. HAYES
 Do you know of any other one?

MR. SCHMITT
 No, sir.

Amendment

MR. POYNTER
 Mr. Avant has amendments at this time.
 Amendment No. 1. On page 1, line 12, in Floor Amendment No. 1 proposed by Delegate Dennery, and adopted today, at the end of the text add a new paragraph:

"Nothing in Article VII, Section 1 of this constitution authorizing cities or other political subdivisions to be placed under the provisions of said article whether by election, act of the legislature, or ordinance of the local governing authority shall be construed as authorizing the inclusion therein of firemen and policemen in any municipality having a population in excess of thirteen thousand and less than four hundred thousand and which operates a regularly paid fire and municipal police department or in any parish or fire protection district which operates a regularly paid fire department, which said firemen and policemen are hereby expressly excluded..."

Explanation

MR. AVANT
 Mr. Chairman and fellow delegates, I'm not going to tell you that this is a technical amendment because it's not a technical amendment. I would hope that it would be a noncontroversial amendment, however. The purpose of this amendment is to permit us to undo something that was done yesterday by inadvertence. Now, the present constitution, as you all now should be well acquainted with this fact, contains a constitutional civil service system for the state, and also in that same provision of the constitution, Article XIV, Section 15, provides for a city civil service system for cities over two hundred and fifty thousand. Then, in Article XIV, Section 15.1, there is provided a constitutional civil service system for municipal firemen and policemen in cities having a population in excess of thirteen thousand, but less than two hundred and fifty thousand. So, I think you got the picture. I hope you got the picture. Now, in the present constitution, Article XIV, Section 15, Subparagraph (U), there is a provision whereby any city or parish having a population exceeding ten thousand and less than two hundred and fifty thousand, may, by election called by the governing authority of that parish, vote to come under this civil service system that is provided in Article XIV, Section 15, that is the one which applies to the state and to the city of New Orleans. However, now, the present constitution provides that if they so vote to do that, that all of their employees, whether they had previously had any type of civil service system, or hadn't had one, will come under this new system except--and this is what I want to read to you--except those coming within the provisions of Article XIV, Section 15.1 of the Constitution of the State of Louisiana. So, what the present constitution provides, then, is that if there is a city with a population of more than ten thousand and less than two hundred and fifty thousand people, that opts to come under this system, votes to do it; they go under it, all of their employees go under it except those firemen and policemen that are covered by the municipal fire and police civil service provisions of the constitution. Mr. Dennery's proposal, which we adopted yesterday, incorporates this provision of the present constitution except there was omitted therefrom this exception which applies to municipal firemen and policemen that come under the municipal fire and police civil service system. I did not detect that, in the midst of all of the debate and furor that we had yesterday, until last night. I talked to Mr. Dennery about it this morning. He told me that he didn't intend to do that. It was not by design. It was just apparently an oversight. It just happened in some fashion. He doesn't really know how it happened. I discussed with Mr. Dennery the amendment that you have before you. I also discussed it with Mr. Casey. I discussed it with several other delegates, and Mr. Dennery and...well, I won't say Mr. Casey, but Mr. Dennery has authorized me to state that he has no objection to my amendment, and that this was something that just happened. So, what I am asking you to do, since we have now adopted Committee Proposal No. 9, and it's laid on the table, I'm asking you to adopt my amendment to Committee Proposal No. 10 which will put this exception back so that if a city should elect to come under the state system, or the New Orleans system, or whatever you want to call it--the system that's incorporated in Mr. Dennery's proposal, Committee Proposal No. 9--that they will not carry with them those municipal firemen and policemen who have been covered by the municipal fire and police civil service law, which is the subject matter of this committee proposal that we are

[Amendment adopted: 50-45.]

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on now. That will provide, then, a conflict which we will have to reconcile later; in other words, that will have to be pointed out by the Committee on Style and Drafting to the convention, "Now, look, you've got these two conflicting provisions. Which one do you want?" You would have the privilege, at that time, of voting on that. But, since this was done by inadvertence, it was not intended; I missed it; Mr. Denny says he didn't intend to do it that way, and it's never been considered by the convention, I would, at this time, request that you adopt my amendment which would put this exception back in in this proposal. I'll answer any questions that anyone may have.

Questions

MR. LANIER

Mr. Avant, I'm looking about in the middle of your amendment, and it says "firemen and policemen," but it doesn't say "paid firemen and policemen". Is what you intend to refer to there as paid firemen and policemen?

MR. AVANT

Yes, sir, and I would have no objection, and I at this time... I did this rather hurriedly, Walter, I mean, in view of the circumstances. But, at this time, I would...well, I don't think it's necessary because if you'll read further down, I put it in. It says, "who operates a regularly paid fire and municipal police department". So, it is in there in one place.

MR. LANIER

Well, for the sake of the record, though, what you're meaning by using...

MR. AVANT

I mean a regularly paid fire and police department. I don't mean Thibodaux; you're not under it; I'm not trying to put you under it.

MR. LANIER

Now, let me ask you something else. This amendment actually goes back to affect, as I understand it from what you say, this paragraph in that we've already adopted in Article VII, Section 1.

MR. AVANT

That is correct.

MR. LANIER

Now, if Article VII, Section 1 is...Section 1(N) is left alone, would that mean that these people between the thirteen thousand and the four hundred thousand could vote to have all one civil service system, and would not be subject to the provisions of having a separate system for the firemen and policemen?

MR. AVANT

It does mean that. That's why I came with this amendment, because it was my understanding that's what the convention wanted to do was just keep the status quo in this area.

MR. LANIER

They would be voting to do that which actually would mean that, in a way, the Lanier amendment is back in effect; is that correct?

MR. AVANT

Now, Walter, as much as we discussed your amendment yesterday, I forget exactly what it said. But, I think, in a way, it is back in effect, yes.

MR. ABRAHAM

Jack, if you can clear this up for me, I understand that the purpose of your amendment now is to say that if a city does avail itself of the provisions of this Proposal No. 9, that the firemen and policemen are excluded. Is that correct?

MR. AVANT

If they are a city which is covered by that law. In other...

MR. ABRAHAM

Well, I appreciate that.

MR. AVANT

It's to make it just like the present constitution in that particular regard.

MR. ABRAHAM

I appreciate it. I'm trying to reconcile what we've adopted as compared to what you're proposing here because in Paragraph (N) of the proposal, we've got a place where they can take... except the provision of the act, but in Paragraph (N) there is the exclusion in Paragraph (O) saying that the firemen and policemen are expressly excluded, and I'm confused as to where this would fit in.

MR. AVANT

Well, Paragraph (O) deals with the legislature placing those people under a civil service system that would be a legislative civil service system which they would do by legislative act, or the council, as I understand it, could do by ordinance. In that particular regard, this problem was taken care of. It says, if they do that, you don't put the firemen and policemen under it. But, the provision that I'm talking about is where they do it by election, in...as provided in Paragraph (U) of the present constitution, Article XIV, Section 15. 1.

MR. ABRAHAM

Well, to put it simply, then, what you are trying to do here is put the exclusion into Paragraph (N) of what we adopted yesterday. Is that right?

MR. AVANT

Yes...

MR. ABRAHAM

It said the same as we have in the exclusion in Paragraph (O).

MR. AVANT

Paragraph (N) corresponds with Paragraph (U) of the present constitution.

MR. ABRAHAM

Right.

MR. AVANT

The present constitution has the exception, but Mr. Denny's proposal doesn't.

MR. ABRAHAM

I realize that.

MR. AVANT

It was inadvertent, so I'm told.

MR. ABRAHAM

All right. So, we have the exclusion in (O)...Paragraph (O) of what we adopted yesterday. We don't have it in Paragraph (N), and what you are trying to do is put the exclusion into Paragraph (N), in effect. O.K.

MR. AVANT

That's right. Maintain the status quo.

MR. KEAN

Mr. Avant, as you know, in the parish of East Baton Rouge, in the city of Baton Rouge, we have a personnel system that's provided for in the plan of government, is it not?

MR. AVANT

Yes, sir.

MR. KEAN

As you know from the litigation we engaged in, the fire and policemen in the city of Baton Rouge are under the state fire and police system because it's provided for in the plan of government, isn't it?

MR. AVANT

Correct.

MR. KEAN

Under those circumstances, if the people of the city of Baton Rouge and the parish of East Baton Rouge wanted to amend their plan of government, and bring the firemen under their regular Civil Service System, up to this point in time they would have a right to do that, wouldn't they?

MR. AVANT

I would not necessarily agree nor disagree with that, Mr. Kean, because I think you are asking me now for a legal opinion--

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in view of the peculiar plan of government of the parish of East Baton Rouge, the constitutional provisions that led to its adoption--a rather difficult question to answer, and I'm not going to stand up here and say yes or no.

MR. KEAN

All right. Assuming that I'm correct, that it could be changed by amendment to the plan of government, as I read this proposed amendment, referring as it does to Article VII, Section 1 of the constitution, since East Baton Rouge and the city of Baton Rouge do not come under that article and section, then this would not affect the right of the people of Baton Rouge to change their plan if they had the legal authority to...

MR. AVANT

That is correct because if...their right would emanate from the plan of government, not from Article VII, Section 1, and if they've got the right now, this wouldn't affect it. If they don't have it, it wouldn't give it to them.

MR. PEREZ

Mr. Avant, why did you include on the fourth to last line the words "or in any parish or fire protection district"? I thought we were talking about municipal firemen.

MR. AVANT

Well, the municipal fire and police system covers those, as I understand it, Mr. Perez.

[Previous Question ordered. Amendment adopted: 88-9. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Jenkins sends up the following amendment:
Amendment No. 1. Page 1, line 12, in Floor Amendment No. 1 proposed by Delegate Denney, and adopted by the convention on today, at the end of the text of said amendment,--and we need to insert, now, "and following the language added by the Avant amendment", Mr. Jenkins--add a new paragraph:

(B) Prohibitions Against Political Activities. Article XIV, Section 15.1 (34) of the 1921 Constitution is retained and continued in force and effect."

Explanation

MR. JENKINS

Mr. Chairman, as you know, under the amendment adopted earlier deleting the whole proposal, we have adopted Article XIV, Section 15.1 and provided that that can be changed by a two-thirds vote of the legislature. However, there is one provision in that part of the constitution dealing with civil service for municipal firemen and policemen that, under no circumstances, do I think should be changed by the legislature and that is the Hatch Act provision of it with regard to political activities. So, this provides that Subsection 34 of Section 15.1 of Article XIV of the 1921 Constitution would be continued and retained in full force and effect and would not be subject to being changed by a two-thirds vote of the legislature. I've talked to Mr. Denney about this and he agrees with it; I've talked to Mr. Flory and his groups agree with this. I think this will provide us with the sort of protection that we need with regard to political activity, so I urge the adoption of it.

Questions

MR. VICK

You saw the tick-tock circular that was passed out to all the delegates in the House Chamber concerning the 1040 checkoff; did you not?

MR. JENKINS

No.

MR. VICK

...the prohibition against the civil service....

MR. JENKINS

Oh, yes, I did.

MR. VICK

...utilizing the 1040 checkoff?

MR. JENKINS

Right.

MR. VICK

Would this affect that in any way?

MR. JENKINS

I can refer to the existing constitution--and by the way--you would find the same provisions on page 42 and 43 of the committee proposal and it prohibits contributions to candidates, so I'm sure that it would; yes.

MR. VICK

Well, do you think the state civil service can tell a civil servant what to do or what not to do with his 1040 tax return?

MR. JENKINS

Well, we're not talking here about state civil service, of course, we are talking about municipal fire and police civil service. No, I don't think that it is those bodies that are doing that. I think what we are talking about here is a contractual matter. The fact is that when an employee comes to work for the state or the fire and municipal civil service they are agreeing, thereby, to not do certain things in return for this protection that they are being given under civil service. I don't think it's in any way an infringement of their rights. Moreover, we have adopted this principle for state civil service. I think we ought to be consistent and adopt it here for municipal fire and police civil service.

MR. VICK

Well, I don't know if you answered my question, but it didn't sound like it.

MR. JENKINS

No. I said I think that in all likelihood that ruling would continue.

MR. A. JACKSON

Delegate Jenkins, would this prevent city employees under city and municipal civil service from participating in issues?

MR. JENKINS

Issues, what do you mean, Mr. Jackson?

MR. A. JACKSON

Constitutional amendments, bond issues.

MR. JENKINS

Well, this pertains not to all city employees but to municipal fire and policemen and under the....

MR. A. JACKSON

Well, would it prevent policemen and firemen from participating in bond issues?

MR. JENKINS

I think that it would; yes.

MR. A. JACKSON

Thank you.

MR. JENKINS

And, let me say this: I favored really originally--in fact, the first amendment that you see on your desk would have provided that municipal fire and policemen would be subject to exactly the same rules as state civil service employees are. However, some of the representatives of the municipal fire and policemen in the back, said that they really preferred things to remain just like they were, that they were accustomed to the legal rulings on those provisions in the present constitution and rather than change them, they would like to see them just kept the same.

MR. LANDRUM

Mr. Jenkins, your amendment here is three lines on this sheet of paper, but it would run better than a page. I wonder if it's possible for you to reword that particular section and present it in the fashion that you would like to see it in rather than the way it is now.

MR. JENKINS

Well, in order to retain exactly the same legal effect and connotation, we would have to adopt exactly the same wording.

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So, the only way we could do that is to put that page in there and it just seems like this would be the simplest way to do it. It's not the way I probably would like to do it, but I think that probably this would satisfy most people this way.

Vice Chairman Casey in the Chair

MR. HAYES

Mr. Jenkins, my objection probably was the same as that expressed by Reverend Landrum. I wondered why did you indicate by reference? I could understand better what you were doing if you would have stated here what it is that you don't want done, and 15.1 probably spells out exactly what it is you want done, but it's not on this page; I've got to go to Article XIV, Section 15.1 of the Constitution of 1921 when I could well read it right here.

MR. JENKINS

Well, we are just trying to save length; that's the only reason, Dewey.

MR. HAYES

But, in the process of doing it...before the people who are trying to act on it—I'm trying to say, it's a lot of unnecessary work for us to try to go and tell them. I'm not good at research, and I have to do all the research. You already know what it is, and I don't.

MRS. WARREN

Mr. Jenkins, I really think that you answered the question—mine was concerning what we had already passed relative to that they could participate as far as the bond elections and so forth were and, of course, when you finish, I want the floor.

MR. ROEMER

Woody, what does this section say about prohibitions against issue involvement in political campaigns, not personality involvement? Would you like to address a remark to that?

MR. JENKINS

Yes; Mr. Jackson had asked that question. I think that this continues the present law and it would prohibit involvement in public issue elections.

MR. ROEMER

Would prohibit?

MR. JENKINS

Yes.

MR. ROEMER

Do you favor that; obviously you do with this amendment, I would guess?

MR. JENKINS

Yes, I do; I favor it. I think that municipal policemen and firemen, by and large, favor it, too.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, this morning we adopted the Dennery-Flory amendment which said that "all of the provisions of Article XIV, Section 15.1 would be retained." Now, I can't see the benefit of this particular amendment because that also contains paragraph 34 of Article XIV, Section 15.1. So, I just can't see that we are accomplishing anything by adopting this, particularly in view of the fact when it contains the provision that the legislature can make changes in the law if they see fit to do it. This does not say the legislature could not change anything in paragraph 34. I just believe this is excess verbiage, and we are just hatching something up which we have already adopted which, I think, is fairly well. I just ask you to reject what I consider is an unnecessary amendment.

Questions

MR. ROEMER

Well, J. D., do you know that it seems to me that it's more than unnecessary? Doesn't it, in effect, do away with the two-thirds vote provision? Doesn't this constitutionalize this particular article and section?

MR. DE BLIEUX

Well, I think that's what he intended to do, however, this does not say that, Mr. Roemer. I can't see where he said the legislature could not make a change in this particular provision. I ask you to...

MR. ROEMER

I'm afraid, though, that if we put this particular language in we have circumvented the two-thirds vote, and we constitutionalize this thing.

MR. DE BLIEUX

It might well be and that's one of the reasons I'm opposed to it, too.

MR. ROEMER

And, aren't you also opposed to it on the concept that these men and women are prohibited from getting involved in the issues much less a personality of politics? Don't you think they have the right to get involved on issues that affect their daily lives?

MR. DE BLIEUX

Mr. Roemer, as I see the situation, we need more people to take an interest in our political affairs rather than less.

Further Discussion

MRS. WARREN

Mr. Acting Chairman and fellow delegates, I'm going to be very brief. I'm sorry that I had to come before this mike again, but it is really hard to believe how one could enjoy the full participation of politics and then be able to ask that others be denied even a small bit. This is very unfair, and I'm going to ask you to vote against this amendment. Thank you.

[Previous Question ordered.]

Closing

MR. JENKINS

Mr. Chairman, it was said that the purpose of this amendment--someone charged--that it was the purpose of this amendment to circumvent the two-thirds vote of the legislature. Well, yes, of course, that's exactly what the purpose is; it's to provide that the prohibition--the constitutional prohibition--against city policemen and firemen being engaged in political activities is continued in full force and effect. That's exactly what it is. I don't see why in the world the legislature of this state ought to be changing that. Now, Mr. Flory as representing those individuals...have said that they can certainly agree to that; I think that's fair and just. When we give people certain tenure, and certain preferences, and certain privileges under the state or city governments there is no reason that by contract they should not be willing to give up certain of these activities; we've already established that that...the principle, the Hatch Act principle is not in question. We've already adopted that principle under state and city civil service earlier. But, what I simply want to do is to continue that, just as it has been, for city policemen and firemen. I urge the adoption of the amendment.

[Record vote ordered. Amendment adopted:
61-41. Motion to reconsider tabled.]

Further Discussion

MR. FLORY

Mr. Chairman and delegates to the convention, I hate to rise at this time and oppose the section as it now stands, but I just do that. I know that what Mr. Schmitt did, he did in sincerity, but he also did it without the full knowledge of how this system operates throughout the rest of the state. When you look at his amendment on the face of it, it looks good because that's exactly what we did in the state civil service and city civil service system. If you look at the fire and police civil service system in the constitution and in the statutes today, there is about three or four pages dealing with testing, promotions, and what have you, and how you get those promotions. You must bear in mind, and I don't know how strongly to impress upon you, that when you are talking about fighting a fire, chasing a criminal,

apprehending somebody, it's not a grade that you make on an examination that determines whether or not you can save your partner's life or not. When you are working in a burning building, you want to know that the man working with you in that building has had sufficient training, sufficient experience to know that he is going to be with you and under the most difficult of circumstances. The only way you learn that fighting of fire is by practical, every day experience. Can you imagine a man out of college made a hundred points on the test operating a ladder truck working at that height with another man, both of whom's life depends upon it? I ask you to seriously consider what we are talking about here. We are talking about the lives of human beings and not only the firemen and the policemen, but the people that they are charged with to protect, and that protection depends upon the kind of service that they give. As I said to you earlier, I trusted the legislature. I was willing to turn this all over to them. If there was some quarrel with some of the provisions, let the municipalities come in and be heard. But, let the other people be heard who know what the system is. But, let's don't sit here today and legislate on something that most of us don't know what it's all about. I'm talking about the details of fire fighting, police work, and what it depends upon--whether or not a man lives or dies--that's what we are talking about. I ask you to reject this section until we have had time to clarify this matter, because we are dealing with human beings and it is serious. I know you don't want to do something today that would jeopardize the fine fire fighting system we've got throughout this state and the fine police systems we've got throughout this state. No one can say that I have not been the best friend the blacks have had in this convention, on every issue I've been with them because I don't believe in discrimination. But, this is not what we are talking about here; we are talking about the lives of human beings--black and white. I ask you to reject the amendment.

Further Discussion

MR. CHATELAIN

Mr. Chairman and fellow delegates, I had hoped not to rise and speak on this subject, but I am compelled to do so for this reason. In my section of Louisiana, I have been confronted by more city mayors, councilmen, and others who are in the business of hiring and promoting firemen and policemen. As I understand it, if someone is wrong they can correct...if I am wrong, someone can correct me. If at ten o'clock in the morning you hire a policeman, and another one at eleven o'clock in the morning, and another one at twelve o'clock at noon, you hire three policemen. Several months later when you are ready to promote these people, under the system of seniority, then you must consider the person you hired at ten o'clock in the morning simply because he has seniority over the two others. The man you hired at eleven o'clock in the morning could have been a man who had, in the meantime, taken more interest in the business of being a policeman and he wanted to advance himself; he went to night courses; he studied; he learned the business of being a policeman; he worked hard at his business; and he was denied an opportunity for promotion for advancement several months later because of the seniority system. I ask you, since we are in the business of dealing with the lives of people and with the rights of people, is this fair? Is this the kind of system that this country was built under? Hasn't the most industrious person in this nation been the one who has advanced the most? I ask you this question: search your mind--have not those of us who worked harder, put in longer hours and prepared ourselves for our life's work--haven't those of us who have done this, both black and white, have been those who have advanced in this country? Is this unreasonable then in this business of civil service that you would deny a person this right? I ask you to search your minds. Don't vote on someone else's suggestion. Vote on your own minds. You are individuals. You came here representing your people and, I say to you, search your mind and let's be fair to our fellow citizens. Thank you very much.

Chairman Henry in the Chair

Further Discussion

MR. HAYES

Ladies and gentlemen, I rise in support of this proposal. Mr. Flory said he is for the black people. Well, you are looking at a black man; if he is for black people, then I'm for the proposal. If he is for black people, then vote for the proposal. I don't see any reason why he was opposed to the proposal; I'm for it, but I don't care, this is a test to itself. In this

state, as I can appreciate it, I don't think...there's a lot of people in this audience who has never seen a black fireman. I think if you wanted to put one on display, you would have to either go to New Orleans--you might find one--and you'd probably have to come to Scotlandville to find the other one. I know that labor helps us a lot. If you wanted a black plumber to unstop your sewage, you couldn't find him in the state. Of course, labor helps us, I know; I vote with labor all the time. I do the very best I can because I don't have no other place to go because they help us just about as much as civil service; they help us fill up Angola. Angola is full of people--black people--because they can't get jobs; they don't have no other jobs. The only way they can live sometimes is to go to Angola. Now, they have a...we can't go around every time labor gets ready they say that they want to change; every time something gets in here they don't want, they want to change; and they want to amend, and they want to amend and want to put out, and want to put out. Now, he is up and he say he loves black people. If he does, I would like to see him support this amendment...support this section. I'm for the section, and I'm black; you're looking up here at me.

Further Discussion

MR. LANDRUM

Mr. Chairman and fellow delegates, if you have questions about Mr. Hayes being black, there is a possibility it could be understood. But, I'm sure, looking at me, there is no doubt whatsoever what I am--I am one hundred percent black; I am one hundred percent a man; I am one hundred percent American; I am one hundred percent a citizen of this state. But, I am not one hundred percent behind nobody but the Lord and I fail there sometimes. I'm not one hundred percent behind labor. When labor, when I can, I'm going with labor. When I cannot, I'm not going with labor. I mean I don't have to hide about it or beat around about it. But, Mr. Flory, when you tell me about you're the best friend that blacks have ever had, I've heard that for a long time, and I've found you coming up short, too--just as I found it short in many others down through the years. There could be a real, real understanding of people and of my really doing a great thing for this convention and for the people of this state, when you could really think about the people of this state. But, don't you tell me about you're the best thing the blacks ever had, because I don't believe that--no way will I believe that--and I have a great deal of respect for you. You have helped me on amendments; I've helped you; I intend to help you further. But, I don't intend to follow everything that you do and that's all there is to it. I urge that you support the amendment.

Further Discussion

MR. J. JACKSON

Mr. Chairman, ladies and gentlemen of the convention, I think that it is very obvious that there is some contradictions here in opposition to this amendment. I, too, live in the city of New Orleans; my district is 45-55. When lives are burning--when homes are burning and criminals need to be caught, that's not the issue here because a policeman is a policeman whether he is a sergeant, a patrolman, a captain as such, that has nothing to do whether or not he is going to get the service. What we are talking about here is a more fundamental issue. If we can provide and say that merit, efficiency and length of service are going to be some of the criteria for promotion within a department for the city of New Orleans where we have fires and we have criminals, then they ought to be the same thing for the rest of the state. If we are going to say that just because a man got here five years before I did, that he has the edge on me, no matter how much merit, no matter how much I go to school, no matter how much I prepare myself, but just because he...I've been discriminated and not been in the system and he has and has free access, that I ought to be denied, then, I say that is wrong. I'm willing to say to you very publicly that I'll take my chances on a system based on merit, efficiency rather than trying to say that I'm going to do it on seniority because I know down the road there ain't no way; there just ain't no way. I wonder very seriously why our position did not come up when the compromise amendment came up to add length of service, efficiency and merit--I just wonder why; why now? It leaves me...can someone...I just have two questions and I'll sit down. My first question is: tell me how seriously can we have promotions and access in the system when you take an examination that is totally based on seniority, when we have promptly gotten up here and said that one of the problems of civil service is that it has excluded blacks from participation

in the system. How can we justify that? My second question I raise to you. How can you say that in one civil service system-- regardless of how many fires and how many criminals exist--that you can have promotions based on merit, efficiency, and length of service, but for another system you cannot? How can you agree one time and the other time you disagree--it concerns me? I suggest to you very seriously that if you are going to vote against the amendment, do not vote on it because it's been smoked-screened, the fact that some partner riding in the car with him; it's strictly on the basis of that fair treatment, the equal treatment for everybody. I don't see how someone can say when seniority is the sole factor, that is fair to everybody. I ask your favorable adoption of it.

[Previous Question ordered.]

Closing

MR. RACHAL

Mr. Chairman, delegates, if there was ever a difficult act to follow it has been the debate that has preceded this closing. I am afraid that I could never muster the excitement that has taken place and I can't lay claims to some of the personal attributes. Let me just point out, however, that from the committee proposal with which we started this morning, we now have what amounts to a little more than a page, versus forty-seven pages, guaranteeing, however, the provisions basically that were in the committee's proposal. However, the distinct differences are that New Orleans... by, ... well, municipalities over four hundred thousand have the option of deciding whether or not the fire and police of that municipality will be included in the state service. A more controversial issue is, of course, the debate which just ensued that has to do with the criteria for determining the best person qualified for the job. Earlier, we had in passing the compromise amendment of Denny and Flory--I really thought it was all over but the shouting. In fact, I had gone around mentioning during the course of that discussion that it was all over, but the shouting, but I was wrong as you now know. The... I might point out that as I said earlier, that in the... with the exception of the salient issues of controversy which was brought up just before I came here that have to do with the criteria for the best person qualified for the job, and for the permission of the electorate and municipalities over four hundred thousand to vote, that the other provisions are protected, but with the allowance that with two-thirds vote of the legislature, they may be changed. However, the Jenkins amendment having to do with political activity is another addition to the Denny-Flory amendment, of course, and does constitutionalize the matters regarding political activity. With that, I would urge your adoption of the committee proposal as amended.

[Section failed to pass: 55-54. Motion to reconsider on next Convention day.]

Further Discussion

Questions

MR. ALEXANDER

Representative Jackson, aren't we between the devil and the deep blue sea on this issue when... as it's based on seniority, an individual only has to be there a period of time and he cannot be passed over? On the other hand, if it's based on efficiency and etc., he has to be evaluated by someone and if that person has discrimination in his mind, he still can be passed over. Aren't we kind of in a dilemma there....

MR. J. JACKSON

Well, I know that in cases in other organizations where seniority was a factor and when at the point where blacks who were in positions to get the next in line, a ruling came over or a charge was lodged against him to knock out his seniority. So, I'm just saying that if we want to be fair in considering all people--not only black, but people who go out and prepare themselves to participate in the system--that it ought not to be on one sole factor. I'm saying that this provision, as offered by Mr. Schmitt earlier, allows a multitude of factors which can be criteria. But, if presently, the system is solely on one factor--examination....

MR. ALEXANDER

Is your position predicated on the fact that blacks are the last to come into the system?

MR. J. JACKSON

I think that's obvious about the efforts of minority delegates in this convention when we talked about it.

MR. ROEMER

Johnny, haven't we already passed in this convention a provision that secretaries, for instance, in the civil service system have to be... have some measure of efficiency, fitness, and be meritorious; haven't we done that?

MR. J. JACKSON

Yes, we have, Mr. Roemer.

MR. ROEMER

Well, don't you think it's also incumbent upon us to state clearly that the firemen and the policemen of this state have to be meritorious, fit, and efficient as well?

MR. J. JACKSON

I agree with you wholeheartedly, and I'm willing to say this very publicly. I think if that's the criteria, then I'll take my chances.

Further Discussion

MRS. WARREN

Mr. Chairman and delegates, I didn't come up here to speak in favor of this amendment or to speak against it. I came up here after hearing the many solos about I am black--can't you see that I am blacker than the other in essence? I am not going with labor; I am not going against labor. For the record, I did not vote for Mr. Schmitt's amendment; I had some questions in my mind. I didn't go for Mr. Jenkins' amendment; I didn't like it. It's not a matter of labor or no labor; it's a matter of my conviction; I'm not going to vote black, and I'm not going to vote white. I want you to know that whether labor votes for this or against it, I am against it and you vote to suit yourself. The only reason that I'm not going to sit there and not vote at all is because I'm not going to break what these people call a vote record. But, I'm not ashamed of anything that I do.

MR. SCHMITT

I believe that we should resolve this issue at the present time. There is a strong possibility that tomorrow, which is Saturday, there'll be a short house, and this is the time when we should decide these important issues which have been presented before us. We've seen once again, how labor has come forward and attempted to thwart their will upon this constitutional convention. I reiterate, that if it's so easy for labor to prevent us from getting a two-thirds vote, how easy will it be for them to prevent any type of constructive change in the civil service system once it gets to the legislature? Labor will have a lot stronger pull when it gets to the legislature because these people have to come up for reelection once every four years. We must make a stand at the present time, not for labor or against labor, but for justice and against injustice. In very few parishes in the State of Louisiana have minorities or you've been given the opportunity to advance in the system based upon their merit. I feel that this is one important criteria. Merit is the ultimate criteria in other related matters or the number of years which a person has been on the service. However, Mr. Flory pointed out that this is something that's important because life and death is at stake; I agree with him. However, does it make any difference to you whether the person who's saving your life has been on the force for fifty years and might be sixty-five years of age or that you have a twenty-five year old person who, because of his physical fitness, etc., is better qualified to do that particular job. I think we have some important issues before us at the present time, and that we should have the gumption and the guts to go forward and to make up our minds one way or the other whether we are going to make this a constitution with justice built into the system, or one in which we will allow special interest groups to pervert the intent of the majority of this convention. I feel that it's time that labor step forward and support us in this move to give equal justice to all the people of the State of Louisiana. I would wish at this time that Mr. Flory would come forward and join me in support of this proposal because labor is supposed to be one of the ones who have stood in the past, for equal justice for all. I feel that Mr. Flory should come forward and take that stand, and support this proposal. Why can't they stand up for what they believe? What's the matter with labor? What's the matter with these people? I believe that this is the American system and the system based upon justice for all the people, not just for those who happen to be in the position of power because they were working in a particular job for the longest number of years, not based upon their merit, not based upon their physical fitness to obtain that particular job. This is

the time for justice, and I would request that we overrule Mr. Flory's motion to have this passed on until tomorrow when there's a short house and he can more easily prevent this from being adopted, and that we attempt to have this adopted today. I thank you for your time.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I made the motion to reconsider it on the next convention date because of the nature of the subject before this convention is of such serious nature you can't attack it on a momentary basis and there is some time that needs to be given. What was done by the Schmitt amendment affected about five or six pages of law on the testing and promotion within the fire and police civil service system. You have to remember, that once the man gets promoted that he's on a working test period of not less than six months and not more than twelve months, which means that if he can't cut the mustard they bump him back down, and somebody comes up who can qualify, who can perform the service; all of this is involved. That's the reason that I ask you to let's go on with our business, and consider it on tomorrow. I want to support it. As I said, this is the heart and soul of the fire and police service of the state in the civil service system. I don't want to kill the civil service system, no way, but I don't... on a spur of the moment want to come up with something that's going to be detrimental to the fire and police service of the state, and I don't think anybody else does. If we don't consider it tomorrow, what we're going to be doing for the next two or three hours is hearing amendments drawn hastily within five or ten minutes in order to take up the time until it can be worked out. That's the reason I didn't want to take up the time of the convention by reconsidering it at this moment. So, I ask you to vote favorably for the motion, and let's consider it tomorrow when we have had time to study it and to come up with some sensible approach to the problem. No, I don't want to discriminate, Mr. Schmitt, I don't believe in it as I said from this microphone. It has nothing to do with the hiring policies, nothing whatsoever, when you talk about civil service. So, I ask you, in all fairness let's consider it on the next convention date.

Point of Information

MR. ABRAHAM

...If we were to reconsider this tomorrow, do we have anything else to work on today?

MR. HENRY

If we vote to do that, we've got plenty of work we can do... whatever we start on next or whenever we start on something it will be Committee Proposal No. 15.

Further Discussion

MR. CHATELAIN

Mr. Chairman and delegates, I hesitate to rise and take your time. I know we all are concerned about time, but Mr. Flory stood before you a few minutes ago and said he did not want to fight this; he wasn't against this section. At the same time, he would not agree to ask a question... answer a question of mine. I want to know this, is he willing to give some kind of consideration or some compromise in the area of some kind of merit? If there's any way of compromise, well, then I'm willing to wait until tomorrow. But, if he's... he got his way last night on the Lanier amendment; we pulled it down trying to hasten this convention. We're trying to be conciliatory in every way we can, but how far can you go? This is the only question I want to know; I want to compromise, I'm not against a compromise, but for goodness sake, we're talking about houses burning awhile ago. We spoke a great deal about the firemen, I'm not only concerned about firemen, this is a firemen and a police civil service situation we're talking about. There's many problems in the many cities of this state of today, and you well know it. I'm concerned about the merit of what quality of a policeman we have in the cities of this state as I am the firemen. I think, if I had to put them in a certain category, I would certainly put the policeman first; he's in the front line. If one or two homes burned, it's a great loss to many people, but we're talking about policemen also. I'm vitally concerned in the type and quality of policemen we have in this state. I will not yield, Mr. Roy.

Questions

MR. LANIER

E. J., am I correct in my memory that yesterday, you tried

to get a delay overnight on the proposal so that everybody could think about this thing and see if we could work out something today rather than get it done right on the spot yesterday afternoon?

MR. CHATELAIN

We certainly did. We did everything humanly possible.

MR. LANIER

Do you recall what Mr. Flory's position was yesterday on whether or not we should delay?

MR. CHATELAIN

He was opposed to it.

MR. LANIER

Since we weren't able to ask Mr. Flory any questions, are you... do you have any idea why Mr. Flory was so eager to get things disposed of yesterday and yet, today, wants to have it lay over?

MR. CHATELAIN

Because he thought he... certainly, he thought he had the votes yesterday; he doesn't think he's got them now. He thinks he may get them tomorrow. That's how simple it is.

MR. HENRY

Will you yield to a question from Mr. Roy?

MR. CHATELAIN

I hesitate to because he's a trial lawyer, and I'm an old farm boy, and I hate to...

MR. HENRY

I think you'd be more appropriate to say he's a criminal lawyer, Mr. Chatelain.

MR. ROY

Mr. Chatelain, do you have any criticism against the present firemen and policemen of this state in that you think that they're not adequate and they're not competent because they have been operating under a system that has been here for twenty years?

MR. CHATELAIN

Mr. Roy, let me say to you right now, I came to this convention back in January, was sworn in and I was... one of the things I was the strongest on was civil service...

MR. ROY

I didn't ask you that.

MR. CHATELAIN

I'm one hundred percent for civil service.

MR. ROY

I didn't ask you that, I said, do you have any criticism directed at the personnel of the state police... of the city police and the firemen in this state, and is it based upon the fact that you say the methods by which they had been promoted in the past is not proper?

MR. CHATELAIN

I will take the fifth amendment on that, Mr. Roy.

MR. ROY

Well, you better because then you're asking us to change it and you don't have any criticism about it.

MR. CHATELAIN

The only thing is, I can say this, Mr. Roy, that Mr. Flory and many of his ilk have stood before us, or his type, and they have been the champions of the people. I.. this is, I can say they've been champions of the people. This is a "people" situation we're talking about right now. The only thing I want to say is, that I think that we certainly have a right to speak. I don't like these hasty deals either.

MR. WILLIS

Mr. Chatelain, don't you think that in his didactic declamation, in expressing his aversion to the proposition before us now, that there was a confusion by the speaker of the distinction between experience and length of service?

MR. CHATELAIN

Right, sir.

MR. WILLIS

That there is a big difference between the two?

MR. CHATELAIN

Certainly.

MR. WILLIS

That experience is preferable to length of service?

MR. CHATELAIN

Absolutely.

MR. WILLIS

That that same gentleman refused to supplant length of service by ... with the word "experience" in Mr. Jenkins' amendment yesterday?

MR. CHATELAIN

Absolutely right, sir.

I appreciate, Mr. Willis, your coming to my rescue on that.

[Previous Question ordered. Record vote ordered. Motion adopted: 62-43. Quorum Call: 88 delegates present and a quorum. Motion to return Committee Proposal No. 10 to the calendar pending reconsideration adopted without objection. Motion to take Committee Proposal No. 15 out of its regular order adopted without objection.]

Reading of the Proposal

MR. POYNTER

Committee Proposal No. 15, introduced by Delegate Rayburn, Chairman on behalf of the Committee of Revenue, Finance and Taxation, other delegates, members of that committee.

A proposal relative to the tax structure of the state and the public finance.

Mr. Chairman, it's my understanding Mr. Roemer wanted to make some general comment before we got into Section 1.

Explanation

MR. ROEMER

Mr. Chairman and fellow delegates, I'd like to ask you to turn to Committee Proposal No. 15. That proposal is introduced by your Committee on Revenue, Finance and Taxation, and comprises the second part of our presentation to this convention, the first part being the proposal on ad valorem or property taxes. I want to make a few introductory comments and then, of course, we'll go through the proposal section by section and entertain amendments. I know it's an almost impossible task to do so, but I ask for your attention for just a few minutes. It just so happens that in the next few days we're going to be talking about the finances of this state. Perhaps, it's too much to ask some of you to sit down and listen to what this committee of twenty-three men and women have done now for over six months to insure that the free society that we live in in Louisiana will be financed adequately.

The chairman of our committee was "Sixty" Rayburn; he cannot be here today, and I'm acting on his behalf as acting chairman in making these general comments to you. Each of you, or none of you, rather, will probably agree with all of the issues that we present in Committee Proposal No. 15, and we certainly welcome your suggestions, your questions, your interest and even your amendments. However, I do want to say that we have worked long and hard on this proposal, and in almost every case this proposal represents a near unanimous vote of our committee. Unlike other committee reports and unlike even some of our own, this committee report...this Committee Proposal No. 15 represents the clear majority thinking of our committee. I can assure you that we will be hesitant to accept amendments that strongly change what we recommend without some fairly good logic on your side, and that's not to say that you won't disagree with some things and try to amend it; that's your right; we welcome that. But, we do ask you to listen to our reasons first and then come with your amendments. We don't know it all, but we have debated it at length. I might further point out that the members of this committee, and I'm one of the exceptions, by and large have a great deal of experience in state government and with state finances. I point out people like John Alario and Senator Nunez and Senator

Brown and, of course, "Sixty" Rayburn. Monday Lowe, who served in the legislature and is a C.P. A., David Conroy, who's worked long and hard in the area of bonds and bonded indebtedness, and I could point to committee member after committee member. They include Jap Smith, who introduced the original two-thirds vote provision in the legislature. PAR has issued a critique of our proposal; it'll be on your desk in the morning, as I understand it. I want to read a few paragraphs from that critique. "Committee Proposal No. 15 as submitted by the Committee on Revenue, Finance and Taxation would greatly reduce the length of the constitution on financial matters, exclusive of the property tax which is dealt with in another proposal. Financial provisions in the present constitution are spread throughout several articles, and much is obsolete and restricted. This proposal would not only streamline these provisions but, more importantly, would initiate and give constitutional status to many sound principles of good fiscal administration, and these include--and please listen carefully because this is the guts of our proposal--Number 1, expansion of the application of the two-thirds vote for tax increases; Number 2, elimination of tax dedication; Number 3, elimination of several constitutionally frozen tax rates; Number 4, elimination of constitutional exemptions; Number 5, mandate for a long range in comprehensive capital budget; Number 6, improvement in Louisiana's already excellent debt-issuing procedures; Number 7, improvement in the method of financing of interim emergencies; Number 8, enhance central cash management investment system; Number 9, requirement for a balanced state budget; Number 10, continuation of the prohibition against the state or its political subdivisions lending or giving anything of value to persons, associations or corporations whether public or private or of purchasing stock of any corporation or association." Now, PAR did not agree with everything that we have done. Two things I want to point out they disagreed with: Number 1, with a three dollar auto license plate being in the constitution; Number 2, they disagreed with the ceiling that we placed on the amount of state debt that can be issued, for they say this could encourage issuance of debt up to the ceiling. We happened to disagree in committee with those objections, but perhaps you will raise them on the floor and we will entertain them at that time. Once again, I am proud of our committee. I am proud of the work we've done. PAR labels ours as one of the best to come out of this convention. I hope you agree with them. Listen carefully, and amend it as you see fit, but have the facts at hand when you want to change what we've done. Mr. Chairman, if it's in order, we will go into Section 1.

Reading of the Section

MR. POYNTER

Section 1. Power to Tax.

Section 1. The power of taxation shall be vested in the legislature, shall never be surrendered, suspended, or contracted away, and shall be imposed for public purposes only.

Explanation

MR. LOWE

Mr. Chairman, ladies and gentlemen of the convention, I would hope that we could start off our Committee Proposal 15 without a great deal of controversy, because I don't believe that Section 1 could bring about any controversy. Inherently, the legislature has the power to tax. This proposal merely reaffirms such authority. Every state in the nation places this taxing authority in the legislature. So, I ask for your favorable approval. I will tell you that we do have an amendment that's being offered by Delegate Perez that says that except as otherwise provided in this constitution, and I know of no objection that any committee member has to this amendment. So, I hope that you will accept it without any opposition, and then go on and accept Section 1.

That completes my remarks, Mr. Chairman.

Amendment

MR. POYNTER

The amendments read as follows..if not already..now here they come. They are being distributed at the present time.

Amendment No. 1. On page 1, line 15, immediately after the word and numeral "Section 1," delete the word "The" and insert in lieu thereof the following: "Except as otherwise provided in this constitution, the".

Explanation

MR. PEREZ

Mr. Chairman, ladies and gentlemen of the convention, if you will recall on the local government article, we had provisions

with respect to local government having the authority directly from the constitution to impose sales taxes upon vote of the people, to impose ad valorem taxes. I just wanted to make it clear that these are exceptions to the general rule that the power of taxation shall be vested in the legislature exclusively and shall never be surrendered. I don't believe there should be any objection to the amendment.

[Amendment adopted without objection. Previous Question ordered on the Section.]

Closing

MR. LOWE

I merely ask you to accept Section 1 as amended.

[Section passed: 107-0. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

Section 2. Power to Tax; Limitation

Section 2. The levy of a new tax and any increase in an existing tax and any repeal of an existing exemption from a tax shall require the favorable vote of two-thirds of the members elected to each house of the legislature, as evidenced by a recorded vote. A like vote shall be necessary for the adoption of amendments to bills proposing the same and to reports of conference committees.

Explanation

MR. SMITH

Mr. Chairman, fellow delegates, I'm like Mr. Lowe said about Section 1. I don't think there should be any opposition to this. It's like voting against motherhood and apple pie and that kind of thing.

I was given the privilege of handling this section, which I appreciate since I was the author of the two-thirds law in the State Legislature in 1955. This law was placed in the constitution by the people in 1956, and it has proven most effective in our state in keeping down unnecessary taxes. I do not think there was any opposition whatsoever to the passing...out of this act... out of our committee. It was unanimous, I believe. This section is self-explanatory. I don't think it needs any explanation. The people of our state will want this kept in the constitution of our state. If it's not kept in there, I feel that our new constitution might be in a lot of trouble. I feel that it's a good law; it's needed. I ran as a delegate to this convention in District No. 1 on this particular platform, and no other. I was elected overwhelmingly in the first primary. I think that's some indication of what our people think about it. I feel all of you have heard from your constituents. I also think it's been shown in the legislature that this two-thirds can be obtained, just like in the recent special session, if necessary taxes are needed. Before this law was passed in 1956, as most of you know, whenever any new governor went in, we had a new tax shortly after he went in. I thought this was needed. I had it placed in the constitution by the people. I ask that you now retain this good law.

Questions

MR. CASEY

Mr. Smith, what I'd like to determine is, the...on line 23, where it says a like vote shall be necessary for the adoption of amendments to bills proposing the same. Is that the present law, now, insofar as amendments are concerned, as distinguished from conference committee reports?

MR. SMITH

Mr. Casey, we are going to amend that out. That's what this amendment is. I'd also like to add, of course...it adds to exemptions, also, which wasn't in the law that I introduced in 1956. I ask the Clerk to read these amendments.

MRS. ZERVIGON

Mr. Smith, perhaps I ought to ask you this when your amendment is under consideration. But you are also removing the provision that would take a two-thirds vote to pass--conference committee reports on this subject?

MR. SMITH

What I was going to...soon as they read those...explain....

Amendment

MR. POYNTER

Amendment sent up by Mr. Smith as follows:

Amendment No. 1. Page 1, line 22, immediately after the word "legislature" delete the comma "," and insert in lieu thereof a period "." and delete the remainder of line 22 and all of lines 23 through 25, both inclusive, in their entirety.

Explanation

MR. SMITH

I think they are self-explanatory. These lines were taken out because the legislative article that we've already passed in concurring amendments, took care of that. So we don't need it. So, I ask that you adopt these amendments....

Questions

MR. BOLLINGER

You might have explained this earlier. I was drawing an amendment. But, on line 22, when you deleted the words "as evidenced by a record vote," this is covered in a legislative article, therefore you are just deleting repeated verbiage. Is that correct?

MR. SMITH

Yes, sir.

Gentlemen, I ask for your unanimous adoption. This is a good law and I think the people of our state will be well pleased if you make a unanimous vote on this like you did on...

MR. JENKINS

I'm sorry, Mr. Smith. I guess you explained this, but why is this amendment necessary and desirable? I don't understand?

MR. HENRY

This is the third time the question has been asked, Mr. Smith. Would you explain it real loud?

MR. SMITH

The legislative article took it out, Mr. Jenkins. We don't need it in here. So, this was written up, I think, before the legislative article was passed. So, it's not needed any further.

MR. JENKINS

It deals with regard to conference committee reports that is in the legislative article?

MR. HENRY

Mr. Clerk, why don't you read the amendment?

Read...the legislative proposition. Do you have it before you there?

MR. POYNTER

Yes. I had to ask for a copy of it. It's in Section 17, Paragraph (F), Concurrence and Amendments. No bills...no amendment to a bill by one house shall be concurred in by the other. No conference committee report shall be concurred in by either house except by the same vote required for final passage of a bill. The vote thereon shall be by record vote.

(G) incidentally, requires final passage shall be by record vote.

MR. ARNETTE

Mr. Smith, I know this wasn't your intent, but it seems this language might be interpreted to mean that you have...that a two-thirds vote is only required when you want to do all three of these things: levy a new tax, increase an existing tax, and repeal an existing exemption. It seems like "all" would have been a more proper word to put in there.

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MR. SMITH
I don't believe I understood your question, Mr. Arnette.

MR. ARNETTE
My question is, you intend that when any of these things get done, it requires a two-thirds vote?

MR. SMITH
Yes, sir.

MR. ARNETTE
Not when all three of them are done at the same time?

MR. SMITH
Right.

MR. ARNETTE
I just want to make sure that's...your intent to get it in the record.

[Amendment adopted without objection.]

Recess

[Quorum Call: 88 delegates present and a quorum.]

MR. HENRY
Read the Conroy amendments, Mr. Clerk.

Amendment

MR. HARDIN
Amendment No. 1. On page 1, line 22, after the period "." added by Floor Amendment No. 1 proposed by Delegate Smith and adopted by the Convention on December 14, insert the following:
"Notwithstanding any other provision of this constitution, any law imposing taxes may define or specify the subject, amount, or provisions of such tax by reference to laws of the United States as then existing or thereafter amended, and may prescribe exemptions or modifications thereto."

Explanation

MR. CONROY
This matter was brought up before the Revenue, Finance and Taxation Committee, was also mentioned before the Legislative Powers Committee that a proposal of this kind was in the mill. The reason it wasn't brought forth as a part of the committee proposal was that at the time the committee proposal took its final action on Committee Proposal No. 15, I explained to the committee that I had no intention of proceeding with this without some expression of feeling from the present collector of revenue, as to whether he thought such a provision was desirable or not. It was my understanding that he did. But I felt that it was important to have such a statement of position.
It was this afternoon that I received a letter from Mr. Traigle advising that he felt that this provision would be desirable to permit the legislature to adopt tax laws of this kind. Very briefly, all that this does is authorize the legislature to take certain action. It does not require the legislature to do it. It authorizes it. The reason it is necessary as an authorization is that the present provisions in the legislative powers proposal, prohibit adoption by reference--prohibit adopting any laws by reference to other statutes wherein, in general terms, prohibit any delegation of legislative authority. The effect of this would be to permit the legislature, if and when it decided it was appropriate to do so, to say to the people of the State of Louisiana that your taxable income in the State of Louisiana, you can just figure out what your taxable income was on your federal return, and apply the state percentage to that figure. Or, as the latter part of this provides, you could prescribe exceptions or modifications, and say you take the federal income as reported on your federal income tax return, and adjust it by adding to it your capital gains, or one-half your capital gains--whatever adjustments have to be made--so that you wouldn't have to report at length the full computation of the two ways in which you presently have to compute your income taxes. It is an approach which is now used in, I think it's thirty-four states. The United States Government has indicated that it is willing, in

some cases, to even undertake to assist the states in collecting taxes in this fashion. As I said before, it wouldn't put the state in the posture of having to do any of this. But, if the state, at some future date, should decide that this was an economical way in which to collect taxes, to proceed with the collection of taxes, that the state would not be precluded from doing it. The state would be precluded from using this method of collecting taxes without this permissive authorization in the constitution.
Therefore, I ask your favorable approval of this amendment, and will answer any questions.

Questions

MR. HAYES
Mr. Conroy, since you said "may" in here, then, what would be the effect? Wouldn't it be just as well if you didn't have it?

MR. CONROY
It would not be permissible without it, Mr. Hayes, because the legislative proposal, as adopted by this convention, prohibits the adoption of a code of laws by reference. The use of the Federal Income Tax, or the Internal Revenue Code by reference, is presently prohibited under the Legislative Powers Article as we have adopted it. So, the purpose of this is to make an exception to that prohibition.

MR. BURSON
David, I'm just wondering why in the world the Louisiana State Legislature would ever want to adopt by reference something as god-awfully drafted and...as the Internal Revenue Service Code, or any portion thereof?

MR. CONROY
Well, for two reasons, Mr. Burson, one for the ease of the taxpayers of the State of Louisiana in computing their income taxes, because they are having to compute it under the Internal Revenue Code, whether they like it or not; and, secondly, to reduce the cost of collecting the Louisiana Income Taxes because it could, as I indicated earlier, in some cases the Internal Revenue Service, the Federal Internal Revenue Service, has entered agreements with states to undertake the actual collection of the state income taxes, and the cost of collections can be reduced considerably in both ways. Because if the laws are similar, the state can follow, or use the federal administrative services in being able to reduce their own expenses of collection. It's this latter point that has led some thirty-odd states--over thirty states, Mr. Burson, presently use this approach in collecting their income taxes, because they feel it's a significant saving to the state to be able to use this approach.

MR. BURSON
Well, then, do they merely adopt the schedule without all the morass of...

MR. CONROY
They don't...all they do is say that you use the adjusted gross income as reported on your tax return for the purposes of your state income tax computation. In other words, you take that and apply the state percentages.

MR. BURSON
Well, what this then implies, however, what bothers me, is would this then imply that the state legislature could adopt some particular exemption or method of computing a particular deduction as set out in the internal revenue code.

MR. CONROY
They can, and do, now. They don't do it by reference. But they usually track the language a couple of years later, in most cases, and this would continue to permit exceptions to be made...

MR. BURSON
Well, I'm glad that in Louisiana we never have tracked some of the language that's in the internal revenue....

MR. CONROY
So am I.

Further Discussion

MR. JACK
Mr. Chairman, ladies and gentlemen, we're all glad to pay taxes when they are needed. Now, when a person pays taxes the legislature passes, seems to me the least they can do is set out in Louisiana law books what the tax is going to be. I certainly hope I won't have to see what taxes I pay by not referring to

what the legislature does, but look to see what the U. S. Congress did. I'm pretty sick and tired already of being ruled by a federal court; where they can overrule our Supreme Court and everything else. Now Mr. Conroy is a smart lawyer. But he didn't tell you we need this thing now. We've listened closely--said we may need it some day. Now, let's don't put in this constitution something we don't need now, we may need some day. If legislature has this thing to operate on, takes the short course of putting taxes on us by what was said by Congress, and a Congress that has got us in debt over the years--a national debt....I don't know.... five hundred billion dollars--we operate within a budget. I don't want our tax laws drawn by them. I don't know whether under this that the amendments that Congress would make would affect us in paying taxes. I say, I'm representing the public. I don't believe the public wants to be....have the tax passed by the Louisiana legislature, that nothing is in it but you are taxed according to section so-and-so, subsection so-and-so of USCA--which...USC...which means United States Code.

Now, another thing, we've made by reference to our own constitution, to save time. But, that's because all--to get the constitutional convention people have promised--as thin a constitution as possible. But, when it comes to the legislature, when they want to pass a tax, I think the people are entitled to look at that bill the legislature has and read it and see what it is instead of saying "House Bill No. 250 --and so be it enacted so forth there is hereby levied a tax on every individual in Louisiana in....four hundred...."

MR. HENRY

Wind up your remarks, Mr. Jack, please.

MR. JACK

....Can I have a minute more, please? I move for that. Out of Section 400. Now, you do what you want. I think this is a bad amendment. Thank you.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, those of you who are not lawyers or tax men, and who have never had the questionable pleasure of having to try and find out what the federal tax law is about anything, by wading through large volumes of regulations written so that nobody in his right mind can understand what they mean, are trying to figure out which interpretation of a particular section of the Internal Revenue Service....of the Internal Revenue Code is the law, when the top court has one interpretation, one circuit has another interpretation, and yet another circuit has another interpretation, cannot fully appreciate the great opportunity that you are being offered by this amendment. I certainly hope and pray that our state legislature will have sufficient intelligence to adopt its own tax legislation without being asked to adopt in toto anything that I've ever read in the Federal Tax Law; because, in my humble opinion, anything that they adopted would have to be an improvement. It could hardly get worse. I'm talking about just the sheer archaic, incomprehensible phraseology, of ninety-nine percent of the federal tax law. If you wanted a model of how not to draft a law so that people could read it and understand it, then it would be the federal tax law. I for one, am not going to vote for anything that would permit our state legislature to adopt any part of that tax law by reference. I think it's a poor practice; I don't think we want to adopt any part of it by reference, and I think you would automatically get inadequate consideration of something affecting taxes. I don't care whether it's how right the taxes are to be collected, or anything else to do with it. We ought to make those decisions here. I certainly urge the rejection of this amendment. I find it significant that it's not in the committee proposal.

Questions

MR. TOOMY

....laws. Couldn't they track it by statute rather than just by reference to the federal laws? You know what I mean, just track the federal law by statute rather than by reference.

MR. BURSON

This amendment, Mr. Toomy, though, says "by reference to laws of the United States as then existing or thereafter amended;" so that they would be adopting--think about that--they would be adopting a law by reference, subject to amendment by the United States Congress, not even by the state legislature. Now, is that what we want to do? Not to mention the fact that I'd like to know what the word "laws" means, here. With regard to tax law, it could mean Internal Revenue Service rulings, regulations, as well as the statutes themselves, because they're all part of the corpus

of tax law. I just think that opens up a chamber of horrors, as far as I'm concerned. If thirty other states have done it, then God bless them. But, I hope we don't make that mistake.

MR. TOOMY

What I'm saying, Jack, more or less in agreement with you, is that should the legislature want to incorporate reference to an existing federal law, they could just go ahead and adopt a statute that would track that law, rather than leaving its objective to federal change.

MR. BURSON

There is no question about that. No question about it.

MR. DREW

Jack, while I appreciate that your interpretation is a possibility, do you understand that the purpose of this amendment is to provide that we would possibly be able to attach our federal income tax return to a one sheet form, take the net adjusted income, our state deductions, and that would be all that was necessary, instead of making out two complicated returns?

MR. BURSON

I understand that to be the purpose, Mr. Drew, and if somebody came up here with an amendment that said that, I'd have no objection to it. But, that's not what this amendment says. It says that we can adopt. . .

MR. DREW

It permits that, though, doesn't it? I mean, it would permit it.

MR. BURSON

That's correct, but it would permit a lot of other things, too. It's the other things that I have objection to.

MR. GOLDMAN

Mr. Burson, as I understand it--I don't know, perhaps Mr. Conroy can answer it, or perhaps you--the thirty states that are using this now have had very little experience with it. They've just started it. They don't know, yet, how much of the money that the United States government collects for the state is going to be returned to the state. The United States government has a great history of keeping most. . .you know, some of that money and not returning all of it.

MR. BURSON

Their pension is for draining off a considerable amount of it, as far as I'm aware of.

Further Discussion

MR. SMITH

Mr. Chairman, fellow delegates, I'm opposed to this amendment. I don't know the merits or demerits of it. I didn't know anything about it until just a few minutes ago. I'm on the committee. Of course, Mr. Conroy said he had--and I don't doubt his word--that he had brought it up before, but it's some possibility it could be adopted by this convention. I don't think it would be, but I don't like to see this section endangered, or put in jeopardy by this amendment. So, without going into the merits or demerits, I think they ought to put this somewhere else, if they can, in this article and not here. So, I ask you all not to adopt this amendment, but vote against it.

[Previous Question ordered.]

Closing

MR. CONROY

My only purpose in closing is to clarify what may have been some misunderstanding. This amendment does not require that the legislature do anything. As a matter of fact, in order for the legislature to take advantage of this provision, would take the two-thirds vote that it's required for imposition of taxes, generally, and for any repeal or anything else of a tax. The purpose, here, is to make it possible for the state to do something in the future which it may wish to take advantage of. If the legislature doesn't feel it appropriate to do so, it certainly doesn't have to adopt such a provision and may decide that it's never appropriate to do so. The purpose is to make an exception to what is presently a prohibition in the constitution against the legislature ever

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being able to take this course of action. That's all it's designed to do, is to relieve or make an exception to a present prohibition. I ask your favorable vote.

[Amendment rejected: 33-69. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Amendment No. 1. On page . . .(we didn't run the distribution copies. These are the technical amendments, several of them we're talking about.) Page 1, line 19, immediately after the word "tax" strike out the word "and" and insert in lieu thereof the word "or "

Amendment No. 2. On page 1, line 20, right after the word "tax" strike out the word "and" and insert in lieu thereof the word "or "

Explanation

MR. SMITH

Mr. Chairman and fellow delegates, I'd appreciate you adopting this technical amendment. Mr. Arnette called it to my attention. I'm sorry I didn't catch it, but it would help the meaning of this. So, I'd appreciate it if you would adopt this technical amendment. I ask for the previous question.

[Amendments adopted without objection. Previous Question ordered on the Section. Section passed: 106-0. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

"Section 3. Collection and Refund of Taxes
Section 3. The collection of taxes shall not be restrained, and procedures shall be provided for the recovery of illegal taxes paid."

Explanation

MR. MCDANIEL

This section is very similar to the provision that's in the present law on the procedure for collecting taxes, and the recovering of money that was illegally collected. Mr. Chairman, at this time, I'd like to withdraw this amendment for the purpose of making a technical amendment on line 28, after the word "provided," adding "by law." This is just simply clarifying it.

Questions

MR. STINSON

For a question. While you're correcting that, Mr. McDaniel, I'm a little concerned. Don't you have "illegal" in the wrong place? Should it be paid. . .say "taxes illegally paid," instead of "illegal taxes paid?"

MR. POYNTER

Where did you all want, "by law "? I'll just draft you a technical amendment.

MR. STAGG

Mr. Chairman, I'd like to ask Mr. McDaniel and Mr. Roemer that in the title it says, "Collection and Refund of Taxes ", yet the body of Section 3 has nothing in it about refund of taxes. No refund is mentioned.

MR. MCDANIEL

What we were attempting to do, here. . .

MR. HENRY

Wait, Mr. McDaniel. Let's get our amendments drawn. Now, we're sort of proceeding in a . . .

MR. POYNTER

Amendment No. 1. On page 1, line 28, immediately after the word "provided" insert the words "by law."

Amendment

MR. MCDANIEL

This section is very similar to the section that's in Article X, Section 18, of the present constitution. What is referred to there is for. . .nothing should be done to restrain the collection of taxes, but adequate provision would be provided by law for the taxpayer to recover those taxes that are illegally paid. I think this particular article is necessary, and it's pretty much self-explanatory. I move for its adoption.

Explanation

[Amendment adopted without objection. Section reread as amended. Motion to temporarily pass over the Section adopted without objection. Quorum Call: 80 delegates present and a quorum.]

Amendment

MR. POYNTER

Amendment No. 1, proposed by Mr. Singletary.

On page 1, delete lines 26 through 29, both inclusive, in their entirety (we need to add including all floor amendments thereto) insert in lieu thereof the following:

"Section 3. Collection of Taxes; Process to Restrain; Refunds

Section 3. The legislature shall provide against the issuance of process to restrain the collection of any tax and for a complete and adequate remedy for the prompt recovery by every taxpayer of any illegal tax paid by him."

Explanation

MR. SINGLETARY

Ladies and gentlemen, I've just been told by the committee that they support this amendment. It's the exact wording of the 1921 Constitution, Article X, Section 18. It seems to have served well. I move its adoption.

Further Discussion

MR. ROEMER

On this amendment, it was the intent of the committee--although we tried to do it with less verbiage--to as much as possible track the old constitution on this particular provision. So, if there's any confusion about our shortage of words, here, we would accept this amendment to adopt the language of the old constitution. It's only one line longer.

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 104-3. Motion to reconsider tabled.]

Motion

MR. ROEMER

Mr. Chairman and fellow delegates, Section 4 is next in order, but we of the Revenue, Finance and Taxation Committee would like to ask the convention to pass over Section 4 at this time. It seems that a number of the delegates just read it some moments ago and have amendments they wish to offer. It's a complicated section; we'd like them to have the opportunity to discuss those amendments with us without going into your time on the floor. Perhaps we can save you some time. So, if it's in order at this time, Mr. Chairman, I move we pass over 4 and go to Section 5, which is the three dollar license plate.

Questions

MR. JACK

Mr. Roemer, when you were talking. . .now the Chairman said temporarily, but you said to discuss them. I want to find how long are they to be passed over before I vote.

MR. ROEMER

Right. Well, we had no intention of bringing Section 4 up today, if that answers your question.

MR. JACK

Well, when do you intend to?

MR. ROEMER

Well, in the normal course of events, whenever we get through discussing the amendments. Do you have amendments that you'd like to discuss?

MR. JACK

Yes, but when are we going to discuss them?

MR. ROEMER

At your pleasure, Mr. Jack.

MR. JACK

Well, can we discuss them right after this session?

MR. ROEMER

Yes, sir; I can assure you that the committee won't take it up until we discuss your amendments with you.

MR. JACK

Well, I know, but I. . .it looks like I've got some emergency, and I'm not going to be here Sunday. I'll be here all day tomorrow, all today, back Monday. I would like to be sure to be here. I have an amendment to Section 4. Can we discuss them after we recess this evening?

MR. ROEMER

If you'd like to make that motion tomorrow, we can support that; yes, sir.

MR. JACK

No, this evening, when we adjourn.

MR. ROEMER

Oh, with me?

MR. JACK

Yes.

MR. ROEMER

Yes, yes, sir. I'd be glad to.

MR. JACK

Well, it's not a motion. Who do we discuss it with? You, or your committee, or what?

MR. ROEMER

The answer is yes to both of those questions--me and the committee.

MR. JACK

All right, well, you're the acting chairman. Can we discuss them when we adjourn?

MR. ROEMER

Be glad to; yea, sir.

MR. JACK

Where abouts? In the Treaty Room or the what room?

MR. ROEMER

Can we find you?

MR. HENRY

Gentlemen, let's. . .Mr. Jack, the gentleman will accommodate you, please, sir.

MR. JACK

All right, okay.

[Motion to temporarily pass over Section 4 adopted without objection. Motion to limit debate on Section 5 to one-half hour. Substitute motion to limit debate on Section 5 to one hour. Substitute motion adopted without objection.]

Reading of the Section

MR. POYNTER

The next Section 5 reads as follows:

"Section 5. Annual Motor Vehicle License Tax

Section 5. The legislature shall impose an annual license tax of three dollars on automobiles for private use, and on other motor vehicles, an annual license tax based upon horsepower, carrying capacity, or weight, any or all. No parish or municipality may impose any license fee on motor vehicles."

Explanation

MR. CHAMPAGNE

Messieurs, mesdames, ladies and gentlemen, that's an attempt to get your attention. I want to tell you that the reason why I'm up here to present this proposal is because it's completely non-controversial, and that the committee, we had a real argument about who was going to handle it, and I won. But, really and truly, in the absence of our chairman who was strongly for it, I inherited the position. I want to be very frank with you on this question. It is not constitutional material. Let's not argue that point. I agree with you that it is not. I further submit to you that it is in the present constitution, and we submit it to you, in essence, the same way in this constitution. I would suggest to you that most of you are politicians, and if you were not when you got here, then you should be, by now. I also submit that this constitution will be submitted to the people for their vote. Now, you will, possibly, some of you who will argue that by so doing, we are limiting the monetary results of license plates being sold in this state. I suggest to you that that is no limit whatsoever, because all they have to do is raise the license to drive an automobile, which has been done on occasion, and they can get much more money than they can with the three dollar license. I further agree that the legislature, in all probability, will never raise the three dollar license, if you take it out of the constitution. But, I do submit to you that all of those individuals in this state--and let's hope there are a few of them--but I suggest there may be a number of them who would like to destroy the adoption of this constitution. Here is ready-built information for them if you leave this out of the constitution, because it should be a very good voter appeal to those people who may or may not vote on this constitution. But, if suggested to them that the reason why it's being left out of here is because we intend, as a bunch of money raising individuals, to plunder the little man and make him pay an exorbitant license for his automobile. I suggest to you that that material will go like wildfire, and if we do not put it in the constitution, you shall have people flocking to the polls to vote against it. Now, I'm not suggesting that I would do it; I know none of you here would do it. But, I think there are possibilities of some people in this state who would use that measure to inflame a vote anti-constitution, in that measure. I, therefore, those of you are going to argue and say it's not constitutional, I admit it. Most of the committee admits it. This is one of the controversial issues on the. . .on our committee. Those are one of the possible. . . one of the only ones other than the other proposal we had on property tax. I, at one time, voted--we voted three or four times on committee--I'm the first to admit at one time I voted to leave it out of the constitution on the basis that it was not constitutional material. I want to submit to you that we are writing the best constitution that we can get the people to adopt. I feel that this is the kind of measure that will appeal to the little man and the big man and the middle man, because I happen to drive a Buick. I like the three dollar license. I'm frank enough to admit to you that I pay enough other taxes--gasoline, motor oil, all the other taxes that I pay--that I feel this is a privilege the people of Louisiana are entitled to, something that no other state in the union enjoys. For that reason, I suggest you adopt it, and I suggest that you do so and be proud that you're doing so. Do not try to be a perfectionist--simply a constitutional writer. But, in it also, a politician.

Any questions, I'd be glad to answer.

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Questions

MR. HAYES

Mr. Champagne, how long have we had the three dollar license plate?

MR. CHAMPAGNE

It's been a number of years, way back. . .I think that Long, the Governor Long first instituted it. That's many years ago.

MR. HAYES

Mr. Champagne, do you know where the license plate is made?

MR. CHAMPAGNE

Yes, sir; I do.

MR. HAYES

Where?

MR. CHAMPAGNE

At Angola.

MR. HAYES

At Angola. Would you accept an amendment to increase that license plate to six dollars and supplement the prison farm at Angola?

MR. CHAMPAGNE

Mr. Hayes, the committee either went for the three dollar license or none at all. I think if you're going to raise it. . . I think if you're going to raise the license figure, then you might as well leave it out of the constitution. I think the people are ready for a three dollar license.

MR. HAYES

I didn't get your question. I said, were you willing to accept an amendment to increase it to six dollars, and let's supplement the prison at Angola where they make it?

MR. CHAMPAGNE

No, sir. No, sir, I would not.
Any other questions?

MR. O'NEILL

Mr. Champagne, would you have any objections to saying "shall not exceed three dollars," instead of saying "shall be three dollars"? I ask this simply because, in the future, we never know what will happen, and maybe licenses for cars will be abolished or just something like that. I think it may be a technical amendment.

MR. CHAMPAGNE

I notice the committee. . .the staff report which said, in essence, it was the same as what's in the present constitution. I, personally, have no objections to that.

MR. ROY

Mr. Champagne, I agree with you for all the reasons you said. What you're saying, in essence, is that probably this is the first thing we get to put in the constitution which really inures to the benefit of and is most prevalent in the minds of the average little guy on the streets. Isn't that true?

MR. CHAMPAGNE

That's correct, sir. I think that it would help sell this constitution, and I'm the first here to admit that I have no resentments whatsoever, if we can write a constitution that would sell itself to the people.

MR. JUNEAU

Mr. Champagne, I understood what you said about that it may be acceptable, but it was the philosophy that this was definitely statutory material?

MR. CHAMPAGNE

Positively. I'm the first to admit that, Mr. Juneau.

MR. JUNEAU

I can justify my vote on that basis, then?

MR. CHAMPAGNE

That's fine. I might suggest, Mr. Juneau, that it might-- like some of my friends advised with me from St. Landry, have threatened they're going to vote against it, and told them

if they want to be for the upper crust, that's fine; I'm for the little man.

MR. NUNEZ

Mr. Champagne, don't you think it would be advantageous to prospective legislators to put it in there rather than letting the legislature do it because they're going to not raise it anywhere as you said, and if they put it in there, then they can take credit for it and not let the legislators do it?

MR. CHAMPAGNE

I can't see any possible reason for a legislator not wanting to put it in here because it simply does not force him to make the decision later on.

MR. ANZALONE

Mr. Champagne, don't you think, that because of the license plates being so high in this state, that we should change the language of this section to read "may impose an annual license tax not to exceed three dollars", so that we could give the legislature an opportunity to reduce it?

MR. CHAMPAGNE

I would even be glad to let the legislature play with that politically, Mr. Anzalone.

Amendment

MR. POYNTER

Mr. Newton sends up amendments.
Amendment No. 1. On page 3, delete lines 8 through 13, both inclusive in their entirety.

Explanation

MR. NEWTON

It's a very simple amendment. It strikes out Section 5 entirely. The first argument against having this in here is that it's clearly statutory. I think, while the three dollar license tax is presently not revenue producing, and it might not necessarily be necessary to have it revenue producing because we can raise license taxes on all other kinds of vehicles except private passenger automobiles, but as I understand it, it probably cost at least four dollars and fifty cents to manufacture and distribute the passenger car license plates. While it's not revenue producing, it at least serves a public police function in identification of automobiles, and I think at the very minimum it should be self-supporting to provide for the police function that it serves. You're going to hear a lot of "little man speeches," I'm sure, but I don't think that this is really so much of a help to the little man because I think that the legislature, in its wisdom, could provide for a graduated license tax, which...this is really helps the man that drives the Cadillac a lot more than it does the man that drives the Ford. Of course, one of the main reasons for taking it out, frankly, is because it may be one of the necessary sources of revenue in order to provide the highways that the people of the State of Louisiana are going to want in the future. I urge the adoption of the amendment. I'll be glad to yield to any questions.

Questions

MR. DUVAL

Mr. Newton, I realize that a lot of people are going to seize upon this issue to make "little man speeches," but the way it is now the guy who drives the Cadillac pays the same thing as the poor guy who drives the Model T Ford; is that right?

MR. NEWTON

You're absolutely right, Stan.

MR. DUVAL

And therefore, if the state needs revenue, they can't have a graduated tax on their license; is that right?

MR. NEWTON

That's absolutely right.

MR. DUVAL

So, if the state does need revenue, they might pass a tax

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which is not graduated, which actually really does hurt the little man more than the license tax; is that right?

MR. NEWTON
It certainly does.

MR. CHAMPAGNE
Mr. Newton, are you aware that I said it helped the little man, the middle man, and the big man?

MR. NEWTON
You're right.

MR. CHAMPAGNE
Do you know that I have no objection to help that one man with a Cadillac if I can help a hundred fellows with a little bitty car, or a small used car?

MR. NEWTON
Thank you, Walter.

MRS. WARREN
Mr. Newton, about how many license plates are made in the State of Louisiana a year?

MR. NEWTON
Oh, I don't know. I think, probably, several million.

MRS. WARREN
Several million? And you say it costs about four dollars and something...

MR. NEWTON
I'm sorry, Mrs. Warren. Mr. De Blieux says there are about two million license plates made in the state.

MRS. WARREN
About two million? And it costs four dollars and something to....

MR. NEWTON
That's my understanding. It costs about four dollars and fifty cents to manufacture, and of course, then you have to distribute those license tags.

MRS. WARREN
Now, what about the other license plates that are made that sell higher according to the fuel that you use?

MR. NEWTON
Well, of course there's no restriction on the increase in the rates for those licenses, Mrs. Warren.

MRS. WARREN
Beg pardon?

MR. NEWTON
There is no restriction. Those can be increased by the legislature.

MRS. WARREN
Well, that's what I'm saying. This is what I was trying to find out about how much money was spent in producing these license plates because the question came to me--I'm asking this--because they said that they made them out there at no... You know, they didn't make any revenue on it, and so I was just wondering. Some of them sell for different prices.

MR. NEWTON
Well, they sell for different prices is right, but some of them are--for trucks, for instance--are extremely expensive. I don't know what the revenue is for the state from these things, but assuming it costs four and a half for two million of them, well, you're talking about ten million dollars to manufacture and distribute license plates.

MR. WEISS
Delegate Newton, don't you think this body should weigh the significance of the criticism we've received repeatedly on legislating matters, and therefore, consider your proposal favorably because anyone who cares to kill the constitution can likewise say, this is not a constitutional body but a legislative body?

MR. NEWTON
Well, we certainly deserve that criticism.

Further Discussion

MR. DE BLIEUX
Mr. Chairman and ladies and gentlemen, this issue probably created more discussion and debate in our committee than any other we had. There was hardly a single member of the committee that thought that this was constitutional material, but yet for some reason or another, they wanted to include it in the constitution. Now, let me tell you in all good respect to the statements that were made by Mr. Champagne... Mr. Chairman, I would just like to have a little attention.

MR. DE BLIEUX
In all deference to the statements that were made by Mr. Champagne, you don't help little people by placing the taxes on them. The only way you can help little people is by letting the big man pay his just portion of taxes. Mr. Champagne you've got a lot of people with pickup trucks, trying to make a living, but they have to make up the difference what that man driving that Cadillac and Imperials don't pay for licenses. Just remember that. You don't have to tax little people if you can tax big people. But when you've got a limitation what you can put on big people, then Lord knows, the only people that can pay the tax is the little people.

We recognize that this is not constitutional material. Let's not make the State of Louisiana, which is the only state in the union that has this type of provisions in the constitution, the laughing stock of the nation by putting it in the constitution. I ask you to approve the amendment.

Questions

MR. GOLDMAN
Senator De Blieux, all this talk about worrying about the little people, would you say that they're worrying about the little people with the excessive gasoline taxes that are put on for driving these cars that have the three dollar license tags?

MR. DE BLIEUX
Not a bit in the world, Mr. Goldman.

MR. GOLDMAN
Senator De Blieux, do you know that I feel ashamed every time I get in my Cadillac and Toronado and only have to pay three dollars for the license tag, where my son in Texas has to pay about forty dollars for his?

MR. DE BLIEUX
That's what they're trying to protect--that fellow driving that Cadillac, and that Imperial, and that Continental. They don't want those to pay their just share because that's where the taxes will go--not on that persons who's driving that small car. You know that; the legislature is just as responsible as this convention is, and I would think more so because they come up for election every four years.

MR. JENKINS
J. D., you know the state still accepts donations, and if any of you fellows who feel so guilty about it want to, you can always make a donation in lieu of an increase in these licenses.

MR. DE BLIEUX
Well, I think that we're making a donation to the Cadillac drivers now on this.

MR. CHAMPAGNE
Senator, about that tax on those pickups, that's a legislative tax; is it not?

MR. DE BLIEUX
Mr. Champagne, it takes a necessary amount of money to operate our highways and pave them. As Mr. Taylor can tell you, he's having a most difficult time at this particular time financing our highway program. I would say this...

Further Discussion

MR. BURNS
Mr. Chairman and fellow delegates, I'm not going to take up

your time arguing about the little man or the big man or the rich man or the poor man or the owner of a Ford or the owner of a Cadillac. I will say that human nature is a funny thing. When I was active in politics, people used to worry me or bother me about getting them a pass to the fairgrounds in New Orleans. I think at that time the general admission was either fifty cents or a dollar. Those people wanted that pass, but yet, they would go there and bet on races and lose five or six hundred dollars and never bat an eye or never think about it. I know people that take advantage of these free hotel trips out to Las Vegas, and yet, they'll go out there and lose five or six thousand dollars and never think about it. So, it's not a question of dollars; it's not a question of taxes; it's not a question of what kind of automobile you drive. I know people who have Cadillacs and who have Continentals, but there's just something about it--they want that three dollar automobile license--not because it's the question of the money involved. Now, if it wasn't in the constitution--this three dollar automobile license--I'd say we're just wasting our time even discussing it. But, the fact that it is in there, and the people expect it to stay in there. I can frankly say that I've had more people talk to me about "don't do away with the three dollar automobile license" than I had to talk about all the rest of the constitution put together. I'm not going to get up here and try to sell you on the idea of whether it's constitutional material or not, but I will try to sell you on the idea that this is the best selling point of getting this constitution adopted that I know of. I think--as I say again--the fact that it's in there, and the people expect it to stay in there, I think we'd be making a grave mistake as far as selling this constitution to the people in taking it out.

Further Discussion

MR. PLANCHARD

Mr. Chairman, fellow delegates, you see that this is probably one of the most emotional issues that we'll run into in this convention. I say that this is not only as emotional as, but as important as, to this constitution as the homestead exemption. Everyone understood and they understand what a homestead exemption is. They understand what this three dollar license fee is, and if you change that, you're very badly endangering the passage of this constitution. As Mr. Burns says, people are funny, but they're going to be people no matter what we do. Now, we can be purists. I've spoke to many clubs, and I ask them the question each time, "What would you do if you were a delegate? Would you take out the three dollar license fee?" And everyone of them on the first poll will say yes. Then, I ask them each time: I say "I want you to reappraise your situation and the answer of that very question." If you were the man on the street, if you were some of these old people that have an automobile--they've known this limitation for many years--ask yourself again how you would vote on it. In each instance, to the man, they would vote to keep it in the constitution. Now, we say this is not constitutional material? Of course, it is if it's that important to the people of Louisiana; it's got to be. Now, I ask you this. We've gone through some very tough times in this convention, and each time you've heard people get up to the podium, and they say that this constitution can be defeated because of what we've done here today. Well, I'm going to say to you that the same individuals, the same groups will come back at you loud and strong if you take this provision out because they'll use this to beat you to death when you go out to talk to the individuals and try to convince them to vote for this constitution. They won't use the ammunition or the provision that you've cut them out. They won't look at that, and they won't argue that point. No, sir, they'll go directly to this kind of thing that people understand. So, when we last hear about the three dollar license, we think that maybe we go out of state and someone says, "Ha, ha, ha, you have a three dollar license fee." You know what I say to them? "By God you'd like to have one, too." I'll mention something else. How many times when you were in the service outside the State of Louisiana, how many times did you come back home to get your license plate if you were using your car in some other state? Sure, you want that three dollar license tax. I think that that limitation is very, very important, and I won't bore you with any more of my rhetoric, but by crackey, think hard, ladies and gentlemen, before you get rid of this provision in the constitution.

Further Discussion

MR. WEISS

Mr. Chairman, fellow delegates, this is indeed a gut issue, and I would like to speak for the new constitution of Louisiana,

for the new people of Louisiana. You know, we're not a bunch of backward Cajuns any more, in case you don't know it. We've got one from Southwest Louisiana that made the governor this past year. Besides that, there're too many people that tell a story about us backward folks here in Louisiana. Well, you know there's a story going around that some city slicker came down our way in Southwest Louisiana and wanted to pass out twelve dollar bills. He misprinted them. The cajun back there quickly replied, "How do you want them--three fours, four threes, or two sixes." That's kind of change we expect the people of Louisiana to know. You've got an entirely different cosmopolitan type operation in this community, in this country, in this state, and there's no reason to try and fool people with three dollar license plates. I think it's the most ridiculous thing that we could put in this constitution, and you're not fooling anybody but yourselves. Are we trying to make a good constitution, or are you trying to run for office? This is absolutely absurd, and I would suggest that we go along with the Newton amendment, delete it, and let the legislature handle a legislative matter. This is nothing to be put in a good, new, sound constitution for the people of the State of Louisiana. I think we ought to tell them the way it is. There's no sense in fooling them. They know darn good and well that if they pay three dollars here, they are going to have to pay much more for some other item. Let's go ahead and give them their money's worth. Let's give them what they deserve--a good constitution with no frills and trimmings for reelection or for election of officers here seated. Let's go ahead and vote the Newton amendment in.

Further Discussion

MR. ALARIO

Mr. Chairman, fellow delegates, it's been said here that the three dollar license plate is too low. That's probably true, but let's look at the necessity of a family having an automobile today when in most families today, both the husband and wife are having to work to bring enough income into this state to make ends meet because of the high cost of living, and the high cost of food just to help their families along. You say the three dollar license plate is too low. Let's look at the other taxes that a person has to pay on his automobile, and at the same time look at, also, the taxes that the rich man has to pay on his big Cadillac or Lincoln Continental and see if we're letting him escape at the same time. Look at the sales taxes a person has to pay on an automobile when he buys it: the sales tax he pays on the repairs and the accessories to repair it, the excise tax on the tires--not to mention the federal gasoline tax of which we don't know what that figure might be in the next few months--the state gasoline tax that's put on him. He's more than amply paying for the use of that automobile, for the building of the highways that are necessary in this state. I don't think he's undertaxed in any which way on that automobile, but he is aware of that license plate that he's paying. I, like Mr. Burns, had a lot of people tell me, "Don't tamper with the three dollar license plate." Now, we're not talking about only the taxes he pays on that automobile to make ends meet. Look at the normal repairs and upkeep for keeping that car going to make sure that he makes that living. Let's look at, when they talk about raising revenues in this state, just where the legislature's going to look then because the three dollar license plate does exist. I suggest to you that there are not enough Cadillacs; there are not enough Lincoln Continentals; there are not enough Paul Goldmans in this state to tax to make any substantial difference in the income of this state. I don't know just how much the legislature might have to raise the tax on Mr. Goldman's car in order that we might have enough revenues to do whatever the legislature thinks is necessary because they are going to raise the taxes. I'll tell you what they're going to have to do, just like every other tax in this state that goes to affect the smaller man in this state, they're going to have to tax and raise the tax on that three dollar car to bring it up of the millions of people who are not driving those Cadillacs, to bring it up to some figure that might be realistic as far as raising revenues. I suggest to you that we should leave it just the way it is so that person might know that his car would not be taxed away from him.

Further Discussion

MR. GUARISCO

Ladies and gentlemen of the convention, I rise probably not in support of the amendment, nor speaking for the committee proposal. I just take this opportunity, I suppose, on this amendment--and you might call this the brooding and reflecting

of a constitutional convention delegate. If this vote had been held in July, I'd have had no problem with this amendment. I would have voted to delete it immediately. Now, some six or seven months later, some strange metamorphoses has taken place, and I really don't know whether we should vote for or against the three dollar license plate. It's a strange situation where the most important item, supposedly, in the small man of Louisiana is evidently the small mentality of the most important thing being the price of his license plate. One speaker said that he didn't know anything about his homestead exemption, but he knew how much he paid for his plate. It seems to me to be some sort of misplaced priority somewhere along the line that he don't care anything about his home, but he's worried about what he's going to pay to get in that Chevrolet. But be that as it may, I suppose that this is one of the things that we probably have to keep in the constitution, although we might understand that to take it out is certainly not tantamount to raising the tax.

Question

MR. A. LANDRY

Tony, isn't it a fact that what a person is for belongs in the constitution, and what they're against belongs in the statutes?

MR. GUARISCO

That's what they say.

MR. HENRY

Would you yield to a question from Mr. Riecke?
The gentleman yields.

MR. RIECKE

Mr. Chairman, how many speakers do we have on the list?

*[Motion for the Previous Question
rejected: 23-66.]*

Further Discussion

MR. LANDRUM

Mr. Chairman and fellow delegates, it is amusing to hear the concern that we have for those who are in the lower income bracket. One of the things that the governor of this state stated, during the opening of the convention, in talking about some of the things that are in the constitution that should not be, I believe, was this particular section that we are dealing with now about the license plates. Many other organizations have spoken against this idea of a three dollar license plate in the constitution. It reminds me of a newspaper that I have the day after Huey Long was buried when you had--and that was only four years before when we started this new license plates...four years after--that newspaper you had urges one cent apiece; silver bells, five for a penny; sirloin steak, twenty cents a pound. Now, that paper was in 1936. You have had the three dollar license plate since 1940. I believe that this particular section should be removed from the constitution because of the fact that it just don't belong in the constitution. I believe that it has remained there because of the fact that some legislators have failed to be responsible legislators. I think some times this convention we are following in that same pattern. We have criticized the legislators so badly over the past months, but I don't think we can stand in that position to criticize them, nor must we criticize ourselves either. But, let's try to do a good job. I think you know--you don't really need to be told--that it just don't belong there. Now, if the legislators feel that we want to maintain a three dollar license plate, well--as we have on so many other things--leave it up to the legislature. Let them do it; let them impose a three dollar license plate; let them put it in the statutes where it belongs. I urge that you support this amendment.

Further Discussion

MR. SMITH

Mr. Chairman and fellow delegates, I know I'm not going to change anybody's mind, but I felt impelled to come up here and give you my... what I thought. I am for this amendment; I know it's not popular; I know it's not political expediency, but I feel conscientious and sincerely that I should say what I have to say. I am always in the minority most of the time anyway. I will probably be again today. But, this three dollar car license was put

in the constitution years ago as a political gimmick. It is still in there. I ran, and I came down here to write a good constitution. That's what I'm trying to do. I think in putting the tax rate in a constitution is ridiculous and I believe you all do, too. But, you're going to probably vote for it for the fact that it might... people might not vote for the constitution. Well, I hope they do, but I've got to vote my conscience down here. I think this is statutory material; I think it should be left to the legislature. I had passed a two-thirds law and we have just recently adopted it, which I think is fine. I think that will take care of it. I think we should let the legislature raise it. I don't think they ever will raise it, but I think we ought to put it where it belongs--in the legislature. If I was there, myself, I would not vote to raise the three dollar tax. I'd have never voted, in my sixteen years in the legislature, I never voted for a tax. But, I think they should give it place where it belongs. I say, I'm sincere and conscientious in my belief. I think we should put it where it belongs, but I'm sure it's going to be defeated. But, I could not let the time pass without coming up here and saying what I thought. So, I close with that.

Thank you.

Further Discussion

MR. JACK

Mr. Chairman and ladies and gentlemen, I was in the House of Representatives in 1940. This three dollar plate is not a political gimmick. When I ran in...for that election--and was elected to serve starting 1940--in my platform and on my campaign matches, I had printed three dollar auto plates. The reason I did that at that time, we had horsepower what regulated private passenger cars. A Ford gearshift car costs about twenty dollars then. By having a three dollar plate a person, at that time, could buy five, ten, one thousand public liability and that's the reason I was having that three dollar plate. Now, today, with plates gone up in other states--Mr. Goldman was pointing out in Texas, he's right it's sixty dollars; California, it's a hundred in the city out there or more--and by us keeping three dollars instead of getting it increased like California to a hundred on a private car and fifty or sixty in Texas, these people here can carry public liability so if they injure somebody and it isn't their fault, that person can be paid for it. Now, let me tell you talking about selling this constitution: I have people ask me about these things. I point out to them: "Here's where we are going to help you, we are going to"... let's take a person that's over sixty-five, we are going to give him a homestead exemption of five thousand dollars, if he's a veteran it's five thousand, the others it's three thousand. We are going to have the two-thirds tax in the constitution still to pass a tax. People are interested whether their tax is going to be increased or new ones on them. We are also--and I have an amendment drawn on the sections passed over--going to provide that federal income taxes paid shall be allowed as a deductible item in computing state income taxes paid during the same period. There's four good things that people are going to get; if nothing else it's going to put frosting on the cake. Let me tell you, if you have those four in here, you are going to sell this constitution when you explain the other good protections they get. If you defeat these--and right now we passed the two-thirds, we passed the homestead, we are on the three dollar auto plate, and tomorrow we going to take up my amendment on the federal income tax paid to be deductible on...item on your state income tax. Those four things are things going to help the person that's old and the person that's in need in keeping people from worrying. I say let's go on and defeat this amendment.

Thank you.

Questions

MR. STINSON

Mr. Jack, if any indication this past special session, if we don't put it in the constitution, we'll be paying five hundred dollars for each automobile license, won't we?

MR. JACK

What's that?

MR. STINSON

If this past special session is any indication as to what the legislature thinks about taxes, if we don't prohibit this and limit it to three dollars, we'll be paying five hundred dollars for automobile licenses, won't we?

MR. JACK

I don't know how much, but I know this, that California--I was talking to a lawyer out there--is a hundred dollars. That's

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the state tax on private passenger, is what he told me, and on city ones he couldn't tell me in Los Angeles because he lived out of it. But, I'll bet you the total in California and Los Angeles will be a hundred and fifty in plenty other places. That's enough to pay that public liability and that's one of the things I'm interested in.

MR. WEISS

Delegate Jack, if we could legislate, don't you think we ought to be able to cut the high Louisiana gasoline tax and in two weeks these people could save three dollars...six dollars a month, if we could cut the high Louisiana gasoline tax imposed by the legislature on the people of Louisiana?

MR. JACK

Dr. Weiss, you talk about if we can legislate; I am not in the legislature. When I was there I still couldn't promise that I...one person could pass a thing. I'm saying these four things I've quickly outlined--call them goodies, whatever you want--will be a great help.

[Previous Question ordered.]

Closing

MR. NEWTON

I'll be as brief as I can. There are cer...couple of things I'd like to point out. First of all I'd like to say that I've had a lot more people come up to me at home and say, "I think that three dollar license tax in that constitution is the most ridiculous thing I've ever seen", then I have people asking me to leave it in there. Secondly, I believe it's my understanding that the Composite Committee when it was traveling around the state, only one person--one person in Shreveport--came to that committee and said, "Please keep the three dollar license tax." The third thing I'd like to point out is what we are doing with this three dollar license tax is we are subsidizing people that are driving large cars and could well afford to pay their fair share of the cost of maintenance and building of highways in this state because the license tags cost more to make and distribute than we are collecting for them. If that's not wrong, then I don't know what is. I urge your adoption of the amendment.
Thank you.

Questions

MR. LANIER

Mr. Newton, did you know that I agree with your amendment?

MR. NEWTON

Thank you, Walter.

MR. LANIER

But, let me ask you this question, I didn't get a chance to ask Mr. Jack this question, but did I understand him correctly to say that the three dollar license was not a political gimmick, but that he did have that put on his match covers when he ran for office?

MR. TOOMY

Mr. Newton, doesn't your amendment also delete the last sentence to this section which is the limitation...prohibition against cities and parishes imposing license fees?

MR. NEWTON

No, I don't believe.

MR. TOOMY

I think it does. Does your amendment delete the entire section? The last sentence is a prohibition against cities and parishes imposing a license fee on motor vehicles.

MR. NEWTON

I believe you are right.

MR. STOVALL

Mr. Newton, do you feel that taxes should somewhat be equitable?

MR. NEWTON

I think they should, Mr. Stovall; I surely do.

MR. STOVALL

Do you think it's equitable to charge three dollars a license plate for a man who drives a Cadillac and then charge five cents for a sales tax for a poor family?

MR. NEWTON

Of course, I think that is a problem, but I think it's not ethical or anything else to charge less than what it costs to produce and distribute a license plate.

MR. BURSON

Mr. Newton, as far as you know do we have set out in this proposed new constitution any other specific tax?

MR. NEWTON

To my knowledge this is the only tax that is imposed in the constitution. We tried in committee very hard to get rid of all of the taxes that were imposed in the constitution. There were gasoline taxes and things like that; we took all of those out of our committee proposal. This is the only one that, to my knowledge, that has been retained.

[Amendment reread. Record vote ordered. Amendment rejected: 34-70. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The first...we have two sets, one by Delegate Newton and one by Delegate Hayes. The second Newton amendment which has been distributed reads:

On page 3, line 9, change the word "shall" to "may".
Amendment No. 2, on page 3, line 10, immediately after the word "tax" and before the word "three" delete the word "of" and insert in lieu thereof "which shall not exceed".

[Amendment withdrawn.]

Amendments

MR. POYNTER

Just Mr. Hayes is offering the amendment. Real briefly it raises the...from three to six dollars and dedicates the monies thereto to Louisiana State Penitentiary to be used only for the administration and improvements for said penitentiary.

Explanation

MR. HAYES

Briefly, ladies and gentlemen --we only have five minutes and-- what I'm saying here is that the license plate is processed at Angola. The reason why we are able to receive a license plate so cheap here in Louisiana is because the license plate itself is made at Angola. I don't think you could even buy that license plate for three dollars on the open market. So, what we are doing is using prison labor. If you would go up there and look at the prison, then you would be happy to approve this amendment so they could get some money at the prison to operate the prison with. I think if we would dedicate an additional three dollars to offset some of the expense at the prison we would be doing a justice here and we would be including the inmates in the state of Louisiana into our constitution. I don't believe that this would affect the passing or the election of anybody as a delegate to anything that he's going to run for. I think any one who is afraid of being elected or afraid of the people back home, should check his people back home when you go out to these area meetings. I don't think that any one produced hardly over twenty members at these meetings back home, when they say they are going back home to some of the people back home. But, now, most of those people at the prisons up there are sent there by judges from all over the state of Louisiana and almost you don't have another place you can send one. I think the prison needs to be expanded and needs to be improved. We are receiving our license plates from that prison and bringing them down and registering all the cars in the state at the expense of the inmates at Angola. So, what I think we need to do is increase the license plates enough to cover the expense, dedicate that fund to where the license plates are being made. I think we could, right here, improve the entire facility in the state of Louisiana. I yield to any questions.

Question

MR. LEBLEU

Mr. Hayes, I think what your amendment is trying to do is for a worthy cause but I just wondered if you knew...are you aware that after next year all license plates will be permanent and when you apply for your license each year thereafter they'll just send you a little plastic sticker which costs about five cents?

MR. HAYES

This would not nullify the fact that what we are trying to do now is set up many prisons throughout this state where you can stop some of these overcrowded conditions like we have at Angola. I figured a place like New Orleans and other places in the state would need their own institutions. With this additional funds, they will be able to set these places up throughout Louisiana.

I ask for a record vote because I'd like to send this vote...while we was up there, I promised the inmates I'd do what I could for them. Now, if this is all I can do to send them a record vote, I'd like to do that.

[Record vote ordered. Amendments rejected: 20-80. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 88-16. Motion to reconsider tabled.]

Personal Privilege

MR. LANDRUM

Mr. Chairman and fellow delegates, I just would like to make a point clear. My name was on that amendment. When it was brought to my attention about the perpetuation of Angola, then I asked that my name be removed. Mr. Hayes made mention of the fact that we promised the prisoners that we would try to help. Well, perpetuating Angola isn't a help. So, in my...and for that reason I voted against Mr. Hayes' amendment.

Thank you.

Question

MR. WEISS

Delegate Landrum, can't we now be assured that this will never be called the governor's constitution because he went on record opposing this particular section, is that correct?

MR. LANDRUM

Dr. Weiss, you asked a question, so I'm going to answer you. From the beginning, and even to this point, I've always maintained one fact; I believe every citizen in the state of Louisiana should be concerned about the constitution. I would think very little of a governor or a mayor or a sheriff or a constable or a district attorney, if he would fail to show any interest in it. So, I mean I never felt that it was the governor's--well I can only speak for myself. I've told...as I stated earlier, nobody claimed that I'm one hundred per cent behind--if I feel that you are right, well then I'm behind you one hundred per cent, but if I don't think you are right, well, then, I'm not with you.

[Quorum Call: 69 delegates present and a quorum.]

Reading of the Section

MR. POYNTER

Next section, Mr. Chairman--Section 6. Forestry
Section 6. Forestry shall be practiced in this state, and the legislature shall enact laws therefor.

Explanation

MR. ROEMER

Mr. Chairman, I'm not going to try to explain it; I'm not sure what it means or why it's there.

MR. HENRY

Gentlemen, please take your seats.

MR. ROEMER

When I don't want anybody to listen, you get them.

MR. HENRY

Proceed, Mr. Roemer.

Motion

MR. ROEMER

It was decided in our committee that we would have Mr. Planchard explain six. That would be an interesting explanation even for me, but at this time the committee wishes to pass over six. Our reasoning being that six relates to four--four being the provision for severance taxes. We would like to hold six open, Mr. Chairman, till we see what we do with four.

MR. STOVALL

Mr. Chairman, there is an amendment to delete this and it's to delete, then I think we should go ahead and vote on it.

Further Discussion

MR. ROEMER

Now, I'm doing this..let me make it clear, Reverend Stovall, that I'm not asking to pass over it because I'm in favor of six. I'm asking to pass over it as a courtesy to people who asked me to pass over it because they rightfully feel--I believe--that it relates to four. They would like to see what we do with four until we vote on six. It makes sense to me and as a courtesy to them, I asked you to pass over it.

Question

MR. THOMPSON

Buddy, why not--it's not but two lines--why not leave it in there for the time being? If we do away with four we can always do away with that section. I don't see any reason to pass it over; we can go ahead and leave it in there.

MR. ROEMER

Well, my feeling was that some people might not want to vote on a simple statement that forestry shall be practiced in this state.

[Previous Question ordered. Motion adopted: 65-18.]

Reading of the Section

MR. POYNTER

Section 7. State Debt; Full Faith and Credit Obligations
Section 7. (A) Unless otherwise authorized by this constitution, the state shall have no power to contract, directly or through any state board, agency, or commission, the incurring of debt or the issuance of bonds except upon the affirmative vote of two-thirds of the members elected to each house of the legislature, and then only if the funds are to be used to repel invasion; suppress insurrection; provide relief from natural catastrophes; refund outstanding indebtedness, but only to obtain a lower effective rate of interest; or make capital improvements, but only in accordance with a comprehensive capital budget, which the legislature shall adopt.

(B) If the purpose is to make capital improvements, the nature, location, and if more than one project, the amount allocated to each and the order of priority shall be stated in the comprehensive capital budget which the legislature adopts.

(C) The full faith and credit of the state shall be pledged to the repayment of all bonds or other evidences of indebtedness issued by the state directly or through any state board, agency, or commission.

(D) The legislature, by two-thirds affirmative vote of the members elected to each house thereof, may propose a statewide public referendum for the incurrence of debt for any purpose for which the legislature is not herein authorized to incur debt.

Explanation

MR. BROWN

Mr. Chairman and fellow delegates, Section 7 primarily deals with the purposes to which debt can be incurred in this state. There are four paragraphs, as you can see and they are fairly

complicated. You might want to listen because we've got a few amendments coming up and it's a little technical. Paragraph (A) on page 3 of the committee proposal, basically lists the three... rather lists the five purposes for which debt may be incurred. Now, in the 1921 Constitution there were three purposes for which debt could be incurred: to repel invasions, suppress insurrection, and make capital improvements. The committee added two additional purposes: provides relief for natural catastrophes. It was felt that with our flooding conditions, with hurricanes--this type of thing--we might need to put this extra provision in there. Also, a fifth provision was added which would refund outstanding indebtedness only to obtain a lower effective rate of interest. In other words, if we could refinance our bonds and get a lower rate of interest, then we are authorized to incur further debt. That's Section (A). At this time, Mr. Chairman, there are two amendments that I have to offer to Section (A). I believe they are being passed out right now and I'd like to, well... Mr. Chairman I'd like to suggest that we go ahead and offer these two amendments right now, or what's the wishes of the chair... should we go ahead and explain all four sections?

Amendment

MR. POYNTER

All right. Amendment reads as follows:

Amendment No. 1, on page 3, line 20, immediately after the word and punctuation "agency," and before the word "the" delete the words and punctuation "or commission," and insert in lieu thereof the following:

"commission, any quasi-public entity, any private person, or any body created by the legislature,"

Explanation

MR. BROWN

The purpose of this amendment..and let me state that I'm offering this amendment; it's not a committee amendment, but several of us got talking just a little prior to this and we thought we ought to make it a little broader because as it reads right now, it just talks about any state board agency or commission. This wouldn't give this protection to--say a commission who would contract with a private individual. So, just to make it a little bit more inclusive, we added this additional language, to make the protection a little broader--to include a quasi-public entity or a private person or any body created by the legislature. We threw that little broader provision in there. I don't think there is any controversy and I would ask for adoption of the amendment.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

The next one is sent up by Senator Brown, reads as follows:

Amendment No. 1, page 3, line 29, immediately after the word and punctuation "adopt." add the following:

"Legislative approval may be obtained only during open sessions except as otherwise provided in this constitution."

Explanation

MR. BROWN

Let me tell you again this is my amendment, not an amendment of the committee. I have talked it over with several members of the committee and I want to explain it to you, but I don't want you to think this is a part of the overall committee package. Now, what this amendment is doing is trying to let this legislative approval be obtained when the legislature is in session. Right now the legislature has been called on by the governor to approve eight million dollars, additionally, for the funding of the dome stadium. Under the 1921 constitutional provisions, the governor has a way to do this by written ballot. He sent to each member of the legislature a written ballot. What we are in fact doing, is issuing an eight million dollar addition in funds, without any discussion, any committee hearings, or any of this, in terms of the regular open session provisions. So, what this says is, that if we are going to incur additional debts, it's got to be done when the

legislature is meeting in general session. Now, we've got a provision coming up after this that creates an Interim Emergency Board which replaces the old board of liquidation. There is an exception you will notice on here, "except as otherwise provided by this constitution." The purpose of that is to allow legislative approval on funds issued by this Interim Emergency Board, which we'll explain in the next section--that's why that is in there. But, if the governor feels that it's necessary to issue additional bonds, it's got to be done when the legislature meets, and not by a mail ballot. That's the purpose of the amendment. I'll be glad to answer any questions.

Questions

MR. THOMPSON

You answered part of my question about the Board of Liquidation, but, now, this means bonds only?

MR. BROWN

No. Well, this incurs any debt where it takes a vote of the legislature. In other words, the only time that we can be called on to give approval for incurring debt would be if it dealt with what we're going to call the Interim Emergency Board, which replaces the present Board of Liquidation, if we get that far. But, go ahead.

MR. THOMPSON

I can think of times, and Louisiana's one of the states--unfortunate as that may be--that has hurricanes, and we need to act immediately in times like this, and I can see where this could cause a pretty bad hardship on the people, particularly in south Louisiana.

MR. BROWN

Representative Thompson, if you look at Section 7, it states particularly that one of the purposes of incurring this debt would be for relief from natural causes, catastrophes. Now, what you're saying is we should be able to do that by a written..by just a written ballot. I think if we had a natural catastrophe that would incur expending great sums of money--and let me remind you that in the next section, we're authorizing two million dollars, an annual fund for the governor to spend for emergency purposes, two million dollars; plus there are all of the funds which are appropriated to the National Guard, to the State Police; all of these funds are available--if we've got to go above seven, eight, nine million dollars for a hurricane, I think we'd better call a special session of the legislature, and get into it in some detail. If there's no further questions...

MRS. ZERVIGON

Senator Brown, if this fails, would you be willing to submit it in the form that would say "legislative approval for bonds for capital improvements may be obtained only during open session, except as otherwise provided in this constitution"?

MR. BROWN

I'm sorry.

MRS. ZERVIGON

In other words, if this failed, don't you think it would help meet Representative Thompson's objection, if you limited the effect of this to capital improvement; the other emergency things could be done by the mail ballot. But, capital improvements could only be done in open sessions of the legislature. Do you understand my point?

MR. BROWN

Well, if this fails, that would water it down a little bit. But, as I say, if there's an emergency, we have millions and millions of dollars to any number of agencies that are available to come to for. We had a very strong flood here this past year, and we didn't even touch the resources we had to help combat this particular situation.

MRS. ZERVIGON

You're saying mostly emergencies can be taken care of out of the operating budget, rather than the capital budget. That's what you're saying. Rather than issuing bonds, and going into debt, you can take it out of regular operating funds some sort of way.

MR. BROWN

That, plus the fact that the governor has a two million dollar fund that is going to be talked about in the next session, if this body...

MRS. ZERVIGON

Right. That's the emergency money. I mean that is operating money, itself. That is not bonded indebtedness, and this applies only to bond indebtedness.

MR. BROWN

No...I agree with you.

MR. DENNERY

Mr. Brown, this question is really, I suppose, aimed at your interpretation of the amendment which we had previously adopted. I'm somewhat puzzled. I don't know exactly...the city of New Orleans was created through a constitutional amendment. It is a home rule city. There are others in the state. I take it your amendment does not prohibit the state to contract directly, or through the city of New Orleans. In other words, it could contract through the city of New Orleans for the incurring of debt and so on and so forth. I'm sure that's not your intention, but it seems to me that every time we put a lot of words in the constitution, we open the door to the possibility of forgetting something. Could we not have gotten the same result by saying directly or indirectly?

MR. BROWN

Well, at what location? I don't...

MR. DENNERY

Well, you see, you now have, "The state shall have no power to contract directly or through any state board, agency, commission, any quasi-public entity, any private person, or any body created by the legislature." Now, a home rule city doesn't fall within any of those. I'm sure you didn't intend to leave them out, to permit the state to get around this prohibition.

MR. DENNERY

Mr. Dennerly, I'm not sure I understand what you're asking. You're stating that under your interpretation of this provision, it would still be all right for the state to contract with a municipality, or a...

MR. DENNERY

Through a municipality which has a home rule charter for the incurring of debts without the affirmative vote of two-thirds of the legislature, and I'm sure you didn't intend that, did you?

MR. BROWN

Well, I would think that the word "entity" would incorporate the home rule charter concept...

MR. DENNERY

No, that's your quasi-public entity you said.

MR. BROWN

Do what?

MR. DENNERY

You say a quasi-public entity. A home rule charter is a public entity; it's not a quasi-public entity.

MR. BROWN

What you're saying is we should have included public entity; isn't it?

MR. DENNERY

Well, I'm not sure what I'm saying...what I'm really asking you is, couldn't you put all that in one word, say, "directly," or "indirectly."

MR. BROWN

Well, I think you have a point, Mr. Dennerly. We were real concerned about, for instance, what went on with the state building... the Louisiana Building Authority, which is a private entity, and that's why the amendment was offered.

MR. DENNERY

I understand the problem. I'm just wondering if we may have forgotten someone after putting all of these in there.

MR. BROWN

Sure. I follow you.

I think you may have a point, and just speaking off the top, I think that if you wanted to put an amendment together to say "directly or indirectly," I can't see why I would object to it. That wouldn't hold bearing on the amendment that I have right here, though, right now, I don't think. We've already adopted that amendment. You're asking me, in effect, could you come back and amend the amendment I've already put on. I don't think it has any bearing on this particular amendment which I've offered, which is the one offered on page 3, line 29. If there's no further questions, Mr. Chairman, I'd ask for adoption of the amendment.

[Amendment adopted without objection.]

MR. JENKINS

I have a question that relates to (D). Will you take the floor again on (D), or should I ask it now?

MR. BROWN

Representative Jenkins, I'm going to go to (B), (C), (D), in the normal order of the alphabet, and yes, I will. I'm just discussing (A) now, and taking the amendments to (A), trying to do it in that order if there's no objection. But, we'll go into great detail into the other sections coming along.

Amendment

MR. POYNTER

Amendments sent up by Mr. Gravel read as follows:

Amendment No. 1. On page 3, line 19, immediately after the word "power" delete the remainder of the line, delete line 20 in its entirety and on line 21, immediately before the word "bonds" delete the words "incurring of debt or the issuance of" and insert in lieu thereof the following: "directly or through any state board, agency, or commission, to incur debt or issue".

Explanation

MR. GRAVEL

Mr. Chairman, ladies and gentlemen of the convention, it's not the intent or purpose of this amendment to in any way adversely effect the proposal that has already been adopted by the convention, submitted by Senator Brown. I do think, however, that this does have that effect because my amendment was drafted before his was adopted. Primarily, let me explain to you the purpose of the amendment that I have. I have some concern about just exactly the intention of Section (A) as it's drawn. As I read it, it provides that the state shall have no power to contract directly or through any state board, agency or commission, the incurring of debt, or the issuance of bonds. Now, that language to me, the prohibition against the power to contract the issuance of debt...I mean, the incurring of debt, or the issuance of bonds, is at the very least, clumsy, and doesn't articulate what I believe is the intention of the section. I believe that the intention of the section is to prohibit the incurring of debt or the issuance of bonds. Now, if I'm wrong in that, I've talked to the authors and some other people, I'd like to be enlightened. The effect of the amendment, therefore, that I would propose is that the state shall have no power to incur debt or issue bonds except upon the affirmative vote of two-thirds of the members of the legislature, and so forth. I think that clearly says what I understand to be the intention of the committee, and I would move the adoption of the amendment. I'd like to try to respond to any questions, if I'm in error in my appreciation of this language.

Vice Chairman Casey in the Chair

Questions

MR. BOLLINGER

Camille, apparently you had a problem, or the staff had a problem, in drawing the amendments. It did not delete the word, or portion of the word "incurring." Could you read it as it would be amended, if your amendment is adopted?

MR. GRAVEL

If my amendment passed, subject to the amendment by Senator Brown, it would read this way: "unless otherwise authorized by this constitution, the state shall have no power, directly or

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through any state board, agency, or commission to incur debt or issue bonds, except." Now, it's my understanding that that's the intention and purpose of the proposal.

MR. ROEMER

A couple of questions, Camille: what would your amendment do to Senator Brown's previously adopted amendment?

MR. GRAVEL

Well, actually, I would like to conform that portion of my amendment to the change that was effected by the adoption of Senator Brown's amendment because it was not my intention to conflict with it.

MR. ROEMER

All right. Now, the second question is: before you withdraw it...

MR. GRAVEL

...Senator Brown says that if we have thirty seconds with Mr. Denney, that we can get this whole thing worked out, including Mr. Denney's amendment.

MR. ROEMER

I think we can; that's my point because he would add a much broader prohibition. I think that's what we're all after.

MR. GRAVEL

Mr. Chairman, in view of that, I would like to ask for a two-minute recess, and see if we can compose our differences.

Chairman Henry in the Chair

Explanation

MR. BROWN

I think we've gotten everybody together who had objections to the provisions in Section (A), but the amendment's being prepared right now. There's no other amendments on the rest of this section, but I think there will be some questions, so I'd like to go on to Paragraph (B) at this time and discuss Paragraph (B). Paragraph (B) discusses... Paragraph (B) instructs the legislature to incur debt by making capital improvements only--and this is important; this is a change--only if it's included in a comprehensive state capital budget, which the legislature shall adopt. Now, this is statutory right now; this is in our statutes. However, we had testimony from our state treasurer, from the commissioner of administration who said it's just not being followed right now. It's just not being followed, and they were enthusiastic about the fact that we would make this a constitutional prohibition, so that we could get into some long-range planning, some comprehensive planning. Therefore, we put this section in as Paragraph (B). Are there any questions to this particular paragraph? If there's no question, Mr. Chairman, I move on to Paragraph (C).

Paragraph (C) puts the full faith and credit of the state behind all state debts. Now, this is a change. What this effectively does is abolish revenue bonds. As a lot of you know right now, we have revenue bonds which might finance dormitories in some of our colleges or universities. They are not supported by the full faith and credit of the state. Therefore, they don't get a good break on its interest because it doesn't have the full faith and credit of the state behind it. But, I think if you look at it, that it's still a state obligation. The state certainly is not going to let a dormitory go up for a sheriff's sale, or anything like that. We effectively put the full faith and credit of the state behind all of our bonds. As a consequence, we have abolished these revenue bonds, if you look at what we have in the 1921 Constitution, and that's the purpose of the provisions of Paragraph (C). Are there any questions?

Questions

MR. BURSON

Senator, do you think that by including the revenue bonds in the full faith and credit provision, that you would be in any way impairing your other bonds in the sense of maybe making a higher rate of interest on them because you would be having more bonds definitively backed by the full faith and credit.

MR. BROWN

Mr. Burson, all I can tell you is that we had a number of bonding attorneys come before us, and in every instance, we would ask them this question, and they said invariably that the revenue

bonds just don't get as good a rate of interest, and that when you look at our overall balance in terms of what we had to support our state debt, this is no problem. In effect, we can get a much better interest rate if we put the full faith and credit behind the state, as we are in effect doing. We've never let a road go back or a dormitory go back, or anything like that. I don't think we ever will. As a consequence, we're just costing ourselves a lot more money.

MRS. ZERVIGON

Senator Brown, if I'm not mistaken, this was a part of your article that was commented on in your preliminary draft by saying, this is intended to abolish revenue bonding. You don't mean to abolish it statewide. There are certain special districts of local government that issue revenue bonds. It wasn't intended to abolish revenue bonding for all units of government, was it?

MR. BROWN

Mrs. Zervigon, this applies only to state, and not to local. In fact, just to make sure there's no question about it, I believe Mr. Perez has an amendment coming up that will be Section (E), of which we have no objection, which will state specifically that this is not applicable to local political subdivisions. I think that would be taken care of.

MRS. ZERVIGON

Thank you very much.

MR. KEAN

Senator Brown, I just want to see if I understand this proposal correctly. If the State Board of Education, for example, wanted to issue some bonds to build dormitories at Northeast, for example, and felt that they had revenues from dormitories up there to pay for those bonds, you would have to have a two-thirds vote of the legislature in order to issue those bonds. Then they would become full faith and obligations of the State of Louisiana?

MR. BROWN

For the bonds to be approved right now, Mr. Kean, we still have the Board of Liquidation. Therefore, the bonds have to be approved by the Board of Liquidation at the present time. I think your question is that what we're doing is, in effect, adding the two-thirds vote provision. The answer to that is yes.

MR. KEAN

You can only do that when the legislature was in session, and if two-thirds of the legislature voted in favor of those bonds, they then became full faith and credit obligations of the State of Louisiana.

MR. BROWN

That's correct.

Excuse me. I might add, we still have a Bond Commission that must give approval before the bonds are issued, as we do now.

MR. KEAN

In other words, even after the legislature has approved the bonds with a two-thirds vote, you still have to go to the State Bond Commission in order to issue those bonds?

MR. BROWN

Mr. Kean, that's exactly the way we do right now in terms of issuing of bonds. They have to be approved before the Bond Commission at this present time. We've got a lot of bond issues that have been authorized by a two-thirds vote of this legislature--some highway bonds for many millions of dollars that have never been sold because they've not been approved by the Bond Commission, as I understand it.

MR. KEAN

Well, Senator Brown, the only reason for having the two-thirds vote at the present time is to give the full faith and credit of the state to the bonds. They don't automatically have the full faith and credit of the state. The legislature, by a two-thirds vote, can give the full faith and credit. As I read this, no bonds could be issued without a two-thirds vote of the legislature, and then they become full faith and credit bonds of the state, and under those circumstances, I just don't see where the Bond Commission plays any part.

MR. BROWN

Well, I don't know just what kinds of bonds you're talking... Number one, the vote by two-thirds of the legislature doesn't mean they're going to be authorized. It doesn't direct the Bonding Commission to authorize those bonds. Now, you're raising the point

about some bonds issued by the State Board of Education. We're getting into large bond issues, I personally think, and I think it's the feeling of our committee that this should bring about the approval of the legislature, and the Bonding Commission.

MR. FLORY

Senator Brown, on Section (C), do I understand this to mean that the...all of the bonds that have been issued to date, whether they were given the full faith and credit of the state or not, in the future would carry the full faith and credit of the state?

MR. BROWN

I don't interpret this provision to state that it has the effect on bonds that are presently being issued or presently being paid on. In other words, if there's a revenue bond that is being issued; it's being paid upon at this particular time. Unless we adopt an amendment that transfers these obligations over in some way, it's my interpretation of this that the bonds would stay revenue bonds until they're paid off, or until they were taken over by a revote of the legislature and reapproval of the Bonding Commission. That's how I read it. Now, I see nothing in here that makes that an automatic transfer. There's a revenue bond supporting a college dormitory. I read this as saying that it's going to stay a revenue bond 'til it's pulled off. In the future, there'll be nothing new added.

MR. FLORY

My second question then is: in those cases where the legislature has created port commissions and various other political subdivisions with authority to issue bonds, in the future, whatever bonds they issue, then—even though they have to be approved by the bonding commission—will then carry the full faith and credit of the state under this provision.

MR. BROWN

That's correct, Mr. Flory, and as I say, one of the reasons that we put this in was because we made it a point to talk to every bonding attorney that came before our committee, and there were many of them that did so. We raised this question and we invariably got the answer that, number one, whether we put it in there or not, the state was still behind those bonds, with its full faith and credit because they certainly weren't going to let, as I say, a dormitory, or a major public facility go up to a sheriff's sale. It's never been done in the history of this state, so we're told; and number two, we're going to get a much better break in terms of our interest, thus saving the state considerable sums of money.

MR. FLORY

I do believe I understood you to say that this would not detract from the present rating that we get on our bonds; it wouldn't harm us in any way in the future?

MR. BROWN

We're told it will do nothing but make it easier to sell our bonds at a better rate. Any other questions?

MR. TOOMY

Senator, in Subsection (A), you're talking about refunding indebtedness only at a lower effective rate. If you remember in the finance provisions for local government, we provided that you may refund at the same or a lower rate. Would you have any objection to making that the "same or a lower rate," because you do require a two-thirds vote?

MR. BROWN

As I understand it, what would be the advantage of refunding at the same rate?

MR. TOOMY

I would think that possibly you might want to make a change in the time payment, somehow...

MR. BROWN

Extend the time from twenty years to forty years?

MR. TOOMY

...Such as was just done in the special session on the Superdome, some to that effect, might be at the same effective rate, but spread out the payment, or make shorter time periods. I just questioned why you...

MR. BROWN

Your point's well taken.

MR. TOOMY

...you don't allow the legislature to do that at all the way it's written here.

MR. BROWN

Well, your point's well taken. In other words, as I understand it, you're saying...

MR. TOOMY

Under your provision you cannot refund at the same effective rate.

MR. BROWN

So, what you're doing is to either extend or shorten the time. I guess that the converse of that is you may want to cut it down, if we're in good financial shape, instead of paying forty years, then, refinance it to cut down to ten. You might go up...Well, right off the top, it doesn't sound objectionable. I think I can speak for the loose-knit group that's been trying to put this together, and say there'd be no objection. If you want to offer an amendment to that effect, I don't see any problem with it.

MR. KEAN

I hate to pursue this point, but under the present constitution, the two-thirds vote is only required where you're going to dedicate a tax imposed by the state to the payment of those bonds. My point is that it seems to me that where we're going to require the two-thirds vote in all instances, and that automatically carries with it the pleasure of the full faith and credit of the state, I think we're going to do two things. One is we run the risk that we might have some revenue bonds that ought to be issued that can't be issued until the next session of the legislature. Secondly, we may have some revenue bonds that we think we ought to issue, but as to which we don't want to pledge the full faith and credit of the state. Your proposal, as presented, as I read it, would create both of those problems. Don't you agree?

MR. BROWN

Mr. Kean, you've raised two questions, and I can answer them as best I can like this: I don't see that there would be an emergency situation that couldn't be dealt with seven or eight months from now—whenever the legislature happens to meet. If we adopt this constitution, we're talking about sixty days. So, we can't conceive...I can't, and I don't feel the other members of the committee could see the situation where there would be an emergency to have something like this. It would be of such a magnitude that it must be done immediately. Number two, you talk about the necessity of revenue bonds. All I can tell you—and you're a bond attorney, and maybe you have a different view on this—but, we had found no bond attorneys that would give us one good, valid reason why we should keep revenue bonds. All it seems to do is cost us money. It costs us money, and we don't get any benefit from it because whether or not we say the full faith and credit of the state is behind those bonds, in fact it is. I just can't conceive of the fact that we're going to have a sheriff's sale which seizes and sells a dormitory at Nicholls State College. The state's going to step in and pick up that obligation. So, in answer to your question, no, we can't have revenue sharing...rather, revenue bonds. One of the reasons is it just costs us too much money, and that's our feeling.

MR. ROEMER

Senator Brown, isn't it true that in answer to Mr. Kean's question, we can't assure him, or anybody else, that the interest rate will go down as a result of our action here? It's the opinion of some bonding attorneys that it might. But, however, we can assure him that there will be more control over such bonds because they do apply two-thirds vote under this new provision. Since they will have the full faith and credit of the state behind them, hopefully, the legislature will give them some scrutiny which oftentimes has not happened in the past.

MR. BROWN

Well, I certainly agree with you, Mr. Roemer, and I point out the fact again that we have a number of issues which have been authorized by the vote of the legislature that haven't been sold yet. We've got a lot of authorizations floating around right now to sell some bonds, and we haven't done so. So, yes, we're tightening up what we've done in the past. We're tightening up for what we think are good reasons because we need the tightening up. Are there any additional questions?

We'll move on to Paragraph (D) if there are no additional questions on (C).

MR. BROWN

As I mentioned to you now, we've listed five reasons for which the state can incur debt. We're now adding in Paragraph (D) the fact that a public referendum can be called by the legislature to incur debt for purposes other than those five reasons listed. If you want to go beyond those five reasons, call a referendum; let the people vote on it. I'll be glad to answer any questions.

Mr. Clerk, has the revised amendment been passed out now? I think it has my name on it, I believe.

MR. LEBLEU

Senator Brown, I talked with you a minute ago, and if we get back to Section (A), your amendment added that this would have to be approved by the two-thirds vote of the legislature in open session. I believe that's what Mr. Kean was talking about. But, two of these items suppress insurrection, and provide relief from natural catastrophes, to me, might put the legislators in a position where you might not even get a quorum, if a special session were called, to provide for these emergencies. I just wondered, your amendment that you offered first, I believe, passed. I don't know whether you were going to withdraw that amendment on your new proposal for Section (A), but I just wondered what you thought about that.

MR. BROWN

Well, Mr. LeBleu, I see what you're saying. If we're going to have a disaster of such a magnitude that we can't get a quorum of the legislature together in a special session, then we're going to have a heck of a time getting the mail through to mail those ballots back and forth. Now, I see your concern, but again, I personally, as a legislator, am very concerned about the fact that I'm voting by mail ballot for eight million dollars on the Domes Stadium. You're having to do it; I don't know if you've sent your ballot in yet; I haven't. But, we're going to do that within the next thirty days, or so. I don't like that kind of procedure. I think we ought to have some safeguards. No reflection on the present governor, but we might have a governor that wants to come back with a hundred million dollars, or two hundred, or three hundred million dollars. He comes on down your way and has a private chat with you, and by one means or another, gets you to sign that sheet of paper. Nobody knows how it's done, and it's done that way, and the vote's taken, and there's no public hearing; there's no chance for debate; there's no chance for any citizen of this state to appear before any committee, and voice any objection. I, personally, think that's wrong because there's no limitation. Under the old constitution, the governor of this state could come up with a billion dollar issue, and by that provision, come through, and without any public hearing or debate, whatsoever, bring about a major bond issue. This is just a drop in the bucket to me, but to me it points out the abuses that could be brought about. I just don't like that kind of procedure in any new constitution. That's why I feel so strongly about it. Now, that's Jim Brown talking now. That's not the committee. So, that's why we felt the way we did. You've talked about the fact that maybe we couldn't get a quorum. I hope that never happens. It'll probably be a national disaster that comes about but if we can't get down here, I don't see how the mail's going to get to us, especially, we're not getting much mail now as it is anyway. So, I think the thing balances off, at least in my mind.

MR. ANZALONE

Jim, would you consider the issuing of a bond issue, probably the last way in the world that you would raise money to suppress an insurrection?

MR. BROWN

I think your point's well taken, Joe.

MR. ANZALONE

You could foresee the need for, just a few days before you could pass a bond issue and sell them. Would you not agree with that?

MR. BROWN

Very much so.

MR. ANZALONE

Now, we've heard some remarks about public catastrophes and the issuance of bonds to cover public catastrophes. You would not say that you were going to issue the bonds to prevent the catastrophe, would you? But, you were going to issue the bonds at some times after the catastrophe had happened to pay off the debt. So, you wouldn't be wanting to do this within two or three days of a catastrophe. You would want to do this only after sufficient

study to know what you would need to pay these people for what they had lost.

MR. BROWN

I think your point's well taken. I might point out, after the most recent flood, up in my part of the state, both state agencies and local agencies, are just in many instances, getting their checks now, of which they might have been entitled to from the federal government. I know that our local governmental bodies have done this. They've gone out and charged a lot of things, and said, "Look, when we get the money back in, we'll pay you." So, I think your point's well taken.

Amendment

MR. POYNTER

Next set of amendments read as follows; sent up by Delegate Brown.

Amendment No. 1. On page 3, line 19, immediately after the word "power", delete the remainder of the line. Delete line 20 in its entirety.

Senator Brown, I presume that includes your Floor Amendment previously adopted. Isn't that correct?

MR. BROWN

That's correct.

MR. POYNTER

All right. I'll add that in for clarity.

On line 21, immediately before the word "bonds" delete the words "curriog of debt or the issuance of" and insert in lieu thereof the following ", directly or indirectly or through any state board agency commission or otherwise, to incur debt or to issue".

Explanation

MR. BROWN

Mr. Chairman, delegates, this is what we worked out between Mr. Denny's concerns, and Mr. Gravel's concerns. I understand that they are both satisfied with it and I think it cleans up the problem we had in defining just who was included in this particular section.

So, if there's no objection, I'd ask for approval of the amendment.

Questions

MR. KEAN

Senator, when we talk about state board, agency or commission, are we talking about, we'll say, a school board....or some local....

MR. BROWN

No, Mr. Kean. As I explained to you earlier the next thing coming up is Mr. Perez's amendment to state specifically that this does not apply to local political subdivisions. So, this only applies to state agencies as such.

MR. KEAN

So, that, under this, if any state board; as for, example, the welfare board, or we'll say the Public Works Board wanted to issue some bonds secured by some revenues available to that board, it would be necessary to have a two-thirds vote of the legislature in order to issue those bonds, and then those bonds, even though no one wanted them to be full faith and credit bonds, would become full faith and credit bonds of the state.

MR. BROWN

Mr. Kean, you couldn't have summed it any better. Yes, sir, that's exactly what our committee wanted. You couldn't have stated it better for us.

MR. BROWN

Mr. Chairman, I think Mr. Perez has an amendment now that once he offers that, then I think that will present what the committee has to present. Then, of course, anyone else has amendments or wants to speak.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Amendment No. 1. On page 4, between lines 10 and 11 insert the following paragraph:

"(E) Nothing contained in this Section shall apply to any levee district or to any political subdivision unless the full faith and credit of the state is pledged to the payment of the bonds of such levee district or political subdivision."

Explanation

MR. PEREZ

Mr. Chairman, ladies and gentlemen of the convention, there have been many decisions which have held, for instance that levee districts are state agencies, and yet, in these situations, the full faith and credit of the state is not pledged for the issuance of bonds, for instance, in our area where we want to build hurricane protection levees. We go to the people, we get a tax imposed, we have the procedure set out in our local government article as to how the bonds shall be issued. They require the approval of the state bond commission. There is no full faith and credit of the state behind the issuance of those bonds. As I understand it, the committee is agreeable to the adoption of the amendment.

Question

MR. KEAN

Mr. Perez, in Article IV, Section 2 of the present constitution dealing with this same problem, it provides that this prohibition shall not apply to cities, towns, villages, parish school boards, or any other local political subdivision of any kind. Now, as I read your amendment, we are simply taking care of levee districts and it leaves all the rest of these particular local governmental subdivisions kind of hanging out in the breeze as to where they stand with respect to this proposal.

MR. PEREZ

No, sir. That's not correct. If you will read the amendment, it says to any levee district, or to any political subdivision so that they are all taken care of, Mr. Kean.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

The next set of amendments sent up by Delegate Toomy read as follows:

Amendment No. 1. Page 3, delete line 26, in its entirety and insert in lieu thereof the following:
portion of the word "edness at the same or at a lower effective rate of interest;"

Explanation

MR. TOOMY

Mr. Chairman and fellow delegates, this amendment simply provides that the refunding of indebtedness could be provided at the same interest rate, as well as at a lower interest rate. I understand that the committee has no objection to it. I wish to move the previous question on it, Mr. Chairman.

[Amendment reread.]

MR. HENRY

We don't have distribution copies. Mr. Toomy, hit just again, if you will.

MR. TOOMY

Fellow delegates, the amendment simply provides that the legislature could refund outstanding indebtedness at the same, as well as a lower effective rate of interest. As the committee has it, the legislature can only refund indebtedness at a lower effective rate of interest. This only provides a little more leeway in the area of fiscal responsibility, I think, that they could extend the time periods or shorten the time periods of the bonded indebtedness, although the effective rate of interest would not be any higher.

Questions

MR. ROEMER

Mr. Toomy, doesn't this just parallel what you did in Local and Parochial Government?

MR. TOOMY

Exactly, Mr. Roemer.

MR. ROEMER

Did you also know that the Revenue, Finance and Taxation Committee has no objection to your amendment?

MR. TOOMY

Thank you.

[Amendment adopted without objection.]

Further Discussion

MR. KEAN

Mr. Chairman, fellow delegates, I don't have any particular objection to making issuance of bonds more difficult, but I think we ought to understand a little bit about the background of the present constitutional provisions, and the difference between them and this provision.

Under the 1921 Constitution, there was a provision that there could be no general obligation bonds of the state unless it was by a vote of the people as an amendment to the constitution. As a consequence of that, we had issued over the years a number of limited obligation bonds--the courts taking the position that since they were limited obligation bonds, they were not prohibited by the constitution, as for example, certain bonds which were supported by sales tax pledge. They found over a period of years that where that situation existed, and they were limited obligation bonds secured by a pledge of a portion of a tax, rather than being designated general obligations of the state, that we got an interest rate that was higher than might have been otherwise the case.

As a result of that, CABL, back about four or five years ago, in 1964 and 1965 made a study. They recommended the adoption of Article IV, Section 2, of the present constitution, which stated that the legislature could not incur debt or issue bonds involving the dedication of all or any part of tax revenues imposed or collected by the state, except upon a two-thirds vote, and then, under those circumstances, those bonds became full faith and credit bonds of the state. I think that is entirely proper. This proposal, as I pointed out in my questions to Senator Brown goes further. It would require that any, any kind of a bond issue, regardless of how it was secured -- through dedication of taxes or otherwise--if it was issued by a state agency, excluding the political subdivisions, would have to have a two-thirds vote of the legislature. If it had that two-thirds vote of the legislature, they would become full faith and credit bonds of the State of Louisiana.

Now, it seems to me, particularly in the field of education--particularly the State Board of Education--that there might well be instances where that state board could issue revenue bonds, as we understand them, secured by a pledge of revenues from that institution, or secured by a pledge of some funds available to that institution, and you wouldn't want them to be full faith and credit bonds of the State of Louisiana. Yet, you couldn't issue those bonds without a two-thirds vote of the legislature. If you got a two-thirds vote of the legislature, under those circumstances they become full faith and credit bonds of the state. I think we're simply putting an impractical limit, or restriction upon the state's bonding capacity, or requiring a two-thirds vote and full faith and credit which is going to make it difficult in some instances, to perhaps issue bonds that need to be issued. I simply think we ought to take a further look at this section before you adopt it in the form in which it is now presented to you. I think we've got a short house here tonight. I think we are all tired. I think it raises some very serious issues. In my opinion, we'd be much better off to defer this matter until tomorrow, have some chance to look at it, and then see whether or not we want to make any changes in it.

[Previous question ordered.]

Closing

MR. BROWN

Mr. Chairman, fellow delegates, I've heard what Mr. Kean says, and all I can tell you is, I think we're talking about where

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our money is. We're talking about control. We're talking about getting our business all together. I agree, this will have to go through the legislature. But what kind of situation are we going to be in if we, as...if the legislature itself doesn't even know what the state is doing in terms of its financial situation. If we allow all of these agencies to go out and issue a bond in this direction--issue bonds in this direction--and not have any central point to where we can put the thing in its proper perspective; this gives us control. It makes the legislature vote, go to the bonding commission, gives full faith and credit. Gives us good control over just where we stand, to give us good, overall management. I think it's a good section. I ask your favorable approval.

Question

MR. ELAIR

Senator Brown, the real reason that you wanted a two-thirds vote of the legislature, didn't we run into some situations where they were using revenue bonds, and building dormitories? Also, on those same campuses, they had empty dormitories?

MR. BROWN

That was a good point. Another point is, you know you build a small dormitory, the bonding fees in many instances are just the same on a small issue, or proportionately higher, than on a big issue. So, you issue small bonds here, and small bonds there, and you just don't know where you are going. It costs you a lot more money. Might also mention that also a part of this program is the capital budget. It's going to force us into long-range planning. We can't think about just next year or the year after. We are going to have to look fifteen, twenty, thirty years down the road. That's just good, solid money management. I ask adoption of the section.

[Section passed: 72-19. Motion to reconsider tabled. Motion to take up other orders adopted without objection.]

REPORTS OF COMMITTEES [II Journal 985]

Notice of Motion to Discharge

MR. POYNTER

We have two notices given in similar fashion. Yesterday, Delegate Vick sends up notice required by Rule 86. On the next convention day he will move to require the Committee on Judiciary to return with or without amendments, Delegate Proposal No. 44 to the convention.

Mrs. Miller sends up notice of the next--as required by Rule 86--on the next convention day she will move to require the Committee on Revenue, Finance, and Taxation, to return with or...not Revenue--Judiciary--to return with or without recommendation, Delegate Proposal No. 35 to the convention.

Report of the Secretary [II Journal 985-988]

Announcements [II Journal 988]

[Adjournment to 9:00 o'clock a.m.,
Saturday, December 15, 1973.]

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Saturday, December 15, 1973

ROLL CALL

[75 delegates present and a quorum.]

PRAYER

MR. ROEMER

Our Father, this morning we pray for inner and outer peace in the name of Him who lived and died and lived again that we might live forever, Jesus Christ. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

REPORTS OF COMMITTEES LYING OVER [II Journal 989-990]

MR. POYNTER

The first proposal, Delegate Proposal No. 20, introduced by Delegate Jack.

A proposal limiting the number of proposed constitutional amendments that may be submitted to the voters at any one election. Comes from the Committee on the Bill of Rights and Elections. Reported unfavorably.

[Motion to withdraw Delegate Proposal No. 20 from the files of the Convention. Substitute motion to engross and pass to its third reading.]

* * *

Explanation

MR. JACK

Mr. Chairman and ladies and gentlemen, this delegate proposal provides no more than six proposed amendments shall be submitted to the electors of the state at any one election. Now, you recall one of the reasons we have this convention--people got fed up on having forty, and fifty, and numerous constitutional amendments submitted to them. Now, I think we ought to have a definite number and not too high. I suggested to the committee we amend this to ten, which we did. Of course, with an unfavorable report, the bill is as is. But, if I pass this proposal, I will offer an amendment to make it ten, so you can consider it when you vote on it that it will be increased to ten. Of course, the legislature, under the law, would have a right to fix the priority on it. Now, this came out of the committee--Bill of Rights Committee--four yeas and five nays; it was decided by one vote and there was two or three--I've forgotten which--that abstained so it was very, very close. Now, this is strictly a matter up to you; with a new constitution if we do our work right, they shouldn't have to be continually amending--that's one of the reasons we are down here at this constitutional convention. Now, if you ever got in a jam--say, you can't have but ten amendments submitted at any one election--there could be a special election called. Something is going to have to be done to limit these amendments, whether it's done by this at a later date; it's self-explanatory really. I ask your favorable report to engross it and pass it to its third reading. Thank you.

Questions

MRS. ZERVIGON

Mr. Jack, I don't particularly like the lengthy ballot of amendments except that my older brother comes around and asks me how to vote and it makes me feel good. But, how would these six or ten amendments be chosen?

MR. JACK

Well, unless...if there was over ten--you can just count on it being ten, I think everybody would agree if it passes to amend it to make it ten. I just took the number six, could have taken a number a little higher...you usually start and you know somebody would raise it; it would be chosen by the legislature--where this don't provide it, the legislature has the right to do anything that is not prohibited to them in the constitution.

MRS. ZERVIGON

Yes, I understand that. I was just wondering how you picture in your mind the legislature doing this--first come, first served or...

MR. JACK

No, ma'am, they would work it out where they would vote on it, just like they vote on bills.

MRS. ZERVIGON

Is it conceivable to you that there might come a year in which there are eleven really important issues or only eight really important issues, but they would stick ten on the ballot because they had ten places?

MR. JACK

I don't think so. I haven't, since I've kept up the legislature... beginning in 1940, ever seen over ten that were really...really had to be there. I just don't...almost impossible.

MR. STINSON

Mr. Jack, I certainly agree with you that we shouldn't have too many. But, don't you know that whoever the governor is, if he's got ten, it's going to be his ten and nobody else's and no member of the legislature could put it on if the governor wanted his ten?

MR. JACK

That's one thing I don't necessarily believe would be true, just like down here the governor's taken some setbacks, pretty rough ones, and other governors have.

Further Discussion

MR. JENKINS

Mr. Chairman, delegates, this delegate proposal was introduced by Mr. Jack and the committee reported it unfavorably. It's true the vote on whether to report it unfavorably was five to four, but the five to four vote was not because there was a division on whether it was a good proposition or not. The division was whether or not we wanted to report it out at all. Some of us didn't even want to bring it to the floor because we thought it was going to waste the convention's time to consider it at this time rather than when we get to constitutional revision. Delegate Jack's proposal would limit the number of constitutional amendments to six. We held hearings on this subject in the committee when we were working on constitutional revision. We heard a lot of testimony on it; the testimony was unanimously against it; unanimously against it from all the good government groups like PAR, and CABLE, and League of Women Voters, and things like that, because although it has a certain superficial appeal, it becomes apparent as you look into it that it's no solution at all. If you set an arbitrary limit on the number of amendments that you can have, in all likelihood what will happen, is the governor will simply control which amendments appear on the ballot. Even though the legislature might want to have some others, if they are in the lower priority, if they aren't in the top six or whatever, the people never get to vote on it. But, more importantly, the committee looked into why we have had so many amendments in the past. The reason we have had so many amendments in the past has nothing to do with whether or not there is an arbitrary limit on the number that can be submitted. The reason we've had so many in the past is because our constitution is so long, so detailed, so complicated, and so restrictive that if the legislature wanted to do anything, it had to amend the constitution. If you look back at our history in recent years, at the constitutional amendments proposed, you will see that very few of them were unnecessary. They were necessary if you wanted to accomplish the end in view. They could not have been accomplished by statutes. But, now, with the new constitution there will be very few things like that that you have to have constitutional amendments for because we've taken most of that detailed, complicated material out of the constitution. The answer to limiting the number of amendments is not to set an arbitrary limit; rather it is to have a good constitution that doesn't need to have a lot of amendments. But, there is one period where you might have to have a number of amendments over six or ten and that is this first year after this thing is adopted; we will have made some mistakes and it may occur that we need additional amendments to correct what mistakes we've made during the first year or two. But, in any case, Mr. Jack can offer this same concept as an amendment when we get to constitutional revision. The committee has reported this delegate proposal unfavorably. I would like to ask that you sustain the committee and vote against Delegate Jack's motion to

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engross it and pass it to its third reading. Then, if that fails, to go on and go along with the motion to remove it from the files of the house.

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, I disagree with the delegate from East Baton Rouge. Many amendments have been adopted to give the provision constitutional protection. I, myself, have drafted hundreds of amendments that were not necessary—they were not necessary—there were no prohibitions in the constitution. But, the advocates as for the three dollar car license plates wanted to give the provision constitutional protection against change by future administrations. The people do not want fifty-five amendments or more on the ballot. We do not have to adopt Mr. Jack's provision. All that he is asking is that we pass his proposal on to third and final passage so that we later may consider it on its merit; at that time, we may decide that twenty is a better limit. But, certainly, we should put some limit on it or at least this convention should discuss it on its merit. I urge you to pass the proposal to its third and final passage. Thank you, Mr. Chairman.

Further Discussion

MR. FULCO

Mr. Chairman and fellow delegates, I want to join Delegate Jack in his request that you engross this thing and pass it on to third reading. I like Dr. Asseff said, agree that you don't have to take action on particular numbers of constitutional amendments or action on whether it should pass or fail at this time; we can consider it later on on its merit. But, the people are the ones that have got to be concerned in this proposals; they are the ones who are sick and tired of fifty amendments. In my years in the legislature, I have always wondered why we had to have so many amendments and how frustrating and confusing this has been to the people in voting in general elections. Now, the real reason for us having had so many constitutional amendments in these general elections was due to the antiquated laws that we had in the constitution itself. We have had such things in the constitution as an old jail site in the city of Shreveport, that before they could do anything with the jail in Shreveport they had to have a constitutional amendment passed; before you could have any water districts or any special district considered, you had to have a constitutional amendment. Those were the ones that caused to be so many amendments in general elections. Now, under the new constitution, we are straining it in such a manner that we will not have a necessity for all of these constitutional amendments. So, how this matter can be settled will be left up to the legislature; a form of priorities can be considered. Furthermore, an equal consideration of parishes throughout the state can be considered. In the past, most of the constitutional amendments have come from a particular area in our state and really insignificant to the rest of the people over the state. We won't have that situation again in the future and, therefore, it will be easy to limit the number of constitutional amendments. I ask you to join Delegate Jack in having the minority committee, or the committee's report, engrossed and passed to third reading. Thank you.

Questions

MR. CONROY

Mr. Fulco, don't you feel that the worst thing that this convention could do at this time would be to refuse to even consider limiting the number of amendments to be put on the ballot? Don't you think that would hurt us in the public's eye if we say we won't even consider limiting the number of amendments to be put on the ballot?

MR. FULCO

Yes, sir, very much so, because as I stated in the very beginning of my remarks, this is the one thing that the people are counting on and the one thing that the people understand about this whole convention—the one thing that they talk about, "Are you going to limit the number of constitutional amendments that we have to vote on in general elections?" They don't ask you about anything else in the constitution; this is the one thing they understand. If we do this, I think this will be the greatest inducement in selling a good constitution to the people.

MR. STINSON

Mr. Fulco, during the many, many years that you were in the

legislature and knowing that the people objected, have you ever, at any time, voted against one of those, putting it on the people?

MR. FULCO

Ford, I didn't hear you...or your last part, because it is difficult to hear.

MR. STINSON

Have you ever voted against a constitutional amendment, knowing that the people didn't want that many?

MR. FULCO

Well, certainly, not only voting against it because the people didn't want it; I voted against it because I didn't want it.

MR. STINSON

You have?

MR. FULCO

If I didn't want it, sure.

MR. STINSON

I thought you all wanted all of them.

Further Discussion

MR. WEISS

Mr. Chairman, fellow delegates, I would like to call to your attention that today is our hundredth day; we are meeting our centennial day here and we've completed about a hundred pages in our new constitution. I think we have done basically a good job, certainly Thanksgiving and going back over the records, it's been an excellent and refreshing experience for me; and I hope someone in the future will continue with the endeavors that I've tried to put forth along these lines. But, I want to call to your attention, at this time, and I'm worried about what's going to happen if this sort of thing continues. Let me give you a little perspective on this delegate proposal. There are too many people that are now in the process of trying to legislate in this constitution. We have been sticking to a constitutional writing process, I thought, until this past week or two. Now, we have personal interests, special lobby groups, prevailing upon this body to introduce at the end of the game constitutional amendments on legislative matters. First, let me inform you that Delegate Jack's proposal can, in no way, be obscured in the fact that he may introduce this as a floor amendment to the committee proposal. This has been discussed at length, the arguments that you have heard are only some of those that could come before you. But, I would like to call to your attention that Delegate Jack's proposal—if this is voted out as he is now proposing it to be voted in—if it is voted out, he still will have an opportunity to present his thoughts to this convention in the committee proposal on constitutional revision. This is simply, as I see it, a waste of time, of our time, valuable time in completing matters on which he, before our committee, testified was one of his two platforms in being elected here this being a point to limit constitutional revision articles, which all of us hope will be limited by virtue of the good and better constitution we have written. But, it is not a matter to be brought up at this time. I hope that you will vote down this delegate proposal which was reported unfavorably from our committee. Secondly, it is a technical maneuver from an excellent legislator, such as Mr. Jack, who is aware of the procedural technicalities which have confused us on the committee. By that, I mean, there are some committees who have tabled matters—and therefore, locked them in committee, preventing them from coming to the floor in a delegate proposal form such as this one. On the other hand, these matters will certainly be introduced as floor amendments by the delegates who desire them introduced in any given article to be proposed in this constitution. So, this is a procedural maneuver used by an excellent legislator, Mr. Jack, to call to your attention a matter which does not deserve attention at this time, which can be considered. I would suggest that we vote this proposal down, go on with our business, and consider Mr. Jack's proposal at a later time. If he cares to introduce it then, the committee will certainly give you an opinion on this. We all have our opinions; we all feel as he does that legislative...that constitutional revisions should be minimized. But, there are some dangers in his original proposal of six limitations; so, he upped it to ten. This, too, we think is dangerous because a strong governor can control this and it will be out of the hands of the people who really want to have constitutional revisions for necessary matters whether it

be one or twenty-one. I urge you to vote against this committee proposal.

[Previous Question ordered.]

Closing

MR. JACK

Mr. Chairman and gentlemen, please give me your attention just a few minutes, I believe I'm going to say something that's new and will be helpful. Now, like Dr. Asseff said, let's pass this to third reading. Let's get it directly before you on the floor. Now, in the campaign, the two things that I saw people were most interested in was cutting down the number of amendments-- this is what this is to do. Another thing that they were furious about is under the last administration when they passed the law by two-thirds that your federal income taxes should not be allowed as a deductible item in computing your state income tax--they were furious on those two subjects. Now, it's going to be a slap in the face of the voters if you don't give this an opportunity to be passed to third reading and final passage and be given a full hearing in this house. When I campaigned, I went all over my district, and since then. Now, there are five major selling points to this constitution, which is going to be a good constitution and to date is: three dollar auto plates; the homestead exemption--five thousand to veterans and people over sixty-five and three thousand for the others; the two-thirds vote necessary to pass or increase a tax, that Mr. Smith handled, put in the constitution this federal income taxes that you pay shall be allowed a deductible item on your state return; and then this limitation on constitutional amendments. Let me tell you, you've got to offer the people something in a constitution. They are not just interested in a short one; they want something that's not only going to protect them but that will help them. I'm giving you an opportunity to pass to third reading this fifth thing that will help to pass this constitution, and that everyone of you knows ought to be there; the only reasons given would be by Mr. Jenkins who simply says the governor will run everything. Now those five things, you give those to the people; you are representing them; Dr. Weiss, this is one of them. I know you can do like you say and thank you for saying I'm knowledgeable on that stuff; everybody's as knowledgeable at that; we all know the different ways. But, I'm doing it this way because I want the people to know that this thing is being considered. I don't want a jumped-up looking floor amendment like you're talking about. I want the people--and I'm sure it will be mentioned in the papers that they've got this before this constitutional convention. Now, if you want the convention to get a constitution that passes by the people, you better at least consider this vital little amendment that I'm offering here.

...and I hope you will understand that. I'll be through in a minute and yield if there is time. Now, this is to pass it to third reading. I hope you will vote yes in my favor. Thank you.

[Substitute motion adopted: 47-45.
Motion to reconsider tabled.]

* * *

[Motion, under Rule 86 and with prior notice, to require the Committee on the Judiciary to return, with or without recommendation, Delegate Proposal No. 33 to the Convention.]

Explanation

MRS. MILLER

Mr. Chairman and ladies and gentlemen of the convention, this proposal is to require that the state shall be divided into seven Supreme Court districts. The districts shall be determined by the legislature, and one judge to be elected from each district. You have on your desk copies of the present Supreme Court districts which I passed out, and I'm sorry I forgot to sign my name to them. But, they were distributed at my request. On this sheet it shows you the population within each Supreme Court district; and you will note that in the six we have the six districts, but in District No. 1 you have a population of over a million people. You have two judges, each running to a million people. In District No. 4, you have only three hundred and sixty-nine thousand for the judge that runs there--only runs to three hundred and sixty-nine thousand.

This is a very gross inequity. Now, it... I submit this in basic fairness to the people of this state. We are trying to write a document that is not favoring incumbents, that is not putting too much burden on the legislature to have to make decisions. Now, you will say that under the proposal as it already stands in the constitution, the legislature can make changes and have more districts. But, you and I know that in all... in the political facts of life that the legislature is going to have two hurdles to meet if it decides to do it. In the first place, the legislature will have to have the desire to make the change, and that is a hard thing to come by in the legislature. Second, then they will have to draw the lines. All this is saying is we're relieving the legislature of one step, and that is that they will have to make up their minds to do something about it. Under this, they will have to do something about it. Then, it's still up to the legislature to draw the lines and to play fair with the judges and with the people. My request is to you that I think this speaks for itself. It addresses itself to your fairness, your sense of fair play, your sense of trying to do what is right for the state, not to favor incumbents. We are not writing--I have had Mr. Tobias stand up at this microphone time and again, and he was the champion of the cause to not devote the writing of this constitution just to six, seven judges, to let a handful of judges control what we put in this constitution. Now, we might just have to go back in the Journal and then reread Mr. Tobias's statement. Yet, yesterday, he was one of the ones trying to keep this thing from coming before you again. I say that this is basically fair; it's right that the legislature should be mandated to go on and do something and to grapple with the question. I think it's wrong to leave the provision as it stands, and I ask that you let this thing go on and be passed on to the next reading. I ask your support of this proposal.

Further Discussion

MR. TATE

Mr. Chairman, fellow delegates, I rise in opposition to my dear friend Mrs. Miller's proposal that you require the committee to report once again upon a proposal that was rejected in committee deliberations four times before we came to the floor, that on this floor you had four or five amendments attempting to do the same thing as is now attempted to do. To refresh your memory, you, in your wisdom, took out of the constitution the districts that have been in existence since 1920, which I think was a great idea. You made them subject to change by two-thirds vote of the legislature. You provided the flexibility for orderly transition, for orderly adjustment of the interests of competing segments. Now, traditionally, for fifty years, the Orleans-Jefferson complex--metropolitan complex--has been one district with two judges, with about twice as many people as any other district. It comes out about the same representation per judge, if that were a factor, as it would as if it were divided in one-half. Now, I'm asking you--I... it seems to me like that poker playing is getting to my vocal chords--but, I'm asking you, in the interest of efficiency and economy, at this point, having rejected the thing five times on the floor, five times in the committee, to once again just vote "no" and let's get on with it. We've got a lot of things we have to finish before long.

Mr. Chairman. . .

Point of Order

MRS. MILLER

Mr. Chairman, I rise to a point of order. I believe that my good friend the Justice is arguing on the merits of this thing, and not on the rules of the committee.

MR. HENRY

Well, Mrs. Miller, I thought both of you were. I thought that both of you were, and . . .

MRS. MILLER

No, it's just the way you look at it, Mr. Chairman.

MR. HENRY

Well, I look at it like both of you were. So, you all act like grown-ups, and let's go.

Mrs. Warren you have a . . . you want the floor?

All right. Have you completed your remarks, Judge Tate?

Further Discussion

MRS. WARREN

Mr. Chairman and fellow delegates, I'm glad Mr. Henry said what he did, because I'm going to say the same thing. This morning Mr. Roemer came to the mike and he said a prayer. I really wanted

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to go over and shake his hands. As he . . . if you can remember what he said, that we could have peace within and peace without. We're in the great yuletide season, and this was very appropriate. I think this should be a year-round thing. It has been said that "One picture is worth a thousand words." This is not the only time that we have had things come before this convention that was not favorable according to the committee. If this district is divided up in two, where we have over a million population, it is not going to say but one thing: that it was just divided into districts. You can still have judges from the various districts. But, I cannot see why this thing should remain like it is, because it has been in effect for twenty years. We have had things in our constitution since 1921, and they have been removed. I think, on merit--and I've heard much talk about merit--this is the time that merit should come into play, and not because one or two wants to keep the thing just as it is. So, in good conscience, to have peace within and peace without and have favor with God, let's go on and let this thing come to the floor, and let this convention decide what it wants to do. Thank you very much.

Further Discussion

MR. TOBIAS

Mr. Chairman, fellow delegates, I rise in opposition to this proposal to force this out of committee. Yesterday, in committee, the Judiciary Committee by a 9 to 4 vote tabled this delegate proposal. It was tabled because we have considered it on the floor of this convention a number of times. I supported the concept of seven districts, originally on the floor. But, this convention has spoken on the subject, and I accept defeat. The committee proposal, as adopted--the proposal as adopted by the floor of this convention--allows for flexibility. It says that "there shall be at least six districts, and that the legislature, by a two-thirds vote, can expand it to seven." What can be more simple than this flexibility? I urge you--we've got other business to take care of--let's continue, and let's defeat this.

Questions

MR. WEISS

Delegate Tobias, is the Judiciary above the concept of representative one man, one vote?

MR. TOBIAS

I don't believe so, but I . . .

MR. WEISS

Well, why such malproportion in the number of judges to the population?

MR. TOBIAS

Well, it's historical. These districts were frozen into the constitution, and as time went on, the districts became malapportioned. The United States Supreme Court recently ruled that malapportioned districts for judges--justices of the Louisiana Supreme Court--was not unconstitutional under the United States Constitution. So, in effect, the system is frozen the way it is. We have provided in our Judiciary Article to unfreeze these districts, and that the legislature can, by a two-thirds vote, unfreeze it, apportion them on a one man, one vote principle, and go to seven districts. I think that this is something that we should not try to do in this convention, but let the legislature handle it.

MR. WEISS

You say this is traditional. How many sacred cows do you think the constitution that we present to the people should maintain?

MR. TOBIAS

I don't think it should contain any, but it's got a zillion of them.

Point of Information

MR. DESHOTELS

A point of information, first, Mr. Chairman; then a point of order, possibly.

Under the rules, can we be talking about the merits of the particular proposal at this time?

MR. HENRY

Mr. Deshotels, actually, we ought to be discussing whether or not we're going to require the committee to report this proposal out. It's difficult to discuss something of this magnitude without getting into the merits, to some extent. You just about have to open the main question.

Questions

MRS. WARREN

Mr. Tobias, I can't state the exact rule, but under the rules of this convention, are you not supposed to report it out favorably or unfavorably?

MR. TOBIAS

No, we do not have that obligation. The committee doesn't . . . does not have to consider it. This is the way you get it out. I don't know what we would do to untable the motion--untable this proposal in committee. If you report. . . I don't know what we do.

MRS. WARREN

So, you just conveniently fix it up to suit yourself with that. . .

MR. TOBIAS

I think the convention has spoken upon it.

MRS. WARREN

Right.

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, we are discussing the merits of the proposal. Insofar as I'm concerned, we are out of order. That is not the question before this convention. The question is this: Is it fair to permit a committee to bottle up a proposal regardless of what that proposal is? Surely the committee should report action so that the author can take whatever recourse the author wishes to take under the rules. As the committee has acted, Mrs. Miller is left helpless. The committees would become too powerful, because by a 6 to 5 vote, a committee could tell this convention that we could not discuss a particular matter. When it is reported to the floor of this convention, the convention, if it feels we have discussed the matter long enough, can refuse to pass the proposal to third and final passage. I think it would be most unfortunate if we leave an author of a proposal helpless. I, therefore, urge you to direct the committee to report its actions to this committee--convention--for the convention's determination as to whether it wishes to proceed further. Thank you.

[Previous Question ordered.]

Closing

MRS. MILLER

Ladies and gentlemen, I do appreciate Dr. Asseff's remarks on this, because I think this is at the heart of the question, is whether four or five people in one committee when the . . . or maybe six, when they had a short committee. . . short, almost not a quorum, can table something and, therefore, keep all the rest of you from hearing this thing again. I ask you that you join me in my efforts to have this reported out of committee.

Mr. Chairman, would you please explain in terms of green and red and yes and no how to vote on this, if you want Mrs. Miller's proposal reported out of committee?

[Motion rejected: 39-53. Motion, under Rule 86 and with prior notice to require the Committee on the Judiciary to return, with or without recommendation, Delegate Proposal No. 44 to the Convention.]

Explanation

MR. VICK

Mr. Chairman and fellow delegates, I will try and stick as closely as possible to the procedural question involved. Yesterday at noon, while the committee was having lunch, I attempted to present my case on Delegate Proposal No. 44, which was to add only two words to the proposal adopted by this convention, which was to restore, in part, some of the powers stripped from the office of the attorney general. Now, I rise strictly on a procedural point, because the treatment that Mrs. Miller and I got on yesterday was cavalier and in violation of the rules of this convention, as far as I'm concerned. It's in violation of Rule 61, which says, among other things, there are only certain ways that matters can be reported out of committee--favorably, unfavorably, without action, with amendments. This committee tabled my proposal and Mrs. Miller's proposal. Now, all I'm asking you this morning is to order that committee to obey the rules of this

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convention, and to report it out, as they're very likely to do, unfavorably. Then, give me an opportunity to stand up before you and ask for a much greater vote than a mere majority vote, to ask you for a much . . . for consideration on the merits at that time. I'll be happy to yield, if there are any questions.

Questions

MR. JONES

Are you merely asking the convention to consider your proposal so every member who is a delegate to this convention has an opportunity to be heard, if they so care to do so? Is that correct?

MR. VICK

Well, Mr. Jones, we adopted a free speech article in the Bill of Rights which . . . in answer to your question, yes. I think that the . . . I think the Judiciary Committee, to my knowledge, Mr. Jones--and I may be wrong, and I'll be happy to stand corrected if I am wrong--to my knowledge, the Judiciary Committee took action, yesterday, that no other committee has taken. That is: they tabled a proposal instead of complying with Rule 61, and reporting it in some fashion or form as set forth in that rule.

MR. JONES

You mean on Rule 86?

MR. VICK

No, 61 sets forth the form under which the committees must report out proposals. They followed none of those--they tabled it.

MR. JONES

Delegate Vick, when you come, would you ask for a record vote on this, please?

MR. VICK

Fine, Mr. Jones. Thank you.

MR. DREW

Mr. Vick, with reference to your remarks about the committee eating while we heard you yesterday, were you in the committee when this same proposal was presented by Mr. Guste, previously?

MR. VICK

I was there, Mr. Drew, when he made his initial appearance while the committees were meeting between January and July 5. He asked, at that time, for nothing more and nothing less than he has in the Constitution of '21.

MR. DREW

Were you also on the floor of the convention when this same matter was debated for two days before it was adopted?

MR. VICK

I don't think it was debated for two days, Mr. Drew. That . . . I would like an opportunity to respond to that, because Mr. Burns, yesterday, in discussing the juvenile court's jurisdiction, discussion the matter Mrs. Miller brought to the convention this morning, the attorney general didn't get that heated and controversial sort of treatment. He got very quick justice.

MR. DESHOTELS

Mr. Vick, this is mostly for Mr. Jones's benefit. But, as a matter of being heard, what you're talking about has been discussed in our committee for months, and then was argued, as Mr. Drew said, over here on the floor of the convention for several days, was it not?

MR. VICK

Mr. Deshotels, I can't disagree with you, but I'll tell you quite candidly--and I think that I want this sort of thing recorded--I don't think the convention really knows what it's done to the Department of Justice. I really don't believe that. If I believed that, I wouldn't be pushing for Delegate Proposal No. 44 to come before this convention again. I really don't believe this convention knows what it's done.

MR. BURNS

Mr. Vick, you said that the convention had never taken a similar action on a delegate proposal. Do you know that just a

week or so ago that I had a delegate proposal before a committee and they voted to defer action on it at the last . . . almost the last day?

MR. VICK

In committee, Mr. Burns?

MR. BURNS

Pardon me?

MR. VICK

In committee?

MR. BURNS

In a committee of this convention.

MR. VICK

I stand corrected.

MR. SANDOZ

Mr. Vick, didn't the attorney general come before us, and we resolved into a Committee of the Whole where he presented this same issue, previously?

MR. VICK

The same issue of the power to initiate prosecutions?

MR. SANDOZ

Yes, sir.

MR. VICK

Yes, he appeared here for fifteen minutes, Mr. Sandoz. I don't know the point you're trying to make.

MR. SANDOZ

But, did not the convention listen to him, and then ultimately vote against his contention?

MR. VICK

Mr. Sandoz, let me repeat, again, for the record. I am convinced, after talking to a number of delegates on the floor of this convention, that they did not know, nor do they know today, that they stripped the Department of Justice of the power to initiate prosecutions in this state. I really don't believe the majority of the delegates know that. That's why I'm here this morning.

MR. STOVALL

Mr. Vick, hasn't the spirit and intent of this convention to be fully democratic and open in every sense of the way, and for a committee to take this kind of arbitrary action is not in keeping with the spirit of fair play that we've tried to manifest?

MR. VICK

All I can say to that, Reverend, is "amen," in addition to the fact that they have avoided the application of the rules.

If there are no further questions, Mr. Chairman, I move for the favorable move . . . favorable adoption.

[Previous Question ordered. Record vote ordered. Motion rejected: 45-49. Motion to reconsider tabled.]

RECONSIDERATION
[II Journal 990-992]

MR. POYNTER

Under reconsideration, a motion made on yesterday, is the question of reconsidering the vote by which Section 1 of Committee Proposal No 10, introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare.

A proposal making provisions for human resources, providing for municipal fire and police civil service.

The motion to reconsider the vote by which Section 1 of this proposal failed to pass on yesterday. Section 1 dealing with municipal fire and police civil service.

[Motion to call Committee Proposal No. 10 from the calendar adopted without objection. Reading of the Section, as amended.]

Explanation

MR. RACHAL

Mr. Chairman, delegates, I would just like to call to your attention that we're at a point of having made considerable progress I think, with the consideration of the Committee Proposal No. 10 which has to do with the establishment of municipal fire and police in municipalities over thirteen thousand. There were a few salient issues that had to do with whether New Orleans would be included or not, and that has been worked out by offering an option to the voters in order to vote. The other issues which were of not, well, were not insurmountable, in that they were worked out, and we find ourselves this morning at a point of finally trying to work out one part of this proposal and I would hope that the discussions that we'll have this morning can lead to an agreement whereby the Committee Proposal No. 10 can be finalized. I would beg your attention to the debate which will follow so that we might complete the deliberations and vote out Committee Proposal No. 10. I would suggest myself to questions, Mr. Chairman, if anyone feels prone to raise any at this point.

Amendment

MR. POYNTER

Amendments sent up by Delegate Flory read as follows:

Amendment No. 1. On page 1, line 12, in Floor Amendment No. 1 proposed by Delegate Dennery, and adopted by the convention on December 14, delete Floor Amendment No. 1 proposed by Delegate Schmitt and adopted by the convention on the 14th, and insert in lieu thereof the following:

"Permanent appointments and promotions in municipal fire and police civil service shall be made only after certification by the applicable Municipal Fire and Police Civil Service Board under a general system based upon merit, efficiency, fitness, and length of service as provided in Article XIV, Section 15.1 of the 1921 Constitution."

Explanation

MR. FLORY

Mr. Chairman and delegates, yesterday when we considered the section on Committee Proposal No. 10 for its final adoption, I asked you to reject that section because by the adoption of the Schmitt amendment it radically, radically changed the process of promotions within the fire and police service to the extent that could be most detrimental to the entire state and particularly the local municipalities. I think if you understand that the fire insurance rates that you enjoy on your home and your commercial establishments in this state are predicated in great part at least by the type of fire service, etc., and which is provided within a given municipality. Whatever you do to the detriment of that service reflects upon the insurance rates due to the hazard involved in the protection of homes. What I have done by this amendment is to delete the Schmitt amendment leaving in the consideration of merit, efficiency, fitness, and length of service, but deleted the remainder of that sentence which read as follows: "As ascertained by examination which so far as practicable shall be competitive," and left it up to the discretion of the Article XIV, Section 15.1 of the present constitution to let the legislature define and weigh those factors within those four categories. The reason being that if you use, insofar as practicable, competitive examinations--let me give you one prime example as to what could happen in a particular fire department, and that is, that if you had the opening for a position of captain or district chief or assistant district chief, and you gave an examination and the people from the outside were allowed to compete on that examination, it's quite possible due to the weight given to that competitive examination that the person from the outside with no experience whatsoever in the fire service of the type that we're talking about, could be placed in a position of a fire captain and placed in charge of a fire company which has jurisdiction over perhaps as many as six fire stations within a particular municipality. Then, you get a major fire as was done at Howard Johnson's in New Orleans, or a general alarm, and that man's on duty at the time in charge of those companies and he's there directing that fire fighting procedure without the full knowledge of experience, the years of service necessary to have attained that position under the past system, he could well endanger not only the lives of all of the firemen that he was directing and the personnel attendant to the....trying to bring that fire under control, but to the people that might be in that building, in trying to rescue them at that time. Now, this is some of the considerations that I told you that in the subject matter in which we were dealing, even though the firemen and policemen throughout this state felt like it merited constitutional status that they were willing to turn the entire subject matter over to the legislature, to let the legislature, if change was needed, to let them hear whatever change was proposed so that all parties could be heard, thoroughly knowledgeable in the

field of fire fighting or police protection. What this amendment does is retain those four categories, but to allow the legislature to weigh it and the primary reason for the amendment was, I did not want to entirely delete Mr. Schmitt's amendment to say that I didn't want to give consideration to merit, fitness, and experience, although I personally feel that that was the proper approach to make, that my actions might be misinterpreted as not being in favor of those considerations so that the only alternative as a legal matter that was left to us was to pursue the course in which I have done in this amendment, to still allow the legislature by a two-thirds vote to handle those matters within the framework as contained in Article XIV, Section 15.1 of the present constitution. I suggest to you that if this amendment is not adopted, that then we pose some very serious problems within the fire fighting and the police protection services of this state. I ask, Mr. Chairman, for the adoption of the amendment.

Questions

MR. LANIER

Mr. Flory, the clause "as provided in Article XIV, Section 15.1 of the 1921 Constitution," is that intended to modify only length of service or is it also intended to modify merit, efficiency, and fitness?

MR. FLORY

I think it is all encompassing under all four categories, Mr. Lanier.

MR. LANIER

Well, then if it is intended to apply to all four, and merit, efficiency, and fitness were not set forth as considerations in Article XIV, Section 15.1 that means that they would not be considered; is that correct?

MR. FLORY

No, I think they're all set forth in some fashion, Mr. Lanier.

MR. LANIER

Now, my second question is: By making this specific reference to the 1921 Constitution, won't we be incorporating by reference these provisions with reference to these matters in our new constitution?

MR. FLORY

No, sir, what I think we'd be doing is letting the legislature take care of the subject matter just as we did in a general sense yesterday when Mr. Jenkins proposed his amendment insofar as the Hatch Act provisions were in the '21 Constitution. I didn't look at his... I don't have his amendment before me, but this was the philosophy under which the amendment was drawn.

MR. LANIER

Well, Mr. Flory, this says "shall as provided in," now, doesn't that mandate that it be done this way?

MR. FLORY

I didn't change the first part of Mr. Schmitt's amendment, Mr. Lanier; all I did, as I told you, was strike out the language "as ascertained by examination which so far as practicable shall be competitive," and inserted that language "in length of service as provided in Article XIV, 15.1 of the '21 Constitution." As I told you yesterday, there were about five or six pages of the present law dealing with this area, and that's why that it was of such serious nature that on the spur of the moment I did not think that we ought to be legislating in that area without the advice and counsel perhaps of all of the people involved, both from an administrative and from the fire fighting and police protection services. That's why I was willing to turn the entire subject matter over to the legislature where all parties could be heard when change was proposed...

MR. LANIER

Well, but...

MR. FLORY

... recognizing that there were some people who were desirous of change in these areas, both from our side and the other side perhaps, so that the proper forum would be the legislature where the facts could be developed in an open atmosphere.

MR. LANIER

But, wouldn't this mean, say if I was a young attorney twenty-five years from now and I wanted to know what this meant, I'd have to have a copy of the 1974 Constitution as well as a copy of the 1921 Constitution, wouldn't it?

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MR. FLORY

No, sir, because I think the legislature could adopt the statute that we continue them forward as statutes, and I think the legislature by statute could do that. That's what's intended.

MR. JUNEAU

Gordon, I'm trying to understand your amendment. In your reference to Section 15.1--as you well know 15.1 is a rather long section--could you identify for me the specific provisions that you are primarily relating to in 15.1, because obviously a lot of them wouldn't be germane to what you're talking about?

MR. FLORY

Well, but they are scattered throughout in some areas, Mr. Juneau, and the reason I did not specifically point to a specific paragraph was that they were more than one, and I did not want to be accused of singling out that application to particularly the seniority section of the thing.

MR. JUNEAU

Well, would I be correct then in stating that what you're trying to do is refer to those provisions of 15.1 which deal with seniority, and is that a general....

MR. FLORY

Well, all of them--merit, efficiency, fitness and length of service--all of them would be factors which the legislature could weigh. Give weight to as they do today, let's say in the city of New Orleans where they, I understand weigh at sixty-forty as the state does in their examinations, they weigh it to a certain degree. I think this is what we're talking about in the allowing of the legislature to establish by statute these types of situations after full hearing and open debate.

MR. JUNEAU

Well, let me ask you this question: As you understand the present 15.1, is merit, efficiency, and fitness specifically mentioned in 15.1--as we now have it?

MR. FLORY

I know merit is, and I know that fitness is... physical examinations are prerequisite in the practice, I know that also. Now, experience, I can't answer that categorically offhand because I might point out to you, Mr. Juneau, fitness plays an important part in this service because as a man reaches, let's say forty-five, to fifty, to sixty years of age, then fitness does come into play, depending upon the type of service that he performed, whether it be in the fire service or in the police service, so that fitness always maintains a criteria insofar as position is concerned. So, that in other words, what I'm saying you wouldn't want a sixty-five year old man climbing a hundred and fifty foot ladder in order to get somebody off because this is weighed, is given consideration in the promotion of policies, etc.

MR. JUNEAU

Okay. Well, to get down to what I consider the real issue, Gordon, the net effect of your amendment changes what in Schmitt's amendment? What do... I mean, tell us what you're really trying to do, that's what I want to know?

MR. FLORY

Well, my amendment takes out the language "as ascertained by examination which so far as practicable shall be competitive," and I again point to the situation I mentioned where you could go on the outside. Now, the promotions are filled within the service because the training... there's very little training that you could get and experience that you could get outside of the actual fire service, so that the promotions are made from within the fire service. You follow me up to that point? What I think Mr. Schmitt did by his amendment, and I think by design, was to allow you to go outside of the service and you had a position of a captain open, a vacancy there, then a man with a college degree in other areas may get the highest score. He may make a hundred out of a possible hundred on the examination. It would be possible then for the board to certify him the top nominee, the appointing authority could appoint him even though he did not actually have, he may be physically fit, but he did not actually have experience and length of service, so that you would have a man who was mentally capable of handling the position had he been trained in it, but he had not had the training so that when a major fire comes or a riot or something of that type, you put a man in a position in the top level to where he is in charge of a group of men either in a riot situation or in a major fire situation directing people who have had some experience, but he doesn't know what directions to give them, so that you're endangering not only the lives of the people in the service, but the lives of the people he's supposed to be trying to protect, and this is the great danger. That's why

I said yesterday, and I asked you to lay over until today to give us real time to consider the matter, to come up with something that would at least maintain the concept that he was talking about without doing violence to the present structure of the system and let the legislature then, by a two-thirds vote, change it.

MR. JUNEAU

Would your amendment permit, in determining a promotional status within the firemen and policemen the considerations of merit, efficiency and fitness on an equal basis with seniority?

MR. FLORY

On an equal basis? I think that would be a determination that the legislature first would have to make and then the local board would have to apply it.

MR. CHATELAIN

Delegate Flory, I have three questions, sir; one, you just alluded to the fact that these various--efficiency, fitness, length of service would be a weighted situation--and Mr. Juneau's question to you, he asked you point blank--were in fact, you considering length of service above the others? Do you or do you not, sir?

MR. FLORY

I didn't change that; that was the order in which the amendment was originally, Mr. Chatelain. I didn't change that.

MR. CHATELAIN

But, would you consider in your amendment a weighted situation where there would be some, in fact, consideration given to the fitness and all the other--merits, etc.; would you in fact, do this?

MR. FLORY

Would I change my amendment?

MR. CHATELAIN

I mean, would you...is it your interpretation that your amendment would do away with that?

MR. FLORY

Do away with those considerations?

MR. CHATELAIN

Yes.

MR. FLORY

No, sir.

MR. CHATELAIN

Okay. Two: isn't it a fact, sir, that the average policeman in an average city retires at age... after twenty years service?

MR. FLORY

Yes, sir.

MR. CHATELAIN

All right, sir.

MR. FLORY

There's a very good reason for that.

MR. CHATELAIN

All right, I'm not going into that, sir. How many cities with a population between thirteen thousand and one hundred thousand that, in fact, have a joint police and firemen civil service situation?

MR. FLORY

I think they all have it in that category, Mr. Chatelain, with the exception of one, to my knowledge, and that is Thibodaux, who does not have a paid fire department, and that's the reason they don't comply...they don't reach the criteria set forth in the constitution, consequently they have a separate type... then, in the city of New Orleans which is over the population bracket. But, those cities and municipalities and districts within the population brackets of thirteen thousand to two hundred and fifty thousand today are mandated by the constitution to be under that system. Those that are between seventyfive hundred and thirteen thousand are statutorily, statutorily required to have that type system.

MR. CHATELAIN

All right, sir. Let me ask you this. On your second sentence of your-- I mean, second line of your amendment-- you have the word "shall." Would you consider amending that to "may"?

MR. FLORY

No, sir.

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MR. CHATELAIN

Thank you, sir.

MR. ABRAHAM

Gordon, I'm trying to understand what the effects of this amendment will be. Now, the original amendment we adopted, the Denney-Flory amendment states that the provisions of Article XIV, Section 15.1 of the Constitution of '21 are hereby retained and contained in force and effect as statutes. Now, when we come back and state in this particular amendment that it's under a general system based upon merit, etc., as provided in Article XIV, Section 15.1, does not that negate then the possibility of the legislature being able to amend those provisions because they're no longer statutory; they become constitutional here by putting this language back in. You see, because we specifically spelled out in the original amendment that these would be statutory.

MR. FLORY

That was correct and that was my intentions, Mr. Abraham, originally, but when Mr. Schmitt came back and inserted this as a constitutional provision, then I had no alternative except to offer this in order to clarify the situation, which I've done.

MR. ABRAHAM

Well, now, looking at the constitutional provision of the Schmitt proposal... based on merit, efficiency, fitness, length of service, but all this fits in with the statutory material, and does not the statutory material provide in Paragraph 23 that the omission to test shall be from the next lower classification? Would not that limit it, or prevent, say an outsider coming in to take the test?

MR. FLORY

No, sir, because what he said in his amendment was "insofar as practicable by competitive examination." He don't define where that competitive examination was or who was to participate in the competitive examination and that was the danger in the amendment. That was the reason why I had to come back and to try to change that, and to put it back in the context in which it was originally.

MR. ABRAHAM

Well, I'm not quarreling with that; the only thing I'm concerned about is, whether we're actually putting it back in the context or we're locking the 1921 Constitution back into this constitution.

MR. FLORY

Well, Mr. Abraham, I said earlier, perhaps you missed it. My original thoughts were and that my first preference was to delete the Schmitt amendment in its entirety. In order to do exactly what this convention voted to do was to transfer the whole matter to the statutes, and let the legislature after an open debate reach a firm conclusion after hearing all of the facts as to what ought to be done. I was willing to leave that entirely up to the legislature, but when he tries to lock in a particular... a particular provision which says that it shall be by competitive examination without describing who can take the examination, then I tell you, sir, that it could go from the outside-- you could have a man from California take the examination, never fought a fire in his life, never served a day as a policeman, yet was very intelligent and could pass an examination and make a hundred on it and could theoretically and possibly get the appointment in a most responsible position which would be detrimental to either service.

MR. ABRAHAM

Well, now, just... just to argue the other side of the coin since you brought up that example; could not it work both ways where you might have a man who got the promotion strictly on seniority who, at the same time, still may not be qualified and could be detrimental to hold the job?

MR. FLORY

I think you have to understand, Mr. Abraham, that in the promotional policies set forth in the constitution and in the statutes, that even though you talk about taking the senior man after he has meritoriously qualified to get in that position that he still has a test period he has to serve...

MR. ABRAHAM

I appreciate that.

MR. FLORY

... and his appointing authority, if he can't cut the mustard, has full authority, constitutional and statutorily to put him back to where he was, and put somebody else who can cut the mustard.

MR. ABRAHAM

Well, you appreciate, I hope, my concern that by blocking this back in we might be locking the entire subject matter back into the constitution rather than by making it statutory.

MR. FLORY

I can appreciate anybody's concern with this matter, Mr. Abraham, because as I said yesterday, it was of such serious consequence that I didn't believe that we, as laymen, could sit here without expertise in the police area and in the fire area and could really legislate these types of conditions. Consequently, in order to put it into an area which could receive full and open debate where all parties could be heard who had expertise in the area. A real legitimate change could be brought about if it was needed to improve the service. That's where I thought the problem lies and I still believe that that's the appropriate body, which is the legislature.

MR. JENKINS

Gordon, is there any way that this could do away with the veterans' preference that are granted?

MR. FLORY

No, sir.

MR. GIARRUSSO

Gordon, I'd like to just make a qualifying statement before I ask you a couple of questions. I recognize that experience should be a factor in considering a man for promotion, but what I would like to know, are you saying that because a man serves time in a job, that this automatically qualifies him for a promotion?

MR. FLORY

No, I didn't say that.

MR. GIARRUSSO

No, I'm asking, I never said you did, I'm asking a question. Well, you alluded to that a few minutes ago when you said that a man has to have experience in a particular field if he's going to be able to do a job? Aren't those provisions ...

MR. FLORY

No, I didn't say that... What I said was that in the fire service in particular that there was very few places where a man could get experience in fighting a fire except in the fire service.

MR. GIARRUSSO

I think that that's true with police service as well. I think that there are ample provisions that are made in the qualifying for an examination where experience is a factor, but is not the all encompassing factor that has to be considered by the appointing authority for a promotion. One other question:

MR. FLORY

That's the reason I was willing to turn it over to the legislature to let them determine in their judgment what weight should be given to those factors, Mr. Giarrusso.

MR. GIARRUSSO

Well, do you feel, Gordon, that there are intangible factors that are present whenever you consider a man for promotion?

MR. FLORY

I can't hear you, sir, I'm sorry.

MR. GIARRUSSO

I said, do you feel that there are some intangible factors that an appointing authority has to consider that do not come out with experience, do not come out in an examination?

MR. FLORY

I think there are some considerations, if you're talking about politics; yes, I'm sure there are some political considerations some people would give in making appointments. Yes, sir, I agree with that.

MR. GIARRUSSO

No, sir, I didn't say that, you did, but ... I didn't mean it that way at all because there are factors that are present many times that do not show up in examinations, do not show up in experience. For example,--and this might be considered to be minor--but neatness, integrity, you could talk about a man's attitude, you could talk about his demeanor on a job; these are all things that don't come out in an exam that you know exists. I'm asking again, is that... what I'm trying to say is that, I think there should be some weight given to experience, but not the all encompassing factors as I understand that you're trying to place it on.

MR. FLORY

That's not what I'm doing, Chief. I don't know whether you were here yesterday and heard the debate on the issue or not, but that's not it. I know that what you're talking about insofar as determining a man's honesty when you hire him, or when you promote

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him as a policeman, is whether he takes bribes or something of this nature, MS. ZERVIGON
you would use that as a consideration. I don't think you can constitutionalize that. I don't think you could legislate that, and yes, I would admit, a man's character, certain attributes that he might have, would be taken into consideration. His ability as far as being able to make judgments on a split second decision; yes, sir, these things I'm sure are taken into consideration. I think that's all done too, particularly after you have put the man into a work test period.

MR. GIARRUSSO

I think this is true, you know, a probationary period.

Gordon, the only thing I'm really trying to find out is that I just don't feel that experience alone, is what I'm saying, should be all of it. If I misunderstand you, well, I stand to be corrected. That's all I'm asking.

MR. FLORY

All I'm saying here is that the legislature--and I said yesterday was--that if there are those who feel that that is not the criteria that ought to be used, as now is the practice and has been for some thirty years or more in all of the majority of metropolitan areas of this state, then I think the proper place to change it is in the legislature where people with expertise--such as yourself, in the police area--could come and be heard and give testimony as to your experiences and what it takes to run that type of a service. That's the way you develop orderly change is by people who testify, who have expertise in certain areas on certain matters; and then laymen, such as myself, can make a considered judgment based upon the testimony heard.

MR. GIARRUSSO

Thank you, Gordon.

MS. ZERVIGON

Mr. Flory, you are saying that the provisions of your amendment would be able to be changed by a two-thirds vote of the legislature?

MR. FLORY

Yes. I don't think they could change the language in this amendment, no.

MS. ZERVIGON

Your amendment refers to the general system of determining merit, as contained in Article XIV, Section 15.1.

MR. FLORY

Which is the entire forty-seven pages that we had before us yesterday and let the legislature then give its consideration to whatever change was proposed.

MS. ZERVIGON

In other words--in answer to Mr. Juneau's questions, you said that the exam and then seniority system was, by and large, the system that is specified in Article XIV, Section 15.1--the change of that would be left to a two-thirds vote of the legislature. This would not be something that could be changed only by constitutional amendment, would it?

MR. FLORY

This could only be changed by constitutional amendment--this language--but I think what we transfer to the statutes can be changed by a two-thirds vote of the legislature.

MS. ZERVIGON

Mr. Flory, I'm the chairperson of Legislative Liaison. We're going to have to decide what is statutory material and what is not. Your committee, of course, has to tell us what your committee considers to be statutory in light of the passage of this, and what is constitutional and may not be changed by a two-thirds vote of the legislature. What I'm asking you is, in light of having to make that decision in trying to vote on this amendment: Is the system whereby a man on the police force takes an exam, passes, and then the most senior man who passes the exam is automatically promoted--would that be transposed into a two-thirds statute, or would that be considered constitutional material?

MR. FLORY

I think it's transposed into the statute. It would be carried forward under that as a process now used but, subject to a two-thirds vote of the legislature, could be changed.

MS. ZERVIGON

That particular process. The other thing is, Mr. Flory--I want to give you a little chance to defend yourself--you are not criticizing the fire- and policemen in New Orleans, are you?

MR. FLORY

And nowhere else.

MS. ZERVIGON

They're not chosen by this system, but they are competent at their jobs; don't you agree?

MR. FLORY

I haven't criticized anybody, to my knowledge, Ms. Zervigon. I used a hypothetical situation.

MS. ZERVIGON

Mr. Flory, under your hypothetical example of the man from California who'd never been a fireman, wouldn't he have a little bit of time on the job in which he could be fired if he were found totally incompetent as well?

MR. FLORY

I'm sorry; I can't hear you, Ms. Zervigon.

MS. ZERVIGON

I can't remember who your questioner was when you brought up that hypothetical example of the fireman from California who had taken the exam, never fought a fire before, qualified because he was bright--and was hired. You were saying that under the seniority system, a man has a certain amount of probation time in the new position; isn't that correct?

MR. FLORY

That's correct.

MS. ZERVIGON

Wouldn't that be true of the interloper from California as well---that he would be on probation in the new job?

MR. FLORY

If those provisions were retained, yes.

MS. ZERVIGON

Thank you.

MR. FLORY

Within that six-month period, they could have a disastrous situation occur.

MR. KELLY

Gordon, let me see if I've got the overall picture of this thing. First, we've already transferred everything that's in Section 15.1 of the constitution into the statutes; correct? Then, we turn around and we say that by a two-thirds vote of the legislature they can change this; all right. Then, in your amendment, you're simply referring back to Section 15.1 of the 1921, and that would be a statute; is that correct? Is that correct? All right, now, and then, in your amendment, you refer to "merit, efficiency, fitness, and length of service." Now, these are the criteria upon which permanent appointments and promotions would be made; is that correct?

MR. FLORY

That's correct.

MR. KELLY

All right. Now, can this be changed--not the wording necessarily of this, but, say, the percentage of dominance that would be lent to each one of these criteria--could that be changed by the legislature?

MR. FLORY

I think with a two-thirds vote they could give whatever weight, percentage-wise, to it they wanted to.

MR. KEAN

Mr. Flory, there's only one point that concerns me about your amendment. Under Article XIV, Section 15.1, as it now stands, the seniority requirement is only applicable to the promotional examination, is it not?

MR. FLORY

That's correct.

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MR. KEAN

As to the competitive examination, the appointing authority has a right to take from the three names that are submitted to him without any reference to seniority; does he not?

MR. FLORY

That's correct, in the appoint...yes, air...in the hiring process, yes, sir.

MR. KEAN

As I read your amendment, it could be construed as injecting these various factors, including length of service, even into a certification for a competitive position. Would you speak to that point?

MR. FLORY

State your question again, Mr. Kean, so I'll be sure I have it correct in my mind. Are you talking about initial appointments or promotions after....

MR. KEAN

In the case of the chief of the fire department or the chief of the police department, those jobs are filled by competitive examination, are they not?

MR. FLORY

That's correct. Within the service.

MR. KEAN

Or, you can have anybody who can apply for that...take that examination, can't they?

MR. FLORY

For chief?

MR. KEAN

Yes.

MR. FLORY

Yes, I believe you can. In that position, yes--with the exception of the city of New Orleans.

MR. KEAN

All right. But, in the fire and police civil service system, the chief's job is a competitive examination; and, therefore, length of service in the department is not a factor to be considered?

MR. FLORY

Not today, and it would be carried forward and only could be changed with a two-thirds vote of the legislature.

MR. KEAN

Well, the thing that bothers me is that you say that the appointments will be made "only after certification under a general system based upon merit, efficiency, fitness, and length of service as provided in Article XIV, Section 15.1." It seems to me that that might be construed as now injecting into the competitive examination a seniority consideration.

MR. FLORY

No, because that is one of the conditions in the present constitution that we're transferring into the statutes: that is, the practice that is the situation today--that would be transferred into the statutes. Now, I can't tell you, for instance, what the legislature might change in the future. I can't tell you either, if it would all remain in the constitution, what the people might change in the future.

MR. KEAN

Well, the language of your amendment, as I read it, says--you make certifications as provided in Article XIV, Section 15.1--and the language in between, it seems to me, would raise the question that seniority could now be a factor in a competitive examination, and I simply want to find out whether or not that was your intention.

MR. FLORY

No, sir, that's not what my intent is. My intent is to continue forward in the new statutes the provisions of the existing constitution, with the letting the legislature change that by a two-thirds vote.

MR. KEAN

So that if the present law says that, in the case of competitive examinations....

MR. FLORY

They'll remain the same.

MR. KEAN

They'll remain the same.

MR. FLORY

That's correct.

MR. DENNERY

Gordon, what I want to be sure of here is that under the present system, which we would continue in effect, the only time, really, that seniority has any importance--the only times, let us say--are when you have laid off somebody or demoted somebody or something of that nature and the position above opens up, you have to bring one of those men back....

MR. FLORY

Or, if someone retires....to that extent, yes, sir.

MR. DENNERY

Right. Now, that phase of seniority doesn't disturb me a bit. The one that disturbs me is the case of a promotional examination. As I understand a promotional examination, you have no fear of bringing someone in from the outside because, by the very nature of it, a promotional examination is one which promotes from within the service. As I understand your law, if you pass...if you get your seventy-five percent and there are ten people on the list, the appointing authority is required to appoint that one who has seniority. Is that correct?

MR. FLORY

That is the correct system, but would be subject to change by the legislature.

MR. DENNERY

Right. Now, that man has to serve a working test period of a minimum of six months, according to the law.

MR. FLORY

Not less than six months and not more than twelve months.

MR. DENNERY

No more than a year. The only thing that disturbs me: I would say that in ninety-five percent of the cases the person who is senior is probably the person best fitted for the job; the five percent of the cases--and those are the five percent that I think Chief Giarrusso was asking you about--you may run into a situation where you have certain intangibles. After all, you're promoting, normally, to a position of leadership. Leadership, I don't believe--and I think you would probably agree--cannot be adjudged purely by seniority or purely by a test, for that matter. Do you agree with that?

MR. FLORY

That is correct, Mr. Dennery. I don't think you could--you get into the area of leadership abilities--I don't think you can find that out by examination, by demonstration unless that man's had the opportunity to demonstrate leadership, and you don't find that out until within the working test period as to whether a man really meets the criteria to be a leader. But, this is the area--and the area of responsibility and his ability to accept responsibility and discharge it--is the reason for the working test period.

MR. DENNERY

Well, now, Mr. Flory, if you look at your amendment and look at Mr. Schmitt's amendment, if you put a period after the word "service"--after "length of service"--don't you think that would take care of your problems and also take care of Mr. Schmitt's problems?

MR. FLORY

No, sir, I don't.

MR. DENNERY

Thank you, sir.

MR. DUVAL

Gordon, my questions are not directed to the merit of your amendment, but to the legal effect they have. I realize you've been asked questions on this before, but I'd like a clear understanding. As I understand it, the thrust of your amendment--is it not?--is to incorporate into the proposed constitution the line appearing on page 392 of the copy of the constitution we have, which says, "The appointing authority shall select and appoint, to the first vacancy to be filled, the one person certified to him who has the greatest seniority in the departmental service."

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Isn't that really what you want to insure is in the proposed constitution? Am I correct?

MR. FLORY

Not in the proposed constitution, but in the carry-forward position in the statutes to where the legislature could take into consideration all factors and make a determination.

MR. DUVAL

Well, I understand your intention, but it appears to me, Gordon, that by placing this language in the constitution as it is, that we might be adopting by reference the provisions of the constitution that cannot be changed by a two-thirds vote, as you recall the amendment Mr. Jenkins had in reference to political activity. That could not be changed by a two-thirds vote; won't you agree with that?

MR. FLORY

I don't have his amendment before me, and I'd have to read it again, Stan. I can't answer that.

MR. DUVAL

Well, my concern is that what we're doing is constitutionalizing all the provisions of Article XIV, Section 15.1 again. Do you see any problem that perhaps by...as provided in order... here's a constitutional provision saying this shall be the way, as provided in the constitution, of Section 15.1. How's that going to be changed unless there's a constitutional amendment?

MR. FLORY

You have certain factors to be considered, and the legislature can determine what weight to be given to those factors.

MR. DUVAL

Well, it's just my opinion that it could be stated a little clearer. I would hope that, perhaps, you'd maybe take a little recess....

MR. FLORY

Well, it could've been extremely clear, Mr. Duval, if we hadn't of had the Schmitt amendment adopted yesterday to begin with, because then the legislature would've had the full authority without question--a two-thirds vote, they could change it.

MR. DUVAL

I understand. Your intent is to make the law as it was... the convention in the status as it was before the Schmitt amendment. I understand your intention.

MR. FLORY

That's correct.

MR. DUVAL

I'm just afraid we haven't done this. If there's any way to do it any other way, I'd appreciate it.

MR. FLORY

As I said, if I'd had my druthers, I'd rather delete the Schmitt amendment. Then, there'd be no question about where we stood.

MR. RACHAL

Gordon, you do know that I recognize that this is a guts issue of this proposal; and in our previous conversation, I'm sure you also realize the difficult time I'm having in my own conclusions. One of the questions I wanted to ask was...has been asked by Mr. Abraham--and I've noticed since that it seems to be intertwined in the questions others are asking--and that is that in really trying to come to a decision on the merits of a system based on seniority as a major criterion, even if agreeing to that, I get concernment about constitutionalizing it, which is what others have brought up. I notice Mr. Dennery asked a question about placing a period after "length of service", which was not satisfactory. It then seems to me that if we were to really consider this, many of the anxieties might be allayed if we could delete the Schmitt amendment, rather than amending it as you are suggesting. I must apologize that I don't remember your response to that earlier--as to why you decided against deleting, versus the amending.

MR. FLORY

If you recall the other day, I proposed--when we had Proposal No. 9 up, and then there was a question raised as to the parliamentary procedure as far as deleting something, I had, in order to do that at that time, make a technical correction also--I did not want to be accused of not wanting to consider the factors.... let the legislature consider the factors mentioned in Mr.

Schmitt's amendment, even though from a position of clarity. So that everybody would understand what we were doing, the best thing, in my judgment, legally and otherwise, was to delete the Schmitt amendment in its entirety. That way we would know that we were transferring, in its entirety, the entire system of fire and police civil service, except Mr. Jenkins had wanted to retain the Hatch Act provision where it could not be changed; that was his intent--Mr. Duval raised the question a while ago--so, that's the reason we took this approach. But, I say that if we had done that--and deleted the Schmitt amendment--everybody would know exactly what we're doing; and everything contained in the provision, with the exception of that, would be subject to a change by two-thirds vote of the legislature. So that, yes, the proper thing would have been to delete the Schmitt amendment.

MR. RACHAL

Thank you.

MR. GOLDMAN

Mr. Flory, in view of the fact that Article VII takes all of Article XIV, Section 15.1 of the 1921 Constitution and puts it into the statutes--it can be amended by two-thirds vote of each house of the legislature--why would it not be satisfactory, then, to end Mr. Schmitt's amendment with the word "service" and not accomplish the same thing? You told Mr. Dennery that it wouldn't be satisfactory. I'd like to know why it wouldn't. What would make the difference?

MR. FLORY

Because I think it would carry the connotation of equal stature to the four categories, and I don't think that that would allow the legislature the proper...the discretion to make, or to give the proper weight that they may need after hearing expert testimony in the area.

MRS. BRIEN

Mr. Flory, on the end of your line there, when you put "and length of service as provided" etc., couldn't you just put "as provided by law"?

MR. FLORY

I think, when you do that, then you put it into the framework of a simple majority vote of the legislature. That, I think, is something that would not be in the best interests of the fire and police service. Perhaps--I'm not sure about that--but, perhaps, that's what we'd be doing.

MRS. BRIEN

Yes, I think that's what we're doing right now.

[Motion to limit debate to 15 minutes adopted: 56-36.]

MR. ROY

Mr. Chairman, I'd like to suggest that we take about a five-minute recess. I think, in view of what Mr. Duval has said and raised the issues, and some people--Mr. Champagne--are worried about whether the legislature will be able to change the effect of length of service, at this time in the present constitution, by a two-thirds vote, Mr. Flory is going to pull the amendment and put an exception there that the legislature may change these criteria by a two-thirds vote also.

[Amendment withdrawn.]

Amendment

MR. HARDIN

At the end of the original Flory amendments, which were just withdrawn, after the word "constitution" change the period "." to a comma "," in that amendment and add the following language: "subject to change by law enacted upon the favorable vote of two-thirds of the elected members of each house of the legislature."

Explanation

MR. FLORY

Mr. Chairman and delegates, there was some...Mr. Duval and some of them had questioned whether or not we were locking into the constitution certain practices in the fire and police service. In order to clarify the situation to make certain that's not what we're doing, the following language has been added to the amendment as it appears before you: "subject to change by law enacted

upon the favorable vote of two-thirds of the elected members of each house of the legislature." So that, there is no question but what it could be changed by a two-thirds vote of the legislature. Let me make one point that I couldn't hear a moment ago when Chief Giarrusso was asking me a question about whether or not experience, etc., were the only criteria: Certainly, my answer to him should have been, had I heard him properly, was that that is not the only consideration to be given, but that a man has to first qualify--and not only that, but he has to keep requalifying, under this provision of the law, every eighteen months so that it is a constant process of qualification in the process of promotion--so that experience is not, is not, the only criteria.

Point of Information

MR. CHATELAIN

The motion that we had previously adopted--about the fifteen-minute limitation--is that still in effect, sir?

MR. HENRY

No, sir, it's not.

MR. CHATELAIN

This is a brand new ball game?

MR. HENRY

It's a new amendment, yes, sir.

MR. CHATELAIN

O.K. Well, I want to speak later.

Further Discussion

MR. HAYES

Mr. Chairman, and ladies and gentlemen of the convention, I'm very much in agreement with Mr. Schmitt. The same thing happened--it happened to me yesterday. It takes a little more than one minute to get sixty-seven votes. I think that's what happened yesterday.

I am against this amendment. I'll tell you why I'm against it: Number One, is because it...it is by reference...you are referring to the Constitution of 1921 by reference. Now, if you look on page 376 of that Constitution on your desk, just turn to page 376, you'll find twenty-three pages. There's about four hundred and twenty-five words on each page. You multiply that and you'll find more words than you find in the United States Constitution. You adopting by reference a constitution, as long as the United States Constitution, in order to overturn one little amendment that was put in here yesterday by Mr. Schmitt.

If this can be done away with, with two-thirds of the legislature, why put it in here in the first place? The best way to adopt the Constitution of 1921, is to adjourn and die, and it will be adopted. We don't have to do it by reference.

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen, I think this issue has been fully debated; it's been fully disclosed. I think by now you are either for the concept of some type of seniority, being one of the more important criteria used for determining promotions in the end. Now, you heard Chief Giarrusso... you heard Chief Giarrusso's dialogue with Mr. Flory, you know a couple of things that every eighteen months, people in the classified service must continually meet test requirements for promotional advantages in the future. There is nothing wrong with favoring someone, all other things being more or less equal, because of loyalty and seniority. I'd much rather have a fireman who made seventy-five on an exam, and who has got guts and experience and knows what to do, or to come rescue my child out of a burning building, than some kid who made, maybe, ninety-five, and just doesn't have the experience to know what to do. That's what this whole thing is about. Now, the legislature may change it, there's no question about it. If you remember yesterday, I asked one question to a speaker who has been adamant about wanting to change something that for thirty years no one has complained about. There have been, certainly, some few cases where somebody should have gotten a promotion maybe was a little better than the other guy. But, that's how the army works. It's on a seniority basis.

When I was in the service, I saluted captains, and stuff. I saluted the guy who was ahead of me in rank merely because

his commission was ahead of mine by a week or so. That's just the way it works. There's nothing wrong with the system we have. There's nothing against it. There's no reason for changing the status quo by us. Let the Legislature do it if it needs to be done. But, for God's sakes, let's move on, let's move on, let's go on to something else. Let's get this constitution adopted. Thank you.

Further Discussion

MR. CHATELAIN

Mr. Chairman and fellow delegates, I rise in opposition to this amendment. I just wish this, that fellow delegates... that on this Saturday morning, that you would give me your attention for a little while because there's nothing that's come up in this Constitutional Convention that's more important to one-third, or at least one-third of the citizens of this state who live in cities that have a population between thirteen thousand and one hundred thousand.

Now, we spent a great deal of time on this same subject matter as it pertained to the city of Orleans. I just wish that you would give me the courtesy to listen to my appeal to you. My appeal is sincere; my appeal is justified. Now, let's look at these things objectively. Let's look where we stand today. The Schmitt amendment is a constitutional amendment. It provides for merit, efficiency, fitness, and the length of service or seniority as the condition for promotion. Let's look at this and listen to this awhile. This, my fellow delegates, please... let this sink in; this is a constitutional amendment. We are here for the purpose of writing a constitution for years to come. We are here for the purpose of writing a constitution for the day's needs, and many years to come--not to take...to shirk our duties and turn these things over to the legislature.

Let's look at another fact. The Flory amendment does just that. It shirks our duties and turns it over to the legislature. I say to you, let's listen to my remarks. Please, please pay attention, and please give me the courtesy to listen, fellow delegates. Let me cite a situation in...the city of Lafayette. Eighteen months ago, we had to appropriate by extraordinary emergency session, three hundred thousand dollars to beef up our police department. We hired twenty policemen, and bought twelve new police cars. Those twenty policemen were brought here to Baton Rouge at LSU and underwent an extensive six-months course in modern police technology. Those people have to grapple and cope with problems of today, not problems of ten or fifteen years ago. I want you to think for a while, what we are doing in this constitution. We are considering problems of today. Our Chief of Police is a citizen from the State of California. He came to Lafayette two years ago because we could not select anyone from the ranks that would...who could cope with the problems of the day. So, let me ask you a question, then; what... just think for a while, how in the world can you consider these facts? How can the mayor, the council, go about the business of hiring a police chief; number one, which we just did. The police chief, in turn, has to hire the policemen from a list offered by the civil service board, which is fair, and which I agree to. All right, then the civil service system has to do with the promotions of the amount of money they are paid, the regulations, and all the rules that they may work under. But still, that chief of police must hire and promote those officers in due time.

Now, how can a chief of police promote an officer--for the best efficiency of the police department we're speaking of now--how can he promote those policemen based on the best efficiency of the police of the city, and the police department. If seniority is the criteria? Just think about that for awhile.

I also want to ask you three questions before I sit down. One is, what has happened to those words that we've heard all through the ages, words like industries, as they apply to the individual. A person who goes out and works and studies and sacrifices to learn. What has happened to those words that mean so much in organization--be it a public police department, or any organization--the words esprit de corps? What has happened to those phrases and words? What has happened to the words of loyalty, dedication...that we have heard so much in the past? Don't they apply to police departments, and fire departments? Don't they apply to those departments? I say to you, why do you have a police department and fire department? It's to protect the life and safety of the citizens of our various cities throughout this state. That's why we have police departments and fire departments. I ask you, who should be responsible for the safety of those people in these various cities that spread out all over the state? As a matter of fact, from the city of Lake Charles, Louisiana, the city of Houma, Louisiana--there are over twelve cities that have a population of over thirteen thousand people. There is one-third of the people of this state living in that area, ladies and gentlemen. I would say to you, who has a right

to control the lives and safety of those people? Is it the local people? Or is it Mr. Victor Busale and the AFL-CIO who wants to refer everything to the legislature, so they can go there and use the same tactics that they are using here today, is to put the muscle on the delegates, and the members of the legislature.

I say to you, let's leave it to the people who live in these cities. Ask people who have the responsibility of taking care of their own health and safety. I ask and plead to you, please turn down, vote down this amendment of Mr. Flory's. Let's keep the Schmitt amendment in there where the people in this state can serve themselves rather than by being dictated to by some organizations in this state. I thank you very much.

[Previous Question ordered.]

Closing

MR. FLORY

I should waive I guess, but I wanted to answer one statement that was made about muscle, and just tell you that the way I feel this morning with this fresh cold, there just is no muscle available. There has been none to my knowledge.

Mr. Chairman, just to make certain that everybody understands what we are doing, we are transferring this entire matter into the hands of the legislature. If change is needed, people with expertise in both areas from all sides, can come and be heard, and the legislature make an intelligent decision as to what change ought to be made, if any. I ask you for the concurrence in this amendment, and let's adopt this section.

[Quorum Call: 107 delegates present and a quorum. Record vote ordered. Amendment adopted: 83-31. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The amendment reads as follows:

Amendment No. 1. On page 1, line 12, in the Floor Amendment proposed by Delegate Denney, et al, and adopted by the convention yesterday, delete Floor Amendment No. 1 proposed by Delegate Flory and just adopted and insert in lieu thereof the following:

"Permanent appointments and promotions in municipal fire and police civil service shall be made only after certification by the applicable Municipal Fire and Police Civil Service Board under a general system based upon merit, efficiency and fitness, and which also shall give consideration to length of service."

[Amendment reread.]

Explanation

MR. CHATELAIN

Mr. Chairman and fellow delegates, I know the mood that this convention's in this morning. I know it is Saturday morning. I know that we have problems. I know you want to go on about the business of ending this section. I know that you've got some people like Delegate Roy, who is ready to pounce upon me because I'm here trying to represent people in this state. But fellow delegates, please look at this amendment for a little while and compare it to the Schmitt amendment, and compare it to the Flory amendment. This is a constitutional amendment. This is what we're here for this morning, is to write a constitution for the people of today, and the people yet unborn in this state, who want protections in the constitution. Since July 5, we've heard it time and time again that we want to write a constitution to protect the people in this state. I say to you, for the people who live in the cities of this state, with its population of thirteen thousand upward, deserve certain constitutional protection. I say that this is a good amendment. It is an amendment that faces it squarely in the face. It's not a black issue, it's not a white issue. It's not a south Louisiana issue, and certainly not a New Orleans issue because we have already resolved the problem of Orleans. We had to go in through the back door, the side door, and all doors to finally resolve the situation where we could give the people a right to vote upon it. I want you to think about these things for awhile. All I'm asking you is, that you consider those people who live in these cities from thirteen thousand upward, below the population of Orleans. This is what I'm appealing to you for, is to give us constitutional rights, as you have given in many other areas of government in

this state. I would certainly suggest to you that this amendment, in fact, does give consideration to seniority. It spells it out, Mr. Flory, in no uncertain terms...it spells it out. It says "it shall give consideration to length of service." I don't see where you could go wrong with this. If you want to represent the people of this state, how in the world can you go wrong? This is an awaited amendment. It's wedded to the fact that you have to consider a situation such as efficiency, fitness, merit, and the length of service. What is wrong with an amendment like this? I appeal to you fellow delegates, that you will vote for this amendment and really serve the people of this state as you were elected to do or appointed to do.

Mr. Chairman, I suggest that we have a roll...record vote on this amendment, please.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I hate to rise again, but again we are getting back into the posture of legislating in much too important an area. If you look at the amendment very carefully, he deletes the amendment we just adopted. But he doesn't, and that, then, in effect, leaves then, the Schmitt amendment, and then we are right back where we started, plus the fact that what you are doing here and putting into the constitution, something that can't then be changed by a two-thirds vote of the legislature, I suggest to you, let's defeat this amendment. Let's vote on the section, and let's vote on the article. This is too important an issue to play politics with, to try to resolve here without the expertise required. I ask you to reject this amendment and let's adopt the section.

Questions

MR. CHATELAIN

Mr. Flory, it's a lot of noise going on back here. I had a little difficulty understanding one of the remarks that you made, sir. You said something about "if I'm correct, please correct me if I'm wrong."

I think I heard you make a statement, sir, "let's not play politics with this." Am I correct, sir?

MR. FLORY

I said that this is too important a subject to play politics with or try to legislate in the area that's so serious and so complicated. Period.

MR. CHATELAIN

You didn't infer, of course, that I'm trying to play politics with it, sir?

MR. FLORY

That's exactly what I said--what I just repeated to you. I didn't mention your name at all, Mr. Chatelain.

MR. CHATELAIN

Because if you inferred, sir, that I was trying to play politics, I think that's the exact opposite from that, sir.

MR. FLORY

I said, as a broad statement, Mr. Chatelain, I said this is too important an area.

MR. HENRY

Mr. Smith.

MR. SMITH

Mr. Chairman, I think we've whipped this dog to death. I'd like to move the previous question on the entire subject matter.

[Previous Question ordered on entire subject matter: 58-39.]

Closing

MR. CHATELAIN

Mr. Chairman and fellow delegates, I'm going to close in a most unusual way. Mr. Newton and Mr. Perez, if you'll just listen a little while, I'm going to show you how I'm going to close this one.

This is my closing remark. This is my closing remark. Vote your conscience.

[Amendment rejected: 35-72. Motion to reconsider tabled. Section adopted: 97-13. Motion to reconsider tabled.]

Further Discussion

MR. SCHMITT

You've seen in the last several days how the will of the minority, special interest coalition has broken the back of the will of the majority of the convention. Just giving into the minority was done in a spirit of compromise. Yet, their compromise is out as soon as the labor coalition obtained its objective. Labor then sought to obtain, almost immediately, those things which allegedly were bargained away to obtain the concessions it had previously desired but had failed to obtain. For the life of me, I cannot understand why labor--through Mr. Gordon Flory--has fought so hard to deny justice to those who have cried for it and if not given it shall one day justifiably demand it. Those who have in the past fought for the protection of the disenfranchised, for youth, for justice, for efficiency in government, suddenly desert the ship of the ideals and leave the choppy waters of the open sea of freedom for the safety of the sheltered harbor of labor's demagoguery. It is time when each delegate must decide whether you shall allow those ideals, which so many of our country's great leaders have died for, to be championed by each of us or shall we choose the death of those dreams, the dashing of those hopes for some temporary gain which may have been promised us. This convention has been a great education to me. I have seen those for whom I have a great deal of respect bow to the desires of labor when those desires were often questionable in nature. But, this former issue was no such issue. The issue was not a foggy one, the choice was clear. Shall the number of years of service be the sole criterion for advancement in the civil service or in the alternative, should some other factors be considered? Should this be allowed to be decided by a simple majority vote or to allow labor to prevent its adoption by a simple coalition of one-third of the votes in the legislature? Should this system have the chance for infusion of new ideas which may create untold benefits in the fields of opportunity for youthful ideas--not necessarily youth--and for efficiency in government, or should those who do not have the most years of service--which is not necessarily the most experience --have no opportunity to even get the chance to advance themselves. I do not understand how those of you who have prostituted your ideals to curry favor of labor can or will ever be able to get a good night's sleep again. How can you stand to see the face in the mirror which is a mask to hide the horror of a soul which has not been true unto itself? I would request, at this time, that you wipe away that scar from your soul; you stand up for justice and you defeat this proposal, at the present time, so that we might get through the necessary changes. I thank you for your time.

Personal Privilege

MR. ALEXANDER

Mr. Chairman and delegates, ladies and gentlemen, this is the first time I have taken this microphone on special privilege. I felt myself compelled to do so because I believe that there has been some expressions here that are inconsistent with our democratic system. Mr. Schmitt is a friend of mind, and I know that Mr. Schmitt has political aspirations. I know he is a very upstanding, honest, young man. I think, however, that the voice of experience should be able to say to him at this point that he may be traveling the wrong road. I don't think that labor need apologize for anything labor has done. If labor, through its political muscle, can elect a majority of the delegates and come up here and dominate the convention, then labor does it; if the Chamber of Commerce can do it, also well and good; if anybody can do it, in fact. But the delegates to this convention consist of all kinds of people, of all views--I have watched their voting habits. There are no really strong coalitions here. I'm black; I'm labor; and, incidentally, I'm a businessman; I employ people. Now, with whom should I vote? But, I'll tell you how I vote. I vote for the best interest of the people. Now, I know there are many complaints by all of us. I have had times when I believe that you have voted racist--when I thought you voted racist. But, then I thought and I reflected and I said, "I don't believe a majority of those delegates are racist out there." I found out over a period of time that you are not. I don't believe you are pro-labor or anti-labor, or pro-management or anti-management. I believe you are just delegates elected by the people and appointed by the governor to represent the people here writing a convention. I implored Mr. Schmitt to refrain from these outbreaks and these attacks on labor because if labor can be singled out--and this is very serious--if labor can be singled out as the culprit in drawing up this constitution, then the campaign to approve the constitution will be pro-labor and anti-labor. If labor can be singled out, eventually blacks will be singled out, or Italian-Americans will

be singled out, or Jewish-Americans will be singled out. So, I'm asking you and I'm hoping that this kind of attack will stop and that we will not have to discuss this kind of thing any more. Thank you.

[Previous Question ordered. Committee Proposal No. 10 passed: 99-11. Motion to reconsider pending.]

UNFINISHED BUSINESS

MR. POYNTER

Committee Proposal No. 15, introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance, and Taxation, and other delegates, members of that committee.

A proposal relative to the tax structure of the state and to public finance. Status of the proposal--the convention has adopted the first seven sections of the proposal as amended with the following exceptions: Those being that Sections 4 and 6, respectively, were passed over on yesterday.

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Reading of the Section

MR. POYNTER

"Section 8. State Debt; Interim Emergency Board
Section 8. (A) The Interim Emergency Board hereby is created and shall be composed of the governor, the state treasurer, the legislative auditor, the chairman of the Senate Finance Committee, and the chairman of the House Appropriations Committee, or their designees.

(B) During the interim between sessions of the legislature, whenever it is determined by majority vote of the Interim Emergency Board that an emergency exists, and then only for a purpose for which the legislature may appropriate funds, after having obtained, as provided by law, the written consent of two-thirds of all members elected to each house of the legislature, the Interim Emergency Board may appropriate from the State General Fund, or borrow upon the full faith and credit of the state an amount of care for an emergency, which is an event or occurrence not reasonably anticipated by the legislature.

(C) The aggregate of indebtedness outstanding at any one time and the amount appropriated from the State General Fund for the current fiscal year under the authority of this section shall not exceed one-tenth or one percent of the total state revenue receipts for the previous fiscal year.

(D) Each fiscal year, as a first priority, there is hereby allocated from the State General Fund an amount sufficient to pay any indebtedness incurred during the preceding fiscal year under the authority of this section."

Vice Chairman Casey in the Chair

Explanation

MR. DE BLIEUX

Mr. Chairman, ladies and gentlemen, I presume that the reason that I was selected to handle this particular section is because I'm having financial emergencies most all the time and that's what this section of the constitution relates to--financial emergencies. We make the following proposed changes: at the present, we have what we call the Board of Liquidation. That board is composed of seven people at the present time; it is composed of the governor, the lieutenant governor, the speaker of the House of Representatives, the chairman of the Appropriation Committee, the chairman of the Senate Finance Committee, and the comptroller. At the present time, it is limited to a total appropriation of one million dollars per year with the provision that the Board of Liquidation cannot appropriate more than one hundred thousand dollars to any budgetary unit. Now, that in gist is what we presently have in the constitution. There is a provision, of course, that this Board of Liquidation can borrow up to two million dollars, but that provision has hardly ever been used or exercised. Our proposal will change the makeup of the Board of Liquidation to the governor, the chairman of the House Appropriation Committee, giving representation by the House of Representatives, wherein that these appropriations must come from and have some knowledge as to what should be done and, likewise, the counterpart, the chairman of the Senate Finance Committee; together with the state treasurer, who certainly should know the balances in the state budget at that particular time, and the legislative auditor. The reason for these particular individuals is because it's partly the duty and responsibility of the governor to have

the overall situation of state government in hand and knowing whether or not that this is a real emergency or not. Also, the treasurer knowing what the situation or the financial situation, of the state is at the time, together with the chairman of the Finance Committee of the Senate and the House Appropriations Committee because in the proposal we have, it must be something that the legislature could not have anticipated. Therefore, those two individuals would know whether or not it is that type of an emergency. Of course, the legislative auditor who has a check upon these various agencies of the state and knows whether or not that that is actually an emergency insofar as they are concerned, with their particular finances. There are two very significant changes in making these appropriations which is not contained in the present provision of law. One is that it must be something which the legislature could not reasonably have anticipated. The second is that it must be a real emergency. Under the present provisions of the law you can make appropriations without there being an emergency by the Board of Liquidation. As a legislator I can tell you, that I have seen numerous instances wherein appropriations were made which I did not consider any emergency whatsoever; they could have, certainly, have well waited until a meeting of the legislature. In fact of the business, I know of occasions where they did not want to bring it before the legislature because they thought they might not have as good a chance of getting the money as they would from the Board of Liquidation. There is another significant change in this proposal. As I first related to you, the present law limits appropriations to one million dollars a year for all emergencies. This proposal limits it to one-tenth of one percent of the total state budget, which means as the state budget goes up the amount that can be appropriated for emergencies can go up. There has been no change in the million dollar figure since 19...since we originally had the proposal--as far as I know. This will allow a fluctuation insofar as that particular amount, because it can only be one-tenth of one percent of the preceding year's budget. At the present time, our state budget is approximately two billion dollars which would mean that we would have an appropriation that could be made up to two million dollars in this particular category. One other significant change in this is that, as I previously related, the present law limits limitation of the appropriation to a budgetary unit of one hundred thousand dollars. I have seen on a number of occasions wherein that the amounts of the emergencies in the needed appropriations amounted to more than a hundred thousand dollars, and so the Board of Liquidation would get around that particular way by appropriating two different budgetary units the amount of funds necessary to meet the particular emergency so that the budgetary units could consolidate those funds and meet the requirement. Those are the chief changes and provisions of this proposal. Now, Mr. Chairman, I will be glad to answer any questions that might want to be asked about this proposal.

Questions

MR. BLAIR

Senator De Blieux, why did you leave the lieutenant governor out and why the legislative auditor?

MR. DE BLIEUX

Why did we substitute the legislative auditor?

MR. BLAIR

Yes, for the lieutenant governor.

MR. DE BLIEUX

Well, for the reason of that is that the executive department is really represented by the governor. We saw no particular reason or particular input that the lieutenant governor or really the speaker of the House could put in at that particular time since this was the emergency matters. We put in those particular people that we thought it would be necessary for their information to meet their emergency requirements.

MR. BLAIR

Let me quote you a case, and I want you to point out in this section where we could be absolutely protected in it and the case is this: suppose I have a bill and I create an agency; I don't have the funds; I can't get the funds during a legislative session. You know and I know that time and time again we have created agencies through the Board of Liquidation. Do you have it spelled out in this section that that cannot happen?

MR. DE BLIEUX

If it's not an emergency, Senator Blair, under this particular provision of the constitution, if it's not an emergency which could have been anticipated, then you can't get those funds.

MR. BLAIR

O.K. I passed a bill; I passed a bill creating an agency and the funds are not supplied at that time and then I can declare an emergency later and get it through the Board of Liquidation?

MR. DE BLIEUX

Not under this proposal, Senator Blair, you can't do that because that's something that the legislature could have anticipated, the need of those funds by the very passing of that bill.

MR. BLAIR

Is that in line 20? Is that where it's...where you have the protection?

MR. DE BLIEUX

No, I would say in line 26 and 27; it says "for an emergency, which is an event or occurrence not reasonably anticipated by the legislature."

MR. NUNEZ

Senator, how long has this Board of Liquidation we now have been in effect?

MR. DE BLIEUX

It was last amended in 1964, but I think it's been in the constitution since it was adopted in 1921.

MR. NUNEZ

Will you tell the constitution how many emergencies you feel we have actually had where we had to appropriate emergency funds through this board?

MR. DE BLIEUX

Oh, I say less than half of them I would consider actual emergencies--a whole lot less than half of them.

MR. NUNEZ

I would say you are being very liberal with your estimate.

MR. DE BLIEUX

Well, I feel that way, Senator Nunez.

MR. LEBLEU

Senator De Blieux, are you aware that in the past there have been bills..appropriation bills in the legislature to increase the Board of Liquidation's amount from one million dollars up to three and none have been successful?

MR. DE BLIEUX

Yes, I realize that but...well, we had two-thirds...this is one reason why we have done this is because we think we've got a much tighter reins on the meeting of emergencies in this particular one. Then, after all, even after the Board of Liquidation passes it, it still has to receive a two-thirds vote of the voting members of the House of Representatives--before we only had a majority vote, as you well know--this tightens it up much further and makes it much tighter.

...and, I think possibly because of the previous reason when it was so liberal is why that they didn't increase the amount.

MR. LEBLEU

...but, the state budget is now two billion dollars and by your figures here the legislature would have to appropriate two million or one-tenth of one percent every year to begin with. By this section you would be increasing the money now appropriated to the Board of Liquidation by one hundred percent.

MR. DE BLIEUX

No, Representative LeBlen, that is not exactly correct because they can only appropriate the funds which are surplus in the state treasury at that particular time to meet that emergency. Now, they have the privilege of also borrowing that amount of money on the succeeding year's revenues; they have to pay that money that's borrowed--if they did have to borrow any--first before they can go ahead and make any appropriations--that's as a result of Paragraph (D) that has the first priority in paying those funds off.

MR. LANIER

Senator De Blieux, is what we are doing here...what we call at home "setting up a slush fund," so to speak?

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MR. DE BLIEUX

No, we are tightening up on the slush fund, Mr. Lanier, that's what we are really doing, we are tightening up on it.

MR. NUNEZ

Senator De Blieux, you just admitted that it was a slush fund, I assume.

MR. DE BLIEUX

Well, sometimes I think that's what Mr. Lanier was talking about; I certainly think that it has been used for that and....

MR. NUNEZ

Well, why have you--another question--why have you taken the amount which was some limitation on the slush fund of a hundred thousand dollars and then just taken it out altogether which means, that if an agency comes in and wants to complete two million dollars they can get it?

MR. DE BLIEUX

Well, Senator Nunez, let's take this example. As you well know, I think, it was during the hurricane, Betay, that we had down in your particular area, at the time that it took more money than that to meet the needs of the guard, and repairs, and so forth down there. We had to make appropriations of two different agencies in order to get enough money to meet that requirement. Under this particular proposal, as we have it here, that if such a situation came up to where it was actually an emergency, as declared by the Board of Liquidation, and we had the money available, that we could appropriate what was the needed funds to that particular event. Now, you must remember this, it requires two-thirds vote of the elected members, not just a majority as we have at the present time.

MR. NUNEZ

Senator, isn't there other provisions in the law, whereby an agency that runs into an emergency that they're allowed some sort of deficit spending or spending that would allow them to borrow on next year's revenues if there is a dire emergency, rather than setting up a two million dollar fund?

MR. DE BLIEUX

Well, that's in our present law that we allowed that. But, now I don't know whether or not that's going to be in the proposal when we finally get through with it--being able to borrow money that way or make up definite appropriations. I don't believe we can do that under the present provisions we have in this proposed constitution, that you can go beyond your budget.

MR. ROEMER

Senator, I've heard a couple of people who have questioned you refer to this as a slush fund. Well, it might have been that in the past, but haven't we put some teeth in it in our committee? For example, don't you agree with me that haven't we increased the vote from a majority to two-thirds; haven't we done that?

MR. DE BLIEUX

That's right, Mr. Roemer; not only did we increase the vote that it takes to appropriate these funds, but we have even tightened up the reasons for what they can be used. It must....

MR. ROEMER

Exactly.

MR. DE BLIEUX

...actually be an emergency which could not have been anticipated by the legislature.

MR. ROEMER

And, the question by Senator Nunez about these agencies and things, hasn't our whole proposal emphasized capital budgeting and planning and, hopefully, we can reduce these needless expenditures like that and use this fund for real emergencies?

MR. DE BLIEUX

That's right, and I might say in reference to yours that this is one of the particular provisions in our proposal that PAR--Public Affairs Research--were particularly praising us for having done...it's a that type of proposal; we have tightened it up and made a much better management of our state finances.

MR. O'NEILL

Senator De Blieux, how much of the million dollars a year do they usually spend now? Do they usually spend right up to the million?

MR. DE BLIEUX

Yes, practically all of it. They usually have some agencies that they will defer until the latter part of the fiscal year. Then, if they have any funds left over, they will go ahead and make the appropriations to them.

MR. O'NEILL

Now, following Mr. Roemer's question, would it be adequately defined as saying now we have a slush fund with teeth?

MR. DE BLIEUX

No, that's not right because this is not going to be that type of fund; I can assure you on the provisions we have in this proposal.

MR. SINGLETARY

Senator, is this necessary to be in the constitution? If so, could you tell us briefly why?

MR. DE BLIEUX

Yes, Mr. Singletary, I think it is because we have to have some way to meet emergencies if they should happen. What this is, this is the meeting of emergencies only between sessions of the legislature. If the legislature can be called into session and taking care of something if it's a serious emergency, then you don't need these particular provisions. But, sometimes, you run into matters that only involves maybe fifty, sixty, or seventy thousand dollars. But, it cost over a hundred thousand dollars to call a special session of the legislature, so, therefore, you need this particular....

MR. SINGLETARY

Well, could this be provided by law?

MR. CASEY

I'm sorry, Senator De Blieux has exceeded his time. Are there any amendments, Mr. Clerk?

Amendment

MR. POYNTER

Amendment No. 1. On page 4, delete lines 13 through 16, both inclusive, in their entirety, and insert in lieu thereof the following:

"created and shall be composed of the governor, the lieutenant governor, the state treasurer, the presiding officers of both houses of the legislature, the chairman of the Senate Finance Committee, and the chairman of the House Appropriations Committee, or their designees."

Explanation

MR. DUVAL

Mr. Chairman, fellow delegates, let me see if I can explain this to you precisely. This board, of course, replaces the Board of Liquidation of State Debt. The present...on the...in the present Board of Liquidation of State Debt, the lieutenant governor and the speaker of the House of Representatives are on the board. The committee proposal deletes the speaker of the House of Representatives and the lieutenant governor. In my opinion--and, of course, the legislative auditor is on the board--it's my opinion that the legislative auditor is put in a very ticklish position being on a board that makes policy decisions and political decisions, since he is supposedly insulated from the political arena. In other words, if a legislator puts the pressure on the legislative auditor, he's in a position where he shouldn't be in, because this is a very important office. Certainly, the legislative auditor can advise this board, as he should, and give his recommendations. I don't think he should be voting on the board because it puts him in a difficult position and subjects him to political pressures which I don't think he should be. He should be able to give his recommendations without worrying about having to vote on the recommendation. Furthermore, I think that the lieutenant governor, under the Executive Committee proposal, would be on this board anyhow, because he's a member of any committee that the governor is on. I think we should give some specific duties to the lieutenant governor. Furthermore, I think the speaker of the House--we've inserted the speaker of the House of Representatives back on the board, in addition to the presiding officer of the Senate, and that the leadership of both houses of the legislature should be on the board in order to keep track of the financial situation of the state and to provide the leadership that these people are providing in the House and the Senate. I respectively submit to you that this is a better composition than the committee proposal.

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We don't do. . .this amendment does nothing to the basic context of the committee proposal except changes the composition of the board. I think it's more like the present Board of Liquidation. It retains the speaker of the House and the lieutenant governor and adds the president of the Senate. Of course, the legislative auditor's advice would be used, but I think he's in a difficult position if he's on the board.

Questions

MR. BLAIR

Mr. Duval, what you're doing here, though, are you not creating an eight man board?

MR. DUVAL

No, sir; it's a seven man.

MR. BLAIR

Seven. Well, the lieutenant governor was automatically on there, already, because of Section 6, Article IV, of the Executive Branch. So, you had a six man board there, and you've added two more since I. . .

MR. DUVAL

No, we've taken the legislative auditor out, so it would make it seven.

MR. ROEMER

Well, originally, I would be opposed to your amendment, Stanley, but it's just come to my attention that under the Executive Article that we've previously passed in this convention, that the lieutenant governor is an ex officio member of all boards that the governor is on. Is that not true?

MR. DUVAL

Yes, sir.

MR. ROEMER

So, we have to do something to balance it out. Isn't that also true?

MR. DUVAL

Yes, sir.

MR. ROEMER

Well, I support--personally--I support your amendment in that case.

[Previous Question ordered. Amendment adopted without objection. Quorum Call: 82 delegates present and a quorum.]

MR. CASEY

The Clerk will read the Alario and Nunez amendment.

Amendments

MR. POYNTER

Two amendments and they are relatively short.

Amendment No. 1. On page 4, line 27, after the word and punctuation "legislature." add the following sentence:

"The maximum amount which may be appropriated for any agency during any fiscal year shall not exceed one hundred thousand dollars."

Amendment No. 2. On page 4, line 31, after the word "exceed" and before the word "of" delete "one-tenth" and insert in lieu thereof the word "one-twentieth".

Explanation

MR. ALARIO

Mr. Vice Chairman, members of the convention, all these two amendments simply try to do is to bring the Interim Emergency Board more in line of what the law is today, in the effect that the appropriations in this Amendment No. 1 would be limited to one hundred thousand dollars. That's exactly what it is today. I don't think we've had any serious problems with that in the past, and I think we ought to put some limitation so that these. . . It has been admitted by the authors and by the proponents of this section that this is a slush fund, as such, and we want to make sure that we're not exceeding these amounts in any one particular agency. The Amendment No. 2 also tries to bring the section in the line of what the present law is, in saying that no more than

one-twentieth of the total budget would be appropriated, which, in effect, would be right near one million dollars as it stands today, rather than doubling the fund as is proposed in the amendment.

Questions

MR. O'NEILL

John, don't you think by putting this hundred thousand dollar limitation on it that it will stop some new agency from being created and coming to this board to have that agency funded, rather than going through the regular legislative process?

MR. ALARIO

Gary, I don't think it will stop an agency from being created. It will just control it from becoming a giant agency. I've seen them established in the legislature in my first few years when I didn't really understand, to be honest with you, what they were doing and just how they were financing. At the time they're presented on the house floor, they tell you, "Well, this is just creating the agency, and then next year we'll appropriate the money." Lo and behold, here comes the first ballot for us to vote for the funds to set up this agency, and at the same time, it looks like they're setting up directors, assistant directors and attorneys, and they're putting in twenty and thirty thousand dollar salaries. So, at least it will have some minimum amount of control in that respect.

MR. ABRAHAM

John, when you spoke of the hundred thousand dollar limit, and you said that's exactly what the present law is today, well, now, is this the statutory law, or is this in the constitution that it's a hundred thousand dollar limit?

MR. ALARIO

I understand that to be the statutory limitation.

MR. ABRAHAM

What's that?

MR. ALARIO

Well, I'm informed it's in the constitution.

MR. ABRAHAM

Oh, it is in the constitution, now? It's not statutory? Could not it be handled by statutory law just as well, without having to write this type of thing into the constitution?

MR. ALARIO

Possibly. I think it. . .

MR. ABRAHAM

Don't you think it would be better to make it statutory?

MR. ALARIO

No, personally I think it's better here 'cause then it gives that protection that we're looking to guarantee, that there won't be any excessive amounts given in any particular agency.

MR. JENKINS

I think you have a good amendment, John. I want to ask you: Have you ever seen one of these mail ballots where something was rejected?

MR. ALARIO

No, Woody, I sure haven't.

MR. JENKINS

They always pass, don't they?

MR. ALARIO

In all fairness to the proponents of this section, Woody, I think the committee has strengthened that procedure in that they are providing for a two-thirds vote. In the past, it's been a simple majority. I have seen where one or two sections may have been in a little trouble had they required a two-thirds. But, at the same time, you and I know what type of politicking goes on in this type of procedure. If I'm interested in a particular appropriation for something in my area, and it looks like I might have trouble passing it, then I'll get on the telephone and have others call around to different Representatives and Senators. So, it's just a routine matter.

MR. JENKINS

One other thing, just a technical thing on your amendment. You say that--and I certainly agree with it--that no more than

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a hundred thousand dollars should be given to any agency during a given year. You know these things are also appropriated to political subdivisions. Do you think maybe you ought to put that in there too, so that it would not be in excess of a hundred thousand dollars to either to any agency or to any political subdivision?

MR. ALARIO

I wouldn't have any objection to you coming back with an amendment after. . .and clarifying that, Woody. I would prefer to adopt these two amendments, though, so we might move on.

MR. NEWTON

Mr. Alario, isn't it true that under the present law it takes a simple majority of the legislature voting on the mail ballot to approve these appropriations?

MR. ALARIO

That's right, Mr. Newton.

MR. NEWTON

Isn't it true that under this proposal it would take a two-thirds vote of the legislature?

MR. ALARIO

That's right, Mr. Newton.

MR. NEWTON

Now, isn't it also true that the city of Amite has just suffered a tornado damage--serious tornado damage--and isn't it true that they need an emergency appropriation of approximately a million dollars, and there's no way for them to get that now?

MR. ALARIO

Mr. Newton, I don't know the particulars of what the hurricane situation is in Amite. I can assure you, though, at this particular time in the year, as we go along, that depending. . .you would probably have to have your tornado strike sometime in early July to make sure that your city could get that whole amount, 'cause I can assure you all of that money is just about committed, now.

MR. BLAIR

Mr. Alario, the thing that worries me--and maybe correct me, I'm trying to find now--as far as state revenue is concerned, I think our last year's budget amounts to just approximately one billion, five hundred thousand dollars--five hundred million. Wouldn't you be cutting this a little short by dropping it down to one-twentieth?

MR. ALARIO

Senator, as I appreciate the section, we're talking about--when they say one-twentieth--we're talking about of the total budget which also would include federal revenues. . .

MR. BLAIR

I don't believe that you can count federal.

MR. ALARIO

It doesn't exclude federal revenues in this section.

MR. BLAIR

It says state revenue; I don't believe that includes federal. Anyway, I'm wondering, Mr. Chairman, if we could ask him to divide the question, if and when. . .

MR. ALARIO

Senator, it says "state revenue receipts," and the staff tells me the interpretation would mean receiving from the federal government. They were considering that it would include federal funds, and as I can recall in committee, that's exactly what they were trying to do.

MR. HAYES

Mr. Alario, this is an emergency board, I gather. Is that correct?

MR. ALARIO

That's the title given on it. I have other words for it, Mr. Hayes.

MR. HAYES

Then, how can we predetermine what the emergency is going to be and put it here in the constitution by. . .at some undetermined time?

MR. ALARIO

You and I can't predetermine what any emergency is going to be, Mr. Hayes. I can only look at what the past actions of this board has been.

MR. HAYES

Well, then, wouldn't it be better that if we were to leave this for the legislature or some other body to do since we don't know what an emergency would be; by fixing it in the constitution that it might be a hundred thousand dollars, when it might, in fact, be a million, like someone just said?

MR. ALARIO

I don't know.

MR. SCHMITT

What would happen in a situation, as happened in the past, with reference to the flooding of St. Bernard Parish, or flooding of Plaquemines Parish in which an emergency would be created and the National Guard would have to be called out? Would this hundred thousand dollar limitation apply in that case? In the future, wouldn't it require a constitutional amendment in order to increase this hundred thousand dollar limit?

MR. ALARIO

That's correct.

MR. SCHMITT

Wouldn't it be necessary, then, in order to have the money appropriated, to have a special session?

MR. ALARIO

I think there are other ways, Mr. Schmitt.

MR. SCHMITT

Well, according to what we have adopted, there won't be any other ways. Isn't the cost of a special session something like ten times this amount that you're talking about--in the ball park of a million dollars for the special session?

MR. ALARIO

Well, I'm sure you're not. . .well, it would seem to me what you're talking about also is an emergency that's not necessarily a hundred thousand dollars. It's probably ten times the hundred thousand dollars.

MR. SCHMITT

Okay, that's a million dollars, so you're going to call a special session for a million dollars so you can appropriate a million dollars? Isn't that a waste of money--fifty percent of your money?

MR. ALARIO

It would be, Mr. Schmitt, but I would think an agency of that type may also be allowed some deficit spending, in which the legislature would have no problem.

MR. SCHMITT

But, there is no deficit spending allowed under this constitution. It would be an unconstitutional act for them to go ahead and do that.

MR. ALARIO

That's correct, but I think they probably could get around it.

MR. LEBLEU

Mr. Alario, isn't it true that one hundred thousand dollars is the present limitation on it?

MR. ALARIO

That's correct.

MR. LEBLEU

In case of an emergency, these appropriations can be made by the Board of Liquidation to different agencies, such as the State Police and National Guard, the Department of Public Works?

MR. ALARIO

That's what I'm talking about when they can get around any particular problem, Mr. LeBleu. But, at least there's some limitation there.

MR. JENKINS

Isn't it true, Mr. Alario, that really rather than costing

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more money for the state, like some of the apparent opponents of this amendment have suggested, that this is going to save a lot of money for the state because it's going to make sure that you're dealing with smaller amounts of money, and that if you have to appropriate larger sums, that more scrutiny is going to have to be given to it during the regular session of the legislature?

MR. ALARIO

Woody, I think the past actions of the Board of Liquidation certainly prove out what you say.

Further Discussion

MR. ROEMER

Mr. Chairman and fellow delegates, I'd like to represent the wishes of the committee. It's clearly stated, here, in our Section No. 8. We'd like to ask you to vote against this amendment. What they're trying to do, here, I think, completely circumvents the whole intention of our rewriting of Section 8. Now, let me tell you what the problem is. When the legislature is in session, it's their right and their obligation to access the budgetary needs of this state and provide the monies needed to carry out that budget, as they see fit. We're not changing that at all. We also have in this constitution a prohibition against contingency financing. That is financing subject to something happening--that's a contingency finance. But, what we do in Section 8 is allow for the reasonable expenditure of money when there is an emergency --in other words, when the legislature is not in session. Now, this is a good provision; this is a good article, because inevitably, emergencies that were not reasonably anticipated do arise. Now, don't be fooled by the proponents of this amendment. Section 8, as we have written it, tightens up the old Board of Liquidation, and tightens it up very strongly. Let me point out what we have done. Not only have we, for the first time, put in there the provision that instead of a majority vote of the legislature, it will require a two-thirds vote of the legislature. We've also put the limitation in there that if this expenditure could have been reasonably anticipated by the legislature, it can't be made; and unless it's an emergency, it cannot be made. Now, I don't think this convention wants to go on record as denying a small fund for the legitimate expenditures to meet emergencies in this state. What this amendment would do, by limiting the expenditures to a hundred thousand dollars for any such emergency, is trying to tell us, in their wisdom, that we can define how great the emergency will be. We cannot do that. How can we sit here and say that the emergency won't be two hundred and fifteen thousand dollars, or it won't be three hundred and fifteen thousand dollars? We can't say that. Sure, there are emergencies that amount to only fifteen thousand or thirty thousand. But, I submit to you that for the own well-being of this state, we should be able to meet emergencies that are greater than a hundred thousand dollars. If you read Section 8 carefully, I think that you will find that we do have a limitation on the aggregate dollar amount. That limitation is one-tenth of one percent of the total state revenues. That amounts to something less or around two million dollars, in any one year, at the present state revenue level. As the state revenues grow, so will that grow. If we get to the three billion dollar stage in our budget, we'll have the three million dollars that we can spend. But, these are for legitimate emergency purposes, and when we try to limit and define an emergency as something a hundred thousand dollars or less, I just don't see how in good conscience, or good logic, or good planning we can foresee the dollar amount of emergency. I ask you to defeat these amendments and stick with the committee report. It's a good report in Section 8. It has been praised by not only the members of our committee, but by outside people who have studied this. For example, PAR, in their report of yesterday, one of the things that they praised most highly in our whole report was Section 8. If you know anything about PAR, you know one of their most vehement criticisms in the past has been against the Board of Liquidation. They praise our committee for straightening it out. I ask you to defeat these amendments and stick with us in straightening out the Board of Liquidation.

Questions

MR. LANIER

Mr. Roemer, what is an emergency?

MR. ROEMER

It can be a number of things--a natural catastrophe or an unnatural catastrophe. We debated, Walter, as you probably know, in our committee at some length in trying to come up with a definition of emergency. But, it's just like putting a

dollar limit on it. We couldn't possibly provide for all the kinds of emergencies. We decided that we could stick with the wisdom of these five, or now seven men and women in determining an emergency, number one. Number two, the two-thirds vote of the legislature would give some teeth, rather than a simple majority vote.

MR. LANIER

Well, wouldn't you admit that since the term "emergency" is not established by any fixed criteria, that this is, perhaps, the weak spot in the proposal, and the reason for the amendments being proposed is to protect in that type of a situation? Would you agree with that?

MR. ROEMER

Yes, I do. Let me point out two things, Walter, to you. On lines 26 and 27, it says "an amount to care for an emergency, which is an event or occurrence not reasonably anticipated by the legislature." I think that is some step. In addition to that, this amendment does not correct the flaw that you point out. It doesn't define emergency, either. All it does is arbitrarily say, "Well, at least no occurrence will be greater than a hundred thousand dollars." They don't correct what you point out. They just put an additional limitation on it.

MR. ANZALONE

Buddy, let's take the not so hypothetical situation of an agency that was created for--and I understand we have five people on this Interim Emergency Board-- for a brother-in-law of one of them, and they came up with a budget of, say, seventy-five, eighty thousand dollars, sixty-five of which was salary. The legislature decided, in its infinite wisdom, that they were only going to appropriate thirty thousand dollars for this. Well, of course, to keep the legislative auditor's brother-in-law in a happy job, or something like this, they go along with the proposition that all he needs is eighty-five thousand dollars, when three months later-- as Alario says, in July it's all promised--he comes back and he says, "Well, I told you all I didn't have enough money." They said, "Well, don't worry about it, because we've got the Interim Emergency Board." Would this be classified as an emergency, just because somebody ran short of money? It was heard by the Appropriations Committee; it was heard by the Finance Committee. They knew they were going to run short of money; they knew that they were not going to have enough, but, yet, your giving the Interim Emergency Board the authority to give them up to one million dollars, if they so decided?

MR. ROEMER

Well, I think you answered your own question. In no way, under lines 26 and 27 could that be interpreted as an emergency. I'll read you the line again. It says, "an event or occurrence not reasonably anticipated by the legislature." If the legislature created the agency, then they obviously knew it was going to need money to fund it. So, they had reasonably anticipated that. We discussed this specifically in our committee; it would not be an emergency. It's just a scare tactic.

MR. DUVAL

Buddy, you pointed this out, but I don't know if people are really cognizant of the fact that under the present law, it doesn't have to be an emergency, does it?

MR. ROEMER

That's exactly right. We have tightened it up.

MR. DUVAL

So, people can come around with little bits and pieces and just eat the fund to death under the present law; isn't that right?

MR. ROEMER

Exactly right. Let's don't undo what we've done here. I can tell you this, Mr. Duval: if we were talking about the old Board of Liquidation, I wouldn't want to put a million dollar limit on it or a hundred thousand dollar limit. I'd want to take it out altogether. But, we're not talking about the old way of doing business. We're talking about the new Louisiana, here, and the new way of doing business.

MR. STINSON

Under the new Louisiana, who's going to pass on whether it's an emergency or not? The board is set up, isn't it?

MR. ROEMER

Two bodies would pass on it. The Interim Board, number one, and the legislature is number two. It would take both, and the second one would be by two-thirds vote.

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MR. STINSON

Don't you know in the past it, supposedly, was supposed to be emergencies, but at least ninety-five percent of them were not.

MR. ROEMER

In the past, that's absolutely correct. I would say this, Mr. Stinson: in the future, they might try it again. But, we have tried, by that two-thirds vote, to let people like you who might be in the legislature have a chance to vote no and have it mean something.

MR. STINSON

In the past, usually, most of them were those that couldn't get it through the legislature and were afraid to even try. They used this as a means to prevail by calling around to the people to vote.

MR. ROEMER

That's right. In the past, that's absolutely been the case.

MR. CHAMPAGNE

I just wanted to further bring out this by asking you this question: We are still talking about two-thirds of the legislature permitting it. We are also talking about members of that legislature on this board saying that they agree to it. So, by what means do they think that they could possibly limit it in the legislature as a whole, if they get two-thirds to vote for it?

MR. ROEMER

Exactly. Somebody brought up a fact about an agency that was passed by a simple majority, and they're going to get the money by a two-thirds vote? That's ridiculous.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, I can't add too much to what Mr. Roemer has said, but I want to point out to you, very strenuously--and Mr. O'Neill, I want you to listen to this because you did ask this question after I had repeated it two or three times--this is going to absolutely cut out the creation of agencies without appropriations, and then coming to the Board of Liquidation and getting money. That will not happen anymore if we pass this proposal. It will stop the business of going around and fencing places to where that ever. . . as Senator Blair and a lot of us know that has happened in the past, where that we build fences out of the Board of Liquidation's money. That will not happen anymore if we pass this particular provision. As I see this particular provision, based upon my experience as a legislator, we possibly will be spending a lot less money from the Board of Liquidation than we have been spending--not more, less. I say this: whenever we expend the money this time, you can bet your bottom dollar it will be an emergency. Take the proposal and look at lines 25, 26, and 27, again, very carefully. I want you to read those lines. It says, "for an emergency which is an event or occurrence not reasonably anticipated by the legislature." There is no provision like that in the present law. I ask you to defeat the amendment.

Questions

MR. KEAN

Senator, as I appreciate this proposal, the Interim Emergency Board could borrow money for the purpose of meeting these emergency situations, could it not?

MR. DE BLIEUX

The Board of Liquidation can do that now, Mr. Kean. We did not take that provision out for this particular reason: if we have appropriated all the money that's in the general fund, that's the only place this money can come from. There's actually. . . suppose we have a hurricane or tornado, or something that destroys an area, and we need two or three hundred thousand dollars, and that amount of money is not in the state treasury at that particular time. The Board of Liquidation can borrow that money and use it for that particular emergency. That is. . . and this particular board. The Interim Emergency Board could borrow that amount of money. But, that money would have the first priority and claim on next year's revenue receipts, according to Paragraph (D) of this proposal.

MR. KEAN

Well, I'm not critical of its authority to borrow. I simply want to clarify whether or not, under Section 10, dealing with the State Bond Commission, the State Bond Commission would have to approve any borrowings that the Interim Board might undertake.

MR. DE BLIEUX

I don't think under this particular circumstance that it

would be necessary to do that, Mr. Kean. Now, I haven't compared the two provisions; I'm not sure about that. But, here's one thing about it: the State Bond Board and this particular board, it constitutes practically the same people.

MR. KEAN

Well, under Section 10 (B), it says "No bonds or other obligations shall be issued or sold by the state directly or through any state board, agency, or commission unless prior written approval of the State Bond Commission is obtained."

MR. DE BLIEUX

Well, this would not be bonds, in my opinion. This would probably be a note or obligation of the state, if they had to borrow money. But, we've never had to exercise that particular provision, in the past. I don't anticipate that it would be, but at least we. . . in the event that that emergency should come about, we have this particular provision.

MR. ROEMER

What about the case of some agency like the Atchafalaya Basin which went before the legislature to try to get some money, and they failed to get it? Could they come back before the general board and get it?

MR. DE BLIEUX

Not under this board, Mr. Roemer. They could not. No, sir.

MR. ROEMER

Not a bit, could they?

Further Discussion

MR. LOWE

Mr. Chairman, ladies and gentlemen of the convention, as you know, when we get involved in particular articles that many of us aren't familiar with, things get extremely confusing. I've experienced that the last few days with civil service, and I had a great deal of difficulty with that particular article because you want to vote properly. It's difficult to make a decision as to what is proper and what it not proper because the opponents can confuse the issue to such an extent. I'll tell you that this particular provision is a problem. No one likes to give the purse strings to anyone, and if we didn't have to give the purse strings to anyone, we would not. But, just reason with me for a moment now. When we set up an appropriation for the State of Louisiana, we do it for a twelve-month period. That appropriation says, line by line, item by item, what each expenditure will be for the next twelve months. When we get to the bottom for that agency, we can't say "contingency." This might happen in the next twelve months, so we're going to give you fifty thousand or a hundred thousand dollars. That is prohibited in the appropriation bill. There is no way that you can anticipate something that may happen. You have to say in the appropriation bill, we'll spend "X" dollars for salaries; we'll spend "X" dollars for office supplies; we'll spend "X" dollars for rent, and on and on and on. That's the way our appropriation bill that allocates the 1.5 billion dollars is set up. Now, . . . two billion; O.K., Senator Nunez. That's the way our two billion dollars is spent. Now, it's big business to try for the hundreds of agencies in the state to say exactly what each agency will spend during the next twelve months. There's no way that that can be done. You couldn't do that at your house, as familiar as you are with your expenditures, it would be impossible for you to set up a budget and not plan for contingencies. Now, I hope at this point we're convinced that we're going to have contingencies. There's no way we can get around it. I hope at this point that you agree that you don't want to say that we are going to allow this agency in the beginning of the year, fifty, or a hundred, two hundred thousand dollars for contingencies. If we do, what will happen? They'll spend it; they'll find a way to spend it. You know they will. Now, there's no other way, then. If we can't allow for contingencies, if that system won't work, and if we're going to put item by item what they will spend, and we're not going to leave any leeway, how do we take care of emergencies and contingencies? Well, your committee dealt with that long and hard because none of us liked the old board. We knew what happened in the old board. So, we questioned everyone that we could question, and we did what we thought was best for the State of Louisiana. I worked with the old board, and it upset me so bad until, anytime I got a mail ballot in the mail, I threw it in the garbage. I said, well, what's going to happen? The vote's already lined up, and it's going to be approved. But, we've done something here now, and we said that if the occurrence, the event or occurrence not reasonably anticipated by the legislature. That is good wording

because I've seen in my tenure in the legislature a person go before the Appropriation Committee and before the legislature and lose his battle to get funds, then come back during the course of the year and be able to get the funds as an emergency. I submit to you that any delegate in this convention can come before you and confuse you because this is an emotional thing--that we don't want to give the purse strings to anyone. I submit to you that this committee has done a good job, that they've questioned everyone that they can possibly question. If you want to support this committee and the work that they've done, and the diligence that they've had, not just because they are a committee, but because they've worked hard, and they've talked to people that you aren't able to talk to right now. I don't know of anyone that we could have talked to that we didn't talk to. So, I ask you to defeat Mr. Alario's amendment---I know he means well in wanting to take care of the affairs of the state--and adopt the committee proposal as is because the committee proposal as is, I submit to you, is better than the amendment.

Chairman Henry in the Chair
Question

MR. WEISS

Delegate Lowe, you made a very effective presentation, and I enjoyed it, but what is the objection to reducing the term "one-tenth" to "one-twentieth"?

MR. LOWE

Well, you know, we could get to playing with figures, Dr. Weiss, and we could say what's wrong with reducing it to one-thirtieth, and I couldn't tell you that except that the safeguards of a two-thirds vote by the legislature, the safeguards of the vote that we have by the board, and the safeguards of the fact that which is an event or occurrence not reasonably anticipated by the legislature, builds in enough safeguards for us to provide a fund to meet emergencies. There are going to be emergencies. This convention would have had to shut down if we had not been able to go and get ninety thousand dollars. No one was able to anticipate what would happen in this convention. We went before the board last year, and I submit to you that we spent our money wisely.

[Previous Question ordered.]

Closing

MR. NUNEZ

Mr. Chairman and ladies and gentlemen of the convention, first let me say that the people who oppose this on the committee would make you believe that the committee is just composed of them. I'm a member of that committee, and so is Mr. Alario, and so is a lot of other people. If you know the history of a committee, and you know that the vote that we just made yesterday and the day before yesterday at those noon hour recesses we took to get the delegate proposals, it was just historical that all the votes were 9-9, 10-10, 11-11, and I'm telling you, it's been that way the whole time. So, don't say "the committee, the committee, the committee," because there were two committees. I don't want to dwell on that. I want to get to the meat of...the heart of what we're doing. Absolutely right, absolutely right that this is an improvement on what we had in the past. It's a tremendous improvement, and P A R is absolutely right. But, don't think that we don't, give us the opportunity to improve an improvement. Believe me, what we are doing is trying to improve on what the committee has improved upon. I believe if P A R had the opportunity after we adopt this amendment, to rewrite their analysis, they would say that the convention proposal is better than the committee proposal because what we are doing is absolutely improving upon this committee proposal. We're not changing any of the good improvements they've put in the Board of Liquidation. We're just adding two additional improvements: number one, we're limiting the amount of spending to a hundred dollars, a thousand dollars for an emergency; number two, we're limiting the total amount of dollars that they have. This is comparable to what is in the present constitution. The state budget is rising at a tremendous rate. You're putting it on a percentage factor--one-tenth of the total state budget. That's one or two billion dollars, two million dollars. In five years from now that state budget might be three billion. We just cut that down to get it comparable to what it is today. We just left a hundred thousand dollars because we thought it was adequate. It's a safeguard; it's a protection. I can tell you about the abuses that have gone on in the past, but I think you know about them.

In the past ten years--and I talked to many legislators here--they rarely voted on these things unless the legislator who went before the Board of Liquidation called them, or unless I called. Out of the fifteen or twenty proposals we get each week or each month or each three months, you can bet maybe one of them was a real emergency. All this business about hurricanes, I'm from the hurricane area. The state doesn't appropriate money to us as hurricanes. They don't rebuild our buildings; they don't rebuild our levees; they don't rebuild any of that. That's all for the fact, that's all for the National Guard, the State Police and the other state agencies that are involved in that. I've never got an appropriation, and I've been ravaged twice. We have never got an appropriation from the state through the Board of Liquidation or from anywhere else. So, don't be lured into the fact that this is...if we don't have this, we're going to leave cities and towns, and that without water, and without etc. It's not true. I'm telling you that we are improving tremendously on a good proposal. Personally, I would probably like to see this out of the constitution, and to deal with it in some other way. I believe P A R would also. But, the fact of the matter that it's here, and the fact of the matter is that we've done a tremendous amount of improving. So, what's so wrong with us trying to do additional improving? You know, when they first put this in the constitution--a million dollars--they would have tried to get a lot more, and I'm sure during the past history you heard Mr. LeBleu mention the fact that they've tried to raise it legislatively, and the legislature turned them down each time. Now, these are legislators that vote on this, and I can tell you, every time there's a vote, somebody's on that phone calling legislators, "vote for this, we need another vote." It will be the same way with the two-thirds. You don't have benefit of debate, and that's the big problem where I look at this. There's no benefit of debate; there's no presentation. You don't get two sides to a story. All you get is a piece of paper saying ten thousand dollars to this agency, twenty thousand dollars to this group, forty thousand dollars to this group. What it's for? What it's about? Certainly, four or five men now can declare the emergency, and I think it's better. But, I think the real safeguard in a democracy and a legislative body is the benefit of debate, which you're getting right here on this particular article--benefit of debate. Is that wrong? Should we not have that?

Certainly, we should. We're trying to do something that I think was a good article, and improve it. I resent, certainly, the fact as a member of the committee, that we can't even touch this. But, I think we'd done it to...

But, I'm telling you I think we've got a good idea here. I think we're trying to do something that would improve upon a good article, and I ask you to go along with it.

MR. HENRY

You've exceeded your time.

MR. NUNEZ

There's another provision in there that says that doesn't need...

MR. HENRY

You've exceeded your time, Senator.

[Record vote ordered. Division of the Question ordered. Amendment No. 1 reread and rejected: 49-50. Motion to table reconsideration adopted: 51-47. Record vote ordered. Amendment No. 2 reread and rejected: 45-56. Motion to reconsider tabled. Previous Question ordered on the Section. Section adopted: 95-5. Motion to reconsider tabled. Motion to revert to Section 4 adopted without objection.]

Motion

MR. ROEMER

Mr. Chairman, I'd like to ask the delegates to turn to Section 4 in their CP-15, and listen to a motion I have. I'd like to move for a suspension of the rules for the purpose of considering this Section 4 of our Committee Proposal No. 15, lettered paragraph by lettered paragraph, with a view that all the rules and precedents of the convention applicable to the section, by section consideration of proposals, shall be applicable to the consideration of each proposed lettered paragraph of Section 4. That's my motion. I'll explain it if it's in order.

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Point of Order

MR. CHAMPAGNE

A point of order: is there any explanation of why we want to do this?

MR. HENRY

A motion to suspend the rules is not in order. I assume that why the gentleman wants to do it is because there are so many amendments, but I don't know.

Point of Order

MR. JACK

I want to ask this point of order--I'm against suspending the rules--but, if they are suspended, then we don't get to say anything, and we go that section by section. You need sixty-seven votes for each section..for each paragraph, I mean?

MR. HENRY

You would need sixty-seven votes to adopt each paragraph, sir; that's correct.

MR. JACK

In other words, that's to knock us down that's got amendments.

MR. HENRY

Mr. Jack, now, you're not going to discuss the thing right now.

The gentleman has made the motion...

You certainly can discuss each of the lettered paragraphs; they'll be open for debate, questions and amended and so forth.

Point of Information

MR. AVANT

Just want to be sure, even though we adopted a lettered paragraph, and then it was laid on the table, we've still got to come back even though we go through this procedure and adopt the section by sixty-seven votes; do we not?

MR. HENRY

That's correct.

Point of Information

MR. O'NEILL

Mr. Chairman, if we don't suspend the rules, we will consider amendments, though, paragraph by paragraph, as we normally do.

MR. HENRY

Well, then, I would assume we would do it as we've been doing so far.

Point of Information

MR. JENKINS

I have two amendments: one to (A), and one to (E), to create a new (E). But, I wouldn't offer the one to (A), if the one to (E) passes. Am I going to be able to come back and offer something to (A) after (E)?

MR. HENRY

If the rules are not suspended, and we debate this as a section rather than as subparagraphs or lettered paragraphs, you would be. Otherwise, you would not be.

[Motion to suspend the rules rejected: 33-55. Motion to waive reading of Section 4 adopted without objection.]

Explanation

MR. ALARIO

Mr. Chairman, members of the committee, Section 4 deals with income taxes, taxes on natural resources, prohibition on political subdivisions of certain taxes, including severance taxes, income taxes, taxes on motor fuel. It also deals with the distribution of some of the funds arrived with from the severance tax--that's Section (D). If you would bear with me, I will just go ahead with the highlights of what the committee's thoughts were generally on these particular sections, and I know we have a number of amendments up before the convention to come on Section 4 and the various

sections. I thought maybe we might just go ahead and proceed with the amendments Section (A) through (D), as we normally do. Section (A) deals with the income tax; takes out the present rates that are referred to in the constitution for income taxes. It does, however, limit the tax on personal income of ten thousand dollars for single persons, and twenty thousand dollars for joint returns to the present limitation of two percent. It does not mention any of the rates for incomes above that amount. Section (B) has to do with the taxes on natural resources severed from the soil or water, and it says that no further additional tax or license shall be levied or imposed upon gas or sulphur or oil, other than the severance at the place of severance. Section (C) deals with the prohibition of local governments levying severance taxes. It also prohibits them from levying income taxes and the committee felt strongly, I think with the exception of maybe one or two, that income taxes should be reserved for the state, and not for any of the political subdivisions. Section (D) tracks the present constitution, also as far as the distribution of funds, from the severance tax. I know there are several amendments, or one particular amendment up you might want to consider when the time comes.

Questions

MR. ABRAHAM

John, what was the thinking of the committee in leaving the base rate in for the personal income tax?

MR. ALARIO

Mack, the feeling of the members of the committee--now, I might go back a little bit with you and tell you that we had several discussions, and rather heated discussions on the rates on income taxes. Some members of the committee felt no rates should be included. Some had felt, at one point, that we should exclude all rates. Some felt that we should include them just as they presently are. At one point, we had passed in our committee an amendment that said that no incomes up to ten thousand for single and twenty thousand for joint returns would be taxed, and that passed. We came backward on reconsideration and put in this particular feature, keeping the rates lower for the lower income brackets--or what we figured were the lower income brackets--in order that we might protect what normally we consider the wage earner in this state, so that he wouldn't have to worry about the rates going up on him. It's merely a compromise to which...

MR. O'NEILL

John, my question was along those lines, but I wanted to specifically ask why the levels of income taxes for higher incomes were not included. It doesn't seem to make much sense to me to include one and then not include the rest of the scale.

MR. ALARIO

Gary, again, I'll say that it was a compromise worked out by the committee in order to satisfy all sides. There were those who felt by including the larger incomes, that you would be protecting those who are better able to pay and limiting them to four or six percent on income taxes where possibly they should be paying a little more, if the legislature so desires, and of course, by a two-thirds vote of the legislature. That provision's still retained.

MR. TOOMY

Mr. Alario, where you have the two percent limitation on the ten and twenty thousand dollars, you're referring here to taxable income. I believe the present law is "net income". Is it your understanding that the committee meant to change that to taxable income?

MR. ALARIO

No...we didn't mean to change it, Joe. We meant to keep the same percentage as presently exists.

Amendment

MR. POYNTER

Amendments sent up by Mr. Kean read as follows--the Kean amendment: Amendment No. 1. On page 2, delete lines 3, 4 and 5 in their entirety and insert in lieu thereof the following: "and joint income tax schedule of rates shall never exceed the rates presently set forth in Title 47, Section 32 of the Louisiana Revised Statutes."

Explanation

MR. KEAN

Mr. Chairman, fellow delegates, if you'll look at page 2,

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of the Committee Proposal No. 15, you'll find that my amendment is only applicable to individual and joint income tax returns. The background of the amendment is that at the time the Louisiana income tax was originally approved in 1934, the legislature adopted Act 339 of that year, and subsequently in that year, an amendment to the constitution was approved which, not only validated the provisions of Act 339 of 1934, but provided that the schedule of rates applicable with respect to the income tax should not at any time exceed the schedule of rates which was set forth in Act 339 of 1934. Now, those rates were as follows: two percent on the first ten thousand of an individual, four percent on the next forty thousand of the net income, and six percent on any amount of net income in excess of fifty thousand dollars. My amendment would simply provide, that with respect to the state individual and joint income tax schedules, that the rates authorized by this provision would not exceed the rates which are presently in effect under the provisions of Title 47, Section 32 of the Louisiana Revised Statutes, which is the present schedule of rates, and it follows from Act 339 of 1934. My amendment does not place any limitation upon the percentage with respect to corporate income tax which was the case under the 1934 provision. My amendment is limited solely and simply to the individual and joint income tax and would be retained, in effect, the rates which have been in effect since 1934. Now, you might ask, well, why should those rates be retained? There is no limitation insofar as the federal income tax is concerned. I think that the redactors, the people who put this in the constitution in the first place, felt that we should not leave it open insofar as the state income tax was concerned, and then have two income tax structures which could compete one with the other insofar as individual income taxation was concerned. I say to you that this, as is now proposed by the committee, leaves the two percent on the first ten and twenty, but creates open season on those above. I think it ought to be obvious to the members of this delegation that, as inflation continues and income rises, that it will not be unusual at all for even the working man to be outside of the ten thousand individual and the twenty thousand joint. I think this offers to that person a protection which they have enjoyed since 1934; it prevents rates from going up in competition with federal rates. Under the circumstances, I ask your favorable consideration of the amendment to put back in the individual tax limitations that have been in force in this state since 1934 and ought to be continued. Otherwise, I think we have put into this constitution a built-in means by which tax increase can occur in the state individual income tax field, and I don't believe that's what the voters sent us here to do.

I'll be glad to answer any questions.

Questions

MR. BOLLINGER

Mr. Kean, to amend the limitations would take a constitutional amendment?

MR. KEAN

Yes, sir.

MR. BOLLINGER

You say this limitation would apply to individual income taxes, and there would be no constitutional limitation on corporate income tax; is that correct?

MR. KEAN

That's correct.

MR. BOLLINGER

Why the distinction?

MR. KEAN

I simply felt that we wanted to take what we could to protect the individual insofar as the tax return was concerned, Mr. Bollinger, and if somebody wants to offer a further amendment to continue the limitation insofar as corporations are concerned, I'd be willing to support it. But, I felt it was more important to deal with the individual tax than it was to be concerned with the corporations.

MR. JUNEAU

Mr. Kean, the philosophy of your amendment is consistent with what we did in property tax, that is: to assure the individual people of this state that they would know that they would have some limitations in taxation in those two fields; isn't that right?

MR. KEAN

That's correct, Mr. Juneau. As I appreciate it, this is a limitation which the individual taxpayers have enjoyed since the time the Louisiana income tax was approved. I assume it was a selling point at that time for the constitutional amendment that authorized the income tax, and I think if we take it off, we're taking something away from the individuals of this state who pay income tax that they've enjoyed for many years and ought to continue to have.

MR. JUNEAU

If you take it off, you would logically be telling a substantial number of the citizens of this state that it's open season in taxation in the field of income tax; wouldn't you?

MR. KEAN

In my opinion, you will. Yes, sir.

MR. ASSEFF

Mr. Kean, why do you follow this approach rather than stating specifically the rates here?

MR. KEAN

Dr. Asseff, I simply followed the approach that was used in 1934 in the 1921 Constitution.

MR. CHAMPAGNE

Mr. Kean, on yesterday on the three dollar license, I admitted it...would I be right in assuming that possibly what you mean here is that the individuals vote but the corporations do not?

MR. KEAN

No, sir. I had no thought in that regard, Mr. Champagne. I simply think that when we're dealing with the individual income tax return that it's more important to give to the individuals the continued protection that they've had than it would be to the corporations. They can take care of themselves.

MR. BURSON

Mr. Kean, do you share my belief here that nothing we could do here would align the voters more than anything that we would do to create the prospect of an increase in income taxation?

MR. KEAN

Mr. Burson, I don't know about the voters, but it alarms me.

MR. BURSON

That was going to be my next question. Did you know that it alarms me, too?

MR. AVANT

Gordon, I want to make sure that I understand the thrust of your amendment. If your amendment is passed, then the rate of individual income taxation that is in the present law of the State of Louisiana is frozen, and to raise income taxation on individuals beyond that would require a constitutional amendment?

MR. KEAN

That's correct.

Mr. Avant

That's just for the record.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, I would very much like it if we could pass a provision here and state that we would have government without taxation because that seems to be what we want. But, you know and I know that you cannot operate a government without revenues. The only reason in the world that the federal tax exemption was taken off in 1970 was the fact that that was the only way that we could get enough money at that particular time to operate the government. Now, we are passing provisions in this constitution limiting the legislature upon being able to operate this government to the point to where we are not going to be able to provide the type of government which is going to be demanded by the people. I know some of you are running for office, but when you get in that legislature and you have to try to find the finances to meet the demands of your constituents, you're going to have to look hard and long with the provisions we're locking into this constitution. At the present time, we have a dwindling resource that we're

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getting a large portion of our revenues out of oil and gas. In a few years that won't be there. The state's going to have to look elsewhere for money. Where are you going to find it? Where are you going to find it because we've put too many limitations in this constitution? I just feel like that we, instead of doing the state a service, we're going to be a disservice, and particularly, if we adopt an amendment of this particular kind. We should leave the taxing authority to the legislature. Those people are elected every four years, and they've got to face the people. They know what they've got to do in order to meet the demands of the people. Let's don't hamstring them where they can't operate, and putting a provision like this in the constitution, does just exactly that. You'll make it to where a legislature won't...he won't have too many problems because you've taken them all and solved them for him. This is not the place to try to solve the future problems of government. I ask you in all good conscience if you're going to do the job which we are sent here to do, let's vote down this amendment. It's not good for the state. It might be good for some upper echelon taxpayers, but it's not good for the State of Louisiana.

Questions

MR. WEISS

Senator De Blieux, in the deliberations in your committee, could you tell us what the policies of the other states are percentage-wise on state taxes in regards to corporations and individuals?

MR. DE BLIEUX

They're not...those rates are not placed in the constitution of other states, Dr. Weiss. That's what we're trying to do--put the rates in the constitution. That's bad constitutional law; it's bad policy; and it's bad anyway you look at it.

MR. CHATELAIN

Senator De Blieux, isn't it a fact that a power to tax is a power to destroy?

MR. DE BLIEUX

Certainly, it is.

MR. CHATELAIN

Isn't it also a fact, sir, that somewhere along the lines that the taxpaying citizens of this state are going to have to be looked out for by someone, either this constitution or someone else?

MR. DE BLIEUX

Yes, sir, Mr. Chatelain. Let me tell you this: it's pretty doggone tough to get a tax through the legislature. Those legislators are just as responsible as we are. That's the thing that I objected to--to think we're the only responsible people in the state.

Further Discussion

MR. GRAVEL

Mr. Chairman and ladies and gentlemen of the convention, I speak in opposition to the proposed amendment. I don't think that there's a whole lot that I can say in addition to what has already been said by Senator De Blieux. This amendment, very frankly, just affords tax protection for the affluent. I don't think that we should hamstring the constitution, even though there is a similar provision in the present constitution, by putting a schedule here that is absolutely unrealistic, and in my judgment, may very well work to the disadvantage of most of the people of the State of Louisiana in the future. The only generalized kind of taxes that seem to hit almost everybody are the sales taxes and the income taxes. Now, it just seems to me that the choice here is relatively clear. Are we going to provide an opportunity for the legislatures of the future to levy fair taxes on those who are most able to pay, or are we going to limit the activities of the legislature in the taxing field to require that taxes be imposed upon the poor and those who are less able to pay? I submit to you that that is the primary central consideration that you should keep in mind in considering this proposed amendment. I ask that you defeat it because I do think this is an area that the legislature can act in responsibly and sensibly, and that the legislature should be permitted to do so.

Questions

MR. CHATELAIN

Mr. Gravel, you made a statement that this is an amendment directed in the direction of the affluent.

MR. GRAVEL

That's correct, sir.

MR. CHATELAIN

Sir, would you tell me whether or not a hardworking man who's out working every day of his life and earns ten thousand dollars a year--he has a wife and one child, and he pays fifty dollars state income tax--is he an affluent person, sir?

MR. GRAVEL

No, not necessarily. I wouldn't think so.

MR. JENKINS

Camille, now you talked about fairness. Now, I want to raise for you some statistics, and these were given from Mr. Edwin Cohen, the Under Secretary of the Treasury, in 1972, testifying in Congress. He said this: "Those people who make more than fifteen thousand dollars a year in this country comprise about thirteen percent of all those who filed federal income tax returns, and yet, that thirteen percent of the people"--those who make more than fifteen thousand dollars--"pay more than fifty percent of all the federal income taxes." Now, do you think that's fair?

MR. GRAVEL

Well, I don't know whether you're talking about the aggregate amount of payment or the percentage of payments.

MR. JENKINS

No, I'm saying that they paid more than half of all federal income taxes. More than half of all the money that the federal government gets in federal income taxes is paid by those who make more than fifteen thousand dollars a year, the upper thirteen percent of those who filed tax returns.

MR. GRAVEL

Well, let me just say this: I believe that people who earn a substantial amount of money should pay substantial taxes.

MR. JENKINS

But, don't they already?

MR. GRAVEL

Sometimes they do, and sometimes they don't. There are instances of people who have made substantial amounts of money in the last two or three years who pay very little income tax.

MR. JENKINS

But, despite those isolated instances, isn't it true that on the average those who make, say, over fifteen thousand dollars pay far more than their share of the taxes?

MR. GRAVEL

I don't agree with that. I think that the benefits, the loopholes, the exemptions, all benefit the affluent...generally, benefit the affluent.

MR. JENKINS

One other point I'd like to ask you. Mr. Cohen also said that "the bottom half of all those who pay taxes"--the bottom fifty percent of all taxpayers who file tax returns in this country--"pay less than ten percent of all federal taxes." In other words, half of the people are paying ten percent. Do you think that's fair?

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, I've heard people get up here since July the fifth and talk for the little man until they were blue in the face. But, I haven't heard anybody get up here and speak for the average middle class citizen in this whole question of taxes, who's the man who pays all the income tax. Let's not kid ourselves. The federal tax system in the intricate mish-mash of exemptions and exclusions offers to those who have the means to hire adequate legal and accounting talent numerous ways to avoid paying taxes. The poor don't pay any taxes, and it's continuing to be developed an intricate system of welfare, food stamps, and other means of taking care of these people, and that's all right with me. But, the middle income man who depends on earned income, rather than income from property or income from trust funds that his grandfather may have set up....Have you

ever noticed how most of the people in Congress who are most liberal in their ideas about how to spend your money are people who usually have had a trust fund set up for them by a grandfather that made his in the free enterprise system. I submit to you that if you go out on the streets in this state today, you're not going to find people complaining much, if any, about the property tax that they pay in the State of Louisiana, but I guarantee you you'll find loads of people complaining about the income tax that they have to pay to the federal government and to the state government. I submit to you that anything that we would do to create the slightest suspicion on the part of that man that he had an income tax increase in prospect for him in the future could defeat this constitution faster than anything I know. Let's do something, for a change, for the man in the middle--the average hardworking man who pays the bills in our society--and let's support this Kean amendment and insure him that, at least in the area of state income tax, that he won't have a tax on his earned income to the point that utterly deprives him of initiative to get out and progress in his business and to do well and, coincidentally, to help our society do well. I urge in the strongest possible terms your support of the Kean amendment.

Questions

MR. WILLIS

Mr. Burson, did not, very recently, in the space of ten days that there was a particular tax known as the severance tax--tripled?

MR. BURSON

That's correct.

MR. WILLIS

Isn't it a fact that the guardian angel of a barricade against increased income tax is only up to ten and, for two, twenty thousand, here?

MR. BURSON

I didn't understand your question.

MR. WILLIS

Isn't it a fact that the purpose of putting a barricade against the legislature or any ruler, or any of the branches of government, is properly in the constitution?

MR. BURSON

Absolutely.

MR. WILLIS

And that the barricade should not be partial. That it should be complete and whole?

MR. BURSON

As far as I'm concerned, it definitely should. I don't see why the committee proposal has a barrier with regard to certain categories of income and not to others. That seems to me grossly inequitable.

MR. WILLIS

That's the thrust of my question. Isn't it a fact that if we leave it wide open and we get the same treatment on income taxes as we got on severance taxes, that we destroy initiative?

MR. BURSON

No question about it, and I think, frankly, when you boil it all down, when you talked about property taxes, you're talking about a once a year tax. When we talk about income tax, we're talking about something that affects everybody in his left back pocket once a month in most cases, or twice a month, whenever he gets paid.

Further Discussion

MR. LOWE

Mr. Chairman, ladies and gentlemen of the convention, I really believe that Mr. Kean's amendment is about three times as bad as the committee proposal. The reason why I believe that is the committee proposal locks in the two percent, and Mr. Kean locks in the four percent and the six percent. He just locks in everything. Now, I know we can sit here and do what we think is best for the State of Louisiana. When we start dealing with the finances of the state, we're dealing with something that's highly complicated and sophisticated today, and I don't know how complicated and sophisticated they're going to get some period from now. Now, let me tell you what we're doing. I hear Delegate Burson get up here, and he's well-meaning in what he says. He's concerned about earned

income--the people that go out and with their hands and with their brain produce income by exerting a great deal of effort. Well, if he's concerned about those people, by being for this particular amendment, he's locking in once and for all the ability to be able to do something for them. Now, the federal tax law recognized the same problem that Mr. Burson recognizes, and the federal tax law has built into it a minimum tax. You only pay a minimum amount of tax on earned income, and that makes sense. That makes a great deal of sense to me. Then I have a man that comes to me that has nothing but earned income; he might save five, six, seven, eight, nine, ten thousand dollars in taxes, as opposed to a man that's sitting back and drawing interest and dividends. Now, I don't think that we can deal with every situation and put a percentage on it--not today, not fifty years from now, and not a hundred years from now. It's impossible. By Mr. Burson's own admission, I think that he said that, and by Mr. Burson's own admission, I think that he said that if you vote for this, you are once and for all going to prohibit us from taking a look at the highly sophisticated complicated tax system that's built into our economy on the federal and the state level. You're doing something else by doing what you're doing here today. We have a highly complicated tax collection system in the State of Louisiana, and some states have already seen fit to say that their state would take the taxable income for the federal return and take "X" percent times that figure. I don't know if that's good or that's bad. It may be good today, and it may not be good today. It may be good twenty years from now. By doing that, you've taken out all of the confusion on the state level. Once you've gotten your federal taxable income, all you have to do is take a percentage of it. You've done away with your problems of having to go out and enforce collection because once the federal collects it, the federal already exchanges information with the state. If they go out and find a tax deficiency, they notify the state. So, we can get extremely simple in that particular area. It can be simplified very easily. By building in tax rates based upon certain amounts of taxable income, it's impossible to use that avenue. Now, there are people that make a great deal of income, and because the people that administer the tax laws and say what the deductions are and how certain income is taxed, some of those people don't pay a great deal of tax. The federal government also recognized that. So, the federal government came up with a preference tax. Even if you paid no tax at all on taxable income because you had none, you were still required to pay a ten percent tax on certain deductions such as interest, on certain deductions such as the fifty percent capital gain. Now maybe the state will have to go into that someday. We cannot take something complicated and try to make it simple; it's going to get more complicated as years go by. Let's leave this flexibility to the legislature, and I'm sure they'll handle it wisely. I hope you defeat this amendment.

Further Discussion

MR. JUNEAU

Mr. Chairman and fellow delegates, I'll make the remarks very brief. It seems to me that Mr. Kean has a good amendment for this reason. If you don't adopt this amendment, it seems to me that--it's not a question of suspicion--you might as well say that it's going to be open duck season the next session of the legislature. Once the people of this state who earn a living--and it's very easy at this day and time, as you well know, for one individual to earn over ten thousand dollars; that's not very hard to do. You're going to tell the individual who works and tries to better himself that we're not going to give you the protection that you've had in the 1930's, but we are going to subject you to the duck season every time the legislature needs money. It's going to be a very easy thing to vote for politically. It seems to me the two areas we're talking about is property taxation and income tax, is the two areas in this state where an individual is going to draw that tax dollar, and he's going to write it out of his checkbook or pay cash for it. You tell the people of this state who make a living--we've had it since 1930, but we're going to give this limit to "X" amount of dollars--that you're over that. If we're going to start looking for revenue, guess where it's coming from. I just think that that's a poor policy. I think we should follow and be consistent with what we did in the property taxation section and leave the limitations which I think are necessary.

Questions

MS. ZERVIGNO

Mr. Juneau, you say if we don't have these limitations when the legislature is looking for more money to run government, it

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will come out of the income tax. Suppose we do put in all these limitations and the severance tax declines, as we understand it's declining at present, where is the money going to come from to run government?

MR. JUNEAU

I would seek, Mrs. Zervigon, personally, to go to other modes of taxation rather than to go through the modes of the income tax and through property tax to achieve that.

MS. ZERVIGON

Well, Mr Juneau, as I understand it, there are three main sources of taxes, and every other kind of tax is some kind of a form of these three taxes--one is ad valorem tax, a tax on the value of something; one is income tax, that's the money coming in; and one is sales tax, that's the money going out. The value added tax is just a sales tax, and a wage tax is just an income tax, and that sort of thing. So, if you're limited to property tax for the state to five and three quarter mills to these certain specific percentages that we have--and we do that up to the limit in sales tax, I think you would agree; we're as high as any state in the nation--and you also put this limit on income tax, where is state government going to get its money. You don't even leave them the freedom to soak the rich. You know you could have it so that you could soak the rich granddaddy folks like me; it's okay. I don't mind, but you don't even leave the legislature the freedom to soak the rich.

MR. JUNEAU

I think that through your uses and your sales taxes and your corporation taxes you can achieve that end, Mrs. Zervigon. I might further submit, Mrs. Zervigon, it was not to my knowledge until this administration where we made drastic changes in the collection of what is now collectible in this state, and we're now achieving tremendous sources of income that were on the books but were never collected. I don't think that the full source of the income tax under its present system has even been tapped in this state.

MRS. ZERVIGON

You think, as the severance tax declines, this will be sufficient to give the citizens of the State of Louisiana the services to which they've become accustomed?

MR. JUNEAU

I said that I thought there were other sources through the uses and sales taxes, corporation taxes, to get the revenues that would make up for the severance tax, which is a depleting source.

DR. WEISS

Delegate Juneau, could you help me understand this? On a hypothetical question that twenty years from now, if this floor amendment of Mr. Kean passes, and the people of Louisiana need funds to run their state government--we've run out of gas now, the natural gas situation declining--which would the people of Louisiana vote for to eliminate: the license plate tax or the rate of tax on individuals? In other words, to increase their license plate tax or to increase their rate of tax on themselves?

MR. JUNEAU

You're asking me to speculate what the people would do twenty years from now? I have no idea what they'd do, Dr. Weiss, I really don't know. If the vote of this convention is indicated, they certainly wouldn't vote against a three dollar license plate, I'll put it that way. I might add in answer to your question, this very convention has decided --Senator De Blieux argued on this point-- if you wanted a source of revenue, you just went... yesterday... to lock in the three dollar license plate which was a typical point to, or ideal point to get revenue for this state, and if you had wanted to get it to the rich who bought a... or someone who bought a new Cadillac or a Buick every two years, you could have gotten it right there, but we decided not to do that.

Further Discussion

MR. CHAMPAGNE

Mr. Chairman, ladies and gentlemen, my only reason in getting up here is because I really don't like to be on the winning side all of the time. Now, the reason I'm here is to oppose this amendment. It's really somewhat of a mystery to me that some of you can sit out there and vote against the three dollar license in the constitution, then the next day you come up here and you want to include all of these limitations on the income tax. Now, this committee proposal is a compromise, it is between those who wanted to put in all the schedule

and those who didn't want a schedule at all. Frankly, I personally voted for this proposal because I thought that we were going to provide for the lower income people of this state between ten and twenty thousand in the case of a joint return that most of us do file on, twenty thousand a year. I personally feel that those people in that category probably should get some limitation, but frankly, I simply cannot understand that the way some of these people vote one day against a limitation that brings peanuts in the treasury, the three dollar license or ten dollar license or twenty dollar license, when this brings a big amount of money, and frankly, I feel that if there's anybody, and I'll make this statement to anybody, that if they make it, I think it's a good thing; you pay for it. But, when that three dollar license, you pay that, whether you can afford the automobile hardly at all; you pay it and

if you pay thirty, you might not be able to afford to drive it, but we're not arguing that point, but simply that... the reason I mentioned this is I cannot understand the consistency of these things. I feel that people who make money deserve to pay money. I feel that this State of Louisiana is one of the lowest in the United States on income tax, that I think it's a good place, if we ever need the money, to allow the legislature to raise it. If we don't put these limitations in here, then they won't have to take away your federal income tax off of your state which they did a couple of years or a year ago and allow a lot more revenue to the state than a little slight increase in percentage would allow. This increase was set some thirty or forty years ago, and now we're going to this percentage; and now we want to lock it in the constitution on all categories for the next fifty years. I think that's unjust and really, I think, reasonable people would understand that. Thank you.

Questions

MRS. WARREN

Mr. Champagne, I'm sorry to have to ask you this; I tried to get recognition when Mr. Kean was up there. In this it says "set forth in Title 47, Section 32 of the Louisiana Revised Statutes." Now, everybody else in here might know that, and if I'm ignorant I'm not going to apologize. Would you tell me what's in that Section 47... Title 47, Section 32 because I'd like to know before I vote on it.

MR. CHAMPAGNE

Yes, that's two percent, ten to twenty thousand joint return and then they go to fifty thousand and they can pay four percent. Then when you get above that, they might even charge you six percent. That's what is in there.

MRS. WARREN

Thank you.

MR. WEISS

Delegate Champagne, let me just clarify my reasoning because yesterday you were so honest about this you said that the license plate matter should not be in the constitution and that issue passed.

MR. CHAMPAGNE

Correct.

MR. WEISS

You're now saying that this issue should not be in the constitution, therefore, we in effect, should really put it in?

MR. CHAMPAGNE

Frankly, what I'm saying, Dr. Weiss, if you'd listen very carefully, is that the whole thing should not be in there. The... and you wait and see what I'm going to vote on the committee: two percent. In other words, that is the objection, the two percent is, it's a compromise, the lower limit and frankly, I was trying to get Mr. Kean to say that, but he wouldn't. I'm admitting that this is most of the people we're appealing to, the two percent--ten to twenty; I'm very frank on it. In other words, I didn't admit it maybe the first day, but I admit now that most of us here are politicians.

MR. BURSON

Mr. Champagne, I have a hard time understanding the philosophy that motivates your remarks. Do you think that it's immoral for people who make more than twenty thousand dollars to get to keep some of the money they make after they pay the bills for the rest of the people on supporting the society?

MR. CHAMPAGNE

No, I wouldn't take it all, Mr. Burson, because I wouldn't even have any left if I make that much.

Further Discussion

MR. JENKINS

Mr. Chairman, you know if there's anything that there are a lot of misconceptions about it's taxation. We constantly hear that taxes are so low in Louisiana. Well, that's just not true. Take the income tax, for example; a large number of states in this union don't even have an income tax. Most southern states don't have an income tax. Our sister states surrounding us don't have a personal income tax. So, don't talk about how good our income taxes are. Our overall tax levels are not that good either. In fact, the average family of four pays more in local and state taxes in the State of Louisiana than any other southern states except Florida and Virginia, according to Commerce Clearing House of Chicago. We don't have such low taxes. Nationwide taxes have become a tremendous problem. The average person supposedly spending now between thirty-five and forty-five percent of his income in some form of tax. Where will it end? Who is paying the taxes? Well, according to the federal government, it is a very... it... the people who are paying the taxes are the very ones that will be most hurt if we don't adopt this amendment, namely, the people with incomes over, say, fifteen thousand dollars, who now under federal law pay more than fifty percent of all the income taxes in the country, the people who make more than fifteen thousand dollars who make up thirteen percent of all those who pay taxes on the federal level. The bottom fifty percent of all taxpayers pay less than ten percent at the federal level. Now, that's of those who file returns, that's not even counting the ones who don't file returns. Now, you know, we were sent here to write a new constitution, and nobody ever talked to me about raising taxes. Nobody ever came to me and said, we need to take off those limits on the income taxes. Now, already we've provided that property taxes which had limits on them before, now have no constitutional limits and can be increased by vote of the people. Sales taxes have no constitutional limit. Certainly, we need to maintain the present limit we have. There is no shortage of state revenues. In fact, we saw the largest increase in taxes in the history of this state within the last few weeks with zero demonstrated need. Taxes increased with no need demonstrated at all. The State of Louisiana is not short of money. It hasn't been for some time, and there's no prospect that it will be under the present tax structure of the state. Now, we don't need to go to the people and ask them to vote for a document that will take off limits on income taxes. That's one of the good things and one of the few good things about our present constitution, so we don't need to change that. So, let's adopt Mr. Kean's amendment.

[Previous Question ordered.]

Closing

MR. KEAN

Mr. Chairman, fellow delegates, if this restriction was not in the present constitution, I would not be before you today urging that we continue. I think that it was placed in the present constitution for a good reason. It was placed in the present constitution in recognition of the fact that the federal government was already in this field; already in the field with the right to levy a tax without any restriction. Therefore, if the state had the same right, we could in effect, end up with two income taxes levied against the people of this state resulting in confiscatory action insofar as the large portion of the tax-paying public was concerned. Now, there's been some talk-- Mr. Monday Lowe, delegate Lowe raised the question about these sophisticated programs that we wanted to tie in with the federal income tax. You may recall, that Mr. Conroy had an amendment on yesterday, which would have permitted a further tying-in between the federal and the state income tax, and this delegation resoundingly rejected that idea. It seems to me here that there's no more reason to take the limit off of our state income tax in order to enjoy the doubtful benefits of the federal income tax administration through this device than it was yesterday, that the one advanced by Mr. Conroy. I read an article just recently that stated that the people in this country that are having the greatest difficulty in making a go of it are not those in the poverty level, not those in the upper brackets, but the person with an income between fifteen and thirty thousand dollars, who had to support a family; put children through school. This is the type of individual that I think, this restriction is designed to protect. I urge you under the circumstances that we continue this restriction in effect; it applies only to the individual tax returns, and I believe it would be in the interest of this state and its people to continue that restriction as it has continued since 1934. I'll be glad to answer any questions.

Questions

MR. DE BLIEUX

Mr. Kean, do you realize that those rates were put into the constitution during the depression days and that was the only way that they could get the bill through for homestead exemption?

MR. KEAN

Sensior De Blieux, I haven't seen any complaint over the years about this particular restriction. There's never been a constitutional amendment offered that I can recall that would have changed it and it seems to me that it comes at a rather late date, for us to now in this convention decide we're going to take the restriction off without ever having indicated to the people of this state, that was our intention.

MR. DE BLIEUX

Well, do you realize also that this will not mean that you're going to have an increase in those rates; it just means that the legislature would have the opportunity to do it as they saw fit?

MR. KEAN

Well, that's exactly the reason I want to put the restriction back in.

MR. DE BLIEUX

Now, do you know how much income that a family of man and wife with two children would pay on a twenty-five thousand dollar income ... state income tax?

MR. KEAN

I think it would depend on a lot of factors, Mr. De Blieux; it would depend on what kind of deductions they have; what kind of income they had.

MR. DE BLIEUX

Well, on the standard deductions, .. do you know on the standard deductions he would only pay two hundred and fifty-two dollars? Is that too much for a man on twenty-five to count on?

MR. KEAN

As far as I'm concerned, a man in that bracket, that's just about all he could afford to pay.

MR. WILLIS

Do you know, Mr. Kean, in further projection of his question, that if we leave the door wide open he may pay ten times that much?

MR. KEAN

That's exactly right, Mr. Willis.

MR. WILLIS

Now, don't you think that everything has a limit?

MR. KEAN

Yes, sir.

MR. WILLIS

Taxes should have a limit, and that the proper limit for taxes should be in the constitution? Did we not limit the property taxes?

MR. KEAN

Yes, sir.

MR. WILLIS

Should not the income taxes be limited?

MR. KEAN

That's the purpose of my amendment.

MR. WILLIS

Now, the sales taxes--there are three kinds of taxes: taxes on property you have and property you receive, notably income, and property that goes away, notably sales taxes. Now, we don't talk about sales taxes because that applies equally to everybody.

MR. KEAN

That's correct.

MR. WILLIS

Now, but we put a limit on property taxes what you have, but there's no limit on what comes in.

[Record vote ordered. Amendment rejected: 57-36. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Newton had sent up amendments which were four sets of

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amendments. He just wanted to go with the first amendment so to simplify, we've taken the Gravel amendment...take the Gravel amendment and just change the name. Mr. Gravel does not wish to offer an amendment; Mr. Newton does, and it would be the same as his amendment, No. 1. Just take the Gravel amendment--Mr. Newton's name.

Amendment No. 1. On page 2, line 2, immediately after the word "income" change the semicolon ";" to a period "." and delete the remainder of the line and delete lines 3 through 5, both inclusive, in their entirety.

That should include all amendments thereto.

Explanation

MR. NEWTON

Well, of course, what this amendment does is delete all of the limitations on the income tax, takes out the two percent and it also takes out the four and the six that were added by the Kean amendment. Perhaps some of you were in favor of the Kean amendment because you felt that if we were going to keep any at all, we ought to keep them all. I offer you the alternative of deleting them all. I urge the support of the amendment.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, I assume everyone in here is amply aware of the fact that if we adopted this amendment we would undo all the good that we've just done by adopting the Kean amendment. I strongly urge that we defeat this amendment and any other attempt to take out of here a limitation on the tax on incomes of the people of this state.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, my remarks are going to be very brief. We have put a limitation on taxing property, now we're putting a limitation on the taxing the income. There is nothing else for us to tax now. Now, I'm telling you, trying to tell you as much as I possibly can, you're putting this state in the position of where it's not going to be able to operate. Now, if that's what you want, vote against this amendment. If you want to let the state operate and have a basis of being able to operate its government, vote for this amendment.

Questions

MR. BURNS

Senator, you made one statement so many times that you've about convinced me that unless the Kean amendment passes, we immediately are going to have a raise in state income taxes.

MR. DE BLIEUX

Not necessarily, Mr. Burns, but at least you fix it to where we can't....

MR. BURNS

You said it about three times.

MR. DE BLIEUX

... we can't increase any taxes if the need should arise. That's what I'm talking about, even if... regardless of the need.

Further Discussion

MR. WEISS

Mr. Chairman and fellow delegates, after yesterday's license plate episode, I don't think there's any question that a body as deliberative as this is more responsive than our legislature who is an absolute political body by definition of its legislators and from the experience we've seen here today, and for the past hundred meetings. If we don't put a limit on what the people of Louisiana are going to have to pay, no telling what the politicians will have us paying. We must go ahead and counterbalance the three dollar license plate which we're giving to the people with the fact that we're not going to take from them the major source of their income through state sales taxes... the state income taxes. Don't worry, there'll be a lot of gas and oil left in this state long after we're gone, and there'll be plenty of sales going on, and I'm sure the state will get funds from sales taxes. I urge defeat of this amendment.

MR. GRAVEL

Mr. Chairman, in view of the adoption of the Kean amendment, I've prepared another amendment that I want to submit to the convention, but I just was able to give it....

MR. HENRY

Mr. Gravel, all we're talking about is the present amendment that we have right now. We're not about to....

MR. GRAVEL

I beg your pardon, sir.

[Previous Question ordered. Amendment reread. Record vote ordered. Amendment rejected: 28-64. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment sent up by Mr. Jack, joining him as coauthors are Messrs. Smith, Shannon, Fulco and Velazquez.

Amendment No. 1. On page 2, line 5 after the word and punctuation "percent ." add the following:

"Federal income taxes paid shall be allowed as a deductible item in computing state income taxes paid during the same period."

Point of Information

MR. DENNERY

Point of information directed to the Clerk.

Don't you have to change that now that the Kean amendment is adopted, there's a no longer any word "percent" in there?

MR. POYNTER

Should be after the word now, I believe, "statutes" added by the Kean amendment.

Explanation

MR. JACK

Mr. Chairman and fellow delegates, this simply provides, and I'm sure you've read it--it's short--that federal income taxes paid shall be allowed as a deductible item in computing state income taxes paid during the same period. Now, during the last administration, you will recall when they were trying to pass taxes, and they couldn't get two-thirds, then they did. Instead of passing the tax they got a two-thirds vote to keep you from deducting as a deductible item on your state return, the amount you had paid in federal income taxes. Now, I don't see how anybody can be for this, or be against this. Now, it's true the legislature at the special session passed a similar one, but remember, the same legislature by two-thirds, it kept the federal income taxes paid as being the deductible, so we want it in the constitution. Now, I might add this, if you'll listen carefully, this doesn't -- I believe Senator De Blieux will vote for this one--because this doesn't set out, Senator De Blieux, the amount. It says, "Federal income taxes shall be allowed as a deductible item," Senator De Blieux. They wouldn't have to allow the full deduction even. So, this one, I believe, everybody can be for. Now, this is the thing that has stuck in the craw of the people in Louisiana-- I heard and am hearing, more comment against that passage of that at the last administration because the people were paying a tax on a tax, paying a state tax on money they never felt, smelt, saw, or even got near. It was withholding tax and those things. Now, these are the kind of things -- I won't go over it a lot, but along with the things I mentioned yesterday on the three dollar plate are things that the people know you're thinking about them. I say this is good legislation, I'll hope you'll pass it. If there are any questions, I'll try to answer them.

Further Discussion

MR. ALARIO

Mr. Chairman, fellow delegates, it's very difficult to get up and oppose an amendment of this type Mr. Jack is offering, which would allow for the constitutional provision that the federal taxes would continue to be a deductible item on the state income tax. I voted for, supported, and coauthored legislation that took away--or that removed--or gave back to the people, rather, that deduction this past session, because we did find other means of financing or replenishing the state treasury for those sixty million dollars. That's the only reason why we didn't do it earlier in the legislature, because there had to be some means to find that sixty million dollars to replace those revenues.

Now, let's look at just what might happen if the legislature is looking for additional funds. Sure, there's going to be a constitutional prohibition, now, to the legislature doing this--putting the federal tax, or taking the federal tax exemption away. But, there are other exemptions that are allowed that the legislature has the control over, that are not constitutional. They could, then, take away the F.I.C.A. deduction, for instance, that's getting to be just as high, now, for the average working man as his income tax; it's starting to rise even greater, year after year. All they've got to do at the legislature is go to that deduction and say, "Now we are going to disallow that." Or, they could say that we will no longer have any itemized deductions; get away from that. You might even look at the amount that you are allowed for personal exemptions --get away from that--raising the tax, thusly. Don't think we ought to put this one prohibition, even though I don't personally intend, and I think by the stipulation we have in this proposal now, that the only way the legislature could take away that exemption in the future would be by a two-thirds vote, thus requiring them to raise that tax by that vote. I think we wouldn't be doing any real good by putting this in the constitution at this point.

Questions

MR. WEISS

Delegate Alario, what percent of the revenue last year--or this coming year--to Louisiana, comes from federal source?

MR. ALARIO

Oh...I'll guess I would say about twenty-five percent. That's just figuring over my...

MR. WEISS

Twenty-five percent. So, we have a pretty good income from them, too, even though they take it?

MR. ALARIO

Yes.

MR. WEISS

Don't you think the people of the state should be entitled to a deduction on what they are giving to the federal government, for Louisiana schools?

MR. ALARIO

I certainly do think they ought to be entitled to the deduction, Doctor, but I don't think it ought to be in the constitution.

MR. CHAMPAGNE

Mr. Alario, in view of the fact that we put all these limitations--you know, on the higher income people and all that--do you feel that when they took this federal tax deduction away from the people, they hurt the smaller paying individual more than they did the big one? Did they not?

MR. ALARIO

They certainly....they hurt the bigger man, Mr. Champagne, when they take a federal tax exemption away 'cause he does pay a larger amount of federal taxes. Therefore, six percent of his larger amount is a heck of a lot more than two percent of the smaller man's amount.

MR. CHAMPAGNE

Proportionately, though, they hurt the...percentage of the little man's income much harder. Did they not?

MR. ALARIO

Well, they hurt more little people than they do big ones, naturally, because there are more little ones.

MR. GOLDMAN

John, you didn't mean really, seriously, to suggest that the legislature might take away the F.I.C.A. deduction, or the personal exemptions of Louisiana taxpayers, since there are so many of them, as contrasted to those who have a federal income tax problem, did you?

MR. ALARIO

If they took away the federal tax exemption, Tom, I don't know what future legislatures might do. We've got a real good one now, and I don't think they would do--stoop that low.

MR. GOLDMAN

Mr. Alario, did you say awhile ago that it would take a

two-thirds vote of the legislature to take away the federal income tax?

MR. ALARIO

If this new constitution passes, yes, sir.

MR. GOLDMAN

Well, I'd like an explanation on that.

When they take away the deduction from federal income tax, is that a tax....that's not considered passing a tax, is it?

MR. ALARIO

Mr. Goldman, you are a member of the Revenue, Finance, and Taxation Committee. I believe if you look in Section 1...which you are a part of that committee, you will see that the prohibition against removing exemptions would require a two-thirds vote. I wish you would pay attention to the work that you do on that committee.

MR. GOLDMAN

Removing exemptions or paying taxes?

MR. ALARIO

Removing exemptions, also. Mr. Conroy handled the amendment in committee.

Further Discussion

MR. VELAZQUEZ

Mr. Chairman, fellow delegates, I rise to support this amendment because it seems eminently fair to all. It serves the ordinary citizen who never sees this money because it's withdrawn from his pay envelope before he even gets it. The fact that I like best about this amendment is that while it makes the basic statement that federal income taxes shall be allowed as a deductible item in computing state income taxes paid through the same period, it does not say the deduction will be a dollar for dollar deduction. The legislature can determine the percentage. If times are good and the money is rolling in, the legislature could allow a total deduction. If times get tough, the legislature could make the deduction fifty percent, twenty-five percent, or ten percent of the amount paid in federal taxes. There is extraordinary amount of leeway here. The concept, itself, is good and is worthy of constitutional inclusion. The deduction--the basic deduction--should be here. Between now, and the time they vote, every citizen will have the privilege of filling out his state income tax form. He'll see this key relationship and he will know that this constitutional convention was looking out for his interest and his well-being. This federal income tax deduction on state income taxes helps the little man proportionately more than it helps anyone else.

I urge your favorable adoption of this amendment.

Further Discussion

MR. SMITH

Mr. Chairman, fellow delegates, I rise in support of this amendment. I'm one of the coauthors. I'm also on the Revenue, Finance, and Taxation Committee. I think when this law was repealed by the legislature a short while ago, it showed that it was inequitable. You are paying a tax on a tax. I think you should have taken it off. I don't even think you should have put it on there. That showed then that they realized their mistake. It raised a lot of money at that time that, I think, now that we've got other sources--but anyway I don't feel like that you should pay a tax on a tax. I think we should put it in the constitution even though we have a two-thirds vote now on exemptions--I feel like in the future some governor may come along and say, "I need more revenue." I think they have got plenty of sources of revenue without trying to get this inequitable source that's paying a tax on a tax. I think we should freeze this in the constitution, that no further--that we have to pay tax on a tax like we have done in the past.

I ask you to support Mr. Jack's amendments.

Question

MR. JENKINS

Jasper, you know the last session of the legislature--or rather, the last term of the legislature--when that tax was originally imposed, of course most legislators voted for it. But, did you know that sixty-five out of a hundred and five

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representatives did not come back? Most of those that did not come back, voted for that tax. Don't you think that's a pretty good indication of how the people feel on this issue?

MR. SMITH

I think this was so in our own parish. I feel like if they did it again, the same thing would happen.

MR. HENRY

Do you realize that it didn't kill everybody, though, Mr. Jenkins?

[Previous Question ordered. Record vote ordered. Amendment adopted: 65-24. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments sent up by Delegate Bollinger. The amendment reads as follows:
Page 2, line 3, in Floor Amendment No. 1 proposed by Delegate Kean and adopted by the Convention on December 15, at the beginning of line 1 of the text, before the word "and" insert the punctuation and word ",corporate".

Explanation

MR. BOLLINGER

Mr. Chairman, fellow delegates, I think this is in the nature of a technical amendment. Mr. Kean said he had no objection to its adoption, upon my questioning while he was explaining his amendment.

Title 47, Section 32, of the Revised Statutes includes corporate income taxes at a limit. In Mr. Kean's amendment, we have referred to that revised statute in an effort to limit the amount of individual income taxes and joint income taxes. I think this amendment just simply includes corporate income taxes to where if you wanted to have a raise in the tax structure, that it would take a constitutional amendment, which would include all of them.

We sat here all during the Revenue, Finance, and Taxation Article with regards to property taxes, and listened to the pros and cons of incentives for industry to come to Louisiana. I think it's no incentive when a corporation looks at Louisiana and says, "Constitutionally you protect the limit of individual income taxes, however, the legislature at its whim can raise corporate income taxes." I think this is an incentive for industry in Louisiana.

I move the adoption and yield to questions.

Further Discussion

MR. LOWE

Mr. Chairman, ladies and gentlemen of the convention, I know I have been before you a lot today, and I'm not going to be here for long this time. I just appeal to you, let's not make this mistake of locking in the four percent on corporations. Many of our corporations are large corporations with out-of-state shareholders. There's a choice as to whether you want to incorporate or whether you want to operate as an individual. I just can't imagine locking into the constitution the four percent limitation on corporate income tax. I appeal to you, let's not make this mistake.

Further Discussion

MR. SINGLETARY

Ladies and gentlemen, I rise in strenuous opposition to this amendment. It's far from being a technical amendment. It would lock in four percent as the corporate tax--four percent of net income. So, I strenuously urge you to defeat this amendment.

Further Discussion

MR. JENKINS

Mr. Chairman, the reason I am supporting this amendment is as follows: if you look at the federal tax structure, I believe the federal tax rate on corporations at present, if they earn more than twenty-five thousand dollars, is fifty-two percent. That's a flat rate the corporations pay in federal income taxes. So, at most, forty-eight percent of what they make can be distributed to shareholders. Then, when shareholders get it, it's income. It's

taxed again--both federal taxes and state taxes. Corporate income tax is double taxation right now. It's taxed at the federal level; it's taxed at the state level. Now, it seems only reasonable if the federal government is imposing such a tremendously high tax on corporations, of fifty-two percent, that we shouldn't risk an increase at the state level, because with state taxes at four percent that's a fifty-six percent from the very beginning, before you ever distribute it to shareholders. So, look at it right off the top. You're looking at fifty-six percent taken off at the corporate level; you're left with forty-two percent. Then, when it gets to the shareholders, you have federal and state income taxes against that--which probably would amount on the average at least a fourth of that, so that of a profit a corporation makes, at most, about thirty percent is going to ultimately go into the pockets of the shareholders. Now, certainly, I think we need to preserve this limit. Four percent is plenty. I don't see why we should impose a limit on individual income taxes and not go ahead and impose it on corporate income taxes, just as we have in the past in this state. So, let's keep it the way we've had it, and adopt this amendment.

Questions

MR. AVANT

Mr. Jenkins, this two-thirds vote to raise corporate income taxes....it would apply to corporations, wouldn't it? It would require a two-thirds vote, wouldn't it?

MR. JENKINS

I think every tax would. Yes.

MR. AVANT

And, of course, salaries paid to officers and directors of a corporation are chalked off before you figure the income tax, aren't they?

MR. JENKINS

That's right. I think so.

MR. VELAZQUEZ

Delegate Jenkins, did you know that any amount that a corporation pays in state income taxes is deductible on their federal income taxes?

MR. JENKINS

Well, it's deductible on the personal income taxes, I believe.

MR. VELAZQUEZ

It's deductible on their....federal corporate income taxes?

MR. JENKINS

But, even if it were deductible, that would not be a tax credit. That would just mean that you would not pay taxes on that amount. It wouldn't mean that you would have that amount taken off of your federal tax bill.

MR. VELAZQUEZ

So, the actual effect of a corporate tax is not in proportion to the actual amount the corporation pays because it is a deductible item.

MR. JENKINS

Well, it's certainly in....it's a pretty high amount right now, Mr. Velazquez, and I certainly don't want to see any increases in it. You can bet, if we take this limit off, there will be increases in the next few sessions of the legislature.

MR. VELAZQUEZ

Haven't we already protected the corporations by the base that we've put on the property taxes? ...Doesn't the base that we have put on the property tax in Louisiana already guarantee a protection to corporations operating in Louisiana?

MR. JENKINS

No, Mr. Velazquez, what we....

MR. VELAZQUEZ

....just the ordinary citizen....

MR. HENRY

Let's settle down now.

MR. JENKINS

What we did, was we imposed more taxes on business and

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industry under the property tax structure we created. You can't take it off the homeowner, keep the overall level of taxation the same, and not have the tax picked up by business and industry. We've already increased their taxes there. I certainly don't want to see us chance increasing them anywhere else.

MR. CHATELAIN

Delegate Jenkins, do you know that, number one, a small business man does not have to incorporate; number two, if he does, he's got the option of going to Subchapter (S) which will protect him insofar as paying a lot of taxes. I am a business man; I'm involved in both types of corporations. I would say I think you've got a bad amendment here, sir.

MR. LOWE

Mr. Jenkins, did you know that I think maybe that I was wrong in opposing this, because if we keep on the way we are going, and we adopt all of this, it may be in my favor. I think we'll never get sixty-seven votes to adopt the section. That may be good. So, I'm all for it.

MR. JENKINS

Well, Monday, you know what? The people of this state right now have a constitution that limits the amount of income taxes levied against their personal income and against their corporate income. I don't believe that they sent us here to raise those taxes....

MR. HENRY

You've exceeded your time, sir.

Further Discussion

MR. ROEMER

Mr. Chairman and fellow delegates, I rise to oppose the amendment to put yet another rate in the constitution. You know, a little while ago I got up here and tried to suspend the rules so that we could take Section 4, paragraph by paragraph, and adopt it paragraph by paragraph. Wasn't trying to fool anybody, or circumvent our normal rules. I was trying to point out something to you that's going to become clear before we get through with Section 4, that is, that Section 4 is very complicated and the paragraphs deal with many diverse subjects--this being the first--income tax. Wait until we get to (B) and the severance tax; wait until we get to (C) and the limitation on local taxing authority. I think that a comment made a few minutes ago, that when we get through with 4, if it gets 67 votes, it's going to be a miracle. We are going to debate it for two days, get through with it, and not get 67 votes, and have to start all over again. But in your wisdom, you decided not to suspend the rules, and take this whole grab bag as one. Now, with this particular amendment, all we are doing is following up your illogical step of a few moments ago, in terms of individuals, and put yet another rate in the constitution. Our committee debated at length about specific rates in the constitution. We felt it was not in your best interest, our best interest, or the state's best interest. We thought that our protection would be the two-thirds vote. As a compromising committee, we did agree to limit the small man's income to the two percent tax rate. I urge you to let's defeat these amendments, try to keep these rates out of the constitution, and keep this document flexible.

Questions

MR. LANIER

Mr. Roemer, since part of your speech dealt with subject matters other than this amendment, my question goes to that same thing.

Don't you think that we should consider this thing in its entirety so that we can keep a constant thread of thought through it, and make a package out of it, rather than taking it apart piecemeal and putting together some building blocks that don't fit?

MR. ROEMER

You could be right. Most of the delegates agreed with you. I just don't.

MR. CHAMPAGNE

Mr. Roemer, you brought out something that I tried to, also. But do you know that the way--in other words--what I really think about this thing is, if we pass this section, it would be a super miracle, not a miracle.

MR. ROEMER

I agree with you. In answer to some questions that, perhaps, are in everybody's mind, you might need to know that the franchise tax incorporation is not limited in this section. You can limit corporation taxes all you want--there's no limit on franchise taxes and that gets at the guy who has no money whatsoever, and he's just getting started in business. So, this amendment doesn't even help the guy you are trying to help.

MR. BOLLINGER

Mr. Roemer, I agree that we shouldn't lock in the rates. But, don't you think it's just equitable since we did adopt Mr. Kean's amendment, that we should make it applicable? Doesn't the 1921 Constitution do exactly this?

MR. ROEMER

Yes, it does. It's hard for me to argue with your logic. It's going to be interesting to watch the votes of these delegates who just locked rates in a minute ago, to vote against your amendment. I agree with you. I hope they do vote against it. But, if they do, they'll be illogical as heck.

MRS. ZERVIGON

Mr. Roemer, is it your observation that representative bodies like to raise taxes on people?

MR. ROEMER

Oh...they do not like to raise taxes on them.

MRS. ZERVIGON

Wasn't it true that McKeithen had to twist a whole lot of arms and finally put a flag on the top of the capitol for one of the legislators, in order to get enough votes together to raise the sales tax?

MR. ROEMER

I don't know about that, Mrs. Zervigon. I'm younger than you. I don't....

MRS. ZERVIGON

A whole lot....

MR. NUNEZ

Maybe on personal privilege, and I should be up there. But, that flag was put on top of the capitol at the request of the veterans of this state.

MR. HENRY

That's exactly right. It had nothing to do with taxes.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, we have heard in the last few minutes, an example of a phenomenon that we've observed a few times in this convention; that is, when you lose on a crucial vote, the other side is automatically wrong. I submit to you, is there any doubt in anybody's mind, that if you put this question to a vote of the people of the State of Louisiana, that you would have an overwhelming mandate to put limitations--meaningful limitations--on personal income tax? As far as the concern expressed for the logic, or lack of it in the following vote, I would rather be right on my vote, as far as I see it, than be logical or consistent in someone else's view. I think it was Samuel Johnson who said that "consistency is the hobgoblin of little minds". I will let that statement stand on its own merit.

As far as the two-thirds vote in the legislature, we all know just about how much protection that has been as far as passage of new taxes is concerned. We had an outstanding example in the legislative session that's just concluded where the severance taxes were tripled. We've also had some good examples in recent years where, as Mrs. Zervigon pointed out, we had about five tax increases in one session. That's neither here nor there. I think it might be well for some people here to realize and these are--in most cases this is puzzling if we are talking about consistency--the same people that were determined to deprive local government of the ability to levy almost any meaningful property tax, but now want to be real sure that the state government is going to have ample access to my left back pocket in the years to come. As far as I'm concerned, then, it becomes a question not of whether to tax or not to tax, but that a tax is all right as long as it's levied at the state level, but not all right if it's levied at the local level. I can't draw any other conclusions. I submit to you that if we're talking about sixty-seven votes to pass the section, there's some of us that believe just as strongly that these income

tax rate protections for the individual belong in here that maybe we could do a little bit about sixty-seven votes, or a lack of it. I certainly, for one, would intend to do just that. So, let's keep that clearly in mind, too. I think we are a little late in the game to be playing that kind of game. I submit to you that the two questions are separable. Because, as Mr. Avant pointed out in his question, corporate income is what is left over after the salaries of a particular corporation are paid. In most small corporations in this state, I would expect the prudent business man to pay out most of what he makes as a salary to himself. I wouldn't be confused by that. I simply felt compelled to comment on the logic, or lack of it, of the arguments we heard.

Questions

MR. WILLIS

Mr. Burson, focusing on this matter of consistency, isn't it a fact that although a corporation from a legal standpoint, or in legal parlance, is a person, when you come to elections, they don't vote?

MR. BURSON

That's certainly true.

MR. WILLIS

Additionally, the corporations whose stockholders live outside of Louisiana, they don't vote here, do they?

MR. BURSON

That's true, and it's not an unreasonable argument, it seems to me, that perhaps they ought to pay something for the government of the state that they are operating in and benefitting from.

MR. WILLIS

So that there is no inconsistency in my having voted for Mr. Kean's amendment, and my intention to vote against Mr. Bollinger's. Is that correct?

MR. BURSON

I hope not, because I intend to do the same thing.

[Previous Question ordered.]

Closing

MR. BOLLINGER

Mr. Chairman, fellow delegates, I'd like to quote to you from Article X, Section 1, of the 1921 Constitution, referring to those taxes. It says: "The said income tax schedule of rates shall never exceed the schedule imposed in House Bill No. 339, of the regular session of the legislature of 1934", which, as Mr. Kean referred to it, was Article XLVII, Section 32. So, this is not a change in the law. It's not a change in the constitution. It's just being consistent with the provisions of the 1921 Constitution. I'd like to, in closing, leave the thought of this. We, in the Property Tax Section have allowed veterans with homes valued at fifty thousand dollars to be exempt from property taxes and other individuals with homes of thirty thousand dollars to be exempt. We have extremely lessened the amount of taxable base for the local governing authority, except that they...all the tax burden is going to go on industry. Now, we are going to allow the legislature, with no limit, to tax industry again. Where does it stop?

[Record vote ordered. Amendment rejected: 19-67. Motion to reconsider tabled. Motion to take up other orders adopted without objection.]

Report of the Secretary
[II Journal 996]

[Motion to adjourn to 2:00 o'clock p.m., Sunday, December 16, 1973. Substitute motion to adjourn to 1:00 o'clock p.m., Sunday, December 16, 1973. Motion adopted: 63-6. Adjournment to 2:00 o'clock p.m., Sunday, December 16, 1973.]

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Sunday, December 16, 1973

Amendment

ROLL CALL

[74 delegates present and a quorum.]

PRAYER

MR. E.J. LANDRY

Mr. Chairman, honorable delegates, members of the press, visitors, the working force of the convention, I have never in my life been given a more privileged opportunity by the Chairman than was given to me this morning. I'm speaking to a point of personal privilege and prayer which is unique in this convention. I say that so that you will understand why we begin as we do this morning...at Christmastime. You saw fit last week to send me to visit murderers on death row. You saw fit to make it possible by dismissing this convention early; had you not done that, I would not have been in a position to do what I am going to do today. So, please, if I am just a little bit longer than normal, bear with me because I represent today forces that are bigger than I, bigger than you, bigger than the State of Louisiana and that is the reason why I am taking the route that I am taking. Thirty years ago a chaplain, a good friend of mine, who handled the condemned and the murderers was killed in World War II and left me this prayer and asked me to pray for him. I'm going to ask you to join with me after you've heard this simple prayer. I looked into the eyes of the murderers; I looked into the eyes of human beings, God's creatures; and I've studied over the lessons that I have learned over the years and thought about what was said this morning when the minister, the representative of God, of Christ spoke to me and asked me to witness that it's my duty and your duty. So, I come to you with two parts of a petition, two parts of a prayer that has to do with the business of witnessing. I would ask you in your hearts to think about the words, since words have such tremendous meaning in the writing of a constitution. The Lord has given us a tremendous constitution made up of words that we need to be reminded often about--this is very simple and stated simply by a simple man facing you. "Dear Lord, you taught us and reminded us often that what we do for the least of man that we do to You, that You live in that person. You, also, reminded us often that to forgive, forgive others just as we want You to forgive us. For example, You taught us to love all men, even sinners, even murderers. You did this by example, by Your death on the cross for our sins when You forgave a murderer at that instance. Now, Dear Lord, at this season of Your birth give these delegates the understanding, the compassion, the will to search for means to alleviate the inhumane, the prolonged cruel suffering imposed by our society on Your creation which gives no hope to Your creatures that have sinned and who have been condemned by man and forgotten forever with no hope." Now, Father Malloy, who spent a lifetime helping sinners and murderers, a good friend of mine was killed after he gave me this note in World War II and he said--and he signed it, addressed it to me--and he said, "Pray for me;" and, I'm sure he said, "Pray for hope for all of the people who have nobody to represent them." This is what he said in the prayer: "Soul of Christ sanctify me. Body of Christ save me. Blood of Christ inebriate me. Water from the side of Christ wash me. Passion of Christ strengthen me. O, good Jesus, hear us. within Thy wounds hide us. Suffer us not to be separated from Thee. From the malignant enemy defend us. In the hour of our death call us and bid us come to Thee that with Thy saints we may praise Thee forever and ever." Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

MR. POYNTER

Committee Proposal No. 15, introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance, and Taxation and other delegates and members of that committee.

A proposal relative to the tax structure of the state and to public finance.

With the exceptions of Sections 4 and 6, the convention has adopted the first eight sections of the proposal--reverted, after the adoption of Section 8--back to Section 4, previously passed over which is presently still under consideration.

MR. POYNTER

Set of amendments send up by Delegate Gravel and passed out on yesterday.

Amendment No. 1. On page 2, delete lines 3, 4, and 5 in their entirety, and delete all amendments adopted thereto and insert in lieu thereof the following: "Income tax rate on the first ten thousand dollars of taxable income for single return or twenty thousand dollars taxable income for joint returns shall not exceed two percent and no portion of taxable income shall be taxed at a rate in excess of twelve percent."

Explanation

MR. GRAVEL

Mr. Chairman, that amendment was prepared yesterday and so was another amendment which I meant to supercede it. I wish to withdraw that particular amendment. I don't know whether the one I prepared yesterday subsequently is at the desk or not; I'll hand the copy to the Clerk and we can check it.

Mr. Chairman, I would like to withdraw the amendment that has just been read. I understand there is another amendment, if we could go with it, then the amendment that I would like to present the body can be circulated.

[Amendment withdrawn.]

Amendment

MR. POYNTER

Mr. Tobias has amendments at this time.

Amendment No. 1. On page 2, line 5, in Floor Amendment No. 1 proposed by Delegate Jack and adopted by the convention on yesterday, on line 3 of said amendment delete the period "." at the end of the line and insert in lieu thereof the following punctuation and words: ", but the deduction shall not be allowed to corporations." Now, this is the Jack amendment which read as follows: "Federal income taxes paid shall be allowed as a deductible item in computing state income taxes paid during the same period." This would delete the period "." at the end of that text and add the text just read of the Tobias amendment.

Explanation

MR. TOBIAS

Mr. Chairman, fellow delegates, yesterday Mr. Jack's amendment which read: "Federal income taxes paid shall be allowed as a deductible item in computing state income taxes paid during the same period." This statement, as written, would apply to people, corporations, any type of legal entity. The purpose of my amendment is to restrict it strictly to people--it would restrict the Jack amendment strictly to people. Now, the phrase...Mr. Jack's amendment is self-executed. That means that it will go into effect whether or not legislation is enacted pursuant thereto. What my amendment does is a state that this provision would be... shall not be allowed to corporations. This does not mean that the legislature could not authorize this to corporation; it just says that the deduction would only be allowed to persons. The legislature still, at some future date, could allow this deduction to corporations.

Questions

MR. ALARIO

Mr. Tobias, your amendment says "shall not," and you've got me somewhat confused as to the difference between "shall" and "may," when you say "deductions shall not be allowed to corporations." If we put this in the new constitution, wouldn't that then mandate the legislature or the legislature couldn't allow the deductions to corporations as we have just done in the special session?

MR. TOBIAS

No, I think that's inaccurate. The reason I say that is because the Jack amendment is self-executing. Therefore, if we changed "shall"--the word "shall" in my amendment--to "may" it would remove the self-executing feature of the Jack amendment.

MR. ALARIO

Couldn't you accomplish the same thing, then, by going back

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to the Jack amendment and saying "shall not be imposed on personal incomes taxes?"

MR. TOBIAS

That is another way of approaching it; yes.

MR. ROEMER

Max, don't you...would you be agreeable to taking the suggestion of Representative Alario and perhaps doing what you are trying to do in a more straightforward fashion by inserting the word "personal" as to that deduction in the Jack amendment? There seems to be some confusion over this self-executing thing in "shall" and "may."

MR. TOBIAS

Well, the problem with using the word "personal" is that it would only apply to people. What do you do, for example, with a partnership--that's a separate legal entity? What do you do with a trust--that's another type of entity? All of those are in a sense, a person; so, if you say "personal" I don't know what accord. I would rather just tie it down...take the restriction out and restrict it to corporations.

MR. ROEMER

Being not an expert in the field, but being interested in it, I can tell you that partnerships do have to file personal income tax returns.

MR. TOBIAS

That's a true.

MR. ROEMER

...so, you do the same thing.

MR. TOBIAS

What about a trust?

MR. ROEMER

Well, I mean, eventually when it comes to the income they have to file a personsl return; now, you know that.

MR. HENRY

Would you yield to a question from Mr. Willis?

MR. WILLIS

Max, don't you think that you could accomplish what you want by instead of using the word "shall" use the word "need?"

MR. TOBIAS

Need?

MR. WILLIS

"Need not be allowed," that is permissive and it's a better word than "may"--"need not be allowed"--that would give them the flexibility that "may" would be in other circumstances; don't you think?

MR. TOBIAS

I agree.

Mr. Chairman, I move to withdraw the smendment and change the word "shall" to "need."

[Amendment withdrawn.]

Amendment

MR. POYNTER

...virtually the same fashion--chsnging the word "shall" to "need" so that the additional language proposed to be added to the Jack amendment would now read: ", but the deduction need not be allowed to corporations."

Questions

MR. MUNSON

Max, exactly what did the legislature do during the special session? Was it limited to individual and joint returns or did it apply to corporations?

MR. TOBIAS

I'm not sure. I was not in favor of the Jack amendment, but I feel that we should limit it in this particular instance. I do not know what the legislature did.

MR. MUNSON

You do think it was the intent of the legislature to limit it to individuals, do you not?

MR. TOBIAS

I don't know.

MR. HENRY

Would you yield to a question from Mr. Smith? You'll be next, Mr. Velazquez.

MR. SMITH

Mr. Tobias, it "need not," would that leave it up to the legislature or to the collective revenue and revenue department?

MR. TOBIAS

It would leave it to the legislature.

MR. SMITH

But, it don't seem to say that.

MR. TOBIAS

That's what it would do.

MR. VELAZQUEZ

Did you know that what you are doing is exactly the intent of the Jack amendment, we meant to protect the individual, ordinary taxpayer of Louisiana not to protect the corporations?

MR. TOBIAS

I didn't understand that to be the intent of the Jack amendment, I thought it was....

MR. VELAZQUEZ

But, we are glad that you are supplementing this thing and making it much clearer.

MR. JENKINS

Mr. Tobias, are you aware that the legislation passed by the legislature applied to both individuals and to corporations and it was intended, as such, to give relief to both groups?

MR. TOBIAS

I was not aware of that. I would assume that what this provision would do is allow that portion of the act, that was enacted by the special session, to continue in effect but at such later time, the legislature could go back and say, "No, this exemption shall not apply to corporations."

MR. CHATELAIN

Max, I think I know what you are trying to do, but I'm somewhat confused myself, the Jack amendment read that "federal income taxes paid shall be allowed as a deductible item in computing state income taxes paid during the same period or paid to federal government." What you are trying to do is to fix it so that the state legislature could or could not allow this same deduction to the businesses; is that right?

MR. TOBIAS

That is correct; or, corporations rather than businesses which would be personal income to certain individuals, in certain cases--sole proprietorship, for example.

MR. SINGLETARY

Max, the section only refers to individual and joint returns. So, nowhere in it, as far as I know, with all the amendments does it mention corporations at all.

MR. TOBIAS

As I read Mr. Jack's amendment, it goes much further than that it says "for...."

MR. SINGLETARY

But, would Mr. Jack's amendment be tied in with the previous language?

MR. TOBIAS

I think there is a very strong possibility that it would not. I think that the clear statement is that the...when it says "federal income taxes paid shall be allowed as a deductible item." It doesn't necessarily restrict it to joint and single income tax returns.

Further Discussion

MR. LOWE

Mr. Chairman, ladies and gentlemen of the convention, I'm a little disappointed that we are really taking off on the tangent that we are taking off on. It appears at the moment that we are attempting to write a tax law. You know and I know that we didn't really come here to write a tax law. I agree with you that the matter of deducting federal income taxes has gotten highly emotional in the State of Louisiana. But, just because this matter has gotten emotional and the legislature realized that it was emotional, they corrected it and that tells us that the legislature is sensitive to what goes on in the State of Louisiana and that when something happens that they realize was bad; and they have that flexibility to deal with it that they will correct it; they had a mandate. They recognized that mandate and they acted. Now, someplace down the line they are going to want to react to a mandate and aren't going to be able to because we, in what we feel is our wisdom, have locked something into this constitution that deprives them of that flexibility. Now, I can't for the life of me understand why we would want to come here and try to write a tax law, particularly, when none of us are really expertise in that particular area. I don't mean to talk about any delegate, because if I get up here and say things and I make mistakes, I think people should point them out to me. The author of this amendment is concerned about partnerships taking deductions on a tax return. Well, even the most elemental, elementary person in tax law knows that a partnership pays no federal income tax and pays no state income tax, so how could they take a deduction? The only reason why I point that out is to point out that we are talking about things that we know absolutely nothing about. I'm sure some of you read what Mr. Traigle had to say in the paper this morning, that he has some long-range plans to try to accomplish some things for the people of the state. By our action yesterday, we deprived him of the opportunity of implementing some of the things that he has in mind that he wants to place in effect that would be beneficial to the people of the State of Louisiana. Now, this reminds me of what Delegate Wall started to do sometime back to bring out a point about retirement systems. He had an amendment that covered every retirement system in the State of Louisiana which numbered thirty some odd. He was going to give them the same break that some other system had. Now, if we try today to come up with amendments to assure that those deductions that people were enjoying now would not be infringed upon, we would have paper stacked all over your desk. I submit to you that the five thousand dollar personal exemption that is allowed an individual... a married individual filing a joint return in the State of Louisiana is much more important than deducting the federal income tax that's paid. So, we are going to say that we are going to leave here telling the people that we have done something for them in allowing them to be sure that for all times that they can deduct federal incomes taxes. The little man may pay two hundred dollars of federal income taxes but the legislature, because you locked this in, may have to take his five thousand dollar personal exemption away from him and they can do it; and they may have to do it. So, we are not doing a thing here except kidding ourselves; we're window dressing; we're trying to go back home and tell the people that we have given them something. I'm here to tell you that that's just not fair to try to fool the public on one hand and tell them that we have given them something when we haven't given them anything, not anything at all because we can take it right back away from them in the form of another deduction. The only way we can give them something is to lock all of the deductions in--everyone of them. I would say that we are taking a serious course here to take off with this sort of thing; it's not the type of thing that we were sent here to do. I really don't believe that this is the type of thing that we want to do. Now, let me address myself to this amendment even though I don't think it's worthy of the time, and I say that with all due respect that I don't think that this convention should spend five minutes on this terrible amendment. You're worried about individuals. Who owns corporations? Individuals own corporations. What happens to the income from those corporations? They pay tax on the income and then what happens? What's left is distributed to the individuals. So, then what happens? They pay tax again; so, they are double taxed. So, what you are saying is, that we believe over here that maybe you ought to have something but in this area where you are double taxed, well we are just going to tax you a little bit harder because double taxing isn't enough. We will double tax you but, at the same time, we won't give you a deduction for the tax that you've already paid the federal government. Now, if you can put that in some kind of logical order, well, I would say that you are a lot better delegate than I am. I hope that we don't discuss this thing in great detail, and we just vote it down.

Further Discussion

MR. ABRAHAM

Ladies and gentlemen, I'm real disturbed; I'm aggrieved; I'm disappointed. You've seen in the space of about five minutes a classic example of what we've done here time and time again when we start trying to legislate things into this constitution. The amendments are poorly drawn; they have to be withdrawn, rewritten, and this type of thing. We're in an area here where we have no business, and the further we go, the worse it gets. I think it's just sheer hypocrisy on our part to put such things in this constitution in order to try to sell it. We're going to sell it with a three-dollar license plate; we're going to sell it with a limit on income tax; I have to repeat what Monday has said: "Who are we kidding?" The legislature has the right to tax. We've said that in the first paragraph of this article. It's going to take so much money to run state government. They're going to have to get it from one place or the other. We are in an area here where a lot smarter people than us have tried to write tax laws and have been unsuccessful. I don't see how we can come up here through amendments in the space of a few minutes, and start trying to revise the tax code. I beg of this convention, let's put a stop to all this foolishness. Let's leave this thing as simple as we can because we're going to foul it up so bad where nobody will be able to salvage it. I'm just real disappointed that we've come back this morning and started doing things like this. I beg of you, let's put a stop to it.

Further Discussion

MR. RIECKE

Mr. Chairman and delegates, I rise in opposition to this amendment. I think it's a very, very bad amendment. There are many, many hundreds of small, family corporations in this state who, as it was pointed out Saturday, pay as much as fifty-two percent federal income tax on their earnings, and on top of that, pay about four percent to the state. That's fifty-six percent of a small, family corporation's earnings going to taxes. The legislature, as Mr. Monday Lowe said, is sensitive to the will of the people. I think that we ought not to alienate the votes for this constitution by making an exception to these corporations. For some reason or other, so many people believe that because you've got a corporation, it's a great big wealthy outfit that ought to be taxed and taxed and taxed. Well, there are hundreds and hundreds of small corporations in Louisiana. I don't think we ought to penalize those people by passing this amendment. I'm very much against it. I think it's a very, very bad amendment, and I hope you'll vote it down.

Question

MR. TOBIAS

Mr. Riecke, this is a friendly question. I agree with you one hundred percent. What I am attempting to do by this is to undo in part what we did yesterday. I think we made a terrible error when we froze into this constitution this type of deduction. Do you not agree that perhaps some sort of amendment would be desirable that would at the end of my amendment, perhaps, say after the word "corporation," say, "or persons"? In other words, but the deduction need not be allowed to persons. The reason I say this is because I don't think we could get sixty-seven votes to call from the table the motion to reconsider. Do you agree that that would be another way of reconsidering it?

MR. RIECKE

I don't know. The persons' corporations are comprised of persons. I think when you exclude them from that exemption, you are making small corporations pay taxes that you are allowing to partnerships and ownerships, and I don't think that's fair.

Further Discussion

MR. SMITH

Mr. Chairman, fellow delegates, Mr. Jack couldn't be here today. He had to go to Shreveport; he won't be back till tomorrow. But, the last thing he said, "Don't let them mess with that amendment we've passed." So, I'm up here in behalf of my colleague, and also myself. I was a coauthor of this amendment. So was Mr. Fulco, and Mr. Shannon, and Mr. Velazquez. This amendment which was a good amendment yesterday was passed 65 to 24. It just said "Federal income taxes paid shall be allowed as a deductible item in computing state income taxes."

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I don't see why in the world corporations can't remain in there. It could say most, or a lot of small corporations need the deduction as well as individuals. Usually, you think of a corporation as a big giant. Most of them are not. But, anyway, it is an inequitable tax to begin with--tax on a tax as I said yesterday. I don't see why it shouldn't be allowed to everybody. This comes at a late date, and I ask you all since my colleague that instigated this matter is not here to talk, I'm talking in his behalf. Like I say, we've passed one by a tremendous vote one day, and then you come back and want to change it all up. Let's don't fool with it. Go ahead and defeat this amendment and leave it like it is.

Further Discussion

MR. ARNETTE

Ladies and gentlemen, I rise in support of this amendment, and the reason I do support it is it does give the legislature some leeway. It says that this is not necessarily...your federal income taxes are deductible by a corporation. Let the legislature decide this particular matter. That's all Mr. Tobias's amendment does is make it clear that the legislature has some leeway. Now, Mr. Smith got up here and talked about small corporations, and Mr. Riecke talked about family corporations. I realize these are in existence, and they are much more numerous than, probably, the very big corporations. But, I'd also like to point out to you that most family corporations, depending on how they're run, pay absolutely no federal income taxes because all the earnings are distributed in salaries, or either it's under a partnership-type of tax--I forget the federal income tax section--but, they treated it as a partnership, and only the persons who have stock in this particular corporation pay taxes. The corporation itself pays absolutely none. So, this isn't going to hurt the small person, the small corporation, or the family corporation. All this does is let the legislature, if they need to, put it in there so that these taxes, the federal income taxes, are deductible by a large corporation. That's all Mr. Tobias's amendment does. It doesn't say that this is the way it is, and nobody can change it. It says, well, let the legislature decide. I think that's what we need to do. I think we need this amendment in there to make it clear that the legislature has that option. Thank you.

Further Discussion

MR. ALARIO

Mr. Chairman, members of the convention, I would urge you to vote against this amendment. Yesterday, I opposed putting in the deduction for federal income taxes against the state income tax because I didn't think you were doing anything at all for the people. The legislature, as Mr. Lowe pointed out to you, has other ways of raising that income tax on them--by taking away the personal deduction, by taking away other itemized deductions, and it's also true with corporations. We can raise the corporation taxes simply by raising the corporation franchise tax. So, there's no problem there. But, if you've got one of them in, then let's go ahead and be consistent, and also leave the deduction in for corporations, and let's not get raveled here in all kind of mess that we really don't understand.

Question

MR. BOLLINGER

John, I guess you know I agree with you wholeheartedly, but don't you think we were inconsistent yesterday when we adopted Mr. Kean's amendment to put a limit on personal income tax? However, we didn't see fit to put a limit on corporate income tax when, again, you could have raised the franchise tax, if you decided to...

MR. ALARIO

You're right, Mr. Bollinger.

[Previous Question ordered.]

Closing

MR. TOBIAS

Mr. Chairman, fellow delegates, several months ago Senator Rayburn stood at this microphone and said that this convention was acting like a bunch of people at a wild cow milking contest. Well, I think yesterday when we enacted Mr. Jack's amendment, that's what we did. The purpose of my amendment is in part, to

undo part of what we did yesterday, and I admit it. I would hope that someone would come with an amendment to amend my amendment which would take...which would add after the words "corporation," the phrase "or persons," which would, in effect, negate the whole first part--in other words, Mr. Jack's amendment. I think that this is a point where we've got to realize that we are running out of time, and that we're trying to enact a revenue code for this state, and that's just something that should be left to the legislature. I remind you that we are trying to constitutionalize something with respect to the Jack amendment that is not now in the constitution and that the legislature has just returned and given back to the people. I agree with Mr. Lowe, Mr. Riecke, Mr. Abraham, but I still urge that we ought to undo, in part, what we did yesterday, and enact this amendment.

[Record vote ordered. Amendment rejected: 19-76. Motion to reconsider tabled. Motion to suspend the rules to call from the table the motion to reconsider Convention Floor Amendment No. 1 by Mr. Jack rejected: 29-65.]

Amendments

MR. POYNTER

The next set of amendments sent up by Delegate Gravel, which read as follows:

Amendment No. 1. On page 1, line 32, immediately after "(A)" delete the remainder of the line and on page 2, at the beginning of line 1 delete the word "upon" and insert in lieu thereof the following: "The legislature upon the favorable vote of two-thirds of the elected members of each house may levy equal and uniform taxes upon individual and corporate".

Amendment No. 2. On page 2, line 2, immediately after the word "income" change the semicolon ";" to a period "." and delete the remainder of the line and delete lines 3, 4, and 5 in their entirety including all floor amendments adopted thereto and insert in lieu thereof the following: "The income tax rate, however, shall not exceed twelve percent on any portion of individual or corporate net income."

Explanation

MR. GRAVEL

Mr. Chairman, ladies and gentlemen of the convention, like Mr. Lowe and Mr. Abraham, I'm very, very much disturbed about what we did on yesterday, and what we appear to be doing to Committee Proposal No. 15. Instead of trying to write a constitution, it looks like we're trying to build into a proposed document technical procedures that relate to the revenue collection processes of the State of Louisiana. I'm very much disturbed also about the fact that we are going to get ourselves, perhaps, in such a position that there will be serious limitations upon the power of state government to raise at the state level, adequate revenues to run the government for much of the time that is going to be left during the remainder of our lives and for many, many years thereafter. I looked at Committee Proposal No. 15 and thought that in general the committee had done a very good job. There has been removed from the proposal certain provisions in our present constitution that made it difficult, if not almost impossible, to adequately prepare a legislative program that dealt both with revenues and services. The purpose of this amendment is, hopefully, to try to respond to some concern that some of the delegates seem to have with respect to the possibility that the legislature may go way too far in imposing income taxes on individuals and corporations. It seeks to delete the Kean amendment adopted by this convention, which freezes into the constitution a totally unrealistic schedule that was imposed in the depression years, or placed into the law in the depression years; and at the same time, to put some limitation upon the authority that the legislature may have to levy income taxes. What the amendment seeks to do, Mr. Chairman and ladies and gentlemen of the convention, is to give to the legislature authority to impose income taxes on individuals and corporations, but imposes a ceiling of twelve percent of the net income as being the maximum that can be imposed. It seems to me that this would be a fair compromise in lieu of the provisions that have been heretofore considered and adopted by this convention, proposed both by Mr. Kean, and by Mr. Jack. We should not, we should not be structuring the tax program of the State of Louisiana in this constitution. We should only lay down in the proposed document the broadest possible guidelines that it will permit of an orderly control of state government and an orderly process for the collection of revenue. I

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submit to you that we should go no further than is suggested by this amendment. I ask your favorable support for it.

Questions

MR. ROEMER

Mr. Gravel, the effect of your amendment, would it not be to eliminate the Kean amendment of yesterday which imposed the rate as we now have it in the constitution? Is that right?

MR. GRAVEL

That's correct, yes, sir.

MR. ROEMER

But, wouldn't it also have the effect of undoing what the committee tried to do in limiting the rate on the lower income people? That would be eliminated also, wouldn't it?

MR. GRAVEL

That would be eliminated to the extent that it would be a matter for the legislature to determine by a two-thirds vote.

MR. ROEMER

Well, I don't know whether you know it or not, but I find parts of your amendment in its effect of eliminating the Kean amendment very helpful, but the effect of eliminating that two percent, very dishelpful. I'm just at a problem there.

MR. GRAVEL

I understand that. But, my whole point, Mr. Roemer, is that within the limitation...well, within the span of from zero to twelve percent, the legislature should be given authority to act and it will have to act by two-thirds vote. It seems to me that that's as much limitation as we ought to place on the imposition of the income tax in this constitution.

MR. SMITH

Mr. Gravel, didn't you say your amendment would have the effect of eliminating both the Jack and the Kean amendment?

MR. GRAVEL

Yes, sir.

MR. SMITH

And any other amendments we'd adopted yesterday, too?

MR. GRAVEL

That's correct. That's the effect of this amendment.

MR. SMITH

What is the purpose of your amendment? I mean, why do you want to eliminate all of these?

MR. GRAVEL

Well, the purpose of the amendment is to leave to the legislature, subject to the twelve percent ceiling, the right and the authority to determine what income taxes should be paid, and what deductions should be allowed. It's just inconceivable to me that we can be here writing a constitution for the State of Louisiana and spending most of our time on placing into the constitution what should and should not be deductible.

MR. SMITH

Well, don't you think we, as delegates, should do this?

MR. GRAVEL

No, sir. I do not.

MR. SMITH

They put the three-dollar car license in the constitution.

MR. GRAVEL

Mr. Smith, the three-dollar car license is an emotional issue that I think is set off by itself. Most of the delegates of this convention don't agree that it should be in the constitution, and most of us feel that if we don't put it in it, it's going to spell death for the document.

MR. SMITH

Well, don't you think federal taxes should be deductible from your state income tax?

MR. GRAVEL

I certainly do. I certainly do. But, I don't think that we should for all time freeze that concept into the constitution. I

think the question of deductions for state income tax purposes are purely within the scope of the legislative process and should not be built into the constitution.

MR. SMITH

Well, don't you think, though, if we don't freeze this in the constitution, and there was some governor that would come along, that was able to get two-thirds vote, and do it all over again?

MR. GRAVEL

If it's absolutely necessary to be done, I think, perhaps, it should be done. Let me explain one thing to you. The reason why we were able to remove this particular...well, to reinstate this particular deduction at the special session, was because we were able to get additional revenues for the State of Louisiana from the severance tax on oil and gas. I think someone pointed out yesterday that the gas resources are being depleted at a rate of approximately three percent per year, and our oil resources are being depleted, or reduced by about eight percent per year. I don't know what structure is going to have to be created during the next decade or the next two decades by the legislature of Louisiana in order to obtain the necessary revenues to run this government. I don't believe that we ought to prohibit at all times in the future the legislature from utilizing this deduction if it becomes necessary.

MR. SMITH

Thank you, sir.

MR. KEAN

Mr. Gravel, as I appreciate it, if we adopted your Amendment No. 1, and didn't adopt your Amendment No. 2, then there would be no restriction upon the right of the legislature to levy the income tax.

MR. GRAVEL

If you adopted No. 1 and did not adopt No. 2, that's correct.

MR. KEAN

If we adopted No. 2, then the legislature could raise the percentage on income from ten to twenty by six times, could they not? In other words, they could go from two percent to twelve percent. Is that correct?

MR. GRAVEL

That's the ceiling. However, it does permit the legislature to impose income taxes on a graduated basis. I mean that language is still in here. Mr. Kean, I think it's very clear what...I said this: I said that the legislature under this amendment could impose income taxes from zero up to twelve percent on such basis as it in its wisdom might determine.

MR. KEAN

And, if it went all the way to the twelve percent in its wisdom, then it would increase the ten to twenty thousand by six times; it would increase the twenty to forty thousand by three times, and it would double the income tax of those forty or above.

MR. GRAVEL

If it did that, and conversely, if it said that the income tax should be two percent on all income, then it would reduce some of the taxes that are being presently imposed.

There could be no change in the present law; there could be no change in the present structure except by a two-thirds vote of the legislature. The present structure would still be the law of Louisiana as it is now in the revised statutes.

MR. BURNS

Mr. Gravel, at the present time, the ceiling on state income tax, the rate is six percent, isn't it?

MR. GRAVEL

Yes, sir, for everything over fifty thousand dollars.

MR. BURNS

Your Amendment No. 2 would double that.

MR. GRAVEL

It would authorize the legislature to go up to twelve percent.

MR. BURNS

Do you know, I went home yesterday afternoon, and left there after church today, and this is the first weekend I ever have received a favorable comment on what we were doing over here

because of just what you want to delete?

MR. GRAVEL

No, I didn't know that.

MR. NUNEZ

Mr. Gravel, why twelve percent? You talked about not putting any limitations at all, and you come up with a twelve percent figure. Number one and number two, you're not only doubling the six percent factor, you're allowing the legislature to double or triple or quadruple any of the three factors that we now use.

MR. GRAVEL

For two reasons, Senator Nunez. Number one, I think there should be some limitation; number two, I think that the income tax is the fairest of all taxes and the legislature should have some flexibility. I don't know what the legislature might decide to do in its wisdom, but at least to give them the latitude in the area within which they could operate, I thought that a twelve percent ceiling would be realistic, and the legislature then could make a determination within the limitations as to what taxes should be imposed, and what graduations should be made.

MR. NUNEZ

Did you know you were absolutely right in your prediction or your statement that the oil natural resources are being depleted at eight percent per year? But, what you didn't add was that we have been taxing them at the rate of an additional hundred percent per year for the past three years.

MR. GRAVEL

Well, relatively, though, when the tax was imposed, the proportion on the present tax in relation to the value of oil is about the same--just a little bit different, not much.

MR. O'NEILL

Mr. Gravel, I'm going to ask you if you've heard this quote by Benjamin Franklin, and then I'm going to ask you to comment upon it. "It would be thought a hard government that should tax its people one-tenth part of their time to be employed in its service."

MR. GRAVEL

Well, I believe both the church and the government are not necessarily bound by that.

Further Discussion

MR. ROEMER

Mr. Chairman and fellow delegates, I rise in opposition to the Gravel amendment--both of them. I have to say that the amendment is not without some worthy aspects. We in the committee--and I'm not speaking for the committee as a whole; I'm speaking for myself, but let me tell you about the committee deliberation--we in the committee did believe in flexibility when it came to these rates. We didn't feel the constitution was the place to... for us to legislate for all time, as it were, what the specific and exact rates of income tax and severance taxes would or might ought to be. We also believed in the integrity of the legislature, but we didn't believe that they should have a free reign, and we inserted the two-thirds rule. We also, however, unlike Mr. Gravel, felt the need to protect the men and women of this state that made a fairly small amount of income from the willy-nilly imposition of high tax rates on them. I think, and I hope that you'll see after now, the second day of debate on Section 4, why we came up with Section 4(A). It makes good sense. It makes sense both politically--that is, what the people want--and it makes sense fiscally--that is, what's in the best interest of the state. If you look again at what we did originally in Section 4, Paragraph (A), we put a two percent limit on individual income up to ten thousand, and two percent limit on joint returns of up to twenty thousand. After that, we left it up to the legislature. After you see amendment after amendment that does nothing more than try to legislate tax rates, I hope you will realize that the committee was not out in left field on this thing. We spent a lot of time looking at it, and I hope you will realize that what we came up with is truly in the best interest of the citizens of this state. I ask you to defeat this amendment, and to consider an amendment that we have coming in a few minutes which will, in effect, go back to the original committee report. I think that's in our best interest.

Questions

MR. FULCO

Buddy, don't you think we owe Mr. Jack the courtesy of at least considering his amendment in his presence, and withholding consideration of this thing today until his return tomorrow?

MR. ROEMER

Well, I think we gave Mr. Jack a hearing, and I supported his amendment, Frank. You know that. But, I don't think we can stop the deliberation of this body for one man, whether it be Mr. Jack or myself. I wouldn't ask that, and I don't think Wellborn asks that.

MR. FOWLER

Mr. Roemer, don't you think Mr. Jack could have been here today, just like we are?

MR. ROEMER

Well, I don't have a comment on that. I think Mr. Jack does what he has to do. I've found him to be a hard working delegate, and I know if he could have been here, he would have.

MR. HENRY

Yield to one quick question from Mr. Bollinger? The gentleman yields.

MR. BOLLINGER

Buddy, what do you find wrong with the first amendment?

MR. ROEMER

What do I find wrong with the first amendment?

MR. BOLLINGER

Amendment No. 1.

MR. ROEMER

Nothing, with the first amendment. As I understand it, though, there was not a call to make the question divisible, yet. They were presented as a package, Boysie. I opposed them.

Further Discussion

MR. WEISS

Mr. Chairman and fellow delegates, by a quirk of fate, I see they're having a party up in Boston today to celebrate a two hundred-year anniversary of the Boston Tea Party. The ability to tax is the ability to destroy. We know that. This issue is coming before us again, and I would like to look at it with you in perspective and explain it to you as I see it. I think there are two groups, here, and I'm afraid the coalition of this both good and bad group may do a great deal of harm to this constitution. First, the good group--and I think most of us try to fit in this group. We are trying to represent the people. Who are these people? These people are the poor, the workers, the workers' incorporations and not incorporations, the shrimpers, the farmers, the doctors, the attorneys and any category you care to put us into, we are all people. But, at the same time, we're like the blind man and the elephant. We can only perceive one aspect as we see it. So it is to the benefit here of all of us combined, that we give to the people of the State of Louisiana our combined decision. On the other hand, there have mixed among us, a group of bad people. I've noticed this, and several of you have referred to them with great disdain in coming to this microphone, labeling them all types of names--hypocrites and the like. But, really, I watched them carefully, and I believe that the intent is to kill this constitution. I'm very disturbed that these people are acting at this time to overload the camel with the straw that's going to break its back. I'm most disturbed that a coalition of the uninformed and this bad group will get together and create a faulty document which we are in the process of trying to complete, and thereby defeat this constitution in the name of the voters of this state trying to decide whether we did a good or a bad job. Now, let me show you--Buzzy, can I have that newspaper--let me show you what the people back home said in the Sunday edition.

Further Discussion

MR. WEISS

Here's what the people in one section of the state think about our action yesterday. Although I did not go for the three dollar license plate, because I thought it was nothing more than a political gimmick. Those of you that are running for office

and writing this constitution presented a very important aspect--that's voter appeal. This is what the folks back home woke up to this morning: "CC/'73 Blocks Income Tax Hikes." If you don't think that's going to sell a constitution, you tell me somebody that's against this. Now, that's about as far as we can go, I think, and that's as far as I think we should go. We've got to face reality, and those members of the committee have come before you and told you that there's voter appeal on one hand and reality on the other, and where's the state going to get the funds. Let's cut out this foolishness and go on with this convention. I don't believe that the floor amendment here proposed is doing anything but messing up, confusing the issue again. We are not tax attorneys. We're not trying to write tax legislation. Let's go on with the committee proposal as it is and as it stands. Hopefully, those of you that are running for office, if you so desire to keep the three dollar license plate in, we'll do so. Hopefully, we will restrict the income tax hike to the two, four, and six percent, as outlined on personal income. In conclusion, let me say, the legislature, as you all know, has the power to tax. If they're not going to get it from one direction, they'll get it from another. So, we don't have to worry about the state going broke. But, I, like many people in this state, think that the state has plenty of money. More than that, they're giving it to a lot of people right here that are making their livelihood on the name of the state. That's too much money that the state is getting--your money and mine and everybody else's, little people, big people, and in-between people. Let the state function on what it needs to function on and do a good job. I think those of you that sit here know that we have a fine state, we're doing a good job, and there's no reason to horse around with this tax structure. Let's leave it be to the legislature, but at the same time, let's leave some of these amendments in that have been presented. Let's give the people of the state what they deserve and keep them from hiking the income tax. If you want to leave the three dollar license plate in, throw that in the boot.

Questions

MR. LOWE

Dr. Weiss, this may seem like a facetious question, but it's not, really. It's merely to make a point. I have a lot of respect for you. But, how would you like to perform an operation after a tax man had walked through the operating room and decided which tools you would use to perform that operation with?

MR. WEISS

No, sir, Mr. Lowe, I respect your question, because that is not either facetious or otherwise; it's a fact. Today, the medicare operation--which is a complete flop and now being revised--is exactly what the federal government tried to do to the doctors. They've not succeeded; they don't understand the problem; they don't understand people. Of course, they tried to do it and failed.

MR. CHAMPAGNE

I was just wondering, Dr. Weiss, did the three dollar license make any little headlines in your paper?

MR. WEISS

They made smaller headlines. Did you see what made the front page Sunday edition? You're right, it did.

MR. CHAMPAGNE

It did make some, though, didn't it?

MR. WEISS

It made small, and your name was in it, and mine was too.

MR. CHAMPAGNE

In my area, Dr. Weiss, it made the big headlines. I live in a very poor area, sir.

MR. WEISS

Well, I happen to be from Governor Jones's hometown, and they made it small print, fortunestely, because I opposed what he started, forty years ago.

Further Discussion

MR. JENKINS

Mr. Chairman, I rise in opposition to Mr. Gravel's amendment and also in opposition to the amendment that Mr. Roemer referred to that the committee might offer with regard to reinstating the section to the original shape that it was in. Mr. Gravel said that, you know, we have a declining tax base with regard to severance taxes. Thus, we need the authority to impose additional

income taxes. I want to refer you to some remarks made by Mr. Traigle, the collector of revenue, in this morning's paper, with regard to severance taxes. Here's what he said: State revenue collector, Joe Traigle, said Saturday 'he recently signed two hundred and ninety-eight million dollar severance tax laws will serve Louisiana as an effective hedge against the specter of dwindling petroleum resources. The key to advantages in the new legislation,' Traigle stated, 'is that oil will be taxed on a percent of value rather than a per barrel basis. This means,' he said, 'that as the value of oil increases, the state will share in the increase in the value because we will receive a flat percent of that value.' Then, he said, 'More than likely, oil quantities derived from Louisiana will continue to decline, but just as likely, the value will continue to increase significantly, as it has in the past six to eight months. The increase in value will surpass the decrease in quantity, which means that the State of Louisiana will stop losing money from oil severance tax and will begin reaping increases in the oil severance tax from this point on.' So, Mr. Traigle's statement certainly contradicts Mr. Gravel's. Something else Mr. Traigle said in the paper, though, I want to disagree with. He said in another article, he said--with regard to what we did yesterday on income taxes--he said, 'pointing out Louisiana income taxes are currently the lowest in the country,' Traigle said, 'the administration needs the flexibility to make administrative changes without a constitutional amendment.' Well, the fact is, Louisiana's income taxes are not the lowest in the country. In fact, thirty states either don't have income taxes at all, or if they do have income taxes, they are no higher than ours in Louisiana, at that six percent figure. Now, with regard to the proposal of Mr. Gravel that the limit be twelve percent on state income taxes, let me inform you that there are only four states in this country that have income taxes as high as twelve percent. Those are on very high incomes, and those states are: Delaware, Minnesota, New Jersey and New York, which have some of the highest taxes per capita in the country. There seems to be this myth continuing that our taxes are so low in Louisiana. Well, on a per capita basis, we rank twentieth in the nation in taxes, per capita. Yet, we're forty-sixth in the nation in per capita income--forty-sixth in the nation in per capita income, twentieth in the nation in per capita taxes. Our taxes, as a relation of our income, is very high in this state. Of course, a number of folks have said, 'What are we doing here, trying to make all these amendments and changes in this proposal by the Revenue and Taxation Article, trying to lock these things into the constitution just like they have been before?' Well, I'll tell you what we're trying to do: we're trying to represent the people of this state who are fed up with increased taxes, who certainly don't want to see them any higher than they are now. If that's not what a constitutional convention is for, I don't know what it's for. So, that's what we're trying to do here. I think this subsection is all right like it is. We've continued the present limitations; we've put in this prohibition against taxes on taxes. I think we ought to move on to the next subsection.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, I'm inclined to begin my speech by reciting the Latin words of the mass that I used to hear before we started the vernacular, "Mea culpa, Mea Culpa, Mea Maxima Culpa," because it seems that the general tenor of the debate that I hear, here, is that one should apologize and do penance for proposing that people who make more than twenty thousand dollars receive the same constitutional protection as those who make less. You know, lost in the rhetoric that you have heard up'til now is the fact the committee proposed to keep the very same limitation on lower income taxes that is in the constitution, now. They were going to offer this protection to everyone up to twenty thousand dollars. Well, now, why is that? Why is that, indeed? Because the committee, as many sagacious politicians before them, know that as long as you take care of those, or rather don't disturb those who are in the majority, you can sock it to all of them above and make them pay the bills. Don't you think for a minute that this wouldn't have been the end result of this tax scheme of the committee if we'd let it stand like it was. You know, there's another thing you want to remember about the legislative process in taxation. There are a lot more pressure groups wanting increases in taxes for various reasons--the reasons may be very legitimate in particular cases--then there are pressure groups up here lobbying against taxes. In other words, you have a lot more people that don't want the new taxes, but the people that don't want them are not nearly as well organized as those that do want them. If you stop and think about that awhile, I think you'll conclude that's true, in the main. I submit to you the state is not going to

run out of money, and if the state gets in such bad shape that it has to up the income tax rates, well, then, certainly that should be obvious to the citizenry. They could propose a constitutional amendment and come in and alter these limits at that time. We must not be in that shape now, because I read the other day in the paper, after the severance tax increase, that a large percentage of what was going to be collected under the increase couldn't be budgeted. There was nothing to spend it on. They're going to have to stop and figure out something else to spend it on. I didn't see anybody propose that the excess be used to pay off bonded indebtedness, or anything as archaic as that, though. That seems to be entirely out of fashion, much like here in the United States of America, we've believed for so many years that we could borrow and borrow and borrow because we only owed it to ourselves. Of course, we all know about the dollar drain on the country, now, and the shape we find ourself in in the international community on that situation. I submit to you that the people of this country believe, childlike as they may be--what I read in the civics book, I can well remember when I was in high school--that when your total tax structure takes more than thirty-five percent of your income, it's confiscatory. All the statistics that I read show a range between thirty and forty-five percent. If you're in that above twenty thousand bracket, and you got hit with a twelve percent state income tax lick, then you would be, I would guess, well in the fifty percent range. A system like that kills initiative; it's basically unfair to make the man who's got the initiative to get out and earn his income pay the total bill for the society, because as I mentioned yesterday, the very rich--the very rich--have ways of avoiding paying any taxes at all, as we are all well aware, including, apparently, the president of the United States. I submit to you, in the end, that the tax schedule that Mr. Kean has frozen into the constitution in his amendment is not unrealistic at all. It's served us quite well up to date, and if and when it becomes "unrealistic," then we can change it by constitutional amendment. The tacit assumption on all of the reasoning I have heard up here is that taxes--the rate of taxation--must continue to rise. I ask you, ladies and gentlemen, answer me this question: At what point do we reach a limit? I guess we may be getting to the point where we'll be able to just endorse the check on the back, send it to the state, and get our coffee money back, because with the raise we've had in social security rates, which are up to ten percent now, the federal graduated income tax rates--that's another thing nobody mentioned--even the state schedule is graduated. You're taxed on a higher level if you earn more money, although, thank goodness, it's not graduated nearly to the extent that the federal tax schedule is. I submit to you it's time, for once, to think of all of the citizens who go to work every day, hold two jobs in some cases, to see to it that their children can get a good education, and who pay the bills in this country. Let's give them the kind of protection that they need, that they want, as reflected in that headline in the Lake Charles paper. If you think we ought to accept this amendment, think what that headline will look like tomorrow, if we reverse ourselves today.

[Previous Question ordered.]

Closing

MR. GRAVEL

Mr. Chairman and ladies and gentlemen of the convention, I again urge you to support this amendment, primarily because we have, within the proposal, adequate limitations to safeguard any abuse whatsoever with respect to the imposition of income taxes on individuals and corporations, by the legislature. I don't think it's realistic for us to freeze into the constitution a schedule that was devised in the depression years, at a very, very low rate, applicable to income taxes. The primary reason that this amendment has been offered is in order to afford some latitude to the legislature, which is not being afforded by the proposed section, in its present form. I urge that you adopt the amendment.

Questions

MR. O'NEILL

Mr. Gravel, assuming your amendment is defeated and Mr. Kean's amendment stays in, what is your objection to the people having an opportunity to vote on constitutional amendments which, in the future, might rearrange the tax schedule?

MR. GRAVEL

Well, I just . . . I'm trying to keep the people from having to vote on a lot of amendments, and I think most of us are doing that in the effort that we're making to write a new constitution, to make it as broad and comprehensive and with sufficient latitude

so that it doesn't have to be considered for amendments from time to time.

MR. HENRY

Yield to a question from Mr. Goldman?
The gentleman yields.
You're next, Mr. Smith.

MR. GOLDMAN

As usual, this probably doesn't bear directly on this, but it does bear on amendments. Isn't the idea of writing a new constitution to eliminate the necessity of the general population of the state voting on amendments for particular localities? But, when it's necessary to vote on constitutional amendments that affect the entire state, then I think we should be able to vote on those constitutional amendments.

MR. GRAVEL

Well, I think you should be able to, also.

[Record Quorum Call: 103 delegates present and a quorum. Division of the Question ordered.]

Point of Information

MR. KELLY

I'd like to address this question to Mr. Poynter.

It was my understanding from a question that was directed from Mr. Kean, that even though Amendment No. 1 were to pass and Amendment No. 2 were to fail, that this would still wipe out all those amendments yesterday. Is that correct, and actually leave nothing? Could you answer that, Mr. Poynter?

MR. POYNTER

No, the first amendment just deletes language on page 1, line 32-- I mean, on page 2 at the beginning of line 1. So, it would not have the effect of going further than those pages and lines, in my appreciation, Mr. Kelly.

[Record vote ordered. Amendment No. 1 rejected: 39-62. Motion to reconsider tabled. Amendment No. 2 reread and rejected: 28-74. Motion to reconsider tabled.]

Vice Chairman Casey in the Chair

Amendment

MR. POYNTER

Next set of amendments sent up by Mr. Gravel and reads as follows:

Amendment No. 1. On page 2, delete lines 2 through 5, both inclusive, in their entirety, including all floor amendments thereto and insert in lieu thereof the following: "ing to the amount of net income. However, the state individual income tax rate on the first ten thousand dollars of taxable income for a single return or twenty thousand dollars of taxable income for a joint return shall not exceed two percent, and any additional tax levied on additional taxable income shall not exceed twelve percent. Federal income taxes paid shall be allowed as a deductible item in computing state income taxes paid for the same period."

Explanation

MR. GRAVEL

Mr. Chairman, ladies and gentlemen of the convention, the very first thing I want to say about this is that this proposed amendment retains for the proposed constitution the Jack amendment. So, I don't want to get in any trouble with Mr. Smith, Mr. Fulco, or anybody else at this time about the fact that Mr. Jack isn't here to protect his interest because his amendment is incorporated in and made part of this proposed amendment. Another thing that the proposed amendment does is that it continues the provision, in effect, that the committee adopted to insure that the persons of minimum income, so to speak, are not prejudiced by any income tax schedule. So, those individuals whose taxable income does not exceed ten thousand dollars cannot be taxed more than two percent. What we are proposing to do by this amendment is to authorize the legislature by a two-thirds vote to increase the tax rate of those persons who make in excess--and make sure I have the statutes here so I get the exact amount--in excess of ten thousand dollars per year, up to such amount as the legislature may determine not to exceed twelve percent. This would also authorize the legislature to tax corporations not more than twelve percent. As you all know under the present statutes, the corporate

ceiling is four percent. Now, what this does, then, is to permit the legislature to increase the income taxes on those people who are making a substantial amount of money. I don't think that we should freeze into the constitution for the benefit of those who have reached levels of affluence in excess of ten thousand dollars, those particular minute percentages that were adequate for the 1930's. I urge you to adopt this amendment.

Questions

MR. CHATELAIN

Delegate Gravel, when you mentioned those names of Mr. Smith and others back here, you forgot to mention my name. I would like to ask you this, sir: Would you consider exempting those small corporations who earn ten, or fifteen, or twenty thousand dollars a year? Would you consider exempting them in the same rate that you exempted the small individual?

MR. GRAVEL

Mr. Chatelain, it's my intention--and I believe the result of the proposed amendment--is that these percentages would apply to taxpayers, both corporate and individual taxpayers. I don't intend to make and don't think I made....

MR. CHATELAIN

You have no reference here to...it say "individual income."

MR. GRAVEL

That's correct.

MR. CHATELAIN

Would you go along with the amendment and you can gain my vote if you do that?

MR. GRAVEL

I would. In other words, I think that a corporation should be subjected to the same schedule as the individual for state income tax purposes.

MR. CHATELAIN

Well, that gives a lot of we delegates here, Mr. Gravel, a problem as you well know because of many, many small corporations in this state domestically own or solely own the local communities, and----- do have a problem in this area.

MR. GRAVEL

Mr. Chatelain, I think, just to further answer your question--- I'm not sure, I would want to check it with the staff--but, I think perhaps to accomplish what you suggest and want I really had intended that we might only have to leave out the word "individual" that's on the second line of the proposed amendment; I'll have to check that and see.

MR. CHATELAIN

Thank you very much; I really appreciate you doing that, sir.

MR. PLANCHARD

Mr. Gravel, we had the same problem in our Revenue and Taxation Committee in trying to word these different amendments that we had and trying to get our ideas incorporated in the proposal. But, is there any significance, Mr. Gravel, in the use of "and any additional tax levied on additional taxable income shall not exceed twelve percent." My question is: If we redefine income or taxable income as the gross income rather than net income, would that have any effect on the two percent?

MR. GRAVEL

Well, I think it would. But, I was trying to be consistent with the language that was utilized by the committee and, as I understand it, the tax...the two percent application was the net income and this was to be consistent with the language that you had already utilized.

Mr. Chairman, I would like to ask permission to withdraw the amendment simply for the purpose of deleting the word "individual" on the second line of the proposed amendment, so that there will be no question but that the entire provision would relate to both personal and corporate income tax.

[Previous Question ordered. Amendment withdrawn: 78-13.]

Amendment

MR. POYNTER

Resubmits the amendment: the second line of the text, the second word, strike out that word "individual." So, it reads "However, the state income tax rate on the first ten thousand dollars", and so forth.

Questions

MR. JENKINS

Mr. Gravel, I believe the main thrust of your amendment is it takes out the four and six percent limitations on incomes above ten and twenty thousand dollars; is that correct?

MR. GRAVEL

It does that and then additionally, also, it would put a constitutional limit on the imposition of corporate income taxes of twelve percent which I don't think was done by...was touched, in anyway, by the Kean amendment.

MR. JENKINS

I want to ask you this: Do you know of any other southern state that allows income taxes to be taxed in excess of six percent, our current maximum limit?

MR. GRAVEL

I've made no study of it, Mr. Jenkins. But, I started to ask you the question when you were making that observation because I think there is a vast difference between our tax structure in Louisiana and the tax structure of most other states because most all of our taxes are selected at the state level and there are no... there are a lot of services in the other states that we provide at the state level that are provided for on a parish or county level by the imposition of tax.

MR. JENKINS

But, then, we have the severance tax and most other states don't have that; don't we? So, we have....

MR. GRAVEL

No, no, that's not correct.

MR. JENKINS

Most of the southern states, besides Texas?

MR. GRAVEL

Well, producing states most...almost all of them have severance tax.

MR. JENKINS

But, you don't know of any other southern states that tax their incomes in excess of six percent at most; do you?

MR. GRAVEL

No, sir. I don't know what any of the others tax for. All I'm doing here is trying to authorize the legislature to impose the tax, there is no tax imposition by this proposal at all, Mr. Jenkins.

MR. JENKINS

Do you know that there are no other southern states that tax in excess of the six percent that we now tax?

MR. GRAVEL

I don't know; no, sir, I do not.

MR. WEISS

Delegate Gravel, how much more funds would this amount to in the total state revenues if this was doubled as you suggest, sir?

MR. GRAVEL

Well, let me see if I can do a little calculating for you. I don't know the brackets in which the income taxes are... from which the income taxes derive.

MR. WEISS

Right not it's nine percent of the total state revenues.

MR. GRAVEL

Well, there's about a hundred and eighty to a hundred and ninety million dollars currently...that were currently being collected as corporate and individual income taxes in the State of Louisiana--that was before the last session of the legislature

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at which the federal tax was permitted or reinstated as a deduction from state taxes which cost approximately sixty million dollars. So, I think the total income taxes that are going to be collected in the State of Louisiana, under the present structure, would be in the neighborhood of about a hundred and twenty million dollars or so.

MR. WEISS

Which is less than five percent of the total revenues in the State of Louisiana at this time; is that right?

MR. GRAVEL

Well, it would be less than that.

MR. CASEY

Mr. Ullo.

MR. ULLO

Mr. Gravel, could you tell me how you derive this twelve percent figure?

MR. GRAVEL

I doubled the six percent that was in the Constitution of 1921 that was adopted during the depression years.

MR. ULLO

I see.

MR. GRAVEL

That was I doubled the maximum statutory ceiling.

MR. ULLO

You feel it's very nice to double the middle income people, but leave the other people throughout this state under twenty thousand at the same rate?

MR. GRAVEL

Mr. Ullo, as I've said many times, I want to say it again. I think there is a choice sometimes that the legislature has got to make as to whether or not they are going to impose--let us say--an income tax or a sales tax. Now, we've got to impose taxes in order to provide services. My own personal philosophy is if you're going to have to comfort the afflicted sometime, it may be necessary to afflict the comfortable. I think that the middle income people ought to bear more of a burden proportionately than the poor.

MR. ULLO

All right. Do you think it is possible that they could double this taxation at the next session of the legislature following the passage, the proposed passage, of this new constitution?

MR. GRAVEL

If the constitution is adopted, it would be within the realm of legal possibility. But, I don't think that you are going to be able to impose any taxes, by any legislature, for a long, long time to come in view of the additional revenues that are being obtained at the present time as a consequence of the increased severance taxes imposed at the last session.

Further Discussion

MR. KEAN

Mr. Chairman, fellow delegates, I rise in opposition to this proposed amendment not only because it has the effect of eliminating the amendment which I offered yesterday, but it seems to me to raise some very, very serious questions concerning the income tax that might be paid by the people of this state above the minimum level that's set forth in the amendment. First of all, as I read the amendment and in light of the little experience I have had with the legislature, it seems to me that we are looking at a twelve percent income tax. Now, that means in the case of the persons who are making between twenty and forty thousand dollars that they are going to have their income tax rate tripled. In the case of the corporations above that level, their rates would be tripled. In the case of those who make above forty thousand dollars, their rate would be doubled. I don't think you can read this amendment and come to any other conclusions. But, beyond that, I ask that you look at this amendment very carefully because it reads: "any additional tax levied on additional taxable income." Now, the present constitutional provision and the provisions of Title 47, Section 32, that we referred to yesterday deals with the maximum tax on net income. Now, as I read Mr. Gravel's amendment, it would be possible through this device to label all income as taxable income--that is, gross income as taxable

income and then put a percentage factor against that income not to exceed twelve percent. Now, I don't believe that's what this convention would want to do. I don't think you would want to triple or double the existing income taxes of this state even if we stay with net income. But, clearly, we don't want to adopt an amendment which would leave it open for the legislature--by whatever vote, two-thirds of otherwise--to say that we are now going to impose this twelve percent tax on gross income. I say to you ladies and gentlemen, that this amendment would clearly permit that to be done. I suggest that we reject the Gravel amendment, that we move forward with the section as we now have it, and I ask for your consideration in that regard.

Further Discussion

MR. BURSON

Mr. Acting Chairman, fellow delegates, this is about the one thousandth example of a phenomena we have seen many times since July 5, "If at first you don't succeed, try, try again until everybody gets fed up and adopts an idea." The Kean amendment was adopted 58 to 36 yesterday. Mr. Gravel's first attempt today was rejected 74 to 28. I hope that the vote on this is so overwhelmingly against it that maybe they will give up trying. But, again, this whole idea is grounded in a fundamentally false, erroneous and unjust assumption, that is, that the fundamental premise of government in Louisiana should be "soak the rich." The rich, by the way, that have reached what Mr. Gravel somewhat, I would say, exaggeratedly called a level of affluence of ten thousand dollars. In the light of the present day economy how anyone in the name of heaven could call a ten thousand dollar income a level of affluence escapes me entirely. It is the level, however, that which most of the upper middle class and middle class citizens who support the state and local governments operate because don't forget the same people who pay this income tax in the main are the ones who pay the property tax to support local government. The only difference is and it's a big, big, big difference, they can vote whether or not to impose the property tax upon themselves. There is a second big difference, they are much more likely to be able to have a direct and powerful influence on how that money will be spent and to approve, even in most cases, specifically the project for which it will be spent when they approve the tax levy--that is an enormous difference. I submit to you that the real reason why the proponents of this amendment decry sales taxes is not that the sales taxes are regressive, but that sales taxes affect everybody. So, if you vote for a sales tax in the legislature, you are likely to have to go back home and face a totally enraged electorate, whereas, if you just vote for an increase in the income tax rates on people who make--let's say--more than twenty thousand dollars, that's likely to be only a small part of the electorate. If you figure you can bring home enough watermelon, or cantaloupe, or whatever else they happen to be slicing up at that time, then you may be able to buy enough votes, locally, to overcome that small amount of taxpayers who pay on an income of more than twenty thousand dollars. But, if you pass that sales tax, you better be able to justify totally the purpose for which you pass that sales tax because everybody's got to pay it. I don't think it's such a bad thing offered at the end that there is some tax that everybody's got to pay after all. I submit to you that it was admitted that the three dollar license plate was emotional. Well, if you think the three dollar license plate was emotional, you let that paper in Lake Charles that printed that headline yesterday about us maintaining the barriers against higher income taxes on the people of this state come out with a headline the same size tomorrow that say that "C.C./'73 flipped-flopped and permits double the tax rate that you have right now." I would be interested to hear the explanations back home, I really would be. I submit to you, we ought to reject this and every other amendment that would undo the good we did with the Kean amendment.

Questions

MR. ANZALONE

Jack, do you believe that five percent of a man's income who makes four hundred dollars a month is worth more to him than five percent of man's income who makes twelve thousand dollars a month?

MR. BURSON

I certainly do.

MR. ANZALONE

Well, Jack, you can't qualify your sales tax; you better try again.

MR. BURSON

Joe, I think the answer there is that the sales tax is the one tax that would fit in that category you are talking about, whereas, you have property tax which is the main basis of support of local government that is paid almost exclusively by the man in the second category that you talked about. Somewhere in the end, people have got to pay part of the bill so they will realize that there ain't no free lunch.

MR. CASEY

Mr. Burson has exceeded his time, gentlemen; I'm sorry. Senator De Blieux is now recognized.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, I just want to mention a few thoughts to you that I'd like for you to keep in mind when you vote upon this particular amendment. First, in spite of what might have been said from this rostrum, the tax rate upon the individual taxpayers of the State of Louisiana are the lowest of any place in the United States. I want to repeat that, the taxes that the individual pays in the State of Louisiana are the lowest of any taxes of any individuals in the United States. If you don't think I'm correct in that, you compare your property taxes to those of any state around you or any place else. You compare your rest of your taxes. We are high in sales taxes, yes, that's the easiest tax for the legislature to pass and sometimes was probably the only tax that we could pass because of the limitation on the income tax and others. Due to the fact that a large portion of our money comes from severance and royalty payments, we have been able to have that low income tax... low tax rate on the individuals. However, as you have already been reminded, and I repeat again, that is a depleting resource. In ten or twelve years from now, I doubt very seriously that the revenues... that the amount of money that that brings into the state will amount to one-tenth of its total revenues while now, it amounts to approximately one-third or a little more. We haven't tried to put any limitation on the sales taxes that the individual pays. Yet, in most of the state, the sales tax rate, local and state sales taxes amount to six percent. Now, isn't it much harder for an individual trying to live off of three and four hundred dollars a month to meet a six percent rate than it would be for somebody who's making twenty and thirty thousand dollars a year? To me, the rate of ten percent, if we did have to go that high in your income tax rate. But, let me tell you this, we are not passing taxes in this Constitutional Convention, at least, we shouldn't be. Why not leave that to the legislature and let them decide. The thing is that the legislators, they have to face their constituency every four years. Any time that a legislator does not follow the wishes of his constituents and raises their taxes beyond what they think he ought to raise it, you can bet your bottom dollar, he won't be back. So, why should we try to make judgment for him. Why not let him make that judgment, and decide whether or not it's necessary. There is only place... the only place I know of that where the legislature can get money to operate the government is from the taxpayers. You can realize that they've got a responsibility just as much as we have here. I certainly feel like that in all due deference to the headlines that Dr. Weias held up a few minutes ago, that a similar headline that would have said that this Constitutional Convention outlawed all future taxes possibly would have been more enlightening to the taxpayers than what his headline was. But, as I think that we realize, as constitutional delegates, that would have been most imprudent to put into our constitution. But, yet, similarly we're trying to do that, we're trying to say that there will be no additional taxes. That should not be our function. So, let's leave to the legislature the duties and responsibility of running this state and deciding the amount of taxes. Therefore I ask you to let's support this Gravel amendment. At least, you do put a limitation up to twice to what it is now. That's twice what it was during the depression days. I ask you to seriously think about it. You're not imposing that tax; don't get me wrong; you're not imposing that tax, but you're just saying that they can't go any higher than that. I think that's sufficient. We have a limitation for property taxes, we ought to have a limitation for income taxes, and I should say we ought to have one for sales taxes, too.

[Previous Question ordered.]

Closing

MR. GRAVEL

Mr. Acting Chairman and ladies and gentlemen of the convention, let me close by making one very serious, and I think, pertinent observation with respect to this amendment and hopefully suggesting that it will give you a reason to support it. If we limit in this constitution, as we have done by adopting the Kean amendment, the unrealistic percentages that were adopted back

in the thirties, we're going to leave only one alternative to the legislature, if in the future, the demands of the state require that revenues be increased and that the income tax be considered as a vehicle for that increase. If we don't give to the legislature the latitude permitted by this amendment, the legislature is going to be forced to either reduce or do away with the personal income tax exemption, the five thousand dollar exemption that applies at this time or the legislature is going to be forced to curtail some other exemptions that are presently permitted by law. Now, all I'm saying is this, is let's have some latitude, both at the top and at the bottom whereby the legislature can act. This is a reasonable amendment. It has adequate safeguards in it, it has an adequate ceiling and a constitutional floor, and yet, it will safeguard to a large extent the interests of the poorer people of this state. Certainly, no one can complain if persons who are making enough money to have a net taxable income in excess of forty or fifty thousand dollars, that they pay some more income tax than they're paying at the present time if the needs of the state require the imposition of such additions. I strongly urge that you support this amendment.

Questions

MR. JENKINS

Mr. Gravel, isn't it true that we've provided that if sales taxes are going to be increased on the local level, the people have to vote on it, or if property taxes are going to be increased on the local level, people have to vote on it?

MR. GRAVEL

Mr. Jenkins, we've provided that, but we're not talking about even the imposition of taxes now. All we're talking about is the constitutional authority for the legislature to act. We haven't provided, we certainly haven't provided that all taxes imposed by the legislature shall be subject to a vote of the people.

MR. JENKINS

Well, isn't it reasonable though that if we've done that, that we ought to go ahead and say here that we'll put these tax limitations in the constitution on income taxes, and if the legislature wants to increase those then the people would have to vote on it?

MR. GRAVEL

In answer to your question, in my judgment that would not be reasonable.

MR. JENKINS

Mr. Gravel, another question: Senator De Blieux stated and some others have said that we have the highest tax... lowest taxes in the nation, or do you agree with the figures from Commerce Clearing House that say that the average family of four in Louisiana pays one thousand three hundred and twenty-four dollars a year in local and state taxes which is sixty dollars a year more than the same family would pay if in Texas, and a hundred and forty dollars a year more than if he lived in Arkansas, and three hundred and sixteen dollars a year more than in Mississippi, and that is personal taxes on the family?

MR. GRAVEL

I don't know whether... what taxes that includes and I don't know either your figures or Senator De Blieux's, but it is my understanding, that as a general rule, taking all taxes into consideration that the people in Louisiana pay generally less taxes than do the individuals of other states.

[Record vote ordered. Amendment rejected: 43-58. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment No. 1. On page 2, line 11, immediately after the word and punctuation "severance," delete the remainder of line 11 and delete lines 12 through 25, both inclusive, in their entirety.

Explanation

MR. NEWTON

I think the amendment is self-explanatory. It's a....

Well, it takes the restrictions off of the legislature in being able to tax mineral resources and timber resources. It's a very simple amendment. I'll be glad to answer any questions.

Questions

MR. BERGERON

Autley, is this language maybe not in the same structure it is now in the Committee Proposal, but is the language in our present constitution?

MR. NEWTON

Well, some of it is, and some of it isn't.

MR. BERGERON

What are the reasons why you'd like to delete it from the Committee Proposal?

MR. NEWTON

Well, because I don't know what the economic future of this state is going to be. I mean it may be that right now some states are taxing timber in place, some states are taxing oil and gas in place. I... want us to be able to stay in a competitive situation with other states, and with these restrictions on there, I thought we might not be able to do that.

MR. BERGERON

But, the question is, these restrictions are in our present constitution, am I correct?

MR. NEWTON

Some of them are and some of them aren't. There are some of these more comprehensive than they were. For instance, upon oil, gas or sulphur leases, all right, so that was added--could be no tax on a lease right or a royalty interest.

Further Discussion

MR. HERNANDEZ

Mr. Chairman, ladies and gentlemen of the convention, I rise in sincere opposition to this amendment for several reasons. The first and most important being that it seriously affects the economy of the pine timber area of Louisiana and especially the western Louisiana area in which I live, and with which I am best acquainted. Now, I realize that his entire amendment is not directed at that, but if you will look on line 22 of the committee proposal it states clearly, "likewise severance taxes shall be the only tax on timber," and that is what I am trying to preserve, that is about the severance tax on timber and it being distributed to the parishes or that is, seventy-five percent of the tax is about the only thing that the committee salvaged for us out of the entire Forest Land Taxation Law and that is the law that made it possible and induced the large landowners to plant western Louisiana, and it has been successful. The Forest Land Taxation Law which was adopted in 1954 by an overwhelming vote of more than three to one of the people of this state provided for a severance tax in lieu of a property tax, or that is, on timber. This has definitely been proven to be a very wise decision. No longer is a landowner reluctant to plant his land to timber because of the possibility of your accumulated taxes during the years required to grow timber to merchantable size, making such a program financially unsound. To the contrary, this provision has encouraged the planting of the naked pine lands. The fact that a landowner will pay the same tax on timber whether or not it is in production--and understand, that's the part that we, or that area are discussing-- we want all of this land put in production because you can remember that the soil... the production of the soil is the basis of your economy. When we had hundreds of thousands of acres of unproductive lands, and had just cut over pine land producing absolutely nothing, it provided for a very poor economy. Now, with this Forest Land Taxation Law in effect which began in 1954, and the landowners were protected against accumulated taxes during the growth of this land, practically everything in that parish-- and I will say that we have more pine timberland in Vernon Parish than any parish in the State of Louisiana. It is practically all in production, and it has changed the economy of that area tremendously. In fact, in the State of Louisiana, more than one million, three hundred and fifty thousand acres have been planted and are now in production since this Forest Land Taxation Law went into effect. Pine timber is the only renewable natural resource that we have in the state. It has now been restored to the extent that we are producing enough pine timber to support many large wood-using industries. Now, please keep that in mind: these industries that are supported by this forest land are new as far as the State of Louisiana is concerned. I would like to read something right here in this effect-- and if you don't listen to anything else, please listen to this as this is something we're all interested in. At present, forty-two thousand families-- and that's a lot of families-- forty-two thousand families earning two hundred and forty million dollars a year are directly dependent on this industry. Another hundred

and twenty thousand persons who own forest land has purchased sixty million dollars worth of timber each year. Now, those are independent landowners, and they're producing this timber and selling it to the others and they, from theirs have reached a determination of sixty million dollars a year. In addition, many service industries rely almost completely on the forest industry for their existence. Louisiana is now one of the nation's leading producers of forest products. Third in plywood production, third in paper and paperboard, tenth in production of hardwood lumber, and thirteenth in all lumber. Our state ranks fourth nationally in number of acres certified as tree farms, and fifth in the number of tree farms, and much of this ... much of this growth has occurred during the last ten years. For the small landowner, the single most important factor is that, growth was the stabilization of taxes on forest land provided by the Forest Land Taxation Law. Landowners needed assurance that the tax burden on their timberlands would not become so great that they would be forced to clear it for other moneymaking purposes before the trees became merchantable that is, in fifteen or twenty years.

Ladies and gentlemen, I urge you to defeat this amendment which will do serious damage to this large segment of our economy. Thank you very much.

Chairman Henry in the Chair

Further Discussion

MR. NUNEZ

Mr. Chairman and ladies and gentlemen of the convention, Mr. Newton's amendment just entirely guts or takes out the provision that we had worked so hard to place in in the committee--that is, in substance, the same provision that is in the present constitution. There was tremendous reason for that provision being in the constitution, and that reason, moreso today than ever, is still valid, and we certainly hope you would defeat this amendment. Number one, the question becomes a legal question. The legal question being in years past, they had several additional taxes on gas--gas gathering. It ran into some interstate commerce problems. As you know, it's a problem to determine--gas and oil especially; Mr. Hernandez spoke of timber, and I'll speak of gas and oil because we'll try to cover both fields and there might be some people that want to speak on gravel and etc.-- but, it's a very difficult to determine the amount of tax, and where to tax. Gas and oil, before it's severed, nobody really owns it because nobody knows if it's there. It costs a tremendous amount of money, and you know it's a fact because all you have to do is check the amount of wildcats or the amount of rigs, or the amount of holes, what is commonly called dry holes that are drilled, that are nonproductive. You don't know whether you're going to strike oil or strike gas or hit oil or gas, and it becomes an economic producer. So, it was determined years ago that the best way to place a tax on oil and on gas would be at point in time of severance. At point in time of severance means that when you actually hit that well, and you start producing it, it's actually measured there not by a choke or by a counter right past what is particularly called a choke. Now, historically, Louisiana has taken this fact into consideration when we tax the oil industry. It's been historically that we place all of the taxes at the point of severance on the oil and gas industry taking into consideration that this is the only tax. Now, if you compare this tax that we have in Louisiana with the taxes in Texas and Alabama and Mississippi and all the oil-producing states, you're going to find that it's not only comparable, that it's probably higher. It works a lot better because it's an uncomplicated tax. It has a lot of jurisprudence behind it, meaning that it's been in court a number of times, and it's been proven that this is...that we can do it this way. I think all you have to do is look at what we did this past session. We doubled the gas-gathering tax, or the severance tax on gas from 3.3 percent to 7 percent. We more than quadrupled the tax on a barrel of oil from twenty-three cents a barrel to twelve-and-a-half percent, meaning on value. This naturally was taken into consideration the fact that the price of oil and gas has risen in the past few years. This isn't the first time we did this. In 1970... '72 we raised it from 2.3 to 3.3. So, within the past four years, we've actually raised the price of gas...the severance taxes on gas from 2.3 percent... cents to 7 cents--a tremendous increase. This, I feel, and the committee felt, and I think that the state feels, is a fair and equitable tax on the oil and gas industry. I think the proof of that is the fact of the matter, if any of you have these little booklets put out by the revenue department, before this recent increase, over forty percent of our revenues in this state were derived from the oil and gas industry, mainly on severances and on royalties and on etc. Now, we decreased the

sales tax and we decreased the income tax, and we don't have those figures yet, but I'm sure we'll have them after the next year, and I'm sure you're going to find that at least fifty-five to sixty percent of the revenues of this state, ladies and gentlemen, are derived from severance taxes, from royalty taxes, and from taxes on the oil and gas industry. I believe if you search your conscience and you search your mind, and you search the legal history of this, you'll find this is a tremendous burden for one industry to pay. It's a tremendous burden, but they are paying it. I don't know how long we can continue to keep this industry as being the major revenue-producing industry of this state. I can tell you this: if we take this out of here, if we take this out of here--and I think this is where the dire consequences come in--then we start levying ad valorem taxes on oil and gas and freight, and only the most astute geologist or reservoir engineers can tell you what's down in that ground, only the most astute. I think we're going to run into some legal, very serious legal problems. I think if we allow local government to go ahead and tax oil and gas, or the state, in place, or any other tax that we don't know whether we will be held constitutional, I believe we'll be seriously jeopardizing the entire revenue structure of this state. You've got to realize, some of the statements you hear up here, and what I'm telling you is you can check any of the revenue books of this state. You've heard statements that we're the lowest income tax state in the nation. I don't know if that's quite true. I've heard we're one of the highest. You've heard statements that we have the lowest property tax in the nation. I was told that we're thirty-six and thirty-seven. We've heard many of these kinds of statements, and you don't know whether it's quite true. I'm telling you that this is a factual statement. I'm telling you that the oil and gas industry pays the majority of the revenues of this state, and it's on a decline. It's on a decline and we don't know, we don't know where we'll be able to find additional revenues. I feel very, very concerned, and I think you should be also that if we ever lose...if the great oil industry of this state ever finds ourselves in the next fifteen or twenty years or ten years, where it's producing twenty percent of the revenues in this state, do you know we'd have to raise at least a half a billion dollars worth of revenues? Would you think about that for a minute? A half a billion dollars worth of revenues to just replace half of it. It's fantastic when you think about it, but it's a fact. Everything I'm telling you up here is factual information. So, I would ask you, I would ask you that the constitutional provision...

If there's no objection. I would seriously ask you that you do not do this: that you do not take this provision out. Mr. Chairman, I don't have much to add...that this constitutional amendment is not a deterrent, is not a deterrent to the state raising additional revenue for the oil and gas industry, and I submit to you the fact that we just have raised it on gas, on severance tax on gas by one hundred percent, and we've raised it almost three hundred percent on the barrel of oil. So, if this is a deterrent, then I don't know what we've got to put in here to stop the legislature from continually, or to continue to increase the taxes in this industry. We can do it now. We can go ahead and raise it and raise it and raise it. There's no limitation on what we can raise. But, if you constitutionally open the door whereby other subdivisions of the state, and other taxes can be levied on this particular industry, I believe you'd be seriously jeopardizing the entire financial structure of this State of Louisiana. I'll yield to any questions, Mr. Chairman.

Question

MR. NEWTON

Sammy, I really hated to interrupt you while you were going so good there, but I'd like to move to withdraw the amendment.

[Amendment withdrawn.]

MR. NUNEZ

Mr. Newton, I felt I was doing good, but I didn't think I was doing that good.

Amendments

MR. POYNTER

Mr. LeBleu sends up the following amendments:

Amendment No. 1. Page 2, line 26, at the end of the line after the word "levy" delete the partial word "sever-" and at the beginning of line 27, delete the partial word and punctuation "severance taxes,".

Amendment No. 2. Page 2, line 27, after the word "fuel." add the following: "A parish governing authority may levy a

severance tax if authorized by law enacted by the favorable vote of two-thirds of the elected members of each house of the legislature, and approved in a referendum in the political subdivision affected."

[Amendment withdrawn.]

Amendment

MR. POYNTER

Amendment sent up by Delegates Kean and Conroy reads as follows:

Page 2, line 27, after the word "fuel" delete the period "." and insert a comma "," and add the following: "except that the legislature may authorize a local governmental subdivision to levy an income tax, subject to such restrictions as the legislature may impose, with rates not to exceed the schedule of rates for the state income tax, and to be levied and collected in the same manner as the state tax, by an act passed by at least two-thirds of the vote of the elected membership of each house of the legislature. No such tax, if authorized, shall be effective until a proposition for imposition thereof is submitted to the electors of the affected local governmental subdivision and approved by a majority of the electors who vote in the election held for that purpose."

Explanation

MR. CONROY

Throughout this convention, we have tended to look back to the past to see what has happened in the State of Louisiana, what it's history has been, what the historical significance of certain events in Louisiana have been. But, I think at times, unfortunately, we have spend very little of our efforts in projecting into the future and thinking about what the future may bring to this state, and the municipalities and parishes in this state. This provision, with as many safeguards, as I think you can possibly put into a provision, is designed to permit local governmental subdivisions, with a vote of the people, in the local governmental subdivision, and with a two-thirds vote approval in the legislature, to adopt an income tax. Let me explain the significance of those two procedural steps which require the votes. It's all the steps that are required in a constitutional amendment except requiring the approval of voters throughout the state to vote for approval of one area's desire to impose an income tax. That's essentially what this does is to preclude the necessity, say, for the people in Shreveport from voting on whether or not people in Jefferson parish should have an income tax. The state presently, as has been said by a number of people, the state presently funds a greater portion of the services that are provided in this state than most states do. We have little funded at the local level. The state's income is primarily from the oil and gas industry. As the state revenues from the oil and gas industry decline, I think that something's going to have to happen with regard to this method of funding services in the State of Louisiana. I think that more of the burden is going to shift down to the local level, particularly, now since we really can't increase state income taxes. For example, it was conceivable that prior to the adoption of the amendments which have occurred in this proposal, it was conceivable that the State of Louisiana might have chosen to increase income taxes and use that money to fund local services. But, that possibility doesn't exist. My belief is that at some point in the not-too-distant future, in order to provide the services that people in an area will want and need and be willing to vote for, that we will have some areas desiring to have local income taxes. I say again, remember, it's something that they're going to have to want badly enough that they're willing to vote to impose it upon themselves because it does require a vote of the people in the local governmental subdivision. I can't think of...frankly, I can't think of any reason why there should be any objection to permitting a local governmental subdivision from deciding to impose a tax upon... I mean the people in the area deciding to impose a tax upon themselves, if they want and need the services that the money will have to provide. I think that realistically, we just simply have to come to grips with the problem that at some point we're going to be needing to look for money. We're at the limit of the sales taxes; the ad valorem tax we've imposed a very large homestead exemption on, so that the revenues will not be available from that source. Logically, necessarily, local governmental subdivisions will require some source for money, and I don't think that you should require or look forward for the necessity for a local governmental subdivision to appeal to the whole state at that time for a constitutional amendment to impose a tax in its own area. I urge the adoption of the

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amendment. I'll answer any questions.

Questions

MR. ROEMER

Mr. Conroy, didn't we in committee reject this idea?

MR. CONROY

No. As a matter of fact, when I brought it up, it was tabled.

MR. ROEMER

I took that to be the same thing. Thank you, Mr. Conroy.

MR. CONROY

Well, I wasn't sure whether it was just a lack of desire to come to grips with it, but at that time, it did not have this restrictions in it, Buddy. At that time, the other provisions that have now been adopted into this constitution were not adopted either. So, I don't feel it appropriate to say that it was rejected by the committee.

MR. TOOMY

Mr. Conroy, this amendment requires a vote of the people in the governmental subdivision.

MR. CONROY

Right.

MR. TOOMY

Does that necessitate that the tax would only be applied to persons or residents of that subdivision?

MR. CONROY

No. That is intended to be dealt with up above in the third line where it says, "subject to such restrictions as the legislature may impose." Actually, what this would invase is taking something like the metropolitan New Orleans area where the various parishes would jointly want to each impose an income tax. I don't think it would work, frankly, if one parish in a metropolitan area attempted to impose it, the legislature presently prohibited, and I think there's sound logic in that, and I don't think that that's possible. But, I think that not too far down the line, it may well be that both Orleans and Jefferson, and possibly the other parishes in the area would want to impose such a tax.

MR. BURNS

Mr. Conroy, I understood you to say that you couldn't imagine how anybody could be against this tax inasmuch as the electors of the local governmental subdivision affected would have to vote on it. Is that correct?

MR. CONROY

Yes.

MR. BURNS

Do you realize that possibly over half of the qualified voters in those different governmental subdivisions don't pay any income tax?

MR. CONROY

Well, I...that would depend...

MR. BURNS

Yet, they'd have the right to vote an income tax on the other forty-five or forty percent?

MR. CONROY

Mr. Burns, that would depend on how the tax was imposed. But, I think one way or another, they do have income that could be taxed.

MR. LANIER

Excuse me, Mr. Chairman. I was in a heated debate with Mr. Duval who's not thinking correctly today, apparently.

MR. HENRY

As usual.

MR. LANIER

Mr. Conroy, on this part (C) here, it says "political subdivisions of the state". Is that intended to apply to local governmental subdivisions, or does it mean state agencies like levee districts and ports, etc?

MR. CONROY

Mr. Lanier, that's a very interesting question. That does not really relate to my amendment. In a sense, it may. At the time this committee proposal was drafted, the committee did not have before it the Local and Parochial Government Committee's definitions and terminology. So, it may be that this terminology as presently worded would not preclude a local governmental subdivision from imposing an income tax. Is that the point you were suggesting?

MR. LANIER

Would you agree with me that it probably does not include local governmental subdivisions as presently drafted?

MR. CONROY

Well, no, I will not agree with that because I think it's only when you pick up the definitions that your committee used that that problem generates because I think it's fair to say that in a broad context, political subdivisions means local governmental subdivisions, as you all have defined them. "Of the state" just is not...it is a geographic reference is what I think it is here, not a reference to being agencies. I think it means political subdivisions in the state, in effect.

MR. LANIER

Why would you want to prohibit a local governmental subdivision from levying a motor fuel tax?

MR. CONROY

Well, this does not relate to my amendment. I trust you understand that, Mr. Lanier, because that's Paragraph (C). I'm not explaining (C). I'm explaining my amendment. The reason for that, I believe, was to prevent warfare as far as sale of gasoline at various filling stations throughout an area that they wouldn't have different taxes on it in the different areas. Any other questions?

MR. SLAY

Now, the city of Alexandria would be a local governmental subdivision under this?

MR. CONROY

Yes.

MR. SLAY

Now, the parish of Rapides, also?

MR. CONROY

Yes.

MR. SLAY

Now, we were concerned about Mr. Gravel's twelve percent-- if I lived in Pineville, worked in Alexandria, then I could be subject to three six percents or a total of twenty-four percent. Would that not be correct?

MR. CONROY

Mr. Slay, I just didn't feel it necessary to spell out all the possible restrictions that could exist. I said here that it required a two-thirds vote of the legislature, subject to such restrictions as the legislature might impose. I think it very likely to assume that if the legislature did permit any income taxes in a particular area, and it would require the vote of the legislature to permit it, that it would impose restrictions comparable to the restrictions that apply to the occupational license tax in any area where you had....

Further Discussion

MR. ALARIO

Mr. Chairman, members of the convention, I rise to, of course, oppose this amendment. I'm very surprised at this time to see one of the authors who are offering this amendment who fought so vigorously at this microphone because he was afraid that we might be doubling the income tax rates for certain people, to now be proposing that there might be just that--the doubling of rates for all people in this state. I can't for the life of me see where we need to provide for another tax on the wage earners of this state. Those that are earning in the incomes at the end of the year, just get a W-2 form they get to have his taxes filled out, and don't have any of these shenanigans to bypass the taxes, are going to be further taxed on his wages, the money that he takes home, even further than what he is now. This amendment would, in effect, allow local governing authorities to bring the income tax up to the same rate as state income taxes, and at the same time, not only tax those who are voting on this issue, but

tax residents of another parish who work in that particular area. To me that would be a very unfair tax. Those people who work in that particular city are spending taxes in that area by the money they spend in that area--the sales taxes, gasoline taxes, cigarette taxes that they pay, and of course, not to mention the property taxes that are paid by the business in which they work in. It says, in effect, "subject to such restrictions as the legislature may impose." Now, just what does that mean? Just how high might these taxes go? Let's take for instance, if a particular area voted for this tax. They say, well, now, we're going to put an earnings tax, but we're going to give you a credit on that tax for all your property taxes or taxes paid within the city if you live in that city. In effect, what you're going to be doing then is only, only taxing the nonresidents, the people who live out of that parish or out of that city, and making them pay for all the taxes, and I'm sure it's going to be popular to those local politicians to be able to raise the taxes on others, but at the same time, not taxing their own. I tell you this would certainly be another unfair tax on the working people of this state, and I ask that you would certainly oppose it and vote it out.

Questions

MR. WILLIS

Mr. Alario, I want to revitalize the questions that Mr. Burns asked Mr. Conroy. Bearing those in mind, I want to point out another venomous tentacle of this octopus of an amendment. Who would be the custodian of those tax returns in the local government, and where is the confidentiality of those returns? What would you think of the confidentiality of my returns filed in the courthouse?

MR. ALARIO

Mr. Willis, of course, it says in here that the tax would be collected the same as the state tax, so I would imagine it would be filed at the same time.

MR. WILLIS

But, I would have to file three income tax returns?

MR. ALARIO

I thought I read here someplace where the tax would be collected by the state, "levied and collected in the same manner as the state tax," so evidently, it would be collected...

MR. WILLIS

In the same manner, but it doesn't say by whom.

MR. ALARIO

Well, you're right. It may require them to file an extra return.

MR. WILLIS

In other words, the secretary to the police jury can be the tax collector and say, "You file the tax returns with me," and he has custody. Where's the confidentiality of those tax returns?

MR. ALARIO

There's a possibility there. I don't just exactly know what the authors had in mind as to an extra form, or what.

Further Discussion

MR. SINGLETARY

Mr. Chairman, ladies and gentlemen, I rise to strongly oppose this amendment. This amendment would, for example, allow New Orleans to impose an income tax on individuals working in New Orleans and living in St. Tammany Parish. Several months ago, each of you got a unanimous resolution from the Slidell city council opposing the concepts set forth in this amendment. The people in my area are very strongly opposed to this amendment, and I believe that if this amendment is adopted, it would greatly jeopardize the passage of the constitution in St. Tammany Parish. So, I urge you to defeat this amendment.

Question

MR. BROWN

Mr. Singletary, you said that the Slidell city council was vehemently against it and so were you, but why? What does this do that's so crippling to Slidell or St. Tammany Parish?

MR. SINGLETARY

Well, it would allow individuals that live in Slidell and work in New Orleans to have their income taxed, and they're opposed to that.

Further Discussion

MR. NUNEZ

Mr. Chairman and ladies and gentlemen of the convention, you know, many of us would have liked to have taken the state out of the income tax business and just let the federal government be in the income tax business. Lord knows they're heavier enough in that business. Now, we have an amendment, here, to put the local government in the income tax business, and not only to put them in their own area, but to allow one parish to tax across parish lines. Let me tell you the complications this would set up. If you take, for example, Senator Brown, the question you asked of Mr. Singletary. Take the great fishing industry in coastal Louisiana where you have about two hundred thousand people engaged in fishing throughout coastal waters. They might leave St. Bernard Parish and end up in Cameron Parish with about three or four--used to be hundreds--but maybe fifty, sixty barrels of shrimp that's worth a hundred dollars a barrel. They get a voucher for, maybe, five or six thousand dollars. Where is that income earned? Is it earned in the Gulf of Mexico; is it earned in Bay Catalina, or is it earned where you sell it, in Cameron Parish? We have got an opinion that it would have to be paid in Cameron Parish, if they had this tax. Take another example. If you want to take Cameron, or take Plaquemines Parish that has twelve thousand offshore oil workers that live in Shreveport, Mississippi, Alabama, all over the country, and we put an income tax on. Now, those people would pay taxes where at? They'd pay it in Plaquemines Parish where their check was issued, if the home office was there, or they'd pay it out of New Orleans where many of the home offices are. There's a great... I think, legally, we're talking about something that we're not going to be able to accomplish, and, I think, probably wasting a lot of the convention's time. It's a... I think it's a bad amendment simply because it's placing another income tax. But, I think from many, many standpoints we should defeat this amendment. If they want all of the big metropolitan areas... when they come in and shop from West Baton Rouge and East Baton Rouge, and they pay that sales tax, if they pay cash, they don't send the money back to West Baton Rouge. When the people of Jefferson go into Orleans Parish and pay that six percent sales tax, that money doesn't go back to Jefferson Parish. It stays in Orleans. They ought to be thankful that we have these big areas, that we're flooding our dollars into these big metropolitan areas rather than trying to tax the people that might work there. I'll tell you, Mr. Conroy, or anybody else who's submitting this amendment, if you look at it a little harder, and you realize that there are many people in your areas that work in the outlying areas, you might be at a disadvantage passing this amendment. I think it's a very bad amendment and it's detrimental to a consistency in income tax provisions of this state. So, I would ask you to defeat the amendment, ladies and gentlemen.

Further Discussion

MR. HAYES

Ladies and gentlemen, maybe I need to explain the votes I have made so far. I had voted with the Kean amendment twice, but it looks like this is getting ridiculous. I didn't think that we'd come up... I was trying to stop the state from imposing taxes, the main reason being that it was about 1913, I believe, they passed the Sixteenth Amendment to the United States Constitution. Up until that time, an income tax, itself, was unconstitutional. But, now, the federal government will almost tax you out of your house. You don't have to worry about a person getting rich. They're going to see to it that you don't get rich. The problem is you have to find some way to get that money back into your community. Now, this is the reason I voted like I did. They're already going to get the money. No matter how much money you make, you will not get away with it. They're going to take it back. Now, the state, then, if they limit the amount of money that the state is going to take, I thought you would have enough money, then, left to have an incentive to do something. What... When a person is in business, you must have an incentive and you must have a profit. You people in business know you're going to have to have a profit and a loss statement. If you have a loss statement, you're not going to stay in business. So, my reason for voting this way was to make sure that you would have a profit and not a loss, you would have an incentive to stay in business. That if you would make any money and the state didn't get it, the federal government would, and you would put it all back into salaries or something else. Whenever you pull it out, somebody would get the money, and the people that are rich are not going to get richer. The poor people that we keep talking about--and you're looking at one--the poor people are going to pay the tax, no matter what you do. That's what you have; that's who's going to pay the tax. The more you try to save

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them, the more you're going to sink them. So, you don't have to worry about that. Every time you attempt to try to sink the rich, they're not going to pay anything. I don't care what you do, they're not going to pay it. It's the poor people that are going to pay it, because you had a majority of the people are poor, that's who are going to pay the tax. Please defeat this amendment. You're ridiculous, here, now, talking about subdivisions and all these people in the state going to impose an income tax. I never heard anything like this before.

[Previous Question ordered.]

Closing

MR. CONROY

I'm going to try to straighten out a few misconceptions that appear here at this rostrum. In the first place, there is not, at this time, any constitutional prohibition against local governmental units having an income tax. There is a statute which is on the books which precludes one parish or city from imposing taxes on residents of another. This does nothing to disturb that situation. I think that's a sound statute. As a matter of fact, this provision recognizes that by saying that it's "subject to such restrictions as the legislature may impose." I think it's wonderful that we can sit here and think and believe for one minute that there can be government without taxation. There cannot be government without taxation. The money has to be provided. All I'm asking is that you not impose restrictions for the future that do not exist at this time. Leave it open. If you want to put restrictions in, put the restrictions of the kind that are mentioned here, where the people in the local area can vote to impose the tax on themselves if they need it. I don't know how we can sit here and assume that we can forejudge the future and assume that there will be no need for such taxes, and that we will not have to ever have them to support government in this state. I urge the adoption of the amendment.

Questions

MR. WEISS

Delegate Conroy, what is the primary source of income for local government?

MR. CONROY

Right now, I think it's probably the sales tax, would be my guess which is. . .

MR. WEISS

I think it's the property taxes. Didn't we give a. . .

MR. CONROY

I'm not sure whether that's so. But, it would be property taxes and sales taxes. We're affecting, possibly, the property tax in some areas, and local government units are at the maximum on sales taxes in many areas right now.

MR. CASEY

Mr. Conroy, is it not correct that the whole problem existing with this particular section of this proposal is that we're proposing to do something in the constitution--our new constitution--that all we have today is statutory prohibition on, which can be changed by the legislature? Rather than embedding this in the constitution, would it not be better just to stick with statutory prohibition to have the flexibility in the future?

MR. CONROY

Yes, Mr. Casey, I believe that very strongly. But, sensing the attitude of this convention, I didn't think it appropriate to pull out altogether the prohibition against income taxes. Instead, I permit them, but only with very severe restrictions on what circumstances income taxes could be imposed. I think it's an entirely appropriate amendment.

MR. AVANT

David, this is a question that goes to, I guess you might call, a technical point. But, the phrase "to be levied and collected in the same manner as the state tax," does that mean that if they enact a tax, that then all of the little technical rules as to exclusions, deductions, exemptions, capital gains, losses, carry-overs, and all of that stuff that fills many libraries has got to be just like the state law so that once you learn the income tax in Louisiana, then you will know it, no matter what city may impose one?

MR. CONROY

Precisely. Yes, sir.

MR. AVANT

I wanted to make sure that that's what that meant.

MR. CONROY

Right, that's exactly what it's intended to do. Not so that the thing won't be anymore complex, it will just be a matter of another agency being able to collect money.

[Record vote ordered. Amendment rejected:
22-76. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Landry, let me read it so they'll know which one it is. This is an amendment sent up by Mr. Ambroise Landry and many other coauthors.

Amendment No. 1. On page 3, line 6, after the word "exceed" strike out the remainder of line 6 and insert in lieu thereof the following:

"five hundred thousand dollars to".

Now, there are two amendments with two dollar amounts. This is the five hundred thousand dollar amendment.

Explanation

MR. A. LANDRY

Mr. Chairman, ladies and gentlemen of the convention, I'm not going to tell you that this is a technical amendment, because when you change the word "two hundred thousand" to "five hundred thousand," it's a more than a technical amendment. But, I believe that it is a fair amendment. If we look back just a couple of weeks ago at the special session of the legislature, the legislature increased the severance tax on gas from 3.3 cents per thousand cubic feet to 7 cents per thousand cubic feet, which means approximately a hundred and twelve percent increase. Then, we see what they did with oil. They raised oil from twenty-three cents per barrel to twelve and a half percent of the value of the oil. I understand, at the present time, oil is selling at four dollars and thirty-five cents a barrel, which means an increase to 54.37 cents per barrel, or an increase of one hundred and thirty-six percent. Now, remember that the proposal carries on the same amount of severance taxes given back to the parishes as it did in the 1921 Constitution. I want you to realize that in the coastal parishes and in the parishes that have oil development, that because of that development, we do have problems that is created by that development. For instance, I've explained to you very simply that in my parish, alone, we have a courthouse that is bulging at the seams; the people will not vote taxes to build a new courthouse for the simple reason they feel that we should get some money from the severance taxes that has created the oil industry, that created the problem. If it wouldn't be for the oil industry in LaFourche Parish, it would not be necessary to build a courthouse. We wouldn't have enough papers to fill it up. But, it creates a problem. I hope that you will see fit to vote for this amendment. I understand that there are some of you people who have the timber tax. I am not changing anything. It is not my intention to deprive you of continuing to receive your severance tax on timber. I understand that if my amendment passes, that there will be an amendment to make sure that the severance tax on timber to the various parishes will be retained. I hope you will consider this amendment very seriously and vote for it to help those of us, and it will not hurt anyone in the State of Louisiana. I hope that you will vote favorably for my amendment. Thank you very much.

Questions

MR. ANZALONE

Oh, Mr. Peeper, would you tell me what happens to the excess of this two hundred thousand dollars, now?

MR. A. LANDRY

The excess, now?

MR. ANZALONE

Yes. All that you all don't get above two hundred thousand dollars that are collected more than two hundred thousand dollars, where does it go?

MR. A. LANDRY

It will go to local government.

MR. ANZALONE

No, I mean, where does it go, now?

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MR. A. LANDRY

It stays in the state treasury, I would imagine.

MR. ANZALONE

Into the state treasury?

MR. A. LANDRY

I hope it does. I don't know.

MR. ANZALONE

Well, now, let me ask you this question: being as I am from Tangipahoa Parish, and last year I think we collected something like fifty-nine thousand dollars; if we tried to get something out of the state treasury, you are depleting our resources just a little bit, are you not?

MR. A. LANDRY

No, I don't think we're decreasing yours; we're increasing yours, somewhat.

MR. ANZALONE

No, sir, you couldn't possibly be, because if it's going into the state treasury--all over two hundred thousand dollars--and you want to make it all over five hundred thousand dollars, then you're taking three hundred thousand dollars away from some of us country parishes that like to come to Baton Rouge to get a little money every now and then.

MR. A. LANDRY

Oh, I doubt seriously. Don't you forget that they just raised it more than a hundred and thirty-six percent. So, there will be a lot more money coming in.

MR. ANZALONE

Yes, sir, but they took some other ones off.

MR. FAYARD

Mr. Landry, let's assume that the legislature would come back next year and repeal the severance tax and go right back to where we were before the imposition of the new tax. What would happen under your proposition? You would continue to get the excess over two hundred thousand?

MR. A. LANDRY

Mr. Fayard, the way the proposal is written, you're entitled to twenty percent of the severance taxes or one-fifth on oil and gas, not to exceed five hundred thousand. So, if the revenues drop, yours drop too.

MR. FAYARD

But, your proposal is based on the premise that since the severance tax had been almost doubled, you're entitled to a doubling of what you presently get.

MR. A. LANDRY

That is correct, sir.

MR. FAYARD

But, if it was reduced, you would still be allowed to get up to five hundred thousand.

MR. A. LANDRY

Providing that we collect that much, yes.

MR. FAYARD

So, in effect, you would be taking some additional away from the state revenue general fund. Is that correct?

MR. A. LANDRY

I think you just heard this morning. . .this afternoon, that Mr. Traigle has advised that because of the increase in the value of oil that it doesn't seem like it's going to decrease, even though oil decreases.

MR. DE BLIEUX

Mr. Landry, do you know how much money that this is involved that you. . .the total amount of money involved throughout the state?

MR. A. LANDRY

I don't have the exact figures, Mr. De Blieux, because I had asked the staff to get that for me, and I don't think they've been able to do it. But, I would say, probably ten million dollars.

MR. DE BLIEUX

You would be taking this additional money outside of the state treasury?

MR. A. LANDRY

How is that, sir?

MR. DE BLIEUX

I say, you would be taking this. . .that is, reducing the state resources by this sum of money--ten million dollars?

MR. A. LANDRY

Yes, sir. I think we'd be getting a little share of what we've been putting into the treasury.

MR. LEBLEU

Mr. Landry, you were asked a question about what happens to the excess over the five hundred thousand dollars, and you answered that went into the state treasury. That's correct. I want to ask you: what happens to seventy-five percent of the timber tax? What happens to seventy-five percent of the timber severance tax? Where does that go?

MR. A. LANDRY

That goes to the parish--individual parish who collects it.

MR. LEBLEU

The local governing authority.

MR. A. LANDRY

There's no limit on that, Mr. LeBleu.

MR. BURNS

Ambroise, did I understand you to say there was amendments to be introduced that would take care of the severance tax on timber, too, such as you're doing in this one?

MR. A. LANDRY

In other words, Mr. Burns, as I read the proposal, there might be a question. I did not prepare the proposal; the committee did. All I changed was the "two hundred thousand" to "five hundred thousand." Now, if the timber people feel--and I don't think so, I think they're protected. But, to make it clear, I certainly would not object to such an amendment, Mr. Burns. It was not my intention to deprive the parishes with timber of any of their severance tax.

MR. ALEXANDER

Mr. Landry, would not the effect of your amendment be to double the amount the parish retains?

MR. A. LANDRY

In some parishes, not all, Reverend.

MR. ALEXANDER

Not all. How would this affect Tangipahoa? Would it not, possibly, instead of getting sixty-nine thousand, now, we'll get a hundred and thirty-eight thousand?

MR. A. LANDRY

Let me say this: it will affect Tangipahoa to this rate, that they're now, according to the 1972 figures, they receive \$57,875 and under--not under this amendment--under the present constitution, they will get an increase of up to \$66,502. So, they lose no money, Reverend.

MR. ALEXANDER

Good.

MR. CHAMPAGNE

Mr. Landry, am I to understand that you understand that the two hundred thousand in the committee was before the state increased the tax so gracefully? So, what you're trying to do, here, is to compensate that the parishes retain a larger portion of this great additional income that the legislature, you know, threw around quite liberally, just shortly? Is that right?

MR. A. LANDRY

That is correct, Mr. Champagne.

MR. A. LANDRY

Sixty-eight, yes, sir. The staff did make one error. They put Mr. Giarrusso, and it was Guarisco, not Giarrusao. They put Giarrusao, once, and Guarisco, once. So, I have sixty-nine, but it's really sixty-eight because I didn't talk to Mr. Giarrusao.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, I don't know whether anything I say is going to make much difference in this, but nevertheless, I want it on the record recording you. This is just like making an appropriation out of the general funds of the State of Louisiana. We're already in enough difficulty as it is, in trying to meet the obligations that call upon us by local government as well as state government. Now, if you want to put the state in a very serious bind in being able to meet those commitments, go ahead and vote for this amendment. This constitutional convention, I don't believe, was called for the purpose of appropriating money. But, yet, nevertheless that's what you're doing. You're appropriating out of the general funds of the State of Louisiana to certain local governments--not all of them--just certain ones, by this amendment, some of our funds. I just tell you it's a bad proposition. I think you're going to get severely criticized for it if you vote for it.

Further Discussion

MR. NUNEZ

Mr. Chairman and ladies and gentlemen of the convention, and Senator De Blieux, yesterday you presented an amendment that appropriated two million dollars to the Board of Liquidation. Some of us thought it was wrong, but still and all, you were appropriating, evidently. All we're doing in this amendment is giving justice back to the parishes that are paying the severance tax and the royalty tax of this state. Let me tell you, you just heard me get up here and explain the reasons why we should not place additional taxes on the oil industry, that is, local taxes. Well, one reason why this amendment is necessary is because local industry or, I mean, local subdivisions cannot tax the oil industry, as such. What we are doing is compensating them in some small manner for the . . . what goes on in that parish. Well, the legislation we passed this past session that was designed to increase drillings and increase production; it's going to increase activity in those parishes. Let me tell you, you people who live down in the coastal areas of Louisiana, you know that some of the damage done is irreparable. Some of the pipelines that are cut through the marshlands of our area will never be restored. The economy of that area, of those areas, was based on fishing, shrimping, crabbing, trapping, etc. In Mr. LeBleu's area, on catching alligators. Evidently, that's coming back. But, when we deplete our natural resources, and we're out of natural resources and we don't have any more, our economy will have to go back to one of fishing, shrimping, crabbing, trapping, etc. So, this is small enough compensation for the damage--and I'm not saying the oil companies do the damage, but in the course of drilling and dredging, etc., in the course of all the activities, in the course of providing services for the many people that they bring down, this is far enough compensation for those parishes. Let me tell you the amount of money some of the parishes give to this state in the form of severances: St. Mary's Parish, Mr. Winchester, forty-five million dollars; Terrebonne Parish, about forty million dollars. Now, I, personally, would like to see us rebate back to those parishes a lot more. I would like to see a limitation where the legislature could make a sliding scale. We're not asking for that; we're just asking for a fair--not even a fair amount.

Just a small token amount back to that parish that you are severing their oil and their gas. We're giving back to the timber parishes seventy-five percent, and nobody objects to that. I'm for that; I think it's a good provision.

Questions

MR. ROEMER

I just wanted to hit that point again. We didn't mean to take away the timber severance income, did we?

MR. NUNEZ

Not at all, Mr. Roemer. I think you agreed to accept any amendment that would make it on parity with what we're doing. They get seventy-five percent. The law now provides that the oil producing parishes get twenty percent. But, if you took and applied that twenty percent to those forty-five million, you'd give nine to ten million. That's why the state cannot afford that, so we limit it to two hundred thousand, and now we're raising it to five hundred thousand. I think it's a good amendment.

MR. ROEMER

Senator, do you mind if I tell the convention that you're the recognized authority on severance taxes in our committee?

MR. NUNEZ

Is that on raising them or lowering them?

MR. ANZALONE

Sammy, how much revenue did St. Bernard get out of this tax last year?

MR. NUNEZ

Out of this tax?

MR. ANZALONE

Yes. How much over that five hundred thousand dollars did you all actually get?

MR. NUNEZ

I want to tell you. Let me. . . if you give me an opportunity, I'll tell you, exactly. St. Bernard Parish got a hundred and eighty-two thousand dollars, Mr. Anzalone. Now, let me. . . we paid--excuse me. . .

MR. ANZALONE

One million eight hundred and eighty-two thousand dollars?

MR. NUNEZ

No, we paid just about. . . St. Bernard Parish is west of the Mississippi. . . east of the Mississippi River. From a geological standpoint, there's very little production of oil and gas east of the Mississippi River. It's all mainly west of the river. We are not a high producing parish when it comes to oil and gas. So, you can use other parishes if you're trying to. . .

MR. ANZALONE

Sammy, if you were me, and you were from a parish that collected thirty-six thousand dollars last year, well, do you think that I. . . that you would vote yea or no on this particular amendment?

MR. NUNEZ

Mr. Anzalone, I've known you to be a fair man, and if you'd paid in forty-five million from your parish, I think you'd vote yea.

MR. ANZALONE

If I paid in thirty-eight thousand, how would I vote?

MR. HENRY

The gentleman has exceeded his time.

[Previous Question ordered. Record vote ordered. Amendment adopted: 88-15. Motion to reconsider tabled.]

Amendment

MR. POWNTER

Amendment No. 1. On page 2, line 29, after the word and punctuation "tax," and before the word "one-fifth" insert the word "and" and at the end of line 30, delete the comma ", " and delete line 31 in its entirety and at the beginning of line 32, before the word "shall" delete the words "owned property" and on page 37, between lines 7 and 8, add the following paragraph:

"(E) Ten percent of the royalties from any mineral lease or agreement heretofore or hereafter granted by the state on state owned land and water bottoms or from such land or water bottoms the title to which is in the public for mineral development shall be remitted by the state treasurer to the governing authority of the parish from which the minerals were severed to be used by such parish exclusively to construct roads, highways, bridges and tunnels in such parish, and to operate and maintain automobile ferries in such parish. The governing authority of such parish is authorized to fund into general obligation bonds of the parish its portion of the royalties."

Explanation

MR. BOLLINGER

Mr. Chairman, fellow delegates, the committee proposal as it stands now, allows the moneys from the royalty road fund to go into the general fund of the parish. The concept behind the royalty road fund, when it was devised, was to rebate to the parishes money in order to build roads. The reason for this was that traditionally the oil and gas severance tax producing parishes have a weaker foundation, have a greater expense in the construction of roads. We just adopted an amendment which increased the severance tax limit allowed to parishes. This goes into the general fund. I honestly feel

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that if we would retain the present provision which is in the constitution, that the concept behind the royalty road fund, that is: the construction of roads, is retained. Many questions have been asked me in my talking to delegates about the royalty road fund, "Why isn't maintenance included?" The 1921 Constitution in its royalty road fund provision leaves the word "maintenance" out, and this has worked fine. Parishes have, in instances where it's necessary, overcome and overlaid roads where it was necessary. However, I think if we include maintenance in the royalty road fund provision, we lay open the possibility of each individual parish establishing a small highway department or a maintenance department. The second part of the amendment deals with the bonding of these moneys. The 1921 Constitution allows the proceeds from the royalty road fund moneys to be bonded for the construction of roads. The last sentence of this amendment does the same.

Mr. Chairman, I yield to any questions.

Questions

MR. ROEMER

Just a quick question, Boiesie, on this second part of the amendment. This is more restrictive than the committee language, is it not? We didn't restrict the use of these funds, did we?

MR. BOLLINGER

Yes, sir, Mr. Roemer, it definitely restricts the use of the money.

MR. ROEMER

I see. To such things as automobile ferries, right?

MR. BOLLINGER

Well, automobile ferries would allow the operation and maintenance. Usually you can use this money to operate and maintain automobile ferries, but you cannot use the money to maintain highways, and that's why the distinction was put in there.

MR. FLORY

Mr. Bollinger, isn't this a change from the present law in that the money is not rebated directly to the parish?

MR. BOLLINGER

Yes, Mr. Flory, it is. In the 1921 Constitution, the provision is that the money is placed in the treasury of the state, and it's credited to the parish for the purpose of constructing roads.

MR. FLORY

And isn't the contract let by the State Department of Highways for the construction of highways, etc., in the parish in which the money is to be credited?

MR. BOLLINGER

Only upon the request of the local governing authority. Yes, it is, but only upon their request.

MR. FLORY

That's correct. The money can only be used upon their request, but the contract itself is let by the Department of Highways.

MR. BOLLINGER

Well, that would not destroy this, Mr. Flory. I think the local governing authorities realize that the highway department has the professional staff to judge contracts, and as far as I know, they always go through the highway department in this type of letting of contracts.

MR. FLORY

This amendment would not change that procedure?

MR. BOLLINGER

No, sir, it would not.

MR. LEBLEU

Mr. Bollinger, I wonder why you are restricted to the operation and maintenance of ferries. In Cameron Parish we have one large ferry that crosses the Calcasieu Ship Channel, which cost one million dollars, and the parish paid half of the cost of that out of the royalty road fund. I can see no way, for the rest of my life, how we're going to ever get a bridge across there. Now, if you restrict this just to the operation and maintenance of ferries, you'll prohibit us in the future from using some of the royalty road funds to build a new ferry in case we need it.

MR. BOLLINGER

Mr. Conway, I would consider and I will, Mr. Chairman, withdraw the amendment to include the word "purchase" of automobile ferries. I tracked the original language, and it wasn't included. But I see that it is in error, and I would like to include it.

MR. CHAMPAGNE

Mr. Bollinger, are you aware that the committee, in my opinion, thought that our language was less restrictive than the one you have?

MR. BOLLINGER

Yes, sir. That was the purpose of my amendment.

MR. CHAMPAGNE

We feel that local government says, "Let us run our own local government," and in the event these people would not do what the people want, they are subject to being replaced in office, are they not?

MR. BOLLINGER

They are, Mr. Champagne. As you know, we cannot change the bonded indebtedness, but from past history, and if you look at the bonded indebtedness of parishes that receive royalty road funds, they are bonded to the hilt right now. The necessity to continue bonding these funds for the purpose of constructing roads is necessary. This is the purpose of my amendment.

MR. TAPPER

Mr. Bollinger, if you're going to withdraw the amendment, would you consider changing the word "automobile" to "vehicular"?

MR. BOLLINGER

To what?

MR. TAPPER

To vehicular, to include also trucks because, according to this amendment, only automobiles will be able to use the ferries if this money be spent for it, and also passengers, because you know there are a lot of people that walk on a ferry to get across the river.

MR. BOLLINGER

Well, Mr. Tapper, how do you refer to a ferry if it's not an automobile ferry? I was under the assumption that all ferries were automobile, except for railroad or this type. If there's a problem, I have no objection, but I would assume that "automobile ferry" included ferries that carry passengers and trucks, but not exclusively passengers.

[Amendment withdrawn.]

Amendment

MR. POYNTER

All right, the following changes have been made. On the fourth to last line of the text of the amendment, it should read--the fourth to last line in its entirety--"parish, and to purchase, operate and maintain"--scratch out the word "automobile"--"ferries"...parish, and to purchase, operate and maintain ferries". Add the word and punctuation "purchase," before "operate;" strike out the word "automobile".

Questions

MR. DERBES

Boiesie, isn't it basically the premise of this amendment that the local governing authority is not the best judge of how it uses this revenue?

MR. BOLLINGER

At times, very often, Mr. Derbes, and that is the purpose of my offering the amendment.

MR. DERBES

Further, isn't the amendment also, essentially, restrictive in terms of the types of transportation that it encourages? In other words, we've reached a point now where the state legislature has seen fit to create an energy commission and to make specific provisions for energy conservation. Yet, what we're doing here is we're not making any general provisions by way of encouraging mass transit, general transportation provisions, other than roads and highways and ferries; isn't that also the case?

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MR. BOLLINGER

I didn't understand the point of your question?

MR. DERBES

Well, in other words, if we're going to provide for transportation for...if we're going to use these funds to provide for transportation, don't you think it would be more futuristic and better planning to make a more general statement requiring that the funds be used for transportation, rather than a restrictive one, in order to give us an opportunity to develop better types of transportation?

MR. BOLLINGER

No, Jim, I think as I explained in my first explanation, the reason for the royalty fund road--the way it's construed--is because the areas that produce the minerals have weaker foundations and cost more money to construct transportation facilities, meaning roads, not broadly. Now, I think it would very easily be construed to think that these parishes wasn't any better deserved than any other parish to buy a train or a bus or anything of that sort. That's why I don't think it should be that broad and should be limited to the uses herein provided.

MR. SCHMITT

What would be the present cost to the State of Louisiana if this is adopted?

MR. BOLLINGER

What would be the present? Whatever it is today; it wouldn't change.

MR. SCHMITT

How much money is involved? How many millions of dollars?

MR. BOLLINGER

I really don't know. It's the same as it is. It's no additional cost to the state, if that's what you're asking.

MR. SCHMITT

If they're losing ten percent of the revenues, there has to be some kind of cost to the state. How much is the total amount of revenues which are received from these sources at the present time, yearly?

MR. BOLLINGER

Jay, I really don't know, but it's the same as it is today under the present law. I don't know the figure.

MR. SCHMITT

Also with reference to the "heretofore or hereafter granted," does that mean that a lease which existed prior to this time that the parish has a right to go in and collect for back years? So, if they'd been ten years paid, they'd get a hundred percent the first year.

MR. BOLLINGER

I think you're misunderstanding me. They have been receiving it; they're receiving it now--today. It's all-inclusive, but it's been...the law is now, exactly as it is stated in here, with regards to leases on state-owned lands and revenues derived from those leases.

MR. SCHMITT

If the state should happen to establish some type of a pipeline and would charge a rental from that, would that be characterized as a royalty?

MR. BOLLINGER

No, no, I don't think it could be at all.

MR. ABRAHAM

Boysie, I understood you to say that you were trying to track the language of the present constitution, but isn't this a radical change from the present constitution in that you say that "the money shall be remitted by the state treasurer to the governing authority of the parish;" whereas, the present constitution states that it "shall be..."the state treasurer shall place it in a special fund, and it may only be withdrawn by the State Department of Highways" for the construction of these roads? So, this would be a radical change, would it not?

MR. BOLLINGER

I have no objection to that, Mack. My only reason in using the language was that Committee Proposal 15 used this language

that it would be remitted to the parish. So, I just tracked the language of the committee proposal in that respect.

MR. ABRAHAM

Committee Proposal 15 used this language?

MR. BOLLINGER

It says that the money will be remitted to the parish, and I just kept that concept in this amendment.

MR. THOMPSON

Mr. Bollinger, what you're actually saying here is about the eight or ten parishes down there that have most of the minerals that these parishes will benefit by it, but the other, say, fifty-four--it's going to probably cost the state two million dollars for this, won't it? Then, if you take the money out of the general fund of the treasury of the state, then where are you going to get it from--tax the people to put it back?

MR. BOLLINGER

Mr. Thompson, this will affect approximately about thirty parishes. It's been in effect, and the reason it's in effect is because to construct roads in these areas is much, much more costly. This is a way for the state to subsidize the parish for the extra money they have to spend for the construction of highways and roads.

MR. THOMPSON

You say it's going to affect about thirty parishes; I think it's going to affect all sixty-four, probably fifteen or twenty of them to the plus side and the rest of them to the minus side, because when you take the money away from the treasury, you're taking it away from the state.

MR. BOLLINGER

It only affects those parishes which have state-owned lands with the production of minerals on them. That's the only parishes that receive it, but traditionally, these parishes are the parishes with the weaker foundations and need more money for the construction of hardsurface roads.

MR. THOMPSON

I understand what you're saying, but it affects all the parishes when you take money away from the general fund of the state. You're saying it affects these parishes because they'll get more money, but the rest of them don't realize that this money has to come from somewhere.

MR. BOLLINGER

Well, every time the Education Department gets a seven hundred million dollar budget, it affects the rest of the state also, or any other thing that's budgeted to a department, it affects the whole state.

MS. ZERVIGON

Mr. Bollinger, the change pointed out by Mr. Abraham that both you and the committee are making, isn't the effect of that to keep this money out of the central cash management that the committee has later on in the proposal?

MR. BOLLINGER

It's not my intention, Mary. I really have no objection to leaving it like it is: that it would stay in the state treasury and be credited to the parishes, as long as the parish is the recipient of the funds. I just used the committee proposal because they had been having hearings on the subject matter, and I thought it was a modernization.

MS. ZERVIGON

Well, Mr. Bollinger, can you tell us once again exactly what the effect of your amendment is. It's to more carefully channel how the money will be spent once it reaches the parish?

MR. BOLLINGER

Most definitely. It spells out how it can be spent and limits the uses.

MS. ZERVIGON

And that's the only effect that your amendment is intended to have is to limit the parishes to these particular uses of the funds?

MR. BOLLINGER

Exactly...

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, let me see if I can clarify some of the questions...

The Bollinger amendment would simply reword the existing provisions of the present constitution. It would take away nothing from the state any more than has been in existence for many, many years. The only purpose, the only purpose of the Bollinger amendment, was to make the use of the funds more restrictive on those local parishes. Now, let me say, for instance, in my parish that we have used over eighty percent of these royalty road funds moneys in building state highways so that in doing so we have relieved the obligation and burden of the state in building those highways and have freed funds to be used elsewhere. All that the Bollinger amendment does is to reword the existing law with one exception, and that exception is that instead of the funds being managed by the highway department, they would be managed by the local government. I say that that was done for two reasons: first, the highway department itself, as expressed to me personally by Mr. W. T. Taylor, who is the head of the highway department, has stated that they want to get away from having to manage these funds, and secondly, because the committee proposal itself provided that the funds went directly to the parishes. So, this Bollinger amendment is strictly nothing more and nothing less than a restatement of the present constitutional principles with the one exception that I just mentioned to you.

I'll yield to questions.

Questions

MR. TATE

Mr. Perez, now the committee proposal turns the same amount of funds over to the governing authority of the local subdivision?

MR. PEREZ

That's correct.

MR. TATE

So as to relieve that matter of putting it in the state treasury. One of the things that I was curious about, it says that they're only going to be able to use the funds to construct roads. It doesn't say construct and maintain roads, just for example...

MR. PEREZ

Well, for instance, that is true, and that's what the present constitutional provision has in it--strictly for the construction and not the maintenance. It's strictly an attempt to retrace the existing law.

MR. TATE

As a local government man--I was just curious--what would happen if the day ever came, which I guess is visionary, that they had all the roads they wanted, all the roads and bridges and ferries they wanted, what would they do with the money then?

MR. PEREZ

Judge, I might say to you that the big problem we have, and one of the reasons I'm in favor of this amendment, is because of the fact that there has been a drastic reduction in many parishes--I know in my parish--in the amount of royalties. We have already bonded these funds very, very heavily, and I would like to see to it that these funds will be available strictly for this purpose in order to be sure that we will be able to take care of the funding of those bonds as the time goes along.

MR. TATE

Well, one last question: the committee proposal, as I read it, doesn't stop you from bonding it for that purpose.

MR. PEREZ

No, no it would not.

MR. DUVAL

Mr. Perez, just to make it abundantly clear to the convention, I'd like to ask you one question. This does not take any money away from the state, it's just in the present law, isn't that right?

MR. PEREZ

This is a restatement of the present constitutional provisions and does not attempt to take anything away from the state.

MR. DUVAL

And something else, someone asked a question about the committee's central cash management theory. In the committee proposal, isn't this money directly appropriated to the local government subdivisions?

MR. PEREZ

Yes, it is, and I might say to you this is a more restrictive provision than the committee proposal.

MR. ROEMER

Chalin, I just want to follow up on those questions. I think it's good to bring out the facts, and I think you're trying to do that and let people vote their convictions on it. To repeat again, the Bollinger amendment is more restrictive than the committee proposal in that you delimit the uses of this money; is that true?

MR. PEREZ

That's absolutely correct.

MR. ROEMER

You know it was the desire of the committee, and it was our feeling that we should not delimit the use of this money, that it was the parish's money and the local governing authority ought to be able to use it for what they saw fit. But, you do not increase the amount of money, nor did we. Is that not true?

MR. PEREZ

That's correct.

MR. DERBES

Mr. Perez, you mentioned bonded indebtedness as a specific consideration in passing the amendment, but isn't it also a fact that what this convention does cannot affect the current bonded indebtedness?

MR. PEREZ

That's right. They could not affect the present bonded indebtedness; you can't impair the obligation of bonds.

MR. DERBES

How would dedicating the use of funds, as far as the parish is concerned, in the new constitution encourage or perhaps enable you to further bond?

MR. PEREZ

It would require the use of the funds for this limited, particular purpose rather than to allow it to be used for general purposes.

MR. DERBES

Are you saying that you couldn't bond...you could not sell bonds for that purpose were this provision not in the constitution?

MR. PEREZ

It's one of the problems, I believe, that we presently have with the committee proposal is that it does not have the last sentence which is in the Bollinger amendment, and that is "the governing authority of such parish is authorized to fund into general obligation bonds of the parish its portion of the royalties." I don't believe that it could issue those bonds unless you had that provision.

MR. DERBES

Now, suppose the funds were not dedicated for specific use; that is, they were simply remitted to the local governing authority, and we coupled onto the existing committee language a sentence which would permit the local governing authority to bond those funds. Wouldn't that take care of your problem?

MR. PEREZ

Yes, it would definitely help.

Further Discussion

MR. DERBES

Ladies and gentlemen, I rise in opposition to the amendment basically on a principle of fiscal and budgetary efficiency. Let me explain something to you in as precise terminology as I can. Our committee, the Natural Resources Committee, was concerned with the problem for some time, and we did, by way of committee proposal, adopt specific language which I do not support either. Essentially, what this amendment does is it

restricts the use. I am certainly not opposed, and indeed I support, the concept of remitting to the local governing authority a certain percentage of the revenue derived from minerals on state lands in the parish or area of the local governing authority. I support that concept; I think it's good. I just don't think--and I don't think it's sound government--I don't think we should tell the local governing authority how specifically to use the funds, particularly in the area of transportation. You have seen, no doubt, and heard about an energy crisis in this country which completely changes the complexion of transportation. In the future, hopefully, we won't have to do without personal transportation, but we don't know. We don't know whether we will or not. It may very well be the fact that mass transportation may be required in areas where it is not presently being undertaken. To restrict the use of these funds to building highways, to maintaining highways, and to building ferries, may not be the most efficient and highest and best use of the funds. I say only to you that the local governing authority, particularly after we labored long and hard over local and parochial government, the local governing authority should be and indeed is the best judge of how to use the funds. The local governing authority may want to use the funds for education, may want to use the funds for sanitation, for police and fire protection, and the like. To tell the local governing authority that it has to use the funds for transportation just to protect the bonded indebtedness of the parish, to me does not reach the issue. Mr. Perez has one particular criticism of the committee proposal, and that is that there is no specific permission for the local governing authority to bond these funds. I say to you that that's a problem easily solved by one sentence: namely, that the local governmental subdivision may bond these funds--something very easily solved. But, to say how the local governmental subdivision has to spend the money, to me, violates the basic principle of local government which we labored long and hard over, and to me is essentially a nonfuturistically oriented concept. We don't know what the future holds, and it seems to me that the local governmental subdivision is indeed the best judge of how to spend the money. So, I say to you support the committee proposal, reject the amendment. If you're concerned about bonded indebtedness, let's put an additional sentence on the committee proposal which will permit the local governmental subdivision to bond the funds. But, let's not restrict the use--not in a constitution that I hope will be alive in this state for many, many years.

Thank you.

Vice Chairman Casey in the Chair

Questions

MR. LAMBERT

Mr. Derhes, let me ask you this question: first of all, as it is presently worded in the constitution, the money--the royalty road fund--is kept in the State Highway Department. It's worded this way in the constitution. Now, what I would like to know, if you know the answer, would be, does the Highway Department invest this money under the Cash Management Act of the state, investment of idle funds? If they do, if this amendment is adopted, then this...this would be taken out of that particular area of state control.

MR. DERBES

I, frankly, don't know the answer to your question. I would assume that they do invest the money. I understand that the money can only be used...under the direction of the local governing subdivision, but only for the purpose of constructing roads, and the other limited purposes specified in the existing constitutional language.

MR. LAMBERT

All right. My next question is this. I don't know the answer, and I don't know whether you know. I don't know if anyone here knows, but I wonder why the highway department was given the control and management over the release of the money? Would it...could it possibly have been so that they could supervise the construction of the roads, supervise the letting of contracts, supervise the standards of the roads, etc?

MR. DERBES

That would seem to be the case. That would seem to me to be efficient and advantageous. I can't answer for the Committee on Revenue and Taxation. My only concern, Senator Lambert, is in the limitation on the use of the funds--not the central management of the funds--I think that's fine.

Further Discussion

MR. CHAMPAGNE

Mr. Chairman, ladies and gentlemen, I rise in opposition to this amendment. I submit to you that...it is properly taken care of in the committee proposal. This amendment does only one thing: it further states in the constitution what local governments have to do. I feel that these people are entitled to the privilege to spend that money, since it is for those local parishes. I feel that it is time for this constitution to stop limiting various parishes simply because some individual parishes may not have complete confidence in what their local governing body will, or will not, do. I submit to you that if they do not agree with what they do, they have ample provisions the next time around to throw them out of office and put people that will respond to the wishes of that local government. As a member of this committee, we spoke on this at great length. This amendment is unnecessary. I feel that if you reject it and adopt the committee proposal as submitted, you will have a much better proposal.

I'll answer any questions.

Question

DR. WEISS

Delegate Champagne, would you not call this, then, dedicated funds?

MR. CHAMPAGNE

Positively. This is dedicating to the ultimate.

Further Discussion

MR. LEBLEU

Mr. Chairman and fellow delegates, this amendment, in certain instances I have objections to, but, overall, I think it's what we would like to do and intend to do. One of the objections I have to just making an overall gift to the parish governing authority is that it doesn't restrict them. I think the idea behind the original constitutional amendment was that it allowed a governing authority to collect some money from the state to replace taxes which they could not impose on state-owned property within that parish. A good example is Cameron; we have about thirty percent of the parish in game reserves, waterways, lakes, etc., that are all owned by the state. If the parish decides to impose a road tax, which we did a number of years ago to build a causeway over to Port Arthur, Texas--across the Sabine River. It was a parish-wide tax, but thirty percent of the eligible property in the parish was restricted because we could not impose a tax on the state property. I think that was the original intent behind the whole bill. Now, if we go a little farther and just give the money to the parish governing authority unrestricted, it would allow them to use money, say, for garbage districts, hospital districts, and all of you know what problems we are having with ambulances now. But, it would allow the police juries to spend this money for those purposes. Like I say, I just don't believe the original intent was behind it. It would force the police jury to bow to pressures which the public could impose on the jury. So, like I say, there's some of the restrictions in there I'm opposed to, but, the overall concept, I think, is good. I believe if we go ahead and adopt this amendment, it's going to work out. It will be just about the same as it has been since 1950, I believe, when the constitutional amendment was adopted. So, I urge your favorable vote on this amendment.

[Previous Question ordered.]

Closing

MR. BOLLINGER

Mr. Chairman and fellow delegates, all I ask you to do is think about the reason that the parishes received the monies from the royalty road fund. The reason is, that the foundation is weaker in these parishes; it costs more money to construct

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roads in these parishes. The money should be used for that reason, and that reason alone.

Questions

MR. LANDRUM

Mr. Bollinger, will you define roads for me, please?

MR. BOLLINGER

A street--if you are referring to our previous conversation-- a street is a parish road.

MR. LANDRUM

A street is.

MR. BOLLINGER

Yes. This applies to streets if it's within the parish.

MR. ANZALONE

Mr. Bollinger, do you really think that having oil wells stuck all over your parish is a liability?

MR. BOLLINGER

No, Joe, it's not. But, the reason...the structure of the area around the oil wells causes it to be very expensive to construct roads in that area. The heavy equipment from these oil wells do tear up the roads considerably.

MR. ANZALONE

These people don't pay any other kind of taxes down there or anything?

MR. BOLLINGER

Which people?

MR. ANZALONE

The people that are drilling for these oil wells.

MR. BOLLINGER

Yes, they pay taxes.

MR. ANZALONE

Do they hire people?

MR. BOLLINGER

Yes.

MR. ANZALONE

Wouldn't think so.

MR. WEISS

Mr. Bollinger, isn't it inconsistent with your reasoning to say that the roads need to be maintained, and yet not include it in this floor amendment? That is, construct and maintain roads.

MR. BOLLINGER

Doc, almost all of these local governing authorities have a levy...a property tax to pay for the maintenance of the roads. But, it's extremely expensive to construct these roads. There's the purpose for the amendment to limit the use of the monies.

MR. LAMBERT

Mr. Bollinger, is it not true that the Committee on Natural Resources has jurisdiction over this subject matter? Or is that incorrect?

MR. BOLLINGER

Well, I would think it would be joint jurisdiction, Senator Lambert. But, we did deal with it in the committee....

MR. LAMBERT

You're on the Committee on Natural Resources. We devoted much, much, much, time to this subject matter. Is that not correct?

MR. BOLLINGER

Yes, sir. The language that we adopted is similar to this language.

MR. LAMBERT

The language is similar, except that the questions that were brought up on transportation, I think, were clarified and the money was left in the state, to be administered by

the highway department; makes a lot of changes. That's the only thing I wanted to point out to you.

MR. BOLLINGER

I did point out, Senator Lambert, I have no objection to the distribution of the money to remain the same. If this amendment passes, I will support an amendment which would leave it like it is in the present constitution.

I have no objection to that.

MR. LAMBERT

I just...want to say...I'm not asking a question-- I want to make a statement if I can. I am for the royalty road fund, but I'm concerned about the way this amendment is drawn up.

MR. GASEY

Senator Lambert, you're not allowed to make a statement. You are only allowed to ask a question.

MR. DUVAL

Mr. Bollinger, this is the royalty road fund. Is that right?

MR. BOLLINGER

That is exactly what it is.

MR. DUVAL

Your amendment is to keep the present law so that roads will be built. Is that right?

MR. BOLLINGER

That's exactly what it is.

MR. DUVAL

Also, these roads are parish roads. Isn't that right?

MR. BOLLINGER

That's exactly what they are.

MR. DUVAL

This money is parish money. Isn't that right?

MR. BOLLINGER

That is correct.

[Record vote ordered. Amendment rejected:
36-67. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment No. 1. On page 3, line 5, immediately after the word "all" and before the word "natural," insert the word "other."

On page 3, line 5, immediately after the word "resources" and before the word "severed," insert the following:
"except timber."

Explanation

MR. KELLY

Mr. Acting Chairman, and ladies and gentlemen of the convention, I have just been instructed by the committee that I can refer to this as a technical amendment in their behalf, and that they have no objection.

What this simply does is, it would make the last sentence at the top of page 3 read as follows: "and the amount of severance tax on all other natural resources, except timber, severed from the soil or water, so remitted, shall not exceed five hundred thousand dollars to any parish for any year." The thought behind this being--and it was my understanding it was the intention of the committee--that the severance tax relating to timber, which is seventy-five percent, would be distributed and remitted back to the parishes. In order to make completely sure that this happens, and that it is not considered part of the five hundred thousand referred to in the committee proposal, it's necessary for this amendment. It may be. It may not be. Quite frankly, from an interpretation point, it certainly does no violence to any of the substantive meaning within the proposal. It simply clears it up, and makes it abundantly clear that the timber severance tax will not be included within the five hundred thousand limitation set in the proposal.

Questions

MR. ROEMER

Mr. Kelly, you do know, I think you stated it; I want to restate it, that this was the committee's intent to do just what you're doing now. We thought we had done that, and you just questioned whether we did or not. Is that correct?

MR. KELLY

Yes. I don't question actually whether you intended to do it; I know you intended to do it. But, I think this makes it abundantly clear, under the language, that this will, in fact, happen. In other words, the severance tax which is remitted back into a particular parish, will be remitted regardless of whether they usurp the limits of their five hundred thousand dollar limitation on all other natural resources severed from soil or water.

MR. ROEMER

Well, isn't this also true that to do it this way is very important to many local and parochial governments across this state who get income from this particular source?

MR. KELLY

That's absolutely correct.

MR. ABRAHAM

Don, are there any limitations now on the amount of severance taxes remitted?

MR. KELLY

I wouldn't know of any.

The fact being is I'm not...I'm not messing with the committee proposal in that regard. In other words there is none within this committee proposal, and it was their intent not to have any limitation on timber severance tax.

MR. ABRAHAM

I appreciate that. What I'm trying to find out, is there any limitation now in the present constitution?

MR. KELLY

I can't answer that. I don't know.

The committee members over here say there is not. But, I don't know.

MR. DE BLIEUX

Mr. Kelly, do you have any idea about how much money we are talking about here? ... How much additional money would come out of the state treasury as a result of this amendment?

MR. KELLY

I don't know, but we're getting it right now, Senator De Blieux, and I don't want to see that changed. I think under this particular committee proposal, there is a possibility under judicial interpretation that this could exclude--or make encompassed within the general limitation, the timber severance tax. That was not the intent of the committee. So, I just want to make that abundantly clear.

MR. CONROY

Mr. Kelly, your amendment puts in the word "other" as well as the wording "except timber."

MR. KELLY

Yes, sir.

MR. CONROY

Do you understand what that does in addition to dealing with the timber problem?

MR. KELLY

I think it would...I'm sure the other would refer back to the ...sulphur and some of the other things that are mentioned up above there.

MR. CONROY

Are you aware that the present constitutional provision is that if you've got sulphur, that you only get a total of two hundred thousand? If you put the other in here, the effect of that is the parish with sulphur gets a maximum of the five hundred, I guess it is, now, plus a hundred thousand for sulphur. Are you aware that that would be the effect of your amendment?

MR. KELLY

If it does that, yes. If it, in fact, does that, then I still have no objection to that either. That would be part of the intent because I can't see any difference between a parish that's got sulphur production and one such as my parish, which has a great deal of timber production.

MR. SHANNON

Don, isn't it true that what you are trying to do here is protect these little poor parishes that do not have anything other than timber revenues?

MR. KELLY

Yes, sir. There are a great number of parishes that have little or no oil, and other natural resources, and depend almost entirely upon their severance tax on their timber. That's not the case in my parish in many of the parishes it is, in north Louisiana.

MR. THOMPSON

Mr. Kelly, to answer Senator DeBlieux's....statement.... question that he asked you, it should have been no money would be taken out of the treasury. Of course, now, we are getting all of it. This is just to help these poorer parishes. You know I'm for your amendment?

MR. DE BLIEUX

Unless I'm wrong in this, the way that I read this amendment, this excludes the sulphur tax from the severance tax, but it includes the timber tax.

MR. KELLY

No, sir.

MR. DE BLIEUX

Now, well, that might not have been your intention, but you'd better take another look at it and see.

MR. KELLY

Well, I just don't see how it could, Senator De Blieux. It says "and the amount of severance tax on all other natural resources, except timber, severed from the soil or water so remitted, shall not exceed five hundred thousand dollars." That's about as plain as I know how to say it.

MR. DE BLIEUX

That's not the way that I read the article. Maybe I've got it in the wrong place.

Further Discussion

MR. CONROY

I think that before the convention votes on this, it should understand exactly what it's doing. The present constitutional provision for a parish which has sulphur, gives that parish a total aggregate of a maximum of two hundred thousand dollars. The committee proposal was to retain that same concept that the sulphur had to be included within the total amount that was rebated back to a parish in severance taxes.

That amount has been increased by this convention from two hundred thousand to five hundred thousand. This would permit a parish with sulphur to get five hundred thousand, plus a hundred thousand, or a total of six hundred thousand, placing sulphur on the same level as timber. I think that conceptually that that can be justified and maybe entirely appropriate. But I do think that the convention should understand that that is what's before it, is, in addition to clarifying the situation with regard to timber--and to which I have no objection whatsoever--the convention should understand that the effect of this amendment, in addition, is to give to a parish with sulphur, an additional hundred thousand dollars, which it does not presently get under the constitution. That...as I said....that can be justified on its own basis. But I think it should be justified on that basis, and understood by the convention before it's adopted.

Questions

MR. KEAN

Mr. Conroy, as I read this proposal before the amendment was offered, the parish has got "not to exceed five hundred thousand dollars from all severance tax on all natural resources." Is that correct, sir?

MR. CONROY
That's correct.

MR. KEAN
By the language that Mr. Kelly would propose to add, they would get a hundred thousand dollars for the severance tax on sulphur, and they're not to exceed five hundred thousand on all other natural resources.

MR. CONROY
On all other natural resources other than timber. That's right. That's the way it's amended.

MR. AVANT
Mr. Conroy, wouldn't that only have any significance if you had a parish that had both sulphur and timber?

MR. CONROY
No, it would have significance only if you had both sulphur and oil and gas.

[Previous Question ordered. Amendment adopted: 82-14. Motion to reconsider tabled.]

Amendment

MR. POYNTER
Amendment No. 1. Page 3, between lines 7 and 8, insert the following:

"(E) A state tax revenue limit shall serve as a check on uncontrolled increases in state tax revenues. The state tax revenue limit for any fiscal year shall be twelve percent of state personal income. State personal income is the dollar amount that is reported by the United States Department of Commerce, or its successor agency, as total income by persons in the State of Louisiana for the calendar year in which the fiscal year commences. State tax revenues include sales, severance, income, gift, inheritance, excise, property, license fee, corporation franchise, and all other taxes collected by the state during the fiscal year. The legislature shall establish a system whereby all state tax revenues collected in excess of twelve percent of state personal income, and the interest thereon, shall be placed in a tax surplus fund which shall be used only for annual tax refunds, or reductions as provided by law.

Explanation

MR. JENKINS
Mr. Chairman, delegates, this amendment was passed out yesterday and if you don't have a copy, they have some copies on the side, and I think they can get you one. This is a proposal that I have been working on for several months. You may recall about a month or so ago, Governor Edwards held a press conference and indicated his strong support for it. It attempts to put an overall limit on the amount of taxes that can be levied by the State of Louisiana... I think if you listen closely it may cut down a lot on the number of questions and misunderstandings that might result from it. What this attempts to do is to put an overall limit on the amount of taxes that can be levied by the State of Louisiana during any given fiscal year. It attempts to do that by tying the taxes that the state levies to an overall economic indicator. In this case, we've chosen state personal income as an indicator. State personal income is a dollar amount that is reported annually by the U. S. Department of Commerce and it includes just about everything that individuals receive; it includes wages, salaries, dividends; it includes payment from government, such as, welfare, social security, and so forth. This particular economic indicator is chosen because--well, really for this reason. If you have a copy of Louisiana, the State of the State on page 21 it says "Total personal income is frequently used as the best single available measure of economic well being. When the income per person in a state is growing rapidly, it usually means that the standard of living of the population is improving." So, what you do if you take a typical year like 1971, you see that state personal income in Louisiana if added all together amounted to about twelve billion dollars--that's all the salaries, all the dividends, all the payments from government from all the citizens added up together amounted to twelve billion dollars. The state during that year levied taxes that amounted to about one billion eighty-two million dollars and that was about 9.0 percent of total personal income. Now, as a result of the special session that we just had, we had there the largest tax increase in the history of the state. The taxes levied by the state now amount to about 9.8

percent of total personal income. What this proposal would do would be to set a percentage limit on the amount of taxes that could be levied. The percentage limit chosen is twelve percent. Originally in our proposal, we had agreed to make it ten percent. If you noticed the news release from the governor, the figure of ten percent is mentioned. But, in talking to the delegates in the convention, a number of them said that they felt that this would be cutting it too close and rather they liked the concept but they would rather leave a lot of leeway, so that's why the figure of twelve percent is included. Now, this means that taxes could increase and would increase in proportion to the economic growth of the state, population increases, and inflation. In fact, it could increase if the taxing authority existed from the nine percent, 9.8 percent or as high as the twelve percent. But, if taxes in this state ever exceeded twelve percent, then the excess funds--the excess over the twelve percent-- would have to go into a tax surplus fund that could be used only for tax refunds or reductions. Originally, we said only income tax reductions or refunds, but we've taken that out. The legislature would have authority to decide what kind of tax refunds or reductions. So, here is a practical situation: suppose in 1971 the total personal income were twelve billion dollars, the tax revenue limit at twelve percent would have been one billion four hundred and forty million dollars. Now, the taxes actually levied were one billion eighty-two million. We were two hundred and fifty-eight million dollars below the limit. But, suppose instead, that the taxes levied had actually been one billion four hundred and fifty million, in which case, we would have been nine or ten million dollars over the tax revenue limit and that circumstance, that nine or ten million dollars, would have gone not to the general fund but to a tax surplus fund. That fund, then, would be used for income tax reductions, sales tax reductions, refunds of some sort, rebates, credits, or whatever the legislature decided to use it for. As an example, they might say everybody got five percent off his next year's income tax. Or, he might say that...the legislature might say that the sales tax would be...certain exemptions would be had on the sales tax for the next fiscal year, in which case, the funds would be transferred from the tax surplus fund back to the general fund to make up for that but still to retain the limit.

Let me give just a little bit more information on it, then I'll try to answer questions. Now, when we talk about state tax revenues, we're talking about strictly the taxes that are levied by the state. We are not talking about local taxes. We are not talking about federal funds. We are not talking about self-generating nontax revenues, such as, oil royalties. We are not talking about tuitions from state colleges and universities. We are talking strictly about state taxes. Now, why is this needed? There are two reasons that it's needed. One is: The taxpayer needs some overall protection and overall protection is much more important than the protection with regard to any one tax, like the income tax or the sales tax or whatnot. Overall tax level is really the most important factor in the whole economy. We have found by analyzing the situation that state and local taxes in the last five years have increased nationwide twice as fast as wages and salaries have increased and there needs to be some check on that. Another thing that we think that this proposal would accomplish is that we think it would reform the whole appropriation process by the state--right now the state legislature works in this fashion. The budget committee works very diligently to come up with a budget and they try to be fiscally responsible and generally they are. But, individual legislators and special groups come up with new proposals, new programs. The legislature, when presented with a bill for some such proposal, looks at it, we like it, there is no way we can object to it and frequently we vote for it without any consideration of how it fits in with the other priorities in the budget. We tend, when we have a state budget and there is a new proposal, we tend to put it on top of the existing budget. Seldom do we kick out something of equal amount and put that in and that's why it seems like the tremendous increase has been had without any relation to economic growth. What this proposal would do, though, was if we ever reached the limit--and I hope we never would--but if we did and we have a budget and someone comes up with a great new program, we are going to have to get that person to show two things--not just that it's a good program but that there is something in the budget of equal amounts that can be kicked out that's of a lower priority. Now, what this will likely do is to allow a constant reevaluation of the budget in a much better way than in the past so that legislators always will be trying to find out what is being done that's inefficient, what's unnecessary, what's of low priority, and we can get rid of. So often when an agency head or a department head goes before the budget committee or appropriations committee, we simply ask him "Well, how much did you get last year and how much increase do you want?" This will force a questioning of whether or not what he is doing is any good at all and whether or not we need his

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services at all and that of his agency or department. Now, this proposal has one similarity to the proposal that was on the ballot out in California by Governor Reagan about a month ago. That proposal was defeated 54 to 46 at the polls, but it was quite different. Out in California they take in state taxes about 8.75 percent of the people's...of the total personal income of the state in taxes. What Reagan would have done would have been to reduce that percentage by one-tenth of one percent a year for sixteen years until it was stabilized at 7.15 percent. Well, that really was asking an awful lot because everyone who got a piece of the pie whether it was education, whether it was welfare, whether it was highways, whatever it might be started questioning and asking, "Well, even though the budget is going to increase tremendously, perhaps, it will be my part of the pie that gets cut."

This proposal does not threaten anybody's piece of the pie because we are not cutting back at all; it's about 9.8 percent right now; we would limit it to twelve percent. Everyone who's getting a portion of the state budget, right now, certainly would ---- would retain it without any troubles--presuming he wouldn't be cut normally anyway--but it would say that when we reach, if we ever do that twelve percent limit, then that's about the most that the people of the state can be asked to do. Out in California it was...after the returns were in it was shown that of those who voted against the proposal, sixty-nine percent did so because they were under the mistaken assumption that it would increase taxes; it was so complicated and so detailed, it was fourteen legal pages that would have been put in their constitution and that, certainly, was too much detail. The proposal we have here is very concise and it leaves the mechanics to the legislature. So, now, let me try to answer questions. I know you, probably, will have a lot of them.

Questions

MR. DERBES

Mr. Jenkins, let's assume for purposes of argument that we have reached the point contemplated in your amendment, as I understand it, where the total amount of tax revenue produced in the state during any given fiscal year is now twelve percent of personal income. O.K.? At that point, suppose the legislature acting indifferently to this amendment raised the severance tax, a tax not ordinarily associated with the little man or with personal income but, although, it might be indirectly associated therewith. Suppose the legislature acted to raise the severance tax, at that point, or to raise the corporate franchise tax, at that point, and the total tax revenue exceeded twelve percent of personal income. What would happen to the additional revenue produced by the increase in taxes?

MR. JENKINS

Now, here's what would happen under those circumstances, and I explained this a little bit before. If the taxes actually collected by the state exceed the tax revenue limit, then the excess amount goes not to the general fund but to the tax surplus fund which can be used only for tax refunds or reductions in the discretion of the legislature. So, let's suppose that twenty million dollars was levied in taxes above the tax revenue limit--that would go into the tax surplus fund. The legislature, either before or after it, could enact laws deciding how that twenty million dollars would be disposed of. They could say that, for instance, that all income taxpayers will get a five percent reduction during the current fiscal year or during the next one. They could say that the sales tax will be....an exemption on the sales tax will be granted for certain items purchased, and during the next fiscal year that twenty million dollars would be transferred from the tax surplus fund to the general fund to make up for that loss of revenues. In other words, it doesn't matter what source the money comes from, the excess is going to have to be returned to the taxpayers, not to any particular taxpayers, to whatever taxpayers the legislature decides is in need of tax relief.

MR. SLAY

Mr. Jenkins, you've got a pretty deep amendment here, now... and you're looking at the overall picture here. But, suppose the governor of this state looking forward to four years from now and he would not reduce the collection of any of these taxes. But just before the election, he would take all the money that he had in excess of the twelve percent and he would say to me and to you and everybody else, "I'm going to give you a hundred dollars back here on your income taxes." By this amendment, then, we would be making it possible for the legislature and the governor to set up one of the biggest slush funds this state's ever seen; would you not agree?

MR. JENKINS

No, not at all for this reason. If you notice in the last line, "annual tax refunds" are required if there is any amount in the fund. Now, let me try to answer and then I'll answer the next one. But, I contemplate what would happen under this proposal is that we would very seldom have any surplus at all because people would know what the limit would be and they would certainly closely scrutinize legislators who would vote to go beyond the limit. But, in case the limit was gone beyond, then in any given year it would have to be refunded or a reduction of some sort would be granted. But, certainly, it would be self-defeating to have an excess in the fund rather than just reduce that particular tax. If the legislature, for example, saw that you were going to be beyond the limit during a given year, the thing that would in all likelihood do is they would....if they wanted to give income tax relief, is just reduce the income tax for that particular year rather than going through the expensive and costly procedure of collecting it and then giving it back.

MR. SLAY

Yes. I....

MR. JENKINS

Let me further answer that there is...there would be no political advantage to returning to someone what you've already taken. The tax surplus fund is the mechanism by which the legislature is controlled on this point. I don't know that there is any way that we could say that the state simply can't collect in excess of the limit. So, what we have said instead is that if the state does collect in excess of the limit and that... some of that, all of the excess is going to have to be returned to someone who paid it.

MR. SLAY

Yes. I get your point and all, but with the energy crisis being what it is and suppose we have vast oil discoveries here and with the new severance taxes we bring in large amounts of money. Now, then this could easily become a political issue because the man running for the governor could say "I'm not going to reduce these severance taxes and all these other taxes, but I'm going to give every person who pays income tax a refund each year when I get to be governor." So, my point was, that with this we could very easily be setting up a slush fund for politicians and the bureaucrats don't mind sending that money back every year--you know how they work, they love to get credit for it and that's the point I was trying to get across.

MR. JENKINS

No. But, don't you see that a gubernatorial candidate faced with tremendous increases in oil revenues could just as easily say, "Well, I'm going to eliminate the income tax or do away with it," and the political effect would be no different from what you are saying. So, I don't think that that's a....I honestly don't think that's a legitimate argument because either way the political impact would be the same.

MR. TOOMY

Mr. Jenkins, first of all, would you tell me if any other states have such a similar state tax limits at present ?

MR. JENKINS

No, this is a new concept and it's a concept that was created in an attempt to give some overall perspective to what government's doing to reform the appropriation process. If we did it, we would be the first, and I think we would be making a good step forward.

MR. TOOMY

You sort of gave an impression before...you mentioned about income taxes that this surplus would come back to the people who paid the taxes. I bring your attention to the last line when you talk about annual tax refunds, it would come to the people, I would assume, who paid taxes?

MR. JENKINS

No, no. In other words, the legislature decides what kinds of tax refunds or reductions would....for example, if the severance tax is raised and if that's what makes you go over the limit, you don't have to return it to the severance taxpayers; you return it to whoever you want to but they have to be somebody who paid a tax; there would be some system for the sales tax, the income tax, or whatever.

MR. TOOMY

But, I don't think they necessarily have to be anyone who paid any tax.

MR. JENKINS

Well, it says "tax refunds or reductions," so it has to be... the only way if no one paid a tax, then he couldn't get a tax refund or a tax reduction, so you couldn't give it to him if he paid no tax.

...but, in order words, you can pick out income taxpayers, you could pick out sales taxpayers, whoever you wanted to pick out to give the surplus to.

MR. TOOMY

But, a tax reduction would apply in the future, it wouldn't necessarily help the man who paid too much in the past.

MR. JENKINS

The tax reductions would apply in the future. The tax... that's why I said earlier that in the case of a tax reduction for the future that in that case the taxpayer would get no money himself, the funds would be transferred from the tax surplus fund to the general fund to make up for the lost tax revenue--the general fund, then, receiving no dollar amount over the tax limit.

MRS. ZERVIGON

Mr. Jenkins, can you tell me the logic of including the severance tax in? As I understand it, the effect of severance taxes is not as directly personal as say--personal income tax or sales tax, but a lot of it is paid by taxpayers outside of the State of Louisiana; is that not correct?

MR. JENKINS

The reason for including it, Mrs. Zervigon, is because we are trying to make an overall correlation between total personal income and the amount of taxes collected. Now, first, total personal income includes many things, such as dividends from corporations; such as welfare payments, social security payments just as all taxes include severance taxes, income taxes, and so forth. The point is to set a limit that the state can get for revenue purposes. The reason the state levies taxes is because it needs money, obviously. The point for including severance taxes is because that's one sort of tax that it levies. Now, you see, we're not giving any benefit to the severance taxpayer here; we are not helping the severance taxpayer because the last thing the legislature is going to do is grant a refund to the severance taxpayers. What they are going to do, though, is to use the severance taxes paid and computing the twelve percent so that beyond the twelve percent that extra increment can be returned to whatever taxpayers the legislature desires to. So, the reason for including all of these taxes is because that's part of the money that the state receives in taxes, that's why.

MRS. ZERVIGON

Mr. Jenkins, can you tell you how this is going to be made equitable? For example, can you explain to me how this refund fund can't be rigged in such a way that one person will be paying twenty-five percent of income to the state and another one five percent and the average would be twelve?

MR. JENKINS

Well, I mean, you ask that question...that's like saying how do we know that whatever taxes we levy aren't going to rigged that the income tax, or some other tax?

MRS. ZERVIGON

Supposing the...

MR. JENKINS

It's because we have laws, you know, we have equal protection clause in this constitution and things like this. The thing that the legislature will do and frankly I don't foresee any tax surpluses because when the legislature knows that it has this limit there is no political advantages in levying taxes beyond the limit. But the thing that the legislature undoubtedly will do, will be to make a refund of probably what's a most politically popular and that would probably be either the sales tax or the income tax. So, I mean, the thing that they are going to do, I can't foresee what kind of tax relief they are going to give any more than I can suggest what kind they might give if we don't have this. But, probably, it would be like everyone gets five percent off his income tax, or everybody gets a ten dollars credit against his income tax, or the sales tax for a given year will not be levied against certain types of exchanges, or the gasoline tax might not be. It would be whatever the legislature in its discretion decided to give the tax relief in the amount of that excess.

MRS. ZERVIGON

You don't really expect to be taking twelve percent of anyone's income. What you really say is that when you add in corporation taxes, severance taxes, and other things that don't come out of anyone's personal...directly out of anyone's personal pocket that is like twelve percent. But, couldn't it be the case as...

MR. JENKINS

No, Mary, what I was going to say--let me answer--because you are...in your question you're saying something that isn't true. You see, this has nothing to do with the individual income of any given people, nothing to do at all.

MRS. ZERVIGON

That's what disturbs me about it, Woody...something disturbs me about it--the rebates, or reductions, or refunds could be on corporation taxes, could be on severance taxes, could be on gift or inheritance taxes.

MR. JENKINS

Well, it can be that way now, I mean, we can reduce whatever tax we want to right now, Mary.

MRS. ZERVIGON

Well, I'm just wondering how much protection this is to the person you are trying to protect in that case.

MR. JENKINS

Well, the protection is the fact that you elect people to the legislature to decide which, in their discretion, where tax relief ought to be granted. But, let me...because your question indicated a basic lack of understanding of what this proposal does; I want to try to explain one little aspect of it again. Total personal income is the dollar amount of all income by persons in the state--wages, salaries, dividends, welfare, and so forth. We are not talking about any specific tax or any specific person's income. You know, you have gross national product. Personal income is a factor of gross national product; it's a complicated formula but if you took gross national product and took away capital consumption allowances, you would find net national product. If you took away indirect business taxes and business transfers and added surpluses to government, you would get then national income. If you would then subtract from that corporate profits and government and add governmental transfer payments, you would then get national personal income....

State personal income is part of national personal income relating to....

Further Discussion

MR. ALARIO

Mr. Chairman, fellow members of the convention, I rise to oppose Mr. Jenkins amendment not because I'm against the concept of what he is trying to do but because the only exposure we have had to it is the fifteen or twenty minutes that he has had to present it to us; it's certainly a far-reaching concept looking at new systems or a limitation on the financing of our state. We have not had the benefit of any hearings in committee of this proposal. I suggest to you that you just look at the criticism we received in a ten day legislature session on the new concept and, yet, in fifteen or twenty minutes we are expected to absorb this whole new concept. I don't know just how far-reaching we might get into what Mr. Jenkins is proposing here. You've heard some other--Mr. Slay, I believe--bring up what happens if we find some new resources in this state and are we prohibited from collecting what is rightly and justly belongs to the people of this state to maybe build new schools that are so badly needed throughout the state; maybe to start new programs in our state that are really needed. I don't think we are giving the people in this state everything that we possibly could give to them, but the two-thirds taxing power that's restricted in the legislature by a vote of two-thirds of the members of the legislature keeps down the spending in this state to somewhat. I wonder what happens if personal income goes down to a certain point for a depression or recession if we would be prohibited from collecting again the oil and gas severance taxes that we are collecting. Will we then have to close our schools and hospitals in this state because we would not be able to collect up to a certain percent of personal incomes and those personal incomes would have thus dropped? Will we have to reduce the taxes on our oil and gas in this state? I don't know where...just how far-reaching it is. What about the refunds? Who do you refund to? Do you refund to the people who were just paid over that excess amount? Or, do you refund to everybody in this state regardless if he paid a penny or two of taxes? I don't understand the full effect. I certainly would be willing to work with Mr. Jenkins in

the future, in the legislature, if he would want to refer it to some joint legislative committee that we might study this proposal and in the future present it to the people. It scares me very much that the people of California would have voted down the same type of concept when it has been presented to them, I'm sure, over a period of time; and it's hard to believe that people will vote against just keeping taxes down, there must be other effects that are here that we can't get in this fifteen or twenty minutes. So, I ask that you will defeat it at this time. If Mr. Jenkins wants to bring it in some fashion before one of the committees of this convention, possibly, we may be able to get it some other place, I don't know, I don't think we even have time in the month that's left in this convention to study this full proposal. I think what he is trying to do is a good thing. We need to have some controls over state spending, but I don't know if we need to do it right now in this constitution without a full hearing and without full explanation.

Questions

MR. MIRE

Mr. Alario, to further substantiate what you were saying, your argument against the amendment, isn't it a fact that when it was first mentioned to us that we were talking about a ten percent limitation and we have now gone to a twelve percent limitation?

MR. ALARIO

That's right, Mr. Mire. I've just heard, as you have, a clipping in the press about this thing, but I haven't had a chance to study it or look at the full effect and I see it changing already.

MR. DENNERY

Mr. Alario, I don't know whether you understood this or not—I know I didn't, but I asked if you did--the state tax revenues would include all revenues that the state takes in; is that correct?

MR. ALARIO

I don't really understand what Woody means by all...when he says state tax revenues....

MR. DENNERY

Does it also include....

MR. ALARIO

....that's part of my contention, does it include revenues from the federal government or what does it actually include, I don't know at this point?

MR. DENNERY

Therefore, it would include the amounts that are rebated to the various parishes....

MR. ALARIO

Well, that's correct.

MR. DENNERY

....which it all states. Now, that amounted in 1971-72 to some fifty million dollars. So, if you are going to put a limit on the state and then take fifty million dollars of it away, how are we going to operate the state government?

MR. ALARIO

Well, I just don't know where....how far-reaching this thing is and that's why I'm asking that we not go into it; you are absolutely right, Mr. Dennery, you certainly have a right to look it over.

MR. JENKINS

John, you know there have been many, many things brought up here that we didn't have committee hearings on. Don't you think the proper approach would be to let's discuss it now and decide whether it's reasonable and makes sense? The problem I see is so many people don't understand it and apparently aren't making an effort to understand it. Don't you think the thing is to go ahead and discuss it and understand it now and make the decision?

MR. ALARIO

Woody, I don't know if we have brought anything before this convention that is as far-reaching as what you've proposed here and that's the only thing I'm asking that we have time to look it over and study it sometime; and I really don't think we can do it in the short time we have in this convention, frankly.

Further Discussion

MR. ANZALONE

Mr. Chairman and ladies and gentlemen of the convention, I'd like to spend two and a half minutes for this proposition, and two and a half minutes against it; that doesn't make too much sense, but it's about true. What Woody is talking about is a concept of limiting the taxing power of government which I think, is a good concept. But, where it begins to fall down is that he's setting the rates of taxation.

Now, Woody admits that at the present time we are taxing at the rate of 9.8 percent of the state income for all persons in this state, but yet, he's going to set the limit at twelve. Now, Mr. Slay pointed out, and I think very truly, that you could use this additional 2.2 percent to set up one of the biggest slush funds that you've ever seen in the state, and, of course, maybe it will. But, one thing you have to take into consideration that this does include all revenues which presently make up about ten percent of the annual income of the state other than federal sources. So, when this ten percent is depleted, as we seem to think that it will be within the next twenty years or so, then this ten percent is going to be added to the personal taxes that you're going to have to pay. Now, what I'm saying is, is that if you had a realistic approach percentage-wise to where you were going to place some type of realistic limit on governmental taxing power then you would have something, but it doesn't make any sense to go into a doctor's office and him tell you that you've got to lose weight and give you a diet anywhere between one and five thousand calories a day, and that's what this does. You just can't exist on it; if you're going to limit, make it a realistic limit. Now, as I understand his argument in the case of the California constitutional amendment, the reason that it didn't pass is because it had a reduction every year for so many years, but at least it started out at the limit where the state was spending at that particular time. We're not starting out there; we're starting out with the limit 2.2 percent in excess of there, plus the fact that we're taking into accountability the severance taxes which account for approximately one and half, or a hundred and fifty or so million dollars a year in the state which has got to be absorbed by personal taxes of some sort or the other. So, where the concept may be good, the realistic percentages are just not there, not in this proposal. Now, on the other side of the coin, if you like the concept, maybe this is the place to start. You put in a twelve percent limitation now by constitutional amendment--every four years maybe the citizenry wants to reduce it. I don't think that there's any doubt but that if you had something like this in a constitution, it would make the spending arm of government just a little bit more responsive to the taxpaying citizen, and this, I don't think, is bad at all. But, yet, you are starting out with the twelve percent, you are starting out with Mr. Slay's slush fund. I hesitate to say yours, Mr. Slay, but it's a possibility that you are starting out with a tremendous slush fund, but this is maybe not realistic for enforcement at the present time. But, if you like the concept, maybe this is the place to start. You would definitely, I believe, if the citizenry of the state had this kind of axe to hold over state government as we have over local government, I think that you would get the same degree of responsibility in state spending that most of us are proud that we have in local government at the present time. That is for, and that is against. Now, I don't want to answer any questions because I honestly don't know where I stand, I just thought I would convey a few ideas to you.

MR. JENKINS

Mr. Chairman, there seems to be a lot of misunderstanding about it, and I have a proposal that can be amended in the Revenue and Finance Taxation Committee on this, so I want to withdraw it and let folks realize that I have it pending, and I'd like them to study this material and at the appropriate time we'll come back with it.

[Amendment withdrawn.]

Amendment

MR. POYNTER

Amendment No. 1. On page 3, between lines 7 and 8, insert the following: "(E) Individuals, partnerships, companies and corporations paying royalties or other monies derived from oil, gas, or other minerals shall file with the state annual reports of funds so paid attributable to minerals produced in Louisiana. Such funds which are unclaimed shall be deposited with the treasurer of the state and held or disposed of according to law."

Explanation

MRS. MILLER

Mr. Chairman and ladies and gentlemen of the convention, this is to try to bring in ... maybe I should say this is to close a

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loophole that now exists in our law whereby monies are held unclaimed and are not deposited either with our treasurer or with the public administrators in the parishes where property is held... is found, but is sent out of state and then held as unclaimed accounts by the oil companies. Now, this money is derived from producing royalty and minerals... from producing minerals in the State of Louisiana. When this money goes out of state and is held, the state loses the float on the money which we should be entitled to, it loses income tax on the money, but most important of all, if no effort is made to find the real owners of that, as the state would do if it were unclaimed property, and where a Louisiana citizen would have a better chance to find out if something is held in their name. In the long run, the citizens themselves lose, to whom this is due and owing. Then, in Louisiana, if you had property unclaimed for a certain length of time, when the money is declared unclaimed you have a procedure by which the state then, can become the beneficiary of this unclaimed fund. We do have the uniform disposition of unclaimed property act. You'll find this in Title 3 of the Civil Code, 9:151-182 and you will also find a statute in the Revised Statutes 1585 that deal with the uniform disposition of unclaimed properties. Now, if you have banks, trust companies, businesses, stock companies, all kinds of financial organization; life insurance corporations and utilities that hold money that is unclaimed, they come under the uniform disposition of unclaimed property, but at this stage we have no way of keeping this money that is due to people that may owe income tax on it in Louisiana or to whom it may be due and owing, to keep it in the state so that we can dispose of it. I see no reason at all why anyone, any citizen of Louisiana, should be opposed to this act. If the oil companies do not have any unclaimed funds, they will not fight us on this, would they? If they do fight us on this, then we know they do have the unclaimed funds. It's just a simple matter of logical deduction. In the last analysis the money we recover may be our own. I can see no reason why anyone should have any opposition to this. What we're trying to say is that these are unclaimed accounts, we want to keep control over them, we want to keep them in the state, we want the legislature to be able to provide for the collection of income tax due on it and also for the final disposition if the citizen of Louisiana does not claim. I will read you an opinion that was written to Breazeale & Sachse firm on February 10, 1969. They were inquiring of the attorney general and I will say this was under our last attorney general, Mr. Gremillion, whether ... monies held out of state by companies had to be deposited with any public administrator or the treasurer of Louisiana. The opinion says, "Although we have no court proceedings in point, it comes to us that where money is being held as payment for royalty, such money would not be construed as incorporeal immovable property for the purpose of administration." In other words, any money on deposit anywhere in the State of Louisiana resulting from a mineral lease or royalty would appear to be governed by the situs of the money so far as the owner is concerned, or for administration to transfer to the Collector of Revenue. Therefore, if the money is located and under the control of a person or a corporation in the parish where there is no public administrator, it would seem that the money should be transferred to the Collector of Revenue. Be that as it may, if this money is under the control of an oil company out of state and the money is out of state, we know of no authority for holding that such money should be paid either to the Collector of Revenue under R.S. 9:151 or to the public administrator under R.S. 9:1581. He concludes that this is a rather vexatious problem. I'm asking you to close this loophole, to do this favor to the citizens of this state to whom this money may be owed. You're not going to hurt any company that is really entitled to it because the company is not entitled to it. We're entitled to it, our citizens are entitled to it and the State of Louisiana is entitled to have the final control and disposition. I'll answer questions, if I have time.

Questions

MR. DUVAL

Mrs. Miller, I'm trying to understand how it would work mechanically. This is... you're trying to in essence have an escheat law for oil royalties; is that correct?

MRS. MILLER

Right, for money that has... is due and owing citizens from oil and mineral revenues.

MR. DUVAL

Now, I'd like to get into the legal part of it. Now, where ... these are royalties due from oil extracted from Louisiana; now would it... does this only apply to Louisiana citizens?

MRS. MILLER

Only applies to monies that come from minerals extracted in Louisiana.

MR. DUVAL

But, the point is that, the state would receive the unclaimed monies; is that correct?

MRS. MILLER

The unclaimed monies.

MR. DUVAL

Now, what if the royalty owner was a non ... not a domiciliary of Louisiana, and the money was due that royalty owner. Would.... under your amendment would the state then have the right to claim that money?

MRS. MILLER

What I have said in this is that it will be held and disposed of as provided by law. I'm sure that the legislature would provide by law very much as it does in the uniform disposition of unclaimed accounts in which they give a prescription of ... in some cases, of two years, sometimes ten years, but it always reads: "where the last known address is in Louisiana."

MR. DUVAL

Mrs. Miller, did the attorney general's opinion go into the conflicts of law problem which might arise here?

MRS. MILLER

You know how the attorney general's opinions used to read when Mr. Gremillion was writing them, Mr. Duval.

MR. DUVAL

I see.

MRS. MILLER

I think you know that whoever wrote... asked for the opinion, wrote the opinion he wanted to get and had it signed.

MR. DUVAL

I see. I'm just trying to understand how it's going to... I understand the thrust of your amendment, but where does the money originate? I mean, the funds themselves come from out of state, but it's in reference to minerals produced within the state; is that right?

MRS. MILLER

Actually, the money is generated in this state; the minute the oil comes out of the ground the price is converted to money...

MR. DUVAL

I see.

MRS. MILLER

... under most mineral leases. Then when it's converted to money they send it out of state. Of course, it's all a bookkeeping problem, I'm sure. It's nothing... I'm sure they don't physically transfer those funds.

MR. DUVAL

One other question. Are you satisfied then that as a legal matter we can achieve this, notwithstanding any attorney general's... we haven't had a recent attorney general's opinion saying that we can? We do have the legal authority to do this?

MRS. MILLER

I'm convinced that it probably could have been done under the uniform disposition of property if the companies had been named specifically. Since they weren't and since this is such an important matter, and it involves such huge amounts of funds, I think that it behooves this convention to address itself to this problem. I ask for your favorable vote on this amendment.

MS. ZERVIGON

Mrs. Miller, is there any possible way to do this through the statutes?

MRS. MILLER

Ms. Zervigon, when it comes to lobbying that legislature, I don't believe there's any way you could do this under the statutes.

MS. ZERVIGON

But, legally, it would be possible?

MRS. MILLER

Yes. I would think it would be possible, but I don't think it would be very probable.

MS. ZERVIGON

What is your estimate of the total number of delegates who have listened to any five words you've said?

MRS. MILLER

Well, I think we've had pretty good attention because when you start talking about mineral revenues, people kind of pay attention.

MS. ZERVIGON

Well, do you think it would be wise to adopt something that could be done legislatively when only Mr. Dennery is listening?

MR. WINCHESTER

Mrs. Miller, on the report that is made annually of funds so paid that's referred to in the first sentence, what would that report contain?

MRS. MILLER

I would imagine the legislature would provide very much as the federal income tax regulations provide, that you furnish, you know, as you furnish through businesses when all accounts ... amounts or interest paid, income paid, dividends paid, that there would be a very simple process that this information on royalties that have accumulated or paid out will be furnished to the state. This would just be a matter of income tax regulations --- very similar to income tax regulations.

MR. WINCHESTER

If I now receive oil royalties my name would appear on that annual report; is that correct-- as receiving them and the amount?

MRS. MILLER

If you were under... of course, if you're a known royalty owner, you would get your regular statements from the company. This would only apply to those that are unknown and unclaimed, and so instead of the company sending to you because you are known, it would send to the state the statement of account of those who are unknown and unclaimed; they'd just keep it.

MR. WINCHESTER

All right, then that annual report would only contain those names that the.... that have royalties that are unclaimed; is that correct?

MRS. MILLER

That's correct. There would be no need for other private people who are getting theirs, because they get theirs through different forms.

MR. WINCHESTER

It wasn't very clear; it is now, though. Thank you.

MR. BROWN

Mrs. Miller, I wanted to follow up with what Mr. Winchester said. Is it your intention that anyone who would receive any royalty check at all that this would all be public record, that their names be listed with the state that you and I could go look and see just to so...

MRS. MILLER

Oh, no.

MR. BROWN

Well, that's what it says to me, and that's why I was concerned. It says that.. "shall file with the state annual reports of funds so paid." You would not interpret this as filing a list showing everyone receiving any kind of royalty check, exactly how much they received?

MRS. MILLER

Actually, there would be no conflict under the present laws regarding the statements you get ordinarily anyway from your... you know, the collector of revenue and your income tax collector gets statements anyway that you file with your returns. You can provide by law the method in which this will be done.

[Amendment withdrawn.]

Amendment

MR. POYNTER

All right. The change is resubmit... amendments resubmitted as follows: The fourth line, right after the words "reports of" and before the word "funds", insert "unclaimed", the word "unclaimed". It would read: "Individuals, partnerships, companies, and corporations paying royalties or other monies derived from oil, gas, or other minerals shall file with the state annual reports of unclaimed funds so paid attributable to minerals produced in Louisiana."

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, as much as I hate to, I can't help but oppose Mrs. Miller's amendment. Although I think she has a very good idea and I'd like to see that enacted into law as legislation, but we are writing a constitution, ladies and gentlemen we're not writing out legislative provisions, at least, we should not be. I find that that's what we have been doing to a great extent here of late. I think this is a matter that certainly should be left to the legislature to do, and I ask you in all good graces, let's stop writing in legislation in this constitution, and write the provisions which are necessary and leave to the legislature those problems to solve which ought to be solved by the legislature.

[Record vote ordered. Amendment adopted: 46-43. Motion to table reconsideration rejected: 31-58. Motion to reconsider. Previous Question ordered. Motion adopted: 56-39.]

Reconsideration

MRS. MILLER

Ladies and gentlemen and Mr. Chairman, I'm so glad that something brought you to your feet because I know that you sit down so much and don't stay there that you needed the little exercise. I will say again, this thing cannot hurt any of you or anyone you know. The money you reclaim may be your own. It certainly might be your neighbor's. There is no reason why this need not be in the constitution. I implore you that if you want to do a service for your friends and for the citizens, this amendment will be a vehicle by which you can do it. There is absolutely no reason for these funds to float out of state, for some company to get the float on the funds, that itself would bring revenues to the State of Louisiana. I agree with Senator De Blieux this thing could be in the statutes, but I will reaffirm that it has not been put in and the likelihood of it being put in is very, very slim indeed. I'll answer questions.

Chairman Henry in the Chair

Question

MR. NEWTON

Mrs. Miller, isn't there some question about the constitutionality of this provision in view of the conflicts of law problem?

MRS. MILLER

No, there isn't, Mr. Newton, because the other uniform disposition of properties has been held constitutional, and there's no reason why this should apply to insurance company funds, utility funds, banks, and all other businesses....it's absolutely the same principle; it's just that one whole set of revenues managed to escape in the act.

Further Discussion

MS. ZERVIGON

Mr. Chairman and delegates, as my good friend from the north who is not present today, says, "I'll be brief". I hate to oppose Mrs. Miller, but I will on this issue. Mrs. Miller says that this can be done through legislation. I don't understand it at all, so I urge all of you who don't understand it or haven't listened, to vote with me against the Miller amendment, and I believe the vote will be mostly red. I move the previous question.

[Motion for the Previous Question rejected: 40-42.]

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, I'd just like to say that I think that what Mrs. Miller has in mind and wants to do is a good idea. If she is willing in the next session of the legislature, I'll be glad to sponsor legislation, but it requires setting up the procedure by which this can be done. It requires a hearing so that we will know exactly what the score is and whether or not the amount that would be recovered would be worth the administration. I just don't think that we ought to put this type of legislation into our constitution because this is strictly legislative, it's self-executing and there would be no procedure whatsoever set up as to how it's to be operated and done. I just think that we're going too far in attempting to put this in the constitution. I ask you to vote against it.

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Further Discussion

MR. WEISS

Mr. Chairman and fellow delegates, I know we're in a hurry, but this is significant. I think it brings up a very, very important point of principle here, and I don't think that good legislation is made in haste. Let's stop a moment and consider that we're representing the people of Louisiana. I hate to direct these questions to people who don't listen or who are legislators, but I am specifically speaking to those parties now. First of all, if you haven't listened, it's very simple, very simple. If you want more taxes then vote against Mrs. Miller. If you don't, then vote for her because the State of Louisiana will only be getting what it's due. Now, the legislators are in a hurry to tax us more, but they will not fight to see that we keep in Louisiana the funds that are due Louisianians. This is oil taken from the ground of Louisiana that's due to Louisianians and for some reason through default of our legislature, no doubt, these statutory matters have not been enacted; this is a constitutional matter in my mind. When the legislature defaults, which it has done in this instance for years, then it's time for the constitution and this body to take action when it's due the people of the State of Louisiana. Mrs. Miller is an expert. She sat on the mineral board, she saw what has been happening, and in a sense, it's a rape of the lands of Louisiana that is being kept in hands where it does not belong. The people that own this land are the ones to which these royalties are due. Now, when they debase or are gone, it's only logical that the state should be entitled to these funds. I see no problem for those of you who have not listened, simply vote yes if you have any question in your mind, to keep the taxes of the State of Louisiana down and the people of Louisiana getting their due.

Question

MR. AVANT

I just want to make sure I understood what you said, and I think what you said in effect was this: that when these people are deceased or gone that it's only right that the state step in and razzoo that money?

MR. WEISS

I don't know that it belongs to anybody else, Mr. Avant.

Further Discussion

MR. E. J. LANDRY

Mr. Chairman and ladies and gentlemen of the convention, ... now I don't quit; I don't quit and I don't see why you quit. Now, when you get to an important, very important part of this convention you quit; that's wrong. That's very wrong. Now, here's one of the most important issues in this convention for money. If there ever was a time that you could listen to someone who has been fighting this fight, if you've read what Mrs. Miller has been trying to do, you would realize that she is trying to do the right thing. Now, there was some confusion. Every time you vote to reconsider, there's a tremendous amount of confusion and many of you vote wrong. Now, you did vote right when you voted with Mrs. Miller a minute ago. She is trying to do the right thing. There is no big problem. There is no problem here. She is trying to recover monies for the State of Louisiana that need to be recovered, and this is the way to do it. I didn't vote for the three dollar license plate because it was not constitutional material. I'm telling you, ladies and gentlemen, that this is constitutional material because the things that affect this state revolve around the revenues that we get from oil and gas and that's the big issue, because Louisiana is oil and gas. So, put into that constitution any recovery that you can make from oil and gas. So, I'm asking you to put this in the constitution. It'll be worked out according to law. Thank you.

[Previous Question ordered. Record vote ordered. Amendment rejected: 45-47.]

Point of Information

MRS. MILLER

Mr. Chairman, I'd like to ask if it would be in order, if I could move that all the legislators in this convention who think that they could put this kind of thing in the statute would go on record that they would coauthor this bill to bring it into the Uniform Disposition Act?

MR. HENRY

You might could ask it; I don't know what kind of answer you'd get, Mrs. Miller.

MR. NUNEZ

I'm volunteering to do what she just requested.

MR. HENRY

There's one, Senator De Blieux's another. . . Let's give them a big hand.

Amendments

MR. POYNTER

Amendment sent up by Delegate Dennery. Mrs. Warren joins as a coauthor.

Amendment No. 1. On page 2, line 32, after the word "property" and before the word "shall" insert a comma "," and add the following:

"and three-fourths of all state sales taxes."

Amendment No. 2. On page 3, line 1, after the word "occurs" and before the word "or" insert a comma "," and add the following:

"in which the taxes are collected,"

Amendment No. 3. On page 3, line 4, after the word and punctuation "year," and before the word "and" insert the following:

"the amount of sales taxes so remitted shall not exceed one million dollars to any parish for any year,"

Explanation

MR. DENNERY

Mr. Chairman and delegates to the convention, the purpose of this amendment is twofold. Number one, I wanted to point out to the convention what I believe we have done in the last two days with regard to reducing the areas in which our state will be able to operate. I think we have successfully reduced the areas in which our state can collect revenues, and I think we have seriously damaged the ability of the state to operate. If this convention sees fit to do this, however, my second purpose comes forward. We, in New Orleans, do not have too many natural resources. In the year 1971-72, the three-fourths of the timber severance tax which was collected in New Orleans amounted to zero. Pulpwood, though, we got \$25.79. In oil, we got twenty-one thousand five hundred; in distillants, \$35.31; in gas, some eighty-seven hundred dollars; and in all other severance taxes, twenty-eight thousand three hundred and eighty-four dollars. Now, that was what was collected from the parish of Orleans. But, the sales taxes which were collected from the parish of Orleans were some fifty-one million dollars. Now, if every other parish is going to be protected under its natural resources, and since this convention has seen fit to deprive the city of New Orleans from taxing its best natural resource --namely, its own citizens and the citizens of its neighboring parishes, as Mr. Nunez points out--then I think the very least we can do is permit the parish of Orleans and the city of New Orleans to get back some of the sales taxes which it remits to the state. Therefore, I have introduced this amendment. Now, out of that fifty-one million dollars, which is a sizeable amount, I'm willing to limit us to three-fourths, or one million dollars. I don't want to appear greedy on behalf of the city. I'm perfectly willing to limit it to a million dollars. If you wanted to limit it to seven hundred and fifty thousand, I wouldn't object to that either. My point is twofold, I repeat. I want to point out to this convention what I think we have done in the last two days, and I think we have made some serious mistakes. I think we should look back, tonight, and see exactly what we have done. We have legislated to a great extent on the ability of this state to operate. I seriously believe we've made a mistake. On the other hand, if we're going to do that, by golly, the city of New Orleans is entitled to its share. Therefore, I urge the adoption of this amendment.

Questions

MR. DUVAL

No, Mr. Dennery, I just was wondering, how much did New Orleans get on the revenue sharing proposal we adopted?

MR. DENNERY

Oh, I didn't put income tax in here, Mr. Duval. I don't want any of the income taxes back. We get that back in revenue sharing. But, sales taxes, we don't get anything back.

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MR. DUVAL

I was wondering, also, Mr. Dennerly, in what way have we changed the present constitution to limit the taxing power of the state?

MR. DENNERLY

Well, for one thing, we have put. . . we have denied the legislature, for example, the right to knock out as the deduction the federal income tax.

MR. DUVAL

That's the only way we've really prohibited. . . changed anything. Is that about right?

MR. DENNERLY

I don't believe that's completely correct, Mr. Duval. I think, for instance, in the question of severance tax on sulphur, the parishes which presently have sulphur were limited, previously, to two hundred thousand dollars. Now, they're going to get five hundred plus a hundred instead of two hundred, including the hundred. We've increased the amount of severance taxes that go back to the various parishes. No, we have made a number of changes in here, Mr. Duval.

MR. DUVAL

I'm talking about the prohibition against the state from this. There's nothing stopping the state from. . . on the severance tax--on a limit on the severance tax. We did not change the law, isn't it correct, on the income tax? We didn't change the law, did we?

MR. DENNERLY

No, but, Mr. Duval, I think. . .

MR. DUVAL

That's the only point I wanted to make.

MR. DENNERLY

Well, I realize that, but I think you have to recognize that sooner or later we get to the end of the rope on the individual tax. If we start putting limitations on the state's power to tax, we are running into some very bad waters, it seems to me.

MR. BROWN

Mr. Dennerly, are you trying to equate, philosophically, the same purpose of giving you this rebate, when you talk about natural resources, that are given back to the parishes involved in the rebate for. . . rather, the break on the severance taxes on their own gas and timber? Are you trying. . . am I correct that you're trying to relate the two?

MR. DENNERLY

I think to a certain extent they can be equated. Yes, sir, Senator.

MR. BROWN

Well, did you hear the discussion by Senator Nunez and others who talked about how, because of the taking of these natural resources, that our rural roads were, you know, really worked over, and it was a way of giving back something to you for what was taken in terms of public facilities? Now, what's taken from you in terms of natural resources when I come down where I live--and I often come to New Orleans and spend my tax money and give you my sales tax money--what are you depleting down there? What are you losing because I come down there and spend all that money in New Orleans? How am I hurting you?

MR. DENNERLY

Well, I don't think you're hurting us a bit. I never said you were hurting us, Senator. I think it's great that you come down there.

MR. A. LANDRY

Mr. Dennerly, I'm sure that you are familiar with the fact, are you not, that severance taxes are collected, and the first thing that is done is taking it off of the royalty checks? Is that correct? It's taken from the top, isn't it?

MR. DENNERLY

Oh, yes. It's taken. . . not off the royalty checks. It's taken from the people who produce it.

MR. A. LANDRY

That's correct.

MR. DENNERLY

Also off the royalty checks.

MR. A. LANDRY

Also. But, isn't it true that the individual landowner who had production on his property will also pay either one-sixth or one-eighth of the increase in that tax?

MR. DENNERLY

If he owns it. Of course, a lot of the individual landowners have sold their royalties, you and I very well know.

MR. A. LANDRY

We know that, but a lot of them have kept it. I hold in my hand right here, which I just took out of my courthouse this morning, where I have four hundred people involved in a lawsuit. Their royalty interests for .375 was a check for \$1,342.70, of which \$236.96 was taken off of that check because of the severance tax. Do you realize by doubling the severance tax that this will take another two hundred and thirty-six dollars off of that check?

MR. DENNERLY

Oh, yes, sir. I certainly do, Delegate Landry.

MR. A. LANDRY

Now, let me ask you this: Do you know how much money New Orleans contributes to the State of Louisiana in, not only in your income tax, but all other taxes?

MR. DENNERLY

No, I don't believe I can give you the exact figure, there.

MR. A. LANDRY

Do you know how much they receive from the State of Louisiana? Would you accept an amendment that New Orleans will not receive anymore than they put into the state?

MR. DENNERLY

That New Orleans would not receive. . . I think. . .

MR. A. LANDRY

Would not receive anymore from the state than they put into it.

MR. DENNERLY

Well, I'll tell you this, Ambrose, I'm not sure of the figure, but I'd be almost willing, right now, to bet that we get less than we put in.

MR. A. LANDRY

Well, I'm going to tell you that if you check it, you wouldn't accept the amendment.

MR. DENNERLY

I didn't say I'd accept it.

MR. CASEY

Did you know, in answer to Mr. Ambrose Landry's question, Mr. Dennerly, that New Orleans is the third to last per capita in the State of Louisiana for parishes receiving revenue back from the State of Louisiana?

MR. DENNERLY

No, but I'm very happy to learn that in answer to his question--not to learn it.

Further Discussion

MRS. WARREN

Mr. Chairman and fellow delegates, I guess this is about the first time that you have seen me and Mr. Dennerly together. You might think of the old quote, "Politics makes strange bed buddies." How would you like to get your chance in bed? I knew I would get your attention, then.

When I first saw Mr. Dennerly's amendment, I went back and I spoke to him. I said, "Mr. Dennerly," I say, "I think I'd like to coauthor this with you." He said, "If you do," say, "go up in front and tell them." Thing came into my mind the same thing that he saw. I thought of an old saying, once, many years ago when I was in school. The saying was: "Hold what you got, and if you ain't got nothing, hold that too."

As we were going on and we were talking about natural resources. . . I said our greatest resource is people. Our greatest resource is New Orleans people. Unfortunately, they eat.

Just a few days ago, my husband, you know, he called me on the phone and he told me he had an article that he had taken out of the paper, and he thought I would be interested to see it. It was talking about a group that had appeared before our city council. They were talking about welfare people, and the city's needing more funds to take care of their needs. I know in that area that we had an organization of which I was a member of. I'm chairman of it, Emergency Aid Committee, where we raise money to try to supplement our people in that area in that situation. So, when Mr. Dennery came up with his amendment, I thought about that. I said if we could get some of our taxes back, that's just about all we can get. Mr. Jerry spoke to us one night about Louisiana politics. The thing that was interesting, he said, was pine tree lands. It made me think about at home. We had pine trees, and when we cut all the timber off it, if you wanted to grow anything on it, you were just in hard luck 'cause there wasn't nothing going to grow there. That's the way it is in New Orleans. All we got is people. If you all want to give us some of our natural resources back, all we can claim is some of the taxes that the people pay.

I ask you to please vote in favor of Mr. Dennery's amendment. Thank you.

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, since you would not let me ask Mr. Dennery a question, I'll have to ask it this way: two-thirds of what we have done to date is legislation, and so a few more sentences won't matter. However, before I decide, I would like to ask Mr. Dennery a question. Since my parish, DeSoto, gets little out of the severance tax, can you please tell me what DeSoto will get from the sales tax, in order that I will know how to vote? Thank you.

[Previous Question ordered. Record vote ordered. Amendments rejected: 23-69. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment No. 1. On page 2, line 5, after the language added by Floor Amendment No. 1 proposed by Delegate Jack and adopted by the convention on the fifteenth, add the following:

"The tax to be assessed, levied, collected and paid upon the net income of every corporation shall be computed at a rate not to exceed four percentum of the amount of taxable income up to twenty-five thousand dollars. The legislature shall, by law enacted by the favorable vote of two-thirds of the elected members of each house, provide for the rate of taxation on corporate taxable income over the amount of twenty-five thousand dollars, but such rate shall be not less than four nor more than twelve percent of taxable income."

Explanation

MR. CHATELAIN

Mr. Chairman and delegates, I think most of us want to go home, or get out of here and go to some place. . . other place. But, here's a very good, good, good amendment. Now, you've been. . . in the course of the last six months, made many efforts to protect the small people in this state. I say to you that this is an opportunity for you to help the small business people in this state who are the backbone of this whole financial structure in the State of Louisiana. I want to, number one, say at the very outset, this amendment does no violence whatsoever to the Kean amendment. This amendment does no violence whatsoever to Mr. Jack's amendment. Mr. Smith, and you over there, that does no violence whatsoever to your amendment. It leaves intact those two amendments. What it does do is give an opportunity of constitutional protection to the small business people in this state. I will define this small businessman or business as a twenty-five thousand dollar annual taxable income. Now, think about that for awhile, a twenty-five thousand dollar annual taxable income. Why the limit twenty-five thousand? Those of you who know--and many of you do, you attorneys, here; you tax people, here, like Mr. Monday Lowe and Alario and others--you know that the federal government makes a great distinction at twenty-five thousand. Twenty-five thousand dollar taxable incomes are taxed at twenty-seven percent, whereas if a corporation is making more than twenty-five thousand dollars a

year and up to a certain percentage, pays fifty percent. Then it goes on up, up to about ninety percent. But, we're talking, here, of small corporations. Lastly, I'd like to say that the legislature, above twenty-five thousand dollars, will have the opportunity to raise it, to raise the existence--the present four percent taxes--it will maintain the four percent taxes, but it will. . . it can go upwards as far as twelve percent. But, it does give a protection to a large corporation. It doesn't have the sky as a limit so far as taxes on the large corporations above twenty-five thousand. I say to you, this is a good amendment, and it is justifiable to many, many small corporations in this state. Many corporations are formed in small communities for the purpose of the local people getting together, putting their monies together, and in many cases involves families and local people who want to form a small corporation for the purpose of bringing jobs to that community. Then, they have to form a corporation to avoid the other liabilities involved. I would certainly urge that you delegates give an opportunity to that small businessman, that small business corporation in this state that he justly deserves. I urge your support of this very good amendment.

Questions

MR. KELLY

E. J., isn't this substantially the same amendment that Mr. Bollinger tried to insert yesterday, by adding the word "corporate" into the Kean amendment which had already been adopted, and. . .

MR. CHATELAIN

Absolutely not, sir.

MR. KELLY

Well, is it close?

MR. CHATELAIN

No, sir. It's not even similar to that amendment. I'll tell you why.

MR. KELLY

Well, I was hoping that you would be able to explain it, because it was my understanding that you more or less spoke against the Bollinger amendment, yesterday, and, in fact, voted against it. Is that correct?

MR. CHATELAIN

I voted against it, and I'll vote against it again, sir, because it has no. . . it has absolutely no limit on corporation. . . when you freeze in the constitution or the statute four percent, it's a vast difference when we're locking in here four percent and a maximum of twelve percent. I would vote against that type of a concept again, and you know the reason I'll vote against it.

MR. ROEMER

Yea, Mr. Friendly Chatelain. Don't you realize, or perhaps you do not, that corporations can get around your little limitation here, of twenty-five thousand dollars? All they have to do is pay themselves more money, as individuals, and they won't have any corporate income. Isn't that true?

MR. CHATELAIN

Mr. Roemer, you surprise me, sir. I don't think you. . . you read the thing, because if you would have, as a man with a Master's Degree in business, as you have, you would understand there's a vast difference between "taxable," the word "taxable" income, than income.

MR. ROEMER

Say that again.

MR. CHATELAIN

You heard me. You were listening to some of these other people giving you bad advice.

MR. ROEMER

What about the proliferation of corporations, Mr. Chatelain? Well, how would you handle that?

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MR. CHATELAIN

Mr. Roemer, the word "taxable income," means taxable income. I don't care if you've got forty deadhead men on the payroll, we're speaking in terms of taxable income.

MR. ROEMER

Yes, but what about the idea that you can just form more corporations and still get under the twenty-five thousand dollar umbrella? Isn't that not true?

MR. CHATELAIN

Well, certainly you can form. . .but the federal law prohibits this, and you know it.

MR. WEISS

Dr. Chatelain, isn't it true that the present constitution contains a portion of what you're presenting as a floor amendment?

MR. CHATELAIN

No, sir. The present constitution, as I appreciate it, does not. The four percent limitation is in statutes. . .

MR. WEISS

No, it's in the constitution, sir.

MR. CHATELAIN

Yes, sir.

MR. WEISS

It is constitutional. In other words, as I understand, then, is it not correct that a portion of your amendment is currently in the constitution? That is: the four percent on taxable income. But, you're limiting it to corporations of twenty-five thousand, that is: small corporations or less, whereas over twenty-five thousand, you put an upper limit of twelve percent. Is that correct?

MR. CHATELAIN

That's exactly right.

MR. DENNERY

Mr. Chatelain, this question really involves some of your answer to Mr. Roemer's questions. I do not understand the distinction between net income, in the second line, and taxable income, in the fourth line and elsewhere. What is the distinction that you draw between net income and taxable income?

MR. CHATELAIN

I didn't draw the distinction, sir. He questioned. . .

MR. DENNERY

No, in your amendment you draw the distinction. I want to know why.

MR. CHATELAIN

Well, I'll tell you why, sir. To be perfectly honest with you, after it was. . .after the staff got it together, we had noticed the word "net" had been brought in there for this reason: if you. . .

MR. HENRY

You've exceeded your time, sir.

MR. CHATELAIN

I'd ask for two minutes, please, sir.

Mr. Chairman, I ask that you give me two minutes for additional explanation for this.

MR. HENRY

The gentleman requests a two minute extension of time. Is there objection?

MR. CHATELAIN

Well, I'll tell you, I'll make a deal with you. Let me have one minute and explain this.

MR. HENRY

Go ahead. Go ahead, Mr. . .

MR. CHATELAIN

Mr. Dennery, in the statutes, in Section 32, they use only. . . they refer only to "taxable," whereas the committee proposal uses the word "net." That's the difference, sir. That's the reason why that there was an omission. If you would be happy with this, we'd be glad to change this only "net" from "net" to "taxable." It's not a great deal of distinction, sir. I would urge your support of this very, very, very good amendment.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, I want to support this amendment. Now, let me give you a good reason why. Yesterday, when we adopted Mr. Kean's amendment, he incorporated as a portion of his amendment Section 32 of Title 47. That particular section imposes a limitation of four percent upon the net income of corporations. Under the Kean amendment, individual taxpayers would pay more income tax than corporations would pay. This particular amendment they have would restrict the limitation of four percent to only that income of twenty-five thousand dollars or less, and would let the legislature increase the income tax of corporations making income above twenty-five thousand. We need that in order to correct the inequities that was done by the Kean amendment, if we're going to do anything about it. I just want to point that out to you. We limited the corporate income, yesterday, by the Kean amendment to four percent of the net income. Here it is; you can look at it and compare it in your section.

Questions

MR. KEAN

Senator, if you read my amendment that I offered yesterday, I think you will find that the only part of 47 and 32 that was referred to had to do with the individual tax rates. Isn't that correct, sir?

MR. DE BLIEUX

But, you incorporated in it Title 47, Section 32 of the Louisiana Revised Statutes, which became a part of your amendment. That includes the corporate income taxes in Sections (A), (B) and (C) on corporate. . ."the tax to be assessed, levied, collected and paid on net income of every corporation shall be computed at the rate of four percent."

MR. LOWE

Senator De Blieux, do you know I believe this is a bad amendment because the federal government has already found out that there was a terrible loophole by allowing multiple corporations. I'm sure that this is what this would encourage in Louisiana. The federal government is now phasing out their surtax exemption for all multiple corporations. In 1974, if the brother-sister corporations will get only one surtax exemption and do away with this loophole. What we're doing here, now, is providing a loophole to form a hundred corporations and keep your surtax. . .you keep your tax down to four percent.

[Previous Question ordered.]

Closing

MR. CHATELAIN

Fellow delegates, there was a question raised by Mr. Dennery and one or two other friends of mine, the inconsistency involved in the second line, the word "net." I certainly have no objection to make a technical amendment there--I mean, a technical correction there. But, I don't think it's necessary, in the spirit of haste, now, to go ahead and do this. So, if it is adopted, and I hope it is, then we'll be glad to change this technical amendment. But, I would like to ask that you support this amendment, and I'd like for Mr. Bollinger, who has another amendment similar to this one, here, to close for me. Thank you.

Further Discussion

MR. BOLLINGER

Mr. Chairman and fellow delegates, I'd just like to answer a few questions that were raised that were really ridiculous. One of those by a good friend, Mr. Roemer, who said that corporations would split up and divide so as not to have an income of over twenty-five thousand. I never heard of anything more ridiculous in all my life with regard to state taxes. When the federal government taxes you at twenty-seven percent on under twenty-five, and at fifty-two percent over twenty-five, I'm sure four percent is going to affect what they're going to do. On paying themselves larger salaries, I don't think state income tax is going to cause that --federal, possibly, but not state. I hope you can vote for this amendment because it is only fair in light of what we did with the Kean amendment, yesterday.

[Amendment rejected: 30-62.]

Amendment

MR. POYNTER

Mr. Gravel sends up the following amendment:

Amendment No. 1. On page 3, at the end of line 5, immediately after the word "all" and before the word "natural" strike out the word "other" added by the floor amendment proposed by Delegates Perez and Kelly and adopted by the convention on today.

Explanation

MR. GRAVEL

Mr. Chairman and ladies and gentlemen of the convention, the present constitution provides for a maximum of two hundred thousand dollars, that can be paid to any parish as a consequence of the collection of the severance taxes on natural resources in that parish. The committee proposal maintained that particular allocation and limitation. In view of the fact that we had just... have just practically doubled the severance tax on oil and gas, and original proposal was circulated throughout this convention suggesting that there be an increase in the minimum participation by the parishes of the severance tax from a limit of two hundred thousand dollars to seven hundred and fifty thousand dollars. By a compromise, it was generally worked out, that the limitation would be increased from two hundred thousand dollars to five hundred thousand dollars insofar as it related to the severance tax on all natural resources. Now, I think the motivation behind that was the fact that the severance tax on oil and gas has been increased. The amendment that was proposed by Mr. Perez and Mr. Kelly seemed to relate to a limitation as to...sought to remove any question about the limitation of the tax on timber. But, what this amendment...but the Perez, Kelly amendment ended up doing was to authorize a sulfur producing parish to tack on to the five hundred thousand dollars an additional amount up to one hundred thousand dollars, so that such a parish would benefit more than any other parish even though there has been no change at all in the tax rate on sulfur--and well there can't be because at the present time, not under the proposed new constitution, but, at the present time the tax is frozen into the constitution. So, clearly what we've done here is to give a Christmas present, so to speak, to the sulfur producing parish that was not included in any way whatsoever in the severance tax increase that was put into effect at the last session of the legislature. Now, maybe, that's what you intended to do. It's not what I intended to do. I think that it's important that you clearly understand that the purpose of this amendment is to make it crystal clear that the maximum allocation that can be made to any parish, as a consequence of severance taxes on the natural resources within that parish--severed from the oil...severed from the water and land--would be five hundred thousand dollars. I submit to you that that's what most of us intended to do, and this amendment would carry out the intent of that amendment.

Questions

MRS. ZERVIGON

Mr. Gravel, you are saying there's only one sulfur producing parish in the state?

MR. GRAVEL

I don't know whether there is more than one. I think there is one major. Plaquemine is the major sulfur producing parish in the state. I don't know...

MRS. ZERVIGON

Should your amendment fail and the previous amendment stand unamended, what would be the effect on the state budget?

MR. GRAVEL

Well, it would be allocating to the sulfur producing parish an additional one hundred thousand dollars.

MRS. ZERVIGON

It would take one hundred thousand dollars out of the state budget, is what you are saying, approximately?

MR. GRAVEL

That's correct.

MRS. ZERVIGON

Considering what we've done, to date, to the state budget, in

the way of limitations and deductions and that sort of thing, do you think this is a particularly significant thing? Can you explain the significance of it?

MR. GRAVEL

The significance of it is to...is we've got a ceiling and a limitation on all of the parishes up to five hundred thousand dollars. I think that by this amendment that was adopted, that very few, if any, of the delegates to this convention realize that possibly one parish would get six hundred thousand dollars and the rest of them would get five hundred thousand.

MRS. ZERVIGON

So, you are just only giving us a chance to sort of consider it with all of the facts before us..that you are not attacking anybody; is that correct?

MR. GRAVEL

I'm not attacking anybody; I'm not opposed to it because I think that the ceiling that was intended as the present constitution provides, that there be a maximum limitation in the constitution of the participation by the parish in the severance tax up to five hundred thousand dollars. That's the present constitution, except that the amount is two hundred thousand dollars and we increase it to five. The consequence of the amendment was to give at least one parish six.

MR. LANIER

Mr. Gravel, is my memory correct, but wasn't this very point about the effect of the other asked of Mr. Conroy while he was up at the mike and I thought quite well explained? You didn't hear that?

MR. GRAVEL

I didn't hear it; no, sir, I did not.

MR. ROEMER

Smile, if you want to bring out all of the facts, let's bring them all out. Isn't it true that in addition to the five hundred thousand dollars that many parishes will also receive three quarters of the severance income from timber; is that not true?

MR. GRAVEL

That's correct, but none of those, incidentally, at the present time, even approach two hundred thousand dollars.

MR. ROEMER

I realize that, but sulfur would only be a hundred thousand under that proposal; isn't that right? So, why do you get the five hundred thousand dollar figure? I mean, if we give it to timber, and you're making a comparison, if we give it to sulfur, it's only a hundred thousand; is that not true?

MR. GRAVEL

That's correct.

But, the difference is, I think that there...clearly this or other needs to be spelled out so that you will understand exactly the effect that it has.

MR. PLANCHARD

Mr. Gravel, are you aware that a lot of the industries that came to this state, came to this state just because of the sulfur that we have here, and that we also have a lot of sulfur over my way?

MR. GRAVEL

Let me just say this, Mr. Planchard, to all of you: I just want it clearly understood that we are not...we do not have the five hundred thousand dollar limitation that many of us thought we had as a consequence of the first amendment that was passed. The purpose of this amendment is to clearly separate, separate the Perez-Kelly amendment insofar as it dealt in part with timber, and in part with the other natural resources.

MR. BURSON

Mr. Gravel, isn't it true that under the present constitution that in addition to the two hundred thousand maximum, that the sulfur producing parishes can also have in fact been receiving that hundred thousand dollars you are talking about now?

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MR. GRAVEL

It's my understanding--rhar's the point, Mr. Burson--it's my understanding that the two hundred dollar limitation included the one hundred thousand dollars allowed for sulfur. That's exactly the point I'm making.

MR. BURSON

I would have to say that my reading of that provision doesn't come out that way.

MR. GRAVEL

Well, that's clearly my understanding of it. I think, if you are willing to do it, I 'd like to look at the constitution with you...

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, this is what might be called the dirty pool amendment because all of us know and realize that when the amendment was placed on just a little while ago, which would have provided some additional funds from the timber tax..timber severance tax. It also provided for a little additional for those parishes which produced sulfur. I would say to you that this would be most unfair and unconscionable, if we passed a situation where we had severance tax both provided for, with respect to timber and with respect to sulfur, and then all of a sudden we are going to say: "Well, we passed it as a package, but we are going to take one of them away." So, therefore, I strongly urge you to defeat this amendment.

Questions

MR. A. LANDRY

Mr. Perez, isn't it true that they are not limiting anything on timber, isn't that correct? This amendment would not remove the timber tax.

MR. PEREZ

No, what it would do would be to say we've passed an amendment which covered timber and sulfur, but now, we've passed them both together and then we are going to take the sulfur part away.

MR. A. LANDRY

In other words, take a parish like Webster Parish who will collect twenty-seven thousand, five hundred twenty-one dollars worth of timber and five hundred thousand dollars from oil, will be collecting five hundred twenty-seven thousand, five hundred and twenty-one dollars. Parishes like Plaquemines who is going to be contributing ninety-one million dollars to the state will be collecting five hundred thousand dollars; is that correct?

MR. PEREZ

That's correct, but I think we worked out an amicable and a reasonable situation and I sure hope that this delegation will stay with its decision.

MR. GRAVEL

Mr. Perez you suggest that this amendment is dirty pool; as a matter of fact doesn't the amendment that I have clearly put before this convention an alternative that the convention did not have when it voted on the Kelly amendment?

MR. PEREZ

No, sir. It was clearly set forth to the convention exactly what that amendment meant at the time.

MR. GRAVEL

But, it was...the amendment, it was one amendment that included both concepts: timber and other resources besides oil and gas?

MR. PEREZ

I think this was explained to you if you look at the way the provision reads that it was oversight that that word was not included in there by the committee. Most of the members of the committee understood, when it was reported out from the committee, that that one hundred thousand was an addition.

MR. GRAVEL

But, my question directed to you, Mr. Perez, is that this amendment that I propose, whether it passes or fails, clearly poses the issue for the convention. They can decide whether they want to include sulfur in it or not. Isn't that correct?

MR. PEREZ

I think it was clearly posed to the convention when they voted on it the first time.

MR. GRAVEL

But, they were both in the amendment; were they not?--with timber.

MR. PEREZ

I don't care to argue the point with you, sir; I just gave my opinion.

MR. KELLY

Chalin, concerning the intent of the committee, it was our understanding of the intent of the committee--and I think you've already explained it--but, ii that had not been the intent of the committee, there would have been no reason to have placed any limitation on sulfur at all within the committee proposal, as I understand it.

MR. PEREZ

That's correct; when the committee said one hundred thousand dollars on sulfur, it meant that. I think, as it was explained too by representatives of the committee, they intended for that to be extra just as they did with regard to timber.

MR. LANIER

Mr. Perez, following Mr. Gravel's logic don't you think that if we were to follow that logic, that the convention should have a clear shot at timber, also?

MR. PEREZ

Well, no. I don't think we want to get into that, but I'm sure that the delegates to the convention knew when they voted that...what they were voting on.

[Previous Question ordered. Record vote ordered. Amendment rejected: 20-69. Motion to reconsider tabled. Previous Question ordered on the Section.]

Closing

MR. ROEMER

I'll just make a few brief comments. I think that you see our problem in committee with Section 4. It has to do with the monies and obligations of this state to the parishes and the people of the state. I don't agree with all that we have done in Section 4, but I think you've done a good job of considering it. I hope, even with its limitations, that you can see fit to vote for it.

Thank you.

[Section passed: 75-18. Motion to reconsider tabled.]

Announcements
[II Journal 1007-1008]

[Adjournment to 9:00 o'clock a.m.,
Monday, December 17, 1973.]

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Monday, December 17, 1973

ROLL CALL

[67 delegates present and a quorum.]

PRAYER

MR. CASEY

Oh my God, we offer You today all of our thoughts, words, deeds, and actions; and in particular, we offer to You our efforts in sculpturing our new constitution. We ask You not only to guide us in our deliberations, but in guiding us, give us understanding, compassion, and love of our colleagues and our fellow citizens. Remind us also that if anyone wishes to rank first, he must remain the last of all and the servant of all. Remind us also that in some special way each of us is Your delegate here, and each of us is Your representative in these deliberations. During this season of Christmas remind us constantly also that this is a special time of year of the birth of Your Son, and that during this season, give us some special understanding and love for our fellow citizens to do an extra special job on Your new constitution. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

MR. POYNTER

Regular Order No. 1. Unfinished Business.
Committee Proposal No. 15, introduced by Delegate Rayburn, Chairman, on behalf of the Committee on Revenue, Finance, and Taxation, and other delegates, members of that committee.

A proposal relative to the tax structure of the state and the public finance. The convention has adopted and amended the first eight sections of this proposal, save for Section 6, which has been passed over.

[Motion to consider Section 6 previously passed over adopted without objection.]

Reading of the Section

MR. POYNTER

"Section 6. Forestry
Section 6. Forestry shall be practiced in this state, and the legislature shall enact laws therefore."

Explanation

MR. PLANCHARD

Mr. Chairman, fellow delegates, as you remember there was a few remarks made about this section the other day. Of course, the question in your mind was, "Well, why in the world have some statement like this?" It's not needed in the constitution. But, I can tell you, it was in here for a purpose, and it does have a meaning. The first reason that we have some expression in Section 6 that forestry shall be practiced is that in the present constitution we have this very language except in the article it goes farther. It allows the parishes to levy a two-cent acreage tax. In allowing that two-cent acreage tax they also had to include an exemption or to have the acreage tax included in the homestead exemption. This was caused by the fact that any old constitution, in the exemption section, you will remember that the wording is in the ad valorem property section, that these exemptions and no others will be granted. So, consequently, you had to have the homestead exemption in the article referring to the acreage tax. Another reason that we included this section as it is, is we considered all of the forestry questions, and individually we would refer it to the statutes. But, this is such an important industry, we felt that we should give some expression as to our feelings in Revenue, Taxation and Finance. Another reason, and not least, is the fact that we didn't know what this convention's feeling would be concerning the severance tax. It was almost unanimous in the

committee that this was absolutely the only fair way to tax the timber industry, and the oil and gas industry. So, consequently, it was best to leave open this section until after we had completed Section 4 to properly and fairly treat the forestry industry. These are but a few words, but they definitely had the meaning and the reason that they were there. Another reason, and nonetheless, I did make a promise to one of my fellow delegates here if you will remember when we were talking about the ad valorem property tax. He was concerned with their acreage taxes, and I told him that the proper place to bring up his acreage tax was under the Proposal No. 15. He was gracious enough at that time to withdraw his amendment and to wait until this time. Rather than take it out by the committee action, I'd prefer for this convention to hear the amendments to this section, and then if you feel in your wisdom that we should take it out altogether, then so be it. Thank you, Mr. Chairman.

Questions

MR. CHAMPAGNE

The committee did remove a number of pages from the old constitution by simply putting this statement in here, did they not?

MR. PLANCHARD

Absolutely.

MR. CHAMPAGNE

The second part of the sentence, "and the legislature shall enact laws therefore," is actually a mandate to the legislature that reforestation, good forestry, good forestry shall be practiced in this state. Is that right?

MR. PLANCHARD

That's correct.

MR. CHAMPAGNE

Actually, we have evidence, most of the older people can remember and some young ones can hear some tales where it was not always done in this state. Is that right?

MR. PLANCHARD

Absolutely.

MR. CHAMPAGNE

Thank you.

MR. PLANCHARD

Of course, another reason is I'm informed that the Natural Resources Committee has come out with their proposal, and in their proposal, they do treat forestry as an industry, and they do have the many provisions that we had in the old constitution, in the new constitution. Consequently, it was not necessary for us to include it all in this particular section.

Amendment

MR. POYNTER

Mr. Bollinger had amendments we had passed out several days ago.

Amendment No. 1. On page 3, delete lines 14 through 16, both inclusive, in their entirety.

[Amendment withdrawn.]

Amendment

MR. POYNTER

Mr. Lanier sends up the following amendment.

Amendment No. 1. On page 3, line 14, after the word "Forestry" add a semicolon ";" and add the following: "Acreage Taxes; Homestead Exemptions" and between lines 16 and 17 add the following paragraph:

"Acreage taxes and contributions for the benefit of the land may be levied and collected within political subdivisions as heretofore or hereafter authorized by law. These taxes and contributions shall be listed on the assessment rolls as provided by law. However, property occupied as a homestead, as defined in Article XI, Section 1, shall be subject to the homestead exemption from acreage taxes and contributions levied for forestry purposes."

Explanation

MR. LANIER

Mr. Chairman and fellow delegates, this amendment is basically the same amendment that I brought up on this same subject under the previous committee proposal from Revenue, Finance, and Taxation. At that time, part of the discussion was where should this topic properly be dealt with, whether it should be dealt with under the ad valorem taxes section or under this section? If you will recall, initially, this proposal passed by a vote of 72 to 20 as an amendment, and then as the section failed by a vote of 64 to 32, and was brought up for reconsideration at which time I was asked by Mr. Plaachard to withdraw it since it was his opinion and apparently the opinion of several members of the Revenue, Finance and Taxation Committee that this subject matter was more properly treated under this committee proposal rather than the other committee proposal. Now, if you will look at the present constitution, Article VI, Section 2 in your book, you will see that this language dealing with forestry and the forestry acreage tax is contained at that point in your constitution. The purpose of this amendment, first of all, the first sentence is to consolidate the many provisions in the present constitution authorizing acreage taxes. Specifically, I would direct your attention to Article XV, dealing with drainage districts; Article XIV, Section 14, Subsections (O), (P), (Q), (F), (G); and there are also several statutes on the books dealing with this type of thing. In my research on this, under the 1971 report concerning taxes in Louisiana, there were twelve parishes that had levee district type acreage taxes or contributions for the benefit of land, and there were thirty-five parishes that had the forestry acreage tax. Now, the second sentence of my amendment is designed to constitutionally require that these taxes be listed on the assessment rolls. We have said, dealing with ad valorem taxes, constitutionally that they shall be listed on the assessment rolls. We're doing the same thing here for acreage taxes. Now, you might say, "Well, why do you have one for ad valorem taxes and one for acreage taxes?" The reason for that is that an acreage tax is not an ad valorem tax. It is a tax on property, but it's what's called a specific property tax as distinguished from an ad valorem tax. Ad valorem means by value. Specific means by quantity. In other words, so much per acre, instead of so much per the value of the acre. The third sentence constitutionalizes the present homestead exemption dealing with the forestry acreage tax. This is under the present Article VI, Section 2. We have constitutionalized the homestead exemption for the ad valorem tax, and this constitutionalizes the homestead exemption for the forestry acreage tax as we have at the present time. One thing that is different between my amendment and the committee proposal in the present law is that the tax itself of two cents per acre is not included. This would be transposed into the statutes where it could be subject to legislative action in accordance with law. I feel that this is a necessary amendment to take care of this problem of the acreage taxes and contributions for the benefit of land. I might add one further point here. In some of the statutes, these types of taxes are also called local assessments. I did not use the word "local assessments" here even though it is intended to include this type of a situation. I did so because of a point raised by Mr. Denney when we discussed this previously that we do not want to get this type of local assessment confused with the special assessment like that for sewerage purposes, etc. But, the term "acreage taxes and contributions for the benefit of land" is intended to include those types of taxes that are referred to in some statutes as local assessments, but is not intended to include the types of special assessments, such as sewerage assessments, etc. I would ask for the adoption of the amendment, Mr. Chairman, and I would be happy to yield for any questions.

Questions

MR. BURNS

Mr. Lanier, I understand in conversation with you that your interest is centered primarily in the drainage tax proposition, and it would seem to me that with that thought in mind, that you are sacrificing the timber acreage tax in favor of a larger, perhaps necessarily larger, drainage district tax because, by the very nature of things, the two-cent timber acreage tax that's been in existence for so many years has been sufficient to take care of the much lesser amount necessary to protect forest land than it would be the tax necessary to take care of drainage purposes, which would necessitate construction in every other facet in connection with drainage that the forestry tax doesn't require. Does not this wording "acreage taxes and contribution for the benefit of the land may be levied and collected within political subdivisions as heretofore, or hereafter authorized by law"; does not that wording open up a possibility or threat of the different political subdivisions

to be able to increase the present timber tax, say to five cents an acre, or ten cents an acre instead of two cents?

MR. LANIER

I believe that could only be done by a legislative act, Mr. Burns.

MR. BURNS

I know it, but I ask another question: but, you're taking the now constitutional protection of the two cents an acre out of the constitution, according to you, and referring it to the legislature?

MR. LANIER

This is what the committee did also. Now, if those of you from timber parishes wish to put in the two-cent limitation, I have no objection to that one way or another because quite frankly, it doesn't affect me in my parish. We have no timber acreage tax in my parish. My particular interest, of course, is with reference to the drainage district acreage taxes. The particular act that affects my parish is Act No. 64 of 1971, dealing with Lafourche Drainage District No. 12, which puts in a two dollar and fifty cents per acre maintenance tax, but this is done by law, and as provided in the act, it has to be also approved by a vote of the people in that district--and I might add, they overwhelmingly voted for this tax.

MR. BURNS

I understand all that, but I was just wondering if there wasn't some way to word this to where you wouldn't lump the present timber acreage tax in with the drainage tax, which as I say, I understand requires a lot more money.

MR. LANIER

I think what you would want to do, if you feel that there should be a limitation on the forestry acreage tax, then you would make an amendment to this amendment putting in whatever limitation you felt was appropriate if you deemed such a limitation necessary. As I say, as far as my parish is concerned, we have no timber acreage tax, but there are about thirty or thirty-five parishes that do have the timber acreage tax, and whatever the delegates from those parishes feel is in the best interest of those parishes, is certainly fine with me.

MR. HERNANDEZ

Mr. Lanier, I'm not taking issue with your amendment because that is for the benefit of your land down there. But, isn't this a long ways out of place, putting it under the heading of forestry? It has no connection with forestry whatsoever, absolutely none.

MR. LANIER

Well, I think if you will look at the present Article VI, Section 2, of the present constitution, you will see that the forestry acreage tax and the homestead exemption for forestry purposes is coupled with this language that forestry shall be practiced in the state, and the legislature is authorized to make provision therefore. I expanded this language to include all of these types of taxes. Now, the question of placement came up before, and as I recall, the committee felt that it shouldn't have been placed in the previous committee proposal, and suggested that it be placed here. I don't care where it's placed, but I've got to place it somewhere, Mr. Hernandez, and if we go by the layout with the present constitution, this fits at that point in the present constitution. So, I put it here.

MR. HERNANDEZ

Mr. Lanier, won't you agree that this two-cent acreage tax on forest land is for the sole purpose of fire protection? For the sole purpose of fire protection.

MR. LANIER

I think it's also used for reforestation, too, isn't it?

MR. HERNANDEZ

No, sir. No, sir, purely for fire protection. It's just like paying on an insurance premium. It's solely for fire protection and there's a two-cent limitation on it, and it's for that purpose and that purpose only. So, that's the reason I feel like...I'm not taking issue with your amendment at all except that it is not in place, and it's about as far removed as I can imagine because it has nothing to do with fire protection. This two-cent acreage tax is solely for fire protection.

MR. LANIER

Well, with reference to the acreage tax for forestry purposes

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I think that's definitely connected with forestry. With reference to the general authority for the levying of this type of tax, perhaps, the first two sentences could be put in a separate section, than the homestead exemption for forestry. Another possibility would be to make this a separate section and leave the present Section 6 like it is. These are all possibilities. This could, of course, be done by style and drafting. All I'm saying is the way the present constitution is set up and the indication that I got when I presented this in the previous committee proposal, this was, to me, I felt this was the most appropriate place to put it. Now, how you want to style it around, as long as the substance is there, really...I have no great concern over that.

MR. HERNANDEZ

Don't you think that is...that's entirely up to you to where to put it, but it should be nearer in place than in this section, Mr. Lanier.

MR. ABRAHAM

Walter, since this says that it simply authorizes the legislature by law to provide for these different things, what do we really accomplish by putting this type of language in the constitution. Can it simply be handled statutorially just as easily?

MR. LANIER

Well, I think, Mack, we had the same argument here as we've been having all the way through the convention. I think if you wanted to really get down to it, we could probably stick civil service in the statutes. We could stick all of the stuff dealing with severance taxes in the statutes. My feeling is, since we have constitutionally required that the ad valorem taxes be listed on the assessment rolls, that it is entirely logically consistent to constitutionally require that the acreage and contribution taxes on property also be listed on the assessment rolls, and in fact, they are today. We have constitutionally provided for the homestead exemption for the ad valorem property taxes, and to me, it is entirely, logically consistent therefore, to provide the same thing with reference to the homestead exemption for the forestry acreage tax. With reference to the authority to levy acreage taxes, certainly, this authority would exist were this first sentence not in here. But, it's just a question of how you do it. I think this first sentence consolidates many, many provisions of the present constitution, giving authority for this into one sentence, and I feel that it is appropriate in this place. But, from a pure legal point of view, yes, you're correct. All of this could be in the statutes, just as many other things that we have constitutionalized can be in the statutes.

MR. ABRAHAM

Well, the real restrictions that you're after then are that they will listed on the assessment rolls or that the homestead exemption will apply. That's what you're really trying to accomplish; is it not?

MR. LANIER

Yes.

MR. HAYES

This is one of the shorter sections--this section that you're amending here--isn't it, Mr. Lanier? This section that you're amending in here is one of the short sections. It just says that the legislature shall provide for forestry. Don't you think that's one of the better sections that we have come up with so far, leaving the legislature to do this?

MR. LANIER

Well, it depends on your point of view, Mr. Hayes. I've found--and I'm sure you have--all the way through this thing, if you're for something, it's constitutional; and if you're against it, it's statutory. So, this is a question of judgment that I think each of us has to exercise.

Thank you, Mr. Chairman, and I ask for the adoption of the amendment.

Further Discussion

MR. THOMPSON

Mr. Chairman, fellow delegates, I rise in opposition to this amendment. The legislature already has the authority to levy or

allow such taxes to be levied. The local governing body, the police jury, already has the authority to levy such taxes. They just need to get the people to vote for it. I don't believe in giving the authority to a local subdivision, or a local political body, to go out here and levy taxes on all the land within the district without a vote of the people on it. I think they should be accountable as to how this money will be spent, what it's needed for, and everything else. You look at the constitution, and you've said over and over again we need a short constitution. So, why clutter it up with something that's not needed in here when the legislature already has the authority? What we'll be doing is merely opening the door for more taxes--this is just opening the door and from here on out these taxes will be allowed, and you can increase them. This is just a way of coming in the back door and taxing the poor people and the land for things that's not needed. I think they already have this authority, so I urge defeat of the amendment.

Questions

MR. LANIER

Mr. Thompson, isn't it true that almost every acreage tax that's presently levied is a direct grant of authority by the legislature, or the constitution, and does not involve a vote of the people?

MR. THOMPSON

The taxes that you're talking about, but this says "allow local political subdivision." Well, they can do this if the legislature grants it, but you don't have a blanket authority to allow all the land to be taxed within your parish, say, for forestry or for drainage or for recreation, or anything else. We're just opening the door to allow this. I don't know why they haven't given you permission to do what you want under the present constitution.

MR. LANIER

Well, doesn't Article XV give direct authority, for example, to drainage districts to levy this type of tax?

MR. THOMPSON

Yes. With a vote of the people.

MR. LANIER

Do you say that Article XV requires a vote of the people?

MR. THOMPSON

Not Article XV, no.

MR. LANIER

Now, is the Red River and Bayou Pierre Levee and Drainage District in your district--Rapides Parish?

MR. THOMPSON

Yes.

MR. LANIER

Doesn't Revised Statute 38:2028 provide for a five cent per acre acreage tax and a sixty dollar per mile on the railroad tax, which does not require a vote of the people?

MR. THOMPSON

Seven parishes voted on that Red River Waterway tax that you're having reference to, and it was voted on by all seven parishes. Right now, there's a lawsuit saying that it's unconstitutional--which I don't think it is because the people voted it on themselves.

MR. LANIER

Aren't you referring to the five mill ad valorem tax, and not the acreage tax, when you're talking about the election?

MR. THOMPSON

No, I'm talking about this tax for the Red River Waterway.

MR. LANIER

Isn't it five mills?

MR. THOMPSON

Right.

MR. LANIER

But, I'm talking about the five cents an acre tax. Isn't that a direct tax that the board of commissioners has the right to impose?

MR. THOMPSON

And I don't agree with it. They've got a half a million dollars sitting in the bank drawing interest. They paid--up until

the legislature took the bull by the horns and limited them to eighteen days a year—they paid the chairman of the levee board over three hundred dollars and the others five hundred dollars a month. When you get a surplus of money—taxing people for a surplus of money—this is how your money is being spent. I'm opposed to that. That's the reason I'm opposed to this.

MR. LANIER

Well, now, let me ask you: This amendment requires that the tax be authorized by the legislature, doesn't it?

MR. THOMPSON

Yes, but I don't see any reason for giving the authority to the legislature. They already have it if they need it.

Any other questions?

If not, I urge defeat of this amendment.

[Previous Question ordered. Amendment rejected: 25-42. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Bollinger sends up amendments.

Amendment No. 1. On page 3, delete lines 14 through 16, both inclusive, in their entirety.

That amendment was passed out the first time we were on 6. A few of you may not have copies, but the effect of it is just to delete the entire section, Mrs. Warren; that's all it does.

Explanation

MR. BOLLINGER

Mr. Chairman and fellow delegates, I was told by Mr. Roemer that the committee has no objection to deleting this section. It was placed in the committee proposal to leave open the forestry section for Mr. Lanier's amendment—which they had agreed on—and possibly if any changes were made in Section 4. The Committee Proposal No. 34 on natural resources and environment has a whole section—Section 13—dealing with forestry. I can see no reason why the Revenue, Finance, and Taxation Article should deal with forestry, so I think we should delete this section and wait until the committee proposal on natural resources comes up to consider it.

[Previous Question ordered. Amendment adopted: 62-5. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

Next section would be Section 9.

"Section 9. State Debt; Maximum Debt Service Expense for All Purposes

Section 9. The legislature shall enact no law authorizing the incurrence of state debt, whether contracted directly by the state or indirectly through a state board, agency, or commission, if incurrence of the indebtedness would result in total annual debt service requirements on all state obligations, whether outstanding or authorized and unissued, exceeding an amount equal to fifteen percent of the average total revenues from state sources available for debt service for the preceding three years."

Explanation

MR. PLANCHARD

Mr. Chairman, fellow delegates, Section 9 is, as you can see, a debt limitation on bonded indebtedness for the State of Louisiana. You'll notice that we carried it to the...indebtedness...fifteen percent of the average total revenues is the limitation on the debt service. Of course, for those who do not know what debt service is, that is your total principal and interest that you must pay each year. This is only a limitation, and it is well within the bounds of our present situation. I think our present situation is we're at about nine percent, so we do have plenty of leeway, but the committee felt that it was necessary to at least put some debt limitation so the bonded indebtedness would not get out of hand. If there's any question, Mr. Chairman, I'll be glad to try to answer.

Questions

MR. PEREZ

Mr. Planchard, I think there are many delegates who are becoming more and more concerned with regard to the meaning of a "state board, agency, or commission," because if you will look at the Revised Statutes, you will see that there are pages and pages and pages of "state boards, agencies, and commissions," which extend all the way from those agencies which take care of the retirement systems-- and your local agencies, even the cities, etc. The question that I'm very much concerned about is, when you begin to figure your state debt, are we talking about the debt of your cities and of your parishes, etc.? because there are decisions which say, for instance, that a municipality is an agency of the state. Again, I'm getting more and more concerned about what is meant by "state board, agency, or commission." It even extends, for instance--a state agency is a pilot association which pilots ships up and down the river; they're agencies of the state. Now, would we have to take into account their indebtedness? I'm very much concerned about what "state board, agency, or commission" means and would like to get some sort of a definition of it so we'll know what we're talking about.

MR. PLANCHARD

Mr. Perez, when we are referring to local, we refer to the local subdivisions or political subdivisions, and this is strictly the state. Now, in answer to your question on the pilot agency: If it is a state agency and if they have a right to issue the bonds, it would be included.

MR. PEREZ

Let me again call your attention to the fact that this talks about state debt, and not strictly the issuance of bonds. I'm just trying to get an interpretation because of the fact that the terms "state board, agency, or commission" is so all-encompassing that I'm not sure that the delegates understand and know or that the courts would ever understand and know what a "state board, agency, or commission" is. I'd just like an explanation of what it is. What are "state boards, agencies, and commissions"?

MR. ABRAHAM

A. J., I'm having a little difficulty understanding the language here. As I read it, it states that the total debt service requirements will not exceed fifteen percent of the average revenues from state source available for debt service for the preceding three years." Now, are you trying to say that your debt service requirement will not be fifteen percent of the total state revenues?

MR. PLANCHARD

That's correct.

MR. ABRAHAM

Well, as I read this, and maybe I'm...I must be interpreting it wrong because it reads, to me, that it's fifteen percent of the revenues available for debt service.

MR. PLANCHARD

It seems to me, I think, that the idea is--and the way it will be--is that all the revenues now will be open for the payment of bonds, because it's going into the general fund, so you have to include all the revenue.

MR. ABRAHAM

The last sentence, then, as you interpret it, means that the total state revenues could be completely available for debt service?

MR. PLANCHARD

They would be.

MR. ABRAHAM

And, what you're saying, that this would be fifteen percent of the total state revenue? The limit would be?

MR. PLANCHARD

That's correct. That's right.

MR. ROEMER

Mr. Planchard, is it not true--in answer to Mr. Perez's question, and I think we all share his same concern--that when we refer to the "state boards, agencies, or commissions," we do not mean the municipalities, for example, or the parishes? When we want to include that, we talk about any "political subdivision" of the state. We don't mention that in this section. It's clearly a difference than when we are trying to include it. Number two, in answer to Mr. Abraham's question, isn't it true that if he were to read the other

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sections of this provision, he'll find that all state revenues would go into the first here, the bond security and redemption fund, and are available for debt service on bonds?

MR. PLANCHARD

Correct. Thank you very much.

MR. KEAN

Mr. Planchard, getting to the question that both Mr. Perez and Mr. Roemer talked about, I would not have too much concern about it either except for the fact that when we were dealing with Section 7, which had the language "state board, agency, or commission"--perhaps out of an abundance of precaution, but in any event, we did it--we included a section which said that "nothing contained in this section shall apply to any levee district or to any political subdivision unless the full faith and credit of the state is pledged to the payment of the bonds." Now, would you--in order to clarify that point again, in this Section 9, that we're not talking about that type of indebtedness unless the full faith and credit of the state is pledged to it--would you have any objection to a similar amendment in this particular section?

MR. PLANCHARD

We would be happy to go with excepting the other political subdivisions.

Further Discussion

MR. LOWE

Mr. Chairman and ladies and gentlemen of the convention, as you know, I generally get up and oppose placing percentages and restrictions such as this in the constitution unless they are absolutely necessary. Here I am again to oppose this particular provision, because I don't see that it'll serve any useful purpose. The fact is, I believe that it might work to the contrary and might do two or three things. Number one: the first time you establish a percentage for someone or a ceiling for someone, the first thing we try to decide is, "Well, look how low we are, and really, where we should be is way up here at this other figure." The first reaction is to say, "Well, we have a lot of leeway here now, and we haven't issued all the bonds that we should issue, and we haven't incurred as much debt as we should incur." You know that there's always projects laying around, waiting for someone to pick them up and finance them, in all of the sixty-four parishes that we have. We'd have no problem selling projects. It's just a matter of whether we have that latitude to go ahead and finance them. Once we place in this constitution a twelve percent figure, I can appreciate the legislature saying, "Well, the Constitutional Convention, in their wisdom, established a ceiling for us of twelve percent, and we're not nearly there now, so why not issue some more bonds?" Now, this isn't a sophisticated figure that's going into this constitution of twelve percent. I don't know of a great deal of study and research that has gone into it. I don't believe any member of the committee can come up here and say that we have come up with that magic figure that we can tell the legislature that if you do this, and you're under it, you're not in trouble. I submit to you that there's more an automatic control on this sort of thing. The bonding people that buy bonds aren't going to buy bonds when they feel like the state has overextended itself. They're going to do that in light of the current economic conditions and in light of the current market and take into consideration all of those things that are happening in the year 2000, or the year 2025, and not what's happening in 1973. We're not dealing with any "mickey mouse" people when you're dealing with bonding companies; they're sophisticated. You'll know from the interest rate whether you've stepped out of line or not and have too much outstanding indebtedness. I submit to you that their approach will be a lot more sophisticated than the approach that we've used in coming up with an arbitrary figure of twelve percent that I doubt if anyone can place any logic on. Now, that's my concern, mostly--of using this figure as a barometer--and you know it could happen. We don't have such a provision in the constitution at this time. I don't know of any sound reasons to place it in; I think it works to the contrary; it works to a disadvantage in dealing with our orderly development of our state finances. I ask you to vote against the section; by so doing, you'll delete it. We don't need an amendment to delete it. Let's just vote it out. I ask you to defeat it.

Questions

MR. NUNEZ

Mr. Lowe, would you...and I know you probably have these figures, and maybe it'd be wise to give them to the committee. To my knowledge there's quite a number of bonds that are not sold that are ready to be sold or issued that are not issued yet---I think it ranges from maybe four hundred million to maybe six or seven if you include the

toll road, which is no longer a toll road, and various other things we have in this state--and has not been issued. If the state went ahead and sold all the bonds that were authorized by the legislature, could you tell us what that figure would now be?

MR. LOWE

I don't have that, Senator Nunez, but I can tell you that we had testimony before our committee that did tell us that there was just a large number of bonds that had been authorized that had not yet been sold. But, I can't give you the figure; I don't have it with me, Senator. Do you have it?

MR. NUNEZ

Just an off-the-cuff estimate, and I don't have the figure myself, but it's been tossed around quite a bit. I think it runs something like six hundred and fifty million dollars worth of outstanding bonds that have been authorized--not outstanding, but have been authorized by the legislature, and this has come about since we changed...there used to be a provision in the statutes whereby, when you issued a bond or you authorized a bond, you had to (and I'm asking a question) provide a revenue for that bond. We changed that in 1970 because, to get lower bond interest rate, that the general fund...the state bond redemption had first call on the general fund, which means every dollar that this state had would be eligible to relieve bond debt. Now, then we passed about three or four hundred million dollars, but it's never been issued. I think we should have that figure, because in my recollection it might come close to going near this ceiling we're now trying to place on the debt.

MR. LOWE

Well, I don't have the figure, Senator Nunez, but I still submit to you that we don't have a sophisticated percentage to put in this constitution. It's no use coming up here and saying that we have done adequate research to tell us what that percentage is. It may be that what's outstanding now, if we issued it, may go over twelve percent. I don't have any idea, Senator.

Further Discussion

MR. ROEMER

Mr. Chairman and fellow delegates, I'd like to put in perspective, just for your information, what we're talking about in dollars and cents here vis-a-vis the limit in Section 9. If you read Section 9 carefully, you see we use total revenues from state service for the preceding three years. If we take the last three years, for example--that's average one billion, four hundred million dollars for the last three years--if we take fifteen percent of that, we'd have two hundred and ten million dollars available for debt service. Right now, our debt service expense is one hundred and thirty-five million dollars. Under the provisions of Section 9, the state would still have seventy-five million dollars available for debt service. At the present rate of eighty million dollars of debt service for each one billion dollars in bonds, we would still have the state able to float an additional nine hundred and thirty-seven million dollars in bonds. So, what we've done has not crippled the state at all. What we're trying to do is put a reasonable limit on how much debt service the state takes out of that bond redemption or security and redemption fund. The point that I'm trying to make is just information. You have to make up your mind or not whether it's good government to put some sort of restriction on the bonded capacity of the state. Most members of our committee felt that it was good government, and is practiced in most other states, to have some sort of debt ceiling on state government. I just wanted to put it in perspective for you.

Questions

MR. LOWE

Mr. Roemer, isn't it true that whenever you place restrictions upon people, the first thing that you find that happens is they look for ways to circumvent those restrictions or ways to get around them? Isn't that normally the case, you would say?

MR. ROEMER

Right. However, just because things are thwarted doesn't mean that the intention is not good and that we ought not at least make it difficult for them to thwart it.

MR. LOWE

I agree with that, but don't you think that one bad thing about this particular restriction, the first thing that could be done to circumvent it--you've made the statement that to hold the debt ceiling down--now, don't you think it would be bad to start issuing forty year bonds instead of twenty year bonds?

MR. ROEMER
Yes.

MR. LOWE
Because if you issued forty year bonds, your debt service would still be not much more than what it took to service a twenty year bond. So, what I see with this particular restriction is we're telling the legislature, "Look, go in debt, but make it stretch over as long a period as you can because, if you do that, you're going to be able to service it with the restriction that we're placing on you. Don't go into debt and pay it off right away because, if you do that, you're going to soon have so much debt until you'll be up to that percentage limitation that we placed." So, we're forcing the legislature, by all of these restrictions, to circumvent what we're putting in here, and the result of circumventing it isn't always good; it's bad.

MR. ROEMER
Well, I agree with you completely. As you know, in committee you and I had the same position that we didn't really need Section 9. I would share the feeling that Section 9 is more window dressing than it is effective government, but I hope you also agree with me that Section 9 as presently written, at least sets an example of what we hope will happen and doesn't hurt the state at all.

MR. LOWE
Well, Mr. Roemer, don't you agree that it would hurt the state if we had all forty year or fifty year bonds instead of twenty year bonds?

MR. ROEMER
Well, you made the point in committee--and I think it's true--that the life of a bond depends on the circumstances of the time. You know, you used to have a twenty year mortgage on your home; now it's average thirty years. People do what they have to do, Mr. Lowe.

MR. LOWE
But, the condition of the times would be that in this time we'd be placing that limitation. So, one of the things is about the times we'd be in is that we're forcing a longer life for the bonds, which isn't necessarily good.

MR. ROEMER
Well, I would like to think that what we're forcing the legislature to do is to look closely at any bonds they authorized. That would be a pleasant change.

Amendment

MR. POYNTER
Distribution copies are not here.
Mr. Kean has sent up amendments, however.
Amendment No. 1. On page 5, line 15, after the period "." add the following sentence: "Nothing contained herein shall be construed to include the indebtedness of any levee district or political subdivision in the calculation of state debt, unless the full faith and credit of the state is pledged to the payment of the bonds of such levee district or political subdivision."

Explanation

MR. KEAN
Mr. Chairman, fellow delegates, when we were considering, I think it was Section 7 which had to do with the issuance of bonds, there was an amendment offered and approved which made it clear that that section did not apply to bonds of levee districts and political subdivisions. This would follow that particular amendment because with the language "state board agency or commission" you could have a question without this language, as I see it, that those references might include levee districts or political subdivisions. If you add that in the calculation of state debt, it seems to me that the formula that the committee has suggested might well be inadequate. This would simply make it clear that nothing in this Section 9 would be construed to include the indebtedness of any levee district or political subdivision in the calculation of the state debt unless the full faith and credit of the state is pledged to those obligations and under...with that language added, I think Sections 7 and 9 read the same and have the same effect. I think this would be helpful insofar as the formula that's suggested by Section 9 because it would avoid the question of whether or not this indebtedness should be included in the calculation of state debts for the purpose of Section 9. For that reason, I suggest the adoption of the amendment purely for clarification purposes.

Questions

MR. ROEMER
Gordon, I agree with you in trying to define what we intended in committee. I do quibble though with putting the levee district in that exclusion, why are you trying to...for example, you know that under a recent state statute the moneys and funds and fees collected by the levee districts are sent to the state treasury now; they are part of the state agency. I wonder why you have to exclude those here?

MR. KEAN
Well, the only reason I did, Buddy, is because in the amendment we adopted to Section 7, we did exclude levee districts in that particular amendment. I was simply making this correspond to the other section.

MR. ROEMER
The reason we did in Section 7 exclude levee districts were the unique characteristics as evidenced by Section 7. They don't have those same characteristics though when you are talking about the total bonded indebtedness of the state. I wish you could withdraw the specific mention of levee district from Section 9 so we could support you; we would like to support your definition here of local political subdivisions. But, I don't think we can go along with you on levee districts because we mentioned those in committee explicitly in regard to Section 9 and Section 11.

MR. KEAN
You mean you would want to have the indebtedness of levee districts includable in the calculation of state debts for purposes of Section 9?

MR. ROEMER
Yes, sir, and specifically did you know the reason why in the investigation of levee districts the very uneven quality of the management of those districts? We felt, if in doubt, we ought to include them in fiscal limitations and that's why we wanted them in Section 9.

MR. KEAN
Well, I don't see that this has any reference to fiscal limitations. I'm simply trying to provide here that you don't include that indebtedness in the calculation of state debts. Whatever other restrictions you want to put on the levee districts so far as fiscal limitation is concerned, I would share your view in that regard.

MR. ROEMER
Yes, sir. Well, I just wanted you to know that in your defense of levee districts in regard to Section 9, you might jeopardize your other delimitation which I think is much more important and, that is, local political subdivisions. I'm just asking if you are not to consider to withdraw the specific mention of levee districts from your amendment to garner support for your amendment and support your intention.

[Quorum Call: 69 delegates present and a quorum.]

MR. DE BLIEUX
Mr. Kean, I just want to be sure what...you know in 1968 we passed an act creating the State Board Commission which has authority over all bonds issued in the state. Now, what effect will this...your amendment have with reference to that particular authority?

MR. KEAN
It would have no effect upon that particular commission and the authority it has to approve bonds. This simply is designed to make it clear that in the...applying the formula that the committee has suggested for state debts that you don't include the indebtedness of levee districts and political subdivisions in the calculation of the state debt.

MR. DE BLIEUX
In other words, your amendment would have the effect, you might say, if we did not include those bonds of increasing the limitation of bonds that could actually be issued by the state, where we wouldn't have to take in the levee districts and the political subdivision districts in determining how much of the total indebtedness of the state is because, you see, as it stands right now--as I understand it--this would include those bonds and they would make the total indebtedness of the state not in excess of that sum.

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MR. KEAN

Well, if that was the intention of the committee, then I think I could say without fear of contradiction that the percentage formula that you have come up with would simply be unrealistic because if you throw into that formula the indebtedness of levee districts and political subdivisions, I would daresay that you are out of business already. This is designed to make it clear that you do not include the indebtedness of levee districts and political subdivisions in the calculation of that formula unless the full faith and credit of the state is pledged to those bonds. Now, the full faith and credit of the state is pledged to the bonds and, under those circumstances, that indebtedness would be included. But, without that obligation on the part of the state, they would not.

MR. DE BLIEUX

In other words, your amendment would be a more lenient position and that, therefore, the state could issue more bonds or more bonds could be authorized.

MR. KEAN

Well, my... I don't know whether it would be more lenient; I think it's realistic because if you include this indebtedness I don't think your formula would enable you to issue any more bonded indebtedness, and I don't believe that was the intention of the committee.

MR. NUNEZ

Mr. Kean, let me see if I can understand your amendment because I believe it's a good one. Take, for example, I have a levee district that's about to sell forty to fifty million dollars worth of bonds with the local governing authority; they are a state agency, but they don't have the full faith and credit of the state. But, because the federal government is building the Mississippi River Gulf Outlet, and we have to levee it, some agency in the area--meaning the levee board--has to be the agency that will accept the responsibility of those bonds. Now, because they are a state agency, if this Section 9 passes without your amendment, would not this total amount be credited against the state debt?

MR. KEAN

That's correct. In other words, that fifty million dollars will be added into the total, based on which you would apply this fifteen percent formula. I think Mr. Planchard had some figures which indicated about three hundred million dollar leeway under the formula based on its presently existing indebtedness. If you throw in your fifty million and we throw in the other millions that are presently outstanding on the part of the levee boards and political subdivisions but not secured by the full faith and the credit of the state, then I don't believe the formula the committee has recommended is realistic; I think it's simply already taken up. All my amendment is designed to do is to make it clear that these bonds... this bonded indebtedness of levee districts and political subdivisions such as the districts you refer to, to which the state has no obligations so far as full faith and credit is concerned, is not to be included in the calculations of the state debt. I think that would be traditionally the case in all instances.

MR. NUNEZ

So, what I'm asking is whether they are against the section or not? To make the section realistic your amendment should be attached to it.

MR. KEAN

That's correct. I'm not up here arguing for or against the Committee Proposal Section 9, I simply think that in order to make it realistic you have got to make this clarification.

MRS. ZERVIGON

Mr. Kean, as you recall when we passed Section 7 of this proposal, it was rather late at night, and I didn't give it my best attention, to be frank. Mr. Roemer and other committee members have agreed to reopening Section 7 for one single purpose and that is to add the words "or local public agency" and Mr. Perez's amendment to it--which was similar to this--for the benefit of those agencies that do not have geographic boundaries but who have a debt and whose debt is not a full faith and credit obligation of the state at this time. How would your amendment... how would these agencies affect your amendment? If we managed to amend Section 7 to that extent, would your amendment exclude them from being figured into the total state debt or would they still be figured in because they are not levee districts and they are not political subdivisions in the strict sense of the word?

MR. KEAN

Well, if that type of amendment is made to Section 7, Mrs. Zervigon, we probably need to come back and make this language track whatever we put in Section 7.

MRS. ZERVIGON

In order to agree with Section 7?

MR. KEAN

Yes.

MRS. ZERVIGON

Thank you very much. You would have no objection to that, Mr. Kean?

MR. KEAN

Oh, no, I would have no objection to that.

MRS. ZERVIGON

You're trying to do a similar type thing to exclude local debt which is not a full faith and credit obligation of the state?

MR. KEAN

That's correct; it grieves me that you didn't pay as much attention to my late afternoon talk the other night.

MRS. ZERVIGON

I couldn't hear you, Mr. Kean.

MR. KEAN

Mr. Chairman, I move the adoption of the amendment.

[Previous Question ordered. Record vote ordered. Amendment adopted: 67-4. Motion to reconsider tabled.]

Further Discussion

MR. NUNEZ

Mr. Chairman and ladies and gentlemen of the convention, I reluctantly rise to oppose this section. I just can't conceive why we should put window dressing in the constitution and make a debt ceiling limitation of fifteen percent when according to the figures we now have that we are at nine percent. Let me tell you what I feel is going to happen. You don't have... there's not many school boards in this state that when you put a debt ceiling on them, that they don't go up to that debt ceiling. There's not many other local governmental authorities that you have a debt ceiling that they don't go up to that maximum debt ceiling. We now have since 1970 where the bonds of this state--when we created a state bond and redemption fund, has the first call on the general fund of this state which means that all the legislature has to do is come back in and start selling bonds or authorizing bonds and immediately, we will be up to that fifteen percent debt ceiling. I think we are not doing right by putting a ceiling that is far above what we now have as for practical purposes of debt ceiling. So, I would ask you to vote against the entire section. I don't think we need it in the constitution. I think we were just trying to find a magic figure that would tell the people of this state that this is the most outstanding indebtedness we can have. I think by doing that, we are going to raise the outstanding indebtedness of this state and not keep it at a constant level or lower it. So, I think we should eliminate the section. I would ask you to vote against it.

Questions

MR. ROEMER

Senator, you probably know from talking from most of the committee members that we agree with you that it is nothing more than window dressing and a few members of the committee really wanted it strong, but I personally agree with you; we really don't need this section.

MR. CHAMPAGNE

I just wanted to say the same thing, that I've talked to a lot of people and I had an amendment to delete it, but simply by voting it down we can eliminate it.

MR. DENNERY

Mr. Nunez, don't you think this will have the same effect as the theoretical debt limitation that's placed upon Congress, it will just keep it... Don't you think this will have the same effect as the theoretical limit on the national debt, which we always reach and have to increase anyway?

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MR. NUNEZ

That's exactly right, Mr. Dennerly.

[Previous Question ordered. Section failed to pass: 4-68. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

"Section 10. State Debt; Political Subdivisions of the State; Issuance and Sale of Obligations; State Bond Commission; Approval Required

Section 10. (A) The State Bond Commission hereby is created and its membership and authority shall be determined by the legislature.

(B) No bonds or other obligations shall be issued or sold by the state, directly or through any state board.....

[Motion to waive reading of the Section adopted without objection.]

Explanation

MR. DE BLIEUX

Mr. Chairman, ladies and gentlemen, in 1968 the legislature passed an act creating the state bond and building...state bond authority which handles all the issuance of all the bonds in the state regardless of the nature of what they are, you must have the approval of this state bond authority in order to do that. We have already adopted Section 7 which creates the full faith and credit behind all the bonds...the state bonds that are issued. We also have the debt service of the state and we need to give constitutional status to this particular state agency so that we will always have it to properly manage our funds. One of the things that you will notice in Paragraph (C) of this... no, Paragraph (C) of this amendment it sets up the time in which you can contest bonds. Now, as the bond attorneys tell us that you must have some stability so that they...the bond buyers will know when they have a valid bond. This requires the filing of suits in order to contest the issuance of bonds within the thirty days from the advertisement of the sale of those bonds so that you can have the limitations as to when those bonds will become incontestable; that is one of the good features about this particular provision so as to make the sale of bonds more saleable and, therefore, limit the time which they could be contested. Also, it requires--as I have stated before--the approval of this bond authority so that the state will know exactly how many outstanding bonds we've got and not let any of our political subdivisions or the state get into any difficulty with the issuance of their bonds. I will be glad to answer any questions, if you need any questions on it.

Amendment

MR. POYNTER

Mrs. Miller sends up amendments:

Amendment No. 1. On page 5, line 26, "The attorney general shall appoint one assistant who shall be the sole legal representative of the state in all matters relating to the issuance and sale of bonds issued by the state or any of its political subdivisions. The district attorney or district attorneys in the political subdivision affected shall assist the assistant attorney general in matters relating to bonds to be issued and sold by a political subdivision."

[Quorum Call: 76 delegates present and a quorum.]

Explanation

MRS. MILLER

Mr. Chairman, ladies and gentlemen of the convention, I think if you will read this amendment you will find it's self-explanatory. I call this the anti-fat cat amendment. As you know so much of the...when our bonds are floated by local political subdivisions, when they are floated by the State Bond Commission, and other state agencies we have very enormous fees that often go to the attorneys selected by the bodies floating the bonds. Now, I admit this is a very good thing for the lawyers that get this fee, but it's not a very good thing for the state and it's not the most economical and not particularly the best way. You don't necessarily get the best attorney to float the bond because

someone selects him. The argument will be that this will not be...that this will be an impractical way to float bonds...to have the bonds sold by the state. I say that it is the most practical way. If you have an attorney, if you've elected an attorney general who is going to attend to his business; he will have to put people in his office who are qualified to do this work. He will no longer be able to use the jobs he has to give out just to repay political debts. He will have a job to do, and he will do like his clerks and your assessors do in the local parishes, you get the best people to work for you that you can find. As you know, the state issues millions of dollars worth of bonds, there is no reason in the world that this couldn't be done by one qualified person in the attorney general's office who is paid a salary and who gets no rake-off on this commission that's paid. I think you will find this will be very popular with your people back home. I don't know anyone that really likes to see the lawyers get the big fat fees. I'm sorry that Representative Wall is not here. I am sure that he would be for this one hundred percent. I want to say that in our parish we have had an attorney general who has picked up the ball and run with it when we have bond issues. He has handled these things and we have not had to pay big attorney fees to get some of our local bonds and municipal bonds floated where the attorney general has been the ex officio advisor for the board--our school board, our police juries have had these services done and it saves money back to the local government. As I say, I don't think this will be popular with some lawyers. I do think it will be popular with the people. I think it's something that is practical. I don't think it's impractical. I believe it should be handled by the attorney general. Now, I'll mention one thing. Now, when the State Bonding Commission issue bonds and when the local government issue bonds, the fee does have to be approved by the attorney general. You are just going one step further and letting the attorney general go on and handle this through his office. I'll answer questions.

Questions

MR. SMITH

Mrs. Miller, would this affect cities too? You said political subdivisions; you said the district attorney would have to handle the city bond issues?

MRS. MILLER

Well, usually, your district attorney is not the attorney for your very local governments--like your city and municipal things.

MR. SMITH

But, you said "all political subdivisions," that looks like that's a little ambiguous there and it affects cities too.

MRS. MILLER

Well, I think...assuming there that since we are talking about the State Bonding Commission and your local subdivisions that came under your district attorney, that it would only apply to those where he had the jurisdiction over the local governing authority and not to any authority where he was not the ex officio advisor anyway, by law.

MR. SMITH

Don't you think this is against home rule that the district attorney would handle...

MRS. MILLER

No, I think this is for the people back home. I don't know anything that incenses people more than to see that some big fat law firm has grown fatter getting some commission off of their bond issue and they get less in their buildings; they get less in their building programs because so much has been skimmed off the top for all kind of fees and professional services.

MR. STAGG

Mrs. Miller, let me say, first, that I'm not a bonding attorney, nor have I ever been one, but I have been involved on behalf of city subdivisions, the airport authority, and so forth in the sale of bonds. What disturbs me about your amendment is the lack of expertise in bond matters of the usual attorney general's assistant and the usual district attorney and his assistants. Is it not true that the sale of bonds depends to a considerable degree on what the bond buyer thinks of the bonding attorney's opinion on that issue of bonds and that matter of confidence is what makes New York banks or Atlanta banks or New Orleans banks or other people who buy municipal bonds put their good, hard money down on a several million dollar bond issue, and they depend on these longtime, long experienced bonding attorneys

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to keep their skirts clean? Can you believe that these same amounts of money will be spent on the opinion of an attorney general?

MRS. MILLER

Mr. Stagg, I would think that, you know, we have a lot of myths and fallacies in this country. Most of them are perpetuated and instigated by the people who benefit from having them. We all know that no one has greater pride than these bonding attorneys. They will go around all the time and tell you that they are the only ones that can handle this matter, and they've sold us that bill of goods. I don't think it's true. I think the attorney generals of this state, elected by the people, certainly, would be capable of selecting someone with the integrity, the expertise, and you know, I'm a great believer in that anybody with intelligence who can read, and a lawyer with intelligence who can read and study is perfectly capable of becoming an expert in almost any matter. Now, if the attorney general gets a bunch of idiots in his office, as we've seen sometimes in times past, then I agree. But, who's going to say that the municipalities necessarily select the best people? I know some bonding attorneys that I don't think so much of, and I think they've just built up this myth and perpetuated it for their own benefit.

MR. STAGG

May I ascertain that you said that it wouldn't be unusual for an attorney general to have some idiot in his office?

MRS. MILLER

I said it wouldn't be unusual, but I think that the move has always been now toward having better people. Incidentally, Mr. Stagg, I did vote for you for attorney general.

MR. JONES

Mrs. Miller, the first two lines read that the attorney general shall appoint one assistant, and that he shall be the sole authority. In other words, what you really mean is that you want the attorney general to take over as legal representative of the state in bond matters. Is that correct?

MRS. MILLER

Yes, the ultimate authority. Now, you know that right now the attorney general has to approve the fees, the attorney fees, that are set by the State Bond Commission and other authorities issuing bonds. So, you're just taking this one step farther and saying that he is the chief legal officer for the state. That's the way we have it in the Executive Department. Nothing is more important to us than what's happened to our money, and you're just putting all of this under the jurisdiction of the attorney general. In a law firm, you just usually have the...the firm may handle it, but a lawyer's name goes on that. I don't see how one lawyer's much better than the other when it comes to this kind of thing.

MR. JONES

I just wonder about your language here. It sounds like you're setting up an individual who might be able to make a decision which might be different from that of the attorney general. I just wonder if you couldn't amend it to say, "the attorney general shall be the legal representative." Don't tell him how many lawyers he's got to hire.

MRS. MILLER

Well, what we were trying to avoid is this business of the attorney general delegating his authority to special assistants who may have an interest in the cause. This has been done in many fields under the attorney general's office. In other words, we want this to be a full-time employee in the office who is not having a part-time practice on the side, as is the case with the attorneys employed for Mineral Board, and some of the other departments of the state.

MR. JONES

Well, I think that the attorney general could decide that, but I just feel that the way your amendment reads, that this individual's going to have authority that's separate and apart and independent from that of the attorney general, and I really don't think that's what you intend by your amendment.

MRS. MILLER

Well, if we pass this one, I'll be glad to have an amendment to clarify that language, but I do think that the concept is important to get across, and I believe we can clear it up. I urge your support of this amendment.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and delegates, I want to object to the amendment. It might be a good provision, but this is not something which should be incorporated into our constitution. I don't know whether it would work or not until after we'd tried it. The only way that you can do things like that is by making it legislation where, in the event it didn't work, you could put the necessary corrections to it to make it work. We can't do that if we incorporate something like this in our constitution. This is statutory material, and I certainly think that the legislature ought to take care of it. I object to the amendment.

Further Discussion

MR. STAGG

Mr. Chairman, fellow delegates, I rise in opposition to the amendment. I stated in my question to Mrs. Miller that I was not a bonding attorney, and I wouldn't want to be. It is an intensely specialized area of legal practice. It is an enormous field of legal involvement. Bonding attorneys, not alone, have to know the law of the State of Louisiana and its constitution to the nth degree, but they have to keep up with the bond market. They have to know when bonds are salable. They have to advise the local subdivisions by whom they are employed when might be the proper time to go to the market with a bond issue, and when not to do so. This requires a considerable expertise in the financial maneuverings and banking and knowledge of the markets... financial markets of this country. I would believe that that is an area of knowledge of the law and of government that has become so specialized that there are, in fact, very few capable practitioners in it. I don't think you could have an assistant district attorney in each of the districts of this state who would have the qualified knowledge and expertise to act under the aegis of Mrs. Miller's amendment, and I do hope that you will reject it and not let this become a matter of constitutional gravity.

Questions

MR. ANZALONE

Mr. Stagg, does not this amendment in effect just about outlaw the private practice of bond law in the State of Louisiana and turn it over to the State of Louisiana?

MR. STAGG

It would have that effect, Giuseppe, because if it states that a...an assistant attorney general will handle it for the state and the district attorneys will handle it in the district, there would be only those people who were maybe city attorneys who would have an axe or a bit to do for their city bond issues. But, nobody else could touch it.

MR. ANZALONE

Well, now, Mr. Stagg, in connection with this, too, we know that LSU has one of the finest agricultural schools in the state, and can do a much, much better job with the dairy industry than the private citizens are doing. So, wouldn't it be appropriate that we should take that over, too, so that we could...

MR. STAGG

If we're going to follow that logic, Mr. Anzalone, we should do so, but I hope that we will not.

MR. BURNS

Mr. Stagg, hasn't this always been the procedure, with reference to sales of bond issues, that you have to have the approving opinion of a recognized bonding firm, regardless of whether the attorney general handles the bond issue, or his assistant, or the district attorney; whoever it may be, you have to have a recognized bonding attorney?

MR. STAGG

I would think that that would be an absolute necessity. People in New York whose money comes to Louisiana to buy these bonds know of our history, and they rate our bonds; they rate our politics; they rate our government; they rate our ability to pay; and they're not going to buy a set of bonds without being darn sure they're going to eventually be paid. They are hard-nosed businessmen and are not going to fool around with millions of dollars.

MR. BURNS

I didn't mean, of course, that it was a legal requirement, but I meant it was a practical requirement that they get the opinion

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of a bonding attorney with whom they have had experience and in whom they have confidence.

MR. TAPPER

Mr. Stagg, two questions: number one, insofar as the expertise, if we accumulate all of the funds that are spent annually by all of the political subdivisions and municipalities on bonds for bonding attorneys, don't you think that we might be able to employ the best expert firm in the world, if you add up all that money that's spent on bonding attorneys?

MR. STAGG

Mr. Tapper, I would think that that physically would be possible to do. Then, no longer would Dr. Mary be the highest paid employee of this state because that lawyer would have command of that kind of a salary.

MR. TAPPER

Number two: you said something about having to have bonding attorneys in response to Mr. Burns' question. Isn't it a fact that generally, the bonding attorneys locally always have to have the approval of bonding attorneys in New York, or someplace else before those bonds are approved?

MR. STAGG

Not necessarily, Mr. Tapper. When the firm or the bank buying the bonds has a Louisiana counsel in whom they have confidence, they do not have to go to Chapman and Cutler or some of these other big houses to get their legal opinions. In bond issues of hundreds of millions of dollars, they will get a backup opinion in durn near every case.

MR. ROEMER

Mr. Stagg, you know the members of our committee, by and large, support your objection to this amendment?

MR. STAGG

I'm delighted.

MR. ASSEFF

Mr. Stagg, are you questioning the amendment on the basis of the technical knowledge required, or are you questioning it on the basis of whether or not it's constitutional material?

MR. STAGG

In it, I question it on both of those bases, and on the practical basis that it will not result in a favorable sale of bonds by the subdivisions of this state.

MR. ASSEFF

But, wouldn't you agree that we have included much legislative material already?

MR. STAGG

Unfortunately, Dr. Asseff, you are entirely correct.

MR. ASSEFF

My second question: I agree with you that it is technical, but if a bond attorney can learn it, can't another attorney do it, also?

MR. STAGG

It would be inept of me to say that the sale of municipal bonds is a confidence game, but it is. The confidence that I'm talking about is the confidence of the people with the money, that their money will be properly spent on bonds that have been properly floated, and they have to have confidence...

MR. ASSEFF

You haven't answered my question. I'm saying if one attorney can learn the technical art, cannot another attorney do it, also?

MR. STAGG

Yes, sir, but can he earn the confidence of the people who are going to spend the money?

MR. ASSEFF

That depends upon his knowledge, Mr. Stagg.

[Amendment withdrawn.]

MRS. MILLER

Yes, I'd like to resubmit it with some deletions which I

think will meet the objections of particularly the district attorneys. I do think it's important that the district attorneys keep control of the local situation. We've had a very fine example in our parish, and so if the Clerk would read the changes, I think they would find that it's more palatable for them.

Amendment

MR. POYNTER

You all might need to follow along on this.

Beginning "The attorney general," then strike out the remainder of the first line. On the second line, strike out the word "who," "The attorney general shall be the"--strike out the word "sole"--"legal representative of the state in all matters relating to the issuance and sale of bonds issued by the state." Place a period after the word "state" in the fourth line. Delete the remainder of that line, and delete the words "political subdivisions" in the following line. "The district attorney or district attorneys in the political subdivision affected shall", strike out the remainder of the line, strike out the word "general", at the beginning of the next line, and insert in lieu thereof the words, "be the legal representative". So, it would read, "The district attorney or district attorneys in the political subdivision affected shall be the legal representative in matters relating to bonds to be issued and sold by a political subdivision."

Explanation

MRS. MILLER

I think this should meet some of the objections. We saw in the paper only very recently that the governor was thinking in terms of having a state architect. Now, there was a time when we hired engineers, and the highway department hired engineers outside of the department. We have moved to close that rather bad procedure. Now, we have our own engineers in the highway department. The governor has announced that we're moving toward this with architectural firms to do some of the state planning. I am saying that for the fees you will save when you skim a one and a half percent, sometimes, off the top of a big bond issue, you can hire plenty of legal talent in the attorney general's office. There is no reason why the attorney general shouldn't generate just as much confidence in the bond market as some law firm. I don't know what makes one law firm think that it's so great that only it can sell the bonds in New York.

Questions

MRS. ZERVIGON

Mrs. Miller, it's unclear to me with your amendment, even as redrawn, where the municipalities stand. Do the city attorneys have no input into bonds issued by the municipalities? Would the district attorney in the area have all the responsibility for those bonds?

MRS. MILLER

I think as we left this, we have excluded the municipal governments because we related this to the area where the district attorneys are the ex officio advisors to the political subdivision, which means primarily your school board and your police juries.

MRS. ZERVIGON

As defined in our...in the Local Government Article, Mrs. Miller, doesn't political subdivision mean parish, municipality, school board, or any other agency of government performing general governmental functions?

MRS. MILLER

It does to some extent, but this is not including them in this particular function unless they have to have the approval of the State Bond Commission. Right now, when you have the State Bond Commission issue that, the State Bond Commission chooses the attorneys, but they choose them outside the government, which is a great political patronage. It makes a lot of fat cats out of some lawyers. I would say, you just have a dozen top firms in the state who get most of the bonding business.

MRS. ZERVIGON

I don't really understand your answer to my question when you say that the municipalities are included in that definition to some extent, when you define a phrase in one part of the constitution and then use it in another part of the constitution. Doesn't that same definition apply throughout the constitution?

MRS. MILLER

Well, this applies only in two areas: where the bonds are

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being issued by the state through your State Bond Commission, and where they are being issued by the subdivisions over ...for which your district attorneys are your ex officio advisors. So, it is silent in regard to the municipalities.
...Which I would think would leave them to go on and do as they've been doing.

MR. CASEY

Mrs. Miller, I don't really still quite understand it, and I'm inclined to think that, for instance, in the city of New Orleans the district attorney handles all matters relating to criminal violations of law. The city attorney handles the civil business of the city of New Orleans. It appears that the last sentence would require that the district attorney of the city of New Orleans be the legal representative in bond issues, whereas, in fact, the civil responsibilities rest with the city attorney. This appears to affect the city of New Orleans; does it not?

MRS. MILLER

Mr. Casey, this is just another example of why we should have brought the city of New Orleans back into the state in the union of the state because we might have a problem, and I'd be willing, once we pass this, if we have to work out an exception because of the structure you have in Orleans--which is different from the rest of the state--in your...

MR. CASEY

The structure may happen to also be good, too, Mrs. Miller. Don't you think?

MRS. MILLER

It might be that we should look, but we should not let the one parish stand in the way of trying to structure this whole state bonding program so that it won't cost the state so many hundreds of thousands of dollars every year, just in fees. If you like to give fees to lawyers, that's fine. But, I just wish Mr. Wall was here because I know we could hear his eloquent address..address himself to that matter.

MR. DENNERY

Mrs. Miller, you did point the finger at New Orleans, but isn't it true that there are many municipalities in the state which issue bonds?

MRS. MILLER

That is true, Mr. Dennery. Where you've gone into...where we have structured some of these parish governments a little differently, we might have to change this, if this poses a problem, which I'd be willing to do.

MR. DENNERY

In Jefferson, for instance, as I understand it, there's a parish attorney and a district attorney.

MRS. MILLER

Or we could change it that the chief legal advisor for the local municipal...you know, municipal government or the governing authority.

MR. DENNERY

Well, are you suggesting that we adopt it and then amend it?

MRS. MILLER

Well, I think that we should adopt the concept and then amend it; take a few minutes to study this and get our heads together because I do think that the concept that the State Bonding Commission's bonds will be issued by the attorney general is very important.

MR. DENNERY

Well, now, isn't it correctly based on Subparagraph (A) of this section, where it says "the State Bond Commission shall have such authority as is provided by law" that the State Bonding Commission could be given the authority to determine that the attorney general or that the various legal advisors of the local political subdivisions should be the attorneys to pass upon the legality of bond issues. Is that correct?

MRS. MILLER

That's correct.

MR. DENNERY

But, you think it should be in the constitution, rather than the statutes?

MRS. MILLER

I do think it should be in the constitution because you and I know the political realities of life, and we know that how political campaign debts are repaid by, you know, shaking the plum tree, and letting a little of the plums drop around.

MR. DENNERY

That may be very true. I don't think you're going to remove that.

MRS. MILLER

We're just trying to quit shaking the plum tree.

MR. DENNERY

You just want to quit shaking the plum tree as far as attorneys are concerned.

MRS. MILLER

Well, I think we've done some things in this constitution to try to effect some economies in state government.

MR. DENNERY

I agree with you. What disturbs me though, frankly, Mrs. Miller, is that I think the important thing is to get the bonds sold. I'm just not so certain that we'll be able to sell these bonds if all we have is a city attorney or a parish attorney or an attorney general's opinion. I just don't know whether the bond market will absorb those bonds.

MRS. MILLER

I would say we have sold our bonds from Jeff Davis Parish because we've had a conscientious, marvelous attorney general, who has dedicated himself to effecting these savings in our bond issues, and he's never encumbered us with fees.

MR. ANZALONE

Mrs. Miller, although you have these...the matters of bonds turned over to the attorney general, do you realize that there is still, as Mr. Dennery pointed out to you, nothing in this section which would make it incumbent upon a buying agency to accept the opinion of any of these political appointments that you're talking about, that of necessity, for the salability of the bonds, you're still going to have to have an opinion, and what you're doing is running the opinion makers out of this state and back up East where the people are going to be buying the bonds?

MRS. MILLER

It's been my experience in trying to get bond elections through, and also getting money out of the federal government, that no matter who you have in the state, you're going to cross some palms with silver and gold somewhere along the way. This was true when we were trying to apply for Hill-Burton funds and we were told that, in our little town, that the palm we had to cross was in Dallas. We just bowed our neck and said, you know this is not the way it has to be. We're still going to have to have...

MR. ANZALONE

Well, Mrs. Miller, how is that going to...how are we going to affect the people in Dallas with your amendment?

MRS. MILLER

The thing is there's always somebody...I think the attorney general can handle this very well.

Further Discussion

MRS. ZERVIGON

I just want to point out two things if you didn't notice them from the questioning. Number one, municipalities are included in the definition of "political subdivision." The words "political subdivision" are included in the word describing the responsibilities of the Bond Commission. So, municipalities would be affected by this. The other thing is I'm not certain that it accomplishes Mrs. Miller's end because it seems to me that the city attorney or district attorney could put on retainer for whatever amount of money he wants, any bond attorney he feels is competent, or he could pay him on a fee basis for each bond issue issued in order to get his advice and counsel. So, whether he is paid through the office of the administration, or of the agency, or of the district attorney's office, or of the city attorney's office to me matters not at all. It still does not accomplish Mrs. Miller's end if she doesn't want high fees paid to bond attorneys. So, I urge your rejection of this amendment.

Further Discussion

MRS. WARREN

Mr. Chairman and fellow delegates, I'm not going to be long. I'm going to be real brief because time is money, and this is what we have been talking about. I don't have the expertise as many of you. When Mrs. Miller came out with her amendment, I began to think back. I congratulate her on her efforts, although I know it's going to fail. I'll tell you why in a little story.

It's a barnyard story, and I don't know if you've heard it before. The pigs, and the chickens, and the ducks and all were in the barnyard. So, the chickens and the ducks had a fight. The other animals told the chickens, say, "You go to the city council and put your problems before them." So, the poor little chicken went on out to the city council and when he opened the doors, he looked up and he didn't see anybody sitting on those rows but ducks. When he came back, with his head hung down, they asked him how did he make out?

He said, "I tell you brothers and sisters, when I looked in there and saw all them ducks, I knew I didn't have a chance."

This is all I've got to say to you.
Thank you.

Further Discussion

MR. TAPPER

Mr. Chairman, fellow delegates, I know you all know what we are talking about. I'll be very brief. I'd like to point out just two things; number one, as far as being able to employ an expert in this field, this would be a very simple matter because if you accumulate all of the attorneys' fees that are paid to all the bonding attorneys--I might say all of them--we don't have many of them in this state. But, if you add up...if you total all of that money up from all of the bond issues, from all of the political subdivisions in the state, we could employ the greatest expert in the world in the field of bonding.

Secondly, insofar as Mr. Anzalone said, we're not here to knock the attorneys out. No. We're not. But, we're here to write a constitution. When we see a blatant error, as I think it is, in our way of doing business in this state where you must have one of these bonding attorney firms, and you must pay them a set amount--a percentage of your bonds--I think that it's time for us, as a delegation to this convention, to attempt to do something about it.

I really appreciate Mrs. Miller putting this amendment forth. This may not solve all of our problems. But, as one attorney in this state, I urge that we do, and you do something about this here and now. I urge that you adopt this amendment and let us begin saving the state a little money, because we can do it here. We can save a lot of money for the state.

Questions

MR. JUNEAU

Mr. Tapper, you acknowledge the fact to get a man that would be qualified to do this job, it would cost a substantial amount of money. You will agree, will you not, so that to command that type of individual would probably be incumbent upon us to come up with a salary which is at least three or four times more than what the attorney general makes. You think that is a practical thing that would occur in view of the fixed limitation by the legislature, what the attorney general makes?

MR. TAPPER

Mr. Juneau, number one, I did not acknowledge that it would take so much to get the type of person we are talking about. I didn't acknowledge that. That was something that was said by someone else. The only thing I said was that if it did cost as much as you think it might, we'd have that much and a lot more if we'd save all this bond attorney money that we're spending.

Secondly, as far as the limitation on the salary of the bond...the attorney general, I think this should have nothing at all to do with it. We have Mr. Murray who was being paid fifty-five thousand dollars a year, which is more than the governor, for a particular...this is not a problem, Mr. Juneau. I don't see it. The only problem is that we're wasting hundreds and millions of dollars on bonding attorneys' fees when they're not necessary.

MR. JUNEAU

All right. Let me ask you the second question. If we would have someone from the attorney general's office involved in this, wouldn't we possibly be subjecting bond issues to political considerations, that is opinions from the bond

attorney who would, in reverse, be effected by what local people want with regard to the passage?

MR. TAPPER

Well, Mr. Juneau, you have that possibility in every area. But, it's a greater possibility now when the political subdivision just selects at random the bonding attorney firm. There's no... bench put out for this bonding attorney firm.

[Previous Question ordered.]

Closing

MR. VICK

Mr. Chairman and fellow delegates, at the fiscal session in May when the attorney general appeared before the House Appropriations Committee, he was questioned in some detail about what the attorney generals do in other states, and what the attorney general could do in this state to pass on the efficacy of bonds. Primarily, their concern was how much money he could save the state. Now, that study is still under way. The report has not been submitted to the House Appropriations Committee yet, and probably will not be until the May session. The Bond and Building Commission is very concerned. I think that a vote for Mrs. Miller's amendment will most certainly give an indication of the desire on the part of this convention. It's a controversial issue. The study has not been completed, as I say. But, the attorney general has the desire to serve. Our office is being upgraded all the time by the legislature. I think in time, we will have an in-house capability to perform the service that both the legislature--perhaps this convention--and most certainly the people deserve. Thank you.

Questions

MR. SMITH

Mr. Vick, say that this passes and is put in the constitution, the attorney general and district attorneys will have the right to issue on bonds...to do the bond issues. Who would buy the bonds after they were...after you all did them?

MR. VICK

Mr. Smith, you've heard Mr. Denny and Mr. Stagg on this subject. This is a matter of expertise. As I told the Chairman, it's very much like a practice before the Federal Power Commission, it's an area that it is not within my realm of knowledge--personal knowledge. I would assume, Mr. Smith, that as Mr. Stagg said if I understood him correctly, that there would be back-up opinions by Standard and Poor, and Moody and so on. I really don't know the answer to your question, Mr. Smith.

MR. SMITH

You still would have to have bond attorneys, wouldn't you, after you are all finished with them?

MR. VICK

No, you would have to have an in-house capability, Mr. Smith. There's absolutely no doubt about that.

MR. WILLIS

Mr. Vick, isn't...doesn't this constitution provide that the attorney general is a chief legal officer of the state?

MR. VICK

It so provides, Mr. Willis.

MR. WILLIS

Isn't part and parcel of the attorney general's job, should that not be that he passes on the validity of bonds for the state?

MR. VICK

As I said, Mr. Willis, there are attorney generals in the fifty states that do so.

MR. WILLIS

My next question is, assuming pro arguendo, that means for the purpose of argument, not to you I say that, for the purpose of argument, that there is incompetency in your office. Isn't it possible that this...the other provisions cures that bad opinion. After thirty days, no one has a right of action to challenge them. Isn't that correct?

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MR. VICK
That is correct.

MR. WILLIS
So that you can make an error for a month, but after that, error or not, it's still good.

MR. VICK
That, most certainly, would be true as well.

MR. WILLIS
Besides, that...law firm...they talk about those bond attorneys, they're not the only pebbles on the beach, are they?

MR. NUNEZ
Mr. Vick, looking at this proposal, we...evidently we would operate within the sphere of what we presently have as attorneys for your office as attorney general of the state, and district attorneys in their office. Would you believe that this would cost any additional funds to the state in hiring staff to do this? Or, could we do it within the present offices, or present staff, that you now have?

MR. VICK
Let me answer your question, Senator, this way. When the attorney general was authorized to pursue the gas litigation, he attempted to build in-house capability. He promised the legislature he would do that, both the Senate...and Senate Finance Committee, and the House Appropriations Committee. We were attempting to do that. I think that the same thing would happen--of course, you realize what's happened to our...to the attorney general's power to pursue the gas litigation--we're out of that business now. But, I think that as we have attempted to create in-house capabilities in other areas. I think this could be done without an additional expense to the state; because, as you know, the attorney general has reversed the trend of sixteen years. We have gone from sixty part-time attorneys, and ten full-time, to sixty full-time and ten part-time...on the...well, I'm not going to say on the same appropriation....

MR. NUNEZ
Mr. Vick, I'm not questioning the competency of the attorney general's office, but you and I both know, and I am on the Finance Committee, we have increased your budget considerably. I'm ready to do it again
.....we're just concerned locally....

[Record vote ordered. Amendment rejected:
24-55. Motion to reconsider tabled.]

Amendment

MR. POYNTER
This is a handwritten amendment sent up by Mr. Roemer. Amendment No. 1. On page 5, line 28, immediately after the word "indebtedness" insert the words "of the state". There should be a closed quote at the end of that.

Explanation

MR. DE BLIEUX
Mr. Chairman, this is just a technical amendment. The committee proposes, has no objection to it.

[Amendment adopted without objection.]

Vice Chairman Casey in the Chair

Amendment

MR. POYNTER
Mr. Dennery has a set of amendments at this time. Amendment No. 1. Page 6, line 2, after the word state, and before the word "a" insert "as provided by law."

Explanation

MR. DENNERY
Mr. Acting Chairman and delegates, you may recall that when we were discussing the first committee proposal before us, that of the Legislative Committee, the question was raised about the effective date of laws when the...as it presently reads, it says "all laws shall be published in the official journal of the state as provided by law." The reason for that, as I recall it, is that there was some question whether the date of promulgation should depend

upon the publication of the official journal, and if the official journal burned down, or was on strike or something, there would be no way to do this. It seems to me we are placing ourselves in much the same position here because the issuing agency, after authorizing the issuance, has to publish once in the official journal of the state, a notice of intention. If something were to happen to the official journal, there would be no way to get these bonds issued. So, I suggest we merely insert the same language "as provided by law," and permit the legislature to make that...an arrangement in the event the official journal could not publish. It's really technical in nature.

MR. DE BLIEUX
Mr. Chairman, the committee has no objection to this amendment.

[Amendment adopted without objection.
Previous Question ordered on the Section.
Section adopted: 74-4. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER
Section 11. Collection of State Funds; Bond Security and Redemption Fund
Section 11. All money received by the state or by any state board, agency, or commission, immediately upon receipt, shall be deposited in the state....

[Motion to waive reading of the Section adopted without objection.]

Explanation

MR. RAYBURN
Mr. Acting Chairman and fellow delegates, Section 11 places in the constitution what is now an act that was passed several years ago by the legislature creating the bond redemption fund. It provides that all money received shall first go to the bond redemption fund to retire the bonded indebtedness. I do have an amendment that I will offer by Mr. Roemer and myself that I would like to send up at this time which might clarify some of the language. There has been some question as to how far-reaching this particular language went, as to whether it applied to all boards and commissions and agencies in the state. It was not the intent of the committee to do that. I do have an amendment that I would like to offer at this time that I think would clarify that.

Amendment

MR. POYNTER
The amendment sent up by Delegate Rayburn and Roemer reads as follows:
Amendment No. 1. On page 6, the end of line 28, place a comma after the word "associations" and delete the word and, delete lines 29 and 30 in their entirety and insert in lieu thereof the following:
"the employment security administration fund or its successor retirement system funds and".

Explanation

MR. RAYBURN
These amendments want to make it crystal clear that we do not intend to take any funds that are now in the various retirement systems, or any monies that are now in the Employment Security Administration Fund and place them under the provisions of this language. It was not the intent of the committee to do that when we prepared this particular proposal, and it has been called to our attention that it could be far-reaching enough to include those funds. We certainly don't want to include them and had no intentions of it. I'd move the adoption of the amendment.

Questions

MR. DENNERY
Senator, your amendment also takes out that provision about the two-thirds vote of the legislature, doesn't it?

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MR. RAYBURN

Yes, sir. It does that, Mr. Denney. It takes that out because after we thought it over, it says this—"it's by a two-thirds vote of the legislature in the future we could delete them." But, we felt like we might be going a little too strong there. So, it does delete that provision on lines 29 and 30. It takes all that out where it says that "by affirmative vote of two-thirds of the members elected to each house of the legislature." That language has been deleted by this amendment, Mr. Denney.

MR. LEBLEU

Senator Rayburn.

MR. RAYBURN

Yes, sir.

MR. LEBLEU

....not necessarily in connection with this amendment, but I just wonder what this proposal would do to the conservation fund? You know a couple of years ago we changed, in the legislature that would provide that the proceeds at the end of the year would remain in the conservation fund rather than be returned to the general fund?

MR. RAYBURN

I believe, Representative LeBleu, that those funds are dedicated to conservation funds, and that we did...that we have tapped it for several years. I don't think that this would have any effect on that. I'm not positive, now, because I don't want to say something here and really find out I said something that didn't prove to be true. It was not our intention to tamper with that fund.

MR. DREW

Sixty, with reference to what Conway was speaking of, those funds, the conservation funds, that was done by statute in the 1972 Legislature. If this provision is adopted, it would override any statute to the contrary, wouldn't it?

MR. RAYBURN

Well, I really don't know, Mr. Drew. It could. That's why I told Conway it was not our intentions to do that because those funds are funds that belong to the Wildlife and Fisheries Department, and they have been using a certain amount of them each year. They have accumulated quite a bit of surplus. They did maintain control of that surplus until the legislature saw otherwise, which a couple of years ago, we did take some of those funds. Then, at the last--two years ago, I believe--we increased the amount of funds and said that they shall retain them. I don't think this would supercede that. It's highly possible it could. I really don't know.

MR. LANIER

Senator, if the provisions of this section are presently covered by statute, why did the committee feel that it should now be constitutionalized?

MR. RAYBURN

They are presently covered by statute, and as you know, the reason for passing that statute was to give us a better bond rate in this state. We had a very poor bond rating. When we passed the statute, we did get a better bond rating. The Committee felt like if we'd put it in the constitution, it would help us in the future on our bond rating because the legislature could come back at a later date and repeal the law, or amend the law, and the bond people would not have the security that they have. We felt like it would strengthen our bonds by placing it in the constitution. That was the purpose of it. It has worked real well since we created the bond redemption fund. We felt like we should place it in the constitution.

MR. ABRAHAM

Sixty, I'm not sure how this is handled now, but the monies received by the universities and things like that, does that go in the general fund now or would this change that or.....?

MR. RAYBURN

This exempts any grants or special donations of monies of that kind. They won't be included in this exemption.

MR. ABRAHAM

....the fees that they collect and this type of thing? The tuition fees would not be included in here?

MR. RAYBURN

No, sir.

MRS. ZERVIGON

Mr. Rayburn, nobody can be against low interest rates on bonds. That's a really nice thing to have. But, let me ask you about some of the effect of this.

When these agencies of the state turn over funds that they themselves have generated to the state, how do they get anything back?

MR. RAYBURN

Well, I'll just give an example. The highway department who collects, I mean, they have a lot of dedicated funds. They turn it over to the state treasurer, and then they draw against it through warrants. Now, the interest that's derived from investment of those funds until they draw the warrant, that remains in the general fund and it's reallocated each year by the legislature when we meet.

MRS. ZERVIGON

Well, I was really thinking of different sorts of things like there are parks that have concessions of one sort or another....

MR. RAYBURN

I can't understand you, Mrs. Zervigon.

MRS. ZERVIGON

There are parks, for example, that have concessions. They make money on their concessions. At present, the couple of parks I'm thinking of, reinvest that money in the park. Suppose they had to turn that money over to the state? How could they be assured of getting that money back?

MR. RAYBURN

Mr. Chairman, could I have a little order here to my right? I really can't understand the lady. I'm trying to answer her question, but I can't understand what she's asking me.

MRS. ZERVIGON

Any agency or subdivision of the state that has self-generated funds, would now, unless it's specifically excepted by a few...the language excepting a few different organizations, would have to turn these self-generated funds over to the state. What I'm asking you is, how can they be sure they get the same amount of money back, or the same amount of money, plus interest? How can they be certain that that would happen?

MR. RAYBURN

Well, the only way they could be certain is through their budget each year by getting the necessary funds they needed for operation of the agency. That's the only way they could be sure.

MRS. ZERVIGON

Well, Mr. Rayburn, I have one particular.....

MR. RAYBURN

This is designed to only apply to the state agencies that are now under budgetary control.

MRS. ZERVIGON

Well, I think the definition of state agency is sometimes a little hard to make. That's the thing that troubles me about this concept.

MR. RAYBURN

Well, this exempts trades, professional associations, and others. That's what we tried to exempt....I think what you're speaking of we had hoped we had exempted them.

MRS. ZERVIGON

Thank you very much. I'll come talk to you after your explanation if that's all right.

MR. RAYBURN

O. K. Thank you very much.

MR. SINGLETARY

Senator, was it your intent, by deleting the two-thirds vote, was it your intent that the legislature wouldn't have any say--so by a majority vote or otherwise?

MR. RAYBURN

No, without this language, I don't think the legislature could delete any of them. We did have the language in there where if the legislature so desired, by a two-thirds vote, they could delete some of them. We felt like that that would more or less be putting the section in the political arena, so to speak. If some agency was to come up there and could muster enough votes that they

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could get out from under this, it would keep us in a constant turmoil as to various agencies wanting to get out under the provisions of this section. That was the reason we deleted it, Mr. Singletary.

MR. ROEMER

Mr. Rayburn, isn't it true, Senator, that on . . . as far as these trade and professional associations, with the language in our amendment, they're out, now, aren't they? The . . .

MR. RAYBURN

They are. That's true.

MR. ROEMER

Right. I just wanted Mr. Singletary to be sure and understand that, that we've taken them out, now. The legislature doesn't have to vote on it at all, because the feeling of the committee was, if you remember, that oftentimes they are more a bother to try to get them in than the money you get on the interest from having them in.

MR. RAYBURN

That's true, and then you've got a certain amount of cost, there, maybe trying to get a few dollars into this general fund. It would cost more to get it in than it would if you hadn't attempted to try to get it in through the general fund with all the bookwork and keeping up with the paperwork, etc. That's why that we decided to exempt them.

MR. ROEMER

One other thing, Senator. Mrs. Zervigon questioned about these self-generated funds. It was certainly the intent of our committee to have funds that were generated as a result of state creation to be managed by the state. Is that not true?

MR. RAYBURN

That's true, through budgetary controls and through the budget and the legislature. Let me say this, while we're talking about that. As far as the Wildlife and Fisheries budget, the legislature would still have the right to appropriate to them, every year, any amount of money they wanted to, that they felt like that they were entitled to and that they needed to operate their agency.

MR. DENNERY

Senator, did I understand you to say that all monies received in the form of tuitions, for example, to state colleges would be subject to the central cash management fund?

MR. RAYBURN

No, sir. If you will look, Mr. Dennery, it says that all . . . "except monies received as results of grants, donations and other forms of assistance where the terms and conditions thereof, or agreements pertaining thereto, require otherwise."

MR. DENNERY

Well, now, what . . . let's talk about other types of monies going to the universities. What about the money that L.S.U., for example, receives from its football games?

MR. RAYBURN

Well, we have grants and donations.

MR. DENNERY

Well, that's not a grant or a donation.

MR. RAYBURN

Or donation or . . .

MR. DENNERY

I'm just trying to find out for my own information, Senator. I don't object to this; I just want to be sure what it covers.

MR. RAYBURN

I believe you could argue it either way, Mr. Dennery. Under the language of this provision, I think that you could argue it either way, that it could or could not, because we did try to--the thing that you speak of--we did try to leave them out of here. Maybe we haven't gone far enough; I really don't know.

If there's no further questions, Mr. Acting Speaker, I now move the adoption of the section.

Point of Information

MR. PEREZ

What's . . . I just wanted to be sure what the Senator's motion was.

MR. RAYBURN

On the amendment. I'm sorry.

MR. CASEY

That's right. Just on the amendment.

[Amendment adopted without objection.]

Chairman Henry in the Chair

Amendment

MR. HARDIN

Delegate Drew sends up the next set of amendments. Amendment No. 1. On page 6, delete lines 22 through 32, both inclusive, in their entirety and on page 7, delete lines 1 and 2 in their entirety.

Explanation

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, what this amendment does is delete the first paragraph of Section 11. From the questions that have been asked, you can see that there are many questions that the committee cannot answer. Now, in 1972, the legislature adopted a central cash management statute which, apparently, is working very well. A great deal of this is taken from that. But, I think that this provision, probably--I was trying to get a copy to compare it exactly, and I'd like to point out one or two things that have already been mentioned that you should consider. One, were the questions that Mr. Flory asked about universities and colleges, as far as their funds. On the question of the Department of Conservation, I don't think there's any question but what a constitutional provision overrides a statute. Therefore, that statute would become a nullity if this constitution is adopted. This is a good concept. It is in the statutes. By being in the statutes, it is flexible. I think that is all that we need. I notice that Mr. Newton's amendment and Mr. Flory's amendment, if they intend to go with them, both provide or insert the provision "except as otherwise provided by law." Well, a constitutional provision that can be changed by the legislature would add nothing to the effect of the provision. It would add no excess weight to the provision. I think we would do well, in this convention, to delete this provision. The legislature has made provisions for central cash management. We were confronted, when the bill was introduced, with a bill that was so broad that it covered everything from top to bottom. I think that there will probably have to be amendments made as we go along, but the concept of central cash management has worked well. It has earned money for the state. Mr. Rayburn and Mr. Roemer removed part of my objection when they removed the retirement systems from there, because you must remember that if the money once goes into the state treasury, the interest from that money is retained by the state and does not go back to the agency or commission from which the money came from. I ask that you adopt this amendment. Delete the first paragraph of Section 1, and leave the matter up to the statutes.

Question

MR. CASEY

Mr. Drew, what concerns me, theoretically, I agree with what you are doing, but practically speaking, what concerns me, is that under the executive proposal, apparently all the funds are mandated that they would go to the state treasurer. As I understand it, the need for this paragraph is particularly the exceptions that are made, and unless we have a paragraph of this type, then all port funds and whatever Sixty Rayburn accomplished by his amendment would . . . all those funds would automatically go to the state treasurer. Now, I may be wrong, but that's my understanding of what the conflict is that exists.

MR. DREW

Mr. Casey, I think you are correct on that, from what Mr. Roemer tells me. I had overlooked that fact when I offered the amendment. I understand that there will be an amendment to go ahead and . . . or insert a clause, "except as otherwise provided." I think that maybe that would still leave it---- would actually be saying that we have a constitutional provision subject to statute, but maybe we need that at this time.

Under those circumstances, Mr. Chairman, I'll withdraw my amendment and hold it at this time.

[Amendment withdrawn.]

Amendment

MR. HARDIN

Delegate Perez sends up the next set of amendments. Amendment No. 1. On page 7, between lines 17 and 18 insert the following paragraph: "Nothing contained in this Section shall apply to any levee district or to any political subdivision unless the full faith and credit of the state is pledged to the payment of the bonds of such levee district or political subdivision."

Explanation

MR. PEREZ

Mr. Chairman, ladies and gentlemen of the convention, this is the same amendment that was added to Section 7 and to 9, and I don't believe that there will be any objection to the adoption of the amendment.

[Amendment adopted without objection.]

Recess

Vice Chairman Casey in the Chair

[Quorum Call: 79 delegates present and a quorum.]

Amendment

MR. POYNTER

I have amendments, at this time, sent up by Delegates LeBleu, Rayburn; also added as coauthors, Mr. Munson and Mr. Newton. The amendment reads as follows: On page 7, line 16, immediately after "Thereafter," and before the word "all" insert the following: "Except as otherwise provided by law,"

Explanation

MR. RAYBURN

Mr. Acting Chairman and fellow delegates, this amendment proposes to take care of funds that are now allocated or more or less dedicated by previous acts of the legislature. There was some question about the Rockefeller Foundation money, about the conservatioo fund, that the law is now very plain on. This amendment is intended to not disrupt the present law and the present use of those funds. I move the adoption thereof.

Questions

MR. DENNERY

Senator, I just want to be sure you mean "except as now provided by law."

MR. RAYBURN

Yes, sir.

MR. DENNERY

In other words, you don't anticipate that the legislature can subsequently amend this section?

MR. RAYBURN

Well, I wouldn't think so, but, I mean, the past legislature has now allocated or dedicated those funds. I feel sure, Mr. Dennery, that in the future they might have the same prerogative.

MR. DENNERY

No, no, I don't mean it in that way, Senator. I mean if there is something that is now set up, fine. But, do you anticipate that the legislature may want to just go around this section completely, in the future?

MR. RAYBURN

No, sir. Something that's now set up by the legislature and is in the law today, I don't want to disturb it, Mr. Dennery. That's the purpose of the amendment.

MR. ROEMER

Sixty, if we accept your amendment, we have not circumvented the bond security and redemption fund, have we?

MR. RAYBURN

Not at all, no, because that provision is spelled out in the beginning of the paragraph very clearly. This is after all of our bonded indebtedness has been taken care of. Then, the remainder of the funds will revert to the general fund unless "otherwise provided by law." That's what the amendment does.

MR. DREW

Senator, although there are present existing exceptions to this central cash management thing, actually, this does go a lot further than our present law on this subject, doesn't it? I mean, it's much more comprehensive as to the funds.

MR. RAYBURN

Well, I don't know, Mr. Drew. It does say that if the law now provides for special disposition of funds, that it will remain in effect.

MR. DREW

The reason I'm asking this, Sixty, is because Mr. Dennery's question as far as anything done in the future, the way the present statute reads, this task force that's created in there can exempt certain funds from this central cash management. It says, "as provided by law." Of course, at the time of the passage of that, as I understand it, there was no exemption because it wasn't handled on this same basis.

MR. RAYBURN

That's right.

MR. DREW

But, it would, possibly, prevent the . . . I mean, permit the legislature to make other exemptions, wouldn't it?

MR. RAYBURN

That's my opinion; yes, sir.

[Amendment reread. Amendment adopted without objection. Previous Question ordered on the Section. Section adopted: 76-7. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

"Section 12. Expenditure of State Funds Section 12. (A) Money shall be drawn from the state treasury only pursuant to an appropriation made in accordance with law. (B) Total appropriations. . .

[Motion to waive reading of the Section adopted without objection.]

Explanation

MR. ALARIO

Mr. Vice-Chairman and members of the convention, Section 12 seeks to provide some fiscal controls and good fiscal management for our state in providing that no money shall be drawn from the state treasury unless appropriated by law, and that the appropriations made by the legislature shall not be greater than anticipated revenues. This is to make sure and provide that the people of this state can be assured that we would not have any deficit spending and would not appropriate any larger monies than we anticipate receiving. Section (C) provides that the . . . that a publication of the revenues and expenditures of the state shall be printed, at least, on an annual basis. Section (D), and Section (D), I want to point out to you at this time, that members of the committee have agreed that we should, or we are going to offer an amendment to delete Section (D). It was our intention, at the time, to make sure that there weren't any constitutional dedications of any funds. It was not our intention that the legislature, by law, might not be able to dedicate particular funds, and because, of course, even if the legislature did dedicate them on . . . through law, then they could change it annually, also. So, there's really no need for Section (D), and it was not our intention to curtail any dedications by the legislature, itself.

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Questions

MR. HAYES
On (C), did you intend "one"?

MR. ALARIO
On (C) we did intend "one". That's right; "no more than one year."

MR. HAYES
You just intend to put one year, there?

MR. ALARIO
"At intervals of not more. . ." So, they would have to publish it at least every year.

MR. HAYES
Once a year?

MR. ALARIO
Right.

MR. HAYES
You say. . .

MR. ALARIO
Well, we might be able to do it twice a year. I don't know, three times. . .

MR. HAYES
But, you have "one year." That means just one time. Is that what you mean, or. . .

MR. ALARIO
Well, it says, "of not more than one year," so that the legislature wouldn't wait until every two years to publish it, or every three years. It's trying to make sure that we, at least every year, get to see what were the expenditures and receipts.

MR. HAYES
What I'm trying to say, did you mean you want to publish it once a year, or do you just mean you want to publish it one year and stop? That's what I was confused about.

MR. ALARIO
I don't really follow your question, Mr. Hayes.

MR. HAYES
Did you want to publish it once and stop, or once every year?

MR. ALARIO
Every year, sir.

MR. HAYES
Well, wouldn't that be once a year?

MR. ALARIO
Well, it might be twice a year, Mr. Hayes.

MR. PLANCHARD
Mr. Alario, in answer to that question, isn't it true that it's stated that "the publication of a regular statement," that means one, doesn't it?

MR. ALARIO
That's correct.

MR. PLANCHARD
And not more than one year at a time?

MR. ALARIO
That's correct.
Mr. Clerk, I think there's two amendments up, both of them by Mr. Kean. One would be unnecessary if we go ahead with eliminating Section (D). So, we go ahead and propose that we go with section. . . the one eliminating Section (D).

MR. NUNEZ
It was concerning (D), Mr. Alario. It just concerns me that if we pass a tax specifically saying we dedicate it to teachers or highwaya, etc., under (D), we can't do it. I think that you've agreed to take (D) out. I didn't hear you say that, and that's why. . .

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MR. ALARIO
Yes, Senator, I wish you'd pay attention when I talk, Senator. We did say we'd go along with taking out (D).

MR. NUNEZ
Well, I couldn't, because I came in a little late, Senator.

Amendment

MR. POYNTER
Amendment sent up by Delegate Kean and Alario reads as follows: Amendment No. 1. On page 7, delete lines 28 through 32, both inclusive, in their entirety.

Explanation

MR. ALARIO
Mr. Vice-Chairman and members of the convention, all it simply does is to eliminate Section (D), because certain members of us on the committee now feel that if we included Section (D), it would prohibit the legislature, let's say, like we're doing now with the cigarette tax, where half of it goes to the city of New Orleans, and the rest is distributed to other municipalities in the state. We may be doing great harm to these municipalities by including this in the constitution, and other specific dedication that the legislature might provide on a yearly basis. Of course, this would not prevent the legislature from changing that formula at any time, 'cause they can do that with any statutory dedication. We ask that you adopt the amendment.

Questions

MR. AVANT
Mr. Alario, I'm trying to see if this thing turns around and works the other way. Would this prohibit the legislature from enacting a tax and say that the proceeds of that tax shall be used for a particular purpose?

MR. ALARIO
Would it prohibit the legislature from. . . if we take it out, no; we don't see where it would prohibit them.

MR. AVANT
I mean, if it's left in.

MR. ALARIO
If it's left in, we're afraid it may prohibit the legislature from dedicating that tax for a particular purpose. Yes, sir.

MR. CHAMPAGNE
That's somewhat the same question. You said some of the legislators on the committee had thought about that?

MR. ALARIO
I said some of the committee members. . .

MR. CHAMPAGNE
Oh, I see. Well, I was wondering, you think maybe that would help you all to pass a tax if you dedicated it?

MR. ALARIO
I don't foresee any taxes in the near future, Mr. Champagne.

MR. FLORY
Mr. Alario, I'm going to read something to you from one of the statutes, at the present time, and ask you, isn't it necessary that this be taken out in order to comply with this?
"All monies which are deposited or paid into this fund are appropriated and made available to the administrator for the set forth purposes." So, that. . . and we're talking, here, about the employment security fund, for the payment of unemployment benefits. Unless you take this out, you couldn't do that, could you?

MR. ALARIO
That's right, Mr. Flory. We're afraid it may do harm in certain areas, that certainly the legislature would see fit that those funds should be spent for that particular reason, or even raising those revenuea for that dedicated specific purpose.

MR. FLORY
All right. These monies that are paid into that fund are in the form of taxes levied on the employer for that specific purpose to pay those specific benefits. This would correct that problem, is that not correct?

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MR. ALARIO
That's correct, sir.

MR. RAYBURN
Mr. Alario, is it not true that what the committee was attempting to do was future dedication of revenues? That's what we really was thinking about doing when we prepared this language. Is that not true?

MR. ALARIO
I think they were also looking at, Senator, at really constitutional dedications. In some kind of way, we got mixed up in the language, here.

Further Discussion

MR. DE BLIEUX
Mr. Chairman and ladies and gentlemen, I'm opposed to this amendment. What we have been trying to get away from and what has been criticized by those who have been interested in government for many, many years has been the extreme amount of dedicated funds that we have in the State of Louisiana. I'll tell you one thing else, it helps to provide additional taxes, because that's the way you get some additional taxes, sometimes, whenever you dedicate those taxes to the payment of a certain function of government. That shouldn't be. If you need additional money to run the government, it should go into the general fund and then allocate it and appropriate it to where it should be for the necessary operation and function of government. At the present time, the amount of funds that we have available that we can actually appropriate to the various functions of government that are undedicated only amount to approximately twenty or twenty-five percent of our total income. That's not right. All of our funds are taken care of and decided where they are going to go way before we get them. That's not the best way to operate a government. I just feel like that this particular provision that we had in this article is . . . in this particular section is a good one, and we ought to keep it. We were complimented by PAR for having such a provision in here. I just think that this is a bad amendment. I ask you to vote against it because it's not good government management of your state funds.

Questions

MRS. ZERVIGON
Senator De Blieux, isn't it a fact that what's been hanging up the flexibility that the legislature needs, recently, is constitutionally dedicated funds?

MR. DE BLIEUX
I didn't exactly understand your question, Mrs. Zervigoo.

MRS. ZERVIGON
I'm saying, isn't the legislature restricted by constitutionally dedicated funds? In other words, legislatively dedicated funds, they could undedicate at any time they wanted to. Isn't that a fact?

MR. DE BLIEUX
Well, we are restricted both in constitutional dedication and legislative dedication, because after we have made those dedications, sometimes it's pretty difficult and hard to undedicate them.

MRS. ZERVIGON
Well, Senator De Blieux, suppose in . . . this section stays in. Wouldn't you still find informal agreements that are the same as dedications, people saying, "I'll take a little of this, if you'll take a little of that"?

MR. DE BLIEUX
That's true; that happens quite often.

MRS. ZERVIGON
So, what I'm saying, is, either way, isn't the legislature only as flexible as it wants to be? If the legislature wants all of its funds undedicated, it has only to undedicate them.

MR. DE BLIEUX
But, we do have a lot of constitutional dedications of funds, Mrs. Zervigon. They are not all. . .

MRS. ZERVIGON
Senator De Blieux, where in this new constitution have we any dedicated funds?

MR. DE BLIEUX
They are not all. . . they are not all legislative dedications. There's both ways. There's some of them are a legislative dedication because that's the way we got the taxes passed to begin with, on the basis that they were going to be dedicated to a certain service or a certain function of government.

MRS. ZERVIGON
But, Senator, under the new constitution, under the one that we are drafting right now, there are no constitutional dedications, are there?

MR. DE BLIEUX
Well, that's why I'm trying to keep some from being dedicated through constitutional provisions. That is, to outlaw these dedications even by the legislature; they shouldn't even be dedicated by the legislature.

MRS. ZERVIGON
But, the legislature, if it chooses to dedicate them, could choose at any time to undedicate them. Isn't that a fact?

MR. DE BLIEUX
Well, it could, but it's most difficult to do. I tell you, you have to be a member of that legislature and see the wheeling and dealing that goes on sometimes. Then you'd recognize how difficult it is sometimes.

MRS. ZERVIGON
You, yourself, told me that it could still go on in some sort of informal manner; isn't that so?

MR. DE BLIEUX
Well, it's difficult.

MR. NUNEZ
Senator De Blieux, I think that probably most people here agree with what you're saying, but not in light of what you're trying to do here, because the way I read this, "except as otherwise provided in this constitution, no appropriation shall allocate to any object the proceeds of any particular tax," which means to me, that if we sit down in this next session, and we say we're going to have a one cent gasoline tax and that tax shall be dedicated to building roads--"X" number dollars of roads--in this state. Then, those . . . that funds, the proceeds of that tax will go towards those roads. Now, I think we want to do that. I think we want to leave the legislature that latitude to pass a particular tax and dedicate it to a particular . . . proceeds to a particular object, which means that if you want to pass a highway tax for roads, or a welfare sales tax for welfare, or school teachers, in particular, that's what I think the flex. . . Don't you agree that the legislature needs that flexibility if we're ever going to pass one, because most people won't vote for a particular tax if it's not particularly dedicated. I don't blame them; I wouldn't.

MR. DE BLIEUX
Mr. Nunez, that's what I object to, because that's what makes it so easy to pass taxes, is when you say you're going to use that tax for a specific purpose. Then, afterwards, you . . . whether you use it for something else or not. We ought to use the . . . pass taxes because they are needed for all purposes, not just for dedicated purposes.

Further Discussion

MR. FLORY
Mr. Chairman and delegates, I rise to speak in favor of the amendment. Let me lay something before the convention as a specific example of what we're talking about. If you remember in the Executive Article, under the powers of the treasurer, we put in a proviso that stipulates as follows: "There shall be a Department of Treasury headed by the state treasurer who shall be responsible for the custody, investment, and disbursement of public funds of the state." We added the language, "except as otherwise provided by this constitution," with the full knowledge we were going to broach this subject when we got to it. Now, in Section 12, if you read--even with the exceptions in Section 11 that we listed--Paragraph (A) where it says, "Money shall be drawn from the state treasury only pursuant to an appropriation made in accordance with law." If you look at the Legislative Article, and remember that the appropriation--that no money . . . you have to have. . . money

can only be appropriated for specific purposes and only on an annual basis. So, that what I'm leading up to is this: that in the employment security fund which is . . . was established as a result of federal law setting up the standards in 1935, it is a state program, and it is a state fund created. When the fund was created, there was a stipulation put in the law that the funds paid by the employers as a tax or a contribution rate was paid to the fund and was automatically appropriated to the administrator for the payment of unemployment benefits. So that when you get into Paragraph (D), you have to delete it if you intend to continue the dedication of that tax to the payment of unemployment benefits. Now, if you don't dedicate it, let me show you what you get into. The employer's contribution rate or his tax rate is based upon his individual experience: that is, the fluctuation of employment due to the economic conditions of the state. So that what . . . in the last eighteen months, I guess, we've been paying out more benefits than have been coming in in tax dollars. But, the fund was set up on a sliding scale with a floor of one hundred and ten million dollars; that if that fund went below a hundred and ten million dollars, the tax contribution rate went from whatever it was, to a maximum of 2.7 of the taxable payroll for all employers. So, if you had not had the dedication, you had not received the interest earned on that fund--which was last year about nine million dollars, I believe--it would have fallen below the floor of a hundred and ten million dollars. The contribution rate for employers would have gone up. You would have had to assess an additional twenty-five million dollars in taxes in order to keep the fund on its level. Now, if the state doesn't want to dedicate those funds, then in the years--as I just mentioned--where you pay out more than you take in, the state is going to have to come up with those appropriations in order to make up that difference. What we're talking about, sometimes amounts to between thirty and fifty million dollars a year, depending upon the economic conditions of the state and of the nation.

So, I ask you to adopt the amendment and let the legislature continue as it has in the past to automatically . . . or to dedicate by automatic appropriation these types of funds.

Questions

MR. DE BLIEUX

Mr. Flory, isn't that money that you spoke about for the security fund as a result of a federal program?

MR. FLORY

No, sir. It's as a result of a federal law setting up standards, but it is a state program, a state fund.

MR. DE BLIEUX

But, isn't it required by the federal government?

MR. FLORY

The standards are set by the federal government and required by federal law. But, it is a requirement that it be done on a state basis.

MR. DE BLIEUX

Didn't we take care of that in the provision? We said, "when required by the federal government for participation in federal programs."

MR. FLORY

No, sir, because it is not a federal program, Senator De Blieux. I keep trying to explain to you it is a state program operated under federal standards.

MR. DE BLIEUX

I think that's the reason we put that particular language in that section, to take care of what you are talking about.

MR. FLORY

It doesn't do it though, Senator. I'm sorry.

MR. LOWE

Gordon, did you know that with this type of explanation there's usually some confusion? I just wanted to get up and compliment you for explaining it very well. I appreciate what you said, and I hope that the rest of the delegates listened, because this is something that we have to have in here to make sure that that program works the way it does.

MR. GOLDMAN

Mr. Flory, also to clear up this confusion, in that Section 18 that Senator DeBlieux referred to, doesn't that just refer to capital improvements--with federal government programs on capital improvements?

MR. FLORY

That's correct.

MR. GOLDMAN

If it does, then it wouldn't really take care of this, would it?

MR. FLORY

No, sir, because unemployment is sure not a capital improvement.

MR. ROEMER

Gordon, aren't what we're trying to do, we have to be aware of the difference between constitutional dedications and statutory dedications. I think the committee wisely prohibited, with one exception--that's the severance tax--constitutional dedications. All we're trying to do, here, is to say that statutory dedications would be then allowed, but they are subject to change by the legislature. The objection to dedications when they are constitutional, is the money is gone forever, and it can't be managed. Isn't that right?

MR. FLORY

That's correct; yes, sir.

[Previous Question ordered. Amendment adopted: 79-6. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Alario sends up technical amendments which at this time, copies were not run, the amendment reads: On page 8, at the beginning of line 1, strike out "(E)" and insert in lieu thereof "(D)".

[Amendment adopted without objection.]

Amendment

MR. POYNTER

I have one further amendment sent up by Mr. Roemer, and others, I think. Distribution copies have not arrived yet. You all may want to hold up until you get copies of the Roemer, Alario amendment. That's what I figured. The amendment is short, would read as follows: On page 7, line 19, immediately after "(A)" delete the word "Money" and insert in lieu thereof the following: "Except as otherwise provided in this constitution, money".

Explanation

MR. ROEMER

Yes, sir. I submit this amendment with Mr. Alario to try to make consistent the provisions of this article as between Section 11 and Section 12 primarily. Section 12 as written prior to this amendment would allow monies to be drawn from the state treasury only pursuant to an appropriation made in accordance with law. While immediately above that in Section 11, Mr. Dennery, and other delegates pointed out to me, we have monies going from the state treasury to the bond security and redemption fund without appropriation, so we . . . and we want that to happen. So, to make the two consistent, we'd like for Section 12 (A) to read as follows: "Except as otherwise provided in this constitution, money shall be drawn from the state treasury only pursuant to an appropriation made in accordance with law."

[Amendment adopted without objection. Previous Question ordered on the Section.]

Closing

MR. ALARIO

Mr. Vice-Chairman and members of the convention, if . . . just a short word or two. I ask you to vote for Section 12. If you'll look in the report that PAR put out, on the last page they've got a comment on balanced state budgets and the last sentence they say "is contrary to a widely held belief, the present constitution does not prohibit a deficit budget. Many of us in the legislature -- & I was, anyhow--misinformed in the past, or misinterpreted what the intentions were in the past and didn't know that there wasn't a specific prohibition against deficit budget, and I think, this would help strengthen that cause and make

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sure the people of this state can be assured that more money would not be spent than what comes in.

[Section passed: 90-0. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

Section 13. Management of State Funds; Budgets
Section 13. (A) The governor shall submit to the legislature, at a time fixed by law, a budget estimate for the next fiscal year setting forth all proposed state expenditures and anticipated state revenues.

[Motion to waive reading of the Section adopted without objection.]

Explanation

MR. LOWE

Mr. Chairman and ladies and gentlemen of the convention, I would hope that you would accept Section 13 (A) and 13 (B) because what it does, it tends to tighten the purse strings for the State of Louisiana. Section 13 (A) is new and mandates the governor to submit to the legislature a budget estimate for the next fiscal year setting forth all proposed state expenditures and anticipated revenues, in addition to a general appropriation bill. If necessary to give recommendations in the budget, in the proposed budget for a new or additional revenues. As you heard before, that there have been many budget estimates that come around each year. This gives constitutional status to the budget that the governor is to send to the Budget Committee. Of course, the Budget Committee holds hearings and reworks the budget, but at least it gives the point of departure to start with as far as the budget is concerned. Now, Section B also is new and it mandates to the governor to submit in each regular session of the legislature a proposed five year capital outlay program with the request for implementation of the first year. Now, what we have here is nothing that is too different from what is happening right now. The only thing that is different is that, we're giving it constitutional status, and we believe, that by giving constitutional status to the... and mandating the governor to submit a budget... operating budget in Section (A) and also in Section (B) to submit a capital budget that we are strengthening our fiscal affairs for the State of Louisiana. I, frankly, don't see anything controversial in it, but I submit myself to questions if there are any.

Questions

MR. TOBIAS

Mr. Lowe, I'm looking at Committee Proposal No. 4 on the Executive Department. As adopted on the floor of the convention, it says, "the governor shall submit to the legislature at a time fixed by law, a proposed state budget for the next fiscal year setting forth all proposed state expenditures and anticipated state revenues." Then, Paragraph E says, "the governor shall submit to each regular session of the legislature a proposed five year capital outlay program with the request for implementation of the first year of the five year program." Why is this section needed then?

MR. LOWE

Well, Mr. Tobias, I would imagine, and when we were working on this section it dealt with the finances of the state and we felt it encumbered upon us to come up with the budgets in this particular section.

MR. TOBIAS

Then, in other words, we could defeat this section instead of... and delete it and it would still be covered; isn't that correct?

MR. LOWE

I haven't compared what we have here to what you have just read to us, Mr. Tobias, but I would assume that if there is some duplication and Style and Drafting seems to think that something should be taken out, I imagine that could happen. I'm not sure whether this should be in the article on Taxation..Revenue, Finance and Taxation or whether it should be in the article on Legislation.

MR. DENNERY

Mr. Lowe, I may have missed what... something you said on this, but the first clause in each of these subparagraphs is identical to the clause in the executive department proposal which we have previously adopted; is that correct?

MR. LOWE

What I said, Mr. Dennery, is that when Mr. Tobias read it, I couldn't follow whether it was exact or not.

MR. DENNERY

It is identical.

MR. LOWE

Then, if it's identical, I'm sure that we don't need the duplication.

MR. DENNERY

That Style and Drafting can correct it.

MR. LOWE

I would think that they could, yes, sir; decide which article it should be in and leave it there.

MR. LeBLEU

Mr. Lowe, presently the Budget Committee is made up of legislators who meet before the sessions each year and go over the recommendations of the governor. Now, I just wondered, by the provision that you're explaining, if that Budget Committee would necessarily be made up of legislators; couldn't the governor just propose a budget saying the division of administration and present it to the legislature on the first day that it meets rather than have a legislative Budget Committee that meets to go over and make adjustments as it sees fit in the budget?

MR. LOWE

No, sir, I don't believe that we, by any stretch of imagination recommend anything like that, Mr. LeBleu. What we've done here is said that the governor shall submit budget estimates of revenues and expenditures. Now, the Legislative Budget Committee would not be affected by this particular proposal. Now, if the governor would make recommendation and then the Legislative Budget Committee would send back to the governor their recommendations after holding extensive hearings. But, I think, what we're trying to say here is that there's some constitutional status for the governor being involved on submitting his estimate of revenues and expenditures for the year. Then, after that, well, the Legislative Budget Committee holds extensive hearings, and as a result of those hearings well, then, recommendations are sent back to the governor of the final outcome of what has happened as a result of those extensive hearings by the Legislative Budget Committee.

MR. LeBLEU

Another question about the capital outlay budget: in the past three or four sessions bond issues... a bond issue has been presented to the legislature for the construction of a legislator's complex, I mean, office buildings, committee hearing rooms, etc. I just wondered by requiring the governor to submit a capital outlay budget, wouldn't it prevent such a bill of... of this sort, the appropriation bill or a bond issue from being enacted unless it was previously added to the governor's outlay budget?

MR. LOWE

We would think that it would tighten up the capital outlays of the state, Mr. LeBleu, from the standpoint that there would be a five year budget, Number 1, and then, there would be a request by the governor for implementation for funds in the appropriation bill to implement the first year of that five year budget. We feel that we would add some order to the capital outlay program.

MR. BLAIR

Mr. Lowe, along the lines that Conway was talking about, the Budget Committee is set up under statutes, and actually what the Budget Committee... what they do is they listen to all these agencies and they submit their recommendations to the governor and under the constitution it's the governor's duty, and I think, you're just tracking the old constitution and it's his duty to submit a balanced budget to the legislature.

MR. LOWE

Yes, sir, that's correct. I think that what we've done here has made it clear the governor shall...he's mandated to come up with his estimate of revenues and expenditures.

MR. TATE

Representative Lowe,....

MR. LOWE

Thank you for the promotion, Judge. I don't know if I could stand four years again, though.

MR. TATE

... once a Representative, always a Representative. The Executive Branch proposal and the Legislative Branch proposal also had requirements as with regard to the budget estimate and the capital outlay program. Do you know to what extent this duplicates those proposals that have already passed the floor, or to what extent it's in conflict with them?

MR. LOWE

Mr. Dennery, just asked the question and the substance of his question was that the operating budget section in part (A) was identical to the Legislative Branch, and I don't know whether the capital outlay budget Section (B) is identical--he's shaking his head and saying that it is identical--and my answer to him was that I thought that if they were both identical, that Style and Drafting could make a decision on the deletion from one section or the other, leave the provision in the article that they thought was most appropriate.

Amendments

MR. POYNTER

Mr. Lowe, you do have amendments? Alright.

Amendment No. 1. On page 8, line 7, immediately after the word "shall" delete the word "submit" and insert in lieu thereof the words "cause to be submitted".

Amendment No. 2. On page 8, line 10, immediately after the partial word "mendations" delete the words "in the budget".

Explanation

MR. DENNERY

Mr. Acting Chairman and delegates to the convention, the Acting Chairman has asked me to explain this amendment, to which there is no objection raised by the committee itself. I, ... you will note that the first amendment merely says that the governor "shall cause to be submitted" rather than "shall submit". The second amendment merely removes the words "in the budget" meaning that he should merely submit his recommendations for any new or additional revenues. It's basically a technical change.

[Amendments adopted without objection. Previous Question ordered on the Section. Section passed: 86-1. Motion to reconsider tabled. Motion to temporarily pass over Sections 14 and 15.]

MR. CASEY

Mr. Roemer, why don't you hit a tick and explain to the convention why you're passing over.

Explanation

MR. ROEMER

We have an amendment to 16 that we'd like to take up and discuss at this time and we're trying to get 14 and 15 in order. If we have a few minutes to do that, I think, we can get by 14 and 15 without any major discussion, just for the sake of time, that's all, Mr. Chairman, we'll go right back to 14 and 15.

[Motion adopted without objection.]

Reading of the Section

MR. POYNTER

Section 16. Management of State Funds; Prohibition of Loan, Pledge, or Donation of Public Property; Exceptions-- and that word incidentally didn't print--Exceptions for Public Purpose
Section 16. (A) The funds, credit, property or things of that...

[Motion to waive reading of the Section adopted without objection.]

Explanation

MR. PLANCHARD

Mr. Acting Chairman and fellow delegates, this section is purely for the purpose to prevent the state or any of its agencies from loaning our property of value or giving away the monies of the State of Louisiana; we can loan, pledge or donate it to any private person or association or corporation. Of course, it's strictly for the purposes of preventing this type of thing occurring, and I think it's self-explanatory in the article itself. We also went further in Section (B), though, to say that nothing contained in this section shall prevent the intercooperation between the state

and its political corporations, or between political corporations, or between the state or its political corporations of the United States, or between the state or its political corporations in any public or private association or corporation or individual for a public purpose. We thought we fully covered every thing to be considered under this section, but there was some question by some of the delegates that we may be preventing ourselves from actually pledging the credit of the state to back up our bonds. So, consequently, to avoid any question we do have an amendment by Mr. Kean, and I think it was from the committee proposal on Local Government which not only incorporates what we have, but it goes further to make exceptions. So, without any further ado, Mr. Chairman, I would like to go ahead and have the amendments offered and we can discuss the amendments, and if there's any questions at that time; I think, that they can all be answered.

[Quorum Call: 75 delegates present and a quorum.]

Amendment

MR. POYNTER

Amendment sent by Delegates Perez, Toomy, and Lanier which read as follows: Before I start on this, there's been one change in Paragraph (B) subparagraph 4 has been completely deleted. Subparagraph 4 of Paragraph (B) has been completely deleted, so that's about two-thirds of the way through the text of the amendment. Subparagraph 5 is then changed to become subparagraph 4 of Paragraph (B). Would then read as follows:

Amendment No. 1. On page 8, delete lines 27 through 32 both inclusive in their entirety and on page 9, delete lines 1 through 10 both inclusive in their entirety and insert in lieu thereof the following:

"Section 16. Management of State Funds, Donation, Loan, or Pledge of Public Credit

Section 16 (A) Except as otherwise provided in this constitution, the funds, credit, property or things of value of the state....

[Motion to waive reading of the Amendment adopted without objection.]

Explanation

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, the Local Government Committee has its proposal No. 27 and the amendment which has been offered is essentially the same, in fact, it's verbatim with the exception of the deletion of this paragraph Number 4 under (B) because there was some objection to that particular part of the Local Government provision by the ... by some of the members of the Revenue Committee. Now, let me explain to you, if I may, the extreme importance of this particular article. There are over two hundred pages in our present constitution as a result of what you would look at as Section (A) of this new Section 16 which would be the companion in the Revenue Proposal, because it is a prohibition and rightfully so against the funds, credit, property or things of value of the state from being loaned, pledged or donated. But, when you get yourself into that position, then you have to make exceptions because of the fact that you could never issue a bond unless you made an exception for that purpose, and you could never have public welfare. You couldn't have your retirement benefits. You could not have intergovernmental cooperation. The Revenue Committee Proposal contains essentially what is in Section (A): that is, the prohibition against the funds, credit, property, etc., of the state being loaned or pledged. But, in as far as the exceptions to that rule are concerned, it basically only covers what you see before you in... under (B) Number 1, that is, intercooperation between the state and political subdivisions in the United States, etc. I cannot impress upon you more the dire need for the inclusion of exceptions under this article because this is the real reason, the main reason that our constitution was amended so many, many times. This is the main reason that you have had so many, many provisions on the ballot for proposed constitutional amendments. Now, if I may go over these with you in detail. Number 1 is the same as the committee proposal--and I do not believe that there's any particular necessity in going over that--but if you will go to the exception under (B) paragraph Number 2, the use of public funds for programs of social welfare for aid and support of the needy; the prohibition against giving the funds of the state away would certainly include giving away under a welfare program unless you have an exception for that purpose. Under Paragraph (3) the contribution of public funds to pension and insurance programs. There is some question in that area where it might be said well, that may be extra compensation to the public employee, and therefore, may be or could be permitted under this prohibition. But, I do believe, it is the better part of judgment to go ahead and see to it that we have the paragraph Number 3 in there to make sure that we do not jeopardize any of the pension or insurance programs for the benefit of public employees. With respect to Section 4 we've agreed to the deletion of answer of, skip the

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discussion of it, except that the Local Government Committee felt that was the way that we give the legislature the authority to make further exceptions, but if there's any serious objection to it, all it will mean that we'll have more frequent constitutional amendments in the future. With respect to Number 5 and this is the real key provision, the legislature from authorizing the loan, or pledge of such funds, credit, property or things of value for public purposes with respect to the issuance of bonds or other evidences of indebtedness. Now, that is the area where we have had page upon page of amendments to the constitution in order to authorize the issuance of bonds by the state and by the public... the various subdivisions of the state. Paragraph (C) would have as its purpose the ratification of the existing authorities now contained in the constitution and it would continue that existing authorization unless such authorization is revoked by the legislature by a two-thirds vote of the elected membership of each House prior to the vesting of any contractual rights pursuant to this section. I submit to you that the Local Government Committee spent a tremendous amount of time working up this proposal and gave it a lot of detailed thought, had a number of witnesses who are experts in their particular field who testified with respect to this particular proposal and I would like, therefore, to offer it to you for your consideration. I'll be glad to answer any questions.

Chairman Henry in the Chair

Questions

MR. ANZALONE

Mr. Perez, I realize that Section 4 was a very broad article, but let me place this proposition before you and see if this type of a situation would authorize the municipality to do with most of the municipalities in this state outside of that half a million dollar boandoggle that we had yesterday, have to get out and scuffle for an industry. Now, we have an industry that wants to move into Tangipahoa Parish we'll say a private concern, they're going to put up a two million dollar structure and employ something like five or six hundred people which is of great benefit to our parish. Now, in exchange for them coming to our parish what we as a local government municipality parish government or otherwise would agree to do that we would buy the land for them on which they would construct this building and just give it to them. Now, is that type of activity prohibited by Number 1?

MR. PEREZ

It is prohibited by (A) and I can't see where it's given back in (B).

MR. ANZALONE

But, it would be given back by Section 4?

MR. PEREZ

Well, Section 4, we've agreed to take out.

MR. ANZALONE

But, I mean it would be given to...

MR. PEREZ

The legislature by two-thirds would have to approve something like that. But, again, I say I've agreed to take it out although I have some questions to whether it should be taken out, but I've agreed that it should be taken out.

MR. JENKINS

Mr. Perez, on your Number 5, if you read it starting with the (B) at the top it says "nothing contained in this section shall prevent -- Number 5-- the legislature from authorizing the loan, or pledge of such funds for public purposes." If you leave out your "or pledge" it says "nothing contained in this section shall prevent the legislature from authorizing the loan of such funds with respect to bonds or other evidences of indebtedness." Wouldn't that allow the ... any public funds to be loaned so long as it... there is a public purpose, which would mean most anything and in evidence of indebtedness given?

MR. PEREZ

Mr. Jenkins, I think that you're misreading the real meaning of the word "loaned." It's a question of loaned by whom and to whom, but I've already told you that if you have any serious objection to that word, that I'd be agreeable to get another word which would mean to borrow, but the main thing is that we've got to give the right to put the right in the legislature to authorize the borrowing funds and the pledging in order to be able to issue bonds. Otherwise, we're going to have one constitutional amendment after another authorizing.

MR. JENKINS

But, isn't it true we're talking about public funds here? There

is no prohibition against borrowing private funds, the state borrowing private funds, so you don't need to mention "borrowing", do you?

MR. PEREZ

No, but in connection with the borrowing, you have to pledge by the issuance of bonds because you have to... when you build that public improvement, that sewerage system or whatever it is that you're building, you have to be in a position to pledge, and you can't pledge unless you borrow first to pledge.

MR. JENKINS

But, this here says that the legislature may authorize the loan of public funds, does it not?

MR. PEREZ

I've agreed with you Mr. Jenkins, if you're concerned about that word I'll be glad to have an amendment which would make it clear that we're talking about the borrowing of funds by the public and then the pledging of the assets which are used for construction of that public ... or that is where the funds are being used to build a public facility you have to have the pledge of the ... in order to secure the borrowing of the funds. You can't pledge unless you first borrow.

MR. JENKINS

But, wouldn't it be illogical to substitute the word "borrow" in that place because we're not talking about borrowing public funds. That's what the word "loan" refers to, as loaning public funds. So, we're not talking about borrowing public funds, so we couldn't substitute that, could we?

MR. PEREZ

I say, I agree with you generally, if you want to amend the provision I don't see any serious objection as far as I can determine at this time.

MR. CHAMPAGNE

Mr. Perez, this Section C does it have to be that length in the constitution?

MR. PEREZ

I'm sorry; I can't hear you.

MR. CHAMPAGNE

Section C, does it... in other words what it says is what we've done already; we're not abolishing right now; is that right?

MR. PEREZ

That's correct.

MR. CHAMPAGNE

Couldn't we say that in a lot less words than that many words? Or isn't that a transitional matter? In other words, if the state has already entered a contract or an agreement, can we just cancel that? I'm wondering why is it necessary?

MR. PEREZ

Well, first it's necessary because of the fact that you have, as I explained before, over two hundred pages of authorized bond issues in your constitution at the present time. In order to be sure that those authorizations continue in effect, we provided that they would continue in effect, but the legislature by two-thirds vote of the elected membership of each House could amend those provisions provided that the bonds had not as yet been issued or contractual rights had not actually gone into effect.

MR. CHAMPAGNE

And you feel that you need that long a paragraph to say that. Right?

MR. PEREZ

Yes, I just feel that we can't say it in fewer words. We tried to say it in as few words as possible.

MR. CONROY

Mr. Perez, in order to get the record clear on the meaning of this Paragraph 5--it was 5 of (B)--the last few phrases refer to the issuance of bonds or other evidences of...

The last few words refer to the issuance of bonds or other evidences of indebtedness. Now, as I understand your explanation of this, that refers to bonds or evidences of indebtedness of the state or of a political subdivision.

MR. PEREZ

That's correct.

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MR. CONROY

That this would not authorize the state to pledge funds or credit or anything to secure the indebtedness of any private entity.

MR. PEREZ

No, sir.

MR. CONROY

Thank you.

[Previous Question ordered. Record vote ordered. Amendment adopted: 83-3. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next amendment is sent up by Delegate Roy, Delegate Pugh.

The instructions on this are going to have to change given the adoption of the Perez amendment. The text would remain the same.

On page 8, in Convention Floor Amendment No. 1 proposed by Delegate Perez, just adopted, at the end of line 11--that's the end of Paragraph (A)--immediately following the word "enterprise" strike out the period "." and insert the following: "; however, neither the state nor any political subdivision thereof shall be prohibited from entering into a contract for the purchase of insurance from a mutual company or depositing money in savings and loan associations or savings banks."

Explanation

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, presently under the old part of the constitution, there was a Supreme Court decision that held in Public Housing Administration of Bogalusa--rather of Administration v. Housing Authority of the City of Bogalusa--that it was unconstitutional for the city of Bogalusa to buy insurance, fire insurance, with a mutual insurance company even though there was going to be a dividend paid back to the city of Bogalusa of some several hundred dollars, thereby making it the cheapest amount of insurance. The theory was--and you'll have to follow this kind of closely--that mutual insurance companies, theoretically, when you buy insurance with one of them, you yourself become a stockholder or shareholder in it. Therefore, the state by some real pretzel type of reasoning was becoming engaged in business against itself with itself. Now, the decision probably should have never been rendered, but in any event, that's the present state of the law--that the state cannot be allowed to buy insurance with a mutual insurance company even though it would make a great deal of savings for the state because, theoretically, somewhere or another the state is becoming a shareholder in a company and thereby is competing with private enterprise. I don't see the rationale behind it; I disagree with it. I think that it ought to be specifically provided in the constitution that notwithstanding anything to the contrary this particular type of transaction will be allowed, and it does that. It also provides that the state will be allowed to deposit money in savings and loan associations or savings banks. Now, the state is not at this time allowed to do that, and I don't see the reason for that either. If the deposit by the state is fully insured and protected just like it would be in a regular banking institution, I can't see why the state should not be allowed to deposit its money or the city deposit its money in a savings and loan association and draw more interest than it would if it were trying to deal strictly with a commercial bank.

If there are any questions, I'll be happy to try to answer them.

Questions

MR. HAYES

Mr. Roy, does the federal government in some cases prohibit the participation in some mutual companies?

MR. ROY

Does the federal government prohibit participation?

MR. HAYES

Yes.

MR. ROY

I don't know, Mr. Hayes.

MR. HAYES

I think they do.

MR. LANIER

Mr. Roy, don't we have a provision in one of the other articles that the state cannot own stock in a private corporation?

MR. ROY

I don't recall right off hand if we do or not, Walter. Probably, we may; I just don't know. This, of course, would be a specific limitation only with respect to contracting for the purchase of insurance in that particular situation.

MR. LANIER

Well, what I'm getting to is I believe the case that you cited was based on the constitutional provision that we had in the old constitution, and which I think we put in the new constitution, that...

MR. ROY

It's the same....I talked with Justice Tate, and we both feel that unless we do it--it's a heck of a way to have to do it--but unless we put this in here, we're going to have the same Supreme Court decision applicable to the future.

MR. LANIER

Well, what I'm getting to is that your amendment is designed as an exception to the general rule that you cannot have the state being a stockholder in the corporation.

MR. ROY

Right. That's correct.

MR. LANIER

Now, the second thing is: what is the difference between a savings and loan association and a savings bank?

MR. ROY

I'm not quite certain, Walter, what the difference is. I just know that both of them, when the state would deposit the money and be fully protected and maybe even draw better interest, we're not allowed to do it at this particular time.

MR. LANIER

By what authority?

MR. ROY

Well, I think it's for the same reasoning that they would hold that when you deposit....You see, if you deposit in a savings and loan association, you become a member of it, theoretically; therefore, the state would be a member of a private corporation, and thereby meet the same results that it met in the Bogalusa case.

MR. LANIER

But what about a savings bank?

MR. ROY

I think a savings bank is more or less on the same basis. I'm not quite certain. Mr. Pugh is much more of an expert in that field than I am.

MR. DERBES

Mr. Roy, did you say that you had discussed this with Justice Tate, and that he thought it was necessary?

MR. ROY

Yes, Justice Tate felt that if we were going to obviate the results of the Bogalusa case, we'd have to put something like this in here.

MR. DERBES

Did you ask him if he was giving you a minority or a majority viewpoint?

MR. ROY

Well, it's a de novo viewpoint because he was not on the Supreme Court at the time.

MR. ANZALONE

Chris, in that suit that you cited a few minutes ago concerning the ban against state governments and their subdivisions purchasing insurance from a mutual company, are you sure that that case did not turn on the liability of any mutual company as opposed to a liability in a stock company?

MR. ROY

No, for your information let me read what the headnote said on it. "Where the mutual insurance company submitted to a municipal housing authority a bid for fire and extended insurance at an initial premium of six thousand and seven hundred forty-two dollars and an estimated dividend that they were going to get back of one thousand and three hundred forty-eight dollars and a stock company," you see, which was bidding in competition

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with the mutual company, "submitted simply a bid for the same coverage of six thousand, seven hundred and forty-two dollars with no estimated dividends, the stock company was able to come in and vitiate the contract that had been awarded to the mutual investment company because it said that the state was engaging in competition with it--the stock company. Now, here the state lost out in that particular case an estimated dividend of thirteen hundred and forty-two dollars because of some theoretical position that the Supreme Court had to take that the state was engaging in competition with private enterprise. So, this particular amendment strictly is an exception--like Walter said--to the general rule that a state or a political subdivision may not purchase stock in any company, and it excepts it only in mutual insurance company associations where the state will get some type of dividend back.

I move the favorable adoption.

MR. ANZALONE

Chris, I really want to thank you for answering my question; I appreciate it.

MR. ABRAHAM

Chris, if supposedly the state became a stockholder of this-- or the city in the case you mention there--became a stockholder of the mutual company by purchasing insurance from them, what is the law in regards to this type of situation? Are they liable for any of the debts of the company or the savings and loan association?

MR. ROY

No.

MR. ABRAHAM

That's the question I would ask. They must have ruled...

MR. ROY

No. When you invest your money in it, you're not obligating yourself for any obligation of the company.

Further Discussion

MR. BOLLINGER

Mr. Chairman, fellow delegates, I don't claim to be an expert on insurance, but in speaking to Mr. Graham, who is in the insurance business, he informs me that it's possible for the state to possibly enter into a policy where they can be assessed if the overall company would happen to have a general loss in an area. I think this is something that has to be considered when discussing the possibility of the state investing in insurance with a mutual company.

I move the rejection of the amendment, and let's us clarify it.

[Previous Question ordered.]

Closing

MR. ROY

In answer to Mr. Abraham's question, the funds are nonassessable; the policy is. Therefore, the state can't be responsible for any type of loss on it just to allay anybody's fears.

Questions

MR. CHAMPAGNE

Mr. Roy, there's no such provision in the present constitution; is there?

MR. ROY

No, sir.

MR. LANIER

Mr. Roy, Mr. Hayes just--who is a member of a credit union--tells me that there maybe a problem with this with reference to the federal law, in federal credit unions. Are you aware of any such proviso or restriction?

MR. ROY

No. Let me point out that, of course, any purchase of the state has got to be in compliance with R.S. 40:474 which makes it you have to deal with a nonassessable type situation. The state can't get itself in any trouble.

I'll yield to any further questions.

MR. GRAHAM

Mr. Roy, perhaps you just covered it in your last comment,

but I was just going to ask if you knew that there were some mutual insurance companies that are assessable companies? Unless they say specifically that they are nonassessable, then if the company did have an overall loss, they could come back and assess their policyholders for an additional amount of premium to cover their losses on an overall basis.

MR. RAYBURN

Mr. Roy, in further...with further reference to what Delegate Graham asked you, if a mutual company wants to levy an assessment against its stockholders and the bank had five million dollars worth of insurance with a mutual company, would they be liable for that assessment that they wanted to place on all the stockholders?

MR. ROY

Run that by me again, Senator.

MR. RAYBURN

Well, let's take a savings and loan or a mutual insurance company: if they had a bad year and they wanted to assess their stockholders a certain amount of money, or a certain percentage of their investments, and the state had some business with this particular company, would they be liable for that assessment?

MR. ROY

Senator, I don't know.

MR. RAYBURN

Would a savings and loan association--assuming that you were governor of this state and you wanted to create a savings and loan, and you wanted to deposit a lot of state funds in it, and then the thing didn't...you made some bad loans and you wasn't doing too good, and you had to assess your membership to kind of keep going--would the state be liable for that assessment at the end of the year?

MR. ROY

I don't know, Senator. I better move to pull this...

MR. RAYBURN

I'm afraid I know, Mr. Roy.

MR. ROY

Well, if you have some doubt about it...Mr. Chairman, on that basis I'll move to pull the amendment at this time.

[Rules Suspended to allow amendment to be withdrawn. Quorum Call: 80 delegates present and a quorum.]

MR. HENRY

Read the Avant amendments, Mr. Clerk.

Amendments

MR. POYNTER

Amendment No. 1 reads as follows: Page 8, line 13 in Floor Amendment No. 1 proposed by Delegate Perez and adopted by the convention today, after the word and punctuation "prevent;" delete the remainder of line 13 and delete lines 14 through 18 in their entirety, and on line 19, delete the word and punctuation "purpose;"

Now, the effect of all of that is to delete Subparagraph 1 of Paragraph (B). It would just delete in its entirety Subparagraph 1 of Paragraph (B). The second amendment then changes all of the subparagraph numbers--changes 2 to 1 and 3 to 2 and changes 4 to 3.

Amendment No. 3. At the end of the Perez amendment adopted by the convention on December 17, insert an additional paragraph to read as follows:

"(D) The state and its political corporations may, for a public purpose, engage in cooperative endeavors with each other or with the United States or its agencies, or with any public or private association or corporation or individual."

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, the committee proposal, as well as Mr. Perez's amendment, starts off with what on its face is a prohibition against the lending or pledging or donating of public funds to private persons or corporations. Then both of the--the committee proposal and Mr. Perez's amendment--in the next breath say, however, that that prohibition shall not prevent certain things, or as they phrase it, they say "nothing contained in this section": that is, the prohibition shall prevent certain things. Well now,

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that simply means when you say "nothing herein shall prevent" it, that means the same thing as except that. So, we still, then, are faced with the proposition--if you read Mr. Perez's amendment, Section (B) 1--that this intercooperation, if it is intercooperation, whatever that may mean, that you can then pledge or donate or loan public funds or credit to private individuals or to private corporations. The purpose of this amendment is to permit the objectives: that is, to permit the state and its political corporations, if you will refer to the Paragraph (D) which we have added, to engage in cooperative endeavors with the United States or its agencies or with each other or with any public or private association or corporation or individual but subject to this prohibition, and that is that the funds, credit, property or things of value of the state or its political subdivisions cannot be loaned, pledged or donated to any private person or corporation. That is the purpose of the amendment. In other words, this intercooperation would be acceptable and permissible and legal and fine, but you still can't under the guise of cooperation do what the constitution has set out to prohibit, and that is: take public funds and give them or loan them or otherwise dispose of them to private entities. For that reason, I would ask your favorable support of the amendment.

Questions

MR. CASEY

Mr. Avant, I'm just concerned about--in Amendment No. 3--about the use of the word that you're using for the--at least for the first time I recall having seen it--a political corporation; whereas, in Mr. Perez's (D) 1, he uses political subdivision. What is the difference between a political subdivision and a political corporation?

MR. AVANT

A political subdivision is a parish, a city, perhaps a school board, but there are certain public corporations, as I understand it, which would not qualify as political subdivisions--say, your port commission--I don't think that is a political subdivision, but it is a political corporation or board. I think, Mr. Casey, that the word "political corporation" if you...I don't want to appear to be real bright. I think I picked that up out of the committee proposal. Doesn't it appear in the committee proposal?

MR. CASEY

I don't recall having seen it. But, is it your intention that it be more encompassing and broader than the word "political subdivision?" Is that your intention?

MR. AVANT

Yes, sir, but we went through that the other day if you recall in some connection. I don't remember just...But the word "political corporation" is broader and more encompassing, I feel, than "political subdivision."

MR. LANIER

Mr. Avant, right now in Delegate Bollinger's district they're having a very serious problem with the Intercoastal Canal where it's not bulkheaded, and the wave wash from the boat traffic is eating into the property outside of the right-of-way which was given to the United States government. Now, if your amendment was adopted, would that prohibit the state bulkheading along the Intercoastal Canal to protect this property that's being washed away?

MR. AVANT

Is it the state's property?

MR. LANIER

The damage is being caused outside of the right-of-way which now belongs to the federal government, as I understand it, for the Intercoastal Canal.

MR. AVANT

Well, it seems to me, Mr. Lanier, that if...Whose property is being damaged? That's what I want to...first question I would ask.

MR. ABRAHAM

Jack, I think I understand what you're trying to do, but what is the difference between intercooperation and a cooperative endeavor?

MR. AVANT

Well, I see no distinction. It's just a matter of phraseology where...

MR. ABRAHAM

Then, I don't see what we're doing. Why do we need, then, to change this language because we're saying in this Perez amendment "nothing contained shall prevent," and in your amendment we're coming right back down the line with another paragraph saying that they may do so? I don't understand the purpose of this.

MR. AVANT

I'll tell you why. As I read Subsection B, when you say--and this is where I started off, Mr. Abraham--when you come along and say "nothing contained in this section shall prevent" that's the same as saying "except that." In other words, (A) is a prohibition; then when you come along in (B) and say "nothing in this section prevents this, then you're saying--insofar as (A) is concerned--that "except that." You can't do these things, except that you can do them. Do you follow me? I wanted to disassociate this concept of intercooperation and put it down in another section so that it would not be viewed as an exception to the prohibition contained in (A). In other words, they may engage in these cooperative endeavors as long as they do not pledge, donate, or loan public funds to private individuals in order to accomplish that purpose.

MR. COMAR

Mr. Avant, I just wanted to make clear on one point here. You say "except for a public purpose" in this amendment. I would assume, then, that the state, under your amendment and under the section as is contained, would still be able to contract with various private institutions to take care of children, to take care of old folks, and those types of things which the state now does; is that correct?

MR. AVANT

I think that is a public purpose, and if you remember, I rephrased this amendment to eliminate any possibility that that would be prohibited, and I did it at your request.

MR. COMAR

Fine, thank you.

MR. JENKINS

Mr. Avant, the way I understand your amendment is that both the Perez amendment and your amendment allow intercooperation between government and private agencies.

MR. AVANT

That's correct.

MR. JENKINS

The only difference is that the Perez amendment would permit the state to give public funds to private corporations or private associations in relation to this intercooperation whereas yours would not.

MR. AVANT

That's correct.

MR. BOLLINGER

Mr. Avant, my only question is in your Paragraph (D) where you have public purpose. Along the coast of Louisiana you have a tremendous amount of erosion and land that is washing away, and there are some large landholding companies, and the state as well, own property along here. Would the public purpose conflict if say the state or one of these large land companies got together and said, "well, both of our lands are washing away; let's share the expense and go ahead and do something to prevent this?" Wouldn't that be considered a public purpose, or would that...

MR. AVANT

I think that it would, and to be honest with you, I think about most anything the legislature decides is a public purpose the courts probably going to say that that's a legislative determination.

MR. DENNFY

Mr. Avant, your amendment will not prevent the continuation of the free schoolbook and free school lunch program; will it?

MR. AVANT

No, sir, I don't think it would because I think that's already been upheld as a public purpose.

MR. DENNFY

Thank you.

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[Amendments adopted without objection.]

Amendments

MR. HARDIN

Mr. Jenkins .

Amendment No. 1. On page 8, line 27 in Floor Amendment No. 1 proposed by Delegate Perez and adopted by the convention on December 17, 1973, at the end of line 27 of the text of the amendment, delete the words "loan or".

Amendment No. 2. On page 8, line 27 in Floor Amendment No. 1 proposed by Delegate Perez and adopted by the Convention on December 17, 1973, on line 30 of the text of the amendment, immediately after the word "indebtedness" delete the period "." and insert in lieu thereof the following, "to meet public obligations."

Explanation

MR. JENKINS

Mr. Chairman, this is an amendment to Mr. Perez's amendment. You remember he started out with it in his Number 5; then it was Number 4; now, it's Number 3. This deletes the words "loan or", so that the legislature may authorize the pledge of public funds for bonds and so forth. It deletes loans so it makes sure that we're not permitting here loans to private individuals. It adds at the end after "indebtedness" the words "to meet public obligation" so that it's clear that we're not talking about just issuing bonds perhaps to meet private obligations. But, it has to be for public obligations. I urge the adoption of these amendments. I understand the committee has no objections.

[Amendments reread. Amendments adopted without objection. Previous Question ordered on the Section.]

Point of Information

MR. DENNERY

Mr. Chairman, I have no particular objection at this point, but it seems to me that it's unwise to let the committee pass on the closing of a section because there may be some questions that have arisen that people will not have an opportunity to answer. I do believe that the Chair should see if there are any questions.

MR. HENRY

You're point is well taken, Mr. Dennery.

Mr. Planchard, you have the right to close.

Sometimes the Chair gets a little too impatient, Mr. Dennery, and I apologize for my overenthusiasm.

Closing

MR. PLANCHARD

Mr. Chairman, I sincerely wish I knew exactly what we have said now. I think we all mean exactly the same thing. It all depends on what words you use to put it across. I think that even with the amendments that we have, it's still plain to see that we do not want to allow the loaning or pledging of public property for private purposes. We have put in the necessary exceptions in order to allow the bonding, we necessarily allowed for the inner cooperation of the political subdivisions and the state, and the United States. So, I really, personally, have no objection to it.

Question

MR. SINGLETARY

Mr. Planchard, if this amendment should pass, and I presume that it will, would the committee have any objection to not laying it on the table?

MR. PLANCHARD

No, I have no objection whatsoever, Mr. Singletary.

[Section passed: 91-1. Motion to table reconsideration pending.]

Point of Information

MR. NUNEZ

I'm trying to find out why we've laid every section on the table, and what objection there is to not laying this section on

the table like we've done with every other section. It passed 91 to 1. Why let it stay open and linger open...I don't know the reasoning behind it. If there is, we was open for discussion; we could take any amendments that you had. If we're finished with it, let's lay it on the table and get it out of the way.

Point of Information

MR. CHAMPAGNE

The only reason why I'm rising, I want to suggest that about ninety percent of the people in here don't know what's in that section now. That's why I think the man asked not to lay it on the table. I'd like to see it in writing. Right now, I don't think anybody could tell you what's in it.

MR. DE BLIEUX

Mr. Champagne expressed the same motion which I wanted.

MR. HENRY

Well, I think there was sort of a gentlemen's agreement not to table it, Senator.

[Motion to consider Section 14 previously passed over adopted without objection.]

Reading of the Section

MR. HARDIN

"Section 14. Management of State Funds; Public Record Section 14. All reports and records of the collection, expenditure, investment, and use of state moneys and all reports and records relating to state obligations shall be matters of public record, except returns of taxpayers and matters pertaining thereto."

Explanation

MR. ALARIO

Mr. Chairman, fellow delegates, Section 14 simply provides that the public records shall be just that. The records and collection and expenditures, and investment of state money shall be public to the citizens of this state. But, it does provide that the tax returns of the citizens shall be held confidential in those matters pertaining thereto, meaning the schedules and attachments having to do with the tax returns shall remain confidential.

Question

MR. ANZALONE

John, is the reason that you all are always putting in here that these income tax returns will be private, is because you don't want the world to know that all of the mistakes that people like you make for people like us?

MR. ALARIO

That could be, Joe.

[Previous Question ordered. Section passed: 91-1. Motion to reconsider tabled. Motion to consider Section 15 previously passed over adopted without objection.]

Reading of the Section

MR. POYNTER

"Section 15. Management of State Funds; Investment Section 15. All money available for investment in the custody of the state treasurer shall be invested as provided by law."

Explanation

MR. ALARIO

Mr. Chairman, members of the convention, this simply provides that the funds of the state shall be invested to make sure that we get a return on those idle funds in the state treasury, and to provide the maximum return for the citizens of our state. I ask that you adopt it.

Questions

MR. DENNERY
John, will this permit the investment of state funds in, for example, bank certificates of deposit?

MR. ALARIO
I didn't catch the beginning of it.

MR. DENNERY
Would this permit the investment of state funds, if the legislature so provided, in certificates of deposit issued by banks?

MR. ALARIO
It says "as provided by law," Mr. Dennery, so that if the legislature says that would be a procedure, then I'm sure it would be alright.

MR. DENNERY
Well, now, under Section 16(A), don't you prohibit the lending of funds for any private purposes, for any private organizations--excuse me? Isn't a certificate of deposit in effect a loan to the bank, just as the purchase of a bond, wouldn't that be a loan?

MR. ALARIO
I don't think it's a loan to the bank. Whenever the state puts up monies for certificates of deposit, it in turn has to have a pledge of certain assets equal to that amount.

MR. DENNERY
Wouldn't that be a loan? That's my whole point. When you buy a bond, that's an obligation. In other words, if a state could invest in a certificate of deposit, I suppose it could also invest in the bond of a private corporation.

MR. ALARIO
Mr. Dennery, I don't see any problem. We're following that procedure now, and that's the current law, so I don't see any problem with it.

MR. DENNERY
Well, let me go one step further then. Do you think the state could invest in private corporate stocks?

MR. ALARIO
I don't think the state could get into it, as such, Mr. Dennery. There may be some cases where they do. For instance, the retirement systems get into investing some of their idle funds in common stocks, and they're doing that now.

MR. DENNERY
Well, the reason I asked this question--and that may be the reason that it was a good idea not to table the succeeding section--it seems to me you may have run into a conflict there.

MR. ALARIO
That may be, and we may need to look at it.

MR. DENNERY
Thank you.

MR. CHAMPAGNE
When you deposit under certificates of deposit, you pledge collateral. You pledge government bonds and such. So, is this not just a simple statement in the constitution of the good practice that the law now has?

MR. ALARIO
That's right, Mr. Champagne. Thank you.

MRS. ZERVIGON
Representative Alario, when it says "as provided by law," could they provide certain exemptions from this investment policy?

MR. ALARIO
It could, Mary.

MRS. ZERVIGON
Thank you.

[Previous Question ordered. Section passed: 90-3. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER
"Section 17. Release of Obligation to State, Parish or Municipal Corporation; Taxes on Confiscated Property
Section 17. The legislature shall have no power to release or extinguish or to authorize the releasing or extinguishment, in whole or in part, of the indebtedness, liability, or obligation of any corporation or individual to the state, or to any parish or municipal corporation thereof, provided, that the heirs to confiscated property may be released from all taxes due thereon at the date of its reversion to them; and provided..."

[Motion to waive reading of the Section adopted without objection.]

Explanation

MR. CONROY
Essentially, this section carries forward into the proposed new constitution two sections of the present constitution virtually word for word. Article IV, Section 13 contains the basic prohibition against the authority of the legislature to authorize releasing of indebtedness to the state, carries forward also the exception contained in that particular section to that general rule, and also carries the further exception contained in Article X, Section 20. I believe that both of these exceptions are largely historical. I would hope that somehow we can get them into the schedule rather than into the body of the constitution. At the time the committee met on this proposition, we didn't have a sufficient idea of how the schedule would operate to deal with that possibility. But, the basic thrust of Section 17 is found in the first five lines. The rest of it are exceptions, which, as I said, are historic exceptions. The basic proposition involved in Section 17 is that the legislature shall have no power to authorize the releasing of debt to the state. I'll yield to any questions.

Questions

MR. AVANT
For the record, Mr. Conroy, only, would this prohibit the compromise of a doubtful and disputed claim?

MR. CONROY
Mr. Avant, I'm not sure this is just for the record because the present policy, as I understand it, is that some basis has to be found for a determination rather than making a compromise. The attitude of the people in the department of revenue that I've dealt with, for example, has been that you can...that the department can agree with you that they will give up on certain issues and will not on other issues. But, the department of revenue is operated under a basis where they could not just agree with you on a flat, say, across the board, twenty-five percent settlement basis. This would continue in effect the same language in the present constitution which precluded their just reaching straight percentage compromises.

MR. AVANT
Well, this language is not limited to tax obligations.

MR. CONROY
That's correct.

MR. AVANT
What I'm wondering, say, they had an explosion. They frequently do, and state buildings were damaged, and you had a hot lawsuit going, and nobody could really figure out who was responsible. Could you...would this prohibit you from compromising that kind of a claim?

MR. CONROY
No, if you arrived at an amount, what you'd do in effect is that the representatives of the state agree...in any case where you have an unliquidated claim, the state could simply agree that this is the proper amount of the claim, and that's not really release of any debt or anything; that's just a determination that this is the proper amount that the state's entitled to. So, it would not preclude it under those sort of circumstances.

MR. AVANT
That's why I said it was for the record.

MR. CONROY
For an unliquidated claim, it would not prohibit a compromise.

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MRS. MILLER

Mr. Conroy, down on line 25 where it says, "it will be presumed conclusively that such forfeiture or adjudication was irregular and null" and that the property has been redeemed, is this affecting title to property that was patented out by the state years ago, and where some of that is in litigation now?

MR. CONROY

No. No, this carries forward again the same language of the present constitution in Article X, Section 20. It is exactly the same language, and really doesn't deal with state titles. What happened, Mrs. Miller, is that during the Civil War a great number of tax sales took place in this state. In 1879 an effort was made to try to straighten out and correct the situation because, with regard to a number of those tax sales, the tax debtor... supposed tax debtor had never moved off the property; the records were not in very good shape; and there was some rather serious feeling about the impropriety of some of the tax sales having taken place in the first place. So, that's what happened in 1880... or 1879--I can't remember which year it was--there was an effort made to forgive these old indebtednesses and to wipe the slate clean after the Civil War days. In order to do that, this was necessary as an exception to the basic proposition that the state could not forgive these debts, and it did in some cases straighten out titles because there had been some subsequent tax sales involved while the property was presumably in the state. But, I think in most of these cases, it involves... it doesn't involve a claim by the state anymore, not since 1880. It just is needed to keep titles straight, but it hasn't involved the state in the title since 1880.

MRS. MILLER

This is a continuation of what's in the present constitution?

MR. CONROY

Present constitutional provisions--no change at all in that regard.

MR. DENNERY

Mr. Conroy, adverting again to the questions that Mr. Avant asked, under the law which becomes effective on the first of January when the department of revenue starts worrying with the inheritance taxes, questions of valuation would fall within the unliquidated claim of your explanation?

MR. CONROY

Yes. In the way in which I've seen it applied, Mr. Dennery, yes; that would fall in that same category.

Amendments

MR. POYNTER

Mr. Jenkins sends up amendments at this time, reading as follows:

Amendment No. 1. On page 9, line 13, after the punctuation "17." and before the word "The" insert the letter "(A)".

Amendment No. 2. On page 9, line 17, after the word and punctuation "thereof," and before the word "provided" insert the following: "provided, that the legislature may establish a system whereby claims by the state or political subdivisions may be compromised, and".

Amendment No. 3. On page 9, between lines 29 and 30, insert the following:

"(B) All taxes and licenses, other than real property taxes, shall prescribe in three years from the thirty-first day of December in the year in which such taxes or licenses are due, but prescription may be interrupted or suspended as provided by law."

Explanation

MR. JENKINS

Mr. Chairman, these amendments are an attempt to solve some problems that I think are in the committee proposal. Amendments 1 and 3 go together, and 2 is separate. Really, they deal with different ideas, different concepts.

Amendment No. 2 does this. It provides that the legislature could establish a system whereby claims that the state might have can be compromised. As I read the committee proposal, such compromises are prohibited. Now, here's what that means. Let's take an example. Suppose you are out on the highways and run into a state-owned vehicle and do certain damages to it. Well, as I appreciate it, if the estimate of damage would be, say, a thousand dollars by the state, there would be no way that the state could agree with you to accept less than that amount, even

though any other private individual could compromise such a claim. Apparently, if you wouldn't pay the full amount, it would have to go to court for final determination.

Suppose someone had a contract with the state and he got into financial hardship and for some reason or another couldn't meet all his obligations, there is no authority under this section to compromise the claim.

The same is true in tax matters. The Internal Revenue Service naturally compromises tax claims every day. It does so it has the talent to do so; it has the efficiency to do so. Certainly, in this state, we should be enlightened enough, I think, to be able to provide a system whereby compromises can be agreed to. I can cite an example of how compromises are just absolutely necessary to insure justice from time to time.

There was a private school here in Baton Rouge that I know of that was formed about ten years ago. They did not incorporate under the nonprofit laws of the state. But, they were, in fact, not a profit making organization, operated by the parents. They called the Division of Employment Security when they opened their doors. They were told that they did not have to withhold unemployment compensation taxes. Time passed. Then, last year, they were informed by the state that they owed all the back unemployment compensation taxes as long back as prescription would allow them to go--even though they had been told not to. Now, the Division of Employment Security knew that it would be unjust to charge them this twenty-five or thirty thousand dollars, but under the law, there was no way they could work out an equitable compromise, despite the fact that no one working at that school had ever drawn unemployment compensation. So, there needs to be some way to compromise claims. The legislature under this, would be able to, either through some claims commission, or by approval of the department heads, or whatever it wanted to work out.

Amendment No. 3 deals with prescription. It incorporates Article XIX, Section 19 of the present constitution, which provides that taxes prescribe after three years. The present constitutional provision has been interpreted to mean that the legislature can pass statutes, which allow prescription to be interrupted or suspended. So, that is included in the last clause of this amendment.

Questions

MR. DENNERY

Mr. Jenkins, how would the three year prescription affect severance taxes in connection with tidelands disputes?

MR. JENKINS

Because of the fact that we say, "prescription can be interrupted or suspended as provided by law," it would not. At present, prescription is not running. It has been suspended.

MR. DENNERY

Isn't there a special article in the constitution right now which does that?

MR. JENKINS

That's correct. This allows that to continue in force. We may need to put something in the schedule, I think, regardless of whether we adopt this, to make sure that that continues, though.

MR. DENNERY

The second provision which leaves it to the legislature, presumably that's to take care of those cases where there is fraud in the filing of a tax return, or failure to file a tax return. Is that correct, sir?

MR. JENKINS

In regard to Amendment No. 2?

MR. DENNERY

No, no. Amendment No. 3. The question about the prescription.

MR. JENKINS

Now Amendment No.... you may have a copy of an amendment that mentions fraud and late filing.

MR. DENNERY

No. I just want to know if the provisions that you have which say that prescription may be interrupted or suspended; will that take care of those instances where there is fraud in the filing of a tax return, or complete failure?

MR. JENKINS

Yes, it would. That is the.... in fact, our revised statutes specifically provides at present.... that prescription is interrupted

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and suspended in most cases, and enumerates about four or five other cases. So, this would continue that authority.

MR. FLORY

Mr. Jenkins, in reference to the question Mr. Dennery asked you regarding the tidelands settlement, isn't it true that under the language of your Amendment No. 3, that if the tidelands weren't settled for the next twenty years, that at the end of that period of time, unless the legislature took some affirmative action, that the oil companies owing the severance tax on that land which will eventually be declared state property, would never owe but three years in taxes?

MR. JENKINS

No, that's not true at all. As long as the tidelands question is unsettled, we can provide that prescription will be interrupted and suspended. That's the way it is at present. In fact, there is a provision in the present constitution that so provides. I don't know, if we don't put something in here, if that will still be possible to so provide. That's why, one reason that this is worded in this manner, to provide that that instance--fraudulent claims, late filings, and things like that--prescription will not run in those cases.

MR. FLORY

I know, but...and I'm familiar with the 1962 Amendment that was placed in the constitution in that regard. But, aren't you, in effect, continuing the tax exemption for those corporations who owe ad valorem taxes, once the tidelands issue is settled?

MR. JENKINS

No, we're suspending it until it's settled, and at that time, they'll have to pay it.

MR. FLORY

But only if the legislature provides it--the interruption for prescription. Isn't that correct?

MR. JENKINS

Well, that's true. But, it is so provided for now, and I assume it's going to continue. Whether or not we adopt this is not going to affect that. We're still going to have the law continuing the interruption of prescription regardless of whether we adopt this amendment. We've got to so provide.

MR. DE BLIEUX

Mr. Jenkins, you realize in the year 1972 we passed an act wherein the state could recover for inheritance taxes. That is, our inheritance taxes would be like that of the federal government. If you didn't file a return, they would not prescribe.

Now, under this particular provision here that you have, wouldn't we go back to the old system where those taxes would prescribe after three years, in the year in which they are due, and, therefore, the state couldn't collect them?

MR. JENKINS

No, this, I hate to say it again, J. D. This is the present law. Amendment No. 3 is the present law in Article XIX, Section 19 which says that "all taxes prescribe after three years." But, the legislature has passed certain laws under the 1921 Constitution allowing the suspension or interruption of prescription." So, I've included that in this last clause. So, this gives greater authority to suspend the effect of prescription in inheritance tax cases than you have under the present constitution. There is some question under the present constitution really whether you can suspend prescription. This gives constitutional authority to suspend prescription from running.

MR. DE BLIEUX

I'm just concerned about that because it looked like to me you would be allowing some people to get by without paying their taxes after a period of even....

MR. JENKINS

No, this allows the statutory authority, presently in the statutes, to continue in that regard. Whereas, there is some question in the 1921 Constitution whether you can interrupt or suspend prescription because the 1921 Constitution is unequivocal. It says "all taxes prescribe after three years."

Further Discussion

MR. CONROY

On these two issues, I am not certain that I can say I speak

for the committee. I can only speak for myself with regard to both.

First, with regard to the prescription question, or this delimitation period. It is my personal feeling that it is not necessary to deal with that question in the constitution. In the Local and Parochial Government Article, there is a section referring to the running of prescription against the state which I think was intended to permit the legislature to enact appropriate laws with regard to prescription. My personal feeling was that that was adequate to handle the question of prescription. Mr. Jenkins felt that it was still somewhat doubtful. I think the questions that have been asked with regard to the effect of this provision raised some of the questions that existed in my mind as to the extent to which you have to spell it out if you start getting into the question of prescription in the constitution. However, frankly, I feel that as written, Amendment 3 should not be objectionable. It seems to me that it essentially carries forward the basics of our present constitutional provisions and would be an appropriate way to handle it. I don't think it is necessary, but I think this is appropriate language to handle it.

With regard to the right of the state or political subdivision to compromise claims, I think that that's a question for this body to decide as a matter of theory or philosophy what it wants to do and what it wants to permit. I think that the concepts in the past have been that the right of state officials to compromise rights of the state, or claims by the state, should be narrowly construed as has been, I think, the theory up until now, that it was unwise to permit public officials to be able under the guise of compromise to decide how individuals could be treated. Because, after all, remember, that this can be the subject of political pressures or questions, and so forth, when you start a broad program of being able to compromise state claims against individuals or corporations. I think it was....I think the present constitutional provisions are wise. I think that it unwise to have a broad grant of authority to compromise claims. It could be that the legislature under this program here would severely restrain the areas under which compromises could be entered. I assume that's why Mr. Jenkins did it the way he did, that the legislature may establish a system. But, my personal feeling is that it's unwise--it's an unwise provision.

Questions

MR. DENNERY

Mr. Conroy, would Mr. Jenkins' amendment permit the compromise of a tax claim, including any penalties and interest which may have arisen?

MR. CONROY

I assume so. The way it's written, I assume that it would permit the legislature to set out whatever it wanted to with regard to the....system whereby any sort of claim could be compromised.

MR. DENNERY

Now, in a tax claim, suppose you get into court with a tax claim? Is it possible at that point, under the language of the committee proposal, to then compromise based upon the hazards of litigation?

MR. CONROY

As I understand it, not on the hazards of litigation. That is correct. That is the precise problem or area that the state, perhaps, has found itself in for some time as it is generally felt that the state cannot compromise on the hazards of litigation basis solely. They have to have some other basis upon which they can settle issues, or find facts, or find issues of law that they say, "This is the way it is in our judgment, this is the correct way.... disposition of this matter, and not just say that we have a twenty-percent chance of success, or we settle it for twenty percent of the state's claim.

MR. DENNERY

The committee's position is that that should remain the law. Is that correct?

MR. CONROY

....it's difficult for me to say what the committee's position is on that. That's my feeling, yes, Mr. Dennery. But, I'm afraid that this wasn't sufficiently discussed at the committee level for me to speak for the committee.

MR. ANZALONE

Mr. Conroy, the present law is geared to the fact that the state can only pay out your money and mine after a judicial interpretation in most instances. Is that correct?

MR. CONROY

That's correct.

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MR. ANZALONE

What this is going to do is turn around and say we are going to be able to compromise in any instance?

MR. CONROY

That's what it would open the door to. Yes. That's why I feel it unwise.

MR. ANZALONE

Now, Mr. Conroy, in connection with that, have you ever seen a thirty thousand dollar back that was settled for about seven hundred and fifty dollars?

MR. CONROY

A what?

MR. ANZALONE

A thirty thousand dollar back that was settled for seven hundred and fifty dollars?

MR. CONROY

Well, I guess anything is possible.

MR. ANZALONE

I have never filed a tort suit in my life for less than a million.

Further Discussion

MR. LOWE

Mr. Chairman and ladies and gentlemen of the convention, I've discussed this amendment, particularly Amendment "B" with Mr. Jenkins. I'm not an attorney, but it's difficult for me to understand how tax cases in the State of Louisiana can be settled without, in some instances, settling them on the hazards of litigation. Now, how we've gotten around that in the state, I don't know because many cases at the federal level are settled purely on the hazards of litigation. What happens--and then what happens is that the...state government accepts what's happened at the federal level. So by accepting what's happened at the federal level, they have, in effect, accepted that settlement based upon the hazards of litigation. As a layman, I'll tell you how I appreciate it when I'm dealing with a client. We may have a client that has a tax case with the federal government, and the agent will come in and say that the salaries that have been paid are excessive, and that instead of the salaries being a hundred thousand, that the reasonable salaries are fifty thousand. That the other fifty thousand is a dividend. So, the agent at the district level cannot settle on the hazards of litigation. It's either right or it's wrong. So, then, by the time you get to the appellate level with the appellate conferee--that's the last step before you go in the tax court--he has the authority to settle on the hazards of litigation. He might decide, "Well, we've won half of these cases on reasonable compensation, and we've lost half. We have fifty thousand dollars involved so we'll settle for twenty-five, because if we go with the case, we may lose it all. If we don't, we're sure we'll get half if we settle on the hazards of litigation. The hazards of litigation are fifty-fifty."

So, at that point, the federal government agrees to a compromise. That compromise in this hypothetical case is purely on the hazards of litigation. So, then that taxpayer signs an agreement. That agreement, due to exchange of information between federal and the state, goes to the state. The state accepts it. The state assesses that taxpayer on the same basis that the federal assessed them. So, in that case, I would submit to you that we are, in the State of Louisiana, already settling cases and compromising on the hazards of litigation. I don't think it's possible to settle tax cases without some sort of compromise based upon the hazards of litigation. I don't think that you would want to take every taxpayer into the courts. It's just not practical. Now, I'm not an attorney, but I've given it to you the way I appreciate it. I think that we do need some provision for compromise. So, I'm going to support Mr. Jenkins' amendment.

[Previous Question ordered. Division of the Question ordered.]

Closing

MR. JENKINS

Mr. Chairman, I want to emphasize that this deals not only with tax claims, it deals with all sorts of claims that the state has against people, whether it's in contract, in tort, taxes, you name it. It would be somewhat absurd, really, to say that the legislature could not provide a system whereby these claims can be compromised. It's standard business procedure, it's efficiency, it's good economics, to say that you don't have to go all through

every possible area of litigation before you can compromise a claim. That's why this is needed. If we adopt it, it will save the state money because it will save us court costs, time of attorneys, and everything else. We'll be able to reach amicable agreements to get the sort of funds that we deserve to the extent that we can.

With regard to the last amendment, again I want to mention this as the present law that we are retaining with regard to prescription in tax cases. So, I urge the adoption of all three.

[Amendments Nos. 1 and 3 adopted: 67-18. Motion to reconsider tabled. Amendment No. 2 adopted: 45-41. Motion to reconsider tabled. Quorum Call: 74 delegates present and a quorum.]

MR. HENRY

Read the Avant amendments, Mr. Clerk.

Amendment

MR. POYNTER

Amendment No. 1. On page 9, between lines 29 and 30, in Floor Amendment No. 3 proposed by Delegate Jenkins and just adopted, immediately after the language added by said amendment, add the following:

Now, that's the one that added Paragraph (B).

"No state, district, parish, or other tax, license, fee or assessment of any kind or nature, with all interest charges and penalties appertaining thereto, imposed, due or collectible, upon any property, minerals or the severance thereof, or due or payable by any person, firm or corporation upon any business operation or activity within the Tidelands area in dispute between the state and the United States and within the state's historic gulfward boundary three leagues from coast, as established and defined by the Act of Congress of April 8, 1812, which admitted this state into the Union, and as re-defined in Act 33 of the 1954 Legislature of Louisiana, shall prescribe until three years after the 31st day of December in the year in which the controversy existing between the United States and the State of Louisiana over its said state gulfward boundary shall have been finally resolved and settled in accordance with law; provided, however, no interest charges nor penalties shall be assessed or collected on any such tax, license, fee or assessment if such tax, license, fee or assessment is paid within one year after the 31st day of December in the year in which such controversy is finally resolved and settled."

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, I think this is a technical amendment, and that it is necessary at this point in time in view of the adoption of the Jenkins amendment. I've talked to several members of the committee. The ones that I've talked to say they have no objection to it. I've talked to Mr. Jenkins. He has no objection to it. I think that later on, it can be incorporated into the schedule, or something. But I did feel that as a technical matter at this point in time, we had to take some action on this particular thing in view of Mr. Jenkins' amendment which says that all taxes and licenses shall prescribe in three years, but that the legislature will provide how prescription will be interrupted or suspended. As I interpret that, that requires some affirmative act on the part of the legislature. Now this constitutional provision which is presently word for word Article XIX, Section 10 (A) was adopted in 1962 it was not objected to. In fact, I think it was desired by both the petroleum industry and the people who are engaged in business in the disputed area, and also the state. Because, you are on the horns of a dilemma; the state, if they did nothing, then these taxes would prescribe. Yet, the only thing they could do was attempt to collect them, and then each year the companies would have to be paying them under protest and bringing suits all over the state to get it back. This was the solution that was apparently agreed upon. It's what the people put in the constitution. I certainly wouldn't want us to do anything to jeopardize this constitutional provision and to permit this vast amount of money that may be due the state to prescribe.

So, I don't think there's any objection to it. It's technical in nature, and I ask your favorable vote on the amendment. If they want to put it in the schedule or do something like that with it, well that suits me.

Question

MR. SINGLETARY

Mr. Avant, would the words "the legislature is authorized to

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pass laws with regard to prescription", would that accomplish the intent of your amendment?

MR. AVANT

No, sir, it wouldn't, because let me tell you the way I see it. I think that that requires some affirmative act on the part of the legislature after this constitution becomes effective--if it becomes effective. In view of that, I think that's just about the biggest log you could roll and there ain't no telling where the coon's going to jump.

[Previous Question ordered. Record vote ordered. Amendment adopted: 76-6. Motion to reconsider tabled. Previous Question ordered on the Section.]

Closing

MR. CONROY

I think it's been discussed. If there are any questions, I'll be happy to answer them.

[Section passed: 85-9. Motion to table reconsideration adopted: 64-20.]

Reading of the Section

MR. POYNTER

Incidentally, there have been several requests, particularly from Mr. Champagne, for a copy of what Section 16 looked like as amended. We've just had passed out--which was prepared by the Enrolling Room--a copy of that section as it has been presently floor amended. Of course, again, that's unofficial. If anyone wants to draft an amendment, don't do it to that, but go back and draft it to the amendments adopted to the Section.

"Section 18. Legislation to Enable Compliance With Federal Laws and Regulations to Secure Federal Aid in Capital Improvement Projects

Section 18. The legislature may enact legislation to enable the state, its agencies, boards and commissions and political subdivisions of the state, and their agencies, to comply with federal laws and regulations in order to secure federal participation in the cost of capital improvement projects."

Explanation

MR. GOLDMAN

Mr. Chairman and fellow delegates, I think I have one here that's not controversial, except for those who have a philosophy of not wanting to use any federal monies; but if you have that philosophy, of course, you will vote against this and the state won't use any. This grant...in the old constitution--or in the 1921 Constitution--the legislature was granted the power to pass legislation to enable compliance with federal laws and regulations to secure federal aid in capital improvement projects. This proposed Section 18 represents no change in the present provision, except for a modernization of the language and a reduction of the lineage. There were thirteen lines of extremely small type in the 1921 Constitution and this provides five lines of larger type and reduces the length of this particular article. I don't know whether there will be any amendments to it. I hope not and I'd like to move the adoption of this article.

[Previous Question ordered. Section passed: 84-14. Motion to reconsider tabled.]

Personal Privilege

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, of course I know no part of this particular proposal has been drafted up so you can tell exactly what we've got in it, since we started out. We started out with a very, very good proposal in my estimation, but when we got to Section 4, we started chopping it to pieces. Let me tell you some of the things we've done: in addition to putting restrictions in this particular proposal, which benefits only the high income tax people, we've also put in this provision taking away quite a large sum of money from our dedication of funds to school education, by increasing the allowable exemptions from--I mean the allowable portions of the severance taxes to the various parishes--from two hundred thousand to three hundred thousand dollars. We also give another hundred thousand dollars to each one

of the sulphur parishes. We have exempted from this the timber taxes which doesn't count insofar as the allocation of money concerned for those parishes that have timber in them. We have absolutely cut up this particular proposal where we just won't know where we stand insofar as finances are concerned for this state. We have little opportunity to correct them; I just want to let you know that. When your schools come around and find out they don't have enough money to operate because there wasn't enough in the state treasury to allocate enough for education, I want to let you know who's at fault for doing it. We are going to have to answer for some of these problems sometime, and you may not be running for public office, but yet nevertheless it will be part of our work here that have done this particular job. I just want to ask you now, Mr. Chairman, if I may, so that we may put this thing in proper perspective, so that we can have a...Mr. Chairman, I don't want to vote against the whole proposal, but if it stays in this particular form I would be forced to do so. But, I'm asking now in all good conscience and graces, I would like to make a motion that we suspend the rules to reconsider Section 4, so that we won't have to apologize to our people for what we have done. Whether that particular proposal is the only one that I'm really concerned with...I'd just like to make that motion now--if I'm in order--to suspend the rules so that we may reconsider Section 4.

[Motion to suspend the rules to reconsider Section 4 rejected: 39-48.]

Motion

MR. ROEMER

Mr. Chairman, out of a matter of courtesy to one of our fellow delegates, she asked during the discussion of one of our sections if the committee would have any objection to suspending the rules for her to go back into the section for a specific purpose---that is her amendment. As a matter of courtesy, we have no objection to doing that consideration on her behalf. In that light I so move that we suspend the rules in order to go back into Section 7 for the consideration of Mrs. Zervigon's amendment.

[Motion adopted: 60-27.]

Amendment

MR. POYNTER

Amendment No. 1, on page 4, between lines 10 and 11 in Floor Amendment No. 1 proposed by Delegate Perez and adopted by the convention on the 14th, on line 2 of the text of the amendment at the beginning of the line, delete the words "or to any political subdivision" and insert in lieu thereof the following: ", any political subdivision or local public agency".

Explanation

MRS. ZERVIGON

Mr. Chairman and fellow delegates, this is an amendment of very limited purpose. Mr. Roemer said that it was not his intention that the full faith and credit of the state be pledged bond issues issued by local public agencies. The problem is there are agencies--and I'm sure each of you will have agencies like this in your parish that are not exactly districts--that you are not certain whether or not they are covered in the definition of political subdivisions that issue their bonds and back up their own bonds, or your parish backs up the bonds, that don't require the full faith and credit of the state and therefore you would like to be able to issue them yourselves without the two-thirds vote of the legislature. The example that comes to mind in my parish are the housing authority of New Orleans which issues bonds that are backed up by the city and the Urban Renewal Agency of New Orleans which issues bonds in the same way. They are not special districts really; I'm not exactly sure they are political subdivisions. They are just agencies of our local government and they would like to continue to issue bonds in the same manner in which they have issued bonds and they do not request that the full faith and credit of the state be pledged to them. So, I ask that you adopt this amendment. I'm open to any questions that I can answer.

Questions

MR. ALEXANDER

Mrs. Zervigon, would not the dock board, the sewage and water board and agencies of that sort also fall in this category?

MRS. ZERVIGON

I think not, Reverend. I believe the dock boards...I'm not

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certain about the dock boards to tell you the truth. It isn't local totally, I don't believe, but what I'm trying to get at is agencies that are purely local or authorities that are appointed by the city council of New Orleans and that sort of thing. The sewage and water board, as I understand it, is a drainage district. Drainage districts weren't meant to be covered by this section. Special districts are excluded when you use the word political subdivisions. There are other sorts of agencies. Local public agencies like the housing authority and like the urban renewal agencies, which are clearly creatures of the city of New Orleans, which have never asked to be backed by the full faith and credit of the state. It seems to me that any agency that is asking to be backed by the full faith and credit of the state has to subject themselves to the requirement of a two-thirds vote of the legislature. I have no quarrel with that.

MR. ALEXANDER

Even though you have New Orleans in mind, Baton Rouge, Shreveport, and other larger municipalities may be involved here also; isn't that a fact?

MRS. ZERVIGON

I feel certain that they are, especially if they established agencies of this type. The problem is--and I'm sure it is true of all of us--that I don't know nearly as much about other parishes as I know about my own.

I move for adoption of this amendment, Mr. Chairman.

[Previous Question ordered. Amendment adopted: 87-1. Previous Question ordered on the Section. Section passed: 94-1. Motion to reconsider tabled.]

Point of Information

MR. DENNERY

Isn't there one section which we haven't yet tabled--Section 16?

MR. HENRY

You are correct, sir.

MR. DENNERY

I believe I have an amendment up there for that.

MR. HENRY

That's just what we are trying to get straight, Mr. Dennerly, that there are amendments.

MR. POYNTER

Mr. Dennerly has an amendment which was proposed to 16 and Mrs. Zervigon has a further amendment proposing the addition of a Section 19, I believe.

[Motion to reconsider Section 16 adopted without objection.]

Reconsideration Amendment

MR. POYNTER

Mr. Dennerly at this time, now, sends up amendments. Amendment No. 1, on page 8, line 27, in Floor Amendment No.

1 proposed by Delegate Perez and others and adopted by the convention on today, in line 30 after the amendment proposed by Delegate Jenkins and adopted by the convention on today at the end of the line insert the following:

"(4) the legislature by a favorable vote of two-thirds of the elected members of each house from authorizing the loan, pledge, or donation of public funds in the furtherance of facilities and other programs having a public purpose;"

Explanation

MR. DENNERY

This was the language which was originally in Mr. Perez's amendment and he deleted. I think it's essential if we are going to permit the state and its agencies to invest funds in certificates of deposit, for example. Section 15 says that all money available for investment in the custody of the state treasurer shall be invested as provided by law, but then Section 16 comes along and says "except as otherwise provided," and I don't think this is a sufficient other provision. The funds of the state or any, of any political subdivision thereof shall not be loaned, etc., to any corporation,

public or private. Now, the investment of funds and the certificate of deposit, in my humble opinion, is purely a loan of state funds. Now, it's true it's a secured loan, but nevertheless it is a loan of state funds, technically. It seems to me that by not having language of this sort in here, we will prohibit the state and its political subdivisions from making investments in term certificates of deposit which the state customarily does. It's greatly to the advantage of the state and its subdivisions to make this type of an investment and I think we will prohibit it without such a provision. That is the reason I have submitted the amendment and I ask for its adoption.

Questions

MR. JENKINS

Mr. Dennerly, if you won't allow to be sure that there is no doubt that time certificates of deposits are allowed to be investments by the state, why don't you just do that rather than just gutting this complete section. Hasn't this been in our law a long time and wouldn't by leaving it up to a two-thirds of the legislature to give away anything in the state, you really gut the effectiveness of it?

MR. DENNERY

Well, Mr. Jenkins, I'm primarily interested in the loan of public funds. If you want me to delete "pledge or donation," I would have no objection strenuously to that, but it seems to me that in order to permit not only the loan and the certificate of deposit, but this would prohibit the investment in a private corporate bond, for example, which again is a loan and yet it might be to the advantage of one of the pension trust funds to invest in that fashion.

MR. JENKINS

But, if we put loans in there, then the state could in effect be a bank--lending money to anyone for any public purpose which the courts have interpreted it as just about anything. Isn't that correct?

MR. DENNERY

Mr. Jenkins, I have no objection to changing the language, I just pulled this language because that's the way it was. Now, if you think that the language is too broad, I certainly have no objection to changing. My purpose is not to prohibit the investing of state funds in investments such as certificate of deposit of banks.

MR. JENKINS

One more question, isn't it a fact that we have had a prohibition against the state loaning public monies, but, in fact, we have always had state investment in bonds, we have always had, in recent years, state investment and time certificate of deposits and there has never been any difficulty in that regard?

MR. DENNERY

Well, Mr. Jenkins, of course, a number of our laws have been more honored in the breach than in the observance, but if we are going to do that, then I think we ought to correct it.

MR. TATE

Mr. Dennerly, when you say "enacted by a two-thirds vote," you do mean "by law enacted by a two-thirds vote?"

MR. DENNERY

Yes, sir.

Further Discussion

MR. JENKINS

Mr. Chairman, I think that Mr. Dennerly's point that it might be advisable to make investment in time deposits is certainly a good point. If he would offer a proposal to do that, I think that it would be acceptable even though we've had no difficulty in the past with regard to making investment in time deposits, and I don't think we will in the future because there's no one who can raise that issue in a court of law. But, to completely gut the prohibition against giving away or lending public funds or pledging public funds is far beyond the intent of his amendment. So, I think that in regard for this principle that has been our constitution for so long, that public funds ought not to be used in these ways. We certainly should reject his amendment.

Questions

MR. CHAMPAGNE

The provisions of (D) here, Woody, say that the state and its political corporations may for public purpose engage in

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cooperative endeavors with any public or private association or corporation or individual. Don't you think that they could do this under this section? In other words...

MR. JENKINS

As far as time deposits are concerned?

MR. CHAMPAGNE

Right. Right.

MR. JENKINS

Yes. I think so.

MR. CHAMPAGNE

I think that's covered right here. You don't need anything else.

MR. JENKINS

I agree.

Further Discussion

MR. PLANCHARD

Mr. Chairman, I think it's the feeling of the committee that this would, of course, enlarge what our intent was in the first place. If it is only to open the right to a specific type of loan for a specific purpose, then I think it should be stated in this article. But, otherwise, it is way too broad and far beyond what we had anticipated in our original proposal. Therefore, I would have to be opposed to it.

[Previous Question ordered. Amendment rejected: 26-59. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 86-5.]

Amendment

MR. POYNTER

Mrs. Zervigon, do you want your amendments?

Mrs. Zervigon at this time sends up amendments, the last amendment at the present time, pending at the desk which would propose the addition of a new section.

Amendment No. 1. On page 10, line 6, add the following Section:

"Section 19. Increase in Taxes

Section 19. Notwithstanding any contrary provision of this constitution, the legislature may increase the individual or joint state income tax rate, the state motor vehicle license tax on automobiles for private use, or the state ad valorem property tax above five and three-quarter mills only by law enacted by the favorable vote of two-thirds of the members elected to each house and approved by a majority of the electors of the state voting in an election called for the purpose."

Explanation

MRS. ZERVIGON

Mr. Chairman and delegates, and Mr. Guarisco, if you'll listen, I'll explain to you what I'm trying to do. If you adopt this section, it has two effects. Neither of them undo what we've done over the past week. The first effect, I would hope, would be to move the reference...to enable us to move the reference to Title 47, Section 32 of the Revised Statutes, from the main body of the constitution into the transitional measures. I'm not an attorney, and I for one don't look forward to going home and explaining what Title 47, Section 32 is. I don't even look forward to going home and reading it so that I can try to explain what it is. But, that would really be a side benefit and would be open to your discretion later on when we come to styling this particular article--the second styling of the article. The main benefit, as I see it, is that tax raises on the ballot would be clearly identified as such. A raise in automobile license tax, for example, would not be Amendment No. 4 on the ballot identified as an amendment to Article X, Section 5 on the left-hand side of the ballot, for example. It would be on the right-hand side of the ballot, and it would say, "We are changing your license plate tax from three dollars to four dollars." The people could easily ask the legislators why, how, how much, how did you spend the last bunch we gave you, and that sort of thing. In my experience when you mix tax increases with other sorts of constitutional amendments, people become confused and angry and vote against them all, not on the merits, but just because they don't want something put over on them. This way we separate constitutional amendments which change the structures or processes of government, and consider tax raises totally separately, clearly identified

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as such. So, please consider this carefully. If you want a rationally drafted document that allows the people in the future to see exactly on what they're voting, and to ask for all the explanations they need, please vote for this amendment. Another benefit of it--Mr. Chairman, and I'll close in a second--would be, for example, that the legislature could put on the ballot or tax referendum "for a limited time or purpose" if they wanted to, not necessarily draft the law that way, but could identify it that way to the people. The experience in the past has been when there are ten amendments to the constitution on the ballot, for example, and the millage raise separate from those, that more of the voters vote on the millage raise, than those who vote on the constitutional amendment because they are certain they understand it. They know exactly what it's going to do. They know what's being done to them. I'll answer any questions, Mr. Chairman.

Questions

MR. ROEMER

Mary, this is the exact same procedure by which we have a constitutional amendment; isn't that right?

MRS. ZERVIGON

That's right, but the benefit of it, Mr. Roemer, is that it does not amend the constitution.

MR. ROEMER

Nothing personal meant by this, and truly nothing personal, Mary...I just want you to know that personally I'm opposed to this.

MRS. ZERVIGON

No, it was drawn specifically for that reason because I do not intend to overturn the actions of the Constitutional Convention in the past weeks. I don't agree with them, but I'm not going to overturn them. What I'm trying to do is to enable the constitution to remove that specific reference to that revised statute into the transitional articles, and also to separate on the ballot in the future the question of whether or not it raises your taxes from the question of whether or not you're for a constitutional amendment.

MR. ALARIO

Mary, if we adopt your innocent little amendment here, and somebody came back with an amendment after yours deleting the last two lines, lines 10 and 11 in your amendment, which read, "and approved by a majority of electors of the state voting in an election called for that purpose," where does that leave us then as in relation to Section 4 which would require a constitutional amendment?

MRS. ZERVIGON

John, that's not going to happen because we voted again and again that this is the process we want. So, I just really can't see how that's going to happen.

MR. ALARIO

Wouldn't that give them means for those who wanted to delete that, to come back and try it again, though, and open it up again?

MRS. ZERVIGON

Mr. Alario, I really resent your implication that I'm trying to backdoor something, and I got up here and said, "I'm not," and I'm not. What I'm trying to do is just to combine the provisions of the constitution that call for a referendum on the people on state taxes.

MR. ALARIO

Mary, you know, I wasn't trying to imply that you were going to do it, but someone else could certainly offer the amendment.

MRS. ZERVIGON

Mr. Chairman, I'm not a gentleman. I yield, but I'm not a gentleman.

MR. DE BLIEUX

Mrs. Zervigon, I recognize what you are trying to do here, and I think it's very meritorious, but let me ask you, wouldn't it be a whole lot easier to accomplish what you want to do, not by adopting this particular section here, but by rejecting proposal until we took that portion out of the proposal?

MRS. ZERVIGON

No, sir. I really don't. To reject the proposal and take those portions out of the proposal does something entirely different, entirely different. What you're talking about is removing

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those ceilings. I'm not talking about removing those ceilings. I'm talking about trying to show the people in the future exactly what they're voting for. All I'm talking about's a little bit, just that much of democracy. As you know on constitutional amendments, sometimes you've got as few as twelve percent of the voters voting because they're all mixed up together, different subject matters doing different things, affecting different parts of the state. Now, hopefully, we won't have any local constitutional amendments any more, but what I'm trying to do is to separate out constitutional amendments over here, and if only twelve percent of the people want to vote, and only those folks know what's going on, fine, well, and good. But, over here will be a tax raise, and we're going to have a tax raise and we're going to have a turnout of fifty, seventy, eighty percent of the voters on that because they're going to understand clearly what they're voting on. That's all. It's not the same thing at all as what you're talking about.

MR. DE BLIEUX

Well, do I take it that you want a special election in a special place for raising of the limits of these tax issues?

MRS. ZERVIGON

What do you mean "place"?

MR. DE BLIEUX

On the ballot.

MRS. ZERVIGON

Yes, exactly so. I want it separated on the ballots so the people can see it, and not identified as a constitutional amendment because it would not be a constitutional amendment.

MR. TATE

Mrs. Zervigon, if I understand your amendment, you, along with others of us who didn't agree with the philosophy of Section 4, are willing to accept this, and that what you're trying to do is provide a mechanism by which, if the people, by the same voters that adopt the constitutional amendment, want to change it in the future, they don't have to do it by means of a lengthy constitutional amendment or a short constitutional amendment that will keep on adding to the length of our present constitution. Is that your general approach?

MRS. ZERVIGON

No, it isn't, Justice Tate, but my main thing is that it won't be mixed in with other constitutional amendments, totally unrelated to taxes.

MR. TATE

That wasn't really a question I was making.

[Previous Question ordered. Amendment rejected: 25-68. Motion to reconsider tabled. Motion for the Previous Question on the Proposal rejected: 41-50. Motion to take up other orders rejected: 37-55.]

Motion

MR. BURSON

I move that we limit. . .we suspend the rules to limit the consideration of amendments to the one amendment that is now pending, so that nobody can think up anymore to stall here this evening.

Point of Information

MR. CONROY

If the Dennery amendment were adopted, would this preclude amendments to that amendment?

MR. HENRY

All right, read the Dennery amendments.

[Motion rejected: 51-38.]

Amendment

MR. POYNTER

The amendment previously read:
On page 10, line 6, it would insert the following:

"Section 19. The legislature by law enacted by a favorable vote of two-thirds of the elected members of each house may authorize the investment of public funds in bank certificates of deposit, corporate bonds, and savings and loan associations."

Explanation

MR. DENNERY

I believe the amendment was explained with my previous amendment. I would only point out two things: Under Section 15, the state funds may be invested in accordance with law. It says nothing about the funds of the parish. Mr. Chehardy, for instance, in Jefferson, this would authorize the parish of Jefferson to do this, which I believe would be a good thing. The committee has authorized me to say that they have no objection to this amendment. I ask its favorable adoption.

Questions

MR. ROEMER

Mr. Dennery, why is "corporate bonds" in there? That's a big gate.

MR. DENNERY

You want to take it out? Take it out. I'll be glad to remove it.

MR. ROEMER

Would you withdraw to take out "corporate bonds"?

MR. DENNERY

I'll withdraw and take out "corporate bonds."

[Amendment withdrawn.]

Amendment

MR. POYNTER

He resubmits the amendment, striking out, on the fifth line, the comma ",", the word "corporate" at the beginning of line 6, I guess it is, the word "bonds" and the comma "," following it.

Questions

MR. CHAMPAGNE

Do you, by this means, limit the means in which they can invest? Suppose they want to invest in something else? Suppose they want to invest in government bonds? Where is that?

MR. DENNERY

There's no prohibition in the constitution about putting money in government bonds. There is a prohibition in the constitution about lending money or investing money in private corporations. That's the whole purpose of this provision.

MR. CHAMPAGNE

Do they presently invest in savings and loan associations?

MR. DENNERY

Well, my understanding is that in some parishes they do, and the auditor has questioned that. Yet, it's quite possible that a parish may be able to get better interest from a savings and loan investment than he can from a bank investment.

MR. CHAMPAGNE

Do you know that in my opinion a savings and loan investment is much less desirable than a certificate of deposit?

MR. DENNERY

Mr. Champagne, that's why I left it to the legislature. I'm not prepared to say whether it is or it isn't. But, I think the legislature, by a two-thirds vote, could do something.

MR. SINGLETARY

Moise, wouldn't all of these investments be interest bearing, so that the state wouldn't be favored?

MR. DENNERY

That's the whole purpose of it, Mr. Singletary.

MR. SINGLETARY

It wouldn't be favoritism or anything, but it would be a way of earning money for the state.

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MR. DENNERY

The purpose of it is to permit the state and the local governing authorities to invest where they can get the most interest.

MR. LAMBERT

Mr. Dennery, you mentioned that the legislative auditor questioned the investment in savings and loans. Why? Do you know?

MR. DENNERY

I don't know. I was told that, Senator, by one of the local clerks. I don't really know the reason.

MR. CHATELAIN

Mr. Dennery, as I appreciate it, at the present time, when someone deposits money in the savings and loans, they become members of that savings and loan. Is that right, sir?

MR. DENNERY

I believe in most. . .

MR. CHATELAIN

. . . stockholder, I mean. You know, a stockholder.

MR. DENNERY

You become a member in the association, I think, under the technical term.

MR. CHATELAIN

Well, then the state would become stockholders or members of the savings and loan, would they not, sir?

MR. DENNERY

Technically so, yes, sir.

MR. HENRY

Would you yield to a question from Mr. Kean?

MR. KEAN

Mr. Dennery, do you know that there's a statute which presently authorizes the investment in savings and loan associations up to the amount protected by the FSLIC?

MR. DENNERY

No, sir, I was not aware of that. But, it seems to me that the language that we now have in the constitution would prohibit that, despite the statute. That's why I added it in here.

MR. KEAN

Well, there is a statute. The FSLIC is twenty thousand, and they can invest to that amount.

[Previous Question ordered. Amendment rejected: 56-31. Motion to adjourn to 9:00 o'clock a.m., Tuesday, December 18, 1973 rejected: 21-68. Previous Question ordered on the Proposal: 62-27. Proposal failed to pass: 66-27. Notice given for reconsideration on next Convention day. Motion to take up other orders adopted without objection.]

REPORTS OF COMMITTEES

[II Journal 1024]

Announcements

[II Journal 1024]

[Adjournment to 9:00 o'clock a.m., Tuesday, December 18, 1973.]

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Tuesday, December 18, 1973

ROLL CALL

[78 delegates present and a quorum.]

PRAYER

MR. ABRAHAM

Direct us, Oh, Lord in these our doings. May all our work today be in the interest of the people of Louisiana. Guide us in our actions. Keep our minds and our hearts pure. Help us to develop a good constitution for the State of Louisiana. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

REPORTS OF COMMITTEES

[II Journal 1025]

RECONSIDERATION

MR. POYNTER

On reconsideration today:

Committee Proposal No. 15, introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance and Taxation, and other delegates, members of that committee.

A proposal relative to the tax structure of the state and the public finance.

Mr. Roemer now moves to reconsider the vote by which Committee Proposal No. 15 failed to pass on yesterday.

Motion

MR. JENKINS

I'd like to move to return it to the calendar subject to call.

MR. HENRY

The gentleman now moves that the resolution be returned to the calendar subject to call.

[Committee Proposal 15 returned to calendar subject to call.]

PROPOSALS ON THIRD READING AND FINAL PASSAGE

[Committee Proposal 34 called from its regular order.]

MR. POYNTER

Committee Proposal No. 34, introduced by Delegate Lambert, Chairman on behalf of the Committee on Natural Resources, other delegates, members of that committee.

A proposal making provisions relative to natural resources and environment.

It's my understanding Mr. Lambert would like a few introductory comments before we go into Section 1.

Explanation

MR. LAMBERT

Mr. Chairman, ladies and gentlemen of the convention, first of all I would like to express my gratitude to the members of the Natural Resources and Environment Committee. We started off with seventeen members. They all worked very diligently in a most dedicated manner. We heard much testimony over the past year, roughly. We came up with a proposal that we certainly hope meets your favor. To the members of the Natural Resources Committee I want to thank them once again for the cooperation and dedication that they demonstrated in this endeavor. Secondly, I would like to point out to you that the subject matter which we were assigned contained thirty thousand and thirty-five words. Through the process of deleting obsolete material, shortening existing provisions and the introduction of new concepts we've ended up with a total of fourteen hundred and eighty-eight words. I thought I would point this out to you for your information. I would also like to point out that in the area of natural resources we looked at other recent state constitutions that were either adopted or attempted, and that in that particular area, with the exception of the State of Alaska. Basically,

the provisions are short. We have more or less tailored our proposal along these lines. I would assume that obviously, we had the shortest provision containing fourteen sections. At this time I would like to briefly go over each section, after which, I would ask the Clerk to read Section 1. We adopted a public policy statement on the environment. We took this provision from the existing policy statement in the Wildlife and Fisheries Article, and we expanded on it. What we tried to do basically was to say in our constitution that the people of this state are entitled to a clean environment, and it's our feeling that we should protect, conserve and replenish insofar as possible, the natural resources of our state. We added a provision mandating the legislature to implement this policy by appropriate legislation. Secondly, we, in the light of the present energy crisis, with the obvious problem that we're having with retaining natural gas within the limits of our state, and at the suggestion of Mr. Tom Lee, who we have come to recognize as an expert in the field of natural gas litigation, we included a policy statement on natural gas. We felt that it would be in the best interest of the State of Louisiana to do this. We felt that it would be wise to create a constitutional basis for Louisiana's right to retain a sufficient amount of natural gas for use within our state. We tried to do this without violating any federal laws. In addition to this, we went into a new area--geopressure-geothermal resources. We included a policy statement on this particular subject matter, this new energy source that is relatively untapped. We felt that it would be wise to have a statement in our constitution to the effect that the state shall conserve, manage and regulate the development of this untapped natural resource. Geopressure-geothermal energy, for those of you who do not know, is made up of hot, boiling water many, many feet below the surface of the earth, has been tapped in some areas--in California and Oregon. There have been some experimental wells in this area, I understand, in this state. It was a concept that was introduced to us by Mrs. Ruth Miller. We heard testimony from numerous experts in this area. We also were assigned a subject matter having to do with alienation of state lands or water bottoms on the beds of navigable streams and lakes. What we did in this area is basically retain the source provision, making an exception dealing with reclamation of state land, water bottom. We placed a prescriptive period on this particular reclamation exception, and we also restricted the use of reclaimed marshlands or water bottoms by public bodies for public use. In Section 6 we went into a new area, you might say. This is an area that I'm sure you would all be interested and concerned about. I suggest to you that when we get to Section 6 you pay close attention to it because it has the effect of reversing our present jurisprudence in Louisiana concerning the accretion, alluvion, dereliction provisions in our Louisiana Civil Code, possibly would have the effect of reversing a number of cases. We felt that it was an area that could possibly mean the loss of many revenues...oil and gas revenues to our state in the future. We felt that it would be wise to offer this to you and let you decide, as a body, whether or not you feel that it is important enough to place in our constitution and whether or not we should take this position... this position on this particular subject matter. Section 8 deals with the Royalty Road Fund. We had lengthy debate and hearings on this particular subject matter. Our committee went on record as favoring the retention of the Royalty Road Fund. We made some changes in the provision. As you recall, several days ago Mr. Bollinger offered an amendment retaining the Royalty Road Fund in the Public Finance Section of Revenue and Taxation. At that time it was not retained, but we're going to ask you to retain it in Section 8 of the Natural Resources proposal. We also retained the language dealing with minerals beyond a three-mile limit. There's some question as to whether or not this is necessary, or whether or not this is obsolete material. After listening to many speakers in this area, we felt it would be wise on our part since there is obviously some litigation that is still involved concerning minerals offshore, off the coastline of Louisiana, we felt that we may be derelict in our duty if we did not retain this provision. Pending a possible settlement in the future, we felt it would not be in the best interest of the state to take this out of our constitution because it may be something that we can fall to in the future in the hope of retaining some of the minerals that are in litigation at this time, pending settlement with the federal government. We also had jurisdiction over the commissioner of agriculture. As you know, this horse has been whipped a few times in this convention--give you one more chance. Our committee felt that the commissioner of agriculture should be an elected post. It was a close vote in the committee. It was felt that it should be elective and not subject to being made appointive by the legislature at any future time. We offer this again to you for your consideration. We also dealt with

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Wildlife and Fisheries Commission. We took the existing provisions in the constitution, which were very lengthy, and we cut them down to twenty-one lines. There was some question at the time as to whether or not the Wildlife and Fisheries Commission should be retained in the constitution. I, personally, and our committee, took the position that it should be more than one reason. One obvious reason being the many concerned members of the various sportmen's leagues throughout the state, hunters or fishermen who are interested in the preservation of our wildlife. They felt, and they expressed this feeling to us either as a committee or individually, that to keep constitutional language in regards to the Wildlife and Fisheries Commission would not do any harm to our attempt to pass a new constitution. We felt that in the light of some of the things that have been kept in the constitution that certainly it would be unwise not to give this body as a whole the right to make a final judgment on this particular subject matter. We did the same thing with the Louisiana Forestry Commission. The material on the Forestry Commission was lengthy. We reduced it in size but retained the basic features that are presently in our 1921 Constitution. The last area over which we had jurisdiction was the Public Service Commission. Our committee made some changes in this particular area, changing the makeup of the commission to five members, also made some changes concerning jurisdiction, powers and duties, and so forth. That basically concludes the substance of Proposal No. 34 by the Committee on Natural Resources and the Environment. At this time I would like to ask the Clerk to read Section 1.

MR. HENRY

Mr. Jenkins, now we're going to consider it section by section. I think he was just sort of going over the whole proposition.

Questions

MR. JENKINS

Louis, I'd like to commend you and the committee on the work you've done in deleting so much of this material. Let me ask you, are there some other things you think that really could be deleted further that need not be in here? It seems like some of these things are similar to some codal provisions and statutory material. Could we delete some of those, too?

MR. LAMBERT

Why won't you be specific? What are you talking about?

MR. JENKINS

Well, I'm thinking...oh, say, like Section 3 and 6 and 7, and things like that...

MR. LAMBERT

Well, Woody, I guess you could delete more of it. I guess each committee that offered their material to this convention, I guess that argument could be made. I suggest to you that before you make a final judgment on that to let us bring out the various reasons why we did not delete it. Maybe on its face it looks that way, but we may be able to point out something to you that may change your mind. On the other hand, we may not.

Reading of the Section

MR. HARDIN

"Section 1. Natural Resources and Environment; Public Policy
Section 1. The natural resources of the state, including air and water, and health, scenic, historic, and esthetic value of the environment shall be protected, conserved, and replenished, insofar as possible and consistent with the health, safety, and welfare of the people. The legislature shall implement this policy by appropriate legislation."

Explanation

MR. LAMBERT

Mr. Chairman, members of the convention, as I stated earlier, in an attempt to properly organize a section on natural resources to be placed in our new constitution, we tried to come up with a policy statement on the environment, and we thought the proper place for this would be at the beginning. We took a presently existing statement in our constitution...in our present constitution which reads as follows: "The natural resources of the state shall be protected, conserved, and replenished." This particular language is found as a preamble to the present constitutional provision concerning the Wildlife and Fisheries Commission. We took it from that particular area, and we placed it at the beginning of this proposal. We expanded on it as you can see by

reading the section. What we attempted to do is to strike a balance, or find a happy medium between the environmentalist on one side, and the agri-industrial interest on the other side. We feel that we have found, hopefully, a policy statement that does this--that strikes a balance, that is not extreme one way or the other. We heard amendments by members of our committee who wanted to provide a citizen with the right to sue in our constitution. In other words, the right to file a suit to close, for example, to seek an injunction to close down some industry, let's say, or... The majority of the members of our committee felt that this was an extreme position because there are provisions in our present law, in our civil code, our nuisance laws, class action provisions in our civil code...in our Code of Civil Procedure, that provide this. Then, on the other hand, there were members of our committee who felt that to flip the coin completely over and have nothing, say nothing, we felt that a vast majority, and after much discussion and much debate on this particular area we came up with the language that you see here, and it was... we had seventeen members on our committee, and there were very few who voted no...who voted against this. So, I assure you that we have debated this at great length and we have made a sincere effort to come up with something that gives you more than what you had in the past, but yet is not so extreme as to jeopardize the operation of industries and businesses in our state.

Questions

MR. STAGG

Louis, I realize that Jerry Jones is back there, and Burt Angelle, and others interested in the Wildlife and Fisheries Commission area of the constitution, and that it is contained in your proposal. In the balance of the constitution--and we have as of today finally adopted ninety-nine pages of constitutional matter; it would have been a few more if we had had an extra vote yesterday, but we've got in the hopper now ninety-nine pages--in none of those pages is there a board or a commission like Wildlife and Fisheries. There is not a highway board; there is not another board or commission of that type--it being, I suppose, the feeling, particularly the Committee on the Executive Branch that such boards and commissions ought to go into the statutes. I realize that Wildlife and Fisheries has a number of adherents around this state. Can you explain to the delegates why this among all commissions is retained in the constitution?

MR. LAMBERT

Did we not retain some boards, Mr. Stagg? Hasn't a precedent been set? Was the Pardon Board not retained?

MR. STAGG

The Pardon Board was put as a five-member board in place of the lieutenant governor, the attorney general and the presiding judge. We did not eliminate a function of the penal institutions. Now it's a part of the governor's office.

MR. LAMBERT

Let me just say this, Mr. Stagg: whether it's retained in the form of a commission, the concept of a commissioner of Wildlife and Fisheries, or whatever, I think it's a basic decision that this convention is going to have to make. We may find it necessary in the wisdom of this body, a majority may find it necessary to keep it as it is in our proposal. The reason we left it in that particular way was because we've received from throughout the state...I'm just telling you the way it is, now. I don't know if this is what you want to hear, but I'm going to tell you just the way it is. We heard many, many people...from them, either individually, or as a group. They were concerned about retaining something in our constitution to assure that we would have a Wildlife and Fisheries Commission to see that the wildlife, the game, etc. in our state were properly cared for and taken care of. That is the reason we left it in.

MR. STAGG

In other words, they've got a good lobby.

MR. LAMBERT

You might say that.

MR. STAGG

All right, then, explain to those people who lobbied for this to be in the constitution the effectiveness of the language on line 20 on page 4--the functions, duties, and responsibilities of the commission and the compensation of its members shall be provided by law." What have you done?

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MR. LAMBERT

Mr. Chairman, answer this question for me. Are we on... the procedure that we're following, are we on Section 1?

MR. HENRY

That's right.

MR. LAMBERT

When we get to that section, why don't you ask that question?

MR. AVANT

Senator Lambert, in all due deference to what you just said, but since Mr. Stagg made the point, I do want to ask you this question: We did keep the Civil Service Commission in the constitution, didn't we?

MR. LAMBERT

That's correct.

MR. AVANT

Did not your hearing demonstrate that there were just as many people in the state who very strongly felt that the proper management of our natural resources was just as important as the proper management of our public employees in our personnel systems?

MR. LAMBERT

That's correct.

MR. LEBLEU

Senator Lambert, also in response to Mr. Stagg's question, isn't it also a fact that at one time the Wildlife and Fisheries Department came under the Conservation Department? It was separated, in the forties, I believe, or fifties, and since then has been doing a more admirable job?

MR. LAMBERT

That's correct.

MR. VELAZQUEZ

Is it not true that we kept the Board of Liquidation of the state debt under a new name?

MR. LAMBERT

That's correct.

MR. VELAZQUEZ

Is it not true that we also continued the Bond Commission?

MR. LAMBERT

That's correct.

MR. HERNANDEZ

Senator Lambert, hadn't the many Wildlife and Fisheries organizations throughout the state been very anxious to keep this Wildlife and Fisheries Commission in the constitution?

MR. LAMBERT

Yes, sir, that's correct.

MR. HERNANDEZ

That constitutes a pretty large segment of people in the state, doesn't it?

MR. LAMBERT

Yes, sir, it sure does.

Mr. Chairman, if there are no further questions, I move final passage of Section 1.

MR. JENKINS

Louls, can you tell us, what does Section 1 really mean? It says, "the legislature shall implement this policy by appropriate legislation." What authority are we granting to the legislature by this section?

MR. LAMBERT

Woody, obviously, you know that we cannot force the legislature to do anything. However, I think the intent of this convention is obvious by the statement that "the legislature shall implement this policy by appropriate legislation." That means that if the legislature in its wisdom should decide that they want to beef up this provision and add a citizen's right to sue to it, they could. I don't think they would do that.

MR. JENKINS

But...

MR. LAMBERT

For example...that's an example of one thing they could do, or they could...whatever they feel necessary to expand or make-- to implement the policy, they could enact laws to that effect.

MR. JENKINS

Is it your view that we are by this section granting more authority to the legislature than the legislature would have without this section, or not?

MR. LAMBERT

I would say that probably we're not granting the legislature any more authority than they presently have. We're certainly not restricting them in that area, though.

Further Discussion

MR. LAMBERT

Mr. Chairman, I just wanted to make one quick point before we...in my closing remarks, if I might. Mr. Dennery asked me the question, why did we leave out land in the policy statement. Well, we did not leave out land. The natural resources of the state, including air and water...this question was talked about in the committee, and natural resources includes land, and he was satisfied with that answer. I just wanted to point that out.

[Previous Question ordered on the Section. Section passed: 98-0. Motion to reconsider tabled.]

Motion

MR. KELLEY

Mr. Chairman, I'd like to move to return Committee Proposal No. 34 to the calendar and pull from the calendar...

MR. HENRY

Well, let's take them one at a time now.

Gentleman moves to return Committee Proposal No. 34 to the calendar.

MR. LAMBERT

I do not object and the only thing I'd like to know is this. As soon as this is completed we can get back to this proposal.

MR. HENRY

Yes, sir.

MR. LAMBERT

I think there's much concern in the body about completing... what is it, Section 15?

[Committee Proposal No. 34 returned to the calendar: 79-16.]

Motion

MR. KELLY

I'd like to move at this time, Mr. Chairman, to recall from the calendar Committee Proposal No. 15.

[Committee Proposal No. 15 called from the calendar: 79-16. Previous Question ordered on the Proposal: 65-33.]

Closing

MR. ROEMER

Mr. Chairman and fellow delegates, I'll just take a few seconds to say that we, in the committee, worked long and hard and you in this convention that stayed with us over the weekend worked long and hard to do the best we could. I think we've done not a perfect job, but a very human and decent job on this article. I think it's a shining example of what we can do for the people of Louisiana, and I ask your wholehearted endorsement of Article 15.

Point of Information

MR. AVANT

I want to ask you something. The statement was made, at

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least I heard it, that if we voted no on this then we wouldn't have any proposal at all and never could get one; is that correct?

MR. HENRY

Well, we wouldn't have any Committee Proposal No. 15, but ... or it could be reconsidered on another day and all that business, Mr. Avant.

Point of Information

MR. ROY

Could I move to suspend the rules so that Mr. Joe Traigle, who is here, could address the convention as a whole?

MR. HENRY

That function would be out of order. The previous questions have been ordered.

Point of Order

MR. DENNERY

Mr. Chairman, a point of parliamentary procedure, I suppose. According to the Journal on yesterday a motion to reconsider was pending at the time that the convention altered the other business, so I assume that the only motion before the House now, correctly speaking, is to reconsider.

MR. HENRY

No, sir, the first thing we did in Morning Hour No. 12 this morning was reconsider the vote by which it failed to pass on yesterday, and that was....

MR. DENNERY

Today.

MR. HENRY

Yes, sir, when we got into Regular Order No. 12 and it was passed without opposition and then we returned it to the calendar, Mr. Dennery.

[Proposal Passed: 80-19. Motion to call Committee Proposal No. 34 from the calendar adopted without objection.]

Amendment

MR. POYNTER

Mrs. Miller, Delegate Tobias and Delegate Asseff send up amendments which read as follows:

Amendment No. 1. On page 1, between lines 21 and 22, insert the following:

Section 1.1. (A) The navigable water bodies and bottoms, the sea and its shores, and lands, title to which is in the state, are hereby declared to be a part of the public domain. Title to lands held by the state, its agencies and political subdivisions, excluding municipalities, is hereby declared to be held in the public domain for the use and benefit of each.

(B) No disposals, contracts, compromises, or leases involving lands or interests therein, of the state and its agencies and political subdivisions, shall be made without the approval of the state's chief legal officer, prior notice, and other safeguards of public interest as prescribed by law.

(C) Neither the lands, or interest therein, in the public domain at the effective date of this constitution shall be subject to loss through prescription. The wrongful act, misfeasance, or non-feasance or any public official, agent or agency, or employee of the state shall not act to divest the state of its title to property."

Explanation

MRS. MILLER

We've been joined in this, Mr. Tobias, Dr. Asseff and myself by Mrs. Warren as a coauthor. I put this in three sections so it would be easily divisible, and I believe, Mr. Clerk, it is divisible along those lines. In Section 1 where you have the statement of general policy this is the law as it is today, that the navigable water bodies and bottoms, the sea and its shores, the lands, title to which is in the state, are a part of the public domain. I don't think any lawyer here would argue that this is the law. But, this puts it in the constitution rather than leaving it in the Civil Code. I don't think you can have a meaningful policy on Natural Resources until the person who is voting on this constitution knows what is the public policy... what is the public domain. I think it means a great deal to a citizen when he picks up this new constitution and looks at it and sees that he or she has a share in these navigable waters and is entitled to use them, and in the rivers and streams, etc. I think this is an important concept and, as I say, it is the

law. Of course, we know that it is the law that the title to all of these things are in the state or in different agencies and political subdivisions, so this is only a solidifying, I would say, of the public concepts, jurisprudence in the law as it is, but I think it belongs in the constitution as a general statement of public policy. Section (B), I think is the most important thing that we need today. Ladies and gentlemen, I want to show you a book which is in your state library system. It contains the two horror stories that are the greatest horror stories ever written, one is termed Dracula and the other is termed Frankenstein. I want to show you two horror stories that compare with these; this is the Oil Act of 1972 passed without a dissenting vote in the legislature. This act gave to seventeen appointed men the right--the right to contract away the state's oil and gas without public bidding, making the deals behind closed doors, making the deals under the table. The members of that Natural Resource Committee of which, Mr. LeBieu is one, sat up there and said they did not know they had given such unlimited, unbridled authority to seventeen elected officials. Four of those members of the committee set up there and said they would bring acts before the legislature to repeal this authority. I call this a "Dracula", a horror story, because they can suck away the blood as the vampire did in Dracula and take our oil before we even know we're dying as the victims of Dracula died. This state can dry up before we have known it's gotten away from us with this ability to contract the state's oil and gas in which the Mineral Board is doing. This is the Monster Bill. It's called the Monster Bill by the press. It's called the Monster Bill by the members of the legislature. Half of the members of the legislature will tell you and I've seen them on TV saying it, "They really don't know what's in it." Well, read what's in it and I will tell you that it is a Dr. Frankenstein creation because in this bill you give the power to another non-elected, but appointed official to contract away this state's gas without public bidding, without many safeguards and controls. So, between the two you have a Dracula and a Frankenstein, and I am saying that this is not restoring confidence in government that the people expect this constitution to do. I urge you from the bottom of my heart to support the concept that the people of this state will be entitled to know what's being done with our resources, that there will be no closed doors, that there will be no under-the-table contracts, that there will be no siphoning off with private deals and little private companies formed to take advantage of the liberality that the legislature has given to this division of Natural Resources under the Department of Conservation and has given to seventeen appointed men on the Mineral Board. I say your Section 2 of my proposed amendment is the most important thing that you can pass relating to Natural Resources if you want to keep these things for the people. On Section 3-- and I ask for more time, please Mr. Chairman. I know I have exceeded my time.

Vice Chairman Casey in the Chair

MR. CASEY

You have not exceeded your time for explanation, so you still have your time.

MRS. MILLER

Thank you. Then, I'll answer questions after I have finished my explanation, feeble though it might be in the estimation of some. On Section 3--and I will say that this will give rise to questions--"neither the lands or interest therein," that means your mineral and oil and gas interests in the public domain at the effective date of this const... of the passing of this constitution shall be subject to loss through prescription. "The wrongful act, misfeasance, or non-feasance of any public official, agent or agency, or employee of the state shall not act to divest the state of its title to property." We have never had this type of statement or policy. But, let me tell you what happens in the field of oil and gas and mineral rights when you don't act; you lose; every lawyer knows this is the principle of law. So, the way in which public officials can steal and I say they can steal, or they can let their friends do it, they cannot provide the legal services to the attorney general. They cannot provide the legal services to the Mineral Board. They cannot provide the legal services to the Department of Public Works, the Department of Public Works has no legal advisor. By not providing the legal services you keep anything from being done and the state loses by prescription. It's that simple. Let us say that let's give the right of action to the state to go in and claim regardless of the fact that one set of public officials as we had for sixteen years when we had a non-functioning attorney general. By not functioning you can let the state's rights evaporate. I'm saying this is to restore confidence in government by saying to the people of this state, "We are protecting you; we're protecting you from your own elected officials that you thought you trusted when you put them in office, but you found they wanted wealth as well as power."

Questions

MR. BOLLINGER

Mrs. Miller, do you know that I think you have a very, very good amendment, but my question is this: Why do you exclude municipalities in the first paragraph because you include political subdivisions of the state excluding municipalities; I was wondering why you had excluded them?

MRS. MILLER

Well, I was a little bit afraid to step into that zone, I tell you, because you do have so many regulatory agencies in your municipalities and I believe it's such a form of government that you have many safeguards already written into the municipality sections, and that we don't need that additional safeguard. It's the state's property that seems to be so subject to stealing by various methods, and you know there are just as many methods to steal as there is to go in and take somebody's -- you know we think of stealing as you coming in my house and taking my jewelry or taking my silver or something like that. You can steal by not acting; by acting wrongly, by misfeasance or non-feasance. You can steal by making contracts under-the-table that make it profitable for someone in public office to have a little silent partnership in some deal.

MR. AVANT

Mrs. Miller, I'm concerned about Section (C) of your amendment, the last sentence. Now, I don't disagree with what you're trying to accomplish; I think, that it's laudable, but this is what worries me. The state and particularly many of its political subdivisions have been given authority under this proposed constitution and, of course, under the old constitution to acquire property. They also have the right to dispose of that property by sale, lease or otherwise. I'm thinking particularly under the present constitution the parish of Jefferson has been authorized to reclaim certain portions of Lake Pontchartrain. I understand that some of that land that has been reclaimed has been subdivided and people have their homes on that land. Now, we have a very strong public policy in this state and always have had that innocent people who deal on the faith of the public record are entitled to rely on the public records and that sequester equities and things that do not appear on the face of the public record do not cut off the rights of people who in good faith, who are not crooks themselves, have dealt with real property on the basis of the public record. Now, my question is this: If this last sentence is put in there, wouldn't it be then the law that fifty years from now in the hands of some innocent person who had owned, say, a home for maybe fifteen years, that the state or one of its political subdivisions could come in and say "way back there fifty years ago when this property was disposed of there was some crookedness. There was some shenanigans that went on, and therefore, Mr. Innocent Purchaser you don't own that property; it belongs to the state" and to take that man's property away from him; wouldn't that be what would happen?

MRS. MILLER

You say Section (C) or are you talking about Section (D)?

MR. AVANT

The last sentence in Paragraph (C). Now, I agree with what you're driving at, but I'm also worried about people who deal in good faith on the face of the public record, and I don't think... I think we've got to balance the state's interest and we've got to balance the interest of people who deal in good faith on the basis of what is of record in the courthouse. Do you see what I'm talking about?

MRS. MILLER

I see what you're driving at. I do believe that Section (C) gives some of those safeguards that kind of will take care of some of the things in Section (D). Once you have examined titles and things for forming legality you're going to look, if you know this is in the constitution, you're going to look first to the attorney general's approval. You're going to look for all the requirements of notary public duty.

MR. AVANT

Well, suppose the attorney general himself was a crook, suppose he gave his approval and it was illegal and dishonest, and he was in on some sort of crooked deal. How could you ever deal with property on the basis of what's on the public record, if you put this sentence in here, "the wrongful act, misfeasance, or non-feasance of any public official, etc., shall not operate to divest the state of its property?" How could you ever rely on the public record?

MRS. MILLER

Jack, I think that when you're examining a title and you run across the fact that, as we have done with old patents and

this type of thing, that we know when we examine these titles that we have to look for certain things and the one thing we look for is whether there has been a proper handling. I know that when I look at any state lands and leases the first thing you look for is whether the things have been done right on behalf of the state.

MR. AVANT

Well, yes, ma'am, you look at the formal requirements of the law; did they have the proper resolution; did they meet; did they have a quorum? But, you... there's no way you can look to see if somebody was pulling a shakedown or if somebody took a bribe or somebody did something dishonest. I mean you can't find that out on the face of the public record. All you can do is see if the formal requirements of the law were met. I'm very concerned about it.

MRS. MILLER

I don't think it would really pose any problems in looking it would give the state... because before anyone is going to sell something in which they question whether the state ever had an interest they're going to look at whether the state has a right to come and claim that interest. It will just be another step in your title examinations, which I don't think would pose... it would mean that you would clear up the titles before you would proceed any further which is the first thing you do when you're approving a loan for... even for ordinary simple loans like for a house, you make sure that the land has had all the successions opened, all the tutorships opened, and this type of thing.

MR. PEREZ

Mrs. Miller, again, I'd like to... I'd like again to find out why it is that you would include parishes in your... in these restrictions, but not municipalities; what's the difference? They're both agencies of the state; they're both owned property, and wouldn't the courthouse then become a part of the public domain, or every piece of property say that the parish would own, and in the event that it no longer needed it for public purposes under the public... the act with regard to the sale of public lands you would have to advertise it in the newspapers for sale? I just don't understand what we're getting at.

MRS. MILLER

Of course, I really would have no objection to adding municipalities because I think sometimes they do need help from the official agencies handling these. But the reason I include these other subdivisions under state agencies, we have millions of acres of state agency lands and we have millions... well, I don't say millions, but hundreds of thousands of acres of lands that are owned and controlled by your political subdivisions like your school boards, your sixteenth section lands and your police jury.

MR. PEREZ

The main thing you're trying to get at is what you consider to be the abuse by the Mineral Board and compromises made with regard to minerals?

MRS. MILLER

That's right.

MR. PEREZ

Don't you know that there is assigned to the Mineral Board an assistant attorney general who is under the state's chief legal officer and if we have had those problems it is directly attributable to the attorney general's office and I'm trying to find out what we're going to accomplish by Paragraph (B)?

MRS. MILLER

Mr. Perez, what we're locking into the constitution and this is what I meant by the Monster Bill. If you read the gas act that was passed in the special session of the legislature, this act attempts to bypass the attorney general. It is bypassing the chief legal officer of the state. This is what I'm trying to say and maybe I haven't made my point clear, but we're saying in this constitution that no one can be lead down... no legislator can be lead down the primrose path by a popular, effective, knowledgeable, charming governor who can make them pass anything he wants passed.

MR. CASEY

You've exceeded your time, Mrs. Miller.

MRS. MILLER

Two-thirds vote is no control when you have a charming, lovely, governor who can get anything he wants.

MR. PEREZ

Mrs. Miller, don't you realize that just about everybody's

home property, their farms or whatever property they may own originally came out of the State of Louisiana and that this would cast a cloud on a title of everybody's private property because in the event there was any wrongful act, misfeasance, or non-feasance on the part of any public official when that property was divested from the state it would create a cloud on the title to everybody's property in the state?

MRS. MILLER

This is why I put the words in there "effective the date"... the "effective date of this constitution." It at least gives you a point where in your title examination you go back to the point of this 1973 or '74 Constitution. You're not going back all the way to original patents under this. You would go back on original patents and original titles under old constitutions as it stands. This is only the effective date of this constitution, at this particular point. I think what we're doing is saying to the legislature and saying to the administration, "Be careful what you try to put over on us."

MR. PEREZ

No, but isn't it a fact that if, in fact, there has been a wrongful act, misfeasance or non-feasance the title is in fact still in the state so, therefore, your first sentence would have no effect with the second sentence which you include because of the fact that the second sentence would, in effect, say that the title still is in the public domain, if in fact, there was any wrongful act, misfeasance or non-feasance by any public official when it was severed from the domain... from the sovereign.

MR. CASEY

Mr. Tapper, I had you next on the list for a question.
Mr. Tapper, did you want to ask a question?

MR. TAPPER

Mr. Chairman, I think Mr. Perez has covered most of the questions I had except one. Mrs. Miller, I know and I feel that... did you know that you're very well-intentioned in this thing, but it seems to me that you're ... in order to take it out of the hands of seventeen people you may be very well be putting it in the hands of one person. I just ... I don't see what you're accomplishing by it. You're saying that the attorney general would have the ... have to approve anything that was done; is that correct?

MRS. MILLER

Well, this is to keep the attorney general in focus. In focus as the chief legal officer so that he cannot be bypassed by special acts and special creations of other little monsters. We don't know what might come in the future. We sure got this in a hurry without much warning and without much prior knowledge.

MR. TAPPER

You're talking about the so-called Monster Bill?

MRS. MILLER

Yes, sir, a little Monster Bill.

MR. TAPPER

Isn't that the bill that the people throughout the state were overwhelmingly in favor of? Isn't it a fact that what you're trying to do is to knock that legislation out by this constitutional provision?

MRS. MILLER

No, what I'm saying is you can have this kind of legislation. You can have it, but you're going to do it; you're not going to give away any of the rights of the people to say this is going to be open aboveboard. You're going to not bypass your chief elected legal officer of the state who is the attorney general. I do not think you should bypass the chief legal officer and give all his functions and his rights of either approval or rejection to some other group of attorneys who are appointed by an appointed group of men in government.

I did say, Mr. Chairman, this is divisible, it seems to be Section (D) that gives the most difficulty and it is divisible so if they would like to vote on it by sections, I would certainly approve.

MR. HAYES

Mrs. Miller, you seem to be trying to protect the people of the state and I would have to be for that, but now don't you let them loose under Section (B) and at the same time, in (C) say that whatever they do ... regardless to what they do it would be guaranteed and the only way that you can guarantee anything when you have people performing that they have some type of performance bond to recover under. Couldn't people do anything they want to under (B) regardless to this stopgap you have here?

MRS. MILLER

Well, what we've done, (B) is a general statement of policy which is the law now.

MR. HAYES

All right. Now, what I'm saying is people can do wrong under (B); they can do all the things that you don't want them to do under (B). Now, if they do wrong under (B), wouldn't it be... shouldn't we have some type of performance bond to guarantee us a recovery in case they do wrong?

MRS. MILLER

Well, under (C) what we are saying, we're guaranteeing one thing that you don't bypass the chief elected legal officer of the state that he will have a chance to look at it. Two, that you're going to have some type of public notice that this thing is being done; it's not closed doors. Three, you're going... it is saying you're giving to the legislature the duty to prescribe by law for other safeguards.

MR. HAYES

But, there is....

MRS. MILLER

Now, if they want to put before... I think this would be a legislative matter, if they want to put up... if they want to require certain kinds of bonds, etc.

MR. HAYES

That would take care of it if we had some type of performance bond.

MRS. MILLER

Because you do that in your public ... even your leasing, you have all kinds of safeguards in your public lease laws. But, what we do want is to keep everything open. We don't want anything going on behind closed doors, and I do not think you should bypass the chief legal officer of this state in any kind of legislative act. I urge your support of the amendments.

MR. CASEY

Why do you rise, Mr. Velazquez?

MR. VELAZQUEZ

Time to ask a couple of questions.

MR. CASEY

Mr. Velazquez, I have ten people on the list here.

MRS. MILLER

I thought it would be noncontroversial.

MR. DESHOTELS

Mrs. Miller, I too--as Jack Avant expressed--I think that your philosophy and your concept is laudable, but I also have problems with Subsection (C), and I have problems with Subsection (B). I'm considering, particularly, the middle language that you have: "with the approval of the state's chief legal officer." I do work for the school board and for the police jury as assistant D. A. Right now, we have several actions of the school boards and police juries pending for the declaration of lands to be no longer needed for public purposes, for example, for leases that they have with people on school property that they are now leasing that they don't need for education purposes. I see a tremendous amount of work that you would be putting onto the state's chief legal officer in approving all of these leases. Many of them have nothing to do with minerals or natural resources. I'm wondering whether we couldn't--I believe in the prior notice; we have it in our statutes now; and, of course, we want advertisements--but I'm wondering whether the approval of the state's legal officer really has anything to do with it, because he's not aware of what's going on in all of these small subdivisions of government that we have in the state.

MRS. MILLER

Of course, we're dealing here primarily with the natural resources that are an adjunct of the land itself--which I think, primarily, we mean water resources, which is going to be a problem later. Water resources has not been considered yet. We thought we had as much subsurface water to last us as we thought we had unlimited oil and gas; and now, in southwest Louisiana, we're finding out we might be running out of fresh water. We're talking about the natural resources that go with the land. Now, you all have heard a great deal of criticism from me about the Mineral Board, but I will say that once you set up a procedure--and we do have a very fine functioning professional staff, and we have the majority of the board that are trying, really, to realize the

maximum benefit from the state's resources. Now, when it comes to your school boards and your police juries, your political subdivisions and state agency leases, we have a lot of land put up for minerals. Most of the time, these agencies come back to the Mineral Board for help with their leases. They don't know about overrides; they don't know about when they should have releases; they don't know some of these things. They do an incredibly poor job on leasing their own properties most of the time. So, what you're doing is saying that once you've set up the procedure, this is not going to be any difficulty for your attorney general. This is a form in legality matter that is very simply handled once the attorney general has set up the legal staff, as the present attorney general has been trying to do, and the legislature has been giving him more funds now, to try to take care of the state's oil and gas.

MR. DESHOTELS

Mrs. Miller, do you know that I and, I believe, a lot of other delegates here are prepared to vote for the concept that you have in this amendment, in my humble opinion, if we could clear up this language--in particular, the subdivisions--and, also, I think, if we could straighten out and clarify the language in Subsection (C), because I see that it invites a tremendous amount of litigation, especially for title attorneys.

MRS. MILLER

Mr. Deshotels, if you would prepare the suggestions, I might be able to go along with you and withdraw this and resubmit it with any changes. I want to say that Subsection (C) is in the Alaskan Constitution. Now, I think it's important to realize that Alaska's oil and gas interests are being developed some seventy years after ours. They had a chance to look at the mistakes that the other oil and gas producing states have made, and they tried to write into their constitution some of these safeguards. So, I did get Subsection (C) from the Alaskan constitution. I think it's a good provision, and I think it came when those people were wide awake, because we slept almost seventy-two years too long before we woke up and began to do something about it. Alaska may be able to manage its resources better, and this is one of the provisions that they put in their constitution. I would like, maybe, to pass either one or all of these and then let you all come in with amendments that you think would clear up some of the language and maybe accomplish better than I've been able to do, but I think that you could amend it.

I urge your adoption of the amendments. Then, I would help you with any clearing up of the language, if you think that would be necessary.

Thank you.

Point of Information

MR. TAPPER

Mr. Acting Chairman, did I understand that Mrs. Miller wants to withdraw this and resubmit it?

MR. CHEHARDY

Mrs. Miller, is that your intention?

Mr. Tapper asked: Do you wish to withdraw and resubmit the proposal?

MR. TAPPER

Because if she does, I want to wait until she resubmits it before, I speak on it because I don't know how she's going to amend it.

I move for a five-minute recess so that we could let her get started.

Delegate Chehardy in the Chair

[Amendment withdrawn.]

Further Discussion

MRS. MILLER

I've withdrawn the amendment which has been...is before us

with the...I suddenly have developed several coauthors, and we plan to rework this and eliminate some of the things objectionable, and resubmit it later as a later section. I appreciate your indulgences. Thank you.

Personal Privilege

MR. LEBLEU

Mr. Chairman and fellow delegates, I'm really not aggrieved. I wanted to ask Mrs. Miller the question awhile ago, and I didn't get a chance to. She said over the mike awhile ago that when we voted on the monster bill in the legislature, that I said I didn't know I was giving seventeen men the power that we gave them. I'd just like to correct it. I believe--I thought I said--that I was aware that we gave all this power to the commissioner of conservation--one man. I was a member of the House Natural Resources Committee that heard the bill. When we got through with it in our committee, we made a motherhood bill out of it; anybody could vote for it. However, when it passed the House with amendments, the Senate wouldn't concur. It went to Conference Committee, and a lot of these objectionable items were placed back in the bill. Just for Mrs. Miller's information, I voted not to concur with the Conference Committee report.

Personal Privilege

MRS. MILLER

This may be in the nature of a statement more than a question, and I know it might be a little bit out of order to do this, but I do want to correct. What I said is: when we were having a meeting of the Natural Resource Committee of the legislature, before which I was testifying, when the bill came up that was passed in 1972--and I believe you were one of those that signified that you all had no idea; I know several of the members of the committee did. You may not have been there, and I may have been mistaken; but several members of the legislative committee on Natural Resources said that it was on that oil bill in '72 they did not realize they had passed this act giving such unlimited powers to contract away the state's oil without public bidding. You all spent several hours discussing with the Mineral Board about that. My remarks run on the monster bill, and I want to say I was real proud of what the legislators from our Lake Charles-Calcasieu-Cameron area did when it came to the monster bill. You all did raise voices of protest.

MR. LEBLEU

Thank you.

Amendment

MR. POYNTER

Mr. Derbes now sends up the amendment, previously passed out, also proposing the addition of a new section:

"Section 1.1. Management Policy

Section 1.1. The legislature shall provide for the coordinated management and administration of natural resources owned by the state and for the regulation of other natural resources."

Explanation

MR. DERBES

Good morning. Basically, I think that this amendment needs a home in our new constitution; and, therefore, I've put it up for adoption. It is an attempt to state, by way of policy and only policy, that resources should be coordinately managed in a manner provided by law.. It does not create any substantive rights. It is not self-executing. It is not a method by which legislation can be challenged by environmentalists. It merely states affirmatively, in what I hope will be a brief and concise constitutional document, that there is a multiplicity of problems associated with limited and nonrenewable natural resources and that these problems should be resolved by the legislature in a coordinated fashion, in a fashion consonant with good management, and in a fashion which is cognizant of the fact that unless resources are managed in a coordinated and efficient manner for the benefit of all of us, the public will suffer. I suggest to you that it is only a policy statement and, in fact, that is really all we can and should say about natural resources in a constitution. The state of natural resources in Louisiana, as well as the rest of the world, is in such a state of flux that there are very few actual affirmative rights and duties that we can create in this constitution and that we should create in this constitution. It occurred to us, after listening to a great deal of testimony, that there are over thirty-five state agencies--and since the special session of the legislature, over thirty-six state agencies--which are in one way or another concerned

with the management, use, and rights to natural resources. So, I suggest to you that a constitutional document should be one which the legislature should periodically look to for direction; and when it looks to this particular document, hopefully, it will take cognizance of this provision, enunciated in this amendment, which says that "The legislature shall provide for the coordinated management and administration of the natural resources owned by the state and for the regulation of other natural resources." It is a directive to the legislature. It creates no substantive rights. I think it is a justifiable policy statement, and I urge its adoption.

Thank you.

Questions

MR. DESHOTELS

Mr. Derbes, I've read Section 1 that we've just adopted--unanimously, I believe--and if I read Section 1 correctly, everything that you've just said is included in Section 1, including the last sentence which says "the legislature shall implement this policy by appropriate legislation." Second question: don't you think...

MR. DERBES

May I answer that question first?

MR. DESHOTELS

Sure.

MR. DERBES

To a certain extent, you're right, Mr. Deshotels. I think the legislature has ample authority and ample directive under Section 1. I seek only to enunciate, as a matter of policy, in the constitution the two phrases "coordinated management" and "administration of." That's basically what I attempt to do, merely by way of a directive to the legislature. The legislature does have authority under the section we adopted, and I'm grateful for that. I'm merely trying to clarify that resource management should be on a coordinated basis and with efficient administration.

MR. DESHOTELS

If I understand the thrust of your amendment, it's to conserve and protect our natural resources, and allow as many people as possible to enjoy those natural resources. Isn't that correct?

MR. DERBES

Yes, but not to the detriment of private property rights.

MR. DESHOTELS

Of course. If you would be doing that, then you wouldn't be doing it to their interests. Doesn't the language in Section 1, which says that "natural resources shall be protected, conserved, and replenished insofar as possible" with the prior language that the "aesthetic and quality of the environment shall be protected," cover everything that you've said--in fact, in more detail than you've said it?

MR. DERBES

You may take that position--and correctly so. I'm trying to merely enunciate two additional policies, particularly one of coordinated management. I don't disagree with you entirely.

MR. JENKINS

Mr. Derbes, the last phrase of your amendment says "and for the regulation of other natural resources." When you talk about regulation, the regulations that the legislature might pass could only apply to people. You can only regulate people, can't you? You don't regulate natural resources. Isn't that correct?

MR. DERBES

Well, to the extent that natural resources would only be affected in terms of the way they are used or owned by people, yes. But, I would remind the convention that there is nothing implicit in this amendment which in any way disturbs the private property rights or gives any further effect to the police power of the state. The individual's rights, as clearly stated in the Bill of Rights and elsewhere in substantive law, are still available to him. I'm just trying to say that when the legislature goes about the process of regulating and administering natural resources, they should do so on a coordinated basis.

MR. JENKINS

Well, you know, I'm not so sure that the legislature has authority to regulate everything in the state. Can it, for instance, regulate crops? They're natural resources. Sunlight? Timber? Sand? Gravel? Are all those things subject to regulation now, or are we granting it by this amendment of yours?

MR. DERBES

The challenge to any regulation of the resources that you refer to would be one in which the police power of the state, which is implicit, would conflict with the rights of the individual private property owner, and they would be resolved in court--with or without this amendment. I don't think that this amendment would give any further authority to the state; it would merely direct the implementation of existing authority--if you understand the subtle difference.

MR. JENKINS

If your real goal is to coordinate and manage, wouldn't you really be better to put a period after the word "state" so that you can coordinate and manage the "administration of natural resources owned by the state (period)"? Wouldn't that accomplish your purpose?

MR. DERBES

Well, it would to a certain extent, and then it wouldn't to a certain extent. If one is trying, for example, to encourage oil exploration, one would make certain provisions to give incentives therefor, in order that there might be enough oil for the benefit of all people. If one were trying to encourage crop planting and harvesting, one would tend to do that. The same with recoverable resources in the streams and on the lands. It is merely a directive, Mr. Jenkins, and I do not believe, candidly, that it creates any additional substantive rights of the state vis-a-vis the individual.

MR. MUNSON

Mr. Derbes, you and Delegate Jenkins just touched on this, but isn't this a mandate to the state to regulate other natural resources, which could be agricultural crops? You are mandating them to regulate other natural resources.

MR. DERBES

Well, first of all, it's arguable whether or not crops are indeed natural resources. They are something that is created by the act of man. In other words, he plants the crops, and he harvests the crops.

MR. MUNSON

He doesn't necessarily plant trees.

MR. DERBES

I beg your pardon?

MR. MUNSON

Tree farming is an agricultural crop, and they're not necessarily planted on a tree farm. That's an agricultural crop, and it's a natural resource.

MR. DERBES

Well, to the extent that they may be renewed by the act of man, Mr. Munson...

MR. MUNSON

But, you're regulating under this. Aren't you mandating the legislature to regulate?

MR. DERBES

What I'm doing, Mr. Munson, is I am trying to anticipate, as I think might be brought home by the problems of society that we've reached at this point in time, that there very well may be an era of scarcity in this country, where various types of natural resources are indeed very much needed and, yet, are not available--both for the producer and for the consumer--and I'm trying to direct the legislature to regulate them in a coordinated manner so that they might be available.

MR. MUNSON

One other question, Mr. Derbes. We discussed this at length in the committee, as you know, and that is: we have in here "there shall be a Department of Wildlife and Fisheries; there shall be a Department of Conservation; there shall be a Department of Forestry and a forestry commissioner." Are you trying to consolidate these agencies into one?

MR. DERBES

No, Mr. Munson, and I wish you wouldn't give the convention that impression...

MR. MUNSON

I'm asking a question. I'm not giving them anything.

MR. DERBES

I'm certainly not trying to do that, to the extent that...for

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example, we might have a provision in the Judiciary Article which says there shall be a judicial system; but, by the same token, we create certain constitutional judgeships. We may create, in this particular proposal, certain constitutional agencies; and, to the extent that they are created and sanctioned in this constitution, they could not be coordinated by the legislature or, in any way, diminished in their power by the legislature.

MR. MUNSON

Let me read the first part of your one-sentence amendment: "The legislature shall provide for the coordinated management and administration..." Doesn't that mean consolidate them, in order to administer?

MR. DERBES

No, I don't see that, Mr. Munson. What I do see, however, is once certain agencies or commissions are sanctioned by this constitution, the legislature would be required to work around the agencies that are sanctioned and empowered by this constitution so as to best coordinate and manage the natural resources. It would be a given, a limited, factor which would have to be taken into consideration; but, in conjunction with the constitutional agencies, the legislature should take steps to manage, in the most efficient possible manner, the natural resources of the state.

MR. HAYES

Mr. Derbes, you have this numbered Section 1.1. It appears to be a part of the natural resources of the state. Is that correct? Wouldn't the line 20 take care of what you have--16 and 20--take care of what you have in Section 1.1? The natural resources of the state would be the same as the...you said the resources owned by the state or other natural resources, and you say the legislature shall implement the policy...implement this by appropriate legislation. You seem to be covering the same thing again. Isn't that generally the same thing?

MR. DERBES

Mr. Hayes, Mr. Deshotels asked the very same question, and I answered it for him; I'll answer it for you. Basically, I do think that the first section is a good, solid section; and I think, to a great extent, it serves the purpose that I would like to serve with this constitution. I just want to enunciate a policy of coordinated management and administration of natural resources, to emphasize that point to the legislature. That's really all we need to say about natural resources in this state. I think when the legislature looks at this constitutional document for directives that that should be one of the directives given to it.

MR. WILLIS

I do believe, Mr. Derbes, that because of my inattention to the questioning of Mr. Hayes--and, perhaps, you referred to some other--that my question will be redundant. Nevertheless, do you not think that from a grammatical, literary, or language standpoint, Section 1 does the same thing as your proposed Section 1.1? Is that the question that has been asked of you before?

MR. DERBES

Twice.

MR. WILLIS

Well, perish the thought. Let me ask you this question, then, in projection of the question. Isn't it a fact that if you would put the word "coordinated" and "administered" in the ukases set forth in Section 1, vis-a-vis the legislature, that you would accomplish your purpose? I think that what you are suggesting is that, because the crucial words "coordinated" and "administered" are not in Section 1, that you want to put Section 1.1. Don't you think that if you were to put--insert--"coordinated"...you understand my question now?

MR. DERBES

I understand your question perfectly, Mr. Willis, and I completely agree with you. However, as a practical matter, I did not want to disturb in any way the committee proposal, which is now Section 1. I didn't want to jeopardize its passage because I think it's very important.

MR. WILLIS

I understand. I embrace the principle, as you do; but, if you want to embellish it, I don't think that there would be any aversion here if, as a matter of fact, the addition or the insertion of the words "coordinated and administered" would do the embellishment.

MR. DERBES

Mr. Willis, I have to disagree with you there, because I think

some of the questions that have been asked this morning indicate that there is opposition. That's the very reason why I chose not to offer it as single-word amendments to Section 1. Instead, I chose to offer it as a sentence supplement to Section 1.

MR. WILLIS

You can't quarrel with strategy.

MR. DERBES

Thank you. I urge your adoption of the amendment.

Mr. Chairman, I think it's been adequately explained. I don't see any particular reason to take up any more of the convention's time. I'd rather not have my time enlarged to answer additional questions. I would move the adoption of the amendment.

Further Discussion

MR. JACK

Mr. Chairman and members, I hate to oppose a fellow member of the committee; but, listening to Mr. Derbes, as I understand his explanation, this is covered in Section 1. However, I don't think it is. I don't like--I'm like Mr. Munson--that part for the regulation of other natural resources; that has a "shall" in it. I know the legislature, of course, don't have to do what we say they "shall" do--like, for years, we never reapportioned--but, this is to me a dangerous amendment: "the regulation of all other natural resources." As we decided by the committee, a corn crop is a natural resource--or any other kind of crop--not just... most people think of minerals and oil and those things. Now, if we pass this and the legislature takes us literally, it might be an urging, on our part, for them to come up with laws and regulations to plow under--like the federal government did--to plow up crops, not plant them. I can envision with some people could even think of a Louisiana soil bank--all those kind of gimmicks. I think we have a good statement of policy here in Section 1. I'm on this committee. We're in a new field on the natural resources and environment. We set out a good policy for the legislature to go into and to study. We shouldn't be drawing hindering things here, as a constitutional convention, in this proposal on this section, near as much as we would on certain other ones where we are dealing with things that we've known of and legislated on for years. A lot of this is a new field. I don't know exactly what he's talking about when he says: "The legislature shall provide for the coordinated management and administration of natural resources." How far will that go? So, I say this is too indefinite, could be very dangerous. For that reason, I'm "agin" it. Thank you.

Questions

MR. O'NEILL

Mr. Jack, I feel the same way you do, but let me ask you a couple of questions I didn't get to ask Mr. Derbes.

How would you think he would define natural resources? Do you have any idea?

MR. JACK

How he would?

MR. O'NEILL

Well, how it would be defined under his amendment?

MR. JACK

Oh! Well, if it's too indefinite...but natural resources, the way we feel in the committee and he is on it--it covers agriculture. That's why we've got in there about the commissioner of agriculture and those things.

MR. O'NEILL

Well, so....

MR. JACK

It's just everything is a natural resource that...unless it's like a man manufactures something. You can plant it, a crop, and that's a natural resource.

MR. O'NEILL

So, under this amendment, then, the legislature could start regulating who grew what, and in what quantity, and everything else. Right?

MR. JACK

Just like back during the depression. The federal government told you how much cotton to plow up; how much to plant; certain people in that Federal Soil Bank getting rich--probably some of them wouldn't know how to plant cotton. Now, I don't

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want to see under here...here someday telling us under Louisiana Legislature what cotton to plant, to plow up, and if you don't plant it, you've got a Louisiana Soil Bank. I just don't know. It's no reason for this thing. We're in a new field on natural resources. Let's just, as he told you, Mr. Derbes, I understand, he said that the legislature, and I think he's correct, can do what they want whether this was here or not, providing it was under the police power. Of course, if it deprived a person of his due process of law or equal rights, or all those things, they couldn't do it unless it was of the police power.

MR. O'NEILL

O. K. Thank you, Mr. Jack.

MR. JACK

Let's leave good enough alone at this time.

MR. BURNS

Mr. Jack, do you think this amendment adds enough to the policy statement contained in the committee proposal that would justify adding another paragraph to this constitution?

MR. JACK

I don't...well, I'm not a bug on what's statutory and what's constitutional. It increases the length. But, what I'm saying, it could be a very dangerous thing, Senator. That's the way I'm afraid of it.

[Previous Question ordered. Amendment rejected: 22-74. Motion to reconsider tabled.]

Chairman Henry in the Chair

Reading of the Section

MR. POYNTER

Section 2. Natural Gas; Public Policy; Interstate and Intrastate Pipelines

Section 2. Natural gas is hereby declared to be affected with a public interest, and natural gas produced in Louisiana shall be made available for utilization within the state as well as to the citizens of other states.

No intrastate natural gas pipeline or gas gathering line shall be in connection with an interstate natural gas pipeline, and no interstate natural gas pipeline shall be connected with an intrastate natural gas pipeline without a certificate of public convenience and necessity issued by the Public Service Commission after due application for such connection and hearing thereon.

Explanation

MR. LAMBERT

Mr. Chairman, fellow delegates, I would like to mention first of all that I have an amendment to offer on line 32 which makes a change in this provision brought about by the legislation enacted in the special session, so that there is no conflict, so that this provision, if you should decide in your wisdom to adopt it, which I certainly hope you do, it does not make some of the legislation adopted in the special session unconstitutional.

Basically, what this provision does is to recognize that Louisiana has a problem with a natural resource, namely, natural gas; that we produce about thirty percent of the natural gas that's used in this country; that we have a problem today keeping enough of this gas within the boundaries of our state, so as to enable full utilization within Louisiana. This concept was developed by Mr. Tom Leigh who is not here because he is ill. Were he here, he would be speaking on this matter at this time. Basically, what he suggested and what our committee is attempting to do is to recognize in our constitution that natural gas is declared to be affected with the public interest, and that it should be made available to citizens of this state as well as to citizens of other states.

It also places in the constitution language to prohibit the interconnection of interstate pipelines with intrastate pipelines, and vice versa, the obvious reason being because under recent rulings in the federal system, if you inject interstate gas, which is subject to the jurisdiction of the Federal Power Commission, into an intrastate line, which this state does have jurisdiction over, then you convert the intrastate line to an interstate line. We feel that this is something that is most important to an energy producing state as Louisiana is. In order to do everything within our power to preserve as much natural gas as we can for utilization within the boundaries of this state, we felt that we should put a policy statement in this constitution declaring that natural gas

is affected with the public interest and it should be made available to our citizens as well as to citizens throughout the north and eastern portions of this country. As you know, the problem we have today, is that much of our gas, as much as eighty percent, is being piped outside of Louisiana under old-term contracts, to the northern, eastern, the midwestern states, because of Federal Power Commission jurisdiction over these lines, we have no control over this.

This concept was developed prior to the special session. Some of these ideas were included in Senate Bill No. 9. I mentioned earlier that I had an amendment that I planned to offer to delete "Public Service Commission", and in its place, provide, "as provided by law." The reason for that being the special session of the legislature gave the powers and duties, regulation of intrastate gas, basically, natural gas, to the Commission of Conservation so as to avoid a conflict in our constitution with the legislation that was enacted in the special session. I'm going to offer that amendment.

Questions

MR. JENKINS

Louis, you say here that natural gas is affected with the public interest. What does that mean?

MR. LAMBERT

It means that it is a natural resource that the public of this state has a vital interest in, and without which the State of Louisiana, its economy, would be greatly jeopardized.

MR. JENKINS

We have an interest, as individuals, in many things, don't we? The soil of the state; the water of the state; the corn grown here; the cotton. We don't say that those things are affected with a public interest in our constitution, though, do we?

MR. LAMBERT

No, we don't. I don't understand what's the point of your question.

MR. JENKINS

My point is, why do we need to say that?

MR. LAMBERT

Because we have a problem. We have...we are involved in an energy crisis. For years, obviously, there has been a lack of programming on a long-range basis of the natural gas in our state which has turned out to be something that is very valuable. At one time, it was not. At one time, it was sold for four cents a thousand cubic feet. Now it is selling for a dollar a thousand cubic feet. In order to recognize this situation, we felt that this time, it would be most appropriate, since it is obviously a depleting natural resource, that we should recognize it in our constitution and, hopefully, lend more creditability and weight to any attempt by the federal government to further take over jurisdiction of all of the natural gas in this state. You know, Mr. Jenkins, that that could happen. That was one of the reasons that the special session of the legislature was called--in an effort, hopefully, to take steps in our state to show the Federal Power Commission, and the federal government, that although we do have this gas in Louisiana, we don't have so much of it that we do not concern ourselves with a program to conserve it and utilize it to the best of our ability.

MR. JENKINS

Isn't the high price of gas in Louisiana doing much more to conserve it than the low interstate price of gas is doing? Isn't the free market in Louisiana doing more to conserve it than the regulated market interstate?

MR. LAMBERT

The problem, as I understand it today, one of the main problems with the natural gas, is because it's under long-term contracts at a very cheap price. The producers don't have the incentives and the inducements to drill. This is what we were told. This is what we've been told.

MR. JENKINS

They don't interstate, but they do intrastate because there's no price regulation. Isn't that true?

MR. LAMBERT

That's correct, Woody, but if, I know you realize that once the Federal Power Commission takes jurisdiction over a line, or a reserve, a field, they never lose it. When that old contract expires, we can't take jurisdiction. They...the arm of the Federal Power Commission never leaves. If they negotiate new contracts, the FPC has jurisdiction in that area. So, as you know, what we

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attempted to do--and I don't know if we're off the subject or not--but in the special session of the legislature, it was an effort to set up a vehicle whereby we could hopefully induce private enterprise to develop new gas finds and set up a mechanism whereby we could transport the gas. We don't have that now, as you know. We have about five major intrastate lines in this state. Without these lines, the sugar mills could not grind.

MR. JENKINS

Isn't it true in your second paragraph you prohibit anyone who owns an intrastate gas pipeline from connecting with an interstate gas pipeline?

MR. LAMBERT

That's correct.

MR. JENKINS

Isn't it true that there's no incentive now for anybody with an intrastate gas pipeline to connect with an interstate gas pipeline, because if he did so, his gas would sell at one-half to one-tenth what it would sell by keeping it intrastate? So, why do we need to put this in here?

MR. LAMBERT

Are you familiar with the United Gas Pipeline Case--I think they call it the Green System--where an entire pipeline system was converted from an intrastate into an interstate system? The FPC took jurisdiction over what was formerly an intrastate system because of the injection of natural intrastate gas, I'm sorry, interstate gas, into an intrastate line? Are you familiar with that? That's the reason for it.

MR. JENKINS

Yes. But, we can't control the decisions of the FPC.

But, isn't it true that there's no reason, whatsoever, economically, for someone to connect his intrastate line with an interstate line, because he is going to lose money if he does so?

MR. LAMBERT

Well, if the federal government, through Nixon, President Nixon, would decide to deregulate natural gas, the price of natural gas at the wellhead, then, obviously, it may be advantageous to interconnect because the interstate gas might be selling at a higher price than intrastate gas. We don't know that, you know.

MR. DESHOTELS

Mr. Lambert, you agree that Paragraph 2 of Section 2 is now obsolete, don't you?

MR. LAMBERT

It's certainly not obsolete. In fact....

MR. DESHOTELS

Well, as far as the legislature's last act, you put someone else in charge of that, haven't you?

MR. LAMBERT

Yes, that's....no one was in charge of it. No one was in charge of it. That was a constant....there is presently, in the Louisiana Constitution, as you know, a prohibition against regulation of sales of intrastate gas directly to industries by the Public Service Commission. But, according to our present constitution, the Public Service Commission could not do this, you see?

MR. DESHOTELS

I understand that. But, what I'm saying is that your last legislative expression would go contrary to the provisions of this proposal. Isn't that right?

MR. LAMBERT

That is correct. That is why I am offering the amendment to delete the Public Service Commission.

MR. DESHOTELS

My second question is, your amendment, if adopted, would make Paragraph 2 a legislative matter, would it not?

MR. LAMBERT

You could say that. But....I think you go back to the old argument as to what is constitutional material and what is not. We discussed this in our committee, and Mr. Leigh felt strongly that it should....that it's so important, that, and it could, if there's no controls over this, it could convert intrastate gas to interstate gas. He felt that it was so important, and the committee agreed, that it should be placed in the constitution.

MR. DESHOTELS

Well, Senator, I would agree with you, that if you designate a specific body with that authority to issue certificates, then you have constitutionalized it. But, if you leave in there the certificates and the granting of authority to do this, it would be left up to the legislature, then you have actually taken away the constitutional sanction over it, haven't you?

Wouldn't it be better to just leave this whole thing out since the legislature has already covered this subject, I think, quite well?

MR. LAMBERT

Leave what out?

MR. DESHOTELS

The whole paragraph--the second paragraph of Section 2.

MR. LAMBERT

Well, let me just say this, the legislature, the special session, took this material from this proposal, basically. This proposal had been printed before the special session. Some of the material that was included in the special session came out of the Natural Resources Committee. This was one of the provisions that....

MR. DESHOTELS

You will agree that the legislative....the last legislative session, and particularly its legislation, was pilot legislation--was new--in a new field so far as Louisiana was concerned.

MR. LAMBERT

I would just say this that it could be argued both ways on the second paragraph--that it could be placed in the constitution, or it does not have to be placed in the constitution. But, it is something that it is so important, it affects whether or not natural gas is converted from intra to inter, and we lose control over it within the state; we cannot regulate it. It's regulated by the FPC, that this, because of the significance of the language, that we should put it in our basic and fundamental law which is our constitution.

MR. DESHOTELS

I agree with you....

MR. HENRY

The gentleman has exceeded his time, sir.

Amendment

MR. POYNTER

Amendments sent up by Mr. Derbes as follows:
Amendment No. 1. Page 1, delete lines 22 through 32 both inclusive in their entirety. On page 2, delete lines 1 through 2, both inclusive in their entirety.

Explanation

MR. DERBES

Ladies and gentlemen, if I may have your attention for a minute, let me make a couple of points.

The Committee Proposal essentially enunciates the policy with respect to natural gas. I don't think....first of all, I think that that policy is amply covered in Section 1 of the Committee Proposal which you have already adopted. That's my first point.

My second point is a rather technical one. If you will listen to me carefully, I think I can clarify it for you. Does the very fact of putting a public policy statement with respect to natural gas only give....in the constitution....give Louisiana a greater claim to natural gas? I think not. I think not. I think that amply the legislature can provide for public policy with respect to natural gas.

Third: I think that in this particular area which is changing rapidly, we should not in any way put in specific restrictions on the supply and sale of natural gas in the constitution. That can be properly covered by the legislature.

Finally, I'd like to call your attention to something which I regard as a basic problem of substantive law: that is in the first paragraph of the committee proposal in Section 2. It says, "Natural gas is hereby declared to be affected with the public interest, and natural gas produced in Louisiana shall be made available for utilization within the state as well as for the citizens of other states."

I say to you that this arguably creates a substantive right in the people of other states to demand an allocation of natural gas produced in Louisiana.

For example: Can a natural gas pipeline company domiciled in

Tennessee, or Mississippi, or even Maine, or New York come into this state and argue that under the first paragraph of Section 2 of the Committee Proposal, they are entitled to an allocation of Louisiana natural gas? I think that is a very important consideration. Although I do not necessarily agree that it is clearly required by the language, I think it illustrates--it illustrates the complexities of the problem which make the problem insoluble by constitutional provision. Therefore, I say to you, No. 1, that public policy regarding natural gas, indeed a matter of great consideration to the people of this state, and particularly at this time, is amply covered in Section 1 of our Committee Proposal as you have already adopted it. And that furthermore, the complexities of the problem indicate to me that it is something to be left to the legislature.

By way of further argument, let me suggest to you that natural gas is of such concern to the people of this state, that it is an area where the legislature can be clearly trusted. The legislature, in my opinion, will do nothing--will do nothing--to destroy the availability of natural gas to the people of this state. It is a matter of great concern. The legislature, in my opinion, will do the job required.

Therefore, I suggest to you that all of Section 2--all of Section 2, that referring to the Public Service Commission and the certificate of convenience, and that proposing that natural gas be affected with the public interest--is something which should be covered in legislation, which has already been covered in the legislation of the special session, and which should not be--should not be, since it is a complex and difficult matter--covered in this constitution.

I urge your adoption of the amendment which has the effect of deleting the entire section.

Questions

MR. STINSON

Mr. Derbes, I notice that you are on this committee, and one thing that puzzles me, is why there is no mention of oil?

MR. DERBES

Mr. Stinson, let me explain it to you as best I can. Mr. Tommy Leigh of Monroe is an expert in this area. He, as all of us, is concerned with the availability of natural gas. He proposed the adoption of this section. Out of thoughtfulness, consideration, and courtesy to him, we reported it out. Unfortunately, he is not here to defend it. But, frankly, I think that there are many, many, natural resources in this state which have to do with food and fibre, and transportation and heating, which we could all itemize and say that they are all declared to be affected with a public purpose.

MR. STINSON

I know Mr. Leigh is an authority, but even authorities can overlook things. It seems obvious to me that it's just as important to apply to oil, because the special session, didn't they say they are going to build refineries. In the refineries, they are not to use natural gas. That's to use oil.

MR. DERBES

Mr. Stinson, I agree with you completely. I suggest that my amendment is the solution as far as this Constitutional Convention is concerned.

MR. HAYES

Mr. Derbes, did you know I agree with you that I can see no need for the rest of this after Section 2, guaranteeing the other states gas, that's there is any need to put this in the constitution at all?

MR. DERBES

Now, wait a minute, Mr. Hayes. My amendment deletes all of Section 2....all of Section 2.

MR. HAYES

Absolutely. I agree with that. Because after you put in that natural gas is hereby declared to affect public interest, it should be for this state as well as others, then there's no need to put it in the constitution.

MR. DERBES

No, that Section 2, Mr. Hayes, I delete the language that you just read.

MR. HAYES

I understand that you are deleting the entire thing. For that reason, I would like to see it deleted.

MR. DERBES

Well, maybe we agree with each other for different reasons. But, in any indication, to make it clear, we delete....this amendment deletes all of Section 2.

MR. O'NEILL

Mr. Derbes, I want you to know this is a favorable question. I'd like to ask you a question about....

MR. DERBES

I'm relieved, Mr. O'Neill....

MR. O'NEILL

....about the section as it's written.

Now, if it requires, it says "shall be made available for utilization within the state as well as to the citizens of other states." Now, take a natural gas supplier within the state who sells his gas only within the state. Wouldn't this be....couldn't this be an abrogation of his contract if he were made to sell gas outside the state, and supply it outside the state?

MR. DERBES

As I explained to you in my argument in support of the amendment, I think that....technically....and it is a technical consideration, this creates a substantive right in out-of-state consumers to walk into Louisiana courts and say that under the Louisiana Constitution they are entitled to an allocation of our natural gas. I think that that's very dangerous.

MR. O'NEILL

Well, you have a good amendment, Mr. Derbes.

MR. DERBES

Thank you, Mr. O'Neill. I appreciate your support.

Further Discussion

MR. LAMBERT

Mr. Chairman and fellow delegates, I rise in opposition to the amendment proposed by Mr. Derbes. First of all, I would like to point out his primary objection appears to be that he is concerned that the language in this....in Section 2 would make gas possibly give a right to natural gas from within Louisiana to citizens of other states. The obvious answer to that is that we discussed that at great length in committee. The obvious answer is that if we passed a law saying that no other....or put in our constitution that no other states can use Louisiana's natural gas, the obvious step by the federal government would be to nationalize the natural gas in Louisiana, and they would take over all of our intrastate lines. So, obviously, what we tried to do, was to come up with language that could, hopefully, meet a constitutional test. We didn't want to discriminate in the area of the interstate commerce clause. So, this was taken into great consideration. The language was carefully worded so that, hopefully, we would be enacting something that it could not be said by the Federal Power Commission, the federal government, the federal courts, that we were discriminating against the rights of other states to use the natural gas in this state.

I may feel, and you may feel, that they should not have the right to use it. But, unfortunately, you have about nine energy producing states, gas producing states in this country. Four of them export gas, and four of them, the balance of them, import gas. They don't produce enough to use within their borders so they import it, and one of the states that they import it from, obviously, is Louisiana. So, the point that Mr. Derbes makes, as far as I'm concerned, is exactly what we considered. If we did what he's saying, of course he argues to delete the entire section, but assuming we did not and we changed the language to read that natural gas produced in Louisiana cannot be used by anyone else, obviously we would invite the federal government to come in and take everything over. That's why we didn't do that. The answer to that is obvious.

Secondly, I want to point out once again, Mr. Leigh, you might say, was the architect of this particular provision. Mr. Leigh has been involved in natural gas litigation for years. I'm sure there are other attorneys in this hall today that also have been. He felt he was not alone. I felt, and the majority of the members on the committee felt that, if we are going to do everything within our power to demonstrate to the people of Louisiana that we want to make sure that they have a sufficient supply of natural gas to use domestically; and when you talk about food items and fibres and you're talking about sugarcane grinding; you're talking about the rice dryers; you're talking about soybeans, etc., we felt that it might give us a stronger leg to stand on in court--natural gas litigation--if we had something in our constitution that said

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natural gas is declared to be affected with the public interest. That was the purpose of it. I ask you for the reasons that I've just stated to oppose this amendment.

Thank you.

Further Discussion

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, I rise to oppose this amendment. Now, let me first go into some of the reasoning behind the amendment. I must say that Mr. Derbes has some merit--and I say some merit--in his opposition to the use of the phrase "within the state" as well as the "citizens of other states." I think that can be cleared up with a very simple amendment.

Now, as to the question of the necessity of having this in the constitution, it has been asked if we declared by the legislature, as we have done, that it is affected with the public interest, would it not carry the same weight?

Well, my answer to that question is, "No." Certainly a constitutional provision carries more weight than a legislative provision. We need this public interest provision so that we can then...it ties directly into Paragraph 2 where we require a certificate of public convenience before these lines can be interconnected. I think that this is a very necessary thing.

Now, as far as the...Mr. Derbes' argument about allocation, yes, it could be allocated. But I don't think you are going to find the State of Louisiana, even as it is written today, allocating any more than is absolutely required. I don't think this would require any percentages to out-of-state users.

In answer to Mr. Jenkins' questions awhile ago about why would any interstate line connect with an intrastate line? The whole problem in this state, in all of the hearings that we had in the Natural Resources Committee, is not primarily the gas or the availability of gas. Our problem in the state of Louisiana is transportation of the gas that we have. If you cannot transport that gas inside of the state to purchasers and users of the gas, then your only alternative is to ship it out of state where there is an abundance of purchasers. This is a very essential thing that we would keep it in the constitution.

I do hope that Mr. Stinson will go with his amendment to include oil. I cannot see where we should distinguish between gas and oil. They have almost equal importance. But, I do feel like that one of the questions that Mr. Deshotels asked, "If this was not, by putting as provided by law, if this was not legislative." What we have done, we have put a constitutional prohibition against interconnection without a certificate of public convenience. The only thing legislative is to determine what body should have a hearing, and issue that certificate, or deny that certificate. That does not make Paragraph 2 legislative. It is an absolute constitutional prohibition subject to the legislature determining what body shall have the hearing. That is all. That is the only legislative aspect of Paragraph 2.

I ask that you defeat this amendment. I will, and I'm sure others will have amendments that may help it a little bit and answer Mr. Derbes' questions about the within or without the state. But, I think it is imperative that we have this in the constitution so that we will have more influence, more effect, on legislation pertaining to gas. We, as I said, the hearings that we had in the House and at the Resources Committee, indicated the transportation in Louisiana is the problem more than the supply.

I hope you will defeat this amendment.

Questions

MR. NUNEZ

Mr....Representative Drew, I'm sort of concerned because this... if this is in conjunction with what Senate Bill 9 did, or the Energy Commission we created, it looks...it seems to me to be the same thing. But, then, on the bottom down there, you have the"without a certificate of public convenience or necessity issued by the Public Service Commission" which seems to be in conflict with Senate Bill 9, and in conflict with the new Energy Commission to regulate....

MR. DREW

Sam, there's an amendment that will be offered that will delete Public Service Commission and put as provided by law. That's the point I was talking about awhile ago. The only legislative part of this article--everything is constitutional except the fact that the legislature designates the body to hold a hearing and issue or deny the certificate.

The Public Service Commission under this amendment that will be offered, will be deleted.

MR. NUNEZ

O. K. We are going to delete the Public Service Commission, right?

MR. DREW

It will be offered. I don't know what the convention will do. But, it will be offered.

MR. NUNEZ

That was one of my objections to the whole thing. But, the other one. Do you feel in your opinion that we absolutely need this in the constitution the way it is here?

MR. DREW

I think it definitely strengthens the position of the state in the natural gas deal....

[Previous Question ordered.]

Closing

MR. DERBES

I'd just like to say one thing in closing. There are many, many items upon which we all depend for our livelihood--that is for our sustenance, for our transportation, for our food and consumption. Many are considered by Louisiana law to be fugitive items; that is, items which are not ordinarily subject to private ownership until they are reduced to possession. This may seem irrelevant to you, but I'm driving at one particular point, and that is that these...that items that are in this classification are oil, gas, other minerals...other minerals. Items like fish, for example, and game quadrupeds which may be needed for public consumption. I suggest to you that if this constitution is to be futuristically oriented, if we are making a constitution for the people of this state, and we are going to effect only natural gas with the public interest, then, perhaps, we ought to reconsider and affect all of these materials with the public interest--affect oil, affect other minerals, affect fish in the streams, affect game and non-game quadrupeds which certain people...have occasion to consume for their very sustenance. All of these things...this argument that Mr. Drew is advancing, and which Senator Lambert is advancing, is applicable to all such fugitive commodities. If you are going to single out natural gas and affect it with the public interest just because at this particular time in our history, there is a definable scarcity of it, then you are not writing a constitution for the people of this state for future generations. I suggest to you that scarcity of minerals, of foodstuffs, of oil and gas, is something which can be amply handled by the legislature which changes in its complexities from time to time. The best way to handle it in this constitution, is not to handle it at all.

I urge your adoption of the amendment.

Question

MR. ABRAHAM

Jim, you've made some good points. First of all, on your point of making gas available to citizens of other states, could not that be handled by simply saying it's made available for utilization within the state and insofar as possible to other citizens, or maybe to say that it shall be allocated in the best interest of the citizens of the state?

MR. DERBES

The basic principle that we have frequently run afoul of in our deliberations in this convention is to try to do something with... in one deft blow, in one fell swoop, as it were, that's going to benefit all the people. When you do it in a constitution, you have to do it succinctly, and you have to do it clearly. When you create a substantive principle like the one Mr. Leigh is proposing, here, in this committee proposal, you're going to run afoul of certain complexities which are going to change from time to time. To answer your question specifically, yes, perhaps we can do that. Perhaps we can clarify the language a little bit, but it's not going to help matters very much. What Mr. Drew is suggesting to you is that when the State of Louisiana goes to court and tries to keep natural gas in this state, is it going to be of any significant value or interest to the court that the policy on which the state is relying is enunciated in the constitution of this state or in the legislation of this state?

[Amendment rejected: 36-62. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Bollinger. All right, Mr. Bollinger sends up a floor amendment. There needs to be one correction made to it.

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Amendment No. 1. On page 1, delete lines (and here's the correction, instead of 22, make that 28) delete lines 28 through 32, both inclusive, in their entirety and on page 2, delete lines 1 and 2 in their entirety.

Again, as passed out, it would have the effect of deleting on page 1, 22 through 32, but the gentleman wishes to change it, prior to introduction, to read: "delete lines 28 through 32," to have the effect of leaving the first paragraph of this section in the proposal.

Explanation

MR. BOLLINGER

Mr. Chairman, fellow delegates, I was rather surprised at the vote on the Derbes amendment. I think we ought to stop and look at what we're doing in the constitution. The points were brought out and brought out well that the only reason this natural gas section is in here is because the state is having a crisis with natural gas. The legislature had a special session and tried to deal with these problems, which is the proper way the state should operate. But, we're going to constitutionalize a section on natural gas; and in ten years, we might have trouble with fish, so we're going to have a constitutional amendment that says the fish are going to have to stay in the state--and shrimp, and crabs, and oysters, and cattle, and horses. Where are we going to stop? This amendment is going to take some of the section away and just leave a public policy on natural gas. If you insist on having something in the constitution on natural gas, let's just use our heads a little bit and remember that we're not legislators, we're not trying to solve the everyday problems of the state, but, we're here to solve some of the future problems and to provide a constitution that's going to last, we hope, for years into the future.

I move the adoption of the amendment, and yield to any questions.

Questions

MR. MUNSON

Mr. Bollinger, are you saying, in effect, that you believe that gas should be co-mingled between intrastate and interstate lines?

MR. BOLLINGER

No, sir, Mr. Munson, I don't. But, what we do in this constitution cannot override what the public. . . what the Federal Power Commission is going to dictate to us. It's legislative materials and should be dealt with by the legislature.

MR. MUNSON

No, the public. . . I mean, the commission--the national board--after it has been co-mingled, then they say it is interstate and cannot be regulated by us. They don't have any regulation that it shall be co-mingled. What this section does that you are eliminating would prohibit the co-mingling of natural gas between intrastate and interstate.

MR. BOLLINGER

Well, I think that Mr. Jenkins. . .

MR. MUNSON

The Federal Power Commission has no jurisdiction over it.

MR. BOLLINGER

Mr. Jenkins brought up the point that it's obviously not attractive for anyone to comingle gas. There's not an incentive or anything. There's no incentive to put intrastate gas in an interstate pipeline because of the price structure.

MR. MUNSON

It's an incentive to the people up east, isn't it?

MR. BOLLINGER

Of what?

MR. MUNSON

Up east, other parts of the country.

MR. BOLLINGER

Yes, they. . .

MR. MUNSON

Wouldn't they like to see it all comingled?

MR. BOLLINGER

Yes, they would, but we're talking about Louisiana's gas with Louisiana's production. The price up east is a lot cheaper than when it's controlled within the state.

Point of Order

MR. JACK

I have a point of order. As I read it, this is exactly like the Derbes amendment, to knock out the same thing.

MR. POYNTER

Mr. Jack, he has changed that amendment, sir, to make it strike out only lines 28 through 32 on page 1. So, it would leave that first paragraph in.

MR. JACK

Well, I didn't get the official notice or hear it.

MR. POYNTER

I had said it, but I. . .

[Previous Question ordered. Record vote ordered. Amendment rejected: 24-71. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments sent up by Delegate Lambert, and Senator De Blieux has asked to be a cosauthor of that amendment.

Amendment No. 1. On page 1, at the end of line 32, after the word "issued" delete the remainder of the line and on page 2, at the beginning of line 1, delete the words "vice commission" and insert in lieu thereof the words "as provided by law."

Explanation

MR. LAMBERT

Mr. Chairman and fellow delegates, what I'm trying to do here is to delete the Public Service Commission. The reason for that is that the authority--first of all, the Louisiana Constitution that we operate under today, prohibits the Louisiana Public Service Commission from regulating. There's a specific prohibition that was adopted during. . . in about 1967 or 1968. I think it was called a part of the Industrial Inducement Incentive Right to Profit Laws. It prohibited the Public Service Commission from regulating the sales of intrastate natural gas to industry. It did not, however, prohibit some other agency from regulating the sales of intrastate natural gas. That is why, or one of the reasons, I assume, that in the special session of the legislature, in Senate Bill No. 9, this authority was given to the commissioner of conservation. So, if the Public Service Commission were left in this provision, and this had been drafted before the special session of the legislature--and that's why the amendment is necessary--Public Service Commission needs to be deleted. Otherwise, I feel, and a number of other people feel that it would have the effect of crippling some of the legislation that was passed in the special session because the authority to do this was given to the commissioner of conservation. It was done. . . that was done in legislative act, and if the legislature sees fit, that could be changed. But, what I'm asking that you do is to go along with the removal of the Public Service Commission and just put "as provided by law." That way, there would be no conflict.

Questions

MR. SINGLETARY

Senator Lambert, do you know that as a member of the committee I think you have a good amendment?

MR. LAMBERT

I can't hear you, Mr. Singletary.

MR. SINGLETARY

As a member of the committee, I think you have a good amendment.

MR. LAMBERT

Thank you.

MR. DE BLIEUX

Senator Lambert, isn't it necessary that we have this amendment in order to be sure that the legislation we passed during the special session is valid legislation?

MR. LAMBERT

That's correct. I think it would have the effect of making much of the legislation enacted in Senate Bill No. 9 unconstitutional,

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because it would be a direct conflict with -- if this is adopted-- this new constitution. I'm assuming it will be.

MR. DE BLIEUX

If the situation should ever arise where we wanted the Public Service Commission to regulate it, it could be done by legislative acts.

MR. LAMBERT

It certainly could. It leaves it up to the legislature, and it does not preclude the Public Service Commission from having this authority. However, it is presently given to the commissioner of conservation.

MR. DESHOTELS

Senator Lambert, I assume that at the time the committee adopted the particular portion of this section, it was adopted only after debate and consideration. Isn't that correct?

MR. LAMBERT

Much.

MR. DESHOTELS

All right. At that time, it was the committee's feeling that the Public Service Commission, being a body elected throughout the State of Louisiana, would be the most appropriate body to do. . .to issue certificates and have hearings. Wouldn't you say that was correct?

MR. LAMBERT

At that particular time, yes. The reason that Public Service Commission was put in there was because later on in the Public Service Commission Proposal, which this committee had jurisdiction, the prohibition against the regulation by the Public Service Commission of sales and intrastate natural gas to industries was deleted. That prohibition, if it were adopted later, would no longer be there. That was one of the reasons that it was placed here.

MR. DESHOTELS

Your committee, at that time, considered and evidently prepared a proposal for the convention that would require hearing before issuance of a certificate of public convenience and necessity. Isn't that correct?

MR. LAMBERT

Yes, and they still provide for that. That has not been deleted.

MR. DESHOTELS

Well, you're deleting. . .with your amendment, you're saying that it will be "as provided by law." Isn't that correct?

MR. LAMBERT

No, I'm not.

MR. DESHOTELS

All right. It says, "issued. . ."

MR. LAMBERT

Read it to me; you have it in front of you.

MR. DESHOTELS

Well, my. . .I think we can go on to the next question. But, I. . .

MR. LAMBERT

It says this: "without a certificate of public convenience and necessity issued as provided by law after due application for such connection and hearing thereon."

Yes, that's all. In other words, you still have the hearing, etc. In other words, it does not, at all, do away with that, certainly not. That's not. . .

MR. DESHOTELS

My final question is: I'm a little confused with your philosophy that you would seem to urge the convention to be adopting a provision to accommodate the legislature, and more particular, its last legislative expression rather than to accommodate what you, at the time of the consideration of this provision by the committee, considered to be, I assume, a public interest of the state.

MR. LAMBERT

I'm not asking you to do that. I'm only pointing out to you that if we do not. . .if our committee would have had a chance to meet, and this proposal had not already been introduced, hopefully, we would. . .Mr. Deshotels, you want to listen? Hopefully, we

would have made this change before it got to the floor. We were asked not to cover this until the special session met. We had no idea that the special session--just exactly what was going to be done. We had some inclination, but not completely and totally. But, I. . .go ahead.

MR. DESHOTELS

Of course, the legislature could appoint anybody that they want to to issue these certificates. . .

MR. HENRY

The gentleman has exceeded his time.

MR. LAMBERT

I can't hear you.

[Previous Question ordered. Amendment adopted: 76-14. Motion to reconsider tabled.]

Recess

Vice Chairman Casey in the Chair

[Quorum Call: 74 delegates present and a quorum.]

Amendment

Amendment No. 1. On page 1, delete lines 22 through 27, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 2. Oil; Natural Gas; Public Policy; Interstate and Intrastate Pipelines

Section 2. Oil and natural gas are hereby declared to be affected with a public interest, and oil and natural gas produced in Louisiana shall be utilized to the best interest of the state."

Explanation

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, as mentioned this morning, it was the opinion of many in the convention that oil should be included, as well as gas. We have inserted that in this amendment, and because of the opposition to the "without the state," we have changed that. . .I have changed that to read: "The oil and natural gas produced in Louisiana shall be utilized to the best interest of the state." I think that will stand up. I think it better states the intention of this paragraph of Section 2.

I move for the adoption of the amendment.

Questions

MR. ROEMER

Harmon, as I understand it, oil and natural gas on private lands, or from private lands are owned by the people that own said lands, or who pump that oil and gas. Now, we're going to say in this constitution that their rights are going to be abrogated, and this oil and gas is going to be "utilized to the best interest of the state"? I mean, is the state just going to take over all of the oil and gas? Is that it?

MR. DREW

I don't think it could be interpreted that way. I can't see at all how it could be interpreted in that manner.

MR. ROEMER

Well, I just want you to realize. . .I'd hope you understand that I think that oil and natural gas produced in Louisiana should be used for the best interests of those that produce it. That's my feeling, in a free society.

MR. DREW

Well, that's the reason I said "shall be utilized to the best interest of the state." Now, Buddy, I think you have to read this in connection with Paragraph 2, where you then have your certificate of public convenience to prevent interconnections.

I move the adoption of the amendment.

MR. SINGLETARY

Harmon, you used the language, "shall be utilized to the best interest of the state." I'm in agreement with the first part of

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your amendment. I think it's a good amendment. But, you change the language a little bit to say "shall be utilized to the best interest of the state," rather than say "it shall be made available for utilization within the state." I think that I would, personally, prefer that language. Would you comment on that?

MR. DREW

Well, I mean, I would have no objection to an amendment like that, of course, when . . . maybe I'm in error, but when I speak of the state, I am speaking of the people of the state that make up the state, is what I'm speaking of. I think that's the general interpretation of that usage of . . . I think if you say "state," you are certainly speaking of the people of the state.

MR. SINGLETARY

Well, Mr. Roemer says that he would prefer this language, "available for utilization within the state." I think that would tend to work more towards correcting the problem we're trying to correct, rather than the language you use. I'd appreciate it if you'd . . .

MR. DREW

I would . . . like I said, Alvin, I would have no objection if you wanted to offer an amendment to so read, but I think it, in effect, says the same thing.

MR. PEREZ

Harmon, why did you include oil in your statement, because the problem which confronts the state, today, is the control by the Federal Power Commission with respect to the transportation of natural gas in interstate commerce? But, I can't figure out why we want to include oil, which is not so controlled, and would make it appear as if, again, as Buddy Roemer said, this may be something which could be nationalized, so to speak, as I read this language.

MR. DREW

Mr. Perez, right at this time, I don't think, as you've said, what you've said is absolutely correct. I don't think that there's, necessarily, any critical. . . I mean, oil is not as critical as gas, at this stage. But, I mean, it appears to me that it will probably be just as critical in the very near future, if what we read and what we hear is correct. But, I don't think that there's any intention or that this could be interpreted as socializing oil and gas to where the individual rights would be abrogated.

MRS. ZERVIGON

Mr. Drew, just to clarify your language a little, who decides what is in the best interest of the state--the legislature?

MR. DREW

Well, I think you have to . . . of course, that is one of their obligations, Mrs. Zervigon. At the same time, you have to read it in connection with Paragraph 2, where we're speaking of the . . . specifically of interconnection to let this gas get out of the state.

MR. MUNSON

Harmon, would you consider temporarily withdrawing your amendments and to say "shall be made available to utilization within the state," as it is in the proposal?

MR. DREW

I'd be glad to, Bob, since there's some objection on that with . . .

MR. MUNSON

One other question before you do that, then, Harmon. You did intend to leave out that last part, "as well as to the citizens of other states"?

MR. DREW

"Other states?"

MR. MUNSON

Yes, as it is in the committee. . .

MR. DREW

That was the purpose--main purpose--of this.

MR. MUNSON

To add oil, and then to leave out that portion that refers to the citizens of other states?

MR. DREW

Well, I mean, that's what I was trying to get out. But, I

think if you put a period "." after "within the state," I think maybe you would run into a little problem there, Bob.

MR. MUNSON

You don't have any objection, then, to say, "to be made available for utilization within the state," which is what you say you intended to do, anyhow?

MR. DREW

With permission of the Chair, I'd like to withdraw it, temporarily, and make that change, Mr. Chairman.

[Amendment withdrawn. Quorum Call:
72 delegates present and a quorum.]

Amendment

MR. POYNTER

On page 1, line 26, immediately after the word "utilization" strike out the remainder of the line and strike out line 27 in its entirety, and insert in lieu thereof the following: "to the best interests of the citizens of the state."

Explanation

MR. DREW

Mr. Chairman, what this does . . . the committee has asked me to delete "oil" because this deals specifically with gas and, if necessary, we can have a separate section on oil if it is necessary. What this does, it does away with the provision referring to "without the state," and it will be utilized to the best interest of the state. I think that cures most of the objections that I've heard from the floor.

Point of Information

MR. PEREZ

Point of information. Would the Clerk read the entire provision as it would now read?

MR. POYNTER

Yes. It would read as follows: First two lines would be the same: "Natural Gas is hereby declared to be affected with a public interest, and natural gas produced in Louisiana shall be made available for utilization." Then, you pick up with his text which is: "to the best interests of the citizens of the state."

Questions

MR. J. JACKSON

So, I can fully understand the context of your amendment. I know your previous amendment restricted it to the state, "made available to the citizens of the state." I just want to make sure in my mind that what you are saying that if it's in the best interest of the state to provide gas to the citizens of the state and at the same time provide gas to the other parts of the country, that would be a legitimate interest working, I mean, legitimate process working in the interest of the state. But, on the other hand, if presently what's happening now where you got gas going into the interstate system that if other parts are getting gas and Louisiana, let's say, is not getting his fair share then your amendment would kind of restrict that activity from continuing.

MR. DREW

What this does, Johnny, is pretty much what you said but the way the committee proposal was written it would appear to me there was an obligation to furnish state . . . I mean, gas out of state. I don't think we can prohibit interstate transportation of gas; under this, it does not prohibit interstate but says "it shall be utilized to the best interests of this state."

If there are no further questions, I move for the adoption . . .

MR. KEAN

Mr. Drew, as I appreciate your amendment, it would be the responsibility of the legislature to determine what would be utilization and the best interests of the citizens of the state?

MR. DREW

I think it would have to be their obligation to take care of it.

MR. KEAN

So, if the legislature felt it desirable to abrogate contracts,

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reallocate supplies under this provision this would give them the full authority to do so?

MR. DREW

Mr. Kean, I don't think that we could ignore constitutional provisions against abrogation of contract. I don't think it would go that far, although, the monster bill does go that far. I was the chief proponent because of the abrogation of contracts in the original bill.

MR. CONROY

Mr. Drew, addressing ourselves to future contracts that might be entered wouldn't the provision, as you've got it now, make any future gas contract subject to judicial review to determine whether or not it was making gas available to the best interests of the citizens of the state? You have....

MR. DREW

David, I never say that there won't be a lawsuit, I know there can be lawsuits on anything. I think...I rather doubt that there would be a serious problem of a lawsuit to questioning the best interest. The whole purpose of this section is to try to provide a means to where we can keep as much gas in Louisiana as possible. I think we are opening the door for that type of legislation, giving them a basis for that type of legislation subject to your normal constitutional restrictions.

MR. KEAN

Mr. Drew, following up Mr. Conroy's question, if we adopt this paragraph as you have suggested, and we had a contract which was going to be executed sometime after this constitution was adopted, would that contract not have to be subject to this provision and, therefore, would the parties ever really know whether they had a binding contract because either the legislature or the courts might determine some change in that contract was necessary and the best interest of the state?

MR. DREW

I think they would have as much grounds to stand on, Mr. Kean, as any utility that's authorized to take action by the Public Service Commission, I mean, that certainly is supposed to be operating in the best interest of the state....citizens of the state, I don't think there would be any distinction there.

MR. LANDRUM

Mr. Kean, since we are living in changing times, your amendment does give the legislature the right to make such changes when needed that it also protects the rights of the people of Louisiana. Is that right, sir?

MR. DREW

That's the purpose of the amendment.

MR. JENKINS

Mr. Drew, I'm trying to understand what the legal effect of your amendment would be, if adopted. We already have under the Property Rights Section of the Bill of Rights the provision saying that the police power of the state is protected and the right to regulate the use of property is protected. What additional authority does this give to the legislature, if any?

MR. DREW

I would think it would set a policy, Woody, I mean that's about all we can do in the constitution is set policy and it would certainly give the legislature, I think, to try to take the proper action to insure as much gas used in this state as possible; I think it gives them some constitutional foundation for that action.

MR. JENKINS

So, your view is then that this gives the legislature no additional authority?

MR. DREW

No, it is not, I didn't say that.

MR. JENKINS

Well, what authority does it give the legislature?

MR. DREW

I said, I think it gives them the foundation for taking the action or possibly some of the action that we took in this past special session.

MR. JENKINS

Can you be more specific and tell me exactly what kinds of

authority? Does it give them authority, as Mr. Kean said, to abrogate contracts or what does it give?

MR. DREW

No. I don't think it could be interpreted to abrogate contracts, Woody, but I think you have to read the section as a whole. We need the public interest in order to have the authority for the certificate to prevent interconnections and that is a serious problem, it's created already serious problems on the thing. I think this is a directive to the legislature to see that these matters are handled to our best interest and that's all.

MR. JENKINS

But, I still don't understand. Does this or does this not give any additional authority to the legislature? If so, what specific authority does it give?

MR. DREW

I think it's a directive, maybe not authority, but I think it's a directive, Woody.

MR. KEAN

Mr. Drew, if the first paragraph which we are dealing with at the moment is, as you say, designed to tie in with the second paragraph, would you have any objection to having the first paragraph start off with language which would read: "For the purposes of this section" and so forth? So, it would be clear that the two paragraphs...what we are talking about in the first sentence relates itself to what's in the second sentence and is not an independent declaration of policy as you have indicated you didn't intend it to be?

MR. DREW

I don't think it would be such a major change that I would object to it, Gordon.

I move for the adoption....

Further Discussion

MR. LAMBERT

Mr. Chairmao, fellow delegates, I want to make several points once again if I might. First of all, the provision as it stands now, says nothing about abrogating contracts--has nothing to do with abrogating contracts, nothing--that was involved in Senate Bill No. 9. There was a provision in Senate Bill No. 9 which allowed the con...there was, I'm saying, it was taken out. The commissioner of conservation to break contracts so as--I'm going to tell the reasoning behind it as I understood it--to allow old contracts that had natural gas selling for fifteen cents a thousand cubic feet when it's for sale on the market today for one dollar a thousand cubic feet. It would have authorized the commissioner to break the old contracts to let the price seek a competitive level on the open market; this was taken out, there is nothing in Senate Bill No. 9 and that's really not what we are here to consider today, but for some reasons it's been brought up several times. There is nothing in Senate Bill No. 9 now that allows abrogation of contracts. There is a provision, however, that allows the commissioner of conservation to make allocations of natural gas. For example, during grinding season when a sugar mill can't get any gas or soy bean or rice dryers cannot get gas to harvest...completely harvest their crops, there is a provision to allow the commissioner of conservation to go into a line and take up to ten percent only when the governor declares an emergency--that's the way it's set up now. It also would provide for a hospital if they could not get gas or for the town of Opelousas if they could not get gas, for the commissioner of conservation to go into that line and give them enough gas. When you are talking about gas, the sugar mills in Louisiana use one percent of all of the intrastate gas, one percent, that's all you're talking about. I might even point this out that many of the industries involved agreed to that, they did not object to that. They did not want the abrogation of contracts in it which, I agree, was most distasteful. Mr. Kean is very familiar with all of this because he was there during the whole special session. In response to a question by Mr. Johnny Jackson and I saw an amendment along the same lines by Reverend Landrum wherein they basically are concerned, as I understand it, about maintaining gas for Louisiana use first, obviously, that is exactly what we are concerned about. But, if you put language like that in the constitution according to what I have been told by constitutional lawyers, then you are interfering with interstate commerce clauses and it's discriminatory. You see, that was the reason it was worded to make gas available within the state we would liked to have stopped there. But, we realize that if we don't acknowledge that other states do have a right to buy gas under the free enterprise system in this state and that's how they are getting gas now under that system

because they have old contracts. The FPC, however, has come in and taken jurisdiction and they are holding the ceiling down on prices but that was the purpose, Johnny, for putting that in there. Right. I don't think it's critical language, I mean, if it's removed that portion of it, I don't think it really makes that much difference. But, I will say this, that it was carefully worked on and the language was carefully drawn and the committee studied it for a long time, in my opinion, it's worded in a good manner. I would ask you, for that reason, for the reasons I have stated to oppose this amendment because it's just a play on words now that's all we are doing, as far as I'm concerned.

Questions

MR. LANDRUM

Senator Lambert, do you know that my amendment will be withdrawn?

MR. LAMBERT

No, sir, I didn't mean....I just saw it and Tony had asked a question along those lines.

MR. LANDRUM

Yes. Yes. But, I am interested in the Drew amendment.

MR. LAMBERT

Right.

MR. LANDRUM

I do believe that the adoption of that amendment would take care of mine, do you know that?

MR. J. JACKSON

Senator, my concern was basically the concerns that you have. I have no problem whatsoever in seeing to and having the desire that Louisiana gas be given to Louisiana citizens on priority. But, I did not want to at any point suggest, by any ways, that we ought not forget that we are still a part of the country and there are other places who may want to buy gas. I felt very seriously if you kept it to the state with the way the language is presently drawn on the amendment that I just want to very seriously....did that limit the state capacity to sell gas in case there was, let's say, new fields explored and there was a sufficient amount to sell to the rest of the country; so, I was with you.

MR. LAMBERT

O.K., Johnny, let me just say this that I'm asking you to defeat the amendment in an effort to keep the provision intact. But, I will acknowledge this, that it's in my opinion, it's six one way and one-half dozen the other.

Further Discussion

MR. PEREZ

Mr. Chairman, ladies and gentlemen of the convention, I would hope that you would pay attention to what I'm about to tell you because I think we are embarking upon the possibility of making some very serious errors which could have far-reaching effects upon the most important single industry in the state, an industry which provides for over half of the economy of this state. I know that in addition to this amendment there will be many others which will attempt to put in the constitution certain types of restrictions. I want to plead with you, "Please, let's don't cut off our nose to spite our face. Please, let's realize that this question of the producing and marketing of oil and gas is a very complicated subject matter and one which has been studied by the legislature, by the courts for many, many years." I do not believe that it would be in the best interest of the people of this state for us to have someone to come up here and to offer an amendment or a series of amendments which could have such far-reaching effect upon the biggest industry of the state, the industry that supports over half of the economy of this state. So, therefore, I would plead with you, "Please, let's not adopt any amendments the total effect of which we would not know and realize." We must recognize that the oil and gas industry is the most heavily taxed industry in this state, that it supports our public school system as well as many other areas of our state, our highway program and so forth. So, I ask you again, please before we vote to put anything more into this constitution, let's know what we are talking about; let's be sure that what we are doing is not going to seriously hamper or hamstring the most important industry we have in this state. So, therefore, I reluctantly rise in opposition to the amendment which is on the floor now and would generally ask you, "Please, let's vote down these amendments unless we are totally sure that they are not going to do such great violence."

I'll yield to questions.

Questions

MR. ROEMER

Mr. Perez, I want to commend you for your comments, I agree with them wholeheartedly. Don't you think that the danger....the convention at this point on this particular subject that the subject now is making headlines daily across the nation and there's a lot of excitement and some panic over this matter. I think what you are asking us to do is let's not panic in writing a constitution that's going to be dadgum difficult to change; isn't that what you are saying?

MR. PEREZ

That's exactly correct, and I might comment that I am strongly in favor of that part of the committee proposal which would attempt to hold within this state the natural gas produced within the state. I am very much in favor of lines 28 through 32 and so forth and going onto the second page so that we can attempt to try to stop the connection by these interstate pipeline companies of the intrastate gas lines with the interstate gas lines which have the effect of putting them under the jurisdiction of the Federal Power Commission, that's the real battle, that's what we are really talking about. Can we find a way to hold natural gas in this state? I think that the committee has done a commendable job on lines 28 through 32 and onto the next couple lines of the next page in making an attempt to try to hold the natural gas in this state and that should be our objective and our main and sole objective, but let's don't get too far beyond that, please.

MR. BURSON

Mr. Perez, along the same lines of your remarks, do you see any intrinsic value in putting broad, sweeping policy statements about oil and gas into our constitution that would be of any particular advantage, let us say, over or against the statute that could be passed by the state legislature if we got into court with the federal government on this question.

MR. PEREZ

That's the reason I made the statement that I was in favor of lines 28 and so forth because it would be a positive attempt to try to keep the gas within the state now only to the extent that is necessary to show a public purpose for that would be the only reason that I would see that we should have to have any provision in the constitution concerning the oil and gas industry.

MR. O'NEILL

Mr. Perez, in other words, you would call this a bad, bad, bad amendment, right?

MR. PEREZ

No. I don't say it's necessarily a bad, bad, bad amendment--and by the way, you'll notice I haven't used that term in a long while because there are so many others that have picked up on it. But, I'm just cautioning the delegates, let's don't even adopt them if we think they are fair amendments because we are dealing in a very sensitive area and one which could cause headaches to this state for many years to come.

Further Discussion

MR. CONROY

I, too, with regret, join in opposing this amendment and carrying forward the idea which Mr. Perez mentioned to this convention. I want to point out specifically why I regard this particular amendment as dangerous. It's my understanding that the intention of this amendment is to authorize certain action by the legislature, but the amendment does not say that. The amendment simply says that "natural gas produced in Louisiana shall be made available for utilization to the best interests of the citizens of the state." Now, I believe that any attempted future contract dealing with the sale of gas would be subject to judicial review to determine whether or not that contract was entered and made available for utilization of the best interest of the citizens of the state, the gas sold under that contract. I think that, again, carrying forward Mr. Perez's ideas we have to be very careful in this area of dealing with oil and gas, tremendous sums of money are involved in these contracts. People are willing to litigate over the slightest thing when as much money as is involved can be involved. I, too, urge extreme caution in watching the precise language that's used because this will be the subject of extensive litigation in which people are willing to fight at great lengths over the significance of a single word used in the document such as this; so, I urge you to reject this amendment.

[Previous Question ordered.]

Closing

[Amendment reread. Record vote ordered.
Amendment rejected: 43-51. Motion to
reconsider tabled.]

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, I respect the formidable opposition to this amendment, but let me bring one thing to your attention that each of those speakers have overlooked in their argument against the amendment. I don't believe that I have ever seen, and I hope that I shall never see, a constitution of this state or any other state that makes it obligatory upon the State of Louisiana to furnish gas to out-of-state consumers and that was the sole purpose of this amendment maybe it's not perfectly drawn, maybe it is open to question, I don't think there is many that's not open to question and lawsuits. But, when you say "shall be made available for utilization to citizens of other states," are you not making it an obligation of this state to furnish out-of-state consumers? That question was raised earlier, that was the purpose I was hoping that I could solve something rather than stir up a hornets nest. But, I think that the provisions of this amendment--I'm sure there will be other amendments to come behind it--but I think this--and in answer to Mr. Johnny Jackson's question--this amendment does not prohibit interstate transportation of gas, Johnny, that's....there's no way to interpret it in that manner. What it does it says it's to be used in Louisiana when it's to our interest....only thing but...at a lot of times and you may in the future see where it would be to the interest of the citizens of this state to sell to interstate pipelines if the price gets right. We are not going to be forever bound by these low prices--I sincerely hope we are not. I think we would make a serious mistake if we left Paragraph One of Section 2 to read so it would be made available, "shall be made available within the state as well as to citizens of other states." We have no obligations to the citizens of the other states to furnish them with gas if we have use for that gas here. Like I said earlier, on one of the other amendments, our biggest problem in the State of Louisiana is transporting gas. If we can get the means, the pipelines--the intrastate pipelines--to transport the gas, we can use so much more of what we are producing. I don't think that this amendment is going to do any harm. I think it is going to remove the obligation to force us to ship gas out of the State of Louisiana. I sincerely hope you will adopt the amendment.

Questions

MR. JONES

May I ask you a question, Mr. Drew?
Mr. Drew, with that word "shall" and we owe an obligation as one state of fifty to the United States and if it was divided on a population basis assuming we have four million people in our state over two hundred million in the nation, we would be entitled to about two percent of our gas; isn't that correct?

MR. DREW

Just about.

MR. JONES

...ninety-eight percent would go to the rest of the nation?

MR. DREW

That's right, and we are making it mandatory that we....

MR. JONES

All right. Now, if they divided it up on the basis of need, probably ninety-nine percent would leave the State of Louisiana and one percent would stay here. One other thing I would like to point out to you as I am in favor of your amendment. We are trying to give a policy to the state as a direction to the legislature to keep our gas in Louisiana without doing violence to the Commerce Clause of the United States Constitution. All right, suppose we may be on close grounds here but assuming that we are wrong, and we are in violation of the Commerce Clause of the constitution, we are right back to the same effect of the amendment, I believe, of Mr. Derbes which is to eliminate lines 22 through 27; isn't that correct and, our protection would be under the general policy statement under Natural Resources? So, in effect, we really haven't lost much but at the same time that we have directed from this constitution to the legislature what we believe to be the sincere public interest of this state; is that correct?

MR. DREW

I think that's correct, Mr. Jones, and let me add this. I think the purpose of state government is to look out for the interest of the citizens of that state. I don't think this word to the best interest of the citizens of this state is any radical change of government's obligation at this time.

MR. JONES

I agree.

Amendment

MR. POYNTER

Amendment sent up by Mr. Singletary reads as follows: (words have been imposed around a little bit unusually...) On page 1, line 25, after the word "interest" place a period "." and delete the remainder of the line and delete lines 26 and 27 in their entirety.

Explanation

MR. SINGLETARY

Mr. Chairman, ladies and gentlemen, all this amendment does is put a period after the word "interest" on line 25, and it deletes the rest of that paragraph. It doesn't change Paragraph 2 at all so that with this amendment the committee proposal would simply read "Natural gas is hereby declared to be affected with a public interest." I move its adoption, and if there are any questions, I'll yield.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Delegate Avant sends up amendments reading as follows: Amendment No. 1. On page 2, between lines 2 and 3, insert the following: "Subsequent to the effective date of this constitution no petroleum as natural gas produced from lands or water bottoms owned by the state or its political subdivisions shall be marketed outside the state of Louisiana except that in excess of the needs of citizens of the state and manufacturing concerns in this state. This provision shall not impair the obligations of any contract in effect on the effective date of this constitution. The legislature shall implement this Section."

MR. AVANT

Mr. Chairman, there's a typographical error in the amendment. The word "as" on line 2 between the words "petroleum" and "natural" should be the word "or". I would like to withdraw the amendment to make that technical correction.

[Amendment withdrawn and resubmitted
with correction.]

Explanation

MR. AVANT

Mr. Acting Chairman and fellow delegates, I'm satisfied that there's substantial opposition to this amendment. I have been told that I offer it only because of my ignorance of the oil and gas industry, and that I just don't know what the score is, and I just don't know what's going on, and this is a terrible, terrible amendment. I don't buy all that. I think I do know what's going on, and I think I have some understanding of what has gone on in the past. Now, this is a very simple amendment. I think you have to first look at this thing and try to analyze it. In the first place, you have the question of production of oil and gas from lands that are owned by the individual citizens of the state. They belong to John Brown or Pete Smith or somebody else. I don't think that you can without running into serious federal constitutional questions--particularly with respect to the interstate commerce clause in the federal constitution--put too many restrictions on what can be done with that oil and gas because you can't legislate and tell a citizen that he does not have the right to engage in interstate commerce if he wants to engage in interstate commerce. Now, on the other hand you have the question of oil and gas that is produced from state-owned land or land that is owned by the political subdivisions of the state. That oil and gas belongs to all of us; it belongs to all of the citizens of the state. Now, we can't do anything about contracts that have been made in the past. I believe and--of course, this is the law-- if you make a bad deal, you just made a bad deal; you've got to live up to it. But, we can do something about the future, and I think that the people in this state are in this position. We are much like the farmer who is in the position of producing food and there's a scarcity of food, but he has tied himself up, although he's producing beef and pork and eggs and all kind of foods, he has tied himself up and got himself in a position where he doesn't have enough food to feed his own family. Well, if he's made valid and binding contracts, he has to live up to them. He may have been a foolish man for having made them, but I'll tell you one thing: if he

continues in the future, and when the next crop year comes around makes those same contracts, he's a real fool; he's a real idiot. Now, all that this amendment says is simply this: that with respect to oil and gas that are produced from state-owned lands that in the future the legislature is mandated to see to it that those contracts, those leases, make some provision that before our gas and our oil can be marketed outside of this state, that we have enough to take care of the needs of the citizens of this state and the industries of this state. I submit to you that there are no constitutional questions involved in that at all because in the first place I know of no way that the federal government can tell us that we've got to lease our land for oil and gas exploration and production at all. I don't think they can tell us you've got to lease your land, State of Louisiana; you've got to go and produce that oil and gas. As long as it's our land and our oil and our gas and we haven't messed ourselves up with some contract in the past--I'm talking only about the future--we'll have a certain constitutional right to say that if you want our oil and gas and you want the right to produce oil and gas from our land, you've got to agree that when you go to market your share of it, that we've got first claim on it for the needs of the citizens of this state. This has absolutely nothing to do with any type of contract that any private individual or private corporation might want to make with respect to their property. This is the state's property, and I think that we would be derelict in our duty if we didn't say that in the future we're going to see to it that insofar as this very, very important natural resource is concerned, we're going to insure that the citizens of this state, to whom it belongs, have enough of that basic resource for their own needs before we start selling it or disposing of it to strangers. That's all it does; it specifically says that it will not impair the obligations of any contract that is in effect at the time this constitution may become effective. I don't try to spell out the details; we leave it up to the legislature. This is simply a simple constitutional mandate to make sure that the legislature, the mineral board, the governor, all of the powers that be or political leaders of the state know how the people of the state feel.

Questions

MR. STINSON

Mr. Avant, you said from land or water bottoms owned by the state....

MR. AVANT

Or its political subdivisions.

MR. STINSON

Well, in view of the fact that the state has sold a lot of land, patented it, and reserved the minerals, don't you think--you just say if they own the land and the water bottoms--don't you think where they own the minerals? Because, a lot of it, they don't own the land or the surface....

MR. AVANT

Well, I would accept an amendment to add that, Mr. Stinson. I just didn't think about that. That would be other oil and gas that belongs to the state--the right to take it belongs to the state.

MR. STINSON

If this is adopted, I think that should be in there.

MR. AVANT

Well, I wouldn't object to that, and I think you're certainly correct. I just didn't think of that.

MR. JENKINS

Jack, I'm trying to take your concept and apply it to real life situations and see how it works. Let's suppose that I have a mineral lease...

MR. AVANT

You, Woody Jenkins, has got one?

MR. JENKINS

Yes.

MR. AVANT

Okay.

MR. JENKINS

On state-owned lands, and I produce that oil; I extract it: now I want to sell it: let's suppose it's natural gas.

MR. AVANT

All right. Now, let me ask you one other question. Did you get that lease and acquire it before this constitution became in effect?

MR. JENKINS

No, after.

MR. AVANT

After. Okay.

MR. JENKINS

Now, I have different buyers for this gas, and to make it a really competitive situation, we'll assume that there's no price controls on gas. Now, I have offers outside the State of Louisiana to buy it, say, for fifty cents per thousand cubic feet from one person and seventy-five cents per thousand cubic feet from another and a dollar per thousand cubic feet from another. Now, there's people in Louisiana who'll pay, say, twenty-five cents a thousand cubic feet, twenty-eight cents a thousand cubic feet. Do I have to sell it to those people simply because they're in the State of Louisiana?

MR. AVANT

If you signed a contract to that effect which you would have to do after the effective date of this constitution, the legislature would have to in some way implement this provision, and if you signed that contract, yes, sir, you sure would have to live up to that contract just like we have to live up to the foolish ones we've signed in the past.

MR. JENKINS

So, in other words, if there were any person in the State of Louisiana who would pay any price at all, I would have to sell to that person ahead of someone out of the state.

MR. AVANT

Well, Mr. Jenkins, this is not...the purpose of this amendment is not to gig anybody. It's not to take advantage of any of these big oil companies; it's only to ensure that the people of this state retain enough of their oil and gas to heat their homes, to operate their sugar mills, and to take care of their other needs. I'm perfectly willing to leave it up to the wisdom of the legislature, of which you are a member, to work out the details because I don't think that details can be worked out in the constitution. This is a simple statement of principle, a mandate to you as a member of the legislature and the other members of the legislature, to the Mineral Board, to the Department of Conservation, to any other state agency or body that has anything to do with this particular subject matter to say that, before you can take our oil and gas which belongs to the people of the State of Louisiana and take it out of the state, you are going to have to make sure that it is surplus and that we have enough left to heat our homes and run our industries and run our sugar mills.

MR. JENKINS

What you are saying here, that you can't sell outside of the state that which is produced inside the state unless it is excess over the needs of the citizens of the state.

MR. AVANT

That is correct.

MR. JENKINS

But the concept of needs is a subjective thing. What one person needs, he's willing to pay forty cents a thousand cubic foot; what someone else says he needs, he's only willing to pay five cents a thousand cubic foot.

MR. AVANT

Mr. Jenkins, that is no more difficult concept to deal with than the idea of public convenience and necessity, which the courts and the Public Service Commission deal with all the time. You can't go out here and open up a freight line and carry freight from here to Monroe just because you want to do it. You have to get a certificate of public convenience and necessity. There are many concepts in our law that are not just nailed down like two times two equals four, and I'm willing to leave it up to the wisdom of you and the fellow members...your fellow members in the legislature to work this principle out in a fair and equitable fashion to accomplish my goal. My goal and my aim is to make sure that the people of this state who own untold quantities of oil and gas--it belongs to them; it's managed by them for them by a group of elected and appointed public officials--is to make sure that those people have enough gas to heat their homes, to

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cook their food, to grind their sugarcane, to dry their soybeans, and that sort of thing. I don't want to be like that farmer who's starving to death because he sold everything he produced, and it's scarce, and he can't buy it, and he and his family are just up a creek.

MR. JENKINS

Just one more quick question, Mr. Avant. Isn't it true without your amendment it is left up to the legislature, and that the only thing your amendment does is further hamstringing the legislature?

MR. AVANT

No, Mr. Jenkins, that is not true. It's been left up to the legislature since the first oil well or the first gas well was brought in in this state. The legislature has not done anything about it for one reason or another; perhaps because they never thought it was going to happen--until just recently. It's like closing the door when the horse has done left the barn. We want a mandate to continue that good practice, and I think that it is good practice. I'm not familiar with all the technical details of the bills, but I think that what the legislature was trying to accomplish was a good thing. This is to make sure that that remains the policy of this state, and that some future legislature can't go back to the old way and forget the people of the state and give all our oil and gas or market it here, there and yonder without thinking of the needs of the people of this state.

MR. VELAZQUEZ

Mr. Avant, wasn't the interstate commerce clause in the Federal Constitution put in to prevent the restraints that took place under the Articles of Confederation?

MR. AVANT

The interstate commerce clause of the Articles of Confederation, I think so, perhaps. Yes.

MR. VELAZQUEZ

Okay. Then, any time you restrain the total volume of a product in interstate commerce, have you not gone against the interstate commerce clause?

MR. AVANT

No, I don't agree with that, Mr. Velazquez. If I'm sitting here in Baton Rouge, Louisiana and making shoes and making them by the hundreds of thousands of pairs, there's no law in the world that can be passed to tell me I've got to sell those shoes in interstate commerce. If I can sell them all in Baton Rouge, Louisiana and that's what I want to do, I've got that right. I think that the State of Louisiana has got the same right. There's no law says that the state has to engage in interstate commerce.

MR. VELAZQUEZ

Also, do you believe that there's a law that says you can take extraordinary methods or extraordinary efforts to restrain interstate commerce?

MR. AVANT

This is no restraint on interstate commerce.

MR. VELAZQUEZ

Don't you believe that any time you decrease the total volume available for interstate commerce you have in effect restrained interstate commerce?

MR. AVANT

No, I don't agree with that because if I'm running a sawmill, and I'm selling lumber in interstate commerce, and I sold a hundred million feet last year but this year I choose to only want to manufacture fifty million feet, and that's all I'm going to manufacture, and all I'm going to sell, and I decide that I'm going to use half of that to build me a barn just for myself, I haven't interfered with interstate commerce one bit in the legal sense.

MR. VELAZQUEZ

Have you not just now beginning to talk about allocation, and that's not the FPC in their problems with Louisiana have a problem of allocation?

MR. AVANT

This is not the type of allocation that you're talking about. This is just a simple statement saying that if I'm raising mustard greens, I'm going to keep enough mustard greens to eat myself before I sell them all to somebody else.

MR. VELAZQUEZ

But, in effect isn't one of Louisiana's basic problems, not the fact that the gas is leaving Louisiana, but that the FPC wants to restrain the way it is actually used in Louisiana, that some of the uses in Louisiana are lesser uses than the uses in other states?

MR. AVANT

But, they have done that, Mr. Velazquez, only because our gas has become commingled with interstate gas.

MR. DUVAL

Mr. Avant, I certainly applaud what you're trying to do. I'm just wondering what effect this has. When does the FPC regulate the production of natural gas?

MR. AVANT

When? I don't know. I don't know when they first did it.

MR. DUVAL

Well, you see there's a lot of things we don't know, and that's what I'm suggesting to you is perhaps by putting this mandate in the constitution, it might be totally unfeasible.

MR. AVANT

Well, I don't see how in the world it could be unfeasible, Mr. Duval. It's a very simple proposition. Here we are with the State of Louisiana. We have still future reserves of oil and gas, I hope, that we have not yet leased. We are simply saying that in the future when we lease those reserves or lease those lands that we are going to make sure that we retain enough of the production therefrom to take care of ourselves before we start disposing of it elsewhere.

MRS. WARREN

Mr. Avant, I guess you realize this is becoming real complicated, but I was under the impression that you said this is state-owned lands that you're talking about.

MR. AVANT

That's what my amendment says.

MRS. WARREN

That's what I thought. Now, aren't you really trying to say that charity begins at home?

MR. AVANT

That's right, Mrs. Warren.

MRS. WARREN

Thank you.

MR. AVANT

In other words, the Lord looks after him who looks after himself. I believe that.

Further Discussion

MR. JACK

I rise in opposition to this amendment. I'm a member of this committee, and I believe, if not all, practically all of them are against this amendment. To begin with, the amendment would not stand the constitutional test. It would interfere in interstate commerce, would be thrown out. We've done a lot of work on this committee proposal, and I go right along with the committee. I think you should. You know the purpose of all this material on the gas in the proposal is to do all we can legally to see that our gas goes to Louisiana people. You know that. If you are going to put something in here that obviously is unconstitutional, you're not going to get the chance that we do have of keeping here gas that's strictly in the intrastate commerce. Thank you.

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, I hope that you were listening a little bit earlier when I attempted to caution this convention against adopting amendments which could have such far-reaching effects. Now, this is one of those type of amendments which could seriously affect the future leasing of state-owned property and the future production of minerals in our area. The state is by far the largest single landowner in the state, holding I'd say between five and ten percent of all production. Now, if a producer were to realize and to know that, if he took a lease from the state, he could only market those products within the state, then it would

depend upon the location primarily of a natural gas intrastate pipeline as to whether the man would be willing or not be willing to take a lease or to produce that well. You've got to realize and recognize, particularly with respect to natural gas, that the cost of transporting that natural gas is the larger part of the cost that the consumer pays for the gas. For example, if you have a well producing here, two or three miles away you may have an interstate pipeline; thirty or forty miles away you may have an intrastate pipeline. The cost of transporting that gas the extra twenty to thirty miles in order to be able to market that gas would make the production of that product so costly that no one would be willing to drill the well because, after all these people who drill these wells, they're in business to make money, and they're also in business worldwide--these big companies that have been referred to. Believe me, folks, we can chase these people away from here, particularly in the latter stages of production as this state is today as far as our inshore production, we can chase them away awfully easy. They're going to go where they can operate agreeably and where they are in a position where they can make a fair profit off of their investment. So, let me suggest to you that this is one of these amendments which could have tremendous far-reaching effects which could cripple the biggest industry in this state which produces over fifty percent of the income of the state. I, therefore, strongly urge you: please let's reject this amendment.

Questions

MR. LEBLEU

Mr. Perez, isn't it true that under Senate Bill 9 which the legislature just passed, the commissioner of conservation has the privilege of doing this very same thing? However, he is not mandated to sell to an intrastate line where an interstate might be more convenient.

MR. PEREZ

It's my understanding that that's correct. Of course, the regulatory authority to do that, if used reasonably, can be a very good thing for the state, and the purpose of this amendment is good, but the net effect of it would be very bad when you have an absolute prohibition against these products going out of the state.

MR. BOLLINGER

Mr. Perez, don't you think that with amendments like this we're getting into areas where we're not sure of the effect they're going to have, and very possibly you're going to be doing some harm rather than good?

MR. PEREZ

Well, hopefully, that most of the delegates were listening to me a little bit earlier when I cautioned against passing amendments unless we were absolutely sure that this was not going to do a great deal of harm to the biggest industry in this state. I think this is one--I not only think but I know that this particular provision would seriously cripple the mineral industry, but more important than that, seriously reduce the future income of the state because people just are not going to be willing to drill wells under these conditions.

Further Discussion

MR. LAMBERT

Very briefly, Mr. Chairman and fellow delegates, for a number of reasons I ask you to oppose this amendment. Some of the reasons are because the legislature did provide basically what Mr. Avant is asking us to do in the constitution. This was basically done in the special session of the legislature. It's an area, when you talk about natural gas, where you need a basic concept; you need some roots. I think we provided the root, but we need to allow flexibility now so that the legislature can make the necessary changes and add the flexibility as times change, as the energy crisis changes, and so forth. For that reason, I ask you to please vote against this amendment.

[Previous Question ordered.]

Closing

MR. AVANT

Mr. Chairman and fellow delegates, there's absolutely nothing in this amendment that's inconsistent with the concept of Senate Bill 9. As a matter of fact, the whole purpose of this amendment is to make sure that under the new constitution, if it's adopted, that the legislature will have the authority to act in the public interest as they have tried to do in Senate Bill 9. All this

amendment does is to tell those elected officials of our state, who are charged with the responsibility of administering our oil and gas resources, to say: administer those resources but make sure in doing so that you retain enough of our oil and gas to take care of our needs and dispose only of the surplus. It's a very simple amendment. I don't see how it complicates anything; I don't try to draw any details. I'm perfectly willing to leave it up to the sound judgment of those people in the legislature and on the Mineral Board, but it's a mandate. It's a mandate that says these are our resources. They belong to all of the people of the state, and we don't want to be, as Mr. Perez says, one of the biggest oil and gas producing states in the United States, and yet have a good friend like Mr. Sandoz come in here two or three weeks ago and tell me that his city of Opelousas was faced with an eminent shutdown of the natural gas that it takes to run their utility plant over there because of a shortage. Now, if that makes sense to you, then vote against my amendment. But, that's the kind of thing that I'm trying to prevent. I want to make sure that there's a mandate in our constitution telling our officials to look after our interests in that fashion.

Questions

MR. BOLLINGER

Mr. Avant, you brought out some excellent points, and I think the delegates all agree with you that we don't want that situation to occur again. But, do you know, for one, that I didn't agree with everything in Senate Bill 9 that you were referring to, and I agree that nothing is inconsistent? But, if Senate Bill 9 is not feasible and does not work, can it be changed?

MR. AVANT

Well, sure it can be changed. There's nothing in this amendment that would keep it from being changed.

MR. BOLLINGER

But if we adopt this and this does not work and it does provide a lot, a lot of heartaches for the state in the future, it's not as easy to change this constitution; will it be?

MR. AVANT

Well, Mr. Bollinger, in the first place, I don't see how it could possibly say that there's anything in here that's not going to work because there are no details, no mechanics provided in this. This is simply a statement of principle and leaves it up to the legislature and the Mineral Board and whoever has the responsibility under the law to implement that principle in the way that they best see fit at the particular time, and they can change it from day to day or week to week or month to month as long as they operate within that principle, and that is, that we're going to keep enough of our oil and our gas to heat our homes and grind our sugarcane before we start selling it to people in New York and Maine and Chicago and elsewhere.

MR. BOLLINGER

Do you not think that the legislature is responsive to the needs since they did have a special session and did enact Senate Bill 9?

MR. AVANT

I think they are now, Mr. Bollinger. I do not think that they always have been, and the purpose of this is to make sure that in the future they always will be.

MR. DREW

Jack, let me ask you two or three questions. Talking about late in taking action, do you know that the legislature passed the Louisiana Pipeline Authority Bill in 1972 which would have provided for the construction of intrastate pipelines which has never been appointed or implemented?

MR. AVANT

I understand that. Yes, sir.

MR. DREW

Now, let me get to your amendment, Jack. You use the word "needs." I had suggested "available market," but suppose you found a large gas field in South Louisiana on state lands. Shreveport, Louisiana was operating on fifty percent of their needs; there is no intrastate line to get it to Shreveport. Could that gas be sold to anyone else?

MR. AVANT

Now, wait a minute. Run that one by me again because....

MR. DREW

You have a gas field...you discover a gas field on state lands in South Louisiana. There is no intrastate pipeline to Caddo Parish who is running at fifty percent of their needs for heating purposes. There's no way to get it to Shreveport to meet their needs. Now, can that gas be sold or do those wells, under your amendment, wouldn't they have to be capped and left there?

MR. AVANT

No, I think that there can be legislation that can provide that the gas can be gotten there by means of a shipment through an interstate line where you can withdraw it.

MR. DREW

You mean that the legislature can override the FPC?

MR. AVANT

If you put this particular provision in the constitution, I think that they may well be able to do that.

MR. WILLIS

Mr. Avant, take this at face value as my knowledge of oil and gas law. I own a hundred acre tract of land, and I lease it to an oil company. They give me...at a one-eighth. They give me one-eighth of the money, the net money, that they sell that gas, less the cost, etc. of transporting it; isn't that correct? Assume that to be true.

MR. AVANT

Yes. One-eighth.

MR. WILLIS

Why can't I not tell that oil company, "I don't want one-eighth in money; I want my one-eighth in kind. That is called royalty in kind. There ain't nothing wrong with that; is there?"

MR. AVANT

No, and there's nothing wrong...

MR. WILLIS

That's what your amendment does.

MR. AVANT

And there's nothing wrong with this either, Mr. Willis, with respect to the seven-eighths, putting a provision in the lease and say, "We are giving you the right to market that seven-eighths anywhere you want to subject to one condition: when we are hurting, we can say we want three more eighths which we'll buy at the going price, and you've got to put that in all your contracts to take care of that...."

[Record vote ordered. Amendment rejected:
23-79. Motion to reconsider tabled.]

Chairman Henry in the Chair

[Previous Question ordered on the Section.
Section passed: 93-6. Motion to reconsider pending.]

Point of Information

MR. BOLLINGER

He didn't ask for it to lay on the table, but why would we reconsider the vote? Wouldn't that leave it open again, and we're going to have to vote on it again to close it?

MR. HENRY

It leaves it open, so that it's susceptible. The motion is hanging, so the gentleman just moved to reconsider. We're not going to dispose of it, sir.

MR. BOLLINGER

I don't understand why we moved to reconsider unless we want to open it up again or unless we're going to lay it on the table.

MR. HENRY

The gentleman doesn't have to move to reconsider. We just weren't going to take care of the motion. I just assumed... I thought I understood him to say he wanted to move to reconsider, but not table the motion to reconsider. It's the same difference. You make the motion to reconsider at some other time, Mr. Bollinger. It's really not worth arguing about or wasting time on, if you know what I mean.

Reading of the Section

MR. POYNTER

"Section 3. Geopressure-Geothermal Resources
Section 3. The state shall conserve, manage, and regulate the development and utilization of geopressure-geothermal resources for the benefit of all people, including future generations."

Explanation

MR. LAMBERT

Mr. Chairman, fellow delegates, this is a real simple section. What it does is establish a policy for the state in a new area of energy: that being, geopressure-geothermal resources. As you know, we are in the midst of an energy crisis. For this reason we find ourselves in a position to have to look to new sources of energy--atomic energy, solar energy. Geopressure-geothermal energy is another area that has not been tapped. It's located many feet below the earth's surface, but it's within reach of drillers. In an effort to establish a policy in the future in this particular area, we have set up a separate section on this particular subject matter.

I'm going to yield the balance of my time to Mrs. Miller, who proposed this to our committee.

MRS. MILLER

Mr. Chairman and ladies and gentlemen of the convention, I do request your attention because you're going to ask questions about this because it's a new field for all of us. We have in Louisiana a very unique resource which is called geopressure-geothermal energy. This is unique to the Northern Gulf Basin. Its region extends into Texas and to part of Mexico. In Texas they are already beginning to look at the development of geothermal energy. You have some...

We have been looking at...our geothermal team in Louisiana has been looking at federal resources that we might bring into the state to use to develop the geothermal-geopressure energy. We refer to it as geopressure first to distinguish what Louisiana has as being different from the geothermal resources that you've heard about in California. Virtually all the electricity for the city of San Francisco is now being supplied by geothermal energy from their wells, from the geysers. This is not the thermal energy that we have available. There is a surface type operation. They have a different legal regime because they are not going deep down into the surface of the earth. We are talking about a resource that is found at depths of fifteen thousand feet, that to be utilized, will have to be brought up in wells with much bigger pipes and casings than we have been using for conventional oil development. We're talking about maybe seven and eight inch wells that flow a hundred thousand barrels of hot, steamy water a day. We're talking about a resource that has to be carefully structured because it is the nature of water resources that the best well will ruin a well that it's close to. The latest well will be the well that will put the first well out of business. This is the nature of water wells. This pressure was built up when the continent split off, and it left a great basin in what we call the Gulf of Mexico. As the sedimentation came down from the Rockies, it came with clays, with all type of molds, and leaf molds, and trees which were capable of holding vast quantities of water. These things settled and resettled and more settled, and they held the water and compacted chemical processes took place in all of this which solidified the clays. So, what we have is a vast, I would like to say, hot water bottle that extends over the North Gulf Basin. The part... it might fluctuate as you squeezed out part, parts would leave and go elsewhere. But, it might be that the knowledge it be... it's more like a sponge with little pockets because you will have some faulting as you have in your oil and gas areas. What this means is that if we develop this resource, we may need a different legal regime under our property laws. This is what I would like to discuss with you for a few minutes because it's very difficult to grapple with the legal problems that are going to be attendant upon the development of the geothermal-geopressure resources of Louisiana. This high pressure in itself constitutes a resource. With high pressure, you can convert the pressure itself to a form of energy to run the generators. The thermal waters are a resource. By all of this the engineers have developed the processes they know they can handle the high pressure. Already some of the major companies and the Shell Oil Company own patents for the process of developing these and converting into electrical power. They estimate there is enough of the geopressure-geothermal resource to supply all of the electricity for it in Louisiana. This would be a very important thing to us. We are not talking about something that can be transported out of this state easily. This is for us to consider, when we see how the Federal Power

Commission has reached down and taken our gas because you do not transport electricity the great distances that you do some of the gas. On the other hand, the federal government is already looking at the geothermal resources in the nation and is moving forward in the field to develop the geothermal resources on the federally-owned land. We are talking about a legal regime that is different because you are not going to be able to put geothermal wells down just every forty acres or unitize under conventional forms of oil and gas. The engineers and the geologists think of a geothermal plant as being a cluster of five or six, maybe seven or eight wells flowing a hundred thousand barrels a day. Now, that's a vast amount of water. You may be talking about a million barrels a day. You are going to have, perhaps, subsidence problems. You are going to have disposal problems. What are you going to do with a million barrels a day from a plant? These plants cannot be closer together than perhaps a hundred square miles. So, under the conventional oil and gas regime...property regime, you're thinking in terms of unitizing a hundred square miles. I think every lawyer here can see that the transactional cost...the administrative cost of getting leases from every landowner in a hundred square mile unit would make the development of this energy...make the cost prohibitive. The only way this energy can be economically developed is if as many costs are kept down as practical so that this will be competitive with other forms of energy. We may come to the point, though, that energy is so valuable and so priceless to us that we will pay any price. In looking at the legal regime and which you may develop, I will read a letter from Professor Yiannopoulos at LSU Law School, which he wrote to me after studying the problems of geothermal-geopressure development. The professor says:

"I believe that the new constitution of Louisiana may well contain a provision declaring that geothermal energy is a wealth that belongs to all the citizens. Perhaps geothermal energy ought to be enumerated among the public things. In my opinion this appropriation by the state of geothermal energy would not run counter to the provisions of the United States Constitution. Valid argument may be made that according to the fundamental notions of Louisiana Civil Law, geothermal energy is up to the present time *re nullus*, namely a thing that belongs to no one in particular. This is like your fish and animals, which the state long ago appropriated as a thing that belongs to all the people and not capable of private ownership. Like running water and wild animals, geothermal energy may be appropriated by the state without payment of compensation to landowners under whose land subterranean reservoirs are located. Moreover, valid argument may be made that the subterranean lakes are public things. If you think of this as a giant lake buried fifteen thousand feet under the ground, vast resources of water... These are public things."

I will finish reading Professor Yiannopoulos's letter. Excuse me. That long, Greek name sure gives me a problem. I'll finish reading it because this is what he suggests to us, and this comes from one of our authorities in civil law property in this state.

"...Be this all as it may, I believe that it is not properly a matter of constitutional law to justify the appropriation of geothermal energy by the state. The matter might have to be litigated all the way to the United States Supreme Court. However, a constitutional provision would only need to establish the principle of appropriation of geothermal energy for use by all the people. The legislature could be specifically authorized to enact a statute dealing with all aspects concerning the exploitation of geothermal energy." Now, I want to point out to you delegates what you are voting on. You are not voting on the section as it now stands, that this is a thing in the public ownership. You're voting only at this time that the geothermal energy is a resource that must be conserved and managed and developed by the state for the benefit and use of all people. I am proposing an amendment which I think has been distributed to you, that when we get through voting...I want you to think about this--whether you want to put geothermal resources into the public domain and make them unsusceptible to private ownership. So, after we finish discussing this article my amendment will give you that choice. So, I think it's something you can think about now. This is a matter for constitutional concern. I don't want to hurt the committee proposal that does not put it in the public ownership. So, remember that the committee proposal only asks for the control and regulation of the geothermal resource.

Questions

MR. DUVAL

Mrs. Miller, just to get a few things clear, you referred to Professor Hardy. You've read his article, I'm certain, from your knowledge on the subject.

MRS. MILLER

Yes. Professor Hardy had looked at this problem and so has our staff member, Dr. Lee Hargrave.

MR. DUVAL

I understand you...are you advocating the public ownership of this resource, rather than how we normally treat oil and gas and other minerals?

MRS. MILLER

Of course, you know, I will answer it this way, too, Mr. Duval: Having traveled with the geothermal team of Louisiana, composed of Dr. Richardson of LSU School of Engineering; Dr. Billy Hise, a petroleum engineer; and Dr. Durham with the geothermal school--Durham and...well, I can't think of all their names now...a group of men--the more we looked at this, we could see that if a lawyer is asked by an electrical company to give an opinion on whether the electric company is going to be able to build a geothermal plant, I, as a lawyer would say, "It's too much of a legal undertaking if you're going to have to lease everybody's property." On the other hand, you are going to have...you know, we have subsidence in Baton Rouge because of the removal of waters. I'll get to your answer. We're going to have subsidence probably if we don't handle this resource properly. They don't sue the industries in Baton Rouge because Baton Rouge is sinking because there are too many of them and they don't know who to put the blame on. But you let great subsidence begin to take place, and they can see a plant sitting out there that they know who they can sue, they will sue. We know that. So, my point is that after all these studies, I believe that the only way--in my own opinion--that the only way we can accomplish the right kind of property regime for the development of the resource is by having the ownership in the state.

MR. DUVAL

Would this mean that the state could come expropriate one's own land in order to drill a well and put a plant there? Is that what that means?

MRS. MILLER

I think that would have to be...wherever they put the plant would be a matter provided by the legislature. What I am saying is that when I bring up a million barrels of water a day, you as a private landowner a hundred miles away could come in and say, "You're draining me a hundred miles away; I want to be in the unit."

MR. DUVAL

But, can you answer my question? If it is a matter of public domain, does that give the state the right to put plants...to come put a plant on someone's private property and appropriate the property to extract the minerals? In other words, how are you going to get to extract the minerals unless you have a lease to begin with?

MRS. MILLER

You will have to have surface leases, like you do now because you know when you bring in a conventional oil and gas lease, you unitize things that are way below the ground that extend out for miles and acres and acres. What I'm saying...I'm sure the legislature will have to provide and we have to provide that.

MR. DUVAL

When you say "for the benefit of all people," let's take the committee proposal as it is. Does this committee proposal lay the predicate to put into effect what Professor Yiannopoulos and Professor Hardy talked about? Is that the intent of your committee proposal?

MRS. MILLER

No, the intent of the committee proposal--and I think as it differs from what my amendment will be later--the intent of the committee proposal is that it recognizes the existence of this energy resource and is really telling the legislature, please do something to protect it, don't let it be dissipated and wasted before we have a chance to harness it. I think this is what the committee proposal says--protect it and take care of it; don't waste it.

MR. CONROY

Mrs. Miller, I'm puzzled by your response to Mr. Duval. As I read the last part of this after the reference to the fact that "the state shall conserve, manage, and regulate the development and utilization of geopressure-geothermal resources," if you stop there, it would seem to me that the sentence would say

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what you just suggested. But, where the committee proposal goes on and says that it will be for the benefit of all people, doesn't the committee proposal as written already go a long way toward the objective which you said, which that is the public ownership of the geothermal resources?

MRS. MILLER

No. I believe...I think the intent of the committee proposal was to bring it in line with the first proposal...the general statement that all of these things would be for the benefit of all the people of the state, including the future generations which kind of goes back to your first section. This seems to have been their philosophy in committee. They were thinking in terms of all the people and future generations.

MR. WILLIS

Mrs. Miller, I think that the trouble that the delegates have in understanding the terms "geopressure" and "geothermal." May I suggest to you that "geopressure" means the pressure of water from underground which comes through a pipe which was dug in the ground. "Geothermal" means...thermal meaning heat; the heat of that water under pressure makes it steam. Isn't that correct?

MRS. MILLER

This is true.

MR. WILLIS

Now, I have a oil well---well, I never had one and I don't expect I will--but, assume I have a oil well on my hundred acres of land. It ran dry, and all it "sputes" now is geopressure or geothermal energy. Now, isn't what you envision on a larger scale that which I could do with my no-good oil well...that is to say, harness that steam to a turbine and make that turbine turn a generator which will generate electricity, and which can be controlled. Isn't that what you envisage to harness the energy?

MRS. MILLER

In the philosophy this would seem to be very...a very simple explanation. Yes. Of course, as we know in practice these geothermal plants are very large and will, you know, have to cover large areas, plus the fact of your disposal.

Amendment

MR. POYNTER

Mr. Jenkins sends up the amendment that reads as follows:
Page 2, delete lines 3 through 7, both inclusive, in their entirety.

Explanation

MR. JENKINS

Mr. Chairman, when I first read this section I thought it was unnecessary because the legislature obviously has the power to regulate these resources now. After hearing Mrs. Miller's explanation I think it's absolutely imperative that we delete it because of the philosophy behind her discussion of it. You may notice she has an amendment coming that says "geothermal resources are hereby declared to be in the public domain. The state shall have the exclusive right to provide by law for the exploration, production and distribution of these resources." Now, if we had done that a hundred years ago to the oil and gas industry, all of that would be owned now by the state, and I dare say that we wouldn't have near the production or exploration that we have today because government when it comes to operating enterprises doesn't seem to do too well or be too efficient. We don't need this section because the legislature has the authority to regulate these resources. In the past it has been a superabundance of such regulation which has put us in the position we're in with regard to a shortage of energy resources. It's been regulation of the wellhead price of gas, curtailment orders by the Federal Power Commission, restrictions on offshore leasing, environmental controls that have restricted the exploration of natural resources, the transportation of natural resources, the building of oil refineries, the use at the consumer level. Government controls and regulations have done that in the past, and maybe there would be some benefit in the future of regulating geothermal power--maybe. Maybe not. That's a legislative matter, and we should not try to mandate it here. In any case, how is the state going to manage these resources? As I appreciate Mrs. Miller's remarks, the state would appropriate all geopressure-geothermal resources and large tracts of land--appropriate. That means take without compensation, not expropriate; wouldn't even pay for it, but,

take over vast tracts of land and use it for the state. I don't believe that would meet the constitutional requirements of this constitution or the federal constitution because when private property's taken, it has to be with just compensation. Now, all of the arguments raised that vast tracts of lands are involved, and that drilling in one place and utilizing these resources can affect other lands, all of that applies to the oil and gas industry, and we've managed to work those things out through out mineral law. We've worked out a very good system. It's a workable system that can be applied, I think, in large part to geopressure-geothermal resources when those are developed. The last clause of Mrs. Miller's provision that says "for the benefit of all people including future generations," what does that mean? All people, all people in the world, all people in the country, all people in the state whether they produce it or not? If we're going to take some of our private property owners' property, it ought to be used for their benefit, not for somebody else. I don't feel any right to the geothermal energy that might be on the land of someone down there in southwest Louisiana. It's not my property. So, it would be unjust to take it from them and use it for my benefit. My benefit comes in if I want to buy some of that energy from them, through electric power plants or whatever. So, I just think we don't need this section. It's a legislative matter. The legislature has authority to regulate it if it so desires. But, we certainly don't need this concept in the constitution and certainly not the amendment that Mrs. Miller would submit about giving the state the exclusive right to explore, distribute these resources.

Questions

MR. O'NEILL

Woody, I only heard the letter from Professor Yiannopoulos so I'm not absolutely sure of this. Under this section as it's currently written would the legislature have the power to set up the machinery to appropriate these vast amounts of land and then go into the enterprise of taking this earth water from underneath the earth and producing power with it?

MR. JENKINS

Even without Mrs. Miller's amendment--and she tells me she's not going to offer it--I think that that's a possibility because it says that the state will manage these resources "for the benefit of all people." Well, I don't see how it could do that for all people unless it owned it or took total...all the value from it. I don't see what other purpose this section has other than to do that.

MR. VELAZQUEZ

Doesn't the State of Louisiana have health regulations in reference to restaurants for the benefit of all people? Yet, the State of Louisiana has never made any effort to take over all the restaurants in Louisiana.

MR. JENKINS

They don't conserve, manage and regulate those restaurants for the benefit of all people, no; I don't think that. That indicates...that would indicate that the profits of the restaurants would go to all the people in the state, and I don't think that that's what we do now in restaurants, and I don't think that that's what we should do in the case of geopressure-geothermal power.

MR. VELAZQUEZ

Don't you think that many of the laws that we pass are stressed for the benefit of all the people, yet, we have not had any mass expropriations in the State of Louisiana?

MR. JENKINS

No, we haven't had a constitutional provision like this in that regard. I don't see how we need this. The legislature has authority to regulate these things.

MR. VELAZQUEZ

Do you think the Louisiana Legislature is going to go around expropriating people's property on a mass basis?

MR. JENKINS

Well, under this provision it says "the state shall do these things for all people." It says the state shall; it's a mandate

MR. VELAZQUEZ

It doesn't say the state shall expropriate anybody's property, does it? It says the state shall make a due exercise of its police power. That's all it says.

MR. JENKINS

How is it going to conserve, manage and regulate for the benefit of all people unless it does that? That's what Mrs. Miller said; she said that was the purpose: to grant authority to appropriate geopressure-geothermal power in the state.

MR. JUNEAU

Mr. Jenkins, one thing that concerns me in connection with the appropriation: as I understand it, the theory of this thing is that there are marketable minerals associated with hot water that would be depleted when geopressure-thermal resources are developed; isn't that correct?

MR. JENKINS

Yes.

MR. JUNEAU

All right. In essence, if we do that, and we appropriate these minerals, we have, in essence, indirectly taken away from the landowner those minerals which he would now have which would be subject to income to him, would he not?

MR. JENKINS

That's correct.

MR. JUNEAU

So, in essence, we're going beyond just geothermal appropriations; we're affecting what the landowner now has with regard to some marketable minerals. That's what concerns me about the appropriation.

[Previous Question ordered. Amendment adopted: 69-33. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

Next section reads as follows:

"Section 4. Alienation of Water Bottoms

Section 4. The legislature shall neither alienate nor authorize the alienation of the beds of navigable water bodies, except for purposes of reclamation by the riparian owner to recover land lost through erosion if the reclamation is effected within ten years from the date the erosion occurs. This Section shall not prevent the leasing of state lands or water bottoms for mineral or other purposes. Except as provided herein, no bed of any navigable water body may be reclaimed except for public use."

Explanation

MR. LAMBERT

This particular subject matter is found in our present constitution with the exception of a very few changes that were made in committee. First of all, the legislature, this language is as it is in the 1921 Constitution as follows: "The legislature shall neither alienate nor authorize the alienation of the beds of navigable water bodies." We retained that provision; that's the same--no change. "Except for purposes of reclamation by the riparian owner to recover land lost through erosion." There was a general exception in the '21 Constitution which said "except for purposes of reclamation." In our committee, proposals were offered to alter this language and qualify the term "reclamation." For those of you who do not know the definition of reclamation, I'm going to read it to you. The word "reclamation" has no technical definition in Louisiana law. In the past the exception for reclamation in the present law has been thought to extend to filling in of land on a water body. Black's Law Dictionary gives as one definition of the word "reclaim," in an analogous sense, to reclaim land is to reduce marshy or swamp-land to a state fit for cultivation and habitation. So, it basically says in this provision that the state cannot alienate the beds of navigable water bottoms except for purposes of reclamation by the riparian owner. The riparian owner is the property owner adjacent to the water body. The riparian owner would have this right to reclaim only land lost through erosion. I'm sure all of you know what erosion is. This is a fairly technical area, and I hope I'm explaining it properly. We place a prescriptive period on the amount of time in which a riparian owner can effect the reclamation, and the period is ten years, and the prescriptive period starts to run from the last known date of the erosion. Erosion obviously would have to be determined as a factual matter. The section, to go further along with the section shall not prevent the leasing of state lands or water bottoms for mineral purposes or other

purposes. This is in the present constitution. We retained that language. Then we have one sentence at the end: "Except as provided herein, no bed of any navigable water body may be reclaimed except for public use." Now, this makes a change in the present law in that for example, a parish that governing authority may want to reclaim land adjacent to their boundaries; if they reclaim the property, the property reclaimed would have to be used for a public purpose. In the 1921 Constitution it did not restrict its use to a public purpose. It could be used for other purposes. I'll yield to any questions.

Questions

MR. SHANNON

Louis, you said the property reclaimed must be used for a public purpose. Let me give you an illustration. I believe in New Orleans the levee board has reclaimed part of the lake bed down there and subdivided it. Under this amendment here that would not be permitted. Is that right?

MR. LAMBERT

That's correct. As I understand it, Mr. Shannon--correct me if I'm wrong--in response to your question, the Orleans Levee Board--I believe it was the Orleans Levee Board--did reclaim the property in Orleans Parish, and I think what they did was they...I believe they sold lots to...or they turned it over to private developers, or they sold lots to private individuals for homes and so forth. In other words, what it basically would do...it was debated at great length in the committee...what it would basically do would say that reclaimed property by a public body would be restricted to public use.

MR. SHANNON

I said it could not be reclaimed by a governmental agency and developed and then sold for private property as residential use.

MR. LAMBERT

That's correct.

MR. SHANNON

Thank you.

MR. LAMBERT

Mr. Shannon, it would not prohibit the leasing, however.

MR. VELAZQUEZ

Senator, in reference to those lands in Orleans Parish that were filled in by the levee board, did you know that they were sold on a ninety-nine year lease at the end of which time all land reverts back to the State of Louisiana?

MR. LAMBERT

No, I did not know that.

Amendment

MR. POYNTER

Mr. Bollinger sends up amendments, read as follows:

Amendment No. 1. On page 2, line 12, immediately after the word "erosion" insert a period "." and delete the remainder of the line and delete line 13 in its entirety.

Explanation

MR. BOLLINGER

Mr. Chairman and fellow delegates, the effect of this amendment deletes the words, "if the reclamation is effected within ten years from the date when the erosion occurs." Let me read to you from Article IV of Section 2 of the 1921 Constitution. It says, "nor shall the legislature alienate nor authorize the alienation the fee of the bed of any navigable stream, lake, or other body of water, except for purposes of reclamation."

The committee was concerned with the language because it left open the possibilities of mass reclamations and destroying of the lakes and streams and other bodies of water that are there for the public good, and the alienation of these water bottoms. So, we got together and devised the language, "except for purposes of reclamation by the riparian landowner to recover lands lost through erosion." This limits which lands can be recovered by private individuals or private people only to those lands that they have owned and that they lost the ownership because the land eroded away. I'm not sure which law it is, but one of the statutes says that eroded land becomes the property of the state. We have limited, to a great extent, the flexibility that is offered by the present constitution and safeguarded the possibility of the

legislature ever massly giving away land to private individuals. Then, further down, we explain that it can be reclaimed for public purposes. Now, the portion that this amendment deals with is a prescriptive clause, which is almost impossible to administer. How in the world can anyone say, "Well, this land eroded ten years ago"? Mr. Poret, with the state land office said that he doesn't see how that office could administer a prescriptive clause like this. I just think that the whole section would be much better off; it would provide all the limitations required if this prescription was not in here, and it could be administered by a state agency.

I move the adoption and yield to any questions.

Questions

MR. NUNEZ

Mr. Bollinger, was there a reason why the committee put that "ten years" in there?

MR. BOLLINGER

Senator, we even had more than that at one time. We had that it could not be done except after the effective date of the adoption of this constitution. They thought it was necessary to have a prescriptive right now, but then it became evident that it would be almost impossible to administer. So, that's why, and then we never did get to go back into this section and discuss it again, because we got around the time to have to report the committee proposal out. I think, however, if we had gotten back into it in committee, it would have come out before it hit the floor.

MR. NUNEZ

So, by taking it out, what . . . there would be no time limit on the reclamation of eroded lands by . . .

MR. BOLLINGER

Well, no. There's no time limit now. I read to you the present constitutional provision, and this restricts it greatly by allowing only the riparian landowner to reclaim land and reclaiming only those lands lost through erosion.

MR. LAMBERT

Mr. Bollinger, was it not your proposal to put this language in our section. . . in this section?

MR. BOLLINGER

Fardon?

MR. LAMBERT

Was it not your proposal in the committee, now--just for clarification purposes so I can understand this--was it not your idea to put some language in this Section 4 dealing with reclamation?

MR. BOLLINGER

Yes.

MR. LAMBERT

Specifically what you're taking out, now?

MR. BOLLINGER

No, Mrs. Miller. . . this was Mrs. Miller's language. My language was to add the words "by the riparian landowner to recover land lost through erosion," and Mrs. Miller added the prescription.

MR. LAMBERT

All right. Now, let me ask you this question: If you don't place a prescriptive period on it, in other words, this right would exist for a hundred years. Correct?

MR. BOLLINGER

If you could prove that you owned the land and that it was eroded away, yes, sir. You had the right, and I think it's a basic property right of every citizen in the state, that he should have the right to own property and for no reason should he lose his right to own property.

MR. LEBLEU

Mr. Bollinger, doesn't your amendment put the language in the new proposed constitution just about the same as it is in the existing constitution, and that has served us well since 1921?

MR. BOLLINGER-

Basically, it does, Representative LeBleu. In fact, it even limits what individuals can do and gives more probability of the state getting land.

Further Discussion

MR. SHANNON

Mr. Bollinger, if I understand what you are trying to say here, before that, is if you own land along the banks of a river, and you lose it through erosion--maybe not all of the property you own--by accretion, someone else may pick up some more property down there, but later on through the years, by accretion, you may pick some property up back here. Now, is that what this is trying to say, that they still own that by accretion as it comes back?

MR. BOLLINGER

No, sir. I think you're trying to imply that we're changing the law with regards to accretion and dereliction, and we're not. We're not at all effecting that. I'm just saying that if you have land which is eroded away, the legislature may authorize you to reclaim only that land that you have lost through erosion--only that land. If you look at the whole section, it deals with the legislature's authority to . . . or prohibition on the legislature to alienate the state's ownership of any water bottom. This just says if you have land that becomes water bottoms, you lose. . . the law says you lose your ownership and the state retains your mineral rights and the ownership of that water bottom. This only allows, like the present constitution does, for an individual to retain his property rights, to go back and reclaim his land, to retain his mineral rights; because this, as you know, could amount to a lot of money for any one individual, any corporation or anybody's property rights.

Questions

MR. DUVAL

Mr. Bollinger, the present law is not limited at all, is it not?

MR. BOLLINGER

No limitation whatsoever.

MR. DUVAL

Now, all your amendment does is to take out the 'ten years,' is that right?

MR. BOLLINGER

That's all.

MR. DUVAL

What would happen, Mr. Bollinger, if the committee proposal stood, and somebody's property had been eroded nine years and six months ago before the date of this constitution? He would only have. . . under this proposal, he would only have six months to reclaim his land. Isn't that right?

MR. BOLLINGER

It seems to me that's right.

MR. VELAZQUEZ

If your land has eroded away, in effect, you have no land. So, it is now water bottom, and it now belongs to the state. Is that not correct?

MR. BOLLINGER

Yes, under the present law that is correct.

MR. VELAZQUEZ

Then, what the committee proposal as written, here, does is give you back--give you back--some of the state's land, because the land is now the state's. The reason for putting this prescription in was to limit the amount of the state's land that we are giving the riparian landowner. Isn't that the purpose of the committee amendment, to limit the amount of the state's land that we are giving to the riparian landowner?

MR. BOLLINGER

We thought that was the purpose, Mr. Velazquez. We thought that was the purpose, however, we. . . at least, I found out, I don't know if you did anymore research on it, that it was almost impossible to administer a prescriptive clause of this type and almost impossible to say how much land eroded within ten years.

MR. VELAZQUEZ

In effect, isn't what you're doing going to allow the man to go ahead and reclaim more than he has a right to reclaim? Some of these deeds. . .

MR. BOLLINGER

No, right now he has a right to reclaim anything the legisla-

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ture allows him to do. This says only the individual who is a riparian landowner can reclaim and only that land which he lost through erosion--no other land.

MR. VELAZQUEZ

Did not the old. . .

Further Discussion

MR. LAMBERT

Mr. Chairman, fellow delegates, I just wanted to say that as far as I'm concerned, this. . .we're not opposed to this amendment. Basically, what it does is to expand on the rights of a private property owner, in this particular case. So, we have no opposition to this.

I'm speaking for myself. I haven't had time to poll seventeen members of the committee, but if they disagree, feel free to come up here and. . .

Questions

MR. CONROY

As a matter of fact, Lewia, isn't it so that the legislature, if they wish to, could implement this provision any way they want it with whatever restrictions they wanted with regard to the time limit or anything else, because this simply authorizes the legislature to allow reclamation by the riparian owner, isn't that correct?

MR. LAMBERT

That's correct.

[Previous Question ordered. Amendment rejected: 89-4. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments sent up by Delegate Avant.

Amendment No. 1. On page 2, line 27, delete the period "." after the word "use" and insert the following language:

" , and then only when authorized by law enacted upon the favorable vote of two-thirds of the elected members of each house of the legislature."

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, this is, I think, a very clear amendment as to what it does, so I'm going to be very brief. The last sentence of this says that "except as provided in this section--or herein"--which is this section, "no bed of any navigable body of water may be reclaimed except for public use." Now, first, it doesn't say who makes the determination as to whether it's a public use. I would point out to you that our publicly owned water bottoms and places that can be used for public recreation--boating, hunting, fishing, and that type of thing--are rapidly diminishing. So, the purpose of this amendment is to make it clear that a public body of water, a navigable body of water, which belongs to all of the people cannot be filled in, even for a public use, except when it has been approved by a favorable vote of two-thirds of the elected members of each house of the legislature. I think it's a very serious thing when you start filling in places like Lake Pontchartrain, Lake Maurepas, our various rivers and lakes and streams in this state to do away with them.

Further Discussion

MR. PEREZ

Well, unfortunately, we're dealing with matters of such grave importance and to see an amendment just hit the floor like this and have it go through without objection, I'd like to ask for possibly a three or four-minute recess so we can take a look at this thing.

MR. HENRY

All right, sir, we'll stand at ease for a couple of minutes. Mr. Avant. I'm having all kind of problems today with you. The gentleman has not completed his remarks.

Further Discussion

MR. AVANT

I'm not closing, but I just want Mr. Perez to know that

this amendment was sent up way early this morning. I apologize, I mean, if it's not on your desk. It's been on my desk, Mr. Perez.

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, I very much dislike having to get up here and oppose this amendment, but, again, this is one of these situations where quickly we might be doing something which we would very much regret, later.

You take, for instance, in the area in which we live, we have been, for years, trying to develop hurricane protection levees. In connection with the building of those hurricane protection levees, it is necessary, at times, to use small parts of navigable bays in order to be able to take a spoil area which, in essence, is reclaimed because of the fact that we have to use certain materials which are not available or which are not suitable for the building of levees, and we have to have a place to dispose of that. They are a small part of our lands--and by the way, we are ninety-five percent water and marsh, and only about five percent highlands. We have no other place to dispose of these things, and it is a good thing and not a bad thing. When you would require a two-thirds vote of the elected membership of each house of the legislature, it might have the effect, in my particular area, of delaying the construction of hurricane protection levees which would give the people of our area the protection they need to stop them from these devastating hurricanes. I know that this could possibly have a very serious effect in many other areas. I think we have just gone too far when we add this language: "and then when authorized by law enacted by a favorable vote of two-thirds of the members of each house of the legislature." This is a very, very serious amendment, as far as my particular area is concerned. I ask you to reject the amendment. It could have the effect of stopping the construction of all of our hurricane protection levees which we have been working on for twenty years to try to develop to give our people hurricane protection levees.

[Previous Question ordered.]

Closing

MR. AVANT

Mr. Chairman and fellow delegates, now, for the life of me, I really don't understand why Mr. Perez is disturbed. I see nothing in here that's going to interfere with his hurricane protection levees. This refers to the bed of a navigable water body--not marshlands or something like that, but, lakes, such as Lake Pontchartrain, Lake Maurepas--there's a many of them all over the state. Let me tell you what you do. You do two things when you reclaim that land. Number one, you. . .the title to that is in the public. You are depriving the public of the right to use that land for recreational purposes such as hunting, or fishing, or boating. You are destroying the lakefront. There's another thing that you are doing when you fill in a portion of a navigable water body. You are raising the water level, and you are affecting the rights of everybody, all the way around the periphery of that body of water. It is a very serious matter, and the only thing that we are asking, the only purpose of this amendment is to require that before such a project is undertaken, that two-thirds of the legislature be convinced that it is a public purpose, and it's in the public benefit. That's all that it does. The legislature can do that by a general law, I respectfully submit, saying that local government, for certain specific purposes that they have declared to be public purposes--such as a hurricane protection levee or some other beneficial purpose--the legislature could pass a general law saying, "You can do it for these purposes." So, I don't see how it could possibly interfere with Mr. Perez's hurricane protection levees. It's not intended to do that, and as a matter of fact, I respectfully submit, doesn't do that. But, it does protect the interests of the people of the state.

Questions

MR. PEREZ

Do you know that the courts have held that anything that you can float a pirogue in, under certain conditions, is navigable?

MR. AVANT

I know that the courts have held to the contrary, Mr. Perez.

MR. PEREZ

No, sir. Well, I'll be glad to show you an awful lot of other cases. . .

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MR. AVANT

Well, Mr. Perez, I just happen to know that the United States District Court here for the Eastern District of Louisiana, is now the middle division, held that a barge that exploded on an arm of False River which was, in fact, being used to lay a pipeline, that that was not a navigable body of water. We're getting into some legal technicalities, and you just can't make the statement that anything that can float a pirogue is a navigable body of water. That's a euphemism.

MR. PEREZ

Did you know that that rule that you talk about applies to a federal law? But, the rule that I'm talking about applies strictly and only to the ownership of lands by the state, and that we have had many Supreme Court decisions which have said, depending upon the type of commerce in the area, including pirogue, that it's navigable under certain circumstances. Water bottoms as little as two and three feet deep have been declared to be navigable water bottoms owned by the state. Did you know that?

MR. AVANT

If you say so, Mr. Perez, I won't argue with you. But, let me answer your question. . . .

MR. PEREZ

Did you further know that with respect to the program I'm talking about--and I want you to know it--that in the event this amendment passed, it probably will jeopardize the hurricane levee protection program which protects thousands of people in my area?

MR. AVANT

Mr. Perez, I don't agree with that because I don't think any legislature--if you have to do what you say you have to do--I don't think any legislature in this state is going to keep you from doing it or stop you from doing it if you've already started it. You're going to have plenty of ways to protect yourself. What I'm trying to do is to protect the people of the state whose natural resources in the form of public water bodies are fast diminishing, and fast becoming unsuited for recreational purposes and to make sure that when anymore of them are taken away from then, that it is truly in the public interest. This is the only way I know to do it, Mr. Perez. Nobody wants to interfere with your business, or the protection of your people. I think you know that, and I think you know why this may be inconvenient to you. It's not going to stop your program.

MR. LEBLEU

Mr. Avant, in effect, wouldn't your addition to the committee proposal, your amendment, really do exactly the opposite of what you intend to do? I mean, if some community wanted to go to the . . . some local governing authority or wanted to go to the legislature and reclaim some property on the navigable water bottom, they could do so simply with a two-thirds vote of the legislature. I don't believe you intend for your amendment to do that.

MR. AVANT

Well, no. It has to be a public purpose and two-thirds of the legislature has to agree that it's a public purpose, Conway. Do you follow me? In other words, I'm not taking out the requirement that it be for a public purpose.

MR. BURNS

Jack, if Mr. Perez has a real critical problem down in his section with reference to construction of levees for emergency purposes or something of that nature, would you object to him putting in an amendment which would take care of that particular situation?

MR. AVANT

I certainly would not. I certainly would not. What I want to do, Mr. Burns, is to keep from filling in our public lakes and streams that are used for recreational purposes by the general public, that belong to the public.

MR. BURNS

When you mentioned Lake Pontchartrain, that's what stirred my interest, sir.

[Record vote ordered. Amendment rejected:
43-53. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments offered by Delegates Gauthier and Conroy.

Amendment No. 1. On page 2, line 17, after the word "except" delete the remainder of the line and insert in lieu thereof the following: "as provided by law."

Explanation

MR. GAUTHIER

Mr. Chairman and members of the delegation, the natural response when I get up here and I say we have scratched the words "for public use" everybody says, "Oh, you are going to steal all the river bottoms, take all the land away from the state." I guarantee you this is not our intention; quite to the contrary, it is to allow certain parishes to continue to conduct certain programs that they have worked on for many years. For instance--and I might add--we also presently have constitutional authority to do this in the '21 Constitution; Lake Charles has it; New Orleans has it; Jefferson has it and St. Charles Parish. To give you an idea of how broad some of these programs are--in Jefferson we have expended approximately five hundred thousand dollars working on a reclamation program for part of Lake Pontchartrain. It's a ten year project that we have spent a lot of money and a lot of effort on. We are now in the process of preparing a referendum to go to the people of our parish so that they may vote on this reclamation project. If you do not adopt this amendment, what you are in essence doing is saying to our people that they do not have a choice as to what they want done with property along Lake Pontchartrain, whether or not they can use it for a reclamation project. This project is to be construed as such; they would reclaim part of it and develop it. Now, this is where the conflict comes in--the part they first develop they want to sell to raise money to finance the rest of the project which would be recreation areas, marinas, parks, and things to be used by the citizens, and other citizens of the state as well as Jefferson Parish. So, by reclaiming part of the land and then subdividing it and selling the plots----if you put in this section, as is, without the amendment you would be denying us in Jefferson the right to consider to go ahead with this project. I ask for your favorable adoption of this amendment.

Questions

MR. SINGLETARY

Wendell, is Jefferson going to....their reclamation project, I believe, they are reclaiming about twenty-five square miles of lake, is that right?

MR. GAUTHIER

I wouldn't know the statistics, Alvin, I'm really not certain as to how much they're reclaiming.

MR. SINGLETARY

All right. Well, let me ask you this. Is this reclamation project going to be for a public use or is it going to be for the development of a subdivision?

MR. GAUTHIER

All right, that's where the conflict comes in, Alvin. What we want to do to lighten the burden on the taxpayer is reclaim a portion of it, subdivide a portion of it and sell lots to individual homeowners to finance the rest of the project. It's our intent to save the taxpayer money by putting some of this use into....some of this land into private hands through sales, so that's where the conflict comes in; part of that property will be sold for private use. I'm being completely open with the convention in telling you we will take some public land and then sell it for private use, but we intend to do it at a profit to our parish and allow us to construct a park, and a recreation area, and a marina that we feel is very important. We've worked on this project for about ten years now and as I've said, we've expended quite a bit of funds.

MR. SINGLETARY

Well, frankly, the idea of the committee proposal was to try to curb these reclamation projects for private development. That was the idea of the committee proposal.

MR. GAUTHIER

I understand what the idea was, but I'm afraid it doesn't do this. If we put in "as provided by law," it will allow the legislature to examine each and every case. I'm certain that none of you in here would want to deny another parish who may want to take just one block in a reclamation project to establish a little marina. Yet, if we leave it as is by constitution, we have prohibited this.

MR. ABRAHAM

Wendell, in the reclamation of this portion of the lake and, of course, it would apply to any other body of water, what would be the effect on the neighboring parishes or the neighboring communities who might border on that lake?

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MR. GAUTHIER

If they wanted to conduct a reclamation program, they would have to get legislative approval and then they could do so.

MR. ULLO

Mr. Gauthier, do you know that I disagree with you? I feel we have lots of land in Jefferson Parish; I can't see why we have to go ahead and reclaim Lake Pontchartrain. As you already know, about two or three years ago we had a hundred million dollar bond issue on the reclamation of Lake Pontchartrain that was voted down by the people. I feel that the committee proposal, as is....

MR. HENRY

Dr. Ullo, ask him the question, please, sir. Go ahead and ask the question, please, sir, we've....

MR. ULLO

Do you not agree that the....

MR. GAUTHIER

No, I don't.

MR. ULLO

...the committee proposal as stated is much better than "as provided by law"?

MR. GAUTHIER

Jack, if I agreed with that I wouldn't be standing up here with this amendment and I'm not at all shocked at your position, Doc. I might add that apparently you weren't aware that a constitutional amendment passed by this state overall, did pass allowing the parish to do this.

MR. ULLO

Well, as far as...it didn't pass as far as I was concerned.

MR. GAUTHIER

We'll take that into consideration.

MR. BURNS

If you all keep filling in Lake Pontchartrain over on the Jefferson side, you'll finally have the land coming all the way over to St. Tammany, won't you? We won't have any lake.

MR. GAUTHIER

Well, Jim, that would alleviate the problem of another causeway.

MRS. WARREN

Mr. Gauthier, if you decide that you're going to do this, then all the parishes should have the same break. You say the legislature could decide who. Well, if the legislature decided to let one parish have this break and don't let the other one have it, don't you think that would be wrong?

MR. GAUTHIER

Well, it's hard to project whether it would be right or wrong because right offhand you don't know the effect on that particular coastline, on that particular area.

Further Discussion

MR. RIECKE

Mr. Chairman and gentlemen, I don't use very much time on this microphone, but I speak in favor of this amendment because if it is passed without this amendment, Jefferson Parish would be precluded from creating this recreation district which they so badly need. I happen to know, working with the chamber of commerce.... I'm on the board of the Jefferson Parish area--that the Jefferson Parish people were asked to vote on this hundred million dollar project, as was brought out by the doctor and, of course, a hundred million dollars is a lot of money for the taxpayers to put out and they voted it down. This project has been planned for years, working with Tulane University architectural group and a beautiful recreation area is being worked out, financed by a private institution which will develop land for homes just as we have in New Orleans. Now, in Jefferson Parish all they have on the lakefront is a horrible, messy, swamp area. This we had in Orleans Parish too, until the Orleans Parish Levee Board pumped in this land, financed it with the sale to private residential builders. Now, in Orleans Parish we have a beautiful lakefront which is enjoyed by all of the people, that we have a swimming area; Jefferson Parish needs this very badly. Although I don't live in Jefferson Parish, I think it only fair to give them an opportunity to finance this

thing without a dime taxpayers' money and to provide this recreation in this lakefront area to the people of Jefferson Parish. Mr. Burns, I don't think we got too close to your area when we pumped the three miles of Lake Pontchartrain into Orleans Parish. I think it's helped Orleans Parish so much that I want to help Jefferson Parish, too. I hope you will support this.

Questions

MR. LAMBERT

Mr. Riecke, I wanted to see if I understood something you said. Did you say that if the amendment is not adopted that Jefferson Parish would not be able to create a recreation area by reclaiming some of the property. Did you say that?

MR. RIECKE

Yes. I said that because under the committee proposal you say "except for public use." Now, some of this is going to be for private use because they are going to sell the land for residential area in order to finance it for public use.

MR. LAMBERT

Oh, I see. Well, I didn't know about the private part of it, but I just wanted...for purposes of clarification a recreation area would certainly be considered a public purpose.

MR. RIECKE

It's a beautiful project, and we ought not to deprive Jefferson of having it. Thank you.

MR. NUNEZ

Mr. Riecke, you realize that we are not writing this constitution specifically to take care of the problem of Jefferson. If we pass this the way it's been submitted, then all parishes on all lakes can reclaim these lands for eventually private use, and I think it might be going just a little too far on this particular one. Don't you agree if we....suppose we....look on Rigolets they are reclaiming land for private use, across the lake -- on the other side they are reclaiming land for private use---that lake is just about a dead lake right now. How far do you think we should go in killing it?

MR. RIECKE

Well, that...Senator, that depends on what part of it is for private use. If it's all for private use, the legislature according to this amendment can turn them down. But where so much of it is going to be used for public recreation and public use--I believe Lake Charles wanted to develop an area....

Further Discussion

MR. VELAZQUEZ

Mr. Chairman, fellow delegates, I rise to oppose this particular amendment. It seems to me that if they want to create a marina and some other facilities for public use, they can do it without this amendment. Why do they want to have a hundred million dollar project when, in effect, all they want to do is have a marina and some other recreation facilities? Why do they want to go ahead and build a huge subdivision and then put the marina out beyond it? Why not just come there, make it a smaller project and take care of the recreational needs that they have? It seems to me that we have a problem, when you fill in on one side of the lake, you mess up everybody on the other side of the lake. Don't those people have some rights? Isn't their property of some value to them? Why should they lose the benefits that they have now because somebody is going to put a subdivision in there and draw more untreated sewage in the lake and further pollute it? What are they going to do after they finish putting all of these projects on all sides of the lakes--give everybody a picture of the lake the way it use to be? It seems to me we've got to kill this amendment otherwise we are just asking ourselves; we can destroy every large body of water in the state.

Questions

MR. CONROY

Mr. Velazquez, did you realize that the reason for the provision for the private sale of some of this reclaimed area is to permit the financing of these improvements for public purposes which otherwise the state couldn't afford to do?

MR. VELAZQUEZ

Mr. Conroy, I realize the people of Jefferson Parish voted down your last bond issue when you tried a grandiose scheme like that. I realize you tried to get around the wishes of the people over

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there in Jefferson who voted that bond issue down. I didn't vote that bond issue down; people in Jefferson Parish voted that bond issue down. Take your argument to them.

MR. STAGG

Mr. Velazquez, isn't it true or have you heard about it, that they had filled in so much of San Francisco Bay that they were about to change the climate of San Francisco until they finally decided they better quit filling it up with dirt? Isn't that same thing likely to happen if each of these parishes around Lake Pontchartrain has a worthy project that causes them to fill in the lake with some more dirt?

MR. VELAZQUEZ

You're quite correct, Mr. Stagg, and worthy projects start... as soon as one person finds a "worthy" project everybody is going to find a "worthy" project.

MR. RIECKE

Mr. Velazquez, how in the name of common sense is filling in three miles of the lake in Jefferson Parish going to affect the other side of the lake seventeen miles away? Will you answer that question?

MR. VELAZQUEZ

Every time you fill in that lake it would get smaller and smaller and they are having problems on the other side of the lake right now...around Slidell and the other side of the lake they are thinking about limiting construction of other projects there right now because the lake is not as good as it used to be.

MR. RIECKE

Well, do you or don't you believe that the fill-in of the lake in Orleans Parish was helpful to all of the people? The black people in that area have a swimming area where there are thousands of black people that are enjoying the lakefront which was formally swamp? Do you think that was wrong?

MR. VELAZQUEZ

I've gone to several funerals of good friends of mine who went out in that beautiful area you provided for them and they didn't make it out.

MR. ULLO

Mr. Velazquez, do you know that I feel this is strictly a political, a sort of internal, political amendment as far as the parish of Jefferson is concerned?

MR. VELAZQUEZ

You know, Mr. Ullo, because you are an expert on Jefferson Parish politics, I'll have to take your word for that.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I'm not going to say much but I'm going to say that with everything that I've got, "Please don't vote this amendment on us." This amendment does away with the requirement that the reclamation of the public's water bodies be for a public purpose. It permits the reclamation and the filling in of these water bodies for private purposes. I just had to get up here because of the statement made by Mr. Riecke whom I respect, and I disagree with him, but he talked about that stinking boghole swamp, or something. That stinking boghole swamp plays a very important part in the ecological balance of this area; it plays a very important part. I wish that I was smart enough and knowledgeable enough to tell you the part that it plays, but I'm not. But, when you fill in a portion of that lake, you are destroying that lake and you are upsetting not only just that particular area but the entire area around the periphery of that lake. You are damaging it, and you are damaging the people. I think that it only makes sense to say that since that lake belongs to the people, not just the people of Jefferson Parish but all of the people of the State of Louisiana, that when you do that it's got to be for a public purpose. I urge you to reject this amendment. You did not see fit in your wisdom to require that it be done only for a public purpose....by a two-thirds vote of the legislature. But, please, please do not say that it can be done for private purposes: to fill it in just so that you can sell it and make money, because if you give every police jury and every local governing body around the periphery of that lake or any other lake, the right to fill that asset in, which belongs to all of the people, for revenue raising purposes, I think you would be making a terrible mistake. I beg you, please don't do that.

Questions

MR. BURNS

Mr. Avant, did you know that Lake Pontchartrain, the area we're talking about, the further west it goes the narrower the lake gets?

MR. AVANT

Yes, I'm familiar with that.

MR. BURNS

...bounded by St. Tammany and Orleans, and by St. Tammany and Jefferson, and then by Tangipahoa and St. Charles, but it gets narrower and narrower. Now, if you fill in over on one side and we take a notion we want to do the same thing over on the St. Tammany side, we'd wind up with a ditch right down the middle of what is now a lake.

MR. AVANT

Well, not only that, Mr. Burns, and somebody said, "Well, what difference does it make if you fill in three miles of the lakefront?" Well, maybe it don't make any difference if you fill in three miles this year, but then next year somebody's going to want to fill in another three miles, and you keep on doing that and where are you going to be down the road fifty, or sixty, or seventy years from now?

MR. RAYBURN

Mr. Avant, even though this amendment says "as provided by law," could it not be possible that someone who wanted to build a marina or something over the lake could come to the legislature and those people in north Louisiana that wasn't really concerned they might vote for it and the people that lived in that particular area might be bitterly opposed to it, but they could still be out-voted?

MR. AVANT

That is correct, Senator Rayburn. That's why I wanted the two-thirds vote.

MR. CONINO

Mr. Avant, do you realize that this little ditch that you are talking about is twenty-four and three-quarter miles wide at this particular spot that we are talking about in Jefferson Parish?

MR. AVANT

Well, Mr. Conino, I don't know just how wide it is but every time you fill up part of it it's going to be that much narrower and you keep on, and keep on, and keep on you're going to have a ditch.

[Previous Question ordered.]

Closing

MR. GAUTHIER

Mr. Chairman and members of the delegation, I'm glad to see first of all that so many delegates are environmentalists. I side with you in a lot of these efforts, however, I would like to answer some of the charges made. It seems like to adopt this amendment would be a tragedy to all land that was reclaimed for public use. Now, ask yourself this question: Are you sure that you know what the definition is for "public use"? Are you positive? Also, bear in mind that if you don't adopt this amendment you will be hurting some parishes that have expended quite a large amount of funds and undertaken a project for some ten years now. We are in the process of now submitting it to the people of our parish in referendum form for a vote. You will deny them the chance to make this choice. The amendment simply does this: It deletes the last three words and it puts "as provided by law." It will allow the legislature to define first of all what "public use" is and second of all, whether or not certain projects should be carried forward. Now, really, stop and think a while. Do you want to now forever prohibit any reclamation projects in this constitution? I ask you, is that really what you want to do, or would you rather let each particular case be examined on its own and then let the legislature decide? I ask you if you think that you are in such a position that you can foresee in the future that there should not be any reclamation projects and, therefore, in this constitution you are going to deny them, except by constitutional amendment. I don't think this is what you want to do. I ask you to adopt the amendment.

Questions

MR. ALEXANDER

Mr. Gauthier, do you feel that a parish of the state has some rights, especially since the state has some rights relative to the

sea? For example, Louisiana has been granted the rights at least three miles out—we claim ten, but we have been granted three miles—to do as we see fit along the Gulf of Mexico. Now, for the last hundred years Holland has been reclaiming the ocean. How long do you think it will take before the Atlantic Ocean becomes a ditch? Now, that's facetious. Let's get back to...this is my question: Do you think that this project would endanger the ecology of Lake Pontchartrain by additional pollution or do you think the effect of what it will do similar to Orleans Parish which has reclaimed some fifteen miles along the lakeshore....

MR. HENRY
Reverend Alexander, ask your question, please, sir. There're still other people waiting.

MR. ALEXANDER
Do you think...I say it, Mr. Chairman, do you think...don't you think that would improve Lake Pontchartrain?

MR. GAUTHIER
I most certainly do, Reverend, and I thank you for the question.

MR. ALEXANDER
And, how long do you think before it will become a ditch?

MR. GAUTHIER
I would think it would take quite a number of years, and I don't foresee that happening ever, Reverend.

MR. AVANT
This authority that Jefferson Parish has now to fill in a part of Lake Pontchartrain, which is what they are doing, was obtained by a constitutional amendment; right?

MR. GAUTHIER
That's right.

MR. AVANT
Now, could you say you have an investment there that you don't want to lose; right?

MR. GAUTHIER
That's correct, Jack.

MR. AVANT
Couldn't that provision be put into the schedule to let you complete whatever authority you've got now and subject the future to this requirement that it be for a public use?

MR. GAUTHIER
Jack, I would be very pleased, speaking for Jefferson Parish only, if this body elected to do that. Certainly, I would go along with this.....

But, I'm not sure if we as delegates want to deny another parish from at one time taking on a reclamation project. I'm not sure if we are in a position to say, "From here on out we don't want any more recreation projects except by constitutional amendment." I don't think we are in that position now. I urge the adoption of this amendment.

[Amendment rejected: 37-60. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 97-5. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER
"Section 5. Reservation of Mineral Rights
Section 5. The mineral rights on all property sold by the state shall be reserved, except where the owner or other person having the right to redeem may buy or redeem property sold or adjudicated to the state for taxes."

Explanation

MR. LAMBERT
Mr. Chairman, fellow delegates, this provision makes no change in the present constitution. It provides that the state retains the minerals on all property they own except where a person would lose his property for taxes. When he redeemed the property, he would have the right to get the minerals back with it. Other than that, the state retains and reserves all mineral rights on its property.
I yield to any questions.

Questions

MR. CASEY
Senator Lambert, just for the record, I just want to clarify one point. It's not intended that this would in any way....referring to what we commonly call its patent titles. Under patent titles, the state would retain the mineral rights. Is that correct? Where you're talking about redemption from straight adjudications to the state by the tax debtor.

MR. LAMBERT
Correct.

MR. CASEY
Is that correct?

MR. LAMBERT
Correct. Exactly right.

MR. WILLIS
Senator, don't you think that the word, tax issued be modified to provide ad valorem or property taxes?

MR. LAMBERT
I would have no objection to that 'cause that's exactly what we are talking about.

MR. WILLIS
Well, I envisage a way that the state could, for income tax lien, to get property, don't you see?

MR. LAMBERT
The only property, correct me if I'm wrong, the only property that I can think of right now that you can lose the taxes would be real estate. Isn't that correct?

MR. WILLIS
Ad valorem tax is the only tax....

MR. LAMBERT
I move final passage if there's no other questions.

Amendment

MR. HARDIN
Amendment No. 1. On page 2, at the end of line 18, add the following; "Prescription"
Amendment No. 2. On page 2, line 19, immediately after "Section 5" and before the word "The" insert the following:
"(A) Reservation of Mineral Rights."
Amendment No. 3. On page 3, between lines 22 and 23, add the following"
"(B) Prescription. Lands and interests of neither the state nor levee districts shall be lost by prescription."

Explanation

MR. SHANNON
Mr. Chairman, ladies and gentlemen, this article gave the state the right for all the prescriptions I think they needed. But I wanted to make it crystal clear. This amendment only, in reality, only adds a Paragraph (B) to what you have here, because on page 2 at the end of line 18, it just adds the word "Prescription" in the title. Then come on down in this reservations of mineral rights and we make it Paragraph (A) and (B) is what I'm making it. In (B), everything stays the same except what I'm adding in (B) is "Prescription", lands and interests of neither the state nor levee districts shall be lost by prescription. In our Local and Parochial Government, our definition of levee boards falls under "Governmental Subdivisions," and I didn't want to use "Governmental Subdivisions" here for the fear of including all of your municipalities of the state. But, let's remember this, the only lands that the levee boards of this state own are lands that were given to them by the State of Louisiana. In reality, they belong to the State of Louisiana. They were given to the levee boards in order to provide some revenues for their use within the respective levee districts of this state, and for no other purpose. In Caddo, we have had the problems up there in the past of prescription applying to levee district land.
About five years ago, I believe, we had passed in the legislature an act where this was not permitted to do....to prescribe any more. Prescription today, statutorily is not allowed. But I think it is very, very important to this state, that the state lands--and which this is a part of the state lands--be not allowed to...where prescription might apply.
I would be glad to answer any questions.

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MR. LEBLEU

Can a levee board dispose of the property that it originally received from the state as a grant?

MR. SHANNON

Under certain conditions, yes, sir, they can.

MR. LEBLEU

What are those conditions?

MR. SHANNON

In the past, they are restricted, well, they have to be advertised, I believe, is about all that they can sell in the range now. I believe that is the present law.

MR. LEBLEU

But, a levee board can advertise the land for sale and dispose of them at whatever price that they determine? Or they advertise subject to the approval of the vote of the people?

MR. SHANNON

No, not subject to the rule of the vote of the people. No.

MR. LEBLEU

In other words, the levee board can advertise them and sell them and make their own deals?

MR. SHANNON

Yes, sir. That's correct.

Questions

MR. LAMBERT

Mr. Shannon, did you know that in the Local Government Proposal No. 17, Section 29, it reads as follows:

"Prescription against state: Prescription shall not run against the state in any civil matter unless otherwise provided in this constitution or expressly by law."

Did you realize that this had been covered already?

MR. SHANNON

That's the state, only, Senator Lambert. That does not apply to the levee districts and municipalities.

MR. LAMBERT

Let me ask you this question, then.

Suppose, and it concerns me, because in the area where I live there are, in chains of title, they do show up, with the levee district, for example: the Pontchartrain Levee Board at one time owned a piece of land. And over a period of ten transactions, the property changed hands. A person built a forty-thousand dollar home on that property; they bought it in good faith; they had it for over ten years. If this passes, that man would lose his house to the state. Is that correct? That's what I want to know. That's what worries me.

MR. SHANNON

That's the one that I've been advised by the staff that is not correct. That this would not affect anything only from the date of this constitution forward, as far as any sales like that.

MR. LAMBERT

Let me see, why is this necessary? The legislature would have the authority to handle this particular matter. Why do you want to lock that...especially...specifically levee districts in the constitution, because it could create problems that could not be changed...there was no flexibility.

MR. SHANNON

Senator Lambert, I could give you one good illustration of why I want this locked in the constitution; whereas, these minerals would be retained. There are some levee districts in this state in the past that have sold land to be delivered to them when the purchaser wanted it. They waited until such time...this was a contract...and they waited until such time as the mineral development got good in that area, and then they called on them to deliver this land to them. They had to do it. That was the time when minerals went with the land. That's what I want to try to avoid in the future is the sale of lands like this where the minerals go with it. I want that reserved to the state in perpetuity.

Further Discussion

MR. LAMBERT

Mr. Chairman, fellow delegates, Mr. Shannon covers a particular area that, in my opinion, that if you look at Local Government

Proposal, Committee Proposal No. 17, is basically covered. I feel, and I hope you can consider this position, that this is repetitious, and it possibly could create situations where property owners, private property owners, may be subjected to the loss of their property because prescription is being locked into the constitution specifically on levee board property. In the area where I live, for example, the Pontchartrain Levee Board District goes into Ascension Parish and St. James and so forth. The levee district owns lands that's nowhere close to the Mississippi River--way out in sections scattered all over. They got this land because at one time when they were lost for taxes, the register of state lands would transfer the property to the levee district. I certainly commend Mr. Shannon who has worked in the levee board system for many years, for his effort in this particular case. But for the reasons that I have just stated, I'll ask you to please consider voting against this proposal because it's already covered in the Local Government Provision. There is sufficient flexibility in that provision to allow the legislature to take care of specific instances I think that Mr. Shannon may have in mind.

[Previous Question ordered.]

Closing

MR. SHANNON

Yes, sir. Thank you, Mr. Chairman. Ladies and gentlemen, may I read to you from the Local and Parochial Government Article, Section 29. Prescription Against the State. "Prescription shall not run against the state in any civil matter unless otherwise provided in this constitution, or expressly by law." This only runs against the...this is only protection for the state property, and under definitions in this section; the levee boards come under governmental agencies and is not covered. So, I wish that you would think, and think hard, because as I said before, and I repeat again, all of this acreage was given to the levee districts by the State of Louisiana, and it should be treated as such.

I ask for your favorable support of this amendment.

[Record vote ordered. Amendment adopted: 58-31. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment No. 1. Page 2, between lines 22 and 23, add the following:

"A mineral servitude or royalty interest in land reserved by a vendor shall not expire through the prescription of nonuse."

Explanation

MR. GUARISCO

Mr. Chairman, members of the convention, this is a technical amendment....

MR. POYNTER

Mr. Guarisco...before we go on, I would presume, it's difficult to say, but we ought to indicate one way or the other whether this would follow the Paragraph (B), and be part of Paragraph (B) on prescription, or come before it. I would, perhaps at second thinking, it might fit into that Paragraph (B) on prescription and add it at the end of the Shannon amendment. All right?

MR. GUARISCO

All right.

[Motion to limit debate to fifteen minutes adopted: 58-24.]

MR. GUARISCO

Mr. Chairman and members of the convention, the state of the law now in Louisiana insofar as minerals and the land thereon is like this.

A person who sells his land cannot reserve his minerals for more than ten years, or ten years from which time bona fide drilling operations cease. That is, I don't have the freedom to sell my property, or to sell my minerals separately. If you come to me as a vendee and say, "Tony, I want to buy your property," and I say, "No, I don't want to sell my property because of the prospect of minerals..." I might have minerals on my property one day so I think I'll keep it. You can't pay me enough for the minerals and the land. So that land remains in my hands. I'm able to board that property. I don't have to sell it. I mean, I won't sell it because... not because of the land, but for the prospect of drilling, and the prospect

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of oil wealth. Now what this amendment will do is simply this; now, those of you who don't understand this prescription, it works like this: suppose the same fellow comes to me, asks me for that property, and I say, "Look, I'll sell it to you, but I want to keep the minerals."

And the fellow says, "All I want is the land. I don't want the minerals. You can have them. You can keep them. All I want to do is build a subdivision, or what have you, on the land."

I look in the law book and it says, "I'm sorry. I would give you...I would keep the minerals and sell you the land, but I am prohibited by law from

....I cannot reserve the minerals." After ten years, the minerals are going to vest title in the new owner of the property, whether or not I, in fact, wanted that to happen. I can put in the deed that I want to keep the minerals for fifty years...I want to keep them for myself forever, or to sell them to some other party. I cannot do that by law. I am not free to contract.

Now, what happens in this situation? First of all, let's go back to why that's there. It's not there because the Louisiana Legislature necessarily...it's there because that is in the French Civil Code. In Fourteenth Century France, the French did not envision futuristic wealth under the ground. Therefore, we are stuck with that archaic law that in the Twentieth Century. Now, what's happened is a practical result. Persons all over the state, especially in south Louisiana where land is scarce--there's a lot of water, but not much land in some places--industry wants to own land. They don't want to lease land. But the owner won't sell his property because they may have minerals there one day. Small owners, middle owners, large landowners, no one will sell their property because in ten years they are going to lose the minerals, come what may. What I propose to do here is to allow a person to sell his land, and keep the minerals, if he, and the contracting party agree. Like in any other contract. If he keeps the minerals, he can either enjoy the wealth if it comes one day, or he may decide to sell it to someone else sometime. But, at least it will take this land and put it into commerce.

Now, someone might argue. Yes, but you are going to have all the mineral wealth in the hands of a few. Well, that argument doesn't hold weight for the simple reason that now you have...that the precious few have the land and the minerals. They have both. A classic example of that is in St. Mary Parish near the community of Berwick. The Whitney Bank, years ago, foreclosed on some property--thousands of acres of land--near the community of Berwick. The Whitney Bank has no reason to keep that land. They don't want to develop it. They would like to dispose of it. But they cannot dispose of that land because of the possibility of its prospective minerals. So, what happens? The bank has the minerals and the land. Now, with this amendment, they could sell the land for whatever development that might ensue, and they could keep the minerals. Or they could sell them, and what have you. The other forty-nine states have this possibility. Now, some people are going to come up here and say, "Yes, but what about title examination?"

Well, that's just the job of the attorney. He can simply check the title, parallel to parallel title of the minerals, or, as opposed to the title of the land. I don't see any big problem in that area.

I yield to any questions.

Further Discussion

MR. SMITH

Mr. Chairman, fellow delegates, this is not only a bad amendment, it is a terrible amendment. I've practiced law for forty-four years, and forty of those have been in oil territories where I do a lot of mineral practice. If a vendor reserves the minerals for ten years non-usage, they come back to him. But, this will not only keep property out of commerce. When a person buys a piece of property and it goes to a....check the title.... a lawyer checks the title....he can find out the minerals have been reserved. He don't know, I mean, he never can get titles straight. I don't think he needs any argument in favor of it because I think this is a bad amendment. I think it will.... we shouldn't have it in Louisiana. It'd be just like Texas and Arkansas. So, I ask you all, please, to vote against this amendment so we can keep titles to property straight in Louisiana. Keep it like it is--ten years non-usage, and it will go out of date.

Question

MR. DUVAL

Mr. Smith, because this amendment...I'm asking you a question.... don't you think that this amendment is so bad, and such a terribly cataclysmic change in Louisiana law, and actually, that almost

everybody speaking on it is against it, don't you think that we could move the previous question. We could move on to something else?

MR. SMITH

Yes, sir. I'll do that. We don't want to be like Texas and Arkansas. That's the way they are. So...I now move the previous question....

[Previous Question ordered: 59-27. Record vote ordered. Amendment rejected: 9-86. Motion to reconsider.]

Amendment

MR. POYNTER

Amendment No. 1. On page 2, between lines 22 and 23, delete Floor Amendment No. 3 proposed by Delegate Shannon and adopted by the convention on the 18th in its entirety and insert in lieu thereof the following:

"(B) Prescription. Lands and mineral interests of the state, any school board, and any levee district shall not be lost by prescription."

Explanation

MR. BURSON

Mr. Chairman, fellow delegates, this amendment retains the concept of the Shannon amendment, but makes two additions to it. The first addition is the change that we have discussed with Mr. Shannon. It was his intent that the interest he was speaking about which could not be prescribed against, were mineral interests, so we add the word "mineral" to make that plain.

Secondly, we have added "school boards" to "levee districts", the reason being, the same reason that Mr. Shannon set forth with regard to levee districts, that the Supreme Court has stated in prior cases that the state, although we have classified it in this constitution, and although rationally it should be so classified as a political subdivision of the state, we have called it here a local governmental subdivision, did not share the attribute of the state's immunity from prescription. There have been school boards in this state that have lost land as a result of this interpretation.

Therefore, I am asking you to put school boards in here to make it plain, to leave no room for interpretation.

In the local government article, we made the simple statement that prescription would not run against the state in any civil matter. We did that in Section 29. I'm afraid we would run into the same interpretation, perhaps, in the courts again. But, since you didn't specify school boards, that we are going to apply the same law that existed prior to this time and say that school boards are not immune from prescription.

Questions

MR. SHANNON

Mr. Burson, you already stated that I agreed, but I would like to agree to this full convention here that this is a good amendment, and I approve of it.

MR. BURSON

Thank you, Mr. Shannon.

MR. BOLLINGER

Jack, I think you have a good amendment, also. My question is this. If we include school boards, do we have to include local government subdivisions and municipalities in every other branch of local government?

Or does school boards have a special class that have to be included?

MR. BURSON

I considered using the term, "local governmental subdivisions," but the problem there is, we included "special districts" in that definition. Frankly, I've never looked at the law in that area. I don't know what it is now at all. I do know what the law is in the area of school boards, just as Mr. Shannon did with regard to levee districts, and that's why I felt that the question would include this.

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 90-0. Motion to reconsider tabled. Motion to pass over Sections 6, 7 and 8 adopted without objection.]

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Reading of the Section

MR. POYNTER

Section 9. Minerals Beyond Three-Mile Limit
"Section 9. All revenues and royalties from minerals located beyond the three-mile limit of the coastal waterways of the state shall be the property of the state. All funds derived therefrom shall be deposited in the state treasury and used in the purchase, retirement, and payment of the bonded indebtedness of the state".

Explanation

MR. LAMBERT

Mr. Chairman, fellow delegates, as you know the... as I understand it the United States... the Supreme Court has ruled that the State of Louisiana does not own any minerals beyond the three-mile limit. We discussed this at great length in our committee and thought it would be wise because there always is the possibility since this particular area is always centered around controversy and in litigation, etc., that maybe one day down the road that this may be changed. In an effort to take into consideration this possibility out of an abundance of caution we voted, I think, unanimously, I believe, I think I'm correct, to leave this section in. What it basically does is dedicate any funds derived from minerals beyond the three-mile limit if there should be some down the road in the future to the retirement of the state's bonded indebtedness.

Questions

MR. ABRAHAM

Why did you put in this specification of the dedication that they must be used for the retirement of the bonds?

MR. LAMBERT

Because it was in....

MR. ABRAHAM

What particular reason for that?

MR. LAMBERT

We didn't change... we left it as it was. In other words, we shortened it somewhat, but we basically did not change the substantive meaning of the provision and it was just this way in the present constitution and we left it just as it was.

MR. ABRAHAM

Well, I appreciate that, but in view of the fact that we were trying to undedicate as many of these funds as we can and in view of the fact that Revenue and Finance Article says that the first monies received will go toward the retirement of the bonds; do you feel that this language is necessary?

MR. LAMBERT

Well, I don't see any particular reason why we couldn't leave it as it is unless you just want to amend that section... that part out of it on dedication of revenues. As I said, and I'll be the first one to admit, this may be unnecessary the entire provision, but we didn't want to be accused of not taking sufficient caution to provide for something that possibly could occur down the road in the future, so we left it as it was.

MR. WILLIS

Senator, I, of course, applaud the provision; however, do you think that "coastal waterways" is the right word? Would it not be "coast" or "coastline" or "coastal boundary"? You know the... where the coastline is is also litigious matter. Do you understand what I'm talking about?

MR. LAMBERT

Yes, sir, I do and I think that

MR. WILLIS

"Coastal waterways" does not signify. Does that come within the ambit of the word to use?

MR. LAMBERT

What we did is that we did not change the language that was in the present constitution and that is the reason we left it as it was.

MR. WILLIS

I understand, but that's....

MR. LAMBERT

You may be correct, but it....

MR. WILLIS

Does that conform with the criteria used by the United States Supreme Court in all of the tidelands litigation with respect to the three-mile limit? It does; I'm sorry.

MR. LAMBERT

It does. Yes.

MR. CHATELAIN

Senator Lambert, just a point of clarification, the first line it says "all revenues and royalties from minerals located beyond the three-mile limit." Isn't that a little ambiguous? Shouldn't it be all state revenue... looks like the word "state" should be because we don't have any control over three miles beyond that point. That's a question that has kind of got me bugged a little bit.

MR. LAMBERT

Well, I just... I prefaced my remarks by stating that the U.S. Supreme Court as I understand it, has decided that we do not have a claim beyond the three-mile limit. However, there are times when positions are reversed and out of an abundance of caution, and in an effort to be extra careful we didn't want to do anything to jeopardize any possible future claim that the state may have down the road. That's the reason we left it as it was.

MR. DE BLIEUX

Senator Lambert, I know this might be very far distantly in ideas, but you didn't make any provision in the event that all of these bonds indebtedness was paid off. What happens to the funds if they're paid off?

MR. LAMBERT

I can't hear you, Senator. I'm sorry.

MR. DE BLIEUX

I say I see no provision in the article for what's going to happen to the funds if all of this indebtedness might be paid off? Now, I know that's a farfetched possibility, but in the event that it does happen looks like we ought to take care of that.

MR. LAMBERT

If that happens we'll offer... you and I will coauthor a constitutional amendment to change that provision. How does that sound?

MR. DE BLIEUX

Well, I have an amendment to do just that right now on that.

MR. LAMBERT

That would be a glorious day in our state when we have no bonded indebtedness.

MR. STAGG

Senator Lambert, at glancing at this PAR analysis I found something for the first time I did not realize that in the present law that any monies we get from the settlement of the tidelands dispute would be used to retire existing indebtedness and in their comment they state that you could use this... these monies under the language of Section 9 to pay off current and new bonds; is that the purpose of your section?

MR. LAMBERT

I think that it would put the state in a position to... first of all the bonds, as I understand it, they would have to be callable and redeemable. I don't think you can pay off just any bonds that you want to pay off. But, I think it would place the state in a position to be selective on choosing the bonds that would be most advantageous to have paid off looking at the interest rate. In other words, the higher interest rate obviously would be the ones that I would like to see the state pay off first, and I'm sure you would and I'm sure that's what would occur. If it's a three or four percent interest rate, of course, it would be to our advantage probably to leave them alone.

MR. STAGG

I need to stretch your mind a little bit now and I know what I'm about to tell you or say to you is a relatively hypothetical question. There is litigation now... I mean legislation now going to be proposed mostly by states along the eastern seaboard. Some of this legislation has been fomented by the governor's committee on offshore revenues. The purpose of the legislation is to get these eastern states to allow drilling off of their shores and a part of the package is going to be the thirty-seven and a half percent of the revenues from those drilling operations will go to the adjoining states. If such legislation passes the Congress under the current

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engery crisis that will redound to Louisiana's benefit and we will get thirty-seven and a half percent of the revenues out beyond the three-mile limit.-

MR. LAMBERT
Correct.

MR. STAGG
Under this set of facts, is your language in Section 9 too restrictive?

MR. LAMBERT
Mr. Stagg, I don't think it is, but I may be incorrect. I think that it's, in my own opinion and from the people that I've watched in government looking at it from a prudent standpoint, it's always wise, as I understand it, to put your first dollar on bonded indebtedness if you're in a position to do that, because that would obviously free more money to go into... that's not that doesn't have to be set up in the... I think it's the Bond Redemption Fund and it, of course, it would go into the general fund and free money to be used for hospitals and schools, etc.

MR. STAGG
If in five years that source produced a billion dollars....

MR. LAMBERT
If that occurred....

MR. HENRY
Gentleman has exceeded his time, sir.

Amendment

Explanation

MR. POYNTER
Mr. Casey is going to handle them.
Amendment No. 1. On page 3, delete lines 8 through 14, both inclusive, in their entirety and insert in lieu thereof the following:
"Section 9. Tidelands Ownership
Section 9. Revenues and royalties obtained from minerals located beyond the three-mile limit of the coastal waterways of the state belong to the state."

MR. CASEY
Mr. Chairman and delegates, I think it has been adequately brought out already by some of the questioning that indicates that the last sentence of Section 9 may possibly be too restrictive in that, if we do have a windfall of money coming in from revenues and royalties from offshore areas, that it may be, for instance, more profitable to the State of Louisiana to invest that money and get a ten percent return on it rather than being forced into a position of retiring bonds at three, four, or five percent. So, it could mean millions each year if we got a hundred million dollars in any one year; it's certainly better to invest that at ten percent and get ten million dollars a year rather than retire bonds at four percent and, therefore, lose what's the equivalent of six million dollars a year. I'd urge adoption of this amendment.
I understand the committee has no objection to it.

Questions

MR. CONROY
I was just going to ask you, Mr. Casey, that doesn't Section 11 of the Revenue, Finance and Taxation Committee proposal already take care of allocating some of this to the appropriate payment of bonds, so that this in a sense is unnecessary; the language that was in here about bonding indebtedness?

MR. CASEY
As I recall, I think, it does.

MR. JENKINS
Tom, you said that it would be much better for the state to invest this money and get nine or ten percent than to pay off these bonds that may be three or four percent bonds. That would be

fine if the state were going to invest all of this money at nine or ten percent, but in fact, won't this money simply be budgeted and spent rather than retiring these bonds if we delete this provision?

MR. CASEY
Woody, I think the legislature would hesitate to spend this type of money on frivolities. I think it would be... it's certainly good to retire bonds if at all possible, but to mandate the retirement of bonds, I would question the prudence of doing... mandsting that requirement. Perhaps, it may be better to use money coming in on capital improvements, for instance, and I think we must maintain the flexibility in order to accomplish that in the future.

MR. JENKINS
But, haven't you seen a number of legislators propose and even pass resolutions and even acts in some cases dedicating this money--particularly tidelands money--time and time again, and that hasn't been too responsible, has it?

MR. CASEY
Woody, there's no question that a legislature, whether it be Louisiana or any other state can certainly act irresponsibly, but my point is we should maintain the flexibility whereby if the funds become available, that wise use would be made and put to this money that would come in.

Further Discussion

MR. PEREZ
Mr. Chairman and ladies and gentlemen of the convention, I really do not have any strong feelings as to whether these funds be dedicated or not dedicated, but I would like to explain to you the origin of this particular provision and to try to straighten out some of the language in it. This provision was included because of the fact that we had the hope that someday we might receive some settlement from the United States Government of the tidelands beyond the boundary of the State of Louisiana. Unfortunately, that whoever prepared the original provision lived under the misconception that Louisiana has a three-mile limit. It has been the position of the state from the very beginning that the boundary of the State of Louisiana is three leagues from coast and not a three-mile limit. I realize that we have had our reversals before the United States Supreme Court, but I do believe that it would be very, very bad practice on the part of our constitutional convention if we know that the position of our state is that we hold to the claim of three-miles from coast and we would put in a provision which would reiterate a three-mile limit. So, therefore, I have no serious objection to the amendment provided the author is agreeable to striking the words "three-mile limit of the coastal waterways" and putting in there "beyond the boundary of the state" because I repeat again, that the purpose of this provision was to use the funds which we might receive from the federal government such as thirty-seven and half percent which is paid to some of the inland states for mineral production on lands owned within the state. Those are generally called in lieu of taxation type of payments because of the fact that because the federal government doesn't pay taxes on the land it owns it in turn returns to the states at the local governments a percentage of its royalty income to compensate it for the taxes which cannot be collected. The same theory was being used and that same claim is being made in Congress today to attempt to receive from the federal government a portion of those royalties which are produced outside of the boundary of the state. I would therefore, like to urge that if the author is agreeable to an amendment to say "outside the boundary of the state," I don't really care one way or another whether we dedicate it or don't dedicate it, but please, let's don't put this constitutional convention in a position of not knowing what the claim of the state is with respect to its offshore boundaries.

Questions

MRS. MILLER
Mr. Perez, I'm sorry this is not in the nature of a question, but I do want you to know I think it is a true technical amendment that makes us technically correct in our verbiage here and I certainly want to go along with you on that.

MR. PEREZ
All right. I might say to you that the United States Supreme Court held in a case of Florida that because it did have a provision in its constitution with respect to its boundary, the State of Florida ended up getting everything it claimed because it was in the constitution. The one thing I don't want to do here is to have something in the constitution which might take something away from us, a very serious error.

Further Discussion

MR. CASEY

Mr. Chairman, I think, Mr. Perez is correct. I see he has an amendment up there to change the words "three-mile limit" to "boundary." I think it would certainly... I think it would be appropriate to withdraw the amendment and merge Mr. Perez's wording into this particular amendment, and I so....

[Amendment withdrawn.]

Amendment

MR. POYNTER

Would read the text as follows: --one change--
"Section 9. Tidelands Ownership
Section 9. Revenues and royalties obtained from minerals located beyond the seaward boundary of the state belong to the state."

Explanation

MR. CASEY

Mr. Chairman, I've already explained it. The wording "three-mile limit of the coastal waterways" has now been changed to the "seaward boundary" of Louisiana for the reasons that were explained by Mr. Perez.

Questions

MR. JENKINS

Mr. Casey, when it says "revenues and royalties obtained from minerals located beyond the seaward boundary." Does that mean that all minerals out there belong to the state not to those who exploit them and not to anyone else? What does it mean, revenues and royalties obtained from minerals belong to the state?

MR. CASEY

That's correct. That's what it's intended to mean...

MR. JENKINS

All of them belong to the state.

MR. CASEY

... belong to the state.

MR. JENKINS

So, in other words, if the state or the federal government grants a lease out there then those minerals belong... or the revenues from those minerals belong to the state?

MR. CASEY

Yes, that's correct. Then what?

MR. JENKINS

Why would anyone ever exploit them if all the revenues belonged to the state?

MR. CASEY

Well, Mr. Jenkins, as I understand it, that's the dispute. They either belong to the state or the federal government and we're claiming them.

MR. JENKINS

How... you say "beyond the seaward boundary." The "seaward boundary" I suppose, would begin where the sea begins; is that correct?

MR. CASEY

Well, of course, that's what Mr. Perez explained. That's what he feels is still open to dispute and interpretation and may be another court decision... is it three miles or is it ten miles?

MR. JENKINS

Well, how far out does that boundary... how far out does the area go, the complete continental shelf or what?

MR. CASEY

The boundary, as I understand it, even in the court disputes has not really been permanently decided yet.

MR. JENKINS

Now, the United States of America claims territorial jurisdiction only to three miles, but here we are claiming all

revenues and royalties for minerals located as far out as you can imagine; I suppose the entire continental shelf, is that correct?

MR. CASEY

That's correct, Mr. Jenkins.

MR. ALEXANDER

Mr. Casey, is not the intent of the last addition to the amendment to clarify the question that Louisiana is not surrendering between three and ten miles, that in effect, Louisiana is saying as we've always said that Louisiana has a right to ten and half miles out? Isn't that correct? Now, notwithstanding what the government said... the federal government said; isn't that correct?

MR. CASEY

Well, Reverend Alexander, there are two purposes in the amendment. First, is to delete the second section of Section 9 so that there will not be a permanent requirement that bonds be retired. That's primarily the reason for the amendment. The Perez amendment was merged into the Derbes amendment, and I just happened to be handling the Derbes amendment. The Perez amendment deletes the three-mile limit and intends to use boundaries because the boundary line has not been definitely decided yet, and there's some question about the use of the words "three-mile limit," and that is even subject to a final decision by a court.

MR. ALEXANDER

But, if the federal government which imposes the three-mile limit and Louisiana says, "No, it is not three, it's ten and half or three leagues," isn't that right?

MR. CASEY

That's correct, Reverend...

MR. ALEXANDER

We're saying that in court, aren't we?

MR. CASEY

We're not giving up the ship yet.

[Previous Question ordered. Amendment adopted: 88-3. Motion to reconsider tabled.]

Point of Information

MR. DENNERY

Mr. Chairman, would you be good enough to ask the Clerk to read the amendment you just asked me to punch my machine on because I'm not sure exactly what I voted on?

[Section 9 reread as amended. Previous Question ordered on the Section. Section passed: 91-3. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

Next section -- you want to go on to ten, Senator--is that right? All right.

"Section 10. Offshore and Mineral Revenues; Use of Funds

Section 10. Funds derived from offshore mineral leases and held in escrow under agreement between the state and the United States pending settlement of the dispute between the parties shall be deposited in the state treasury. Those funds and the interest from their investment, except the portion otherwise dedicated in this constitution to the Royalty Road Fund or to public education, shall be used by the treasurer in the purchase, retirement, and payment in advance of maturity of the bonded indebtedness of the state.

If any of these funds cannot be so expended within one year, the legislature may annually appropriate for capital improvements, or for the purchase of land, ten percent of the remaining funds, not to exceed ten million dollars in one year."

Explanation

MR. LAMBERT

Mr. Chairman, fellow delegates, Section 10 headed... entitled Offshore Mineral Revenues; Use of Funds. Section 10 deals with mineral revenues located not beyond... within the three miles boundary. Presently, as I understand it, our state is involved in litigation concerning the disposition of funds located within the three mile limit. One of the issues or

possibly the main issue that's involved, as I understand it, is to determine actually where our coastline is so that we will know where the three mile figure starts. What this does, it keeps any funds that in the future we may get from a settlement of this dispute, puts them in escrow under the agreement between the state and the United States pending settlement of the dispute. It also provides for the investment of these funds, except the portion otherwise dedicated in this constitution to the royalty road fund or to public education. It provides that the balance be used to retire the state's bonded indebtedness as did the previous article. It also provides that if any of the funds cannot be expended within one year, the legislature has the authority annually, to appropriate money for capital improvement or for the purchase of land, ten percent of the remaining funds not to exceed ten million dollars in any one given year. Basically what this does is retain the source provision in our present constitution.

I'll yield to any questions.

Questions

MRS. ZERVIGON

Senator Lambert, as Mr. Smith says, "It's getting kind of late," and maybe I'm kind of thick. Can you tell me exactly why you put this in, in view especially of the fact that we took the dedication out of the previous section? Is there any reason to pass this section? Is there anything the legislature could do under this that they couldn't do otherwise?

MR. LAMBERT

Why we put what in? The dedication?

MRS. ZERVIGON

Section 10.

MR. LAMBERT

The entire section? We left it in because it was in our present constitution and the committee just did not want to do anything to jeopardize the tidelands dispute or settlement. This had been set up in accordance with an agreement between the, as I understand it, the United States government and the State of Louisiana; pending any settlement it provided for a place to escrow the money. We did not want to do anything to take away from the intent of the constitutional provision. As a result of that, we adopted it almost as it was. We tried to shorten it as much as we could, and we shortened it quite a bit. But, we tried to retain the substance that was in the source provision.

MRS. ZERVIGON

Well, it's your opinion, then, that the federal government is going to care how we dedicate these funds after we get them?

MR. LAMBERT

No, the federal...no, it's not. I mean I'm not...Look, if you don't agree with the dedication of funds, that's your prerogative, certainly. Is that your objection, Mary? Is that your main objection or is it just....

MRS. ZERVIGON

I'm kind of thick on this subject overall, but I just don't quite understand why this particular section is here, that's all.

MR. LAMBERT

Because it's in the present constitution and there was a purpose for it there. We felt that the purpose still existed, so we left it the part of the section that deals with the dedication of funds is certainly left up to the wishes of this body.

MRS. ZERVIGON

Well, now escrow would still exist even if we didn't have this here; any such monies would still be going into escrow, isn't that so?

MR. LAMBERT

Yes.

MR. ABRAHAM

In view of the fact that this whole section will become obsolete in time, would not it be better to simply let the transitional measures take care of transposing the present constitution into the statutes to be... "could only be changed by a super majority of the legislature"? The thing would still exist, would it not?

MR. LAMBERT

All I can say to that...in response to that, Mr. Abraham, is this: You may possibly be right. But, we just did not want

to do anything to tamper with the existing tideland dispute and in an effort to not do this, we tried to keep intact as best we could the existing, the source provision, in our present constitution. We shortened it as much as we could and certainly this is an area where we certainly...our ears are open, and we certainly don't think we have the final answer.

MR. STAGG

Senator, isn't Section 9...doesn't Section 9 have to do with those minerals that are beyond our seaward boundary and Section 10 have to do with those mineral leases and the revenue from them that are within our seaward boundary?

MR. LAMBERT

That's exactly right; that's what I said earlier.

MR. STAGG

All right. Now, this refers in Section 10 simply to those mineral leases that are held in escrow. Would it not be appropriate to eliminate the distinction about offshore mineral leases and just have the funds derived from all offshore mineral leases to be deposited in the state treasury and their use, or as further provided in your proposed section?

MR. LAMBERT

Mr. Stagg, what you say makes good sense.

Amendment

MR. POYNTER

First amendment sent up by Delegate Derbes, joined by Delegate Casey.

Amendment No. 1. On page 3, delete lines 15 through 29, both inclusive, in their entirety.

Explanation

MR. CASEY

Mr. Chairman and delegates, I'm just handling this for Mr. Derbes who submits this to delete the entirety of Section 10. It is my understanding that the only purpose, or the real purpose, of Section 10--and I'll certainly stand corrected by the committee if the committee deems appropriate--the true purpose, as I understand, is the dedication of the funds, that there's no requirement that this provision be contained in the constitution for the purpose of whatever agreement may exist between the State of Louisiana and the United States and that the true purpose is the dedication of funds which we have already deleted in the preceding paragraph. I urge the adoption of the amendment.

Questions

MR. BURSON

Tom, I can understand as a legislator that you have some hostility to dedication of funds. But, don't you think it would be a good idea that if the state gets a substantial amount of money in the nature of a windfall that the first call on that money be to pay off some outstanding indebtedness?

MR. CASEY

Mr. Burson, at the time of receipt of the funds if it would be in the best interest of the state, I should think that would be the first priority. However, as I mentioned in arguing on the amendment on Section 9, rather than have this requirement contained in the constitution---it may not be in the best interest of the state at that time to retire the bonds because of the possibility of investing the money, first of all, at a higher interest rate because of the importance of projected capital improvements that may be pending on the legislative plans and proposals at the time; it just depends. All I'm suggesting is that it may be better to remain flexible. So, the answer is yes. That's the ideal, I think, to retire the bonds, but is it the best five years from now? I really don't know.

MR. BURSON

Well, would you see, also, the possibility though that the money could be squandered, as it often is unfortunately when it's not budgeted ahead of time?

MR. CASEY

Mr. Burson, I think Mr. Jenkins asked a similar question during the argument on Section 9, and I'm the first to admit that maybe the money may not be used prudently. But, I think on money of this

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type, onwindfalls of this type, the news media and the people of Louisiana are looking very closely over the shoulders of the legislators. I think the legislators know full well that they have got to use these funds prudently and invest them properly.

MR. KEAN

Mr. Casey, as I read Section 10, it is talking about funds held in escrow pending a dispute with the United States government and no other funds, is it not?

MR. CASEY

That's my understanding, Mr. Kean.

MR. KEAN

And, it further provides that those funds and the interest from their investment would be used for these purposes. As I read that, it would permit the wise investment of these funds if it was desirable to do so. All it does is commit the funds ultimately to the retirement of these bonds. Don't you think that's a reasonable approach to the handling of these one-time funds?

MR. CASEY

Well, it's hard to determine exactly what this means, Mr. Kean, because as I understand the reading of this requires that the funds be used in accord with the requirements contained in lines 21 through 24 and then maybe 25 through 29, as somebody mentioned in my ear. The investment probably...the interest from the investment might be just on those funds that are left over. I'm not sure exactly what it means. I just don't think we need it and, of course, if there is a need for it being contained in the constitution, I'm the first to admit that leave it there, but I just don't think that it's necessary.

MR. CHAMPAGNE

I have two short questions, one is: Can we spend money that's in escrow? And the money's in escrow; can you spend it?

MR. CASEY

Well, Mr. Champagne, that's the very question I have. If money's in escrow I don't see how it is available to us.

MR. CHAMPAGNE

And, the next question I have is: If we did pay off the bonds, do you think the legislature would have any trouble creating others, so that we'd have something to spend it on?

MR. CASEY

Well, Mr. Champagne, I think you hit the nail on the head. Let's face it, what you can't do through the front door can be accomplished through the back door, so I think you are exactly right, we are just kidding ourselves.

Further Discussion

MR. PEREZ

Mr. Chairman, ladies and gentlemen of the convention, let me see if I can get this situation in its proper perspective. Some many years ago when the tidelands controversy had been hanging for many years, the State of Louisiana and the federal government entered into an agreement in which they established Zone 1, Zone 2, Zone 3, and I believe Zone 4. With respect to Zone 1, it was acknowledged and recognized that the State of Louisiana had title to all the water bottoms in there. With respect to Zone 2, the area in which there was the greatest controversy, there was an agreement that whichever agency, whether the state or the federal government, was holding royalties attributable to that particular area, that they would put those funds in escrow and hold those funds until the final termination of the suit. Well, as you know, the tidelands controversy is still in litigation, the location of a coastline from which the boundary of the state is measured is still in controversy. We have been working on that for a number of years and it will probably be another two, three, or four years before that's finally decided. So, that the purpose of Section 10 was to say those funds which are being held in escrow--held by the State of Louisiana or for that matter held by the United States, because it says "and held in escrow under the agreement between the state and the United States." So, it's possible either both the state or the United States may be holding those loads...holding those funds; that any monies derived from this Zone 2 or possibly Zone 3 upon the final settlement of the tidelands controversy would be used for the retirement of the state debt. Now, that's basically what this provision calls for. Lines 25 through 28 are an attempt

in three or four lines to shorten and codify what goes on for several pages in the constitution --I'm not sure it really does it. But the primary purpose of lines 15 through 24 is to say those funds in escrow in the tidelands dispute, if and when we ever get any part of it, those monies will be used for the retirement of the state debt. I, therefore, suggest we should keep the provision. If this particular so-called windfall ever comes or this particular large sum of money comes, it would help tremendously in reducing the burden of the taxpayers of the state with that high interest cost.

Questions

MR. AVANT

Mr. Perez, I'm confused and I'm really seeking information. You talk about an agreement on escrow funds and then...escrow funds to me are funds that are idle, I mean, they may not be idle, they may be drawing interest, but it's money you don't spend because you don't know who it belongs to and you may sooner or later have to give it to somebody else.

MR. PEREZ

That's correct.

MR. AVANT

And, yet, this thing...this section doesn't speak about spending that money when there is a settlement and it's determined what we get; it talks about spending it, and the way I read it, spending it now. The only thing that bothers me or that I'm concerned about is I wouldn't want to put anything in here that would be contrary to some agreement that had been made with the United States so that it would give them an excuse, then, to come in and say, "Oh, you've violated the agreement, now we are going to take it over."

MR. PEREZ

Well, I must agree with you, sir. This is not as articulately prepared as I would like to see it, but that's the meaning of it.

MR. AVANT

The meaning is then that it will only be spent when there is a final settlement?

MR. PEREZ

There is no other way because they can't violate the provisions of the escrow agreement.

Further Discussion

MR. CONROY

All right. I join Mr. Perez in opposition to the Derbes-Casey amendment. I think to understand the opposition you really have to understand that Section 10 is vastly different from Section 9 or from other revenues which the state has. The other revenues which the state has are continuing matters. Section 10 explicitly deals only with one situation in which the state will receive, hopefully, a great deal of money in one year; it is not a continuing thing; it won't continue after that point as far as what Section 10 deals with. Section 10 deals only with the receipt by the state of a significant sum of money in one year. What it says is when the state gets that money, the first call on that money is going to be to retire state debt. Then, thereafter, the state can spend off, if there is anything left over, over a period of ten years at ten percent a year not to exceed ten million dollars a year. The possibility is envisaged here that it could be a really tremendous sum of money. I think we cannot guess...we can always hope that we have a fine legislature but it may just happen that in the particular year that that sum is paid out of the escrow fund, that maybe that year we don't have such a red-hot legislature and they may have some other ideas about how to spend all that money that suddenly comes into their hands. I think that this provision as written in the present constitution and carried forward in Section 10 is a most wise provision. I think it would be very unwise of this convention to adopt the amendment before you. I urge you to reject the amendment that's been presented.

Question

MR. CHAMPAGNE

Mr. Conroy, in spite of anything I might have said, I agree with you thoroughly; it's just the words I don't like.

MR. CONROY

Well, I think Mr. Perez and I would both say the same thing about the wording here...the wording in the present constitution isn't all that great either. But, I think the intent is clear,

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the intent is to avoid the possibility of a legislature expending monies that are suddenly received in one year in a great windfall for something other than first seeing to it that this state's debt is taken care of.

Further Discussion

MR. KEAN

Mr. Chairman, fellow delegates, I'll be very brief. I rise in opposition to the Derbes amendment. I voted against the Casey amendment which, in effect, made Section 9 of no moment. The only purpose that Section 9 really had to begin with was to dedicate the funds. But, I can see a difference between Section 9 and Section 10. Section 9 was dealing with oil revenues and royalties derived from lands located beyond the seaward boundary. It seems to me there is some merit to the point that all of those funds should not be tied up with bond retirement. But, in Section 10 where we are dealing with a special fund, then it seems to me that the recommendation of the committee which carries forward language in the present constitution which was placed in that constitution--and a relatively short period of time ago--is a good use of the funds. I would urge that you defeat the Derbes amendment and adopt Section 10 as recommended by the committee.

[Amendment withdrawn.]

Amendment

MR. POYNTER

Mr. Stagg, you want your amendment, sir?

Mr. Stagg sends up amendments reading as follows:

Amendment No. 1. On page 3, delete lines 17 and 18 in their entirety and at the beginning of line 19, delete the words "the parties".

Explanation

MR. STAGG

Mr. Chairman, fellow delegates, at this particular time there is a lawyer up in Memphis named Armstrong whom the Supreme Court of the United States appointed to be a special master to determine where the seaward boundary of the State of Louisiana actually begins. In this litigation which has been going on since 19... well almost twenty years, the State of Louisiana hasn't come out too well. We have a certain area that is all ours. In the amendment or in the provision in Section 10, as contrasted with Section 9, remember Section 9 only deals with revenues that the state might get from some future happenstance where the state would gain from those parts of the federal domain way beyond our boundary and that money ought not to be dedicated. But, I think the money from the lands that are those of the State of Louisiana, not just those that are in escrow, ought to be used for the payment of bonded indebtedness of this state. The benefits from it will accrue to every citizen because of the enormous amount of our annual appropriations that go to pay interest on outstanding state bonds. When those bonds have been paid off, then the state citizens can gain a long needed tax break because a great deal of money would be available for that purpose. The effect of the amendment which I have offered is to make the sentence read beginning on line 16: "that funds derived from offshore mineral leases shall be deposited in the treasury and that, thereafter, those funds and interest shall be used in the purchase, retirement, and payment in advance of maturity of bonded indebtedness of the state." Now, you are going to have a choice this afternoon as you have had since this convention began because right behind the amendment which I have proposed comes an amendment by Mr. De Blieux to knock out everything beyond line 19 which would cause the funds coming from offshore leases to go into the state treasury to be used any way the legislature sees fit. I don't agree with that amendment. I think this money which is in the nature of a birthright of our people should be used for the benefit of all the citizens by getting off of the backs of all of the citizens of this state our enormous growing bonded indebtedness; that's the purpose of my amendment. I urge you to adopt it.

Questions

MR. DE BLIEUX

Mr. Stagg, these funds if they are offshore funds, what do you consider, how do you define offshore funds? Wouldn't it be any money that we get outside of the boundaries of the state?

MR. STAGG

All of the monies received by the state in that area between our boundary and it's three mile limit out from that boundary which will be eventually determined by the Supreme Court.

MR. DE BLIEUX

I don't believe we have a definition to that extent, you see, and that's where I think that...what you have left in there is important because we do have, as you know, don't we have a dispute existing now about that? Isn't that those funds which we are talking about? Shouldn't it be defined as to exactly what funds, because otherwise, it looks like to me any funds we get offshore would be included in what you say in this part?

MR. STAGG

You have understood my amendment perfectly.

Further Discussion

MR. CONROY

I, also, oppose this amendment because this does violence to what was proposed by the committee in a different way. The proposal by the committee as I explained before was to take care of a one-time situation and to dedicate that to the payment of debt; I think that's appropriate. I think it's just as inappropriate to dedicate to the payment of all debt the continuing revenues from all offshore revenues as I do the relieving of that single fund. What Mr. Stagg does by this amendment is saying not only the funds from the area in dispute offshore but all funds from offshore leases, that's including a great number of leases within the three mile limit that the state presently derives rather substantial revenues from, that all of that would first be dedicated to the payment of debts; monies the state is presently receiving and using for other purposes would now have to first be dedicated to the payment of debt. I think that that is inappropriately restrictive on the legislature. I think that there are other purposes that may suffer a great deal of violence in this state, many projects which are funded by such revenues that I think would suffer badly from the Stagg amendment. I, therefore, urge you to reject the Stagg amendment.

Questions

MR. RAYBURN

Mr. Conroy, am I correct in assuming that Mr. Stagg's amendment would provide that all revenues derived, whether offshore or not--I mean offshore so to speak, whether beyond the three mile limit or within the three mile limit, would have to go to retire the bonded indebtedness of this state?

MR. CONROY

That's correct; that's what it would do. I don't know what you all would do for money to spend for the...to appropriate....

MR. RAYBURN

Let me ask you one other question. I know and I'm sure that you know and I know the delegates know that it's awful nice and awful good to say retire the bonded indebtedness. But, do you know that we've got some bonds in this state that are bearing a three and four-tenths percent interest, three and six-tenths, three and eight-tenths, and the money today we have invested in the banks is bringing into this state eight percent? Did you know that?

MR. CONROY

Yes. I understand that. I don't think the committee proposal, as written, would require this immediate disposition of it. But, I think that Mr. Stagg's amendment, as broadening it, would really cripple the state, I feel.

MR. RAYBURN

But, Mr. Conroy, don't you think that the state treasurer or someone should have the authority. If you have a bond that is now sold and is bearing 3.3 percent interest, what are you doing for the people of this state if you pay that bond off and draw money out of a bank that's drawing eight percent interest and pay that bond off? I mean, do you think that's good business or bad business?

MR. CONROY

No, I don't. I don't read the section as requiring that as written.

MR. STAGG

Mr. Conroy, in deference to your views I would like to withdraw my amendment.

[Amendment withdrawn.]

Amendment

MR. POYNTER

Amendment No. 1. On page 3, line 21, immediately after the word "constitution" insert a comma "," and delete the remainder of the line and at the beginning of line 22, delete the words and punctuation "road fund or to public education,"

Explanation

MR. GRAVEL

Mr. Chairman, I would like to withdraw that amendment at this point but before I do so, I want to state the purpose of the amendment and want to make sure that there is no conflict with what this convention has done. The purpose of this amendment was to delete the words "royalty road fund" and the dedication to education. We do not have, based upon what we have done up to this time, we do not have any dedication to the royalty road fund. The royalty fund that was dedicated has no restriction on use for road purposes or any other specific purposes such as are contained in the present constitution, and we have not dedicated any funds for education. Now, the reason I want to withdraw the amendment is I've just talked with Mr. Perez and there is some question in his mind about whether or not this would adversely affect the royalty dedication that we now have in the proposal...in Committee Proposal No. 15, Section 4 (D). I want to satisfy him so that and make sure there is no problem on it. But, I want to state the purpose of the amendment; I'm going to come back with it in perhaps some slightly changed version.

[Amendment withdrawn.]

Amendment

MR. POYNTER

Senator De Blieux sends up amendments.

Amendment No. 1. On page 3, at the end of line 19, delete the word "Those" and delete lines 20 through 29, both inclusive, in their entirety.

Explanation

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, we took out a large portion of Section 9 and I think this is only a dedication of these funds right here. Now, as Mr. Gravel told you and it's been explained before that what we're actually doing is handicapping the operation and management of our funds. Now, I think that the present provisions that we have enacted into law give us a very good management of our funds. I certainly feel like that the proper portion of this is to get those funds and deposit them in the state treasury and then let the set-up that we have that we have enacted by a statute, now incorporated into our law by constitutional amendment, manage those funds so that we can get the best use out of them. Now, here, if you take these funds and use them for the retirement of the state debt as has been indicated, as Senator Rayburn told you, we are just going to lose the management of our funds and possibly lose a great deal of interest which the state is now being able to get from these funds if they should ever come into the state treasurer. So, I ask that you adopt this amendment and, therefore, you might say undedicate these funds so that we can get the best management out of our funds.

Further Discussion

MR. CONROY

I have explained my position on these amendments in the prior two times I've been up here. This, again, totally undedicates the funds that would be received in this lump sum disposition out of a particular fund. I think it's a mistake to unfreeze that particular dedication. It's a one-shot proposition, and I think that it ought to be used, first, for the retirement of debt.

I urge you to reject the amendment.

Questions

MR. THOMPSON

Don't you think this is wishful thinking when we have between eight and nine hundred million dollars of indebtedness already? I don't think they're going to get that bonded off. I don't know what the purpose of an amendment like this would do.

MR. CONROY

Well, I don't know what it would do, either, except it would

undoubtedly be. . . I think the danger is the money would be used for some other purpose. It's well worthwhile to use it to retire the debt.

MR. JENKINS

Mr. Conroy, Mr. De Blieux has several amendments. This is the one to delete 19 through 29, isn't it?

MR. CONROY

That's my understanding, yes.

MR. JENKINS

If we delete that, do you really think that the political factors in a legislature would permit the legislature to retire bonded indebtedness, or do you think that they'd just spend this money for sort of a slush fund operation?

MR. CONROY

Well, I think if there were great political pressures for funds at that particular time, that they would probably welcome the chance to have some money to spend on any number of other projects for which they may have political pressures at that particular moment.

MR. JENKINS

So, really, this is one of the few opportunities that we have in this state, right here, right now, to insure that that money will be used in a fiscally responsible way?

MR. CONROY

Yes, and I think we should remember that this is the basic content of an amendment that was passed by the voters of this state. I don't think we should undedicate these funds in a fashion that the voters of this state had indicated they wanted it dedicated.

MR. NUNEZ

Mr. Conroy, it's always been my understanding of one of the main reasons why we are here is to not tie up state funds that we have in the past, in the old constitution--that we undedicate some of these funds. Don't you agree with that?

MR. CONROY

Well, I think that's true for continuing revenues. This is a one-shot disposition of funds, Senator. I think that, as I said, I think the voters of this state have spoken on this one, and I think we should respect those views and avoid the temptation in just a one sum basis. That's all.

MR. NUNEZ

Well, Mr. Conroy, don't you agree, also, that for the first time since January of this year I'm going to be able to vote with Senator De Blieux? He's got a good amendment.

Further Discussion

MR. STAGG

Mr. Chairman and fellow delegates, there has been some question about the amounts of money in the disputed area that. . . in escrow that Louisiana will eventually obtain. The findings by the special master are not complete. In the back of the audience, one of the lawyers on the tideland team and I have been discussing these things, and while the funds are not exactly ascertainable, for the benefit of the delegates, we're talking about a sum somewhere in the neighborhood in excess of a hundred and fifty million dollars, at this time. Quite hopefully, on final settlement by the Supreme Court, that sum might be double that amount, but probably no more than that. For that onetime, windfall set of monies, they ought to be as the people have voted in a constitutional amendment applied to the state's bonded indebtedness that can be called and paid. I do oppose Mr. De Blieux's amendment.

Questions

MR. LANDRUM

Mr. Stagg, how much money did you. . . what was that figure again?

MR. STAGG

I stated that the funds that they may get out of those funds on escrow will be somewhere in the neighborhood of a hundred and fifty million dollars. If we are considerably fortunate by the settlement given by the special master, if that's carried forward and approved by the United States Supreme Court, it might be even more than that sum.

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MR. LANDRUM

Well, at that figure, then, you're talking about around ten percent?

MR. STAGG

I don't know what the total sum is in the escrow right now, Reverend Landrum.

MR. LANDRUM

Well, it's been stated that it's over a billion dollars.

MR. STAGG

I think that Louisiana's portion of the funds in escrow will likely be in the neighborhood, if not in excess of a hundred and fifty million dollars.

MR. LANDRUM

Well, so that would be somewhere near ten percent.

MR. SINGLETARY

Mr. Stagg, what about the situation where the bonds are three and a half percent interest? What you're saying is those bonds that the state only has to pay three and a half percent interest on, you want those paid off, when the money could be deposited in banks and draw eight percent for the state?

MR. STAGG

That was the point that Senator Rayburn made, but there is a constitutional amendment passed by the people that that would be what the monies would be used for.

MR. JENKINS

Mr. Stagg, isn't it true under the section, as written, that the only requirement is that the funds and the interest have to be used to pay off the bonded indebtedness? What could be done, is if we get this lump sum, it can be invested so long as we use the interest to pay off the bonded indebtedness. If we can get nine or ten percent, then we can use that nine or ten percent every year to pay off the bonded indebtedness, plus the interest, and we can come out ahead just by keeping it in the bank, as long as we don't use. . .

MR. STAGG

That's exactly correct, Mr. Jenkins. That would be the proper use of the funds.

MR. CHAMPAGNE

Mr. Stagg, I agree with you that Senator De Blieux's would be a bad amendment. But, are you aware that it says, here, that the treasurer. . ."may be used by the treasurer in the purchase, retirement, and payment in advance of maturity of bonded indebtedness." So, there four percent deals, you could really make a good deal on those. In addition to that, if you wanted to further, you could add at the end, "or invested," and you would take care of this. . .

MR. STAGG

That is entirely correct, Mr. Champagne.

[Previous Question ordered.]

Closing

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, I'm just trying to get some good management of our funds. You've heard Senator Rayburn tell you here from this mike before, that we've got a lot of our bonds outstanding at the present time that are less than four percent. On our idle funds that we don't have the necessary need at this particular time, we are making eight percent or more on them. Now, to me--and I think anybody who has to borrow money like I have to do sometimes--it's very foolish to take eight percent money and go and pay off three percent money or four percent

money when you don't have to. That's what you will be obligating this state to do, here, if you place this particular provision in this constitution. It just doesn't make good business sense. So, therefore, I ask you to go ahead and approve this amendment and let us get on and adopt this section and go on to other business.

Questions

MR. JONES

Senator, what I'd like to bring to your attention is insofar as those bonds are traded publicly, I've got some of those bonds. They are worth about sixty-five or seventy cents on the dollar. As Mr. Champagne pointed out, you've got the right to purchase. If you've got this money, you can buy your own bonds back at the market value, and if you own them, then you don't have to pay a hundred cents on the dollar. You're buying your own money back. This idea of eight percent is ridiculous, because they're all traded in the open market. All you've got to do is move out and use your money and buy my bonds--you can't buy mine, because I'm going to wait until they go to a hundred and one. But, you can buy these bonds on the open market at sixty-five percent of their current hundred percent value. This idea you're going to get eight percent is ridiculous, because what you do is--you live in a free enterprise system--and what you do is use your money to the best advantage and that is what you'd do, is you'd buy your bonds back.

MR. DE BLIEUX

Well, you can buy them back. . .the reason that you can buy them at that particular rate. . .

MR. JONES

I'm supposed to say, "Did you know".

MR. DE BLIEUX

The reason you can buy them at that particular rate, Mr. Jones, is because the people are not getting enough interest on them. But, I don't know whether they would be salable to the state for that particular interest, if we had to go ahead and pay them off. Now, what I'm saying is that we ought not to use eight percent money--that is, money we could get eight percent for, and we are getting eight percent on some of our money now--and use it to retire three and four percent bonds. It's just not reasonable.

MR. BURNS

Senator, do you think that anybody had any bonds that you could buy now for sixty-five or seventy cents on the dollar, that if the state got in that hundred and fifty million dollars that bond wouldn't come right back up to par or even higher?

MR. DE BLIEUX

I'm sure that it would, Mr. Burns. I agree with you. I'm sure it would if they found out the state could buy them right now, or would buy them. So, I. . .it's just good business management, and I just ask you to go ahead and approve the amendment.

[Record vote ordered. Amendment rejected; 16-73. Motion to reconsider tabled. Motion to pass over Section 10 adopted: 67-18. Motion to revert to Reports of Committees adopted without objection.]

REPORTS OF COMMITTEES

[II Journal 1036]

Report of the Secretary

[II Journal 1036-1038]

[Adjournment to 9:00 o'clock a.m., Wednesday, December 19, 1973.]

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Wednesday, December 19, 1973

ROLL CALL

[83 delegates present and a quorum.]

PRAYER

MR. STOVALL

Let us pray.

Eternal God, Father of us all, we look upon You not as a distant Creator, but as One who comes to us and is present with us in every experience and every decision. We celebrate Your presence with us in this moment, as the One who stands by us, and with us, and for us; as the One who has given to us our past, our present; and as the One who seeks to lead us into a new future. Yet, in this moment, we confess that oftentimes we have tried to hold on to the past, instead of moving with You into a new day for ourselves, our state, and all mankind; that oftentimes we have acted on the basis of expediency instead of principle; that oftentimes we rationalize what we want by saying this is what the people want. Make Yourself known to all who are assembled here this day, and enable us by Your grace, to move forward into the future You desire for us and for all mankind. For we offer our prayer in Your name, and for Your sake. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

MR. POYNTER

Committee Proposal No. 34, introduced by Delegate Lambert, Chairman on behalf of the Committee on Natural Resources and Environment, and other delegates, members of that committee. A substitute proposal for Committee Proposal No. 16, a proposal making provisions relating to natural resources and environment.

The convention has adopted the first five sections, as amended, a section of Section 3 which was deleted, passed over Sections 6, 7 and 8, adopted Section 9 as amended, considered Section 10, voted to pass over said section.

MR. HENRY

I believe Senator Lambert wants to go ahead and take it.

I think they resolved the problems. Am I right, Senator?

All right.

Do we have amendments to Section 10?

Amendment

MR. POYNTER

Mr. Gravel sends up amendments. On page 3, line 21, immediately after the word "otherwise", delete the remainder of the line. At the beginning of line 22 delete "road fund or to public education," and insert in lieu thereof the following:

"Allocated or dedicated in this constitution,"

Explanation

MR. CHAMPAGNE

Ladies and gentlemen, this is a simple amendment. Mr. Gravel was up there at the same time I was to present it yesterday. He called me and said he'd be a little late, and he asked me to present it. This is more or less of a technical nature.

What it does, it says, it would read, "except a portion otherwise dedicated in this con....no....otherwise allocated or dedicated in this constitution shall be used by the treasury in the purchase retirement, etc., in payment in advance of maturity."

What this does, it takes out of the royalty road fund, or to public education. Now, public education, there is at the present time no dedication in the constitution. The royalty road fund has been taken care of--that's the five hundred thousand dollars for each parish with, you know, some getting six, or the possibility of six. So, some get more than that. But, that has already been covered in Revenue, Finance and Taxation. There is a royalty road fund in Section 8 here. But, it's a repetition of what we've done already, and I expect that it will be deleted.

So, this simply says the same thing without referring to them by name, except public education, there is no such dedication in the constitution at present.

I urge your adoption of the amendment. It's nothing other than simply saying what we actually mean. There should be no problem. Any questions?

Questions

MR. LANIER

Mr. Champagne, this amendment could not in any way be construed to affect the ability of the local units that receive these royal road funds from making their own investments in receiving the interest therefore? Is that correct?

MR. CHAMPAGNE

Positively not, sir.

MR. LANIER

This is, in no way, intended to affect the dedication of funds for the royalty road--what was the royalty road funds to the local units?

MR. CHAMPAGNE

Positively not. No, sir.

MR. LEBLEU

Mr. Champagne, as I understand the section, it would take those funds from oil in gas production offshore and put them in escrow where there is some misunderstanding about who actually owns them.

MR. CHAMPAGNE

Well, they would be in escrow until....they are in escrow right now. Let's put it that way. When they get out of escrow, what we are saying here, those that are dedicated in this constitution shall be given as dedicated, you see?

They are....these funds are presently in escrow, as I understand it.

MR. LEBLEU

Yes, sir. But, under the article that we adopted the other day, ten percent of those funds in escrow would go to the royalty road fund.

MR. CHAMPAGNE

That's correct, sir.

MR. LEBLEU

But, under your amendment, you delete that portion, and since there's no reference made to the royalty road funds, that would deprive the royalty road funds of those escrow funds, as I understand it.

MR. CHAMPAGNE

No, sir.

In the other section that we had the other day, we said how those funds would be dedicated to the parishes. Now, what we are saying here is simply saying that that governs....that governs....any amount of this money that is for those parishes, goes to those parishes. This is what we are saying in this amendment. There's no....in other words, it's just trying to make it clear that it is, by using less words and actually referring to....in other words, the other sections of the constitution govern. That's what we are saying.

MR. HAYES

Mr. Champagne, I noticed this Section 10 deals with offshore mineral lease and money held in escrow. Do you know how much money is in escrow, or if there is any money in escrow, in fact?

MR. CHAMPAGNE

I understand that....I understand that all of this money is held, I don't....more than a billion dollars, they tell me.

MR. HAYES

Do you have any figures on that? Now, you say more than a billion. I notice you've got some information there. Do you have that information available? I've been trying to get it even for the last year, and I have been unable to find any money in escrow. It's my understanding that the government spends that money. Now, if you have that information, would you give me some of it, please. Let the research people give me some of that information?

MR. CHAMPAGNE

Well, you see, this is in....the federal government has it in escrow. We don't have it. The suits that are filed, when decided one of these days, we may get it....we may never get it.

MR. HAYES

One question....I want to get the information from whoever has it now. If you know, tell me, and I'll pick it up.

MR. CHAMPAGNE

Right. Well, they have it right here--the research staff has it.

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MR. HAYES

All right. I'll come over and get it.

MR. STINSON

Mr. Champagne, as I read this, the original said that all of this would go into the retirement of bonds except the royalty road fund and the public education. Now, what your amendment is doing, it says that all....you bring out there that all of it will be going to the retirement of bonds. Isn't that correct?

MR. CHAMPAGNE

No, sir. This says, "except the portion otherwise allocated or dedicated in this constitution."

That refers, in this case, to the royalty road fund which we didn't call the royalty road fund any longer.

MR. STINSON

But what you are doing, then is--what else is dedicated in here....allocated and dedicated besides the royalty road fund?

MR. STINSON

Well, so all of that that's dedicated will go for that purpose, and not for the retirement of bonds.

MR. CHAMPAGNE

That's right, sir.

MR. STINSON

Now, as written here, everything would be for the retirement of bonds with the exception of royalty road funds and public education.

MR. CHAMPAGNE

What we are saying is that those monies which are already dedicated are going to be dedicated. That's what we would want it to do, sir. The rest of it has to go to pay off debts.

MR. STINSON

Well, it doesn't read that way. It says "all dedications would cover here the retirement" the way your amendment does.

For your information, it's my understanding that there is no dedication for public education.

MR. CHAMPAGNE

That's correct. That's why we took it out, sir.

MR. STINSON

Therefore, under this, though, what dedications there are, and I don't have that information, I don't know whether you.... do you have that information as to what is, or what will....?

MR. CHAMPAGNE

Dedicated the royalty road fund as we'd wrote it up in Revenue, Finance and Taxation.

MR. STINSON

That's the only dedication in the constitution?

MR. CHAMPAGNE

At the moment time. There may be some others, but as far as I know, that's the only one, sir. That is it. That is it.

MR. STINSON

But, if there are other dedications, they would be used for that purpose prior to the retirement of bonds.

MR. CHAMPAGNE

If there are other dedications of these funds, of which I know none at all, they would positively be covered. Yes, sir. Because that's what the constitution would say, you see.

MR. NUNEZ

Mr. Champagne, you mean you are taking these three or four words out just to concisè the language and make the constitution smaller? Is that my understanding?

MR. CHAMPAGNE

No, sir. Not at all. What we're doing is, we're taking those one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen words out because road fund or to public education doesn't mean anything. We're making it clear that what we say is otherwise in the constitution, is, an exception. There is no dedication to public education in the constitution any longer.

MR. NUNEZ

Don't you believe that it's a lot clearer when you leave the words in rather than take them out?

MR. CHAMPAGNE

Well, I don't know how you're going to say "funds dedicated to public education" when you read it and you don't find it anywhere in your constitution.

MR. NUNEZ

Well, why don't you just take public education out and leave royalty road fund in? That makes it pretty clear to me, doesn't it?

MR. CHAMPAGNE

Because...Senator, in our committee, we didn't call it the royalty road fund. We called it something else. You remember.

MR. NUNEZ

But, you still have Section 8 with royalty road fund in it, and you don't know what the convention's going to do with that.

MR. CHAMPAGNE

Whether you leave it in, or you take it out, this has no effect, sir. But, it would be ambiguous, if you do take it out, and you do adopt what we adopted in our committee, and you don't call it the royalty road fund. Then, you refer to a royalty road fund that is not called that, you see.

This does the same thing....it's not a....it's nothing sneaky. It's a just to clear up the language. That's all.

Further Discussion

MR. STINSON

Fellow members of the convention, as I see this, the only explanation I can see is that if this amendment is put in here, then, every bit of this can be used for the purchase of new bond purchases, or issuance of new bonds. It says "purchase." Purchase....it means they can negotiate new bonds. Whoever the governor may be, he can take every bit of that and issue a bond issue and perspective, and use it for any purpose.

Now, public education, it is my understanding, is not in any way dedicated in the constitution at present....the new constitution. But, on this royalty road fund, it is needed for that purpose. This is taken away from that. If that's the only thing that we need it for, I think it should be left in there. Then, what's over, then, can be used for the issuance of new bonds, and maybe, for the retirement of the old. I have my doubts on that. So, I think it's much more than what has been explained up here. I think if they want to delete public education because there is no dedication, then I certainly feel that the royalty road fund should be left in there.

Questions

MR. LAMBERT

Mr. Stinson, I want to refer to you the point you brought out on line 23 that this would allow the state treasury to issue bonds. As I understand it, and I may be wrong, but is it not correct if you read that carefully, what it allows the state treasury to do is to purchase bonds that we've already sold--in other words, buy them back....in other words to pay....to help retire the state indebtedness. It doesn't have anything to do with issuing new bonds....new bond issues.

MR. STINSON

Well, under this, though, couldn't they purchase any bonds of any type? It doesn't say. It just says to purchase bonds.

MR. LAMBERT

So, the intent of it is to allow the state treasurer to purchase bonds that have already been issued, and that the state owes money on. To buy them back....in other words, like you'd buy a note back. Do you follow me?

MR. STINSON

Sure. I followed all of it, but the way it's worded, I don't think it says to purchase the bonds....don't you think?

[Previous question ordered.]

Closing

MR. CHAMPAGNE

Ladies and gentlemen, I really didn't think there was any objections to it whatsoever, but I just want to read to you what it'll say. It says:

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"Those funds and the interest from their investment, except the portion otherwise allocated or dedicated in this constitution, shall be used by the treasury in the purchase....and so forth and so on."

Now, the only thing we are saying is, we didn't refer by name to the royalty road fund or to public education. There is no dedication to public education. In the Revenue, Finance and Tax Commission Proposal that you adopted, we definitely took care of what was originally the road, royalty road fund. However, we didn't call it that. Now, you voted on that, and it takes care of it. This says that that comes first. Then, after that, what is dedicated in the rest of the constitution goes to the retirement of bonds. It's very simple. If you have any trouble with the rest of it, don't object to this portion. In other words, if you don't like the words "purchase, retirement, and payment in advance," this has nothing to do with that. This simply says that the first fund is taken care of first because we have a dedication and it's taken care of.

I'll answer any questions.

Questions

MR. LANIER

Mr. Champagne, as I understand it, this section is intended to apply to the money that's presently in dispute between the State of Louisiana and the federal government with regards to our three-mile limit.

MR. CHAMPAGNE

Right, sir.

MR. LANIER

Well, if that's correct, would the effect of this amendment in this sentence that we are dealing with now mean that that portion of the money which will ultimately go to the royalty road funds cannot be invested?

MR. CHAMPAGNE

That is correct, sir. Absolutely.

MR. LANIER

Which means that the state will draw interest on their money, but the local governments won't draw any interest on their money.

MR. CHAMPAGNE

The local money--we have already said, that those monies are given to the local governments. We provided that.

MR. LANIER

But, not under this. They are held in escrow until the matter is finally concluded. Right?

MR. CHAMPAGNE

Well, that's right. But, when they are in escrow, you don't have them. You see, you don't get them. Once you get them, then this provides that those monies not dedicated will be invested. Nobody has the money--but when you do get it, you see.

MR. LANIER

But, what I'm saying is that the state treasurer will be investing the state's and drawing interest on it, but the local's is going to be tied up interest free. Is that right?

MR. CHAMPAGNE

No, sir. They are going to get theirs....

MR. LANIER

I know they are going to get it, but they are going to get it without the interest. Is that correct?

MR. CHAMPAGNE

Oh, they'll get it and invest it as they want, sir, as they wish.

MR. LANIER

Out of an escrow account?

MR. CHAMPAGNE

That's their money.

MR. ROEMER

Mr. Champagne, are you saying that we took care of the royalty road fund in Revenue, Finance and Taxation?

MR. CHAMPAGNE

That's what I was trying to say. Yes, sir.

MR. ROEMER

That's what I thought you were trying to say. I'm suspicious of your amendment. It looks like good government. Is that right?

MR. CHAMPAGNE

Well, that's what I think it is.

MR. NUNEZ

Mr. Champagne, I just spoke with Mr. Gravel whose amendment it is I think you are handling. He said that eight is still pending and the convention hasn't acted on eight. I wish you would withdraw your amendment. I think you are premature with it. If you take eight out, I don't think....I think you don't need it. If you leave it in, then you might need it. So, if you would withdraw it until we act on eight, I think you'd be acting wisely.

MR. CHAMPAGNE

Senator, you were on that committee. Can you understand how you'd have two sections in the constitution opposing each other? Have you ever seen that?

MR. NUNEZ

Well, it's there, now, Mr. Champagne, and the convention hasn't acted on it. So, I don't know why you want to do something prematurely. That's what you are doing.

MR. CHAMPAGNE

Are you suggesting we pass over this section until we get through with eight?

MR. NUNEZ

No, I suggested you'd withdraw your amendment until we do something with eight. If you take eight out, then you take out the wording, the language that you want to take out, and I think you'd be consistent.

But, if eight stands the same way, then I think you're inconsistent, and you're doing something that might destroy the royalty fund.

MR. CHAMPAGNE

Yes, sir, Senator. But, I want to know how you're going to get back to this section after you complete it?

MR. NUNEZ

Just don't lay it on the table like we do everything else, Mr. Champagne.

MR. CHAMPAGNE

I'd rather not withdraw the amendment. I think it's a good one. Either vote for it or vote against it. I suggest that it's a good amendment.

[Amendment adopted: 64-29. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Champagne sends up further amendments at this time. Amendment No. 1. On page 3, line 19, after the words "the parties" and before the word "shall" insert the word.... Amendment No. 2 the gentleman does not wish to go with.

Explanation

MR. CHAMPAGNE

Ladies and gentlemen, I hope you won't get tired of seeing me, but the other one was not my amendment; this one is. I just carried it for Mr. Gravel. The point here is what we're doing is just explaining what the committee wanted to do. There was some question yesterday how you can deposit money that's in escrow, because this is what it says--it says "deposited in the state treasury." How are you going to do that when you don't even have it? So, this "when received" after the word "parties" will make it clear that you will deposit it when you do get it. But, as it is now, it says it's in escrow and you'll deposit it. Now, you can't deposit money you don't have. This is a very simple amendment. It just simply explains clearly that you're not going to deposit until you get it. Everybody knows that. You can't go to the bank till you have some money to put in it. Any questions? Everybody agreed on this one. I talked to everybody, and they were in complete agreement--that I've talked to.

[Amendment adopted without objection.]

Amendment

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MR. POYNTER

First of all, delete the first amendment, as it's identical, is just adopted by the convention, proposed by Mr. Champagne. Make Amendment No. 2 Amendment No. 1.

Amendment No. 1. On page 3, line 24, after the words "maturity of" delete the remainder of the line and insert in lieu thereof the following: "then existing bonded indebtedness of the state or invested for such purpose."

Explanation

MR. CHAMPAGNE

Yesterday, when it was discussed, there were some people who were aware of possible possibilities that this money would be used for other purposes than to retire state debt. There were others-- I think Senator Rayburn asked the question: Suppose you can get a higher rate of percent than you can on retiring bonds at, for instance--or at four percent--and you can get eight percent on an investment? This provides that, beyond doubt, the bonded indebtedness will be retired first. In addition to that, it does allow the state, if they so choose to invest this money, to make money in which they have to retire the bonds of the state, or the indebtedness. So, this makes it abundantly clear that you're not going to handicap them in any way. They can get all the money they can; but, in making this money, it's for the purpose of retiring the state debt. So, they could, in essence, if they had some unusually low rates that they didn't want to pull out at that time, but they wanted to invest the money for the purpose of making additional money to retire those--this is just good banking policy that the state could engage in--and I think there should be no objections other than those people who might want to use this money, if we ever get it, to just dish out for some other reasons other than to retire the state debt. Now, the next paragraph, which we are leaving alone from 25 to 29, explains how you might use it for other purposes if you can't retire all the debt. I don't think that there'd ever be that much money in this state, available, that we couldn't retire debts--that we'd have a debt too small to retire--but that's neither here nor there. I'm only explaining. I don't think there's any objection to this whatsoever, but I would answer questions.

Questions

MR. ALEXANDER

Mr. Champagne, I think the sentiment in this convention and in this state is that, whenever this money comes from the federal government, that they don't want it available to the legislature for pork-barrel projects. This amendment prevents it.

MR. CHAMPAGNE

Yes sir. This amendment takes care of it. Any other questions? I urge the adoption of the amendment.

MR. HAYES

Mr. Champagne, I would assume that whatever bonded indebtedness you're talking about you would retire, you would also dispose of whatever tax you have on the people at that time. You didn't say that, but it is assumed, I guess, here; or do you think we need to say it?

MR. CHAMPAGNE

I really don't think so, Mr. Hayes, because you know, if you had a bonded indebtedness that was created and a tax was done to pay for it, I'm sure we can give that much discretion to the legislature. I'm sure they would do it.

[Previous Question ordered. Amendment adopted: 91-1. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 101-0.]

Reading of the Section

MR. POYNTER

"Section 11. Commissioner of Agriculture
Section 11. The Department of Agriculture shall be headed by a commissioner of agriculture who, notwithstanding Article IV, Section 23, shall be elected every four years for a term of four years by the electors of the state as prescribed by law. The commissioner shall have the powers and perform the duties authorized by this constitution or provided by law. Qualifications of candidates for commissioner of agriculture, in addition to those in Article IV, Section 2(A), shall be provided by law."

Explanation

MR. LAMBERT

Mr. Chairman, fellow delegates, I don't see any reason for me to spend a great length of time on this particular section, as this convention has devoted a lot of time, in the Executive Department Article, on this particular subject matter. However, I want to say to you that this matter was debated at great length in the Natural Resources and Environment Committee. It came out of the committee as an elective office, remaining elective. So, basically, you might say that everyone here today is going to have an opportunity to vote on something that obviously, because of the controversy involved over it, a subject of great importance--not only to the delegates, but to the voters throughout the state of Louisiana. We are affording you--and I cannot speak for the committee as a whole, because it was a close vote on the committee--you are being afforded an opportunity to vote on something of significant importance, after you have previously cast your vote several months ago. You have had the opportunity to, I'm sure, get feedback from your constituency. You may find yourself in a position today to make a decision opposite from what you previously made; then, on the other hand, you may have found that your previous decision has been since reinforced by the feedback that you have received in your particular area. Without belaboring this point--this subject matter--any longer, I'll close by just saying that you have a philosophical decision to make: whether or not you want to elect someone who has been elected for many years in this state, the commissioner of agriculture; or if you want to leave the position as it was finally adopted in the Executive Department Proposal, which made it subject to being made appointed by a vote of the legislature. That's all I have at this time. I'll yield to any questions.

Questions

MS. ZERVIGON

Senator, I frankly don't remember. By what margin did we pass that Section 23 of the Executive Article?

MR. LAMBERT

I don't know, Mary, but that's a good question. We're checking that for you.

MS. ZERVIGON

They're checking it twice?

MR. ROY

Senator, I appreciate the, you know, your disinterested manner in presenting the article; but I want to ask certain things that'll make something clear, I believe. Isn't it a fact that, since we dealt with this in the Executive Article and we did provide for the superintendent of education and the commissioner of insurance, as well as the commissioner of voting machines...of elections, we have continuously voted: would be subject to the Executive Article provision with respect to appointment, if two-thirds of the legislature does agree to that, after 1976? Is that correct?

MR. LAMBERT

Yes sir. I don't think I said anything...

MR. ROY

No, I know you didn't, but I just want to remind the delegates, by way of questioning, so that...

MR. HENRY

I think they remember that, Mr. Roy. We've got something to take care of that right now.

[Motion to limit debate on Section 11 to thirty minutes adopted without objection.]

Amendment

MR. POYNTER

Amendment sent up by Senator De Blieux: On page 3, delete lines 30, 31, and 32 in their entirety and on page 4, delete lines 1 through 7, both inclusive, in their entirety.

Explanation

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, there's not much explanation to be needed on this, as Senator Lambert can already tell you--or has already told you. We took care of this in the Executive Article. To pass this particular section of this proposal as we have it would be inconsistent with what we've already done, and we'd have to go back and do one or the other. Since we've already argued it at length and we were entered into a

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compromise agreement in the Executive Section, I just filed this amendment that we delete this particular proposal so that we can have it in line with what we have already done and accomplished in the Executive Section. That's all it is. I ask your approval of the amendment.

[Previous Question ordered. Record vote ordered. Amendment adopted: 65-38. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

The next section is:
"Section 12. Wildlife and Fisheries Commission
Section 12. The wildlife of the state, including all aquatic life, is hereby placed under the control and supervision of the Louisiana Wildlife and Fisheries Commission, which shall consist of seven members appointed by the governor, six of whom shall serve for a term of six years and one of whom shall serve for a term concurrent with that of the governor. Three shall be electors of the coastal parishes and representatives of the commercial fishing and fur industries, and three shall be electors from the state at large.

No member who has served for six years or more shall be eligible for reappointment.

The functions, duties, and responsibilities of the commission, and the compensation of its members shall be provided by law."

Explanation

MR. LAMBERT

Mr. Chairman, fellow delegates, I would say that, in my own opinion, this is a most important provision that we retained in our proposal. I say that for a number of reasons, one of the primary reasons being because of the great amount of concern that was demonstrated before our committee, and individually-- I can speak for myself--a number of sportsmen and conservationists, wildlife enthusiasts throughout our state, that have expressed great concern over retention of some language in our constitution, setting up a Wildlife and Fisheries Commission. In the committee, what we did was take a lengthy constitutional provision--very lengthy--and I would estimate that we reduced it to about, possibly, one-tenth its original size. Basically, what we have here is a policy statement, in the constitution, whereby we express to the people of this state, in their constitution, that we care enough to preserve the wildlife of the state, the aquatic life. We care so much that we put in the constitution the Wildlife and Fisheries Commission, to make sure that this most important area is not forgotten and that it's covered as best as we are able to cover it in a constitution. I might also point out that, obviously, it's an area where we have many people involved, and they are concerned to the point that it probably would give a great boost to helping to get this new constitution adopted. I'm not suggesting that you should vote for it on that premise, or on that basis, but I think that, in order to be completely frank about, this is an obvious consideration. As far as I'm personally concerned, I would love to see the Wildlife and Fisheries Commission left in the constitution. We've done a lot to cut it down, to remove a lot of excessive, unnecessary language. One of the arguments that may be made against it would be the fact that we're keeping a commission in the constitution, and I think Mr. Stagg asked that question yesterday at the beginning of the proposal. Yes, we are retaining a commission. We feel that it is an important retention--it's necessary--and we ask you, when you cast your vote on this particular section, to please give it careful consideration. I'll yield to any questions.

Questions

MR. BERGERON

Louis, I'm just wondering--I don't have my old constitution with me--are there seven members now on the commission?

MR. LAMBERT

Yes. We didn't change that.

MR. BERGERON

And we left their terms, etc., as they are in the present constitution?

MR. LAMBERT

We did. Right. Correct.

MR. BERGERON

Thank you.

MR. CONROY

Mr. Lambert, as Mr. Bergeron just pointed out, there are seven members. Then, on lines 15 and 16, you say "three shall be electors from the coastal parishes, and three shall be electors from the state at large." Shouldn't that last one be four--to add up to seven?

MR. LAMBERT

The governor has the prerogative to select....

MR. CONROY

The seventh one could be a nonelector?

MR. LAMBERT

From at large, you see, David? The governor has authority to select the seventh one from at large--anywhere in the state.

MR. CONROY

He doesn't even have to be an elector, the way this is written. Is that correct? That's the way it is now.

MR. LAMBERT

We retained the source provision and stayed with it as best we could.

MS. ZERVIGON

Senator, can you explain to us why this is a more important commission than the Highway Board, for example, or the State Market Commission or some of the others that we haven't even thought of sticking back in here?

MR. LAMBERT

Mary, to be very frank and candid about it, I think I stated earlier that, in my own opinion, it's an emotional thing, you might say. There are many, many wildlife enthusiasts and conservationists throughout this state; and when you talk about hunters and fishermen and outdoorsmen and pleasure-boat people, etc., you're talking about a lot of people. They are interested in conserving our wildlife, etc. In order for me to say that it's more important than the dock board in New Orleans or it's more important than the Department of Highways--retaining that board in the constitution--or some other boards, I really can't say that it's more important. I think that it is important enough, however, to deserve serious consideration for the reasons that I've stated previously. For those reasons, I think it should be retained.

MS. ZERVIGON

Did you travel the state with the Composite Committee?

MR. LAMBERT

What is that?

MS. ZERVIGON

Remember when the Composite Committee of this convention was traveling the state? Did you travel with them?

MR. LAMBERT

Yes. I was in New Orleans.

MS. ZERVIGON

No, I'm talking about the rest of the state.

MR. LAMBERT

I traveled a number of times, yes. Why?

MS. ZERVIGON

Because, well, I traveled with them about three-quarters of the way; and if my memory serves me correctly, not one person stood up and asked to have this commission retained in the constitution. Does your memory tell you the same about those hearings?

MR. LAMBERT

Let me just say this, Mary: if I had to base my decision on what I observed on the tour of the Composite Committee, it would not be anything like what I observe within my district and within the state as a whole, from the people that I come in contact with. I don't think that's a good rule to use to measure the importance of this Wildlife and Fisheries Commission. That's my frank opinion. You know as well as I do that not many people turned out for the meetings of the Composite Committee--for anything. They didn't ask many questions about anything, because there weren't that many people there.

MS. ZERVIGON

Well, I'll agree with you on that. We heard L.S.U. Board

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everyplace we went, but would it surprise you to know that I've gotten not one letter on this subject?

MR. LAMBERT

Well, you're from New Orleans, and....

MS. ZERVIGON

Well, I've got a vote to cast.

MR. LAMBERT

I know you do. You're from New Orleans; you're not in an area where you have, probably, as many wildlife enthusiasts--as far as hunters and fishermen, etc.--as they do out in the country areas.

MR. KELLY

Louis, to follow up on what Mr. Conroy was questioning you about earlier, you have no objection to substituting the word "four" in line 16, where it says "four shall be electors from the state at large"?

MR. LAMBERT

No, I would have no objection.

MR. KELLY

All right. Now, would you explain to me one other thing? What is the rationale of dictating that three of these commission members be "electors of coastal parishes and representatives of the commercial fishing and fur industry"?

MR. LAMBERT

The rationale behind that, as best as I can explain it, is that this is an industry in the southern portion of the state that's the fur-bearing and the commercial fishing. It's related to the coast of the state, the coastline. It's off the coast of the state of Louisiana. For that reason, it was placed in the constitution a number of years ago, and we saw no particular reason--since that is still an industry in that area, and we were told that it was very important in that area--we left it as it was. We did not receive objections, as far as I can remember, from other areas of the state: that is, we retained the source provision in our present constitution.

MR. JENKINS

Louis, I'd like to ask you, with regard to the property status of wildlife as stated in your first sentence, you seem to make a change from the present law. The present law saying, "The natural resources of the state shall be protected, conserved, and replenished. For that purpose, the wildlife of the state, etc., are hereby placed under the Louisiana Wildlife and Fisheries Commission." When you say here, "The wildlife of the state, including all aquatic life, is hereby placed under the control and supervision of the Louisiana Wildlife and Fisheries Commission," you have no intent there to change the property status of wildlife? Is that correct?

MR. LAMBERT

That's correct.

MR. JENKINS

You intend to maintain the property status of wildlife exactly as it is now.

MR. LAMBERT

That's correct, and I might, if you will let me, in response to your first question, you refer to "The natural resources of the state shall be replenished"--I forget the rest of the sentence--but, that is the source. . .that was. . .before we adopted Section 1, that had been our policy statement on the environment, you might say. What we did was to take that out of the wildlife and fisheries section and expand upon it and put it in Section 1. That is now Section 1, and that is why we changed that language.

MR. JENKINS

Your view of what the property status of wildlife is is that it is res nullius, property belonging to no one until captured and taken under their control. Is that correct?

MR. LAMBERT

We make no change in the present status of wildlife.

Amendment

MR. HENRY

Read the Stagg amendment.

Explanation

MR. POYNTER

Copies of this have not been distributed as yet. I have the desk copies. It's a deletion amendment.

Amendment No. 1. On page 4, delete lines 8 through 22, both inclusive, in their entirety. (8 through 22)

MR. STAGG

Mr. Chairman and fellow delegates, the Clerk has stated the purpose of the amendment, and I know that there are delegates in this room who feel the strength of the efforts of the sportsman and wildlife enthusiasts who want their commission left in the constitution. I'm a paid-up member of the Louisiana Wildlife Federation. . .

I'm a member of the Louisiana Wildlife Federation and of the Sierra Club and the Wilderness Society, and a number of groups whose interests lie in the field of the preservation and proper management of wildlife and the natural resources of this state. But, that does not blind me to the fact that we are writing a constitution to set up the framework of this government. In the Executive Article, this convention voted, without change, those portions of the executive proposal that concern the reorganization of state government into twenty departments so that the functions of state government could be by allocation and reorganization made more efficient for the benefit of all of the citizens of the state. In studying the constitutional provisions pertaining to the Executive Article, we've left out a considerable number of very important boards so that the reorganization could be made without being hampered by constitutional provisions. The state banking commissioner isn't in the constitution; the Bond and Tax Board is not in the constitution; the Commerce and Industry Board is not there, the East Baton Rouge Park Commission, the Board of Highways and the director of highways is not there, the Pontchartrain Sanitary District, the Orleans Levee Board, the Pontchartrain Levee Board, the Market Commission, the Mississippi River Bridge Authority, the Orleans Aviation Board, all of the port commissions, the Sewerage and Water Board of New Orleans, the Stadium and Exposition District, the State Parks Commission, the Tax Commission and the Vieux Carre Commission, one after the other. We have eliminated from the constitution such boards and commissions as being unnecessary constitutional impediments to a proper reorganization of state government. I share with the members of the Natural Resources Committee the feeling that the wildlife interests of this state are strongly representative and do strongly wish this matter to be left in the constitution. But, I strongly feel that we are writing a constitution for everyone in this state--those who tramp the fields and marshes as well as those who walk the city streets. When judged in the balance as to all of the interests of the State of Louisiana, those covered by Section 12 of the committee proposal do not outweigh the principles that we have already written into this constitution.

I do, therefore, Mr. Chairman, move the adoption of the amendment.

[Motion to limit debate on the Amendment to fifteen minutes adopted: 64-31.]

Questions

MR. HERNANDEZ

Mr. Stagg, do you realize that when this amendment was placed in the constitution that we had a very strong coalition of the commercial fishermen, the fur dealers and trappers, and the wildlife sportsmen all over the State of Louisiana in definite support of this, and the constitutional amendment was carried by a tremendous majority when this was placed in the constitution in 1952? Are you aware of that, sir?

MR. STAGG

Yes, Pete, I am. We are faced with this amendment a vote straight up or straight down. Do we put matters not necessarily in the constitution in here in order to serve the particular interests of several groups of people, or do we write a constitution worthy of the name? That's the question before the house at this point. I understand where the support for this comes from. I'm part of the operation, so to speak, and have paid my dues, and I'm a regular member of those organizations. But, I don't feel that this belongs in the constitution.

MR. ANZALONE

Mr. Stagg, do you agree that some of the things that we have put into this constitution is not. . .are not constitutional material?

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MR. STAGG

Yes, Joe, and on a number of occasions I've sat in my seat and just plain voted and not spoken. Today, I think we need. . .

MR. ANZALONE

Do you further agree that this would not hamper the reorganization of the Executive Department?

MR. STAGG

This what, Joe?

MR. ANZALONE

The placing of the Wildlife and Fisheries Commission into the constitution.

MR. STAGG

I don't know that it would, Joe.

MR. ANZALONE

It would not hurt it. Do you agree that possibly that this constitution as it stands today is in dire need of whatever assistance that it can get for passage?

MR. STAGG

You are entirely correct.

MR. ANZALONE

Do you agree, Mr. Stagg, that if you wanted to, shall we say, go out and do battle with the passage of this constitution that the sportsmen of this state could have a wonderful time listening to the arguments of why their Wildlife and Fisheries Commission was not given constitutional status? Why such things as the Royalty Road Fund, etc., were given constitutional status?

MR. STAGG

I think a good argument could be made for support of the constitution without this section in there.

MR. ANZALONE

Do you think that in generations to come just because we have put this into the constitution that all of us are going to have a black eye, and we are not going to be known as constitutionalists?

MR. STAGG

Some of us. . .

MR. MUNSON

Mr. Stagg, if we're not writing a constitution for the various groups of people of the state, who are we writing it for?

MR. STAGG

We are writing it for the state as a whole, Mr. Munson.

MR. MUNSON

Well, that's what I thought. But, in answer to Mr. Hernandez just now, I believe you said group or groups of people.

MR. STAGG

I meant special interest areas as in the Wildlife and Fisheries area.

MR. MUNSON

Well, don't you think that a great majority of the people of this state, since they've expressed themselves twice, are in favor of leaving this in the constitution?

MR. STAGG

Bob, you know how many people vote on constitutional amendments in this state, and it's a disgrace. So, you don't need to use figures like that when we have a million six hundred thousand voters and two hundred thousand of them vote on a constitutional amendment. You can't tell me a great majority of the people have voted on any constitutional amendment in this state--ever.

MR. MUNSON

Then we should just ignore the wishes of the people because a majority of them don't vote.

MR. STAGG

We are writing a new constitution, Mr. Munson, not adhering to the old one.

MR. NUNEZ

Mr. Stagg, who do you refer to when you talk about special interest groups?

MR. STAGG

In different times in this convention, Mr. Nunez, when we were on the fire and police civil service, that was a group that was identified as being a special interest group.

MR. NUNEZ

Do you refer to the hundreds of thousands of small boat owners who go out in the coastal marshes and earn a living trolling and trapping, etc.? Is that special interest?

MR. STAGG

That's an industry in this state just like all the others.

MR. NUNEZ

Do you refer to the hundreds of thousands of sportsmen in this state, for recreational purposes, that take their children out hunting and fishing? Do you call that special interest?

MR. STAGG

Are we doing anything that damages them by eliminating this article, Mr. Nunez? That's a good question to ask back to you.

MR. NUNEZ

Well, I think you very well might could do something to damage that.

MR. STAGG

Why?

MR. NUNEZ

If I get the microphone, I'll tell you.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I urge you most strenuously to reject this amendment. I haven't said this about any single thing that has been before this convention since it started, but in my humble opinion, if you want to destroy any chance that this constitution has got to be accepted by the people of this state, you take the Wildlife and Fisheries Commission out of it and put it back in the statutes. I'll tell you why. You heard what Mr. Hernandez said. Well, not only is that true, but two times, at least two times--and I ask some of the members of the legislature who have been there all this period of time to tell you exactly when--but at least two times since 1952 there have been constitutional amendments on the ballot to take this commission out of the constitution, and they were overwhelmingly defeated by three and four and five to one. Now, let me tell you something, there's been some talk about special interest groups. The people in this state who hunt and fish--I'm not talking about commercial operations, and I'm not casting any aspersions on people who are engaged in commercial fishing operations because they're serving a very good purpose, and I'm all for them--but, when you talk about the hunters and fishermen of the state and people who like to use our fields and streams, you're not talking about a special interest group, because you're talking about a group that cuts across all lines--all lines. People from New Orleans, people from the rural areas, rich people, poor people, white people, black people, all kinds of people--hunting and fishing is the most popular sport in the nation. More people fish than engage in any other single recreational activity in this country. If you take this out of the constitution, let me tell you something, every newspaper in this state, to my knowledge, whether it's a daily or a weekly, has got a wildlife column in it, and I'll guarantee you every single writer that writes one of those columns is going to chastise us severely and raise almighty sin, if you take this out of the constitution. Now, there are lots of things that are in this constitution that I, individually, perhaps don't think ought to be there. But, you take the question of civil service. I don't necessarily agree that it ought to be there, but I believe the people of the state want it there. You take the Vieux Carre Commission in New Orleans; I think we've managed to protect it in this constitution. But, if you're talking about one single thing that will get more people stirred up and against what we're doing, you take this out of the constitution.

Questions

MR. BURNS

Mr. Avant, you answered, in your remarks, my first question. That is, that if there was a body of people in the State of Louisiana that couldn't be referred to as a special interest group, it was the sportsmen.

MR. AVANT

That is absolutely right.

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MR. BURNS

You referred to the hunters and fishermen. But, there's a lot of other groups that would be interested in this Wildlife and Fisheries Committee other than the actual hunters and fishermen--the nature lovers, the bird watchers, the Kodak enthusiasts. . .

MR. AVANT

That's right. That's right, Mr. Burns. You are absolutely correct.

MR. BURNS

In fact, every family in the state--would you say--was interested in Wildlife and Fisheries Commission, one way or the other?

MR. AVANT

Mr. . . I agree with you, Mr. Burns. As I said before, this is not a special interest group, but this is something that cuts across any kind of line you can imagine and want to draw. You're going to find people on both sides of that line that are interested--and vitally interested--in this question.

Further Discussion

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, I rise in opposition to this amendment. In addition to what Mr. Avant said, let me bring this to your attention: Certainly, the wildlife sportsmen, the hunters or fishermen, are very much interested in having some type of provision in the constitution. But, in addition to that, you have your fish and fur industries which are one of the biggest industries in the State of Louisiana who are very much interested in having something pertaining to wildlife and fisheries in the commission--in the constitution.

I will submit an amendment, later, which I think will remove many of the objections that have been made at this podium to this entire section. I think that the average sportsman in the State of Louisiana probably confuses the commission with the department. The commission is appointed by the governor with very little requirement as to qualifications. The Department of Wildlife and Fisheries is where you find the marine biologists, the wildlife and management people, those with the expertise and know-how of handling this situation.

I ask that you defeat this, that we go ahead and allow these other amendments to be offered. I think that the amendment I'm coming with will remove most of the opposition to this section. One of the arguments of Mr. Stagg was that we had left no other commissions in the constitution, or any other boards. In this, there will be an attempt to remove the commission and leave the Department of Wildlife and Fisheries or Agency of Wildlife and Fisheries, if that would interfere with the reorganization Mr. Stagg was speaking of. I earnestly urge you to oppose and vote against this amendment, and let's proceed with the other amendments.

Questions

MR. ARNETTE

Mr. Drew, have you looked at the last line of this section?

MR. DREW

Yes, sir.

MR. ARNETTE

It says that there shall be. . . the functions, duties and all the powers shall be defined by law. Is that not correct?

MR. DREW

Right.

MR. ARNETTE

So, in other words, we're putting a commission in here that's got absolutely no power unless the legislature gives them something. Is that not true?

MR. DREW

That would be correct. Yes, sir.

MR. ARNETTE

So, in other words, what we're doing is saying, "Yes, we've got a Wildlife and Fisheries Commission holding out an empty promise to the people of the state." Is that not correct?

MR. DREW

That could. . . it could amount to that, Mr. Arnette, and further,

if you give the complete powers and duties. . . or powers to the commission who do not have the qualifications, then you are doing away with the expertise and know-how of wildlife management by doing it.

MR. ARNETTE

So, in other words, you don't want to put the commission in here either?

MR. DREW

No, sir; I do not.

MR. ARNETTE

Well, why don't you vote against the section? Then we can get the commission out, and we can put in what you want to put in.

MR. DREW

You are not. . . you are not listening to what I said, Mr. Arnette. There is a very definite distinction between the Department or Agency of Wildlife and Fisheries and the Commission of Wildlife and Fisheries. The commission, I am violently opposed to.

MR. WOMACK

Mr. Drew, I believe Mr. Stagg referred to this as a minority group, and I'm trying to get out just exactly what constitutes a minority or special interest group. Do you realize that there's over eight hundred thousand fishing and hunting licenses sold each year for sportsmen?

MR. DREW

I thought it was more, really, Mr. Womack.

MR. WOMACK

No, it's slightly over eight hundred thousand. Now, did you realize there's another untold thousands given to those over sixty-three and those under sixteen, free--or sixteen and under?

MR. DREW

I'm aware of that.

MR. WOMACK

So, that puts it up over the million mark. That doesn't include then, did you realize, the commercial fishing aspect?

MR. DREW

I expect you could add quite a few thousand more from your fur and fishing industries; yes, sir.

MR. WOMACK

Now, the next thing--and I'm trying to educate the man that I couldn't ask any questions to--do you realize the Wildlife and the Wildlife Federation has gone on record supporting leaving the commission in the constitution, or leaving this set-up in the constitution?

MR. DREW

I understand that, Mr. Womack, but I have found in my inquiries that there is a great deal of confusion among the sportsmen, and probably among the Wildlife Federation, that they believe that if the commission is abolished, the entire wildlife and fisheries is abolished.

MR. WOMACK

There's some dissension among the legislators and convention delegates, also.

MR. DREW

In other words, you can have an Agency of Wildlife and Fisheries without the commission.

If there's no other questions, I ask that you defeat the amendment.

Further Discussion

MR. JACK

Mr. Chairman and fellow delegates, I'm against Mr. Stagg's amendment. I'm not surprised to find a stag would be against the hunters. They always have and always will be. How's that! Now, I want you to listen to this because I'm going to give you a little history of this. A lot of you wasn't even born. Back in 1940 you had the forestry, the wildlife, and the oil and gas was all under one governing body, a commission. If you don't believe Mrs. Zervigon, that the hunters and fishermen and the others are interested in retaining a commission in this constitution, you should come to North Louisiana. You should see

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the numbers of them all over the state. Now, in New Orleans you may not see as many. They've got a different type of wild life down there, maybe. But, I'll bet you there are plenty of hunters and fishermen in New Orleans, in all seriousness. I believe there're over a million people that have some type of license for hunting and fishing. Let me tell you what has made Louisiana go forward, with Ducks Unlimited, with oil conservation and replenishment of wildlife, is because of the vast numbers of people that fanatically believe in having this commission in the constitution. It's a symbol to them. Take my word for it; I've seen it. I've been a fisherman and hunter all my life. Today the restocking of lakes, and the great numbers of lakes that have been built--and let me tell you those things, hunting and fishing, they're important to your health. Boating, all those things, takes the stress and strain of life--the hard work you do, the relaxation. Let me tell you: just for the sake, Mr. Stagg, of being a professor and saying that is statutory; this is constitutional. I don't buy that. If the people want something in the constitution, it's their constitution. They want this to stay in there. The progress has been made under it being there. So, I say let's don't tamper with it. I don't care what other umbrellas are there, and what other departments and commissions are no longer there. This is one that's different from the others, and I say let's defeat the Stagg-Abraham amendment.

Thank you.

Further Discussion

MR. THOMPSON

Mr. Chairman, fellow delegates, I know the time is short. We're about to run out of time so I just want to rise and object to Mr. Stagg's amendment. I want to tell you this much, that there are more people that hunt and fish and love their sport in the State of Louisiana than will probably vote on this constitution. If you leave this out, I think you're going to find one of the best reasons to vote against this constitution. I urge the defeat of the amendment.

Questions

MR. CHEHARDY

Mr. Stagg, are you aware that we're talking about fishing licenses and hunting licenses? Now, to ask you this question I'm going to have to give you background. As long ago as fifteen years, there was a bond issue, for example, to float enough bonds to raise money, hundreds of millions of dollars, to dig a canal from Westwego to the Gulf of Mexico. Now, forget the financial aspects. It was proven beyond a shadow of a doubt had they dug this waterway that the natural habitat of the wildlife and fisheries in that entire area would have been destroyed--oyster fishing, shrimp fishing, etc. The agency that provided the background for this fight to stop this disaster in one community of our state--and this is almost fifteen years ago--was Wildlife and Fisheries. Can you say that an agency which has provided this type of service is not valuable to this community? They have been aware and have done things protecting the environment of our state for years and for generations. It goes far beyond my fishing license or hunting license. What I would like to ask you in view of this knowledge now that probably you hadn't understood before, would you just withdraw your amendment?

MR. STAGG

The answer to your question, Mr. Chehardy, is no.

MR. JENKINS

Mr. Stagg, would your amendment abolish the Wildlife and Fisheries Commission?

MR. STAGG

No, sir, it would not.

MR. JENKINS

Would it abolish the Wildlife and Fisheries Department?

MR. STAGG

No, it would not.

MR. JENKINS

Would it prohibit fishing and hunting in Louisiana?

MR. STAGG

No, it would not.

Mr. Chairman, I'm not going to take up any more time. I'd like to comment to Lantz Womack that of the eight hundred thousand fishing licenses issued last year, not one less will be issued next year. Of the millions of people that I'm told by you that hunt and fish and enjoy it, not one less will enjoy it. All you're

looking at is another sacred cow that you are preserving from the slaughter pen by the acts of this convention. If you fully realize that that's what you're doing, then it's up to you. I have given you a vehicle by which you can do what we were sent here to do, and that was to write a proper constitution. I urge the adoption of the amendment.

[Record vote ordered. Amendment rejected:
17-86. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Drew sends up amendments at this time.

Amendment No. 1. On page 4, delete lines 8 through 22, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 12. Department of Wildlife and Fisheries

Section 12. There shall be a Department of Wildlife and Fisheries. A director of said department shall be appointed by the governor, with the consent of the Senate, for a term concurrent with the appointing governor. The department and the director shall have control and supervision of the wildlife of the state, including all aquatic life, and other powers and duties authorized by this constitution or provided by law."

MR. HENRY

All right. I believe Mr. Drew wants to change the word "department" to "agency" in there every time; is that right, Mr. Drew?

MR. DREW

Yes, sir.

Each place where "department" is used, change it to "agency."

Explanation

MR. CREW

Mr. Chairman, ladies and gentlemen of the convention, I think that this amendment will satisfy your sportsmen, your fish and fur industries, for this reason: Under the constitutional provisions as now existing, a seven man commission is appointed which is the Commission of Wildlife and Fisheries. By that amendment which created the commission, the Department of Wildlife and Fisheries was placed completely under this commission's control. This is another one of those blue ribbon boards that we've had so many of in the past. Now, what this amounts to, and the reason I am so insistent on this amendment, is this--and I hope you will listen to it. In the department, and I am making a distinction between the commission and the department because to me there is an agency there--it formerly was called a department--you have your director; you have your personnel who are educated, trained, and have experience in marine biology, lake management, all of the things that are necessary for the proper carrying out of the purpose of this agency. That is where your personnel, your qualified personnel, are situated. They are under the control, or administrative control of the director, which is appointed by the commission. But, any decision made by this personnel with the expertise and know-how and experience can be overridden by a commission that is an appointed commission. There are no specific qualifications for the commission, and four of them, even under the proposal as offered, only have to be elected of the state; that's all. If you would look--and I'm very sorry--I had the makeup of the personnel of the present commission, and I don't mean to say anything derogatory towards any of those gentlemen, but as I recall the majority if not all of the members of the present commission have one qualification for having the final say so over these people with the knowledge and know-how, and that qualification was that they have a hobby of fishing or hunting. Now, I don't think that that makes sense. If a commission that is not trained in a particular subject has the absolute right to override the decisions of trained, experienced, educated personnel, we either don't need the trained personnel or we don't need the commission. I think you'll agree with me that we do need the trained personnel for our wildlife and fisheries management. For that reason I am asking that we do put into the constitution, to satisfy the million or so of people who are so interested in this subject--and as I said when I was at the podium before, there are so many that are confused that if we abolish the commission we have done away with wildlife and fisheries entirely. Well, that is not so, and under this amendment it certainly would not be so. We will have an agency of wildlife and fisheries which will meet, I think, most of their desires. We will have the qualified personnel who can make the decisions. We will do away with another blue ribbon board that is unnecessary, and by naming it an agency rather than a department as it was

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formerly called, we have not interfered with the probable reorganization into the twenty departments. I urge that you adopt this amendment. It will take care of the sportsmen; it will take care of the fish and fur industries which is a tremendous industry in this state; and it will give the people with the experience, the know-how, the proper authority to run the Agency of Wildlife and Fisheries. I'll be glad to answer any questions.

MR. KELLY

Harmon, one of the things that bothers me is since you have now changed your amendment to read "Agency of Wildlife and Fisheries." I suppose, instead of "Department of Wildlife and Fisheries," am I to understand that what you're trying to do is to set this thing up in line with what was passed in the Executive Article to allow consolidation or merger in the future?

MR. DREW

I'm not...I made that change, Don, for the purpose of not being in conflict with that. As I understand it, if it is called a department in the constitution, it constitutes one of the twenty departments.

MR. KELLY

Yes, but I meant, by putting the word "agency", what's to keep the legislature at a future date from running this agency, or this department, into some other department and making it, this all important agency here, a stepchild of some other department?

MR. DREW

It could be consolidated with another department, Don, but with these constitutional provisions I don't think there'd be any way to do away with it or with the powers that it would have, as it's constitutionally provided.

MR. AVANT

Harmon, you've made the statement that the lay commission, under the present law, had the authority and the right to overrule the decisions of the professional staff. Correct?

MR. DREW

Right.

MR. AVANT

Well, this director, who's going to be one man rather than seven who deliberate, will have the same authority, will he not?

MR. DREW

He would.

MR. AVANT

And you have prescribed no qualifications for the director, have you?

MR. DREW

I understand that there is an amendment to be offered to set qualifications for a director, Mr. Avant, which I would have no objections to.

MR. AVANT

But your amendment provides no qualifications for a director?

MR. DREW

That is correct, but when you look at it this way, Jack, when you have a man who is in authority of an agency who has the right to hire qualified personnel, I don't think he's going to hire qualified personnel and ignore their opinions.

MR. AVANT

Well, wouldn't that same thing apply to a commission?

MR. DREW

Not necessarily.

MR. AVANT

Well, wouldn't the argument that you advance, then, be an argument against any type of multimember commission, such as the Civil Service Commission or any other commission?

MR. DREW

I think you have a little different situation here, Jack. I don't know, it may be the same as some of the other commissions, but my objection is the fact that you have people with absolutely... there's no requirement that they have any knowledge in the field.

MR. AVANT

Well, that's true of many other of these lay commissions that are established, is it not?

MR. DREW

Yes, and I disagree with it. I certainly do.

[Motion to limit debate on the Amendment to fifteen minutes adopted: 56-28.]

Point of Order

MR. ARNETTE

Mr. Chairman, this is just a parliamentary inquiry. Are these amendments germane to the section? One seems to have to do with the Wildlife and Fisheries Commission, and one has to do with the Wildlife and Fisheries Department, which are two entirely different things.

MR. HENRY

I think you'd be straining at a gnat to say that they weren't. You're just changing the word "department" to "agency," or "commission" to "agency." I think it's sort of straining at a gnat, Mr. Arnette, so far as this is concerned. So, I agree that they're in order.

Questions

MR. ABRAHAM

Harmon, if in the reorganization of the executive branch there were a Department of Conservation created, could not this agency and the Forestry Agency, and the Register of State Lands Agency--all that could be in this one department, could it not?

MR. DREW

I'm sure that's where it will wind up, Mack.

MR. ABRAHAM

We don't have any qualifications anywhere else in this constitution for other agency heads or offices, do we?

MR. DREW

Not that I know of, no.

MR. ABRAHAM

Do you see any real need why this needs to be put in this constitution?

MR. DREW

I don't see that there's any serious objection to this amendment.

MR. HENRY

Will you yield to a question from Mr. Fulco?

MR. FULCO

Representative Drew, according to your amendment, and if the legislature saw fit, couldn't they create an advisory commission?

MR. DREW

Certainly, certainly. You could always create that.

If there are no further questions, I move for the adoption of the amendment.

Further Discussion

MR. HERNANDEZ

Mr. Chairman, ladies and gentlemen of the convention, I rise in opposition to the Drew amendment. I regret that I have to take issue with Mr. Drew on this because I'm sure he feels, as I do, that there should be active management of our fish and game. But I'd like to ask you to consider first the fact that our fish and game, both commercial and sport, is a renewable natural resource. Now before this constitution was... Before this commission was placed in the constitution, the Wildlife and Fisheries Department, as it was known then, had very little support all over the State of Louisiana. They could not possibly, ladies and gentlemen, do the job that was expected of them without the support of the people of the State of Louisiana. So, back in 1952, the sportsmen and the commercial fishermen, trappers, and fur dealers, and all the seafood dealers, all got together in a common effort to create a commission and place it in the constitution. Now, it had a psychological effect like I've never seen before. I've never seen as many diversified interests in all my life get together behind one common cause. They all got together. If you think there's been some firemen and policemen down here in this thing, you should have seen...

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MR. HENRY

Please take your seats, gentlemen, and let's hold down on the noise. Proceed, sir.

MR. HERNANDEZ

You should have seen the number of sportsmen and commercial fishermen, commercial trappers, and all these dealers, all come to Baton Rouge in support of this Wildlife and Fisheries Commission. It had tremendous support; it carried, and the people of the State of Louisiana, on every occasion it's been presented, have voted strongly in favor of this commission in the constitution. Now, they...after this was placed in there, this Wildlife and Fisheries Commission has enjoyed tremendous support of all forms of all the different ones who take our wildlife and our fish, the sportsmen especially. But, they also have had the support of the commercial fishermen and the commercial trappers. The sportsmen have gone into programs of propagation, and they have supported the Wildlife and Fisheries Commission, and there has been excellent relationship between the Wildlife and Fisheries Commission and the sportsmen all over the state in propagating game. There are a lot of areas in this state that have a lot of deer now, that have deer on which they have open season. The same thing is true of turkey; we have brought the turkey back. There have been numerous attempts to plant feed. The sportsmen's group go out and plant food for quail. They have brought those back, brought the quail back in a lot of places. Just to make a long story short, the Wildlife and Fisheries Commission has enjoyed excellent support of the sportsmen and commercial fishermen and hunters all over the state. Now, to take away this commission from these men is going to be discouraging. Frankly, I'm afraid it'll have the same psychological effect on the sportsmen that they had when they put this commission in. That is, the opposite.

I ask you, please defeat this amendment.

Further Discussion

MR. JACK

Mr. Chairman, and members, I rise against this amendment. This amendment does the same thing as Mr. Stagg's. It takes out the Louisiana Wildlife and Fisheries Commission. Like Delegate Hernandez says, there are a million people, a million sportsmen in this state. That's a large, large segment of this state. They are...want to take part in their government. Their spokesmen, in their government on wildlife and various kinds, fishing, hunting, are the members of this commission. It's the very thing that keeps their interest alive. It's a symbol also, like Joan of Arc; she didn't win any war, but she was a symbol to the French people. This is very important. You remember we had I believe, four constitutional blue ribbon commissions put in the constitution under Governor Kennon. I was in the legislature; I voted for those. Twice, different governors tried to take those out. It went to the people. The people voted them down. This...I'm sure Mr. Drew has good purposes in mind. But, the people in north Louisiana--I'm thoroughly familiar with the members of the wildlife organizations, and all the fishermen--they want this commission there. You'll be doing a great injustice to the people if you pass this amendment. I vigorously oppose this one just as much as I did Mr. Stagg's amendment. Thank you.

Further Discussion

MR. KELLY

Mr. Chairman, ladies and gentlemen of the convention, I, too, rise in opposition hesitantly to Mr. Drew's amendment. But, in essence, the way I read the amendment, if we were going to go this far as may as well have gone on and adopted Mr. Stagg's amendment, which was overwhelmingly defeated earlier. I acknowledge one thing that Mr. Drew does. He says that the department and the director shall have control and supervision of the wildlife of the state. The way this amendment is drawn, this could mean that one man would have the control and supervision of all the wildlife of the state. I think it's a bad amendment. Let's go ahead and defeat this and let's come up with a workable system somewhere down the line in line with what the committee has already proposed.

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, I want to ask Mr. Drew a question, but I was not recognized for that purpose. Mr. Drew stated that by changing the name from department to agency it would not be included in the reorganization of the Executive Branch. I suggest that Mr. Drew read Section 1(B) of the Executive Branch and also Section 22, which says, "reallocation of the functions, powers,

and duties of all departments, offices, agencies, and other instrumentalities of the Executive Branch, except those functions, powers and duties and departments allocated just by this constitution." So, of course, agencies will be covered just as much. This proposed amendment says less than the committee proposal. I agree that the entire matter is statutory. There isn't any question of it. But, the people want it in the constitution, and to leave it out will jeopardize its adoption, and that is why I favor it. I consistently favor provisions, though statutory, that will strengthen the chances of adoption. There's no question that it's statutory. Thank you.

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, one of the areas which I think is so often overlooked in connection with the functions of the Wildlife and Fisheries Commission is the commercial end of the business. I think there are very few people who realize that the area along the Louisiana coast is the most prolific area in the entire world for the production of seafoods. This has been substantiated by the United States Chamber of Commerce. I'd like, for instance, to give you some of the figures which show that the shrimp industry is valued over two hundred million dollars. The fur industry, another twenty million; the menhaden industry, another hundred million; the crab industry, another five million; and the oyster industry, another twelve million. The point I'm trying to make to you is the fact that in years gone by there has been little or no representation in the Wildlife and Fisheries Commission with respect to this...to one of the most valuable industries which we have in our state. It was for that reason that some years ago that the provision was included to appoint three electors from the coastal parishes in order to represent the commercial fishing interests and the fur interests. I suggest to you that this is most necessary in order that we can continue to be able to produce the hundreds of millions of dollars of seafood which have been and will be produced off of the coast of Louisiana in the future. So, I, therefore, urge you to reject the amendment in order that the coastal parishes who have such a vital interest in the continuation of this most important industry so that they can have a voice in the continuation of the proper type of operation by the Wildlife and Fisheries Commission.

Closing

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, let me straighten out two mistakes. I'm sure they were honest mistakes that were made here. One by Mr. Jack and one by Mr. Kelly when they said that you may as well adopt the Stagg amendment as the Drew amendment, there is no way in the world to relate those two amendments. As presently constituted in the 1921 Constitution as amended, had you adopted the Stagg amendment, and abolished or deleted this entire section, you would have deleted the entire wildlife and fisheries, period. You would have deleted the entire wildlife and fisheries. Here we are not deleting the wildlife and fisheries. What we are doing is we are removing a blue ribbon board and putting the responsibility upon the party who should carry the responsibility, the director of the agency. As I said before, he hires qualified personnel to advise, and I don't think any director would ignore the advice of that qualified personnel. I don't see too much merit to what Mr. Perez's argument is because of the way the act reads; it says that you have to have three of the coastal parishes and representatives of the commercial industries, fishing and fur industries, and four at large. So, you have four without...with absolutely no qualifications, three that merely have to be from the coastal parishes, and supposedly represent the fur and fish industry. What does represent the fur and fish industry mean, gentlemen? Look at the composition of your present board and tell me how many of them are actual representatives of the fur and fish industry. This is a blue ribbon board that we can do without. We can put the responsibility where it belongs--on the director--and do the same job and do it in a better manner. I move for the adoption of the amendment.

[Amendment rejected: 26-84. Motion to reconsider tabled.]

Amendment

MR. PLYNTER

Next amendment sent up by Delegate Avant.

Amendment No. 1. On page 4, line 10, after the word and punctuation "life," and before the word "hereby" delete the word "is" and insert in lieu thereof the following: "are recognized as

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renewable resources, belonging to the people. The right of the --and this is a change; strike out the word "people" in the second line; insert in lieu thereof "citizens of the State". Strike out "people" and insert in lieu thereof "citizens of the State." The right of the citizens of the State to harvest these resources is recognized, subject to private property rights and reasonable regulation, as provided by law, to insure their preservation for the future. They are"

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, this is, I would hope, a noncontroversial amendment. It simply recognizes that these resources...that is, aquatic life and wildlife are one renewable resource, with the idea that they will be managed as such, and that they do belong to all of the people of the state, and not to particularly any particular individual. It further--and this is the main thrust of the amendment--at the right of the citizens of the state to harvest these resources is recognized subject to private rights of property and to reasonable regulation as provided by law to insure their preservation for the future. Now, the thrust of that amendment is simply this: to recognize that the people, the citizens do have the right to harvest these resources because from time to time and in place to place, there develops a movement to outlaw hunting, outlaw fishing for various and sundry reasons, from well-intentioned people with whom, I think, the vast majority of our citizens would violently disagree. So, we want to recognize that the citizens have the right to harvest this renewable resource subject only that they have to recognize private property rights and they are subjected to reasonable regulation in the form of management to make sure that this resource is not destroyed or dissipated and done away with. I'll answer any questions.

Questions

MR. NUNEZ

Mr. Avant, it would seem that the Section 12 as written would probably cover what you're trying to do. What concerns me...

MR. AVANT

I didn't hear you, Mr. Nunez.

MR. NUNEZ

Well, it's hard to hear myself to tell you the truth.

MR. AVANT

Well, start over, would you, please, sir?

MR. NUNEZ

I say it would seem like Section 12 as written would cover what you're trying to do. What concerns me is in several years ago when we had wild oyster reefs all throughout the state, we've almost depleted our oyster supply. Anybody could go on any reef and dredge and take oysters that they saw fit that were marketable. We established a leasing procedure whereby an oyster fisherman was able to lease "X" number of acres of ground, and thereby plant his oysters and cultivate them and harvest them as he saw fit. I wonder if you were protecting his rights to assure their preservation for the future. Are we doing something that would allow anyone to go on his lease and get his oysters that are there under his cultivation?

MR. AVANT

No, Mr. Nunez, we're not interfering with the lease system with respect to oysters because that is a private property right. The right has been leased by the state on state-owned land to a particular individual to raise oysters at that particular place. There's nothing in this amendment that is designed or intended or will, in fact, disturb that system.

MR. NUNEZ

But, you state in the opening statement here "or recognizes renewable leases belonging to the people, the right of the people to harvest these resources is recognized."

MR. AVANT

"Subject to private property rights and regulations to insure that they will be preserved for the future."

MR. LANIER

Mr. Avant, I'm very concerned about giving a constitutional right to harvest this wildlife. In particular, I'm thinking about the situation with alligators and snipe. For many years the season was closed on these animals because they had been depleted to a point where they were about to be hunted out of existence.

If we constitutionally give everybody a right to harvest these things...if we put in a closed season on something, wouldn't we be building in a lawsuit every time we try and have a closed season?

MR. AVANT

Now, Mr. Lanier, you're too competent an attorney to really believe that. ... is subject to private property rights and to reasonable regulation as provided by law to insure their preservation for the future. So, if they think that it is a resource... a particular species, it's going to disappear, they've got every right in the world to put a closed season on it. I think you...

MR. CHATELAIN

Mr. Avant, along with that same subject, you're referring to the normal Louisiana hunting and fishing laws, aren't you, sir?

MR. AVANT

Yes, sir. Those are those regulations that I'm referring to; where they close the season here, they may open it there. They say you can only kill six squirrels, or ten squirrels; that's a reasonable regulation to insure that this renewable resource renewa itself and doesn't become destroyed or lost.

MR. CHATELAIN

You don't take away the right of the legislature to pass those reasonable laws.

MR. AVANT

No, sir, I'm not taking away that right...

MR. CHATELAIN

I think you've got a good amendment, Mr. Avant.

MR. HERNANDEZ

Mr. Avant, I would like to bring out that as provided by law covers everything that the ...and gives the legislature the right to regulate the taking closed seasons and to insure propagation or anything else that they care to do. They are not limited.

MR. AVANT

It certainly does, and that was the intent of the amendment.

MR. HERNANDEZ

The statement that you made up there is one of the best statements that I've seen made.

MR. ANZALONE

Mr. Jack, a little bit concerned about: suppose a man is doing some commercial fishing in a nonnavigable stream. Are you saying here that the property rights as to the riparian landowners extending to the thread of the stream would force this commercial fisherman into a situation of having to lease a particular area from a riparian owner?

MR. AVANT

Well, I'm not changing the law. If it's a nonnavigable stream and the bed of that stream and the water in that stream belongs to a private individual, under the law now he's got no right to go out there and start operating a commercial fishing operation.

MR. ANZALONE

Oh, I beg to differ with you, just slightly because that's not what the law says...and it's a serious question.

Further Discussion

MR. VELAZQUEZ

Mr. Chairman, fellow delegates, I rise to oppose this Avant amendment. We've already taken care of this in our policy statement in Section 1, which states that "the natural resources of the state shall be protected, conserved and replenished insofar as possible and consistent with the health, safety and welfare of the people." We've already covered this. There's no necessity to cover it twice. I respect Mr. Avant's position, and I sympathize with it, but we've already taken care of this. Let's not start messing into the problems of the commercial fisherman and the problems of the individual fisherman. It's all going to be taken care of. This thing could lead to all sorts of problems, the way it's written. I respect Mr. Avant, and I recognized he's trying to fulfill his function as the delegate appointed to represent wildlife and fisheries, but we've already done this job for him in Section 1, and I urge you to vote against this amendment. Thank you.

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, this is a very, very dangerous amendment, and in spite of the fact that Mr. Avant feels that this would not have any effect on our oyster industry, I am certain, and I've asked and discussed this with some other lawyers who have interpreted this language and there is no question in my mind that...if all of these resources belong to the people, that means that every oyster on every oyster lease in the state belong to all of the people of the state. The right of the people to harvest these resources is recognized, subject to what? Private property rights, but this is not a private property right. A lease is strictly a personal right, not a property right. In my judgment the words are so ambiguous that we're playing with fire, and we should not jeopardize or even adopt language which could jeopardize one of the very, very important industries in the coastal area of Louisiana. I therefore strongly urge you to reject the amendment.

Questions

MR. CHATELAIN

Mr. Perez, what you're telling us then, if a person is given a right to retrieve, we say, oyster shells from a body of water, then anybody could go in there, even though he had a right from the state to retrieve these shells, sir?

MR. PEREZ

Well, I didn't quite understand your question.

MR. CHATELAIN

Well, if the state gives certain rights...

MR. PEREZ

The state, at this time, gives rights to certain people to go in to dredge clam shells, yes, under applicable laws.

MR. CHATELAIN

That's what I mean. That wouldn't give...if the state gave Mr. Lanier that right, I couldn't as a private citizen...

MR. PEREZ

I don't know whether it would or not. It just depends upon whether or not this savings clause, in the end "subject to reasonable regulation" would adequately take care of it. I'm not sure what the course would say about that. That's why I say this is such a dangerous amendment when you adopt something like this in such general terms that it's so very difficult to try to interpret that it just possibly could do a tremendous amount of violence to the fisheries' interest of this state.

MR. CHATELAIN

But, you do agree, though, Mr. Perez, that the wildlife and fish of this state belong...in fact, do belong to the people?

MR. PEREZ

We have all of the Civil Code Articles that we need on that subject right now, and there's absolutely no need to have such a provision as this in the constitution.

Further Discussion

MR. TOBIAS

Mr. Chairman, fellow delegates, I agree with what Mr. Perez just said, but I would point out one further thing that this amendment does which I don't think Mr. Avant intended, and that is that it goes much further in allowing certain people to hunt. For example, presently, children the age of eight years of age are not allowed to use firearms hunting—legally, that is. By stating in here that the right of the citizens of the state to harvest these resources is recognized, subject to private property rights and reasonable regulation to insure their preservation for the future, would have the effect of saying that anybody, no matter what his or her ages, could hunt. I think that there's some reasonable restriction that the legislature should be allowed to put on this type of thing. I urge the rejection. Mr. Chairman, how many further speakers are there?

[Motion to limit debate to five minutes adopted without objection.]

Further Discussion

MR. LAMBERT

Mr. Chairman, fellow delegates, for many of the numerous reasons previously stated, and due to the fact that our committee debated this particular area at great length, and we were very

careful so as not to get into areas where we hopefully would create many of the problems that are being mentioned at this time, I ask you to oppose this amendment. The committee spent a lot of time on this area. We tried to retain the source provision in the present constitution in this particular area as closely as we possible could so that we would not create some unforeseen problems. For those reasons, I ask you to please oppose this amendment. Thank you.

[Amendment withdrawn.]

Amendment

MR. POYNTER

These are the Duval amendments. Amendment No. 1. On page 4, line 12, after the word and punctuation "governor," and before the word "six" insert the following: "subject to confirmation by the Senate,"

Explanation

MR. DUVAL

Mr. Chairman, fellow delegates, this amendment merely requires that the Senate confirm the appointments of the governor on this commission. I think this is a good thing and in keeping with the balancing off of the branches of government and to insure that you won't have a situation where you will have an appointment where there may not be an income tax return filed, etc., because as I understand it, the Senate Committee reviews these things. Moreover, it certainly will insure the interest of wildlife and fisheries because you might appoint someone, the governor might appoint someone who has nothing at all to do with wildlife and fisheries and this basically, this keeps a good balance and I think it's necessary. I urge the adoption of the amendment.

Questions

MR. ASSEFF

Mr. Duval, in view of the fact that in some sections we have said "confirmation" and in others "public confirmation" I wonder what you mean by the term "confirmation" public or ...

MR. DUVAL

My "confirmation" is how we've described it in the Executive Article, whatever that amounts to.

MR. ASSEFF

We have included it both ways is why I asked the question, Mr. Duval; it's all right with me.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Kelly and Bergeron. Amendment No. 1. On page 4, line 16, at the end of the line, delete the word "three" and insert in lieu thereof the word "four".

Explanation

MR. BERGERON

Mr. Chairman, fair lady and men delegates, I've checked with most of the committee on this amendment and it's met with full agreement. It seems like it's in more or less in line of a technical amendment. What we've provided for in the Wildlife and Fisheries Commission of Section 12 is a seven man board. As I read this section, Section 12, I see that it only provides that six members be electors from the state. This amendment would simply provide that the seventh member be an elector from the state also. If we pick up on line 13, "and one whom shall serve a term concurrent with that of the governor; three shall be elected from coastal parishes and representatives of commercial fishing and fur industries; and three shall be elected from the state-at-large." This amendment would simply provide that not six, but seven members would be electors. That's simply the intent of the amendment, it's more or less in line of a technical amendment, and I would urge the adoption.

Questions

MR. DENNERY

Mr. Bergeron, as I understand it, you would leave in there ... as I understand it, you would leave in the committee proposal the provision that three members should be representatives of the commercial fur and fishing industry; is that correct?

MR. BERGERON

Yes, sir that is correct.

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MR. DENNERY

Now, under the recent ruling of the... under the recent ruling of the Ethics Commission, wouldn't that be considered a conflict of interest if they had to vote on their own rules affecting their industries?

MR. BERGERON

Mr. Dennery, I understand that there is an amendment coming up which would take that out, following my amendment.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Next set of amendments sent up by Delegate Burns.

Amendment No. 1. On page 4, line 17, at the end of the line, immediately after the word "large" delete the period "." and add the following: "other than representatives of the commercial fishing and fur industries."

Explanation

MR. BURNS

Mr. Chairman and fellow delegates, my amendment was classified non-controversial by the huddle up here a short while ago and I may say in addition to that I discussed it with the chairman of the committee and several of the committee members and they, likewise, had no objection to it, so I hope you'll find it non-controversial. The last sentence in the committee proposal provides that three of the commission, three shall be electors of the coastal parishes representing commercial fishing and fur industries and three shall be electors from the state-at-large. My amendment substitutes a comma "," for the period "." after the word "large" and provides that the electors-at-large shall be other than representatives of the commercial fishing and fur industries. In other words, I think, it's necessary because it could easily be otherwise that some governor may appoint all of them from the fur and fishing industries or may appoint two of the ones-at-large from the fur and fishing industries. Now, I think that is certainly not the intent of the commission... of the committee's proposal and I, therefore, ask adoption of this amendment.

Questions

MR. BOLLINGER

Mr. Burns, I share your concern, but my question is this: you're going to have three mandated to be representatives of the fur and fishing industries; your amendment would say three are going to be representatives of other than—that's one less if the governor would appoint someone not associated—then you would have four people not associated with the industry and three associated, the majority controlling the Wildlife and Fisheries Commission may have no interest at all with wildlife; don't you think it's a problem?

MR. BURNS

I don't think so. This amendment is solely intended to take care of what I think the intention of the committee is or was in preparing this which has been substantiated by my discussing this with them. The only three members should be appointed from the fur and fishing industries and the other four should be some other groups or some other industry throughout the state-at-large and not wind up with maybe seven members.

MR. VELAZQUEZ

Mr. Burns, is it not true that your amendment, the way it's written, doesn't make for any substantive change from the present situation?

[Previous question ordered. Record vote ordered. Amendment adopted: 100-5. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The amendment is sent up by Delegates Brown and Kelly. Amendment No. 1. On page 4, delete lines 15 through 19, both inclusive,--and we need to add now, Senator--"including all Floor Amendments thereto".

Explanation

MR. BROWN

Mr. Chairman and fellow delegates, what this does is try to alleviate the problem that Mr. Dennery raised earlier about some of the recent decisions by the Ethics Commission stating that it is a conflict to receive monetary gain by being a member of the commission and also voting on policies that affect that commission.

So, this deletes the section that says that you have to be representative as such, from commercial fishing and fur industries because under the recent decision of the Ethics Commission affecting the Mineral Board, for instance; if you're in the oil and gas business, you can't be on the Mineral Board. It leaves that discretion to the governor to balance on the interest on this particular section, so that's why it's put in. I ask for your favorable adoption.

Questions

MR. NUNEZ

Senator Brown, you quoted a ruling from the Ethics Commission. I haven't seen that ruling, I read about it, but the members of the Mineral Board that have conflict of interest evidently are still serving. Is that a ruling or was it an opinion or what's the official action taken by the Ethics Commission on this decision?

MR. BROWN

Senator Nunez, my sources of information are Mr. Dennery and what I've read in the paper. I see exactly what you're saying, but I think that there is no doubt as to what's going to be finally ruled; there would be a direct conflict. I haven't read any definitive decision.

MR. NUNEZ

Well, from my knowledge and sources there's been no ruling. It's just been rumors and opinions and some newspaper accounts of what somebody said. Now, if in fact, we have commissions and boards running these various interests of the state such as the mineral interest or the oil and gas interest and the seafood interest; who do you think should serve on these things, people who are completely unfamiliar with them, people who are in other lines of business, people who do not have a background, or people who do have a background that could rule intelligently on some of the decisions? I think that's what we have got to decide here today, not what the Ethics Commission has rumored they're going to do.

MR. BROWN

I think it comes down to monetary gain. I think is what we're talking about; the question of monetary gain. If you make your living off decisions handed down by a particular board of commission then you shouldn't be a member of that. There's some discretion involved. There's all kinds of people who are very familiar with particular commissions such as what we're talking about right now who have good solid backgrounds in wildlife and fisheries, who could be excellent members of this commission who don't have to have monetary gain from it. I think that's what we're talking about. I don't think we should appoint someone who is completely unfamiliar with the particular commission involved; I think they ought to have... be good in experience in the background and I feel confident that the governor will appoint people experienced in these particular fields. But, you can't have monetary gain. I think that's what we're talking about.

MR. DERBES

Senator Brown, you don't have to be involved in highway construction to be a member of the Highway Board, do you?

MR. BROWN

Not at all, Mr. Derbes.

MR. DERBES

You don't have to be necessarily involved in oil and gas exploration to be a member of the Mineral Board, do you?

MR. BROWN

You don't have to, but you can certainly be... have a good solid background with experience over the years in a number of related fields to give you background to make good value judgments. I agree with you.

MR. DERBES

So, all your amendment does, is it creates a certain amount of flexibility and it.. and possibly it anticipates what might ultimately become, and I think, should become the public policy of this state, namely, the people who have economic interests in certain activities shouldn't sit on the boards that regulate them; isn't that correct?

MR. BROWN

Definitely, I agree with you.

MR. GINN

Jim, why did you in your amendment include deleting lines 18 and 19 about "no member shall be reappointed after serving a six year term." Am I correct that you included that, and why did you delete it?

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MR. BROWN

David, I did and that wasn't the intention. That wasn't the intention. I... so as to say if ... I'd certainly have no objection to putting that provision on there, that just was not the intention; that was an oversight.

MR. GINN

Well, would you consider withdrawing it and resubmitting it by leaving 18 and 19 in there--those lines?

MR. BROWN

If there is no objection, yes, I would withdraw it and delete that, if there's no objection.

[Amendment withdrawn and resubmitted with correction.]

Questions

MR. WOMACK

Mr. Chairman, or Senator Brown, I just wonder how far you can expand this and I'm wondering if you, as an attorney, pass laws in the legislature and then come back and make money defending the cases as a result of those laws if this doesn't come under about the same thing the Code of Ethics Commission ruled?

MR. BROWN

Well, I think it comes down to where you draw the line, when your dealing with setting prices or, for instance, determining who gets leases on oyster beds and you... or who gets a mineral lease where you can drill a well and you give the mineral lease to the.....you've got....

Further Discussion

MR. BOLLINGER

Mr. Chairman, fellow delegates, I rise in opposition to the amendment. I don't think you can compare the Wildlife and Fisheries Commission to the Mineral Board, and for one major reason: when you're talking about minerals you're talking about depletable resources. When you're talking about wildlife you're talking about renewable resources. The decisions that the Wildlife and Fisheries Commission makes reflect the future of the wildlife in this state and reflect on these people who are in the industry. Without the proper decision the industry could be short lived. I think it is essential that someone representing the commercial fisheries and fur industries is on this board because without this representation their industry might be short lived. I move the rejection of the amendment and yield to any questions.

Questions

MR. ABRAHAM

Boysie, assuming that the three representatives from the commercial and fur industry might be prejudiced; would not the four other members of the board constitute a majority to protect the interest of the people of the state in that respect?

MR. BOLLINGER

They would, Mack, and that was Mr. Burns' amendment that just added that language.

MR. VELAZQUEZ

Mr. Bollinger, doesn't the committee proposal as written strive for balance between those who are commercial fishermen and hunters and those who are hobby fishermen and hunters?

MR. BOLLINGER

Most definitely, Mr. Velazquez. I think without realizing that that you can't understand the true meaning of what's written into the committee proposal.

MR. VELAZQUEZ

Since someone has discussed about benefits, would this mean that nobody who is a hunter or a fisherman would be eligible, and that nobody who is a processor or a fisherman, or professional... commercial fisherman would be eligible? Who would be left to be on this board?

MR. BOLLINGER

Very few people and the ones who would be left wouldn't care much what happened to the wildlife.

MR. VELAZQUEZ

You think it would be good to have a board of seven bird watchers?

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, if I can just give you a little bit of a history with regard to the Wildlife and Fisheries Commission, for many years the people of the coastal areas had little or no representation on the Wildlife and Fisheries Commission. The commission has generally two main functions: one is to preserve the wildlife of the state for the sportsmen, and I'm a sportsman myself, and an avid hunter and fisherman. I think we need that and we very badly need it, but we... what we also very, very badly need is someone to look after the interests of those thousands of people who make their living fishing in trawling and shrimping, oysters, etc. The... any provision of the Code of Ethics could certainly not override any provision of this constitution. There is no reason whatsoever that a person who is knowledgeable in that field should not be qualified to serve as a member of the commission. I, therefore, very strongly urge you to reject this amendment.

Further Discussion

MR. DERBES

I'd like to rise in support of Senator Brown's amendment. I think we've reached a point now in this country where we can say that it has not always been in our best interest to have people sitting in important places where judgments are rendered and policies are made when they have economic interests and in fact, when they make a great deal of money or can make a great deal of money involved in the economic activities which they regulate. It's nothing new to this nation that judges, for example, should not be involved in the cases that they have judgment over, and what this amendment does, is it does not require, it does not require the origins of certain appointments, it merely creates a certain amount of flexibility. With this amendment, with the passage of the amendment appointments may still be made from commercial fishing and fur people, but if we decide in the future, if we decide in the future, that it is not in the best interest of the state that such people should sit in regulation of the activities in which they are engaged for profit, the appointments can be discontinued, and perhaps more objective people can be appointed in their places. I'm not suggesting that there is anything wrong with the present constitution of the board, but I do think, Senator Brown's amendment raises a good point of flexibility and creates an atmosphere where people who are not necessarily involved in the system can sit in regulation of it. So, I suggest to you that the amendment is a good one and I urge your adoption of it.

Questions

MRS. ZERVIGON

Mr. Derbes, since this would let the Duval amendment stand, wouldn't it then be up to the elected representatives of the people to make sure we had very well qualified people on this commission and yet, they didn't have a pecuniary interest in their own decisions?

MR. DERBES

That's correct. I might add that in other instances of appointments throughout the state I know of no constitutional requirements and not... and very few statutory requirements that people who are appointed should be appointed from commercial interests. The Highway Board, for example, has a great deal to say about awarding highway contracts. I don't know of any requirement that says that people who sit on the Highway Board have to be actively involved in highway construction. The Mineral Board is an excellent illustration of this problem where people who sit on the granting of mineral leases over state lands are frequently also involved in oil exploration.

MR. LANIER

Mr. Derbes, if we follow your rationale to its conclusion, would we have to conclude that the State Ethics and Grievance Committee of the Louisiana Bar Association should not be composed of lawyers?

MR. HENRY

Gentleman has exceeded his time.

[Motion to limit debate on the Amendment to five minutes adopted: 41-37.]

Further Discussion

MR. NUNEZ

Mr. Chairman and ladies and gentlemen of the convention, you know we keep limiting debate on this particular subject, and I'm going to take a minute of my time to tell you--it might be the last proposal--but it's a by far not the least important to us in this state. In fact, I... many of us consider it the most important. You know how this came about; many people have started talking about there is no representation from this section of the state, there's no representation from the federation of sportsmen's league, there's no representation from here, well, I think all

these people should be represented. Let me read you the present representatives of the board and let you make up your own mind. There's a Mr. Luttrell from Delville; he's a retired principal. There's a Mr. Thompson from Alexandria; he's a real estate and banking man. There's a Mr. Dupuy from Marksville; he's an attorney; I don't know what his other interests are, but I'm sure he's a sports and fish fan. There's a Mr. Berry from Berwick which is a south Louisiana area; he's a contractor. A Mr. Autin from Houma who's a packer, I understand he's a seafood packer. There's a Mr. Jones from Cameron who's an attorney and a Mr. Wille from Bossier who is a newspaper editor. I don't even know if we're complying with the present constitution, but I'm sure all these people have an interest that qualifies them to meet the conditions that is now in the present constitution. I think if we take these provisions out, we no longer need a commission representative of a particular segment of what we're doing in this state--what are we going to put on there, people who are completely unfamiliar with it--I just don't believe that if we go ahead and if we're going to have a commission, we should have people managing or supervising or making the rules of that commission that knows something about it. Can you picture some people that have no interest at all in the dates of seafood trying to set the dates on the shrimp industry of this state; it's just ridiculous. We have enough confusion with the people who know about it. I think if we don't adopt something that would guarantee us, or guarantee the various industries, or guarantee the sportsmen, I think the federation should be represented on it. There are hundreds....you heard there's a million licenses issued in this state. Mr. Burt Angelle informs me that their best estimate is that four hundred and fifty million dollar industry is involved in the sports-fishing industry of this state. It's a big industry. You heard Mr. Perez--and I'll elaborate on that a little bit--there's almost a half of billion dollar industry when it comes to the commercial seafood, the oysters, shrimp, the crabs, the muskrats and this--I would say this industry is almost the largest industry of this state pretty close up to the top with tourism and the other industry....in the oil industry, etc. It's a great industry. It's a fantastic industry and the recreational business of this state is expanding every day. I would say if we keep the commission that we should....we should spell out very clearly that there should be commissioners that are representative of these various groups. Whether they should be directly involved and have a financial interest, I think, we should delineate that part that they should not have a....but there should be some way we can say in this constitution that the commission members should know something about the business of which they are regulating. I think if we don't do that, we're just making a mockery of the commission. So, with that, I'll yield to any questions. I was against the amendment by the way.

Questions

MR. DUVAL

Senator Nunez, don't you think that all these people who were in Mr. Stagg's amendment came up and said how well the commission had operated; don't you think all these people who said how well it was won't know how it's going to operate now if this amendment passes?

MR. NUNEZ

Would you repeat that, please?

MR. DUVAL

I said, don't you remember all these people who said how well that the commission operated when Mr. Stagg's amendment came up. You remember that they said that, don't you?

MR. NUNEZ

Yes, you're right, Mr. Duval.

MR. DUVAL

This is a friendly question, Senator.

Now, sir, don't you know that when we change this commission we have no idea how it's going to operate, do we?

MR. NUNEZ

You're absolutely right. I think the commission has operated very well. I've disagreed with them on a lot of occasions and I don't have representation from some of the areas I'd like to see represented. You heard... you people from central and northern Louisiana, you have four representatives on this commission right now. There's a... from central and north Louisiana, you've got one from Bossier, one from Marksville, one from Alex and one from Deville. Now, I don't know where Deville is, but I think it's pretty close to central Louisiana. You've got three from south Louisiana, but I think it's working well.

MR. WOMACK

Senator Nunez, what I'm trying to get out to you now is that the seafood industry in that area is south Louisiana's cotton crop, soybean crop, sugarcane crop and timber crop, etc.

MR. NUNEZ

You can throw in a few squirrels, Mr. Womack, if you'd like, but that's the fact.

Further Discussion

MR. BROWN

I want to briefly just say one thing. The intent of this is not to hurt any industry, we've got a fine industry that comes and derives from our wildlife and our fishing and this is not the intention at all. We're not here talking about hurting any industry whatsoever. We're merely talking about a conflict of interest. Let me say that again, Senator Nunez. We're strictly talking about a conflict of interest. Now, the Ethics Commission recently ruled you can't serve as a milk processor and also serve on the milk commission to raise prices of milk, it's a conflict of interest, number one. Number two, Mr. Denny just checked with the Board of Ethics and they have rules, Senator Nunez, that in a case here not too recently that an individual who owns an oyster lease can't serve on the Wildlife and Fisheries Commission it's a conflict of interest, there is a monetary interest involved. The governor has the right to appoint anyone he wants to look after any industry he wants and definitely we have a very valuable industry in our fishing industry throughout the coastal waters and definitely they should be well represented, very well represented but not to the tune of having a conflict of interest, all this does is do away with the conflict of interest. I ask your final passage.

[Record vote ordered. Amendment rejected: 33-68. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment sent up by Delegate Tobias, read as follows:

Amendment No. 1. On page 4, line 13, after the words "serve for" and before the words "of six" delete the words "a term" and insert in lieu thereof the words "overlapping terms"

Explanation

MR. TOBIAS

Mr. Chairman, fellow delegates, this amendment continues the Article VI, Section 1 (A) 2 of the 1921 Constitution which provides overlapping terms; I move its favorable adoption.

Point of Information

MR. PEREZ

Probably I'm not opposed, but I would like to see the amendment, I just want to be sure it does what I understand it does.

MR. POYNTER

It's been passed out, Mr. Perez.

Inserts on page 4, line 13, after the words "serve for" and before the words "of six" delete the words "a term" and insert in lieu thereof the words "overlapping terms"

[Amendment adopted without objection.]

Recess

Vice Chairman Casey in the Chair

[Quorum Call: 73 delegates present and a quorum.]

Amendments

MR. POYNTER

Mr. Avant and Mr. Ginn sent up amendments at this time; it's a set of three amendments if you are kind of searching through the group there. Set of three amendments sent up by Delegates Avant and Ginn.

Amendment No. 1. On page 4, at the end of line 8, add the following: "; Director"

Amendment No. 2. On page 4, line 9, immediately after "Section 12" and before the word "The" insert "(A) Wildlife and Fisheries Commission"

Amendment No. 3. On page 4, between lines 22 and 23, insert the following:

"(B) Director. The commission shall appoint a director. He must hold a degree in wildlife management or marine biology from an accredited university and have at least five years of

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wildlife management or marine biology experience as provided by law. However, these qualifications shall not apply to the director serving on the effective date of this constitution."

Explanation

MR. GINN

Mr. Vice-Chairman and delegates, we're talking still about the Wildlife and Fisheries Commission and the aspect I'm concerned with is the director of the Wildlife and Fisheries Commission. I want to tell you a little bit about what we want to do and what he does and why I'm offering this amendment. What we are trying to do is to provide that the director of the Wildlife and Fisheries Commission have a degree and to have experience, and I want to talk about that. In my opinion, the director has a very important position, he manages all the staff and the personnel in conjunction with civil service. He has the administrative responsibility and I would say the supervision of the day-to-day operations of the commission. He also prepares a great extent of factual information and recommendations on the current problems that the commission deals with and in conjunction with that in making regulations and certain policies. The director also prepares a recommended budget, a budget, and I think that's a big responsibility you have to be concerned with. He also has operations in carrying out the programs of the commission. Now, under the director is another aspect that you have to consider of his importance. He has two assistants, one dealing with commercial and fishing laws and another assistant who deals with wildlife and game laws. So, I'm trying to impress upon you the importance of the position of this director. Mr. Avant and I believe that the director should have a degree. We want a certain degree of competency in his position. We feel like he should have experience in the field of conservation and game management, in that regard, he would have a better insight of wildlife and fisheries problems. We feel like there is just no substitute for experience. Now, the director has to consider many, many state biologists reports and many studies that he has to study, and he uses these reports in making certain regulations that the commission enforces. Now, if you look over on page 5, Section 13 (B), you'll see that the Committee on Natural Resources felt that it was wise to have the state forester to have a degree and to have experience and this Natural Resources Committee wants the forester to have a degree and experience. We feel like the director of the Wildlife and Fisheries should also. I just feel like that it's just a matter of competency and experience. If you want to hire a math teacher, you don't get a geographer. I feel like we need that experience and that degree for the director.

Questions

MR. ABRAHAM

David, do you believe that the director of Wildlife should have more technical qualifications than the superintendent of education?

MR. GINN

More technical qualification?

MR. ABRAHAM

Yes, as far as degrees and this type of thing is concerned.

MR. GINN

I think he needs it. I want to remove....I would say, I would want to remove some politics, or this, or that; I just want competency; I want experience in that position.

MR. ABRAHAM

So, he should be more qualified, experience wise and education wise than the superintendent of education?

MR. GINN

No, sir, I'm not saying that at all.

MR. ABRAHAM

Well, do you realize we haven't put that anywhere else, all these qualifications, anywhere in this constitution?

MR. GINN

Yes, sir, it's in this....it's over in the Forestry Commission. We haven't.....

MR. ABRAHAM

We haven't done that yet, but we haven't put these type of qualifications in for the commissioner of agriculture or superintendent of education, have we?

MR. GINN

No, sir, because the commissioner of agriculture is elected and the superintendent is presently elected; this man is appointed and if he is going to be appointed by the governor, I want him to have some qualifications. I want him to have that experience, that degree.

MR. ABRAHAM

Well, don't you feel this could be handled statutorially as well as it could constitutionally?

MR. GINN

Well, you're dealing....if you leave it up to the statutes and put it in the hands of the legislature, there's no telling what might....could be done although I do trust the legislature. I want this safeguard in the constitution and I'm trying to improve this commission is what I'm trying to do.

MR. BOLLINGER

David, didn't Mr. Bergeron's amendment add the fact that all seven of these individuals are going to be electors of the state?

MR. GINN

Yes.

MR. BOLLINGER

And, isn't it very possible that we would have trouble finding someone living within the state being an elector of this state having the qualifications you are setting forth in the constitution and who is willing to take the job?

MR. GINN

Boysie, I don't see that; I certainly do not. There are many men that would like this job for political reasons and there are many men that want it because they have careers in this field. I don't feel like we will have a problem. I think there are adequate men who would want this position, quite a good number.

MR. GOLDMAN

Mr. Ginn, just because we might have--and remember--I said might have made an error in the superintendent of education, is that any reason to make an error here?

MR. GINN

Well, I don't think we are making an error; no, sir. I understand your question; yes, sir.

MR. BURNS

Mr. Ginn, just for information, in your Amendment No. 3 and No. 1, too, you refer to: "The commission shall appoint a director." Now, is that a different director from the one Mr. Drew was discussing this morning or would this be a director of the commission?

MR. GINN

I'm concerned with the director of the Wildlife and Fisheries Commission who is selected, who is hired by the commission, by the commissioners themselves. He served as executive officer and administrative officer; he's selected from the commissioners.

MR. BURNS

Yes. Well, now what I'm getting at....

MR. GINN

He's kind of an employee I might add.

MR. BURNS

Would this be a different director from the director that Mr. Drew was talking about this morning in which it just provided for one director, no commission?

MR. GINN

No, sir, this is different because you will have the commission and a director here; he is an employee of the commission; he is the manager somewhat.

MR. BURNS

But, you wouldn't have a director of the commission and then a director of the agency, too, would you?

MR. GINN

Well, the agency....no, sir.

Further Discussion

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MR. VELAZQUEZ

Mr. Chairman, fellow delegates, I rise to oppose this amendment, there is no need for this--this is simple straight-forward legislation--it can best be left in the hands of the legislature. Like all of you, I want the best possible man who is degreed and who has experience. But, who are we to sit right here in 1973 and say that the degree must be in wildlife management or marine biology. Many experts in this field have other degrees. Some of the greatest experts in this field have law degrees. Others have degrees in plain, simple, ordinary biology. Others have degrees in zoology. Others have degrees in systematic parasitology. Others have degrees in comparative zoology. Others have degrees in comparative vertebrate zoology. Others have degrees in comparative invertebrate zoology, I mean, this is just too confining---this best can be handled in the legislature. Now, some people have said this ia going to take it out of politics. There is no way this is going to take it out of politics. What's a keep a politician from having a degree in wildlife management? In fact, if he's a good enough politician, he'll get some school to give him an honorary doctorate in wildlife management or an honorary doctorate in marine biology, and suppose the best man only has four years, nine months of experience; suppose he only has four years, ten months of experience; suppose he only has four years, eleven and a half months of experience? I mean, it seems to me that this thing can best be handled in the legislature and that we are just running in circles trying to introduce something like this here. We need the best man, but in no way does this amendment guarantee us the best man.

[Motion to limit debate on the Amendment to five minutes adopted: 48-33.]

Explanation

MR. THOMPSON

Mr. Chairman, fellow delegates, the time is short, so I won't have too much to say. I think....Mr. Chairman, I rise in opposition to this amendment. I think if we'll remember back about four or five years ago we had a director that would probably fit in these qualifications barely. We've had some others before and some after, and I just ask the general public and the people in here to see which ones have made the best director for the State of Louisiana. I urge defeat of this amendment because education doesn't make a man qualified for a job as big as this is. I think education, experience, know-how, and to be able to get along with the general public is what should be counted here. I urge you to vote against it.

Further Discussion

MR. HAYES

Ladies and gentlemen, just one minute, I rise in opposition number one. We are not going toward ' ' degrees any more too much, you go toward practitioners. Practitioners are people who can actually do the work. I think a director of Wildlife and Fisheries would be a person who can decide who that was that could help him do the job. I think we should go more toward practitioners rather than people with degrees. A degree guarantees you nothing, no more than in the Judiciary Article. They put this in the Judiciary Article, the only other place I know it is and I even opposed it there.

Questions

MR. WILLIS

Mr. Hayes, don't you think that the words "accredited and experience" are flexible as a rubber band and that there's no way in which to find out how far accredited...who accredited by who, what, and which? Isn't that correct?

MR. HAYES

I agree; you can't take a degree and guarantee anything with it. But, you can take a person who is practicing in a particular area, use them as a practitioner, I think, the word would be and a person could hire who they wanted to do, whoever could do the job rather than saying a degree guarantees it.

MR. WILLIS

So, you agree with me, then, that that would depreciate our appreciation of the attributes that the commissioner is expected to have; isn't that correct?

MR. HAYES

That's correct.

MR. LANIER

Mr. Hayes, I know you do a lot of fishing yourself and haven't you met a lot of people who probably have never been to college in these fields, but yet are quite expert in the area of wildlife management and game control?

MR. HAYES

We have people, Mr. Lanier, teaching in our schools who do not have degrees--our welders, air-condition men are practitioners--they don't have degrees, they make more than the teachers with degrees; that's the only way you could get them; we call them practitioners.

Further Discussion

MR. PEREZ

Mr. Chairman, ladies and gentlemen of the convention, the director of the Wildlife and Fisheries is more of a management person, a person who has the direction and control over all those under him. We already have many, many, many well-qualified people working for the Wildlife and Fisheries Commission as biologist and so forth. The technical knowledge comes from those people, the general managerial authority comes from the director. So, I, therefore, cannot see under what conditions we would have to have a person with these technical qualifications. I, therefore, urge you to defeat the amendment.

[Previous Question ordered.]

Closing

MR. GINN

Ladies and gentlemen, I have a committee selecting a list of pallbearers, therefore, I withdraw the amendment.

Chairman Henry in the Chair

[Motion for suspension of the rules to allow withdrawal of the Amendment adopted without objection. Amendment withdrawn.]

Amendment

MR. POYNTER

Next set of amendments sent up by Delegate Ginn. Amendment No. 1. On page 4, delete lines 17 in its entirety and insert in lieu thereof the following: "shall be selected from a list of names submitted by the Louisiana Wildlife Federation as provided by law."

[Motion to limit debate to thirty minutes on all remaining Amendments to Section 1 rejected: 33-50. Amendment withdrawn.]

Amendment

MR. POYNTER

Senator Rayburn has a set of amendments. On page 4, line 17, in Floor Amendment No. 1 proposed by Delegate Burns and adopted by the convention on today, on line 2 of the language added by the amendment, after the word "industries" change the period "." to a comma "," and add the following: "as provided by law."

Explanation

MR. RAYBURN

Mr. Chairmen and fellow delegates, all I'm attempting to do.... it might happen in the near future or in years to come where we might want to specify by law the qualifications of the members of this commission. My amendment only says "as provided by law" in the event we do want to establish some. You state out here in this language that "three shall be electors of coastal parishes and representatives of commercial fishing and fur industries." In my opinion, I could buy a commercial fishing license and maybe have never owned one before, and I think it would qualify me to serve on the commission if I owned a commercial fishing license. The others, it makes no references as to what their qualifications may be. I feel that some day if the legislature sees fit, they should have the right without submitting it back to the people to set up the qualifications by law if it so desired and that's all my amendment says "as provided by law."

Question

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MR. SCHMITT

It seems to me that you're really not changing anything by putting "as provided by law" because it still would have to be the commercial...have the commercial requirement in there. You could add extra requirements, but is that your understanding of what you are doing?

MR. RAYBURN

No. Mr. Schmitt, you have seven members and it says three of them shall be from coastal parishes and it don't say... make any reference to where the others will be other than just electors of the state. I'm thinking maybe some day if the Code of Ethics or somebody says "This fellow can't serve or that fellow can't serve because of a conflict of interest, then by adding this language the legislature could set up the qualifications.

....and, the Chairman of the committee has no objection, he so informed me before I offered the amendment.

[Previous Question ordered. Record vote ordered. Amendment adopted: 90-9. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 92-10. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

"Section 13. Forestry Commission; State Forester Section 13. (A) Forestry Commission. The practice of forestry is hereby placed under the Louisiana Forestry Commission. The commission shall consist of seven members, five of whom shall be appointed by the governor for overlapping terms of five years each, and two of whom, namely the head of the Department of Forestry at Louisiana State University and Agricultural and Mechanical College....

[Motion to waive reading of the Section adopted without objection.]

Explanation

MR. SINGLETARY

This section just has two subparagraphs. Paragraph (A) sets up the Forestry Commission and Paragraph (B) sets up the State Forester. Paragraph (A) provides the practice of forestries placed under the Louisiana Forestry Commission and would consist of seven members, five appointed by the governor for overlapping and two, namely the head of the Department of Forestry at L.S.U. and the director of Wildlife and Fisheries serve as ex officio members. Two members are owners or executive managers of interests owning and operating timberlands; one of owner of farmlands interested in reforestation; one of pulp and paper mill owner or executive manager; and the fifth is an owner or executive manager of interests manufacturing or treating poles, piling, crossties, or veneer. The commission will appoint a state forester who must be a graduate from an accredited school of forestry and have at least four years of forestry experience, as provided by law. Basically, what we did was aim down about....reduced a page and a half down to a short paragraph and just as we did in Section 12 under Wildlife and Fisheries, we basically retained the constitution just as it is, just eliminated some language.

I'll yield to any questions. I move it's adoption.

Questions

MR. DUVAL

Alvin, I'm sure it's clear, but I just want to make positively sure, ex officio members they wouldn't be voting members; would they?

MR. SINGLETARY

Really, I'm not clear about that; it stays just as it is now whatever the practice is now.

MR. DUVAL

Well, I mean, we don't know whether these are voting members or not? When you say ex officio members, what does it mean?

MR. SINGLETARY

I don't believe they are voting members, Mr. Duval.

MR. DUVAL

If we could perhaps ascertain that information, it might help us to understand the composition better.

MR. SINGLETARY

I'll try to have our staff find the answer to that question.

MR. RAYBURN

Mr. Singletary, I'm seeking information where you say "one shall be a pulp and paper mill owner or executive manager." I happen to know in a few cases where the company recommended, say, the assistant forester to be on this commission. Would he qualify if you leave the word "executive manager" in there if he were an assistant forester? I'm just wondering if that would be better if you would have an owner or an employee....I just....I'm wondering did the committee discuss the definition of executive manager?

MR. SINGLETARY

Well, just briefly, Senator. But, I don't think...I personally wouldn't have any objections to an amendment if you want to send one in.

MR. RAYBURN

I'm just seeking it for clarification. I don't know, but it might be highly possible that a paper mill company would want someone other than their executive manager on the commission, they might want their assistant forester or someone like that.

MR. SINGLETARY

Well, possibly...it's been suggested that maybe he could be name executive manager, I don't know.

MR. BOLLINGER

Mr. Singletary, did you know that a company can have more than one executive manager? If someone's an executive and a manager, he is an executive manager and it doesn't mean there only has to be one man but a vice-president could be a title only but if he is considered an executive and a manager that this would, I think, would comply with the provisions of this article?

MR. SINGLETARY

Thank you, Mr. Bollinger, I didn't know that. If there are no further questions, I move....

MR. ALEXANDER

As I look at this section, I see everybody here is more or less tied down to a position. Is there any room anywhere here for the general public to serve on this commission?

MR. SINGLETARY

As it stands, Reverend, it would have to be in one of these classifications that we have established, they would have to have some qualifications that are....as established in the section.

MR. ALEXANDER

Well, I have no quarrel with the qualifications but my question is: Is it possible for the general public to be represented on this commission in any way outside of the industry?

MR. SINGLETARY

Well, you have the head of the Department of Forestry from L.S.U. should presumably give some representation to the public.

MR. ALEXANDER

Is there any chance, under any conditions, any time within the next million years for a black to ever get on this commission?

MR. SINGLETARY

Well, if he's in the pulpwood business or something like that, I would think so.

MR. ALEXANDER

Or, if he's....

MR. SINGLETARY

If he's an owner of farmlands interested in reforestation or....

MR. ALEXANDER

Or be the head of the Department of Forestry at L.S.U.?

MR. SINGLETARY

That's correct.

Amendment

MR. POYNTER

Amendment sent up by Mr. Abraham first, which reads as follows: Amendment No. 1. On page 4, delete lines 23 through 32, both inclusive, in their entirety, and on page 5, delete lines 1 through 10, both inclusive in their entirety.

Explanation

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MR. ABRAHAM

Ladies and gentlemen, you might call this a technical amendment. Seriously, though, I just don't see the need for writing this type of language into the constitution. All of this can be handled by the legislature; they can set up the requirements they need for the board; they can set up the requirements if they want a state forester. We have not mentioned any other office such as a state forester in this constitution. We've taken out the fire marshall; we've taken out the director of highways; we've taken out a lot of other offices. But, even looking at the present language here it says that one of these members shall be the director of the Wildlife and Fisheries Commission. Well, we haven't said anywhere in this constitution there is going to be a director of the Wildlife and Fisheries Commission. In the section above we simply provided for the commission; we didn't provide for a director. We say that these various people who are going to be on the commission might be owners of timberlands, owning and operating timberlands; owner of farmlands interested in reforestation. Well, there might be all kind of farmers or anybody around here that might be interested in reforestation but may never do it. There's nothing in here about providing for the people who operate sawmills, or for lumber dealers, or anything like that. I just don't see the need for having to include this type of language in the constitution. I don't think that our forestry industry is going to suffer in anyway if this is not included in the constitution. We have developed over the years the need for the practice of good forestry and this has been done without a constitutional amendment....a mandate or a constitutional sanction. So, I don't think there's any quarrel with the things that we are trying to do. We all sit here and we all agree that we are interested in natural resources, preserving them and caring for them, the statement has been made time and time again. Why do we keep insisting that we have to put it in the constitution? I think the language is unnecessary and could much better be handled statutorially because then if there is any change that needs to be made in the law it could be made very easily without the need of a constitutional amendment. I urge the adoption of the amendment.

Questions

MR. BURNS

Mr. Abraham, we just a few moments ago put the Wildlife and Fisheries Commission in the constitution, didn't we?

MR. ABRAHAM

Yes, we did, much to my regret.

MR. BURNS

Do you realize that the forestry industry is about the third largest industry in the State of Louisiana in terms of what it brings into the state and its products--timber, by-products of all kinds....

MR. ABRAHAM

Mr. Burns, let me answer you this way. It's my understanding that the agriculture industry is much, much larger than any other industry in this state. Nowhere in this constitution have we provided for an agriculture commission; nowhere have we set up specifications for who is going to be the director of agriculture. I don't see any need why we have to do this for the forestry commission. What about the dairy industry, and the cattle raising industry, etc?

MR. BURNS

In other words, if there's an amendment introduced which is being prepared right now giving a better diversification--better overall coverage--on the commission, would that make you feel more favorable towards this section?

MR. ABRAHAM

No, sir. Because I think one of the biggest single expenditures of state money is the education system, but we haven't really set up any specifications on which people are going to be represented on the boards of education.

MR. BURNS

Well, leaving the composition of the commission itself out of it, just tell me why you think--and I'm not against the Wildlife and Fisheries Commission because I supported it--but why do you think it should be in the constitution, and the forestry commission should not?

MR. ABRAHAM

Mr. Burns, I don't think that the Wildlife and Fisheries Commission should be in the constitution. I voted against that.

But, simply because I lose on one thing, and it's in there, then I can't keep fighting that hattle. But, this does not mean that I am going to continue to put other things in there, simply because one may be in there. I think we should still continue to try to eliminate these things in the constitution.

MR. BURNS

In other words, Mr. Abraham, you are just against putting all these commissions in the constitution?

MR. ABRAHAM

Yes, sir. Very much so.

I thought maybe you were just against the forestry commission.

MR. ANZALONE

Mack, do you know I disagree with your statement about a commission on agriculture, because to protect the agricultural interests of this state, we do have an elected commissioner of agriculture?

MR. ABRAHAM

Well, I appreciate the fact....

MR. ANZALONE

Well, you know how many millions of acres of this state are covered by timber?

MR. ABRAHAM

No, I don't know.

MR. HENRY

Will you yield to a question from Mr. Hernandez?
Mr. Hernandez. Wait, Mr. Anzalone.

MR. ABRAHAM

Gee, I hope you can tell me how many billion of acres are covered by timber.

MR. HERNANDEZ

My question is, simply, do you realize that since this present setup for the handling of the reforestation program in the State of Louisiana has been placed in the constitution, that Louisiana has made rapid strides?

As was pointed out the other day, there are two hundred and forty thousand families in the State of Louisiana. You wouldn't want to affect that program in any way, would you?

MR. ANZALONE

Pete, I'm not after affecting the program in any way. But, surely you don't believe that the strides that have been made in reforestation, and conservation, has been done strictly because you have some language in the constitution? It's all been through enacting enabling legislation. I see no problem in that respect.

MR. HERNANDEZ

Forestry is handled in this state through the Louisiana Forestry Commission, and the Louisiana forester, as...proposed in this provision here...in this section. Now, they have been carrying on this work a good long time. Don't you realize that they have done a good job, Mr. Abraham?

MR. ABRAHAM

Pete, I'm not quarreling with the job they do. I'm saying that the job will still be done through statutory law rather than through constitutional sanction.

MR. HERNANDEZ

We're not sure of that, and the forestry industry wants it in the constitution. They need it in the constitution for their protection.

MR. ABRAHAM

Pete, I think you will agree with me that this program was started long before you had all this stuff in the constitution.

MR. HERNANDEZ

No, sir. No, sir, I won't agree with that. Not a bit.

[Motion to limit debate on the Amendment to fifteen minutes adopted without objection.]

Further Discussion

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MR. ARNETTE

I rise in support of Mr. Abraham's amendment for several reasons.

Probably the basic reason that I object to having this particular commission in there is because we chose to take out over sixty boards and commissions in the Executive Branch Article already...over sixty we have taken out...many of them much, much, much, more important than this particular board or commission. We took out the highway board. We took out anything having to do with welfare. We took out the commissioner of conservation who is probably the most powerful man in the state having anything to do with the major industry in this state, which is the oil and gas industry; we took him out. We don't have the mineral board in here, which has to do with all the uses of minerals by the state. My gosh, I don't see any reason why we ought to have the forestry commission in here. We've taken out people who are much, much, more important to state government.

Now, when you take this out, that doesn't mean they're not going to do their job anymore. That doesn't mean we're not going to have reforestation, or we're not going to have forestry conservation, and we're not going to have a state forester. It doesn't mean that at all. It simply means they are going to function under the statutes--which many, many boards and commissions figure they could do a lot better, anyway, functioning under the statutes.

Now, the argument of putting wildlife and fisheries, was that you got so many people that are fishermen and like to go hunting. Well, maybe that's a valid argument. But, my gosh, let's don't put all these boards and commissions in here simply because we think a lot of people might like to have them in here. It doesn't do any good. It's not going to make any difference in the law. We've already taken out many, many, much more important boards. So, let's pass Mr. Abraham's amendment.

MR. HENRY

Would you yield to a question from Mr. Burns?
The gentleman yields.

MR. BURNS

Mr. Arnette, you just made a statement that they had so many people engaged in the fishery industry that that should have given it priority. That it should have been...it should be in the constitution.

MR. ARNETTE

No, Mr. Burns. You misunderstood me completely. I voted against having that in there. I think it was bad to put it in because it is totally unnecessary. I agree with Mr. Abraham's position on that particular thing. He said it was unnecessary; I think it's unnecessary. But, the convention chose to put it in. But, I say just because we put one bad thing in, let's not put in two.

MR. BURNS

Did you vote to put the Wildlife and Fisheries Commission in the constitution?

MR. ARNETTE

No, I did not, Mr. Burns. I voted against it. I voted against the section, if you'll check the record.

MR. BURNS

Your position is like Mr. Abraham's. You're against putting all these in there.

MR. ARNETTE

Mr. Burns, I'm against putting anything in the constitution which means absolutely nothing.

MR. STOVALL

Mr. Arnette, do you have any idea how many constitutions in the United States have a forestry commission in them?

MR. ARNETTE

No, I don't. But I doubt that there were very many at all.

MR. STOVALL

Can you imagine our ever having a legislature in this state that would do anything to weaken the forestry program of the state?

MR. ARNETTE

I don't think the forestry program of this state will be affected one iota by what we do here and now on having the forestry commission in or out. I don't think it's going to make any

difference. You're still going to have forestry conservation; you're still going to have reforestation; you're still going to have a state forester. I don't think the legislature is going to change that one bit.

MRS. ZERVIGON

Mr. Arnette, do you subscribe to the theory of government which says that all commissions which are in the constitution are doing a very good job, and all those ones which are not listed in the constitution are doing a rotten job?

MR. ARNETTE

No, I don't believe that at all, Mrs. Zervigon. I believe that the commission is going to do its job, and do it well whether it's in the statutes or in the constitution.

Further Discussion

MR. HERNANDEZ

Mr. Chairman, ladies and gentlemen of the convention, I rise in opposition to this amendment. Forestry was reborn in this state a few years ago. Our virgin, long-leaf yellow pine forests were completely denuded. We had no virgin pine forests left in the state. Our hardwood had been, for the most part, used up. So, in 1952 when this present program was started--or 1954, I'm sorry--1954, when this present program was started, we had a long ways to go. In spite of what Mr. Abraham says that this started before this, there were hundreds of thousands of acres of denuded pine land that was absolutely in no production at all--hundreds of thousands of these acres. Now, since this new program has started, there has been planted one million, three hundred and fifty thousand acres of forest plantations. Now, that has reached the stage now, where this new, renewed natural resource is supplying large wood using plants scattered pretty well all over the State of Louisiana. It has made this progress with the present set-up that we have.

Therefore, I beg you not to disturb this. I don't mean that it's the...whole thing is going to be shot out of the saddle if this is taken out of the constitution. But the people in the business definitely want this constitutional protection. Remember, there are two hundred and forty thousand families in the State of Louisiana that depend on this forest industry for their livelihood. Since it has proven successful, nobody has asked that it be taken out of the constitution. There has been no objection. Actually, there has been no scandals of any kind connected with the...with this progress that we have made in this state. Nobody has suggested that there has ever been anything...any wrongdoing in it. It's worked well. It's worked tremendously well. Therefore, since nobody wants it taken out, I ask you to please leave this in there for fear that it might be disturbed if we start making changes in the set-up. Remember this, the Louisiana Forestry Commission, that we ask to be left in this article, has, and is continuing to work with the landowners. Another good thing about the Louisiana Forestry Commission, there has been no dissension between the forest land owners and the forestry commission. They have worked well together. They...even though the industry itself has supplied most of the know-how, the forestry commission has cooperated to the very fullest. They have helped with their research in developing a better pine tree--one that matures--that grows to merchantable size in shorter time. The forestry commission has helped provide forest protection...the fire suppression--because that is one of the deadliest enemies of forest production is fire. They have all worked together.

I ask you, please don't disturb that. That is a working relation like we have not experienced with any other industry. Please leave it just like it is. There is no need for a change. It has proven to be successful. Let's let it continue to...continue in this successful operation. Thank you very much, ladies and gentlemen.

MR. LANIER

Mr. Hernandez, do I understand your argument correctly that you feel that constitutional status is helpful to the forestry industry?

MR. HERNANDEZ

Definitely it is. The people in the forest industry definitely want it left in the constitution.

MR. LANIER

Now, if we take the opposite, is it also your view that if this commission were removed from the constitution, it would have an adverse effect on the forestry industry?

MR. HERNANDEZ

I am fearful that it would have, yes, sir. I can't say

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positively it would have, but, I am fearful it would have. It might be discouraging to these people that are producing these fine plantations.

MR. LANIER

Would you take the same point of view with reference to the state mineral board?

MR. HERNANDEZ

Frankly, Mr. Lanier, I know nothing about the state mineral board, and we are discussing forestry here.

MR. LANIER

Well, what I am getting to is if being in the constitution is helpful to the forestry commission, don't you think that being in the constitution might be helpful to the state mineral board?

MR. HERNANDEZ

Mr. Lanier, I'm sorry, but I know nothing about the mineral board. I couldn't possibly answer your question....

Further Discussion

MR. BURNS

Mr. Chairman, fellow delegates, we're talking about an industry now in the State of Louisiana which I don't know whether it's second, or whether it's third. I think we all agree that the oil and gas industry, possibly, is the largest. But I would daresay the forestry industry is second; or, if it's not second, it's definitely third. This has been in the constitution since it had its inception in 1921. Mr. Hernandez said the actual reforestation project began, I believe he said, around 1940. But, this is a vital and most important industry to the State of Louisiana. All that I'm asking--I'm not going to take up any more time to present a line of argument as to the difference, the importance of it. But, this is what I would like to present to you, in all sincerity. Let's not be inconsistent. If we provided for the wildlife and fisheries commission to remain in the constitution just a few hours ago, here's an industry just as important, and it's statewide, it's not confined to any particular area of the state. Let's at least be consistent and if we voted to keep the wildlife and fisheries commission in there, let's at least vote to keep the forestry commission in there.

Now, I know that with all due deference to certain of the delegates, they are against this because as they truthfully and properly said-- not because it's the forestry industry, but because it's just for putting...against putting these commissions in the constitution, period. So, I ask all of you that are not against that concept, and that did vote to...keep the wildlife and fisheries commission in, to at least keep the forestry commission in, because it's just as important to the people in the industry, and to the welfare and progress of this state, as any other of these major industries. So, I ask you to please vote against this amendment.

[Previous Question ordered.]

Closing

MR. ABRAHAM

Ladies and gentlemen, if we follow along with Mr. Burns' philosophy that we've got one in, we ought to be consistent and put the other in, well, then, if we're going to follow this policy, then I think we'd better go back and put all these other boards in there which we do not have.

Let me make two points. First of all, I don't know of any other state in this union that has a constitutional forestry commission.

Secondly, when the composite committee met in Lake Charles in the spring, the President of the Louisiana Forestry Commission, or the Louisiana Forestry Association, appeared before that committee. On a direct question to him by me, I asked him whether or not he felt the Forestry Commission or the state forester ought to be in the constitution. His answer was, "Well, if all the other commissions stay in, we'd like to be kept in, but if you take the various other commissions and boards out, I see no need for us to be in."

Thank you.

[Record vote ordered. Amendment rejected:
31-71. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Amendment sent up by Delegate Sandoz; amendment reading as follows:

Amendment 1. Page 4, line 28, immediately after the word and punctuation "esch," and before the word "and", insert the words and punctuation,"as provided by law,".

Amendment 2. Page 4, line 32, immediately after the word and punctuation "members.", delete the remainder of the line. On page 5, delete lines 1 through 6, both inclusive in their entirety.

Explanation

MR. CHAMPAGNE

Ladies and gentlemen, Delegate Sandoz had to leave. He and I had spoken about this amendment. We were in complete agreement. I've discussed it with the people up here, and there are no objections to it.

I want to explain to you the reason for it. It simply says, "as provided by law" rather than specifying what each one of these people would do. I think it eliminates a lot of explanation. It also enables us not to have to amend this constitution in the event a new industry is created within this field. I give you just a very short example. Some of you may have read, and I have been reading, about some very unusual materials being used at this time in the feeding of livestock. Now, we may, at some day, and I have been hoping on my farm, that we could feed cattle with sawdust. Now, it's not impossible if you read the same article I did. So, I want to suggest to you that that might be one of the great segments of the forestry industry of this state. It would mean at that time we'd have to amend the constitution. We simply say, "as provided by law." I'm sure it's a good commission, but this continues it. We had no objections that I know of. I'll be glad to answer any questions.

Questions

MR. DENNERY

Mr. Champagne, I notice that you have left in there the two ex-officio members. Correct?

MR. CHAMPAGNE

Yes, sir.

MR. DENNERY

Well, now, do we know that there will be a director of wildlife and fisheries?

MR. CHAMPAGNE

Yes, sir. This is still in there, sir.

MR. DENNERY

No, my point is, that we have not provided in the constitution for a director.

MR. CHAMPAGNE

Well, Mr. Dennery...this doesn't make any difference to me. All I'm saying is these other people...you see...I'm not going that far into it. I'm only talking about this amendment. It has no change whatsoever.

MR. BOLLINGER

Mr. Champagne, is it not true that the way the committee proposal is written, and I just noticed this myself, that it's possible to fill the requirements specified in that section? You could have all members of the forestry commission coming from outside Louisiana?

MR. CHAMPAGNE

Right.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Mr. Duval sends up the following amendment.
Amendment No. 1. Page 4, line 27, immediately after the word "governor" and before the word "for" insert the words "subject to confirmation by the Senate"

Explanation

MR. DUVAL

This is merely like the other amendment we had to the wildlife and fisheries commission requiring Senate confirmation of the appointments by the governor. I move the adoption of the amendment.

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[Amendment adopted without objection.]

Amendment

MR. POYNTER

Next set of amendments sent up by Delegates Hernandez, Burns, Kilbourne, and others, reads as follows:

Amendment No. 1. On page 4, line 23, immediately after "13." and before the word "Forestry" insert the following:

"Forestry; Acreage Taxes;"

Amendment No. 2. On page 4, between lines 23 and 24 insert the following:

"Section 13. (A) Forestry shall be practiced in the state, and the legislature is authorized to make provisions therefor. The legislature may authorize the governing authorities of the parishes to levy acreage taxes, not to exceed two cents per acre, for the purpose of this Section. The provisions of this constitution relative to the exemption of homesteads from taxation, are hereby extended and made applicable to the tax herein authorized.

Amendment No. 3. On page 4, line 24, at the beginning of the line, delete "Section 13 (A)" and insert in lieu thereof "(B)"

Amendment 4. Page 5, line 7, at the beginning of the line, change (B) to (C)

Explanation

MR. HERNANDEZ

Mr. Chairman, ladies and gentlemen of the convention, you will recall that back in the taxation proposal, Mr. Bollinger pointed out very aptly that the phrase in there relative to forestry was out of place that it should be in this proposal. So, we eliminated this paragraph from the taxation proposal to put it in here.

Now, this Section 13.(A) that I propose here, simply provides for all of.....it replaces Article VI, Section 2, of the present constitution, and tracks it almost word for word. It reinstates the forest acreage tax. Now, bear in mind this is a forest acreage tax. I would like to make this clear to Mr. Lanier. It has nothing to do with drainage. It's in the forestry section. Now, this money is collected from the forest landowners, two cents an acre, and it's collected by the sheriff in each parish that levies such a tax, and goes directly from the sheriff of that parish to the Louisiana Forestry Commission who is obligated to use that money in the advance of forestry. It's considered as a contribution from the forest landowner to the forestry commission to provide for fire suppression crews. Now, as you know, the forest industry must be protected from fire. Even though all of the larger timber producers have their own fire suppression crews, they work with the state fire suppression crews. There has been a lot of harmony developed between the large landowner and the small landowner. In fact, so much so, that a lot of the large landowners are planting forty acres a year at no cost to the small landowner. Now, they encourage the practice of forestry because of the fact that the small forester, or small landowner, will help with fire prevention.

Now, the fire suppression crews are necessary. When a big fire breaks out, of course, the large companies send their fire suppression crews, and they join and work with the Louisiana Forestry Commission fire suppression crews. Therefore, in that way, they have been highly successful in their efforts and they have reduced the amount of acreage lost by fires tremendously. I haven't seen any statistics on it, but there's much less loss by fire now than there was before this came to pass. It's only two cents per acre. It goes directly to the Louisiana Forestry Commission. It costs the landowner the two cents an acre. They are not complaining about paying this two cents an acre. It helps the forestry commission. They are free to use that in any way they want, in the development of fire suppression. It's copied from Article VI, Section 2. There is nothing new in it. I ask you to please support this. In fact, it costs the state nothing. It helps the state out because it reduces the amount that is necessary to appropriate from the general fund of the state to the Louisiana Forestry Commission.

Questions

MR. LANIER

Mr. Hernandez, as I previously discussed with you, the forestry acreage tax authorized herein is not designed in any way to limit the legislature in levying other types of contributions for the benefit of land or acreage taxes. Is that correct?

MR. HERNANDEZ

Absolutely, in no way. This is the same verbiage that's been in the constitution for a long time. It has not in the past prevented your levying your type of acreage tax at all. It

has nothing to do with it. It takes away from it..and neither takes away or adds to it.

MR. LANIER

So, for drainage purposes or levy purposes, if the legislature wanted to authorize say two dollars per acre, it certainly could do so and would not be subject to this limitation.

MR. HERNANDEZ

No, sir, this says clearly, for the purpose of this section.

MR. LANIER

Which is forestry.

MR. HERNANDEZ

Which is forestry, yes, sir.

MR. LANIER

The only other thing I'm concerned about here is, if you ever wanted to get an increase in this tax for forestry purposes over two cents per acre, you would have to get a constitutional amendment. Is that not correct?

MR. HERNANDEZ

That's correct, sir.

MR. BURNS

Mr. Hernandez, I don't think, perhaps, you've brought it out forcefully enough, but this two cents per acre forestry tax is permissive in that only those parishes that want to vote it on themselves, can vote it, if they see fit.

MR. HERNANDEZ

Yes, sir. That is correct, Mr. Burns. Only those parishes that desire to levy this tax.The pine producing parishes levy that. I have not heard one single landowner object to it.

MR. BURNS

In other words, any coastal parishes, or any parishes that don't want this two cents an acre tax for forestry improvement and fire protection, do not have to vote it. Therefore, they won't be affected by it one way or the other.

MR. HERNANDEZ

No, sir. They are not affected by it. It neither hurts them nor helps them.

MR. BURNS

Is it not a fact that this two cents an acre provides fire protection that saves thousands of acres of pinelands every winter--every fire season?

MR. HERNANDEZ

Yes, sir. I thought I pointed that out awhile ago. It, in increasing the efficiency and the equipment in fire suppression crews has greatly reduced the loss by fires.

MR. BURNS

One more question. Have you ever known of a parish--a timber-growing parish that voted down the two cents per acre tax?

MR. HERNANDEZ

No, sir. They want it.

MR. SHANNON

Mr. Hernandez, does this two cent tax yield enough money to carry out its intended use in the beginning?

MR. HERNANDEZ

Mr. Shannon, this is a tax that never goes into the general fund or to the parish. Every bit collected is remitted directly to the Louisiana Forestry Commission and they use the money they get.

MR. SHANNON

But, now, the forestry commission gets an appropriation from the legislature, do they not?

MR. HERNANDEZ

Yes, sir. This causes that appropriation to be less by the fact that this is contributed by the landowners.

MR. SHANNON

O. K. Thank you.

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MR. DERBES

Mr. Hernandez, I've got several technical problems with this amendment. First, it says, "The legislature may authorize the governing authorities of the parishes to levy the taxes." Now, how does this tax, if....how does this tax get to the forestry commission if it's assessed by the local governing authority?

MR. HERNANDEZ

Yes, sir, it's assessed by...you see as Mr. Burns pointed out, this tax has to do only with the pine timberlands...the pine timber producers....

MR. DERBES

Well, how does it get to the local governing...how does it get to the forestry commission if it's levied by the local governing authority?

MR. HERNANDEZ

All right. I thought I made that clear. Mr. Derbes, this tax is collected by the sheriff from these landowners and remitted directly to the Louisiana Forestry Commission. The parish gets no portion of it at all.

MR. DERBES

Now, you also say that it's an acreage tax, but there's no specific provision that it's a forestry acreage tax. Isn't... I don't mean to be...you know....to be difficult here. But it says "the legislature may authorize governing authorities to levy acreage taxes." Now, an acreage tax doesn't have to be on forestry acreage. It could be on....it could be an ad valorem tax on any kind of land.

MR. HERNANDEZ

Well, Mr. Derbes, let me answer it this way. It's for the purpose of this section. This section has to do only with forestry. This is the present provisions of the constitution. It's in Article VI, Section 2. This is copied from that.

MR. DERBES

You don't see any reason to qualify the word acreage with the word forestry acreage, or forest acreage?

MR. HERNANDEZ

No, sir. I see no thing...and there's never been a need arise for that that I know of.

MR. DERBES

Finally....

MR. HENRY

You've exceeded his time, Mr. Derbes.

MR. HERNANDEZ

I would deeply appreciate your support of this amendment. Thank you very much.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, I rise in opposition to this amendment. The first thing it does...it puts back the very language that we took out of this proposal just a few days...that is, Proposal No. 15 just a few days ago, when we said that forestry shall be practiced in this state. We don't say that plumbing shall be practiced. We don't say that medicine shall be practiced. We don't say that dentistry shall be practiced or law shall be practiced, so why is it necessary to say that forestry shall be practiced. That would take care of the first sentence. The second sentence says that the "legislature may authorize"...well, if you don't prohibit the legislature from doing it, certainly they may authorize it. They have the full power to do it, so therefore, that particular portion is unnecessary. Furthermore, with the reference to the election which Mr. Hernandez spoke about...there's nothing in here to authorize an election. It only authorizes the local governing authority to pass such a tax. They could pass it, certainly, without any need of an election if this particular article is passed. Another thing about this particular section is, the amount of the tax is locked in, and you cannot change it if it becomes necessary. I certainly feel like that we ought to leave it flexible enough in the event that they need to levy more than two cents. It might happen. Just for your information I might tell you at the present time the state treasury is supplementing and subsidizing the forestry industry to the tune of about 5 million dollars a year. That's how much it costs us over and above the amount that we collect in the severance tax. I certainly think that it might come an occasion when we need to change that allocation a little bit, and

I hope that you will vote against this amendment so as to let us equalize it the way we should, certainly, in view of the fact of the way that we have been stripping the state of its right to have revenue.

Questions

MR. ROY

Actually, Senator, all this does is it prohibits the legislature from ever...or the local governing body...from ever getting some meaningful income from forestry lands by limiting it to two cents. Isn't that true?

MR. DE BLIEUX

It does that and furthermore, you might say it handicaps the legislature from ever having a meaningful forestry program, too.

MR. ROY

It probably would take all of the money that it would generate just to advertise that they are going to do it, wouldn't it?

MR. DE BLIEUX

That's right.

MR. HERNANDEZ

Senator De Blieux, you are correct about this is levied by the local governing authority, but I have never heard an objection raised by one of these timber...land companies yet to this tax. That is their contribution to the assistance that they receive from the state for fire.

MR. DE BLIEUX

Mr. Hernandez, there's a lot of things we have done up here that we haven't heard objection to because the people haven't had a chance to object to it before we did it.

MR. HERNANDEZ

Thank you, sir.

MR. STINSON

Mr. De Blieux, did Mr. Roy say that if this amendment is adopted that the legislature never could levy any tax? What in here prohibits that?

MR. DE BLIEUX

No, that wasn't his question. The legislature could never increase the allocation of the tax. It's locked in at two cents.

MR. STINSON

But, they could put some other tax on there if they wanted to, couldn't they?

MR. DE BLIEUX

Well, they couldn't put an acreage tax on something. They'd have to find...I don't know where they would find it from. Everything else is limited and locked in, just about.

Further Discussion

MR. VELAZQUEZ

Mr. Chairman, fellow delegates, I hesitantly arise to oppose this amendment of my good friend, Mr. Hernandez, and his associates. It just seems to me that this provision is just too confining. We're going to sit here and say that this tax should not exceed two cents an acre. Suppose they need two and one-half cents an acre. Suppose they need three cents an acre...or four cents an acre. Like everyone else I want fire prevention. We all need timber. We are all users of lumber. It seems to me that this entire matter could best be left in the hands of the legislature. Mr. Hernandez and his associates bring out the point that this particular thing is permissive. If it's permissive why do we have to have it in our new constitution? All of this particular matter on exactly the amount of the tax is legislative material, and the legislature has shown no indication in the past that it is inimical to the interest of our friends in north Louisiana or anywhere else here in Louisiana who grow timber. So, there really is no need to place this...to say that this tax should not exceed two cents an acre. This particular tax doesn't raise the necessary funds to do the job that is necessary to be done. The state still has to spend sums out of the general fund. I'm sure the state is willing to do so, but to put this two cent limitation in, just confines it too much. It even confines those who are willing to permit themselves to be raised. Suppose the people who actually are in the area want to have their tax raised to three cents or feel a need that

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the additional services that they require, require three cents. We will then have confined them to two cents and we will have to face another constitutional amendment at an additional expense of a constitutional amendment to all of the people. I urge you to vote against this particular Hernandez amendment.

Further Discussion

MR. KILBOURNE

Mr. Chairman and fellow delegates, I just want to say a word in support of this amendment. I want to tell you that in my experience it is my feeling that this is the best buy you get for your taxes that exist. I live in an area where there are lots of forest lands, and I see how it works. Now let me tell you what these people do. When a police jury votes this acreage tax, they come in...they build fire towers. They maintain watches in the fire towers. They watch for these fires, and when they see a fire they've got the equipment and the crews to go out and put it out. Not only that, these foresters go out and assist the law enforcement officers in apprehending these arsonists. At certain seasons of the year they go out and set fire to the forest, and that's a very common practice in some sections of the state, and I feel that this is very important. I think it's a real good thing. It's worked well everywhere, and if the people don't want it the police juries can take it off. But, they don't come in with the fire protection unless the police juries vote for them to do it. In other words, without putting this tax on they don't have the...they don't come into a parish and build these fire towers and maintain this forestry protection. So, I ask you to vote for the amendment.

Questions

MR. SCHMITT

How far can one of these fire towers cover? How many hundreds of thousands of acres can one person watch in one of these fire towers?

MR. KILBOURNE

How many persons, what?

MR. SCHMITT

How many hundreds of thousands of acres can one person watch from these towers?

MR. KILBOURNE

Well, I can't answer that, but they put them wherever they are necessary. They put them on a high place and they can certainly see a long way, and they have a telephone....

MR. SCHMITT

Twenty thousand acres?

MR. KILBOURNE

I don't have any idea.

MR. SCHMITT

Well, let's assume it was twenty thousand acres. Then the gross amount that you would receive from that tax would only be \$2,000 per year. That wouldn't even pay for that man's salary for three or four months.

MR. KILBOURNE

Really, I'm sorry....I just can't follow you. I mean....

MR. SCHMITT

I am saying...what percentage of the gross cost will this two cents per acre... acre generate?

MR. KILBOURNE

I don't have that information, I don't have any idea that it pays all of it. But it is the material assistance to it. In other words it....

MR. SCHMITT

How much.....

MR. KILBOURNE

....let me finish. It's a method for a parish to cooperate with the forestry commission. In other words....

MR. SCHMITT

... How many millions of acres are presently under this system right now?

MR. KILBOURNE

I don't know that either. I just know we have it in the parish where I am and two parishes I know of....in fact I think

they have it in East Feliciana, West Feliciana, St. Helena, and I don't know how many more. Surely....

MR. SCHMITT

Well, if you had a million acres, this would only be twenty thousand dollars per year. How many millions of acres do you have under this?

MR. KILBOURNE

Mr. Schmitt, I would love to have that information at hand but I simply do not have it. I'm trying to tell you I can't answer your question.

MR. BURNS

Just one question, in answer to Mr. Schmitt's question to you doesn't it state....forestry fire fighting service also have spotter planes, helicopters that can look over miles and miles of forest, and radio down to the appropriate fire tower....

MR. KILBOURNE

That's correct, Mr. Burns. They have all of that; they have telephones in the towers and everything else.

[Previous Question ordered.]

Closing

MR. HERNANDEZ

Mr. Chairman, ladies and gentlemen of the convention, I just want to make a few things clear. This tax--the reason a limit is placed on this.... this provision in the constitution provides for the governing authority of the parish, which is the police jury, to levy this tax on these landowners. Now this tax, I want to make clear again, is not kept by the parish, it is collected by the sheriff and remitted directly to the Louisiana Forestry Commission for them to use in fire suppression, or in any other work that they hope to do with forestry. Now it's true that this does not provide all the money that the Louisiana Forestry Commission uses, but I know of no department in the State of Louisiana that is not supported by the appropriation from the general fund. It was never intended that this should supply all the money that the Louisiana Forestry Commission uses. It does contribute to it, and if the parish wants to not levy this tax, that is left entirely up to the governing authority. They just have authority to do it; that is all. Now, the fire suppression crews of the Louisiana Forestry Commission operate all over the state. Now, I don't know whether all of the parishes that produce pine timber provide for this tax or not. We in Vernon Parish do; we feel like it's a contribution that should be made by these large landowners and they work together; it's a harmonious operation. They have worked together well, and they have done a good job. We ask you not to disturb that. Thank you very much.

Questions

MR. STOVALL

Mr. Hernandez, how long has this tax been in effect?

MR. HERNANDEZ

About 1954.

MR. STOVALL

What's happened to the price of timberland during that period of time?

MR. HERNANDEZ

What's happened to the price of timberlands? Like everything else, they've gone up.

MR. STOVALL

Well, shouldn't the...legislature be free to raise the tax on the land? The legislature....since the value of it has gone up.

MR. HERNANDEZ

This does not hamper the legislature....this only limits the police jury of that parish...the legislature is not limited in any way, under the provisions of this agreement.

[Record vote ordered. Amendment adopted:
65-42. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Hayes sends up amendments at this time.
"Amendment 1, on page 5, delete lines 7 through 10, both inclusive in their entirety"---since that has been relettered now, better make that "and all amendments thereto".

Explanation

MR. HAYES

Mr. Chairman, ladies and gentlemen of the convention, this amendment is very simple. I want to delete Section (B), where we have "the commission shall appoint a state forester. He must be a graduate from an accredited school of forestry and have at least four years of forestry experience". What I am saying is that a degree and four years of experience in forestry guarantees nothing, and I think we will be making a mistake if we write this into the constitution. If a degree from a certain school would guarantee you so much, why do the lawyers require you to take the bar exam? That means that they don't believe in the degree so much. They want you to take the bar exam and if you don't pass it, they don't let you practice. I'm saying again, the best way to go about this is use your practitioners. Let's let the people in the forestry, or let the people who are running this, appoint the best people they think can do the job and this way I believe you will get the best people to do the job and let's take out these qualifications. It's a very simple amendment, and I ask you to support it. Any questions?

[Previous Question ordered. Record vote ordered. Amendment rejected: 41-60. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 93-19. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

"Section 14. Public Service Commission Section 14 (A).....

[Motion to waive reading of the Section adopted without objection.]

Point of Information

Mr. Nunez

Mr. Chairman, we've passed over Sections 6, 7 and 8. When will we be getting to those, if I may ask?

MR. HENRY

Whenever the committee decides they want to take them up, Senator. We handle this like we have every other. Usually the committee determines the way to approach it and...we handle it that way.

Proceed, Miss Perkins.

Motion

MISS PERKINS

Thank you. Mr. Chairman, if there's no objection at this time I would like to move that this section be considered paragraph by paragraph. I think it will be

MR. HENRY

Lettered paragraph by lettered paragraph, Miss Perkins?

MISS PERKINS

Yes, sir.

[Motion to suspend the rules to allow consideration of Section 14 by lettered paragraphs adopted: 83-10.]

Explanation

MISS PERKINS

Thank you, sir. Ladies and gentlemen of the convention, Section (A) involves the composition of the Public Service Commission. There is a change in that we currently have a three member commission, and of course have three public service districts. This will make a change to five. I'd like to state at this time...prior to going any further into the section...I was asked to present this particular portion of the article to the convention and I would like to state that I do not necessarily agree with all the contents therein and do not know that I will vote with each and every part of the proposal. However, I will do my best to answer any questions that you may have as to the reasons of the committee for making these decisions. The reason the committee decided to change the composition from three to five members, is it was felt that there was a need for the members of the commission to get in closer contact with the people...of these...of their respective districts and this was pretty difficult to do on the basis of three districts, because the areas were so large. So they felt that this in fact could be changed to a five member board

and the legislature could reapportion to form two additional districts. I'll answer any questions.

Questions

MR. KELLY

Lynn, I hope this is a fair question. Now, you said the committee decided to go to the five man commission. Do you recall what the vote was, in the committee, on that?

MISS PERKINS

It was not unanimous, but it had a very strong vote. I don't remember the exact vote though, Mr. Kelly.

MR. KELLY

Well, being that you are at the mike. What is your personal opinion on this?

MISS PERKINS

I'd like to reserve my opinion, and simply cast my vote.

MR. BURSON

Miss Perkins, do you share my view that the Public Service Commission, perhaps as much or more than any agency of state government in Louisiana, has done a good job protecting the public interest?

MISS PERKINS

Yes, Mr. Burson, I do share that view and I think that the members of the committee share that view, but, this...the change was made because they felt that the members might be more responsive if the districts were smaller.

MR. BURSON

Well this is going to be my next question. Don't you think they've been very responsive to the needs of the public up to now?

MISS PERKINS

To my knowledge. Yes, sir.

MR. BURSON

And don't think that when you meddle with something that works well, that you always have the danger of messing it up.

MISS PERKINS

Yes, sir.

MR. JUNEAU

Lynn, in your committee did...wasn't there some discussion about how much money it would cost to staff two more commissioners?

MISS PERKINS

No. In fact, one of the members of the Public Service Commission came down and stated his personal opinion with reference to the increase in the proposal, but no figures were ever given to the committee as to additional cost.

MR. JUNEAU

Wasn't...wasn't it projected that it very likely could cost between seventy-five thousand and a hundred thousand dollars, just to add a commission member? Wasn't...wasn't that the figures they were talking about?

MISS PERKINS

That might have been projected, but I was not aware of it.

MR. JUNEAU

Wasn't it brought out in your committee that the one problem that the Public Service Commission has had, is not the number of commissioners, but the lack of revenues to hire expertise in the area of engineers, auditors, so they could get the knowledge to make the decisions?

MISS PERKINS

Yes, sir. That was very definitely brought out.

MR. JUNEAU

Now, if that would be true and we don't have the staff and we're using additional money just to add more elective positions. Have we really solved the problem that the commission might have had in reaching it's decisions?

MISS PERKINS

This is what this convention will decide.

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MR. BROWN

Miss Perkins, why the number five? What was the feeling of the committee to pick the number five?

MISS PERKINS

Well, actually the way five was determined is they felt that there needed to be an increase. The committee also discussed the possibility of an increase to eight per congressional districts. But, they felt that there should be an increase so that they would be more responsive to the people, but yet they did not want an even number of eight or as many persons on the committee as eight.

MR. BROWN

So the committee turned that...is that your view--that you would rather have five than eight--or....

MISS PERKINS

No, sir. I'm going to reserve my opinion. The committee chose five.

MR. BOLLINGER

Lynn, with reference to Mr. Juneau's question, possibly you weren't there that day, but is it not true that the staff went out and found out the salary of the Public Service Commissioners, that they had an office here and an office in their home district, a car, what staff they had? The committee did research what it would cost approximately to add to commissioners what the commissioners were now getting; is that not true?

MISS PERKINS

Mr. Bollinger, as a member of that committee, I'm sure that if you say it occurred, it did.

MR. STOVALL

Miss Perkins, are you aware that the Executive Branch Committee also dealt with the Public Service Commission?

MISS PERKINS

Yes, sir.

MR. STOVALL

Do you know that the members of the Executive Branch Committee recommended at least five members of the Public Service Commission?

MISS PERKINS

Yes, sir.

Amendment

MR. POYNTER

A set of amendments sent up by Delegates Ginn, Reeves, Kelly, Roemer, Juneau, Tobias and Jenkins.

Amendment No. 1, on page 5, line 13, delete the word "five" and insert in lieu thereof the word "three".

Explanation

MR. GINN

Mr. Chairman and fellow delegates, we're fixing to get into what I think is a very, very important area. We're talking about the Public Service Commission and, specifically, the composition of the Public Service Commission...three, five, eight, nine...whatever it shall be. My amendment retains it at three as it is today, and that's what I want to talk about. Ladies and gentlemen, historically, we have had three ever since the commission's inception in 1898 when it was the Railroad Commission that had three, and they have three now; and it's been that way for 75 years, and I think it's worked well. Historically, the commission has also been underfunded. As an example, in 1963 the budget was only \$262,000, and in 1972, alone, litigation--court costs exceeded the budget of 1965. So, with inadequate money now, by adding new commissioners and all the related expenses, it's going to cost even more money--much more money. Figures indicate that an additional commissioner would perhaps increase the cost \$144,000 or more. Now, the additional cost, if you increase the commission, is going to include many things. It's going to include salaries---salaries of the commissioners, of their assistants, of their clerical staff, office rent and expenses, and all expenses related. I think it's just better to put this possibility of this additional expense... put them on experts, on trained specialists instead of new commissioners. Now, ladies and gentlemen, the problems of the Public Service Commission are increasing, and I think that adding new commissioners is not going to alleviate that problem, necessarily. What you're going to need... you're going to need experts, trained specialists, engineers, career people, people of this sort. Another aspect: it is my opinion as of now the coordination of the commission is somewhat confused. It is extremely difficult today with three with the coordination, such as emergency situations, such as restraining orders and hearings and meetings and

decisions and decision dates, with three, and if you increase that number it's going to be more confused. It's going to be more complicated. Now, just a few years ago the Public Service Commission districts underwent alteration, and if you create new districts, new commissioners, you're going to have another redistricting--more cost, more money. It's going to cost money to do that. You're putting more dollars on those taxpayers. Another reason I'm against an increase and in favor of three is because, if you increase the number, I'm afraid it's going to inject more politics into it---more sectionalism, more regionalism. I would hate to see the day when we have the commissioners representing certain areas of the state instead of the state at large. I don't want to see that sectionalism injected into the commission. I'm also afraid that if you get new commissioners, new districts, smaller districts--due to increasing the number--that you're going to perhaps enable certain big businesses or utilities or telephone companies or somebody...you might enable them to elect one of their own---someone to represent their interest and not the interest of the people at large, even from a large district. I'm concerned with that. Now, one of the main reasons...one of the main facts that I can give you as to why I'm against an increase is that 40 out of the 50 states...40 states have three commissioners or less. Three out of that 40 have only one. It is the rule, not the exception, the rule that states have three or less commissioners. So, ladies and gentlemen, it's going to cost a lot more money to increase it, so let's keep it at three. I'm afraid of sectionalism or regionalism, and I will reiterate, it is the rule--not the exception--to have three. I ask for your favorable vote.

Question

MR. O'NEILL

David, the recent legislature passed the energy bill, and I'm sure you probably know about it, and I'm sure you know that the new commission they created was granted some powers that, you know, that the Public Service Commission won't have. Don't you think that your amendment is in keeping with, you know, the services that the Public Service Commission now renders, and that maybe we should put some attention on this other commission that will be created since it will have powers as well?

MR. GINN

Yes, Gary. You can talk about that all day, but, yes, I do agree with you, and I think you're right.

Further Discussion

MR. ALEXANDER

Mr. Chairman and delegates, I rise at this time to oppose this amendment for the following reasons. I think it has been a well known fact in this state that when the Public Service Commission was created some 70 years ago...because it used to be the Railroad Commission; for example, there was no trucking industry in the state. There was no utility industry in the state. The telephone industry: that is, communications was infinitesimal at that time, which means that its workload was very small. Now, the members of the commission say that they need more funds, and they need more technicians. That is true. I would vote to do that. But, the major problem with the commission now is that it takes them sometimes as long as two years to render some decisions. Now, why? The reason for that is the full three-man commission must sit down every time there is a hearing and listen to the debate and the evidence. Then, that same three man commission must sit down somewhere after taking the evidence under advisement and make a decision among themselves. I'm saying to you that a five-man or a seven-man commission would permit those commissioners to divide into subcommittees--at least two subcommittees--and hear cases separately, and then sit down together and make decisions. It would accelerate their work. It would cut, in effect, their workload in half. Nothing would prevent them even from dividing into three subcommittees if they have seven members. Let two commissioners hear a case and then sit down together and make decisions based on the recommendations from their subcommittee. So, I say to you that the population of Louisiana has increased; the technology of Louisiana has increased; transportation has increased; the workload has increased; and I say to you that the commission should be increased. Please vote this amendment down.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, I rise in support of this amendment. We have a Public Service Commission in this state which in my view has been one of the most responsive and responsible agencies of government that we have. I have practiced before the Public Service Commission. My law firm has quite frequently. In my experience they do their work expeditiously, and they do it well. I see no warrant; I've heard no demand, no outcry, from the public to increase the members of that commission from three to five or any other number. What would the consequences of this increase be? The immediate conse-

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quence, of course, is a whole lot of new salaries and expenses for the taxpayers to pay which I don't think we want to do. Another consequence is we're going to be meddling with the situation of three presently elected state officials of some influence who, if I were in their place, I don't think I would appreciate it at all. I think it might lead me very well to get out and oppose this constitution. Especially, since I thought that I had been doing a good job, and didn't understand why the Constitutional Convention would want to create new offices. Of course, there is one explanation for creation of new offices. This creates new offices for somebody to run for. I'm not suggesting that this is motivating anyone, but it certainly might be a motivation; I think you would agree. I don't think that the public sent us here to create new offices for us or for anybody else to have to run for. I happen to live in St. Landry Parish which is at the very tail end of the Third Public Service Commission District now served by Mr. Kennon who lives way up in Minden, and I find that far from being unresponsive that he has been extremely responsive to the peculiar needs as far as utilities are concerned in the area in which I live. It seems to me that if you boil this down, you consider that it is the rule in most other states that commissions of this type have small memberships and that, where you have had Railroad Commissions that have become highly politicalized, is where you inevitably wind up with scandals in this area; that it is foolhardy and extremely unwise on our part just to pick a number out of the air--whether it be five, eight, or twelve--and change a system that has been working well. I submit to you we should not do it. I hope you adopt the amendment.

Questions

MR. RAYBURN

Mr. Burson, I listened real intensely to your argument about the number of Public Service Commissioners we now have in this state, and I just happened to think while I was listening...I wonder how many judges we had back in 1921, and how many assistant D.A.'s, and I wonder why they have been increased? Since, after all, some of those don't even get increased and don't even have to run for office. They just get appointed.

MR. BURSON

As far as I know, Senator Rayburn, we only had seven Supreme Court justices back then, and that's still the same number we have right now, and I think they do an adequate job taking care of their work....

MR. RAYBURN

I know, but is there any difference between...they represent the people of this state and, in this instance, three people represent the people of this state. It looks to me like there's quite a bit of difference between seven and three.

MR. BURSON

I think that those particular three have primarily a decision making duty much more attuned to the duties of, say, the Louisiana State Supreme Court than district attorneys, which is an entirely different and really not a comparable situation.

MR. DESHOTELS

Jack, in reference to the Senator's question, actually, D.A.'s have not been increased that much in the past years, but we have given them more assistants; isn't that correct?

MR. BURSON

That's correct.

MR. DESHOTELS

And, couldn't we give the commissioners more assistants to help them with their work if they are overloaded?

MR. BURSON

I think we could very well increase the staff of the Public Service Commission.

Further Discussion

MR. SINGLETARY

Mr. Chairman, ladies and gentlemen, I rise in opposition to this amendment. My district stretches from the Mississippi to Texas, and both committees--both the Executive Committee and Natural Resources Committee--recommended five. I'd favor five or possibly eight. But, I think the commission needs to be more representative, and I'd like to see it at least stay as five, as the committee recommended, or possibly eight.

Further Discussion

MRS. MILLER

Mr. Chairman, ladies and gentlemen of the convention, I rise in support of the amendment. I'll just make this very simple; I just don't think that it's more politicians we need in this state. I think this commission has functioned very well. You've heard very few complaints. I do say that you could use that money that would go to financing two more, or three more, or four more politicians, you could use it better--and I suggest this to the legislature--giving them more professional help. Then they can turn out the opinions faster. But the decisions are being well-handled even now, and I say, it is not more politicians we need and that the commission should be left at three.

I hope you will adopt the amendment.

Questions

MR. CHATELAIN

Mrs. Miller, I'm sure you and I both supported amendments here that would bring about...closer to the people, the districts. . .the court of appeal's judges and stuff like that. I think we did a great, great thing for Louisiana, there. Right now, are you familiar with the fact that the second Public Service Commission runs from the Texas border to the...it takes in the upper...to the Mississippi or the Florida parishes. Are you familiar with that, ma'am?

MRS. MILLER

I'm familiar with that, but I think you have...I don't think you can compare apples to oranges or oranges to bananas. I think you have an entirely different situation. In the judiciary, we are trying to take judges out of politics; this has always been the philosophy. This ever is a political job in the sense that it's an administrative job in state government. I don't think it really matters how large or small the districts are. The people that have been running for them have really not complained. If you go into congressional districts, you're going to have some complaints, if you make them concurrent with congressional districts because then you'd be creating a little political domains that might be a threat to the congressmen. So, then we might find ourselves confronted with the situation that the congressmen in our areas are opposing the constitution because we have something concurrent with them which would be building up, in effect, competition for them, perhaps.

MR. CHATELAIN

Let me ask you a question. . .

MRS. MILLER

So, I think at this stage you are not putting these people where they are able to make tickets with anyone to run. You are keeping them from being able to get in with a lot of local officials on local races. I think the very size of it was helpful.

MR. CHATELAIN

Did we not discuss the cost of a candidate running in that large of an area would be, really, a great cost on modern day costs, wouldn't it, ma'am?

MRS. MILLER

It would be a great cost, but this is not a problem when you run for other political offices. As I say, I don't compare it to the judiciary because we're keeping the judiciary out of politics. We don't want them to have to go out and campaign in big areas. So, I think it's entirely different, and that this is a political race. We acknowledged this.

MR. DERBES

Mrs. Miller, is there any other state in the United States where you can go to a pay phone and call your elected public service commissioner for a nickel?

MRS. MILLER

Well, Mr. Derbes, I have traveled all over the United States; and I have called home on pay phones, and I've had to look for dimes in other states, but I can always scare up a nickel in Louisiana. I think that this has worked very well, and I think that we would...the concept of three should be kept and retained.

MR. ANZALONE

Mrs. Miller, did you know that in my Public Service Commission district I guarantee you that you can't call my public service commissioner from Independence, Louisiana, to wherever he's living over there around Texas, somewhere, for a nickel?

[Previous Question ordered. Record vote ordered. Amendment rejected: 40-69. Motion to reconsider tabled.]

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Amendment

MR. POYNTER

Mr. Anzalone. . .
Amendment No. 1. On page 5, line 13, immediately after the word "consists of" delete the word "five" and insert in lieu thereof the word "eight".

Explanation

MR. ANZALONE

Ladies and gentlemen, to acquaint you with what this amendment does, it changes only one little bitty word in this provision. You have heard some arguments against having three public service commissioners in this state. I would like to give you some of the arguments as to why some of us feel that it should be increased. The philosophy of the Public Service Commission is to have elected and not appointed officials insofar as the regulation of public utilities are concerned, to enforce the statutes and regulations of this state to insure that the general public--I repeat, to insure that the general public--receives adequate utility services at a reasonable and just rate. Insofar as the regulation of your public transportation, I submit to you, again, that it is the philosophy of this state to have elected public officials to enforce the statutes and regulations of this state to insure that the general public--and I repeat, the general public--receives adequate transportation services at reasonable and just rates. Now, let's go back to 1921 when this original Public Service Commission was created; it had three members. The areas of representation you have on your desk, now, showing you three Public Service Commission districts. The first is by far the smallest. It extends from the tip of Orleans Parish to the tip of St. Mary Parish. My particular Public Service Commission district extends from Pearl River County in Mississippi to Orange County in Texas. The Third Congressional District goes from Port Allen to Texas. Now, if these people. . . and we ought to maintain the philosophy of elected officials protecting the general public in the areas of regulation of public utilities and in the area of regulation of public transportation, plus the other duties that we are going to give them in this particular convention is to be maintained, I submit to you that the answer is not to appoint more assistants, but to have more elected officials. These are the people who are going to be responsible to the public, not their assistants. We have gone over this time and time again in this convention. We started out with three elected officials; we got to five, and we now have nine. I think that it is the philosophy of the people of this state as well as the philosophy of the delegates to this convention that it is going to be the elected officials of this state who are going to govern this state. I would like to correlate the business of the Public Service Commission to that of the judicial districts and the judges as contained therein. In 1921, we had a judicial district comprising the Twenty-first Judicial District of this state composed of Tangipahoa, St. Helena and Livingston Parish. In that district, at that time, we had one judge. Now, we have four maintaining the philosophy of an elected judge who is going to decide lawsuits. We did not appoint assistants; we got more elected judges. Now, there's been some speculation as to why do we not tie into the number of public service commissioners to the congressional districts. A very simple reason: if we come to a point where we are to gain a congressman, then the number eight is going to be out of kilter. We're going to have nine congressional districts and it's going to certainly fall incumbent upon the legislature to reapportion. If we come up and we lose a congressman, the same thing is going to happen. Ladies and gentlemen, I submit to you that those of us who live in the southeastern part of the State of Louisiana who don't even know nor have most of us ever seen--and I daresay that I'm thirty-eight years old; I think my public service commissioner is named Clemett, and if I'm not mistaken, I've seen him one time in my life. Now, this man does not have the interests of the people that live around me at heart. But, I'll tell you what, if we had eight, we'd have one a little bit more closely to home, and we'd have somebody that would be a little bit more interested in getting St. Helena Parish some light lines and the northern part of Tangipahoa Parish a little better telephone service. That particular area about two miles east of Amite where we've got fifteen or sixteen people on one telephone line right now, we may be able to get down and have some that's got only eight. What I'm telling you is that the closer you bring government to the people, the better off you are going to be. This is what this amendment does, and this is what I ask you to do.

Questions

MR. BURSON

Mr. Anzalone, are you going with the eight amendment or the seven amendment?

MR. ANZALONE

The eight.

MR. BURSON

Well, one thing that immediately comes to mind is: What are you going to do when you get a four to four split? How are you going to make a decision?

MR. ANZALONE

Mr. Burson, as in the case of my police jury back home, we have operated with ten members on the police jury for, if I'm not mistaken, the past sixty-one years. One member serves as a non-voting chairman, and we have never had any problem with it yet.

MR. BURSON

Is that contained in your proposal?

MR. ANZALONE

It is going to be.

MR. BURSON

Oh. Now, my next question is: I assume you are familiar with the mode of practice before the Public Service Commission.

MR. ANZALONE

Slightly.

MR. BURSON

Isn't one immediate increase that's going to have to be made is to increase the size of the table about three times to get, in an administrative hearing, that large a group around there together?

MR. ANZALONE

It would be just about the size of the bench on the Supreme Court--one seat bigger.

MR. BURSON

Do you think that it is a proper analogy as all the discussion here that's been carried on to a legislative function and representing people and a quasi-judicial body--administrative body--which is supposed to be reaching a decision on facts presented to them by litigants?

MR. ANZALONE

Jack, I could take one or two ways of answering that question, but I'm going to try to answer it to you in a country, practical way. I've never yet seen a man who wanted a telephone that called the telephone company and got it. Whenever he was out of lights, I never saw him call the light company and get it. But, by some mysterious reason, if you had somebody that knew somebody that knew the public service commissioner and you got in touch with him, and you could convince him of that, then it got out of the realm of rate-making and it got into the realm of telephone-getting.

MR. BURSON

Do you think it would be any more difficult for you to pick up the telephone and call the man if you had eight rather than three, as you do now?

MR. ANZALONE

No, sir; it would be a lot less difficult, because I don't even know who I got, now.

Vice Chairman Casey in the Chair

MR. PEREZ

Mr. Anzalone, what are we going to do with the existing three commissioners? How would they serve out their terms? Would they lose their terms of office? Would we get all new ones? How are we going to work out that detail--that problem?

MR. ANZALONE

Well, Mr. Perez, you are familiar with Act 2 of 1972 which provides that we can't shorten anybody's term. So, what we're going to have to do is that we're going to get into the schedule and make some type of a provision to. . . of necessity, retain these people until such time as the transition period is over.

MR. PEREZ

Well, did you know that there was a provision in the present constitution. . . in the '21 constitution which took the old Railroad Commission provided that they would serve their terms out? My question is: whether you would be agreeable, if this amendment passes, to another amendment which would guarantee that

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the presently elected people serve their terms out, and they would represent the district in which they presently reside?

MR. ANZALONE

I have no objection whatsoever.

MR. ROEMER

Hey, Joe, the problem was raised about the even number on this board. Well, don't we have an even number in this convention, a hundred and thirty-two, including the chairman?

MR. ANZALONE

Sure do. Yes, sir.

MR. ALEXANDER

Mr. Anzalone, would a vote for your amendment be tantamount to a vote to do away with the nickel telephone? Will it have anything to do with the nickel telephone?

MR. ANZALONE

Reverend Alexander, if we got this thing a little bit closer to the people, we probably could get two calls for a nickel.

MR. ALEXANDER

Mr. Anzalone, further, did you know that I have an amendment to neutralize the chairman, the man who is the acting chairman, for one year so that he can't vote while he's chairman, and you'll have an uneven number voting?

MR. ANZALONE

Yes, sir.

MR. SMITH

Mr. Anzalone, with eight men on the commission, do you think you'd ever be able to get any decisions from them?

MR. ANZALONE

I would. . .

MR. SMITH

With eight members?

MR. ANZALONE

I would certainly hope so, Mr. Jap.

MR. SMITH

It would take a good while, wouldn't it?

MR. ANZALONE

Well, I don't see why it would take any longer than it's taking now.

MR. SMITH

With eight men to decide it, don't you think that's way too many? Three too many. . . Don't you think that's three too many?

MR. ANZALONE

No, sir.

[Previous Question ordered. Record vote ordered. Amendment rejected: 52-60. Motion to reconsider tabled.]

Personal Privilege

MR. LOWE

Mr. Chairman, ladies and gentlemen of the convention, I have prepared the financial statement for the month of November and for the period January 5, 1973 through November 30, 1973. Through this date, we had budgeted a total expenditures of \$378,000--excuse me, that's for the month of November, \$378,000. Our actual expenditures are \$257,000. So, we are under budget for the month of November by \$120,000.

Now, the budget for the year to date, the ten months or eleven months, was \$2,347,000. We have actually spent \$1,645,000. So, for the eleven month period, we are \$702,000 under budget.

Mr. Chairman, I move that we make this financial report part of the official record of today's proceedings.

[Motion to make the financial report a part of the official Journal adopted without objection.]

Amendment

MR. POYNTER

Amendment No. 1. On page. . . sent up by Delegate Anzalone. On page 5, line 13, immediately after the word "of" and before the word "members" delete the word "five" and insert in lieu thereof the word "seven".

Explanation

MR. ANZALONE

Ladies and gentlemen of the convention, I cannot impress upon you enough the problems of the rural areas insofar as your Public Service Commissions are concerned. There may have been a great deal of objection against the number "eight" because of the congressional districts, even number or what have you. I am now offering an amendment that would create "seven." Now, if some of you are concerned about how hard it would be to reapportion the state into seven Public Service Commission districts, I would offer to you the fact that there are one hundred and five representative districts at the present time, based upon the one man, one vote proposition. It's a very simple matter of taking seven representative districts per Public Service Commission district. You would have absolutely no problem in your reapportionment. I ask you once again, please realize the problems that we in the rural areas have with our public service, in getting service, in getting adequate service. I think too many people here are concerned about the nickel telephone. In a lot of places where we don't even have them, we'd like to get them. People are worried about low rates on lights. There are a lot of places that can't get it. I ask you, please realize the problems that we do have and give me your favorable consideration.

[Previous Question ordered. Record vote ordered. Amendment rejected: 45-66. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next amendment is offered up by Reverend Alexander. Amendment No. 1. On page 5, at the end of line 17, after the word and punctuation "chairman." add the following:
"The chairman shall have no vote except to break a tie."

Explanation

MR. ALEXANDER

Mr. Chairman, my amendment was put in in the event the Anzalone amendment of "eight" would have passed. I therefore withdraw it and call for the previous question on the section.

[Amendment withdrawn. Motion for the Previous Question on Paragraph A rejected: 13-79.]

MR. CASEY

The Clerk will read the Perez amendment.

Amendment

MR. POYNTER

Copies are being run. We do not have the distribution copies as yet. The amendment reads as follows:

Amendment No. 1. On page 5, at the end of line 17, add the following:

"Each commissioner serving upon the effective date of this constitution shall be the commissioner for the new district in which he resides and shall serve out the term for which he was chosen."

Explanation

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, the courts have many times held that an elective officer does not have any constitutional right to that particular office. It would be possible, by act of the legislature, to terminate the terms of the men who are presently serving. If you will recall, Mr. Anzalone offered his amendment, and the same situation applies here, where you're increasing the number. It would be possible that these people could lose their offices. All that I wanted to do was to insure that they would serve their terms out. What this provides is that each commissioner serving upon the effective date of the constitution shall be the commissioner for the new district in which he resides and shall serve out the term for which he was chosen."

I'll yield to questions.

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Questions

MR. LANIER

Mr. Perez, isn't it true that under the act that called the convention that although we are prohibited from limiting any term prior to 1976, that we are authorized to limit terms after 1976?

MR. PEREZ

That's correct, and some of these offices would extend beyond that time.

MR. BOLLINGER

Chalin, my only question is this: Why wouldn't we have to do the same thing in the article where we lowered the term of office for the Supreme Court justice, because that would be after 1976, some of these?

MR. PEREZ

I did not understand you.

MR. BOLLINGER

I said, if Mr. Lanier. . .if your answer to Mr. Lanier's question was correct, why would not we have to go back into the article on the judiciary and put the same provision in because we lowered the term of office for the Supreme Court justices? These, in some cases, go into--after 1976.

MR. PEREZ

Well, as I would understand it, what has actually happened is to reduce their terms of office, unless we had a provision such as this. Of course, if somebody wants to go back into that office, fine. But, in this particular case, these people should be continued in office until their terms expire.

MR. DUVAL

Mr. Perez, I have no objection to your amendment, but I just thought we ought to get something clear. I think Act 2 prohibits us from shortening the term of any official, not necessarily limited to 1976. That's my understanding of Act 2. Now, I may be wrong.

MR. PEREZ

This, however, would give the legislature certain authority, and the legislature might be able to actually do away with the man's office.

MR. DUVAL

I agree with your amendment. I'm just saying I think there's some misunderstanding as to--like the Supreme Court justices.

MR. PEREZ

I move the adoption of the amendment.

MR. SINGLETARY

Mr. Perez, couldn't something like your amendment be in the schedule?

MR. PEREZ

No, sir; I don't believe so. We have a very comparable provision. When we went for the Railroad Commission into the Public Service Commission in the 1921 Constitution, it provided that the members of the Railroad Commission would serve out their terms of office and thereafter that the parties would be elected. This is a very similar provision when we transferred from the Railroad Commission into a Public Service Commission. I do believe that this should be in the constitution.

[Amendment reread.]

Personal Privilege

MR. ABRAHAM

Mr. Chairman, I object to voting on these things or passing on them before the amendments are passed out. I think we ought to have them in our hand before we do anything with them.

MR. CASEY

Mr. Abraham, I can't argue with you on that.

Point of Information

MR. SHANNON

Does. . .aren't we prohibited from shortening the term of any elected official?

MR. CASEY

Yes, Mr. Shannon, under the act which established this.

MR. SHANNON

Yes, that's what I thought.

MR. PEREZ

I just wanted to answer the question that this gives the authority to the legislature to provide the districts and terms, etc. I don't believe there's any prohibition against giving the legislature the right to do it. There is no such thing as a constitutional right to a public office.

Questions

MR. BURSON

Mr. Perez, since this is the only reapportionment that we've done in the midst of this convention, don't you think that it would be only fair and appropriate that we inform the gentlemen occupying those offices, now, that while we have reapportioned, we have not gerrymandered them out of office, necessarily?

MR. PEREZ

I think that's a very good idea, and it's something that we should definitely do.

MR. CHATELAIN

Mr. Perez, do you envision any problem since they had to be staggered--those commissioners had to be staggered--you know, according to this section? They are to be staggered. Do you envision any problem with that, sir?

MR. PEREZ

No, I don't see any problem whatsoever because as these terms of office expire, then there would be elections in the districts. These people would just be the commissioners for these new districts until their terms of office expire.

MRS. MILLER

Mr. Perez, it's true we are not gerrymandering them out of their office, but doesn't this have the effect of gerrymandering them in?

MR. PEREZ

Well, these people were elected for certain terms, for certain periods of time. I don't believe anybody here in this convention would want to say, "Well, these people are elected and there were three, now we're going to increase to five, so let's take their offices away from them." I don't think anybody here would want to do that.

MRS. MILLER

Yes, but aren't we pretty much making it possible, when the new elections come up, be sure that they have a district they can run in?

MR. PEREZ

I don't think that's necessarily so. That will be up to the legislature to determine the five districts as opposed to the present three districts.

Further Discussion

MR. SINGLETARY

Ladies and gentlemen, I just oppose this amendment for the reason that I think it should be in the schedule. If Mr. Perez would offer it at that time, I'd support it. I don't wish to gerrymander anybody out of office, but I just think that this is not the proper place to put such a provision.

[Previous Question ordered. Record vote ordered. Amendment adopted: 98-11. Motion to reconsider tabled. Previous Question ordered on Paragraph (A). Paragraph (A) adopted: 90-22. Motion to reconsider tabled.]

Reading of Paragraph (B).

MR. POYNTER

"(B) Powers and Duties. The commission shall regulate all common carriers and public utilities as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law."

Explanation

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MISS PERKINS

Ladies and gentlemen, basically, this provision is the provision contained in the 1921 Constitution, but is put in far more general terms. However, one thing that is mentioned in the '21 Constitution that is not mentioned in this particular article is the exclusion of regulation of the industrial sales of gas. However, this would not be an issue at this time because it would actually go down to Section (F) jurisdiction. But, I didn't want to mislead you by saying there was no change when, in fact, there is a change to that extent. I'd also like to point out for those of you that possibly are a little bit unfamiliar with it, as I was, that a common carrier would be a person or goods for hire; and a public utility would include all utilities except the limitation contained in Paragraph (C), and that would be a utility owned by a political subdivision. I'll be happy to answer any questions.

Question

MR. BOLLINGER

Lynn, is it not true that on line 19, where we have the words "as provided by law" that these words were added because we thought in the future some utility might be deemed...might for the public good, be deemed not controllable by the Public Service Commission, or that some new utility we'd want to place under, so that this left flexibility for the legislature to dictate what would be controlled and what would not be controlled?

MISS PERKINS

Yes, sir. That's correct; it basically turns it over to the legislature.

Amendments

MR. POYNTER

Amendments sent up by Delegate Gravel at the present time, read as follows:

Amendment No. 1. On page 5, line 18, immediately after the word "Duties," delete the word "The" and insert in lieu thereof the following: "Except for natural gas, the"

Amendment No. 2. On page 5, between lines 23 and 24, add the following Paragraph:

"The legislature shall provide for the regulation of natural gas by such regulatory authority as it may designate."

Explanation

MR. GRAVEL

Mr. Acting Chairman and ladies and gentlemen of the convention, this amendment is proposed in order to make it perfectly clear that the Public Service Commission does not have the constitutional and exclusive authority with respect to the regulation of natural gas. The amendment, in effect, will provide that the legislature shall enact statutes and provide for the regulation of natural gas by such regulatory authority as it may designate. The language of the committee proposal does not accomplish this purpose, and the issue is precisely before you, I think, by this amendment. The people who know a whole lot more about this than I do tell me that clearly the Federal Power Commission and other...and the jurisprudence that attends the activities of that commissioner...commission have designated natural gas as being a public utility. So, that there won't be any problem with the language contained in Section 2 on Page 1, as we finally amended and adopted it, and the provisions that are contained in the section that we are now considering, this amendment is proposed to make it clear that the legislature shall provide the...shall designate the regulatory body that shall regulate natural gas. I'll yield for any questions.

Questions

MR. KEAN

Mr. Gravel, suppose you have a pipeline company which engages in the transportation of natural gas--doesn't own the gas, simply transports it for a fee. Which agency would regulate that pipeline company, the Public Service Commission, or some other regulatory authority designated by the legislature?

MR. GRAVEL

Well, Mr. Kean, it was my intention, and I believe the language of Amendment No. 2 would cover it by the provision that says that "the legislature shall provide for the regulation of natural gas by such regulatory authority as it may designate." I think that....

MR. KEAN

In other words, that company would be regulated by whatever other regulatory agent the legislature designated.

MR. GRAVEL

That's correct. It could be the Public Service Commission. It might be the Agency Commission, or it might be some other agency that would be specially designated by the legislature.

MR. KEAN

Then, you'd have to give that other agency all of the authority that the Public Service Commission had to regulate rates and to take into consideration profit factor and other matters of that kind. So, in effect, the legislature could set up two public service commissions: one that would be related to natural gas and the transportation of natural gas; and then this one that's established in the constitution. We've got nothing in the constitution with respect to any restraint, with respect to the organization and composition of this other agency that's going to exercise all those powers, do we?

MR. GRAVEL

Mr. Kean, the legislature really has to implement the authority and powers of the Public Service Commission anyway under the provisions of this proposal because the proposal here before us says that the commission shall regulate all common carriers and public utilities as provided by law. So, the legislature's got to, of course, implement this particular provision. The purpose of my amendment...the clear purpose of it is to authorize the legislature to devise regulatory procedures with respect to natural gas either within the Public Service Commission or such other regulatory agencies it may designate.

MR. KEAN

What is your objection to simply leaving it in the Public Service Commission as this would presently provide for?

MR. GRAVEL

The purpose of this amendment is to leave the option with the legislature and not make it mandatorially controlled by the Public Service Commission.

MR. KEAN

My point is, assuming it is now under the Public Service Commission...

MR. GRAVEL

It's not now under the Public Service Commission.

MR. KEAN

All right. But, under this provision, would it not be under the Public Service Commission?

MR. GRAVEL

In my opinion, under the provision as it presently exists, it would be.

MR. KEAN

You are unwilling to leave it in that posture. You want it to be up to the legislature as to whether they want to change it?

MR. GRAVEL

That's what I've been saying all along.

MR. DERBES

Mr. Gravel, I am in sympathy with your purpose, but I suggest to you that your amendment doesn't do what you say it does. Let me explain my criticism of it to you. As amended, the first sentence of Section (B) would say "except for natural gas, the commission shall regulate all common carriers and public utilities as provided by law." Now, as I read the sentence as it would be amended by your amendment, the legislature could never invest the Public Service Commission with the power to regulate natural gas.

MR. GRAVEL

No. I'll...

MR. DERBES

Do you see that?

MR. GRAVEL

I see your point, and I think I can answer that. My appreciation of the language of the committee is that the commission shall regulate all common carriers and public utilities which would include natural gas. That makes it mandatory. The legislature could only provide methods and procedures within this particular mandatory

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direction. I think by utilizing the Second Amendment, it's clearly stated that there is no mandatory requirement that the Public Service Commission regulate natural gas, but that the legislature could so authorize it. Now, I must concede that when you consider the amendment and the language together that perhaps some question could arise.

MR. DERBES

Let me try just by way of explanation say that essentially I wrote the section as it stands, and checked it out with the staff. Our position on it was that it permitted the legislature to authorize essentially the jurisdiction, the length and breadth of the jurisdiction of the Public Service Commission, to either derogate from it or supplement it. Now, if that's...if it's not clear enough to you, I would have no objection to a provision which would say "the legislature may essentially take away the jurisdiction of the Public Service Commission over natural gas." But, I don't like the language that says "except for natural gas" because it seems to say that the Public Service Commission constitutionally can never regulate natural gas.

MR. GRAVEL

Mr. Derbes, you may well have a point there. It might be confusing. Let me say this: I think it's such an important area that I would hope that the persons representing the committee would be willing to move that this section then be passed over until we can come up with clear language at least by way of alternatives so that the convention could act upon language that would be clear and that there would be no misunderstanding. I want to be sure that there's presented before this convention, and I want to strongly support a provision that will authorize the legislature to designate the regulatory agency that will control the transportation and sale of natural gas. That's what I hope we can do, and I believe we might better get off this and try to work it out.

MR. LAMBERT

Mr. Gravel, let me ask you this, then: your objective, as I understand it, is not to forever prohibit the Public Service

Commission, say, ten years from now from getting into this area. That's not your objective, correct?

MR. GRAVEL

No, sir. My whole objective is to permit the legislature to designate either the Public Service Commission or some other regulatory agency to control the transportation, disposition, and use of natural gas---but, to leave it up to the legislature.

MR. LAMBERT

Well, the committee's intention was the same thing: to provide the flexibility in the future.

MR. GRAVEL

Well, I've got to agree with Mr. Derbes. I think there needs to be some clarity of language here, and I would hope...as a matter of fact, if you would permit me to do so, Mr. Chairman, I would like to move at this time that we pass over this section in the hope that we can devise some language that will clearly set forth what I believe might be the intention of most of the members of this convention.

MR. LAMBERT

All right. Why don't you withdraw your amendment, and then the committee would ask that we pass over this section and go to the next one if Miss Perkins has no objection.

MR. GRAVEL

I move to withdraw my amendment at this time, Mr. Chairman.

[Amendment withdrawn. Motion to take up other orders adopted without objection. Adjournment to 9:00 o'clock a.m., Thursday, December 20, 1973.]

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Thursday, December 20, 1973

ROLL CALL

[68 delegates present and a quorum.]

PRAYER

MRS. MAYBUCE

Our Father, which art in heaven, hallowed be Thy name. Thy kingdom come, Thy will be done on earth as it is in Heaven. Give us this day our daily bread and forgive us our debts as we forgive our debtors and lead us not into temptation but deliver us from evil for Thine is the kingdom, and the power, and the glory forever. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

MR. POYNTER

Regular Order No. 1. Unfinished Business.

Committee Proposal No. 34, introduced by Delegate Lambert, Chairman on behalf of the Committee on Natural Resources and Environment, other delegates and members of that committee.

A proposal making provisions relating to natural resources and environment.

The status of the proposal: convention has adopted the proposal basically with these exceptions: Still has under its consideration, at the time of adjournment yesterday, Section 14 dealing with the Public Service Commission. On yesterday, and under a suspension of the rules, the convention voted to consider said Section 14 dealing with the Public Service Commission, lettered paragraph by lettered paragraph with the view that all the rules applying to section by section consideration would apply to the consideration of each paragraph and had, then, considered adopting Section (A), had under consideration Section (B). In addition two sections have been deleted from the proposal, that being, Section 3 and also Section 11, which dealt with the commissioner of agriculture. The convention had voted to pass over Sections 6, 7 and 8 which have, as yet, not been considered.

At this time, Mrs. Miller is going to make a motion in light of the fact that neither Miss Perkins nor Senator Lambert is going to be able to be at the convention for the first couple of hours this morning. Mrs. Miller is going to move to revert and, in particular, she will wish to take up a proposed Section 1.1 and then in successive order take Sections 6, 7 and 8.

[Motion to revert to Section 1.1 adopted without objection.]

Amendment

MR. POYNTER

All right. The lady at this time offers an amendment which would propose the addition of a new section, Section 1.1, to be inserted between lines 21 and 22 on the first page of the proposal. Copies... I'll ask some of the pages to come up here and get the copies from Mr. Lamar so they can be passed out.

The proposed text of the section would read as follows:

"Section 1.1. (A) The navigable water bodies and bottoms, the sea and its shores, and lands, title to which is in the state and its agencies at the effective date of this constitution, are hereby declared to be a part of the public domain, and for the use, benefit and enjoyment of the people, as provided by law.

(B) No conveyance, contract, compromise, or lease involving lands, minerals, or other interests therein, title to which is in the state or its agencies, shall be made without prior public notice or public bidding, and other safeguards as prescribed by law.

No transfer of a real right or of minerals taken in kind belonging to the state and its agencies which do not comply with such requirements shall henceforth be valid."

Explanation

MRS. MILLER

Mr. Chairman, ladies and gentlemen of the convention, I do ask for your careful attention on this. This is relating to the Dracula and the Frankenstein discussion we had the other morning.

It is an attempt to tell to the legislature.... I know you all don't want me to make the Dracula and Frankenstein speech all over again. I do point out that this is the thing we discussed the other morning, and we've been joined in this with several co-authors: Miller, Asseff, Avant, Derbes, Tobias, Warren, Schmitt, Arnette and Mr. Carmouche. This has also been worked over by several other delegates who have contributed to try to make it say what we meant it to say. I think what we are trying to say to the legislature is, "We're not going to interfere with your management of the natural resources. You may manage, and regulate, and do as you please for the good of the state." But, we are saying that when you do tamper with the natural resources for goodness sake give public notice, have some public bidding, have some safeguards as provided by law. I think this is very popular with the people. I think, of course, this is the one type of thing that must be done if we are going to ever have competence in government and in our public officials. I don't think it's a changing any basic laws. I believe most of you have considered this and it doesn't need a lot of discussion on my part and it speaks for itself. I will answer questions.

Questions

MR. BOLLINGER

Mrs. Miller, in reading Paragraph (A) and in its reference to the water bottoms and then in the same paragraph at the end you say "to be a part of the public domain, and for the use, benefit and enjoyment of all the people." Could this, in any way, interfere with the state's leasing of these water bottoms for drilling or any mineral purposes? My question being this: If they would lease it, could a citizen come back and enjoin the state for doing such because it was interfering on a fishing right or a trapping right or some other right that he could claim to this water bottom since it is part of the public domain?

MRS. MILLER

Mr. Bollinger, your point is well made, and I think it points out really what the law is now. All mineral leasing in any kind of top lease or service lease that you give to anyone... that the state gives to anyone is going to interfere to some extent, you know with other uses of the land. I think that the state through all kind of environmental controls and through other of its agencies has to say, "Well, if you're going to have to put an oil well in the middle of the lake, let's do it with a minimum amount of inconvenience to the public in regard to the use of the land and the public. I don't think this changes the basic law and jurisprudence of this state as we now have it. I think it only solidifies and makes concrete the concepts so that when the people of this state go to vote on this document they see a statement of public policy. The thing we are preventing--now, I said this the other morning, may I reiterate--I want you to look again at the Dracula bill, that is the blood-sucking bill whereby this is what the legislature said to the Mineral Board--listen, ladies and gentlemen--the legislature said to the Mineral Board, "This Board may contract under terms which it deems to be most advantageous, to the state with persons or corporations engaged in the storage, transportation, sale, or use of oil, gas and other minerals. The Board is specifically authorized to negotiate such contracts and public bidding shall not be required. What we are saying, ladies and gentlemen, You may let a board that is created by the legislature do things but don't do it under the table; don't do it behind closed doors; don't do it without notice, without giving the public a chance and where it's a practical way to do it, do it with public bidding." I think that if we don't do this that we are going to destroy faith in government. We are going to have our oil and gas sucked from under our feet just as the blood was sucked from the victims of Dracula. I say only that what we are proposing is to solidify the concepts that are cherished by the people of this state that they will have a right to know and be put on notice what is being done with their resources. I don't think it's really very controversial. I know that the philosophy of almost all of you here, if not all of you here, is that you are protecting the resources of the state and that you approve of the concept of public notice and public bidding. I ask for the adoption of the amendment.

MR. DE BLIEUX

Mrs. Miller, I noticed in the last paragraph as compared to the other Paragraphs (A) and (B), the last part of (B), you state "real right or of minerals taken in kind belonging to the state and its agencies" rather than "or its agencies." Shouldn't that word "and" be "or" on the second line of that last paragraph instead of as you have it?

MRS. MILLER

Well, I think you may be right, Senator, and I believe that's

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something that Style and Drafting could take care of, it might be a better....

MR. DE BLIEUX

Because I noticed that you used the different language above in the Paragraphs (A) and (B). I just wondered why you changed it in the last part of Paragraph....

MRS. MILLER

Well, I think it was possibly an oversight, but I do believe that you are right, but that is something Style and Drafting will pick up in their parallel constructions.

MR. DE BLIEUX

Well, maybe we could change it right now if you think so and save that difficulty.

MRS. MILLER

Well, I'll be glad to withdraw it if you would make that change for us with the Clerk and then to resubmit it.

[Amendment withdrawn and resubmitted with correction.]

Amendment

MR. POYNTER

There are two changes all of them in the third unlettered paragraph, the second paragraph of lettered Paragraph (B) which would now read:

"No transfer of a real right or of minerals taken in kind belonging to the state"—strike out the word "and" and insert in lieu thereof the word "or"—"or its agencies which"—strike out the word "do" and insert the word "does"—"does not comply with such requirements shall henceforth be valid."

Questions

MR. DUVAL

Mrs. Miller, I'm just trying to get your intent here, I don't see any real objection with your amendment. But, I was wondering just for your intent, as you know, the Civil Code divides property into— things either into common or public. The Civil Code provides that the seashores, for instance, are common things and other things perhaps are public things. By saying that the seashore is a part of the public domain you don't intend, do you, to abrogate the provisions of the Civil Code in reference to seashores? I'm just trying to get your intent.

MRS. MILLER

I believe you will find, in addition to that, that there's been a general statement that the seashore is a public thing, though, that sometimes they may use the word "common" in relation to it. But, I believe the public domain concept of these things is pretty well established in our law and not....

MR. DUVAL

This isn't intended to change the law on that; is that correct?

MRS. MILLER

That's right. I think it just really brings these philosophies together.

MR. TAPPER

Mrs. Miller, in Section 1.1, Paragraph (A), you haven't changed that in your resubmission, have you?

MRS. MILLER

Well, we had in the beginning, we had the word "political subdivisions" in the original....

MR. TAPPER

No, I'm talking about in your resubmission of the present amendment.

MRS. MILLER

No, no, we did not change that. This has been only changed from its original submission a few days ago.

MR. TAPPER

Well, is it now your interpretation that the phase after the last comma and before the last period "as provided by law," in effect, does away with everything that comes before it; isn't that true? Doesn't the last phrase "as provided by law" just delete your whole paragraph and put it back to what the legislature might enact from here on? What I'm saying, isn't it a fact that this

Paragraph (A) is not really doing anything because you end up by saying "as provided by law"?

MRS. MILLER

No. What we are saying, Mr. Tapper—and I think your point is really well taken—but what we are saying—you know we have a great many laws that apply to the use and benefit and enjoyment. You know, if one person enjoys something they can interfere with the enjoyment of somebody else. We are leaving to the legislature to provide regulatory laws, which I think is the law now, that you regulate the use of the waters, and the streams, the way you catch fishes, to lease out these things. So, this is that they can regulate the use of them for the benefit and enjoyment of the people, but your protection is in Paragraph (B) in which you say that when you get down to conveyances, and contracts, and compromise, just give us some public notice and let us know what's going on. Everyone can see rules and regulations, but the legislature may provide for the use and enjoyment, you know, those are published and you know whether you can go swimming in this water or what you can do, you know. I think the legislature has done very well in the past in regulatory laws pertaining to the use of public things.

MR. TAPPER

One other question, Mrs. Miller. What you are saying is that in the past there has not been this public notice that you are requiring in this privilege?

MRS. MILLER

What I'm saying is that as recently as 1972 that by Act of 749, which was passed in your House and Senate without a dissenting vote, the legislature did say that the Mineral Board could enter into these contracts without public bidding. This is the point at which, of course, my blood pressure rose and when I read that I went into really a tail spin, because I just don't think this is in the public interest.

MR. TAPPER

Mrs. Miller....

MRS. MILLER

...and, neither did the Natural Resource Committee of the legislature when they met and heard about it.

MR. TAPPER

Isn't it a fact that there is also another statute which must be read in pari materia that there must be public bidding on all public contracts?

MRS. MILLER

Well, you know, statutes are subject to change by the legislature and this act of 1972, in effect, changed that by saying they didn't have to have public bidding; this is what the act says.

MR. TAPPER

Don't we have in another place in this constitution that we have already adopted a provision that requires public bidding for all state contracts?

MRS. MILLER

We may, but this is something of such immense important to the people of this state, and I think they.... I think when they look at this, they aren't going to be sophisticated people; they are going to be the common man and woman of this state. I think this is language they can read, and understand, and appreciate, and feel that we've given them a few protections; it's been the mood of this convention, I think, to protect the public.

MR. CONROY

Mrs. Miller, I had two questions: the first was I wondered why this provision or something like it was not included in the committee proposal, because you are a member of the committee as I recall it? I just wondered why this wasn't brought up and made a part of the committee proposal.

MRS. MILLER

Mr. Conroy, I must say that when we began meeting in that committee, we had very little, very frankly, very few among us knew much about the natural resources of the state. Most of our work was spent on a form of education of trying to learn where we stand. Now, I think all of the other people on all of your other committees were experts in their fields.

MR. CONROY

Well, my second question really leads from that because I wondered whether we could get any clear indication of what the

effect would be of Paragraph (B) where you prohibit any contract at all with regard to involving lands, minerals, or interests therein. It seemed to me that prohibiting all contracts involving mineral lands at all without public notice was a very broad prohibition. I wondered if you had any information as to whether that would, in any way, affect the routine operations of any of the state agencies. I don't know, and I just wondered whether you or the committee had looked into that aspect of this.

MRS. MILLER

No, I think it...I really do think this expresses the philosophy now in the state and the existing statute. But, what terrified me is that as late as 1972 we've had a very clear indication that statutory provisions can just be waived and that the legislature will absolutely give away its rights to supervise and control, and we are saying, "Keep this right with the legislature. Don't let them give away all their rights to supervise and control."

MR. LEBLEU

Mrs. Miller, I was concerned about the seashore portion of your amendment. I think you will recall in our committee some of the folks from L.S.U. Law School testified that the Civil Code should be changed in some instances that wouldn't be necessarily advantageous to the state. Now, as I interpret your amendment, even though you say "as provided by law" the Civil Code might not be changed except if it were advantageous to the state. Am I incorrect in interpreting your amendment in that fashion?

MRS. MILLER

Well, no, I don't believe...I wouldn't say incorrect, Mr. LeBleu. I would say, though, we are leaving with the legislature the authority to enact the necessary Civil Code changes or to reenact existing statutes to bring us in line with all these coastal management agencies--our wet land agencies, our wildlife and fisheries thing. You know, we are going to have to have some statutory changes probably in order to come in line with some of the federal guidelines on wet land managements and marshlands and this type of thing. But, we are leaving to the legislature all the room in the world it wants to maneuver, and negotiate, and provide by statutes for the good of the state, but we are just saying when you do it. All we are saying is when you do it, for goodness sake; let us know it's being done; put us on notice. I think is the concept that everyone accepts and is really needed in this state to restore confidence in government.

MR. LEIGH

Mrs. Miller, in your Paragraph (B) you have "No conveyance, contract involving state lands," any contract involving state lands. Now, then, occasions arise continually where unitization agreements have to be entered into involving leases where the unitization agreements arise where state lands are unitized with adjoining lands for a unit under a conservation program. Would this require those unitization agreements to be advertised? That's a contract.

MRS. MILLER

That is a contract, Mr. Leigh, and I tell you it's those voluntary unitizations that also gave me this high blood pressure for which I have been suffering from the last year and a half. But, we are saying you can do it, just let the public know what you are doing. I agree with you. What we are saying is, I don't care whether it's a voluntary unit, or a letter agreement, or a compromise, the Mineral Board is doing these kind of things all the time.

MR. LEIGH

Aren't they doing it in public session?

MRS. MILLER

If they are doing it in public session...by public bidding, and by public notice, and by the safeguards by law they have no reason to complain.

MR. LEIGH

There is no public bidding involved, but it's in public session. You don't bid on a unitization agreement, you're just simply agreeing on the division of the royalty within that unit; this has no bidding involved; it's simply agreeing on a proper division. Are you saying that that would have to be advertised and take public bids on it?

MRS. MILLER

Well, I think your point is well taken because...and this does not change what is the procedure now because when you have these meetings of the Mineral Board, these meetings are not behind closed doors. We are saying, "Let's keep it that way. Let's don't have any meetings behind closed doors regarding unitizations, letter agreement, compromises, and so forth." Docket meetings are supposed

to be open to the public and, as you know, when you ran the board you had everything open and gave everybody plenty of notice.

MR. LEIGH

Well, isn't it open at the present time? I mean, there's nothing secret about it.

...its routine business.

MRS. MILLER

I must say, I know you see the board as the way it was when you ran it and I can tell you that I heard your praises sung all the time, and I wish you were often still over here. But, under this Act of 749, this is saying you can do it behind closed doors and that's how they were working up that refinery deal down in New Orleans; all that was without notice; no one knew it really until they had it pretty well worked up.

MR. LEIGH

Well, one final question, what I'm getting at: Do you construe your amendment as requiring public bidding or public advertisement for the Mineral Board to enter into a unitization agreement? It's a contract.

MRS. MILLER

It might well be that the legislature as they look at more and more of the unitization agreements--those are pretty big economic agreements they are entering into as you and I know. You know, under the name of voluntary unitization you can do an awful lot of things.

MR. LEIGH

But, this does require that, in your opinion?

MRS. MILLER

Yes, and it requires....

MR. LEIGH

And, it requires public bidding and...

MRS. MILLER

...and public notice. We worded this that it will be by public notice or public bidding and other safeguards as prescribed by law."

MR. JENKINS

Mrs. Miller, once more for the record, that Subsection (A), is it your view that that makes any change in the law or is this the state of the law now?

MRS. MILLER

In my view this is the state of the law now, Mr. Jenkins. I think the purpose of Section (A) is to clarify it so that Section (B) has...so that you know what Section (B) is applying to. If you don't do this, it's kind of hard to define what you're talking about. We are leaving the legislature all the leeway in the world to manage the resources. We're just saying, "Don't give...Legislature don't give away all of our safeguards. You can provide by law. You can set up the agencies. But, just keep things open and on top of the table, keep the doors open and let us know what's going on." I think this is the philosophy that you've expressed very well throughout this convention.

Further Discussion

MR. TAPPER

Mr. Chairman and fellow delegates, let me begin by saying that I certainly agree with the principle which Mrs. Miller puts forth here at this rostrum. I disagree, however, violently, with her accusations and insinuations, especially, with reference to the last legislative session's Senate Bill No. 9.

Let me point out that that, yes, is already the law. There is no chance for state realty without public notice and public bidding...bidding. There are no state contracts without public bidding today, and you all know that. The things that are in this particular amendment are really not necessary, although they are not onerous. In Paragraph (A), as I read it, it ends with "as provided by law." Which means that the legislature could provide anything they wanted. So, that paragraph really means nothing.

Paragraph (B) also ends with the same phrase, "as provided... as prescribed by law..." changes it from provided to prescribed. Then, of course, the transfer of minerals taken in kind belonging to the state, any transfer thereof, is not valid unless you conform with the requirements. Henceforth, I rather give it a belt.

My main objection to this amendment; Number 1, it's not necessary. It's additional language in the constitution which is not necessary. But, the main objection is, the vein in which

it was introduced; the arguments that were put forth in the initial submission of this amendment before it was taken back and changed very drastically; the arguments that were put forth the second time it was introduced, and then withdrawn because there had to be some more technical amendments. Also, the so-called Dracula, and so-called monster bills. I believe, ladies and gentlemen of the convention, that if we pass this amendment, which, in my opinion, means nothing, if we pass it in the vein, and because of the reasons that Mrs. Miller put forth, that we are doing a terrible injustice to this state and to the legislature. I know some of you...some of the people don't trust the legislature, but, I think most of you here do. You have shown by your votes on many, many of these amendments that you do by and large trust the legislature. I think that by the adoption of this, you are putting a cloud not only on the legislature, but on the integrity of the people of this state. I urge that you defeat this amendment. This is not necessary. If it were, for the purposes that Mrs. Miller says that it is necessary, I wouldn't be here opposing it.

Further Discussion

MR. SINGLETARY

Ladies and gentlemen, I rise in opposition to this amendment primarily because of Paragraph (A) which says that "lands, the title to which is in the state and its agencies, from the effect of this....effective date of this constitution, are hereby declared to be a part of the public domain, and for the use, benefit, and enjoyment of the people."

Does that mean that the governor's mansion is part of the public domain and that anybody can go play tennis on the governor's tennis courts? So, I urge you to think about the meaning of that language. I urge you to reject this amendment.

Questions

MR. DE BLIEUX

Mr. Singletary, isn't the words following that paragraph... that is, the end of that paragraph, "as provided by law." Couldn't that be regulated in use? Doesn't it just mean that we should use it for a public....for the public good? That wouldn't necessarily mean that, as you spoke about the governor's mansion and something else like that, that it was anybody's right to go in any time. It'd be regulated by law, wouldn't it? Couldn't we set up whatever rules and regulations for the use of that property as we saw fit--which would be for the benefit of this state?

MR. SINGLETARY

I don't know, Senator. It says that it's "declared to hereby be a part of the public domain, and for the use, benefit, and enjoyment of the people as provided by law", sir.

MR. DE BLIEUX

Wouldn't that "as provided by law"...wouldn't that govern it?

MR. SINGLETARY

I don't know. It still is declared to be a part of the public domain.

MR. DE BLIEUX

Well, all lands, as I take it right now, that are owned by the government are a part of the public domain.

MR. SINGLETARY

Well, it goes on to say it's "for the use, benefit, and enjoyment of the people." So, I don't know. Really, I think this is...the intent is good in all three paragraphs. But, really, I don't....I think it's a statutory material and we don't know exactly what the scope of this would be.

Further Discussion

MR. CONROY

I think everyone here agrees with the basic concepts of Mrs. Miller's proposal. But, I have been trying to find out from questioning on the floor, questioning to Mrs. Miller, as to exactly what the effect of Paragraph (B) of this section would be....trying to ascertain to what degree this had been studied or any investigation made of it. I am concerned about the part...the breadth of the language that says "no contract involving stateowned lands would be made without prior public notice."

The term--the prohibition against any contract at all,

seems to me to be broader than is really intended. I don't know whether it would affect, for example, the temporary leasing of....say, a state recreational area for a day, or something like that where you let it out to some particular group that they are able to use it that day. Or whether it applies to contracts that just relate to minor things pertaining to state lands. I don't know. I was trying to find out. I think the concepts are good. But, I think that the section as written here, without some prior....some better assurance of what it's effect would be on the state's day-to-day operations with regards to its lands, I think is dangerous. It's a good statement of principle. But, I think it's dangerous as written. I urge you to reject the proposal.

Vice Chairman Casey in the Chair

[Previous Question ordered.]

Closing

MRS. MILLER

Mr. Chairman, ladies and gentlemen, I do think the few fears that have been expressed are without, really, any foundation because, if the public agencies are doing right, anyway, what does it matter to tell them they should do right? If they are doing nothing wrong, this is not going to hurt them. The mineral board now has always, under Mr. Lee, and it still does, it enters into its voluntary unitizations, its letter agreements, its compromises, by public notice. These things are put on a published docket and the meetings are open to the public. So, you are not going to have any serious effect on the state's operations as they go.

But, you are saying to the legislature---Yes, I agree with Mr. Singletary. A lot of this could be taken care of in the statutes. But, Mr. Singletary, I point out to you, what the legislature did is it said, "Mineral board, you can contract away fifty thousand barrels a day of the state's oil and gas and build a refinery, and give a windfall for three years...." which it did....which it was working on. You can do it without anybody knowing what you are doing; without any public bidding. Don't give any other companies in this state a chance to come in and bid on what they would pay for the fifty thousand barrels of oil and gas a day. I tell you, the deal they were working up in September, before the newspapers of this state began to put the spotlight on them. They were working up the little deal that they were going to contract away fifty thousand barrels of oil a day at five dollars a barrel, for twelve years. Now, what's five dollars a barrel...or fifty thousand barrels a day worth over a period of twelve years? Sure, they were going to get a little fourth of the net profits after the company had figured what its own net profits were, and after it paid big salaries and all to its own officials. I don't think that this is what the people of this state want. If the state has fifty thousand barrels of oil a day to contract away, it can put it out on bids every year or two, and let these refineries bid on it. We might be getting twelve, and fifteen, and twenty dollars a barrel....dollars a barrel for our oil. So, what we are saying to the legislature is, "Please, no more statutes like this. Please just remember that we want everything to be open. We want notice. We want all the safeguards we can get."

I call for the previous question.

[Amendment rejected: 58-36. Motion to table reconsideration rejected: 36-52.]

Reconsideration
Further Discussion

MRS. WARREN

Mr. Acting Chairman and fellow delegates, I listened very attentive to what Mr. Tapper had to say. One of his main objections was the accusations that were made. I want to remind you that pride goes before a fall. Whose fall? The State of Louisiana. I'm going to ask you to search your conscience this day and vote in favor of this amendment for the people of the State of Louisiana. Thank you.

Further Discussion

MR. LEIGH

Mr. Chairman, and ladies and gentlemen of the convention, I could not support the Miller amendment as it was drawn. I do ask that you reconsider it and leave the question open. I think

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that the principle that Mrs. Miller is trying to assert is sound. I would like to see the principle placed in there in some fashion. What I'm afraid of is that the amendment as it is drawn will, perhaps, disrupt the routine business of the mineral board. I would very much urge you to reconsider the matter and let's see if something can't be worked out that would attain Mrs. Miller's purpose, and not disrupt any routine business of the mineral board.

So, I ask you to vote favorably on the motion to reconsider.

Questions

MR. ALEXANDER

Mr. Leigh, if we vote favorably now, we will have adopted the amendment in its present form. I am wondering what are you suggesting?

MR. LEIGH

I think if we vote favorably now, we will simply have reconsidered the matter....

MR. ALEXANDER

Reconsidered....yes....

MR. LEIGH

....and leave it open to a new amendment, or an amendment of a different version which might straighten out possible objections to it.

MR. ALEXANDER

The amendment will not be resubmitted at this time? Is that what you're....

MR. LEIGH

It would not be adopted at this time. It would be open for revision.

MR. ALEXANDER

It could be adopted as resubmitted?

MR. LEIGH

It can be adopted in a different form....

MR. ALEXANDER

Yes.

MR. LEIGH

....if it is reconsidered.

MR. ALEXANDER

All right.

Point of Information

MR. ANZALONE

Mr. Chairman, on a point of information. If an amendment were to be sent up to the desk involving only Paragraph (B) of Mrs. Miller's amendment, would it be ruled out of order, or whatever?

MR. POYNTER

No....I

MR. ANZALONE

In the event that this amendment is defeated, would an amendment tracking the language in Paragraph (B) be out of order?

MR. POYNTER

No, sir. I don't think it would be out of order because it wouldn't put this same, exact question before this convention.

MR. ANZALONE

Thank you.

Further Discussion

MR. STINSON

Fellow delegates, I'd like to urge you to support Mrs. Miller. You know, this is one of the most vital, important assets the state has. I think in times like these, all the precaution we can take to protect the right of the state, and all the people, we should do it. It may not be worded the way you like, but at least it gives some extra precaution. I don't think it should be left up to this group, or the governor, or the legislature, or the mineral board. I think everyone should

be involved and concerned. We've got to protect it. We know from different lawsuits that are pending, back forty and fifty years ago mineral rights were taken away from the state that have made millionaires, and it could have been used much better to help the people of the state.

I'd like to urge you let's support Mrs. Miller in what she's trying to do. She's been on the mineral board, and she knows what is needed there.

Thank you.

Chairman Henry in the Chair

[Previous Question ordered on the motion to reconsider.]

Closing

MR. TAPPER

Mr. Chairman and fellow delegates, I'm not going to waste your time. I'm just going to ask you to vote green on the motion to reconsider. Let's dispose of it once and for all, and let's go on to something else.

Thank you.

[Motion to reconsider adopted: 82-11. Amendment withdrawn.]

Amendment

MR. POYNTER

The lady now wishes to re-submit the amendment so it would simply read:

"Section 1.1." The first paragraph...unlettered paragraph of (B).

"Section 1.1. No conveyance, contract, compromise, or lease involving lands, minerals, or other interest therein, title to which is in the state or its agencies, shall be made without prior public notice or public bidding, and other safeguards as prescribed by law."

No Paragraph (A), and delete the second, unlettered subparagraph of Paragraph (B).

Explanation

MRS. MILLER

Mr. Chairman, ladies and gentlemen, I ask your indulgence on this because it is so very important. It seems to be trying to solidify things in Section (A) that caused some of the problems with some of the delegates. So, what we are doing is to say we are taking only the middle paragraph, your Paragraph (B), that starts with "No conveyance" and ends "by law." I...think that this will satisfy some of the objections that we had previously to perhaps just repeating the civil code in the constitution. I don't really think this would...anyone would find that their philosophy were adverse to this to keep everything open and above the table in all our dealings with these very valuable state resources.

I ask your favorable consideration of the new amendment.

Questions

MR. RAYBURN

Mrs. Miller, under the language here where it says that "shall be made without prior public notice or public bidding." Would that language let anyone or state agencies, just as long as they gave public notice, and then go ahead and do what they wanted to do as long as they gave public notice?

MRS. MILLER

Along...of course you still have the provision that the public notice would be required or "as prescribed by law." We've used public notice, or public bidding, or as prescribed by law. This would still not prohibit the legislature from setting up very stringent requirements, which I think the legislature could do, and will do now.

MR. RAYBURN

Well, I was just a little concerned about whether or not if they just gave public notice, whether they would be in compliance with the law or not. They could disregard public bidding as long as they'd given public notice.

MRS. MILLER

Well, I think your "or prescribed by law" takes care of that. Because you all can, I'm sure when you draft a law providing the procedure that's to be followed, you will say that under certain circumstances prior notice has to be given;

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advertisements, and this type of thing. I can...this is the form that's pretty much been followed by the legislature in most of its action.

MR. LEIGH

Mrs. Miller, I'm still concerned about the routine business of the mineral board and the requirement that there be prior public notice or public bidding.

MRS. MILLER

Or as prescribed by law, now.
I'm not worried at all, Mr. Leigh, because I think that the mineral board procedures do follow "as prescribed by law." The part of the....

MR. LEIGH

What did you cut out of the...of Paragraph (B)? Anything?

MRS. MILLER

Nothing is cut out except the last paragraph "that no transfer of a real nature"...but that only repeats what the law in the jurisprudence is anyway. But if you've not conformed with form and legality, things are null and void, anyway.

MR. LEIGH

Frankly, it's the second paragraph that disturbs me, when you say that no contract shall be made without prior public notice. The mineral board, every month, enters into contracts of unitization and that type of thing, which is....there's no prior public notice... other than as adopted is distributed to interested parties. The meeting is public.

MRS. MILLER

Right.

MR. LEIGH

I'm afraid that your provision of your section there would proscribe, would prevent, the mineral board from carrying on its routine business of that nature.

MRS. MILLER

Mr. Leigh, I just don't share your fears at all. It's been my observation in sitting there that the one thing you have that lawyer to mineral board sitting there for is to examine everything performed in legality. Any time anything is undertaken, whether it's a letter agreement or voluntary unitization, he always comes forward, and we have to have his opinion of whether the form and legality have been observed. I just don't think this is any problem.

MR. LEIGH

Well, let me...

MRS. MILLER

...We are following the procedures that the law prescribes. What we are saying is, "Please, legislature, don't prescribe some laws that abolish all safeguards."

MR. LEIGH

Well, Mrs. Miller, for the record, is it your understanding of this amendment that the procedure which you just outlined where a representative of the attorney general, an assistant attorney general assigned to the board, passes on the form and legality of the instrument, and the session...the proceedings are held in open session and adopted in open session. Is it your thought that that would comply with your constitutional amendment for prior public notice?

MRS. MILLER

I can't say in the future what the legislature might prescribe as safeguards, which they will require the mineral board, the conservation department, or anyone else to follow. They might prescribe another form for type of things there. But, what we are saying is, whatever the legislature prescribes has to be followed.

MR. LEIGH

What I'm asking....

MRS. MILLER

'Cause you know they might, the legislature might well change what is being prescribed....you know....prescribed for safeguards.

MR. LEIGH

What I'm asking you, though, for the legislative history of this convention. Is it your belief that the present procedures of the mineral board, in open session, and the way the mineral

board conducts its business, would comply under existing laws with the requirement that you have of prior public notice?

MRS. MILLER

Mr. Leigh, I haven't been over there examining those letter agreements and those compromises, now, for several months. I wouldn't want to commit myself right now and say that what they've been doing is proper, because I think that's a matter for...that you have to examine everything they've been doing and make sure. Because, I mean, I can't just off the cuff say what they've been doing is correct.

MR. CONROY

Mrs. Miller, I'm still concerned about the broad language that prohibits any contract involving lands of the state or any of its agencies without prior public notice.

For example, I would think that a port commission, or a levee district would be a state agency. They have to make routine contracts with regard to the lands under their administration. Now, wouldn't your provision here prevent, for example, a levee district from taking a needed immediate action with regard to a levee, or a port commission from taking a needed immediate action without public notice. Wouldn't your provision prohibit that?

MRS. MILLER

If you stop and put a period after public notice, and ignore that you have "or public bidding", or "other safeguards." You have alternate....you have three alternatives there. And I'm sure that all these boards....

MR. CONROY

My copy says "and other safeguards."

MRS. MILLER

We had withdrawn that and then had it changed to "or"... the "and", and it just got typed up wrong again. I'm sorry about this....when we went through the amendment, we had it "or"...had it changed to "or," Mr. Conroy, so that there are three alternatives there; prior notice, or public bidding, or safeguards as prescribed by law. I'm sure that your dock boards and all now follow....

Point of Information

MR. CONROY

Could you read the amendment as it presently exists, Mr. Poynter?

MRS. MILLER

I didn't understand you.

MR. CONROY

I was asking the Clerk to read it 'cause that's not my understanding the way he read it. But....

MR. POYNTER

My understanding was yours. But the lady would move to withdraw it so she could make that change.

[Amendment withdrawn.]

Point of Information

MR. TAPPER

May we have, once she submits it, this will be the fifth time. May we have a copy at our desk so that we won't be so confused as we are now as to what is really in it before we begin arguing it again? I might be for it next time. I don't know.

MR. HENRY

Mr. Tapper, let's don't go through that. That's just prolonging the agony. I'll get the Clerk to read it real slowly this time. I hope we get the thing right because we need to finish this section today....I mean we need to finish the proposal today.

Personal Privilege

MR. LANDRUM

Mr. Chairman, now I know how close it is to Christmas, but I do believe that what Mrs. Miller is saying that we should pay attention to her. I think we are kind of rushing her along. I think we should hear her, even though if she has to submit a

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dozen amendments to get what she's saying, I believe that it is needed and that we should hear.

Amendment

MR. POYNTER

All right. It would read as follows now:
On page 1, between lines 21 and 22, insert the following:
"Section...and I've added title to this....Section 1.1.

Public Lands; Lease, Contract.

Section 1. No conveyance, public...no conveyance, contract, compromise or lease involving lands, minerals, or other interest therein, title to which is in the state or its agencies, shall be made without prior public notice or public bidding, or other safeguards as prescribed by law."

Explanation

MRS. MILLER

I think we....I think we've had really sufficient discussion on this. I would be....call for the previous question if there are no speakers on the list, Mr. Chairman.

Questions

MR. TAPPER

Mrs. Miller, in the event of a lawsuit involving realty of the state, let's say like water bottoms, or real estate of the state, in the event of a lawsuit, where the attorney general is defending the state. This, also, would require public notice before any compromise could be made on it, and any lawsuit, also, wouldn't it?

MRS. MILLER

What I'm saying is that the "or prescribed by law" can provide the procedure that the state is to follow when it's defending its claims. I think this is what, as lawyers, we like to have. We like to have the regulations promulgated and know what we have....know the steps we have to follow....one, two, three.

MR. TAPPER

The last question is. You have two "or's" in the present amendment. Now, that means we could have public notice. We don't have to have bidding if we have public notice. We could have public notice....let me finish the question....we could have public notice, or public bidding, or neither if it's prescribed by law otherwise. Is that correct?

MRS. MILLER

This is only saying, I believe, Mr. Tapper, that we expect the legislature to be alert to what it's doing. I don't think that in 1972 the legislature was very alert when it passed that Act 749.

MR. TAPPER

Yes, ma'am. Well, I don't agree with you. But did you know that I'm more opposed to your amendment in the manner in which it's presented than I was before?

Further Discussion

MR. LEIGH

To say that with the "or", "or other safeguards as prescribed by law," which, as Mr. Tapper pointed out, gives three alternatives, I would go along with the amendment.

[Motion to limit debate on the Amendment to five minutes adopted without objection.]

Further Discussion

MR. GRAVEL

Mr. Chairman, ladies and gentlemen of the convention, I have high regard for the intentions that Mrs. Miller has in offering this amendment, and her efforts in behalf of....well, in many other amendments that she has presented to this convention. But, I just suggest to you that this is the kind of thing in a constitution that can cause more confusion than almost any kind of provision that we could put into the document. There are three alternative possibilities which make this proposal meaningless, and, as a consequence, should not be placed in the document. As it ends up saying that "no conveyance, contract, compromise or lease involving lands, minerals or other interests of the state, or its agencies"....and that can affect an awful lot of

operations within state government, that nothing in that regard shall be made without either prior public notice, or public bidding, or other safeguards as prescribed by law. Now, I suggest to you that with the triple alternatives there, with no mandate, with no criteria, with no direction, with no standards, it's just not necessary that we put this into the constitution. I would urge that you would defeat this amendment... laudable as I think Mrs. Miller's intentions may be.

I ask that you reject the amendment.

Questions

MR. CHAMPAGNE

You would agree, though, Mr. Gravel, that if the legislature so desired to provide by law, they could require the whole thing. In other words, they could have public bidding required, public notice required, or any other thing they wanted to require.

MR. GRAVEL

Absolutely.

In a definitive, well-planned statute that would set forth directives, criteria and standards. Yes, sir. They could.

MR. CHAMPAGNE

Don't you think, though, perhaps, that what Mrs. Miller wants to do is to point out to the people that they want this done, or they would like to suggest so in the constitution.

MR. GRAVEL

Well, I think she'd like to be sure that it is done.

As a matter of fact, Mr. Champagne, there is a public bidding statute now. I don't know that....what the problem might be in connection with it. But, all I'm saying is, that you may have to have more than one law. You may have to have one dealing with the concept of minerals; you may have to have one dealing with the concept of state lands where there are no minerals involved; and you may have to have another law that might deal with the procedures by which agencies can compromise matters involving state land. You might have to have several laws to accomplish what this kind of a proposal might lead to.

MR. ANZALONE

Mr. Camille, what you are talking about is the absence of the word "shall" in this provision? The legislature shall....

MR. GRAVEL

Well, there's no....there is a mandate as an alternative mandate to the legislature. The way the amendment now stands, Mr. Anzalone, is that either you have to have a prior notice, or you have to have public bidding, or you have to have some legislative act....none of which, I think, meets the requirement of clarity and definiteness and certainty that we ought to have in the constitution.

MR. ANZALONE

Well, do you object to the philosophy of the amendment? Or do you object to the way that it's written?

MR. GRAVEL

I object to putting this in the constitution the way it is. I think we are talking purely about legislative matters. When you are talking about procedures for public bidding, procedures for public notice, and procedures that relate to safeguards in the handling of contracts, compromises, and things of that nature, I think you are talking about legislation.

Closing

MRS. MILLER

Thank you, Mr. Chairman.

I think that what we are talking about is policy and philosophy which should go into the constitution. We are not writing rules and regulations with this article. We are leaving it to the legislature to write the rules and regulations and the safeguards to which all state agencies must conform. We are putting into this constitution, with this amendment, philosophy and policy, and saying to the legislature and to the state agencies, "observe these safeguards." We are not saying that our elected public officials could write very few or a whole lot. But, I do say that the public bidding act was ignored in 1972 in Act 749. It can be ignored again. All the people of this state have in coming to these minerals that are so very, very valuable is this safeguard which says "watch out and beware." I say to you, ladies and gentlemen, in the words of Shakespeare that Shakespeare put in the mouth of Iago and Othello. These safeguards are necessary when it comes to great sums of money because nature does fall. It does fall into disuse when gold becomes its object. We are talking about black gold. We are talking about saving this.

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I say, this is policy and philosophy. It is constitutional material. Put it in the constitution for the people of this state. I beg you to adopt it. Thank you.

[Amendment rejected: 60-36. Motion to take up Section 6 adopted without objection.]

Reading of the Section

MR. POYNTER

"Section 6. Mineral Rights; Alluvion.

Section 6. Mineral rights to land formed or exposed by accretion or dereliction caused principally by acts of man, on a water body the bed of which is owned by the state, are retained by the state."

Explanation

MRS. MILLER

Mr. Chairman, ladies and gentlemen of the convention, I really apologize for having to be before you so much at one time, but our chairman could not be here for awhile and neither could Miss Perkins, who were to explain some of these things. So, I ask your indulgence to have to put up with me. You have had distributed to you, I believe, several pages... a very thick little document. Do you have it before you? They are being passed out. This is a change from what is in your present constitution. It is in line with what the jurisprudence of the state has been until very recently in the Six-Mile Lake Case and which very recently was affirmed, we think erroneously, by the present Supreme Court in a 4 to 3 decision. You will have before you a news article in which it says that the last court decision which was handed down about two or three weeks ago, is a disaster financially for the State of Louisiana. It's really a catastrophe. This section comes in to try to correct the errors unto which our Supreme Court has fallen by split decisions. We are talking about hundreds of millions of dollars that are being lost to the state as the Atchafalaya Basin is being filled and built up through acts of man. It's going to be very difficult, ladies and gentlemen, those of you who are not lawyers, to try to explain the laws of accretion and dereliction, the build up of alluvial soil which is a full year's course in law school to try to explain in a few minutes why this is so vital and important to the state. What we are saying here to the Supreme Court of Louisiana is that the Civil Code of the state means what it says, is that accretion and dereliction apply only to rivers and streams. Do you know that four members of the Supreme Court, that they don't know what a lake is? You know, a lake is different from a river and a stream. Any fisherman in this state knows what a lake is and knows that a lake is different from a river and stream. But, evidently, we have had members of the court who cannot make this distinction. If it were just one judge it wouldn't hurt you so much, but when it's four judges who evidently can't make up their mind to distinguish between a lake and river and stream, then this section is going to be very necessary for us, if we are going to save what is known as the Atchafalaya Basin area because this is basically where most of this accretion and dereliction is now taking place in the state. Under the Six-Mile Lake Case and the Cockrell Case which was now recently confirmed by the Placid Oil Case that the Supreme Court handed down, we have the situation where the Corps of Engineers of the federal government is changing the whole geology of the basin. It's very easy for acts of man now to change rivers and streams. They can cut through a river and leave a big bend and leave it in... they could cut through the Mississippi Bends and leave part of Louisiana in Mississippi. When I was a very little girl, and my father was building the levees along the Mississippi, he used to take me to the Mississippi River Works where there was a whole layout of the Mississippi River from Cairo, Illinois, down to the Gulf. There I would stand and watch the sandbars change as the velocity and the currents of the rivers could be changed in miniature. It was a complete layout, and you can see this happening now. But, we are confronted with the fact that the Corps of Engineers is constantly dredging, building all type of bulkheads, breaking up the ramps in the river, and by doing this they have altered nature's way of making, maybe, these changes gradually. We can just absolutely give away the land under the Supreme Court decision if we do not adopt this article. Accretion is easily formed. It can be formed in almost any body of water by putting a bulkhead and building an obstruction out, as Mr. Bollinger can tell you. You build it out and then land is going to form up on either side. We have permitted a riparian owner to reclaim land. I think this was good, and

I supported Mr. Bollinger in his amendment because I do think that land that is lost along these bayous and all should be reclaimed because in a way the landowner is protecting the navigable rivers and streams, and we had many safeguards so that this will not be abused. But, is it our intention to permit the whole Atchafalaya Basin to be drained, to be built up with land, and to give these windfalls to a few, big out-of-state corporations? There are some small landowners, but most of the state's problems have been brought about not by a few small landowners but by some big, big rich influential companies that are getting the windfall because the State Supreme Court has not been consistent in interpreting the laws of accretion and dereliction which should apply only to rivers and streams. The Supreme Court doesn't know that a body water...

Vice Chairman Casey in the Chair

Explanation continued

MRS. MILLER

Ladies and gentlemen, it's been the problem in this convention that when we understand very little about something we're either for it a hundred percent or against it a hundred percent. So, what we are voting is not really an appreciation of the problem, but we're just voting either our ignorance or our greater knowledge. I do ask that you quickly look at the ramifications of the recent Supreme Court decision that has been handed down and read what was said in this news article that is before you. This decision--and if you will look at the article--involved a dispute between the state and private owners represented by a large corporation to land that was built up in a lake and what the Supreme Court decision says is that a lake is not a lake if it has a little current running through it. I say that the Atlantic Ocean is not an ocean because it has currents and streams running through it. Evidently, there are four judges that just can't seem to recognize a lake when they see one, and I wish the wildlife and fisheries people would take them out fishing sometime and show them the difference between fishing in a lake and a river and stream. But, under this decision, we are going to lose the Atchafalaya Basin. This has been something that's been recognized by the Atchafalaya Basin Commission. I do say that three judges dissented on that opinion that was handed down, and those three included Justice Tate of this convention and Justice Mack Barham wrote the dissenting opinion. I submit to you that it was Justice Barham's opinion that was correct. This amendment attempts to adopt Justice Barham's opinion as the policy of the state. If we do not adopt this accretion article, and if the opinion of the court stands, the effects on the state are going to be devastating. It will deprive the state and the people over the next few years of nearly two hundred square miles of public land that was a lake in 1812. We have no provision in our Civil Code for changing the state ownership of the bottoms of lakes. The legislature always took the position that the lake is a lake. It's the Supreme Court that is changing the definition of a lake and saying that a lake is not a lake. Under the Supreme Court decision the only way you can have a lake is to have a dead sea with nothing running in and nothing running out.

This is a... I know this is a very difficult concept for the nonattorneys to grasp. I do ask that you support it. By supporting this amendment you are not giving windfalls to a few big out-of-state corporations who have had smart attorneys to walk in and know where to stake their claims, and you're not taking anything away from the people. You are giving this to the people of Louisiana for all time. The committee asks for your support of the article.

Point of Information

MR. TAPPER

I guess it's a point of information, Mr. Chairman. We have an amendment before us by Mrs. Miller to this proposal. I don't think we've adopted it yet, have we?

MR. CASEY

As I understand it, Mrs. Miller was introducing Section 6, Mr. Tapper, and was discussing Section 6. The amendments will be coming up in due order.

Amendment

MR. POYNTER

Mr. LeBleu sends up amendments which read as follows: Amendment No. 1. On page 2, delete lines 23 through 27, in their entirety.

Explanation

MR. LEBLEU

Mr. Chairman and fellow delegates, I have an amendment that would delete this section and also another amendment for... to accomplish the same purpose with Section 7. The reason I offered these amendments is that all of these items are covered in the Civil Code, and in the testimony that we heard in the Natural Resources Committee, the people from the LSU Law School are... who are versed in these items indicated that some changes should be made, but we can do that in the legislature. Now, I'm all in favor of trying to help preserve the Atchafalaya Basin, but I can't recall anybody from the Atchafalaya Basin Commission who came and testified before our committee in behalf of an amendment or a section as being offered here. Maybe Secretary Martin did appear at one time when we first started our deliberations, but he is no longer with the commission. What I intended to do in the next session of the legislature is have our Natural Resources Committee, our joint legislative committee on Natural Resources conduct some hearings, which we are now allowed to do by our changes in the legislative rules, conduct some hearings where we could get some private landowners, large landowners, the state people, the legal people from LSU and so forth, and maybe come up with something that the judges will be able to interpret. I just felt that if we make no mention of this in the constitution, and settle it in the Civil Code that we'll be accomplishing the purposes that we're most interested in. I ask you to support this amendment.

Further Discussion

MR. DUVAL

Mr. Chairman, fellow delegates, I rise in support of the amendment for the following reasons: we are playing with the law of Louisiana like it's a toy. Merely because we have a Constitutional Convention in 1973 does not mean we should, because of specific instances, contrive provisions which overcome a thousand years of jurisprudence and maxims. Now, let me tell you, this area is presently covered in our Civil Code, Articles 509 and 510. The Civil Code provides, "the accretions which are formed successively and imperceptibly to any soil situated on the shore of a river or other stream are called alluvion. The alluvion belongs to the owner of the soil situated on the edge of the water, whether it be a river or a stream, or whether the same be navigable or not." Now, Article 510 basically holds that when a landowner's...when the water comes in on a landowner's land, he loses it, and that's the equitable maxim that the landowner loses when water erodes, when there's dereliction that takes place and that the landowner gains when accretion builds up. There have been many, many cases on this. It's been...this is one Supreme Court case which Mrs. Miller certainly disagrees with as she has every right to do. But, we can't in this convention start monkeying around with the law of Louisiana without really knowing what we're doing because of one Supreme Court decision. This matter is covered in our code. I ask you to please stop legislating. Now, there's going to be an amendment to delete Section 7, and I'm going to support that, also. In my opinion, Section 7 hurts the state, and it should be deleted. Section 6, in my opinion, hurts the landowner, it should be deleted, and we should let our courts and our legislature handle this and not take advantage of this Constitutional Convention by continuing to attempt to put in specific instances that are occurring right now. Merely because we have a Constitutional Convention going on, we try to take care of it. I think that's wrong. This is covered in the Code. Now, I want to point out something else. The way this reads, here's the test, under the section, "mineral rights to land formed or exposed by accretion or dereliction caused principally by acts of man." Now, how does this change the jurisprudence of our state? How is one going to determine whether the riparian owner has the right to the accretion? As you know, accretion or alluvion is the buildup of sediment along the banks. Now, how are they going to determine what is principally the acts of man? What's going to be the test--fifty-one percent? How are you going to determine when the alluvion began to build up? It's a long process. How are you going to determine at what point the acts of man came in, what part of the accretion was built up by a man from this point on? I think it's totally unenforceable. We've got law covering it. It's certainly a mistake for us to fool with it. It's certainly a legislative matter where you can have involved committee hearings, where you can understand all the ramifications of what you're doing. Don't forget we're putting these changes in a constitution which is a rigid document. We don't know what we're doing. I suggest to you that this is a dangerous change in the law, that it's for one specific instance that the legislature should deal with these

matters, and I suggest to you that we delete this section and the next section.

Question

MR. NUNEZ

Mr. Duval, doesn't "6" and "7" deal principally or exclusively with acts of man and not by normal accretion erosion and etc?

MR. DUVAL

"Six" and "seven" changes the law completely, set forth in Article 509 and 510 of the Civil Code and it deals with all accretion and dereliction formed in the bed of a stream, and said you own it if it's not principally by the acts of man. The present Civil Code says "imperceptible...successively and imperceptibly," which implies that if some catastrophic or cataclysmic act happened which caused it to build up not perceptibly, then it wouldn't be owned by the riparian owner.

Further Discussion

MRS. MILLER

I rise in opposition of the LeBleu amendment, but for really a very basic reason at this stage. There are several amendments coming to this section, and I think you all should have an opportunity to hear them before we just began to delete the section. You will still have opportunities to act and to vote. I ask that you vote against the LeBleu amendment. Give us time to look at some of these problems a little more carefully. Right now, ladies and gentlemen, what you are doing by not acting is to permit four judges or a Supreme Court divided four-three, four judges write the law and change the Civil Code and change concepts of lakes. So, I think it behooves you as representatives of your people to say, "Whoa, let's look at this a little bit more." I think you owe it to the people you represent to say, "Let's look at it a little more before we just strip it out and toss it in the wastepaper basket." I beg you to defeat the Lebleu amendment. Let's look at some of the other amendments, and someone, of course, can always come with another one later. So, I'll call for the previous question if there are no more speakers, Mr. Chairman.

[Previous Question ordered.]

Closing

MR. LEBLEU

Mr. Chairman and fellow delegates, it's always been my opinion that a judge interprets the law as it's written. I think he's bound to do that. So, I can see no problem about these judges interpreting the law one way or the other, in favor of one person or another which he is not supposed to do; to me the law is in the way the law is written. All I want to do is remove this portion from the constitution and let the legislature handle it through the Civil Code to clarify some of these laws. Mr. Duval made a good point when he said that the Civil Code's been in effect for a long time; it's been the basis of a lot of our laws. I just think it's kind of a bad practice for us to come up here and just on short notice, change something without more study. I think we can do a good job in the legislature as far as changing the Civil Code because we have a lot of people who are interested, not only in the Atchafalaya Basin, but other coastal areas in this state. Lord knows, we have a lot of them in south Louisiana. Please adopt this amendment.

Questions

MR. CHEHARDY

Mr. LeBleu, isn't it true that if we passed this amendment the section would be wiped out and then we couldn't consider Mrs. Miller's amendment which in effect prevents the Atchafalaya Basin and possibly hundreds of millions of dollars, instead of going to a few individuals, going to the entire state, to all the citizens of the state? Wouldn't that be the effect of passing this amendment?

MR. LEBLEU

I can't see it that way, Mr. Chehardy.

MR. CHEHARDY

Well, if this amendment is passed, will Mrs. Miller be able to bring her amendment in?

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MR. LEBLEU

What amendment? She's presenting the section. Are you talking about the section?

MR. CHEHARDY

No. She is putting in an amendment to the section which you're proposing to...to your amendment, which in effect knocks out the section.

MR. LEBLEU

Well, I was not aware that she had another amendment.

MR. CHEHARDY

...are we out of order, Mr. Nunez? I think that objection of yours...

Further Discussion

MR. LEBLEU

I think this matter deserves to be considered by the legislature in reference to the Civil Code, and that's all I'm asking you to do.

Question

MR. BOLLINGER

Conway, don't you think this is a drastic change in the law, in that the laws on accretion and dereliction are very, very, very complex, very hard to understand, and that if we deal with this at this time without the benefit of a lot of discussion that we could be endangering some of the future of Louisiana as far as the mineral laws and the accretion and dereliction laws are concerned?

MR. LEBLEU

You're absolutely right. That's what I was referring to about whose definition of a lake or a stream are we to take. It's the law's definition, not my definition or Mr. Bollinger's or any other person. It's a definition that's set forth in the law, and I think that's where we need to make the corrections.

Point of Information

MR. TAPPER

A point of information, Mr. Acting Chairman. Is it not true that Mrs. Miller has proposed Section 6, or is it Section 7?

MR. CASEY

We're dealing with Section 6. Mrs. Miller introduced the discussion on Section 6, and we're working on the first amendment right now which is a deletion amendment.

MR. TAPPER

Yes, sir. Then, Mr. Acting Chairman, isn't it a fact that in answer to Mr. Chehardy's question that Mrs. Miller's amendment which he's referring to comes after the period at the end of Section 6? Isn't that correct?

MR. CASEY

Mr. Tapper, I don't know where Mrs. Miller's amendment comes in. I'd have to ask the Clerk what Mrs. Miller's amendment does, even.

MR. TAPPER

Well, don't you think we should know before we just delete it, in the event some of us want to go with Mrs. Miller's amendment, which, of course, I don't think I do, but don't you think we should know what we're doing?

[Record vote ordered. Amendment rejected: 48-56. Motion to table reconsideration rejected: 31-68. Motion to reconsider.]

Point of Information

MR. VELAZQUEZ

If you wish to uphold the original decision of the body, how do you vote?

MR. CASEY

If you wish to uphold the original decision of the body, you would have to vote no. I would suggest you'd vote no if that's your intention.

MR. VELAZQUEZ

Thank you, Mr. Chairman.

Reconsideration
Further Discussion

MR. SINGLETARY

Ladies and gentlemen, I urge you to reconsider this vote. The committee was very divided on several of these sections, and for instance, Section 6 only applies to acts caused by principally by man. What about other acts? What about accretion and dereliction caused in the natural course of things? So, I urge you to please reconsider this vote.

Questions

MRS. MILLER

Mr. Singletary, isn't it true, we are not changing the Civil Code as it applies to accretion and dereliction that has already been accrued. We're not hurting anyone. We're only saying that henceforth, isn't it true that every time we've had a constitutional change, there have been some very significant basic changes in land law, and isn't it true that we've never before in the history of the world been confronted with situations where so many tremendous changes can be made by the Corps of Engineers? What you're doing now is you're letting...aren't you letting the Corps of Engineers write the land law of Louisiana?

MR. SINGLETARY

No, ma'am. I don't think so; in my opinion we aren't.

MR. BOLLINGER

Alvin, is it not true that in committee in one of our last meetings that we very nearly deleted Section 6 and Section 7 and had they come to a vote probably these sections would have not appeared in the committee proposal?

MR. SINGLETARY

I believe that's probably right, Mr. Bollinger, and I think the committee just primarily reported these things out to get them out on the floor because we were undecided and we knew that there were going to be a lot of floor amendments so we just voted it out to let the convention decide.

MR. BOLLINGER

Another thing I wanted to ask you, this is a large change in the law, and did we have anyone in committee or from outside the committee testify before the committee on this subject?

MR. SINGLETARY

I don't recall, Mr. Bollinger.

MR. CHAMPAGNE

Am I correct in saying that this version is not mentioned in the present constitution?

MR. SINGLETARY

That's correct.

MR. CHAMPAGNE

So, this is an entirely new field in which you're asking... the committee has asked us to decide on?

MR. SINGLETARY

As far as the constitution is concerned, yes, sir. This is material that's covered by the jurisprudence and the statutes, primarily the Civil Code.

MR. LANIER

Mr. Singletary, these matters of accretion and dereliction, etc., have been treated in our Civil Code which comes from the Code of Napoleon, which originates as far back as 1804; doesn't it?

MR. SINGLETARY

Yes, sir.

MR. LANIER

This has always been a matter of statutory consideration in our state; has it not?

MR. SINGLETARY

Primarily, Mr. Lanier, primarily.

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MR. LANIER

That is because of the nature of the beast that we're dealing with here, you have to have the statutory flexibility; isn't that true?

MR. SINGLETARY

Yes, sir. I would agree with that.

MR. LANIER

Don't you think we will be getting ourselves into very, very serious trouble if we start to attempt to tinker with this problem in the constitution and lock it in?

MR. SINGLETARY

Well, that's a possible.

MR. CHEHARDY

Mr. Singletary, admitting the premise that the matters under question are considered in the code and under statutory law, the effect of recent Supreme Court decision, has it not been to, in effect, throw over what these codal provisions provide for?

MR. SINGLETARY

Well, apparently not so in the view of the Supreme Court, Mr. Chehardy.

MR. CHEHARDY

Well, in other words, it has been interpreted to where the meaning is, we're being told it's intended, is no longer the case. That is no longer the present meaning or the intention of these provisions.

MR. SINGLETARY

Well, I believe that the court tries to interpret the law, and tries to apply it as it believes the law is. If there's a feeling that that's the wrong interpretation I think then that the legislature should pass a statute to correct the situation.

MR. CHEHARDY

But, you are...are we not legislating even more basic law than the legislature ordinarily legislates when we're preparing a constitution to govern the enactment of laws? Am I correct in that...?

MR. SINGLETARY

Well, the idea in my opinion of what a constitution is is it should be a basic broad document, and I think this goes beyond that.

MR. ROEMER

Mr. Singletary, I'd like to look at these things on both sides of the coin. What do we lose if we take this out of the constitution?

MR. SINGLETARY

I don't think we lost anything, Buddy. The legislature's authority to deal with the situation would be just as it is now.

MR. ROEMER

Right. So, it's not presently in the constitution now, but if you take it out of the proposed new constitution, we won't have changed the law any, will we?

MR. SINGLETARY

That's correct.

[Motion to limit debate to fifteen minutes adopted: 54-35.]

Further Discussion

MR. TAPPER

Mr. Acting Chairman and fellow delegates, I rise in support of the amendment and in opposition to returning this in the article. I know we've put some legislative material in this constitution thus far, but this is one of the things that just cannot be put in the constitution. This is something that we, here, cannot predict what the necessities will be in the future. When you're talking about accretion and dereliction, you're talking about ownership of property--the difference between the ownership on the part of the state and the ownership on the part of the individual. This type of law needs to be flexible because of what may come in the future and the changes in the different streams and lakes and water bottoms. This is something that will affect everyone who owns property in areas where there is water--whether it be rivers, lakes, lagoons, or

what have you. This is something that, from the beginning of time in this state, has been handled by the legislature. Now, just because you may not agree with certain legislative acts, or just because the court has a hard time interpreting some of these acts of the legislature, is no reason to lock this in the constitution in its present form. It's not in the 1921 Constitution, and it should not be in this constitution. Ladies and gentlemen, I implore you, if we leave anything out of this constitution, let's leave this matter out of the constitution. I'd answer any questions that you might have.

Further Discussion

MR. DUVAL

Mr. Chairman, fellow delegates, we all recognize this is a cataclysmic change in the law. It repeals 509 and 510 of the Civil Code. How much have we studied the effect this is going to have on all property owners in Louisiana? How many committee meetings have we had to determine all the ramifications here? There's one instance. Now, if we're going to write this constitution for every bad court decision, for every specific instance, we might as well just start supplementing the Constitution of 1921, rather than to try and to modernize it. We're fooling around with basic statutes. Everybody talks about the big man. What about the little man who owns water...river front and... Every property that lies along streams and bayous is affected by this--and rivers. Every piece of property. So, we're not only affecting the Atchafalaya Levee Basin; we're affecting every landowner in the state who has property along the stream. I suggest to you that we're making very violent changes to the law. I suggest to you that we should not put this in the constitution--that if, every time a situation comes along we disagree with, we try to cure it in this constitution, it's a mistake. Moreover, by this constitution, we cannot retroactively have an effect on a decision which is res judicata. I submit to you it is a dangerous mistake to do this. We are legislating. You see the amendments that are going to be coming. Further legislation. We have to ask: 1) Is this of constitutional sanctity? It might be a good concept, but there are many ramifications. I suggest to you that we delete this committee proposal. I yield to questions.

Questions

MR. ROEMER

Stamwood, if you were a legislator, you would hesitate to pass favorably on legislation, the result of which you didn't know. Isn't that true?

MR. ROEMER

But, isn't it paramount, as constitutionalists, that we don't make the mistake, because it's compounded by the fact that it's difficult as hell to change it?

MR. DUVAL

Buddy, that's just what I'm trying to say.

MR. BURSON

Stan, if we hadn't rewritten the Code of Criminal Procedure in the Bill of Rights, I might give more validity to your puristic constitutional argument. What do we do about the fact that--as in this news release that's been handed out by Mrs. Miller--that Dow Chemical Company is threatening to file a suit claiming thirty thousand acres in the Atchafalaya Basin, because it owns a few hundred acres in there?

MR. DUVAL

Is that threatening to file suit? So they file suit--we don't know what the court is going to do, do we?

MR. BURSON

Well, we know what they did in the first case.

MR. DUVAL

All right. What were the facts of that case, Mr. Burson? Are you familiar with the facts of it?

MR. BURSON

The way I understand it, it simply said that the accretion and alluvion, even though it is caused by a man-made dam or anything of that nature, still goes to the adjoining landowner--which, if that holds true, I would think that all the silt, etc., that got into the Atchafalaya Basin in the last big flood; you'd have to reach the same conclusion.

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MR. DUVAL

Let me ask you this, Mr. Burson: You haven't read the record of the case, have you? Or the decision?

MR. BURSON

No, sir, I haven't.

MR. DUVAL

All right. Also, what concerns me is that, if this is a cataclysmic problem to the state, certainly the legislature can take care of it. But, I'm wondering how it affects every landowner who's got property along any river or stream, when it changes the basic concepts set forth in 509 and 510. That's my concern. I'm wondering about placing in a constitution a very complex subject, a very esoteric subject, which we have not studied. I'm wondering about, merely because the Supreme Court allegedly made a bad decision, overturning that in a constitution. I don't think that's what we're here for.

MR. LANIER

Mr. Duval, another point here is: Can we, in the constitution, retroactively divest somebody of a vested right?

MR. DUVAL

No, sir.

Further Discussion

MRS. MILLER

Ladies and gentlemen, Mr. Chairman, this is what we're talking about. We're talking about landfalls, windfalls, that go to a few people of this state, a few corporations. It's been my experience in life that it doesn't take long for the little adjoining landowner to be gobbled up and have his little interests bought out by some smart corporation who has plenty of lawyers looking at where the money is. This is not divesting any present landowner of the title to which he is presently entitled, but this is saying: Your title is established at this place now; whatever rights you have now, you have them; but, from now on, we're not going to let the state lose the rest of the last great wilderness area of this state: the Atchafalaya Basin, composed of lakes that sometimes are eighteen miles wide and thirty miles long, and which the Supreme Court of this state doesn't seem to recognize as lakes. We're taking nothing away from landowners, but you are going to save what is left that is the state's for the state. Traditionally, historically, geologically and geographically, the Atchafalaya Basin has belonged to all the people of Louisiana. The Roman law that is two thousand years old, which we've adopted into our code, never anticipated such an area as the great Atchafalaya Swamp. The Romans moved on and on to greater and new territories; they conquered more; they built roads, and they built aqueducts. Yes, they were builders, and they knew how to alter, to some extent, the streams. No country in the world has used their waterways more than the country of Italy for transportation. They were doing it back in the fifteenth century, and the writers were writing about it; so they knew that rivers could change their course, accretion could be built off, there could be cut off. But, that Roman law did not anticipate anything that compared with the great Atchafalaya Swamp of Louisiana. This is all we're saying that this is going to change, basically. We're saying---freeze the titles now. The French law never contemplated anything such as the lakes and the wide streams of Louisiana which may be lakes. The French streams are narrow, and they distinguish, in the French law, between streams and rivers. They do not have the type of lakes that we're talking about in the Atchafalaya Swamp. So, we're saying we're freezing titles now. We're not taking anything from the landowner. What's yours when this constitution passes will always be yours, but we're saying to the big companies---like Dow Chemicals---that are trying to pyramid some less than fifty acres, which you will see on this map outlined in blue, into some forty to fifty thousand acres, which you see outlined in red: that's a windfall that an out-of-state corporation domiciled in another state, doing business in Louisiana, because they had some smart lawyers to come down here and see where to go and pick up a few pieces of land. We don't have to give it to them, and I don't think we should give it to them. It's not taking anything away from landowners; it's only freezing the titles now. I cannot agree with Mr. Duval's and Mr. Singletary's philosophy that this is anything difficult to understand. What we're saying is corps of engineers, your levee districts, all the levees that are built---everything is altering the course. Right now, we're letting four judges....one judge can change and change this law right today. If one judge changes, on rehearing, and hears this case that was decided three weeks ago, we won't need this. But, if they don't change, we're going to need it if we are going to save the Atchafalaya Basin. I ask you to

defeat the LeBleu amendment, and let's look at this a little more closely. You have a chance, believe it or not, to overrule the Supreme Court; and I sure hope that you will.

[Previous Question ordered.]

Closing

MR. SINGLETARY

Ladies and gentlemen, we're not dealing with just the Atchafalaya Basin; we're dealing with land all over this state. Suppose that you were a landowner and lost your land to the state. This amendment just deals with accretion or dereliction caused, principally, by acts of man. So, I urge you to please reconsider.

Questions

MR. LANIER

Mr. Singletary, we have been told that we can overrule the Supreme Court. If we change the law in the constitution, that will only be effective to those rights that would accumulate after the effective date of the new constitution. Wouldn't that be correct?

MR. SINGLETARY

Yes.

MR. LANIER

If this case becomes final prior to that time, then we can do nothing to change the outcome of that case. Is that correct?

MR. SINGLETARY

I believe you're right, Mr. Lanier.

MR. LANIER

Further, suppose all of these people file suit prior to the effective date of this constitution and we have a judicial determination that this body of water is considered as a stream in accordance with the code, don't you think collateral estoppel would require that the same ruling be in all of those cases that are filed prior to the effective date of this constitution?

MR. SINGLETARY

Yes, I do.

MR. LANIER

So, really, with reference to that situation, we're in a real bad spot, aren't we?

MR. DUVAL

Mr. Singletary, the landowner loses--does he not?--when the water encroaches on his property? Doesn't he lose that land?

MR. SINGLETARY

That's correct.

MR. DUVAL

And doesn't this amendment not only affect the Atchafalaya Levee Basin, but everybody who lives on a bayou, river, or stream in the State of Louisiana?

MR. SINGLETARY

I believe so, Mr. Duval.

MR. DUVAL

And doesn't it, Mr. Singletary, change the laws to all those people? Isn't that right?

MR. SINGLETARY

Yes, sir.

MR. DUVAL

Thank you.

MR. SINGLETARY

And, we cannot change it by statute, if it turns out to be a bad decision.

MRS. WARREN

Mr. Singletary, did I understand you to say you were trying to preserve the rights of the individual landowner?

MR. SINGLETARY

I think you should give that some consideration, Mrs. Warren.

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MRS. WARREN

All right. Wasn't it brought out at the mike that this was not to take anything away, but to freeze what you had---not give you anything, but just let you keep what you've got?

MR. SINGLETARY

I don't believe so, Mrs. Warren.

MRS. WARREN

I think it was, if it was read back. If the tape was put in a spinning wheel now, I think you would find that that statement was made. It was to freeze what you had, but not give you any more.

Further Discussion

MR. NUNEZ

Mr. Singletary, it would appear that this problem that we're dealing with is a serious one and is caused by, mainly, the Corps of Engineers and that we're attacking the effects of their action. I think somewhere in this constitution people like you and I--I know you are affected by it on the north shore of Lake Pontchartrain--we should be attacking the destructibility of the United States Corps of Engineers and their destructive products which is causing this particular problem. Isn't that true?

MR. SINGLETARY

I believe so.

Point of Information

MR. O'NEILL

Mr. Chairman, a lot of delegates are confused as to the significance of the vote they cast. Would you explain exactly where we are and exactly what each vote will stand for?

MR. POYNTER

We're on the question of Section 6. Mr. LeBleu had previously sent up an amendment which would have had the effect of deleting Section 6 from the proposal. That amendment failed to pass. So, motion to reconsider and table the motion to reconsider. Mr. Duval objected to tabling the motion to reconsider. The convention refused, by vote, to table the motion to reconsider. Therefore, the question immediately before you is the question of whether you wish to reconsider the vote by which the LeBleu amendment failed to pass. Therefore, if you want to consider the LeBleu amendment again--a second time--you would vote yes. If you do not wish to consider the LeBleu amendment a second time, you would vote no.

[Motion to reconsider adopted: 57-46.
Previous Question ordered on the Amendment. Amendment adopted: 62-42.]

Reading of the Section

MR. POYNTER

"Section 7. Mineral Rights; Erosion

Section 7. Mineral rights to land lost by erosion caused principally by acts of man, on a navigable water bottom, are retained by the riparian landowner."

Explanation

MRS. MILLER

Ladies and gentlemen of the convention, Section 7 is a very basic change in law. It does more than try to attempt to change a court procedure....a court ruling. It has to do with the ownership, too, of who owns the land...of the fact that the state owns the land between the low and the high watermark on your seacoast.

This section was really put in after the committee adopted Section 6, on the feeling--a divided question--but on the feeling that if you adopted Section 6, then it was only fair to maybe reverse it and give something to the adjoining landowners. However, I do point out that there is a reason why this could not really work out; and that is because, when it comes to the seashore and you're talking lands lost by erosion, the state owns the property between the high and the low watermarks. So, it's an entirely different concept that's trying to be changed here. I don't believe that there is any--we haven't had a committee meeting on it--but I don't believe there's any serious objections to deleting this. I believe there's an amendment coming for that effect, so we won't spend much time on this.

Amendment

MR. POYNTER

Yes, Mrs. Miller, I do have an amendment sent up by Mr. LeBleu now to do that very thing. You want to go ahead with your amendment, Mrs. Miller?

Amendment sent up by Mr. LeBleu reads as follows:

Amendment No. 1. On page 2, delete lines 28 through 31, both inclusive, in their entirety.

[Motion to limit debate on each Amendment to the Section to fifteen minutes adopted without objection.]

Explanation

MR. LEBLEU

Well, let me go ahead. I think I was responsible for this section of the committee proposal in the first place. The reason that I proposed it is because in looking out for the landowner, if he has some property that's set out by posts, stakes or otherwise marked--other markers--and these are delineated in his abstract and over a period of time, whether he has any water frontage or not, but over a period of time if for some reason, some act of man, the stream, Gulf, or otherwise starts eroding his property, then the state, by law, gets that water bottom. They also take the minerals. It was just my idea to kind of give the landowner some protection, since the state takes his, under the present law, takes both the water bottom and the minerals. But, when the convention decided to go along with the deletion of Section 6, I think it's imperative that we also delete Section 7 and maybe let the legislature straighten these matters out in the civil code. That was the reason I offered both amendments.

Motion

MR. CASEY

Mr. Burson was next on the list. You wanted the floor, though, Mr. Burson.

MR. BURSON

Because it seems to me that Sections 6 and 7 have to be considered together, and I think most people here have made up their minds, I move the previous question.

[Previous Question ordered. Record vote ordered. Amendment adopted: 93-7. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

"Section 8. Ten percent of the royalties from any mineral lease heretofore or hereafter granted by the state shall be placed by the treasurer in a special fund to the credit of the parish from which the mineral was severed. This special fund shall be known as the Royalty Road Fund and shall be used by the state to acquire, construct, and maintain transportation facilities in the parish."

Explanation

MR. BOLLINGER

Mr. Chairman, fellow delegates, the concept of the Royalty Road Fund came up in the article on Revenue, Finance and Taxation, and it was decided by this convention at that time. However, some verbiage was left out that should be included, as far as the definition of lands, and also, as far as the authority for the local government subdivisions to bond the monies received from the Royalty Road Funds. The Committee on Natural Resources had jurisdiction over Royalty Road Fund as well as the Committee on Revenue, Finance and Taxation. I, for one, am not going to make a big issue over the dedication of the funds. There are many amendments to Section 8 as far as...in way of explanation, Mr. Chairman, I'll yield to any questions as far as the present constitution of the Section 8.

Questions

MR. BROWN

Mr. Bollinger, would you state specifically what Section 8 does here different than what was adopted by Revenue and Taxation? Why is this necessary at all?

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I'm particularly raising the question, you talked about bonding capacity. This doesn't say anything about bonding authority or capacity. What, specifically, are the differences and why is this particularly necessary?

MR. BOLLINGER

The differences in this, Senator Brown, it dedicates ten percent of the royalties as does the Revenue, Finance and Taxation Article, but it retains the money in the state treasury to the credit of the parish whereas the Revenue, Finance and Taxation Article sends the money directly to the parish. It also dedicates the use of this money to the . . . by the state "to acquire, construct and maintain transportation facilities in the parish." Now, I just . . . in way of explaining, there are amendments to delete and there are amendments to change. I want to explain that before we delete it, there are some things that should be considered by this convention before we delete Section 8 in its entirety. I understand that we've covered it in the convention before, and I don't think we need another article on Royalty Road Fund per se. There is some language that should be placed in the constitution.

MR. BROWN

You say amendments are coming up to place that language in so you. . .

MR. BOLLINGER

Yea. Yes, sir; there is. But, I just wanted the convention to know this rather than just go ahead and delete it and say we already handled it in the Revenue Article.

MR. CHAMPAGNE

Mr. Bollinger, do you know that in Revenue, Finance and Taxation representatives of the local government came to our committee and said they would just as soon have that money rather than have it in the state treasury, so if they wanted to invest it, they could invest it? That's the reason why we did it the way we did.

MR. BOLLINGER

Mr. Champagne, I'm not arguing what we adopted. I don't agree with it, but I'm not going to argue with it. I'm not trying to oppose it. This is what the committee offered in light. . . and we didn't know which committee proposal was going to come up first. The Committee on Revenue, Finance and Taxation Article was adopted. This is still in our committee proposal. But, before the convention deletes it in its entirety, I just wanted to let the convention know that there were some issues that should be discussed before it was deleted.

Chairman Henry in the Chair

MR. HENRY

Read the Perez, Miller, Gravel amendment, please, sir.

Amendment

MR. POYNTER

Amendment no. 1. On page 2, delete lines--this amendment is sent up by Delegates Perez, Miller and Gravel.

Amendment No. 1. On page 2, delete line 32 in its entirety and on page 3, delete lines 1 through 7, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 8. Royalty Fund.

Section 8. As used in Article XI, Section 4 (D), 'state-owned property' means state-owned land, lake and river beds, and other water bottoms belonging to the state or the title to which is in the public for mineral development. The governing authority of a parish may fund its one-tenth of the royalties from mineral leases on such state-owned property into general obligation bonds of the parish in accordance with law. Neither the provisions of this Section nor the provisions of Article XI, Section 4 (D) shall apply to those properties comprising the Russell Sage Wildlife and Game Refuge."

Explanation

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, after Article XI, Section 4 (D) was adopted in which one-tenth of the royalties from mineral leases went to the various parishes, several defects were called to the attention of many of the delegates. This particular amendment would have for its purpose, first of all, to delete the Royalty Road Fund, as such; that is, another ten percent because we'd be giving the parishes twenty percent instead of ten percent if we were to leave this particular amend-

ment in. So, we would delete the entire proposal as it is. But, we would clean up certain language in . . . or clean up the situation so that we would not do any violence to the present constitutional provisions. First of all, the present constitution, when it talks about what the royalties from what the levee districts or rather the parish is entitled to receive, it says, "state-owned land, lakes and river beds and other water bottoms belonging to the state or the title to which is in the public for mineral development." All we would do would be to say that when in Section. . . in Article XI, Section 4 (D) the words "state-owned property" were used, it means these various things so that we will continue, in effect, the present provisions of the constitution. Under the present constitutional provision, the local . . . the authority is granted for the funding of these proceeds and the bonds so that they can go forward with the building and construction of roads. Unless we have that authority, it might jeopardize the road program of the parishes because they need to be able to bond these monies in order to be able to build the permanent improvements. The last sentence deals with what is known as the Russell Sage Foundation and there is a provision in the donation where if any of the clauses in the donation of this 85,000 acres of land are not carried out, then the lands would revert to the original donors. In order to be sure that there can be no problem with this--and this is what is better known as Marsh Island--the Royalty Road Fund does not apply to this 85,000 acres of land. So, I submit to you, this is primarily just to clean the matter up. It's been gone over by most of the people that are knowledgeable in this subject matter.

I'd move the adoption.

Questions

MRS. MILLER

Mr. Perez, would you call the attention of the delegates to the sheets which are attached to my separate amendment which explains the problems with the Russell Sage Foundation, 'cause many of them may wish to keep it?

MR. PEREZ

If you will look at . . . there was a separate amendment by Mrs. Miller which would have taken the last sentence of my amendment. It gives an explanation on the Russell Sage Foundation and what the problems are with respect to it.

If there are no questions, I move the adoption.

Delegate Jenkins in the Chair

MR. BOLLINGER

Mr. Perez, in light of what this convention decided in the Revenue, Finance and Taxation Article, did you know that your amendment covers all of the objectives that the committee wished with Section 8?

MR. PEREZ

Yes.

MR. PLANCHARD

Chalin, how does that first sentence. . .

MR. PEREZ

I'm sorry, I can't hear you.

MR. PLANCHARD

How does that first part of your amendment differ from the present constitution?

MR. PEREZ

It's exactly the same as the present constitution with respect to the definitions. That's why we wanted to be sure it was included in this.

MR. LEBLEU

Mr. Perez, I just wondered if your reference to Russell Sage Wildlife and Game Refuge is the proper wording? As I understand it, the Russell Sage Foundation has different enterprises. I think what we were primarily wanting to refer to is the Marsh Island Game and Wildlife Refuge.

MR. PEREZ

All I can tell you, Mr. LeBleu, is I relied upon Mrs. Miller and the other persons who are knowledgeable in that field to prepare that part of the amendment. I'm sure it's . . . I'm reasonably sure it's all right.

MR. LEBLEU

Well, I talked with some people in the Wildlife and Fisheries

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Commission yesterday morning who had asked me to submit an amendment which would do exactly what we're trying to do and they referred to it as the Marsh Island Game Refuge.

MR. PEREZ

Well, all this would refer to, Mr. LeBleu, is that provision where it says that these one-tenth of the royalties go to the parish. It would have no effect on anything else. So, I don't believe that there's any problem involved.

Further Discussion

MRS. MILLER

The committee has no objection to the amendment. I will mention, in answer to Mr. LeBleu's question about the Russell Sage Foundation, it does primarily concern the 85,000 acres of Marsh Island. But, with some of the royalty monies which the Russell Sage Foundation had derived along with the state, the Russell Sage Foundation has bought three other wildlife refuges in the state. So, we're talking about a considerable area of land that has been set aside for the wildlife in the state as well as the Marsh Island land. We think this is a very important amendment. The committee has no objection to the amendment by Perez and Gravel and would urge that you adopt it.

Questions

MR. DENNERY

Ruth, I didn't understand one thing you said. You said that the Russell Sage people had bought additional properties and created additional game and wildlife refuges. Is that correct?

MRS. MILLER

Yes.

MR. DENNERY

Now, is . . . if there are any minerals under that, do they come under the arrangement that was worked out for Marsh Island?

MRS. MILLER

Yes; this would be all within the Russell Sage amendment, here.

MR. DENNERY

Well, then, don't you think you ought to change the last word to make it plural, because there may be more than one Russell Sage Wildlife and Game Refuge?

MRS. MILLER

Well, it might be a technical amendment we might need, Mr. Dennery, but this was the language that the Mineral Board used. I don't think . . . I think that they have an understanding of what it's all about.

. . . and that it wouldn't be a problem.

MR. HERNANDEZ

Mrs. Miller, is the Rockefeller Foundation . . . is the Rockefeller Foundation so affected?

MRS. MILLER

No, because they have different terms under which that property was . . . could entrust with the state. We had the problem with the Russell Sage Foundation because of the reversionary clause in it. It's taken many acts of the legislature to provide for the mineral leasing without violating . . . doing violence to the terms of the donation under which the heirs could call for the reversion of the property. But, we don't have that problem with the Rockefeller.

MR. HERNANDEZ

They don't have a reversionary clause in the Rockefeller deed?

MRS. MILLER

I can't understand . . . hear you.

MR. HERNANDEZ

Don't they have such a clause in the Rockefeller deed?

MRS. MILLER

Evidently not, because when the Mineral Board looked at this, they didn't think they had any problem at all as far as royalties going back to the parishes.

[Previous Question ordered.]

MR. RAYBURN

Mr. Perez, in your opinion, here, in your amendment where you say, "as used in Article XI, Section 4 (D)," and you define "state-owned properties." Now, as you well know, under the present constitution, the Royalty Road Fund can only be used for roads. It can be used by mayors in municipalities for any road or any type of transportation. Well, can that money still only be used for roads, or can the . . . now, under this thing. . .

MR. PEREZ

Senator, under your committee proposal, it can be used for . . . it's just remitted to the parish. I offered . . . let me tell you, I offered an amendment together with Mr. Bollinger to limit it just to roads, but the convention decided against it. So, I . . . Mr. Bollinger and I tried to limit it just to roads, but unfortunately it was not passed that way.

MR. RAYBURN

What I'm thinking, though, this language here where you refer back to the present article, that would not give it back just to the roads would it? I . . .

MR. PEREZ

No, it would not. All it would do would be to clarify what the word "state-owned property" is. I might say that our suggestion is that Style and Drafting will put these words back into the Revenue Article instead of having a separate provision on it.

MR. RAYBURN

Well, in other words, now, under Article XV, what has been the Royalty Road Fund, the mayors will have no more use of that fund. It will go directly to the governing authority of the parish to be used at their pleasure. Am I correct?

MR. PEREZ

Well, for public purposes.

MR. RAYBURN

That's right, for public purposes. But, I mean, they can build . . .

MR. PEREZ

A hospital with it. . .

MR. RAYBURN

Anything they want to.

MR. NUNEZ

Mr. Perez, the question just asked by Senator Rayburn, that money never . . . the mayors and municipalities never had specific use of it before. It was . . .

MR. PEREZ

No, it just continues the same as it was before as with respect to who has the control over or the determination of the use.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

The gentleman sends up amendments which read as follows: Amendment No. 1. On page 2, line 32, in Floor Amendment No. 1 proposed by Delegates Perez, et al, and adopted by the convention just now, on line 2 of the text of the amendment, immediately after "Section 8." and before the initial word "As" insert "(A) and at the end of the language added by the text of the amendment add the following: "(B) No conveyance, lease, royalty agreement or unitization agreement involving minerals or mineral rights owned by the State of Louisiana shall be effected without prior public notice or public bidding."

Chairman Henry in the Chair

Point of Order

MR. PEREZ

I reluctantly object to the amendment. I don't believe it is germane to the subject matter of this particular section.

Ruling of the Chair

MR. HENRY

Mr. Perez, I'm going to have to rule that you're correct

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that the amendment is not germane to the section as has just been amended by you. So, the Chair rules that the amendment is out of order.

[Previous Question ordered on the Section. Section passed: 95-4. Motion to reconsider tabled.]

Recess

Vice Chairman Casey in the Chair

[Quorum Call: 82 delegates present and a quorum. Record vote ordered on Quorum Call: 83 delegates present and a quorum.]

Amendment

MR. POYNTER

Mr. Burson sends up an amendment at this time adding a section. There's been some confusion on reproduction of this. We're going to get some more copies of this run because of the fact that Mr. Burson previously was going to offer this as an amendment to the prior section which, of course, he withdrew at the time it was declared out of order as being non-germane. But, he sends up a new section--we'll get the copies momentarily-- which will read as follows:

"Section 6.1. Public Notice; Public Bidding Requirements

Section 6. 1. No conveyance, lease, royalty agreement or unitization agreement involving minerals or mineral rights owned by the State of Louisiana shall be effected without prior public notice or public bidding."

Explanation

MR. BURSON

Mr. Chairman, fellow delegates, this morning sixty delegates voted for a much more sweeping clause suggested by Mrs. Miller, but there was objection by a number of delegates that her amendment included too much, that it might include routine state business of other state agencies than the one that she apparently intended to affect the most: that is, the business of the state with regard to the minerals. I suggest to you because oil and gas is the most important natural resource of the state that it only makes sense to require any conveyancing, leasing, royalty agreement or unitization agreement involving these minerals in these times to be on top of the table and done with proper public notice or public bidding. Now, it may be objected that this is already accomplished by the statutes, I don't know that to be the case, some people feel that it is not adequately accomplished by the statutes. I certainly see no harm that could be done by making this plain and simple statement in our constitution mandating that any transaction involving minerals owned by the State of Louisiana should be done after public notice or public bidding. It seems to me it would be anomalous in the extreme to require as we do today all public agencies on the local level to advertise any time they're constructing a project involving more than twenty-five hundred dollars and to permit the Mineral Board or any other state agency to engage in binding contracts involving the mineral wealth of this state without adequate public notice. The statement I propose to you is simple, it encompasses only one object and I do not see how it is subject to a great deal of interpretation. Therefore, I request your adoption of this statement as a section of the Natural Resources Article.

Questions

MR. AVANT

Jack, this is just one of those questions that's just for the record.

You mention in this "unitization agreement" and my understanding of the law is that the power and authority to create units for the production of hydrocarbons is vested in the Department of Conservation under what was Act 157 of 1940 and is now in the Revised Statutes.

MR. BURSON

Yes, sir.

MR. AVANT

That's the only authority for a unitization agreement.

MR. BURSON

Yes, sir.

MR. AVANT

Now, it would not be the intent of this amendment to lock into the constitution the provisions of Act 157 of 1940 and

the concepts therein contained as to the conservation of oil and gas and other hydrocarbons?

MR. BURSON

Not at all. I just included unitization agreement because, of course, there can be voluntary unitization agreements and these could be entered into voluntarily by some state agency. That's why I included that phrase in there.

MR. DERBES

Jack, it seems to me that this principle is somewhat like the principles that we're dealing with in the Bill of Rights Committee Proposal where most everyone can agree that the principle is a good one, but it's difficult to state it succinctly and concisely and explicitly in our constitutional framework. As I understand it, the legislature would essentially have to prescribe the terms for the prior public notice and public bidding; isn't that pretty much the case?

MR. BURSON

Yes, sir. They have done so with regards, for instance, to local governmental subdivisions as I mentioned in my discussion.

MR. DERBES

Finally, why do you state "prior public notice or public bidding" in a disjunctive rather than the conjunctive?

MR. BURSON

Well, because I think, for instance, in the case of conveyancing or leasing you certainly would want to have public bidding as well as public notice. Whereas, in unitization agreements you probably would not. I wanted to include them all in as short a sentence as I could.

MR. DERBES

So, what does "public notice" to you mean as a term of art?

MR. BURSON

Well, I think, "public notice" as a term of art in our law as I know it would usually mean "notice of some sort in the newspaper." I look upon the press as the primary guardian of the public good in this instance as in all other instances involving money or important resources of the state. If the press has notice of it, I find usually a good reporter will go down and nose around into the thing and if there is something that is wrong with it, he'll let the people know about it. Also, in the area of mineral rights we've got a lot of private parties that are interested in what happens in these particular situations because of the competitive aspects of oil and gas industry.

MR. DERBES

But, "public notice" doesn't mean notice to the press, it means "notice in the press."

MR. BURSON

That would be my interpretation.

MR. CHAMPAGNE

This, Mr. Burson, is one of those for the record votes. Would my vote on this amendment be contingent on my right to ride back with you this afternoon?

MR. BURSON

No, sir, not at all, not after the three dollar license plates.

Further Discussion

MR. LEIGH

Mr. Chairman and ladies and gentlemen of the convention, as I said to you this morning, I am not opposed to the concept that the state in disposing of its mineral rights or in contracting for the refinery of its oil or the possibilities raised by Mrs. Miller this morning, I'm not opposed to the concept that there should be public bidding and public advertisement on it. But, I am very much afraid that the language of this amendment would hamstring the routine business of the Mineral Board. The Mineral Board acts upon unitization agreements and arrives at a division of the--almost every month-- arriving at a division of the amount due in a particular unit as between the state and the private landowner based upon studies made by the experts in the Mineral Board and an allocation if it's a reservoir unit a calculation of the amount of the cubic content of that reservoir that should go to the state, or... if it's a surface unit, a calculation of the amount of the surface that should go to the state. If those unitization agreements cannot be executed

without public bidding or public advertisement, I think, we're going to hamstring the operation of the Mineral Board in its routine manner. The powers and duties of the Mineral Board are spelled out very exhaustively in the legislature in the act creating the Mineral Board and it seems to me that this goes too far. I would oppose the amendment as it is drawn.

Questions

MRS. WARREN

Mr. Leigh, could you tell me how long it would take them to put an advertisement in the paper?

MR. LEIGH

I don't know, possibly a week before, I don't know how long it takes, but it's never always possible to outline the agreement in the newspaper advertisement. Just to say that a unitization agreement has been submitted to the Mineral Board conveys no information to the public whatsoever. Now, the operations of the Mineral Board are always open to the public. I think there is a public records act that they'd have to meet in public, and all of the contracts, unitization agreements or anything else adopted by the Mineral Board are adopted in open session after a discussion of it. The preliminary matters are open to the public and I can see no advantage to be gained from an advertisement that a unitization agreement has been applied for.

MRS. WARREN

Well, Mr. Leigh, what I was really trying to find out, you seem to think they would not have time and, of course, that is your opinion that it wouldn't be of any interest. However, some people do feel that it should, would you agree to that?

MR. LEIGH

Do I agree that some people feel it should?

MRS. WARREN

Right.

MR. LEIGH

Evidently, they do because the amendment has been offered.

MRS. WARREN

Right. But, I'm... what I'm really trying to get at, do you think it would take any significant length of time to get advertised in the paper what Mr. Burson was talking about?

MR. LEIGH

Mrs. Warren, what I think about it is that it would... it would just practically disrupt the routine operations of the Mineral Board. Most of these unitization agreements are strictly routine matters, letter agreements dealing with the allocation of royalty as between them based on engineering calculations, and I think it would just simply disrupt the routine operations of the Mineral Board if we put a provision like this in the constitution.

MRS. WARREN

Mr. Leigh, one more question: don't you think that some-time interruption would not be the prime interest, it would be the interest of the people?

MR. LEIGH

Mrs. Warren, I think that the interests of the people are amply provided for in the statutes that creates the Mineral Board and gives it the power that it exercises.

MRS. MILLER

Mr. Leigh, if I am understanding you right, aren't you saying that the Mineral Board likes it so they can work in secret and not have too much publicity about those unitization agreements. You know unitization agreements, isn't it sometimes just another name for a big giveaway?

MR. LEIGH

No, Mrs. Miller, I don't ... to answer your last question or to answer in reverse order, I don't think that a unitization agreement or the execution of a unitization agreement based on the recommendations of the professional staff of the Mineral Board, I don't think it's a giveaway in any sense of the word. Now, then to answer your first question: as to operating in secret, so far as I know, the Mineral Board does not operate in secret, and if it tried to operate in secret, certainly it would be illegal for it to do so because it's a public body and its meetings are open to the public. So far as I know, they are open to the public at this time.

Further Discussion

MR. VELAZQUEZ

Mr. Chairman, fellow delegates, I'm not going to stand up here and tell you that I'm an expert on the oil and gas law of the State of Louisiana. But, I don't think you have to be a weatherman, or have a degree in meteorology to know that it's raining out there. It's raining when it's raining. You don't have to have a degree in medicine to know if your arm hurts. Mr. Leigh says that all of this work is just routine. If all the mineral board is doing is routine work, how could they possibly object to letting the people know what's going on? No one says that what they put in the newspaper has to be a word-for-word rendition, or word-for-word copy of an engineering report. All they have to do is give a statement that expresses the totality of what they are doing. They don't have to buy twenty pages of advertising and tell us word-for-word, step-by-step what they are doing. But, in broad terms, since the mineral board works for the people, since all of these engineers, and all of these experts are paid their salaries by the people, why shouldn't the people know what they are doing? Why shouldn't the people know what they are doing with the property of the people, which the property of the state is? I think Mr. Burson has a fine amendment. I don't see how anyone could stand up here and say that no conveyance, lease, royalty agreement or utilization agreement involving minerals, or mineral rights owned by the State of Louisiana shall be confected of prior public notice or public bidding, and said this might interfere. How can anyone dare say that the people shouldn't know the people's business?

I urge your support for the Burson amendment.

[Previous Question ordered.]

Closing

MR. BURSON

Mr. Chairman, fellow delegates, just a brief closing. I have great respect for Mr. Leigh. It just so happens in this particular instance that I disagree with him. I think that certainly you may, to some extent, hamstring, as he says, the routine business of the mineral board--just to the extent that the public bid law hamstring what used to be routine business in a lot of local government agencies--whether cities, parishes, or school boards. But, this is done for a very necessary purpose--to protect the public. To give the public adequate knowledge of what is being done on the one hand in the public bid law with its tax money. In this case, with the most important, natural resources that this state has. Some inconvenience may be necessary to achieve that purpose. I think we should also keep well in mind, here, that there has been legislation lately which has suggested some very unusual power be vested in certain agencies of this state with regard to oil and gas. It may be that this unusual power is necessary. But, when we vest this unusual power in some individuals or agencies, we'd better be sure that we have somewhere in our basic law a guarantee that before they can dispose or reach important agreements involving these resources, that they've got to notify the public about what they are doing. That is the purpose of this amendment. I think it's plain. I think it's simple. I think it's good business for the public. I urge your support.

Questions

MR. ANZALONE

Mr. Burson, I direct your attention to unitization agreements. Is it not true that these agreements are always subject to a great deal of confusion and conjecture?

MR. BURSON

There is no question about that, Mr. Anzalone. I never cease to be amazed how, in my few appearances for the conservation commission, that oil companies always seem to contend that the geology under the ground coincides with their lease lines.

MR. ANZALONE

Is it not also true that if we are going to have something that is subject to this great deal of conjecture, that it would be a good thing to state in this constitution that it is the philosophy of not only this convention, but of the people of this state, that at least we will have this conjecture in an open hearing?

MR. BURSON

Absolutely.

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MR. JONES

Mr. Burson, this is more restrictive than the amendment we rejected down, because we had there, beforehand, three alternatives. Now, we don't even have the third alternative.

MR. BURSON

Mr. Jones, it was intentionally more restrictive. I'm not trying to mislead you there. I think you ought to have either public notice, or public bidding on these matters. I don't think other arrangements are satisfactory, because the motivation behind this is to let the people know when these important rights are being contracted about or dealt with.

MR. JONES

One other question, Mr. Burson.

Suppose we have a transfer of a mineral interest in which is from one...private individual to another--where he sells his mineral interest. Now, you know under the present system, the... you have to have the approval of the mineral board. Now, when "X" sells a portion, or all of his mineral interest on a state lease to another individual, is this going to have to be a subject of public notice, or of public advertising?

MR. BURSON

I don't think that's what this is intended to do if read in context.

MR. JONES

In other words, it's your opinion that when one individual transfers a part of his mineral interest to another one for a consideration, even though it's subject to approval of the mineral board, it has no necessity that this provision shall apply to that type of transaction.

MR. BURSON

No. I think anything that has to be subject to approval of the mineral board ought to be...noticed, too. I don't see the big problem with public notice. You know, I belong to a public body that has all sorts of public notice requirements. This is handled very routinely in the local newspaper. That's no big problem. Every city, every parish, every school board in this state has many public notice requirements that they have to adhere to. I don't see where the mineral board ought to have any great difficulty here.

MR. JONES

If I...sell you a part of my interest in a mineral lease that I have, then you would require that it be published in the newspaper before the approval was had by the mineral board. Is that correct?

MR. BURSON

Mr. Jones, you have indicated that it has to be approved by the mineral board. If it has to be approved by the mineral board, then it has to be on their agenda. If it's on their agenda, there's no earthly reason why they shouldn't give the public advance notice of what their agenda is.

MR. JONES

I just wanted to know what your reaction was.

MRS. ZERVIGON

Mr. Burson...this is just a question for clarification. Who would pay for the public notice?

MR. BURSON

I think that the mineral board, or the agency involved pays for the public notice.

MRS. ZERVIGON

The agency pays?
Thank you, very much.

[Amendment rejected: 60-40. Motion to table reconsideration rejected: 45-53. Motion to reconsider. Record vote ordered.]

Closing

MRS. MILLER

Gentlemen, I just as...and ladies, I think it is just a very simple thing, if you want to keep your public officials and appointed officials honest, and help them to be honest. You know my grandfather used to say the best way to keep a man honest was not to ever put too much temptation in his way. Believe me,

gentlemen, that's why I always go with my husband to conferences and conventions.

Now, I want to tell you, it's not if they're going to do anything right anyway. This is not going to hurt your appointed officials running that mineral board. They will object to it if they do want to have a lot of leeway to do as they please. It's this simple. I think you should consider this and get this thing sixty-seven votes. It will be sixty-seven votes for good government. I ask your reconsideration. Please vote yes.

[Motion to reconsider adopted: 57-46.]

Reconsideration
Further Discussion

MR. DERBES

If I could sway a couple of votes, it would be worthwhile.

Ladies and gentlemen, I rise in support of the amendment. If I were to draft a public bidding statute, or a statute requiring prior public notice, it would be a whole heck of a lot more detail, and more onerous on public officials than the one that we've stated in this amendment.

I'd like to point out to you that the amendment is stated in the disjunctive. It says that "either prior public notice is required, or public bidding." It doesn't necessarily have to be both. Prior notice is not only public advertisement in local newspapers. It can be much simpler and much more convenient for the local agency...for the various agencies than that. It can be the mere posting of notice on the courthouse door, or in some conspicuous place where people may see it. Advertising is something that public agencies have to do from time to time. It's very easy for them to do. They get special rates from newspapers. It is hardly a substantial inconvenience. It is hardly a substantial inconvenience, and it is something that we should be prepared to do by way of general requirement in order to promote disclosure in government.

If I can make any difference whatsoever in...encouraging a half dozen more votes for this section, then my time is not wasted. Thank you.

Chairman Henry in the Chair

Questions

MR. WILLIS

Mr. Derbes, don't you think that any public service who would oppose publicizing public business would be tantamount to advocating making them secret?

MR. DERBES

Where there's smoke, there's fire, Mr. Willis. I...that would be my response to the question.

MR. CHAMPAGNE

Do you know, Mr. Derbes, that if it said, "as provided by law," that maybe I'd vote for it?

MR. DERBES

Mr. Champagne, let me explain that to you. I think it's very important. It...what that amendment says is that there has to be either prior public notice or public bidding. Now, the legislature can adopt, in the police power clause, the legislature can provide for methods of public bidding, or methods of public notice. That sets forth a bare minimum--a bare minimum. There must be either a type of public notice, or a type of public bidding as a bare minimum.

By way of further expatiation on that particular phrase, the legislature can incorporate and provide as much detail as it may deem necessary, but not below the constitutional minimum.

MR. AVANT

Why was this drawn so as to exclude, and I think it does exclude, political subdivisions of the state, or levee boards, or school boards, or other individual boards that may have oil producing or mineral producing property?

MR. DERBES

Mr. Avant, I only....I can only suggest to you that your question is addressed to the wrong person. I don't know who drew....I know that Mr. Burson has presented the amendment. I can't explain it for him except to say that as a basic requirement for state agencies, I support it. I would support it if it went to the extent that you suggest it should go. I would support it then, too. I can't answer that question.

MR. ARNETTE

Ladies and gentlemen, I think this amendment goes pretty much to the heart of the democratic process; that is, letting the people know what their government is doing. We went to great pains here at the convention to make sure that all our meetings would be public. Everything that we decided would be public. All of our votes would be public. The same thing is true of the legislature. This is merely...just says a state agency can't do something without it being public. I think if the state's mineral rights are being contracted about and with, or contracted away or sold, or given, the people of this state ought to know about it. That's all this says. It's a very bare minimum type of provision saying you have to have public notice. The legislature can provide what type of notice. We don't...go into anything in great detail at all. But, it just says "we have to have public notice." I think this is what the people of the state want. They don't want anybody voting in secret up here. I don't see how we should have our agencies voting in secret about some of the vital interest...probably the greatest natural resources, the State of Louisiana. I urge you to adopt the amendment.

Thank you.

MR. KILBOURNE

Mr. Arnette, when you put, you say "public notice" in the constitution, just what do you...envison by that?

MR. ARNETTE

What do I envision by it?

Well, it depends on how the legislature....

MR. KILBOURNE

How much notice would it be? Would it have to be on television, in the newspapers? How would the public be notified?

MR. ARNETTE

It would probably be the same way they are notified about everything else like a public land sale, or something like this; a couple of publications in the newspaper. But, at least the people would have an opportunity to know that it would be happening.

MR. KILBOURNE

But, this doesn't say that, does it?

MR. ARNETTE

No, it doesn't, sir. That's why I'm saying the legislature can provide the method of notification just like they provided the method of notification in public land sales, tax sales, things like this. I envision that type of public notice. Just something to let the people know that their mineral rights of the state are being contracted away--or sold--or whatever.

MR. BURSON

Mr. Chairman, fellow delegates, with permission of the convention, I would move to withdraw the amendment and add, resubmit it adding words that would make it plain that the type of notice and of bidding would be provided by law, because this seems to be a concern--good faith concern of a good many people here. I would ask that permission now.

[Amendment withdrawn.]

Amendment

MR. POYNTER

The gentleman resubmits the amendment with the following change: At the end of the text of the amendment after the "bidding" delete the period "." and add "as shall be provided by law."

Explanation

MR. BURSON

A number of delegates expressed concern that some court might conclude that it was the intent here to specify a particular kind of notice, which it was not. I assume that this would be covered by statute and that is the purpose of the change. However, I say "as shall be provided by law," so that it's not a maybe but there must be a provision for either public notice or public bidding in such matters. I think this achieves the purpose that I had in mind and removes some questions in the mind of many of the delegates.

Point of Information

MR. MUNSON

Since this amendment was up for reconsideration and it's been withdrawn and resubmitted, is it still up for reconsideration?

MR. HENRY

Yes, sir, it certainly is.

[Previous Question ordered. Amendment adopted: 74-28. Previous Question ordered on the Section. Section passed: 97-5. Motion to reconsider tabled.]

MR. HENRY

Now move to Section 14, Paragraph (B).

All right, Mr. Clerk, read it as amended.

Reading of the Paragraph

MR. CASEY

As amended to date, Paragraph (B) reads as follows:

"The commission shall regulate all common carriers and public utilities provided by law. It shall adopt it and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law."

(B) hasn't been amended, (A) was amended.

Amendment

MR. POYNTER

Amendment No. 1. On page 5, at the end of line 23, insert the following:

"Such rules, regulations, and practices shall, insofar as practicable, encourage competition in production among the common carriers and public utilities subject to the authority of the commission."

Vice Chairman Casey in the Chair

MR. CASEY (IN THE CHAIR)

Mr. Jenkins will explain his amendment.

Explanation

MR. JENKINS

Mr. Chairman, delegates, I don't think this will be controversial; it's an attempt to provide in our constitution that if it's practicable, in other words, if it's practical, or if it's possible, or if it's reasonable that there be competition in a given industry or area then the commission shall adopt rules and regulations that will be consistent with that and that, insofar as practicable, the rules and regulations of the commission should also encourage production. So, I urge the adoption of that amendment. I think it will cure some ills.

Questions

MR. BROWN

Woody, I don't fully understand the intent, you talk about encourage production, well, of course, common carriers don't produce. You talk about public utilities, I guess you talk about what they generate. I don't see where production is relevant to common carriers and public utilities. Would you explain that to me, number one? Number two, what is your...would you elaborate a little bit more in terms of what you mean by competition? Just by what we have done in the legislature under the Energy Bill, for instance, with the common carriers it's nothing that really stimulates competition, it's a more a way of getting them together and regulation under what we've done almost by definition greatly limits competition. What are you trying to get at in this amendment when you're talking about competition and production? They seem to run counter to what we are doing in the article and what the Energy Bill did in the legislation, and I just don't fully understand.

MR. JENKINS

Well, obviously, in some instances it's not practical or reasonable to have competition in a given area. For instance, it might be generally agreed that it's not practicable to have more than one light company in the city of Baton Rouge and so forth. But, in certain areas particularly with regard to common carriers it is both practical and reasonable because we are talking

about truckers that haul between Baton Rouge and Shreveport. It would certainly not be reasonable to say that only one firm could do that if there was a great demand for use of that. With regard to production, we're talking about really productivity, efficiency—things like this—production as it applies to common carriers would mean that they operate in such a way that it's going to maximize the production available to them and that might mean cost per man hour, or cost per pound, or mile, or however you might want to compute it. We've had some problems in the past, there have been a number of cost decisions that have upheld all sorts of rulings of regulatory commissions that are really borderline on being arbitrary, situations where you...commissions have required back-hauls to be empty and things like this; things like that just are counter productive. So, what all of this is saying, insofar as its practicable to have competition and to encourage production that the commission should strive to do that. Now that would, I think, in limited circumstances give people a little bit of additional legal authority to demand that they be given a competitive situation; that's what I'm talking about.

MR. SINGLETARY

Woody, the Section 2 refers to rules, regulations, and procedures and your amendment refers to "Such rules, regulations, and practices;" is that an error?

MR. JENKINS

That's a typographical error; let me withdraw that and resubmit it, if I may.

[Amendment withdrawn.]

Amendment

MR. POYNTER

All right. The word "practices" ought to be "procedures"; is that correct, Mr. Jenkins?

All right, that's the only change.

The first line of the text of the amendment the word "practices" ought to be "procedures."

MR. JENKINS

I move the adoption, Mr. Chairman.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, I have read this amendment as proposed by Mr. Jenkins very carefully and I can't see that it adds a thing in the world to this constitution; it doesn't do any harm; it doesn't do any good and for that particular reason, I just don't feel like we ought to put it in the constitution. As far as I'm concerned, it don't make that much difference, but I'm just going to vote against it for that particular reason because I don't see where it can do a bit of good in the world. If the legislature can provide the rules, they can fix them up like they should be, that is, they can make the Public Service Commission provide the type of rules that we need in order to promote competition if they say that's what we ought to do and for that particular reason, I'm going to vote against it.

Further Discussion

MR. SINGLETARY

Ladies and gentlemen, I think Mr. Jenkins' intent is good but the idea of the Public Service Commission is to regulate utilities. Utilities by their nature are necessarily monopolistic, so I urge the rejection of this amendment.

[Previous question ordered.]

Closing

MR. JENKINS

The reason that this is necessary, really, is there is some doubt when you have constitutional commissions to what extent the legislature can direct their activities and control them. While it is true that in general most public utilities are monopolistic in their nature, there are instances where you don't have to have it that way and certainly with regard to common carriers that's particularly true; so, I urge the adoption of this amendment.

[Record vote ordered. Amendment rejected:
37-65. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Abraham sends up amendments at this time.

Amendment No. 1. On page 5, line 21, after the word and punctuation "duties," delete the words "and shall" and insert in lieu thereof the following: "and shall render decisions on applications, petitions, and proposed rate schedules in the manner provided by law. It shall"

Explanation

MR. ABRAHAM

Mr. Chairman, ladies and gentlemen, the purpose of this amendment is to provide the language in Paragraph (B) which will leave the procedures by which the Public Service Commission will do its business in the statutes rather than in the constitution. Now, before the section was divided so that we will take it by paragraph and by paragraph, I had one amendment which was going to delete the language of Paragraph (D). Now, Paragraph (D) if you will look at it—Mr. Chairman, I'm going to have to talk about Paragraph (D) even though we are on Paragraph (B) right now—because this is the heart of my amendment. Paragraph (D) sets out a lot of statutory language which spells out how the Public Service Commission is going to render decisions on rate schedules.

And, from time to time we have written lots of statutory material in this constitution. But, I think in this one particular instance here, we are writing too much because we are spelling out in detail how a commission is going to operate. We are spelling out how it's going to...what time limit it has to render a decision and what happens if it does not render a decision, how the rates are going to be put into effect on the bond requirements and so forth. Now, I see no need for all of this language in the constitution. I don't think we spell it out in this much detail any where else. Now, I understand some of the problems we have had in the past where the Public Service Commission has failed to render decisions as it should have. But, I say to you the place to correct this is in the legislature, and in the statutes, and not try to correct this thing in the constitution where we try to set up a procedure that may not work and may have to be changed. If you will look at what we are getting ready to put in there, we're saying that rates can go into effect without even having a hearing. What we are doing we are going to place the burden on the consumer to take the Public Service Commission....

We're going to place the burden on the consumer to have to go to court or take the Public Service Commission to court in order to get a decision out of it. The language in here states that rates will go into effect after six months on temporary basis. It states that the commission has to render decision in twelve months, but what happens if the commission does not render a decision? There is nothing in here to say whether the rates are finally approved or what. But, the point is this, that we are just writing a lot of language in here that I don't think we're going to be able to live with in the long run and it's being put in here for one reason and one reason only that I can see and that's to correct the situation which happened one time to my knowledge and instead of the parties going to the legislature and try to get it corrected, they are trying to do it in this constitution.

MR. CASEY

Do you yield to questions?

MR. ABRAHAM

I'm not through yet. What I am attempting to do here is simply saying that these various rate schedules, petitions, applications will be handled in the manner provided by law prescribed by the legislature, it makes it all statutory. They set up the rules by which it will operate. Even in the present language....

Point of Information

MR. SHANNON

What are we discussing? Are we discussing Paragraph (B)? Is that what we are considering, Mr. Chairman?

MR. CASEY

Mr. Shannon, we're on Paragraph (B), that's correct.

MR. SHANNON

I find it hard to follow the explanation that's being given here in Paragraph (B).

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Explanation continued

MR. ABRAHAM

Well, Mr. Chairman, if I might explain to Mr. Shannon and the delegates, that in order to know what is being...the amendment as it applies to Paragraph (B) you must know what is going to follow and the language I'm attempting to place into this Paragraph (B) right now is so that we can eliminate the language of Paragraph (D). Even in the present language there is reference to the provisions that the legislature will have to prescribe on the bond requirements and so forth. So, I'm saying we should put all of this language into the statutes and not burden our constitution now with a bunch of language, with a lot of language here that to me is purely statutory. We have not done this anywhere else. We are being asked to correct something here in the constitution that I don't think we have any business getting into. I say to you again that we are legislating rather than writing a constitution. I ask you to support this amendment.

Questions

MR. DE BLIEUX

Mr. Abraham, I'd like to know what the legislature could do under your amendment that it couldn't already do under the language that's already provided in Paragraph (B)?

MR. ABRAHAM

This makes it clear that the legislature will describe the manner in which the Public Service Commission will render its decisions.

MR. DE BLIEUX

Well, doesn't it already have that power under the provisions of Paragraph (B)?

MR. ABRAHAM

Well, Mr. De Blieux, we have stated time and time again in this convention that the legislature has the...whatever authority that's not denied to it by this constitution but we come back time and time again and say that the legislature shall do this as prescribed by law.

MR. DE BLIEUX

Now, couldn't they do that under the provisions as presently under Paragraph (B)? Isn't that....

MR. ABRAHAM

Yes, they can do it under those provisions. I just want to make it abundantly clear that the legislature will prescribe how the Public Service Commission will operate in the area of rate increases and schedules.

MR. DE BLIEUX

So, as a result of the provisions that's already in Paragraph (B), your language really wouldn't add very much to that except just to say that they had the power to decide what time the Public Service Commission would have to render their decisions; isn't that correct?

MR. ABRAHAM

I think it adds quite a bit to it, Senator.

MR. DE BLIEUX

Don't you think this is just additional language that's unnecessary?

MR. ABRAHAM

No, because it says that "the Public Service Commission must render decisions," and this, as I understand it, is a problem right now because they are not forced to render a decision; there's no mandate that they have to render a decision within a specified period of time and this is what I'm attempting to make clear here.

MR. O'NEILL

Well, Mack, let me get it started then, if this amendment passes you intend to come with another amendment to delete just about the whole rest of the section; right?

MR. ABRAHAM

Paragraph (D) not the whole rest of the section, just Paragraph (D).

MR. O'NEILL

O.K. Now, let me ask you, would you tell me what the Committee on the Executive Department reported and then tell me if it's not, if it doesn't coincide with what this committee has reported.

MR. ABRAHAM

The Committee on the Executive Department was split on the report that we made.

MR. O'NEILL

But, their report was virtually the same as this committee report; am I correct?

MR. ABRAHAM

That's correct, but it was almost an even vote.

MR. O'NEILL

But, you disagree with that committee report?

MR. ABRAHAM

Correct.

MR. TAPPER

Mr. Chairman, Mr. O'Neill asked the same question I was going to ask. I would like to have the floor, Mr. Chairman.

MR. CHATELAIN

Mack, you wouldn't consider withdrawing your amendment at this time and let's discuss this later on in (D), would you?

MR. ABRAHAM

Do what now?

MR. CHATELAIN

Would you consider withdrawing your amendment? I mean, I think you are getting ahead....putting the cart ahead of the horse a little bit here. It looks like that you are trying to do violence to (B)...to (D) and (B) and you're trying to put this....throw it back to the legislature; is that right?

MR. ABRAHAM

Well, I'm taking it in the order in which we are handling the paragraphs, Mr. Chatelain. If we can come back and put this language in Paragraph (B) or if we feel that it is not necessary and we eliminate the language in Paragraph (D), then I would have no objections.

MR. CHATELAIN

Well, O.K., I can't understand what you are trying to do myself.

MR. ABRAHAM

Mr. Chairman, I request to withdraw the amendment.

[Amendment withdrawn.]

Amendment

MR. POYNTER

Mr. Arnette has amendments at this time. Amendment No. 1. On page 5, line 19, after the word "utilities" and before the word "it" delete the words and punctuation "as provided by law".

Explanation

MR. ARNETTE

I trust this is a very simple amendment to understand, but I'm going to go over it very carefully to make sure that everyone does understand it.

The first sentence of Paragraph (B) as it is presently written in this proposal, says that "common carriers and utilities are regulated if the legislature provides that they are regulated." That's exactly what it means. Or, conversely, it means that...utilities and common carriers are not regulated at all unless the legislature provides that they are regulated. There is no point in putting the Public Service Commission in here at all if there is no constitutional function that it serves. I think what we're going to have to do is put some kind of definite jurisdiction on the Public Service Commission if we are going to have it in the constitution at all.

Now, if you want to limit this jurisdiction, that's fine. Paragraph (C) is for that, and the oil limitation is put into Paragraph (C). But, if we keep this proposal in Paragraph (B) just like it's written now, there is no way whatsoever that the Public Service Commission will have any constitutional jurisdiction whatsoever. It will only have the jurisdiction that the legislature provides that it shall have. I think this is a mistake. I talked to Louis Lambert, the chairman of the committee,

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and he said, yes, they intended that the Public Service Commission should regulate all these common carriers and utilities, except the limitations in (C), and natural gas. Since the problem has come up during natural...having to do with natural gas. If you want to put this additional limitation on the Public Service Commission, that is fine with me. But, put it in Paragraph (C), and let's give some constitutional jurisdiction to the Public Service Commission.

I'll answer any questions that anyone has.

Questions

MR. DERBES

Mr. Arnette, we considered this problem quite lengthily and extensively in our committee deliberations. I'd like an opportunity to explain it to you. But what I suggest....

MR. ARNETTE

Could you talk a little bit louder, Mr. Derbes. I can't hear you very well.

MR. DERBES

Yes. I said we considered this problem very extensively in our committee deliberations, and I'd like an opportunity to explain it to you. But, what I would request at this time, is if you would consider changing your amendment to say that "the Public Service Commission shall regulate common carriers, and public utilities as they are defined by law."

See, the problem is a definitional problem--whether or not the Public Service Commission has jurisdiction over certain common carriers, and what constitutes a common carrier--whether or not certain types of pipelines are common carriers or not. It's one of definition. We did not intend to reduce the Public Service Commission's jurisdiction, but we wanted to give it a certain amount of flexibility so that industrial sale of natural gas as it's currently occurring in Louisiana, could not necessarily be abrogated by the Public Service Commission. Do you understand what I'm saying?

MR. ARNETTE

Well, I'm glad you asked me a question on the end of that.

No. I'll agree with what you are saying. I think maybe you ought to put in there something, "as defined by law," or something to that effect. But I think that we are going to have to have some constitutional jurisdiction for the Public Service Commission, or there is absolutely no reason to have it in there.

I would agree to an amendment to put that in there in the way that you have chosen to phrase it. I see no reason other than that, except for the fact that the legislature could decide, or they could say "the only common carriers in the state are the taxicabs." That would be their definition of common carrier. No one else would be regulated other than taxicabs. That is a flaw that I see in your particular amendment, and your idea.

I think common carrier and utility is a pretty well-known legal term. I think it would be well recognized, in decisions throughout this state, and throughout the United States, as a matter of fact. So, I don't see any....

MR. DERBES

You don't trust the legislature to define common carrier and public utility?

MR. ARNETTE

Well, I think if we are going to leave it up to the legislature, let's leave the thing completely up to the legislature. In other words, just give the whole thing to them and say, "If you want to have a Public Service Commission, you form a Public Service Commission." But, if we're going to leave all the jurisdiction of the Public Service Commission up to the whim of the legislature, then we may as well not have anything about it in the constitution at all because we could be paying either three men, or in this case, five men, now, for doing absolutely nothing unless the legislature chooses to give them something to do. I see no point in having something in the constitution that means nothing at all.

MR. TAPPER

Mr. Arnette, Mr. Derbes hit upon the real gist of my question. However, I'd like to go a little bit further. I think the committee had in mind when it said "as provided by law" certain laws that can be adopted by the legislature, but not to take anything away from the Public Service Commission.

But, don't you believe that if we have a hundred and forty-four representatives of the people deciding what the laws are, that we are in better shape than having only three in the whole state?

...what I objected to is that I think that you're....

I agree with what you are trying to do. But, if you take "as provided by law out", I don't think that's really what you want to do.

MR. ARNETTE

Well, Mr. Tapper, that's exactly what I want to do, because, unless we are going to have a Public Service Commission with constitutional jurisdiction over something, then we may as well not have a Public Service Commission at all, and let the legislature decide everything. That's what I'm getting at. Unless we take these four words out, then you may as well not put any of these words in the constitution because the rest of it is going to mean absolutely nothing. The legislature is going to be able to make all the decisions having to do with common carriers and public utilities.

MR. TAPPER

Well, Mr. Arnette, isn't it a fact that the Public Service Commission is a quasi-judiciary body?

MR. ARNETTE

That's exactly right. That's why I think we need a Public Service Commission instead of having the legislature make the decision because the legislature is a political body. It is a legislative--it's a law-making body. It's not a judicial body. That's why we need a Public Service Commission, and we need definite jurisdiction. We don't say that the court of appeals shall have jurisdiction as defined by the legislature. We tell them what kind of jurisdiction they are going to have.

MR. TAPPER

Well, now, there's one final question. I'm glad you mentioned the court of appeals. But, isn't it a fact that the court of appeals interprets the laws that are made by the legislature, and isn't this what the Public Service Commission should do, also?

Further Discussion

MR. DERBES

Ladies and gentlemen, if you would please give me your attention for a minute, I have some relatively important information to disclose to you which is very germane to the way we vote on this section.

I'm in great sympathy with Mr. Arnette's proposal. But, I want to explain a couple of things to you. When you say by virtue of a clear constitutional mandate, that the legislature shall... rather that the Public Service Commission shall regulate common carriers and public utilities. When you say that, then, if something qualifies as a common carrier, it is subject to Public Service Commission jurisdiction and to Public Service Commission regulation. The only way to make it not subject to Public Service Commission regulation, is by a constitutional amendment.

The problem that we encountered, and on which we heard a great deal of testimony, is what is known in the State of Louisiana as the direct sale of natural gas for industrial purposes. By direct sale, I mean where a supplier sells directly to a consumer without necessarily going through an interstate pipeline. If a pipeline serves more than one consumer, though it may not necessarily be an interstate pipeline, and though it may not necessarily serve a great number of consumers, it is considered, and it may be considered by the courts to be a common carrier. If it qualifies in the definition of common carrier, then it would be subject to Public Service Commission regulation. In order to encourage industry in the state, there was enacted, and approved by the people, a constitutional amendment which exempted from Public Service Commission regulation the direct industrial sale of natural gas.

Now, I, for one, don't necessarily think the Public Service Commission should regulate the direct industrial sale of natural gas. But, I wanted to create in the constitution, an atmosphere of flexibility whereby in the future, if Public Service Commission regulation of such direct industrial sales was deemed expedient and in the public interest, it could, in fact, regulate such direct sales. If you say "the Public Service Commission shall regulate all common carriers," I say to you as a matter of law, that any pipeline where there is more than one consumer, is a common carrier and shall be subject to Public Service Commission regulation.

Now, there is one way out of this problem...there is one way out of this problem. That is to adopt Mr. Arnette's amendment, and then to adopt Mr. Gravel's amendment, which is not before you at this moment, but which shall be before you very shortly. That would have the effect of saying that the Public Service Commission shall regulate common carriers and public utilities. Then, later on in our document, it will say that "notwithstanding these provisions, the legislature shall decide on how and when natural gas shall be regulated." So, although I have no strong opposition

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to Mr. Arnett's amendment, I suggest to you that conditioned upon its passage should be the passage of Mr. Gravel's amendment which would permit the legislature flexibility in dealing with the sale of natural gas, both industrial and otherwise. I hope you can understand all that jargon. But, it's a very important problem. It affects a great deal of Louisiana industry, as well as a great deal of domestic supply and consumption of natural gas.

MR. ARNETTE

Well, Jim, in other words, you don't oppose my amendment as such.

MR. DERBES

I don't oppose your amendment....

MR. ARNETTE

You've been talking about natural gas. That's what your big concern is.

MR. DERBES

The only....the reason why "as provided by law." The phrase that you seek to delete. The reason why that was placed in this material was to create an exception, a possible exception, so that later on the regulation of industrial, direct industrial sales of natural gas could be affected by the Public Service Commission if the legislature felt that it was in the best interest, and a constitutional amendment would not be necessary. But, I only support your amendment if you support Gravel's amendment.

MR. ARNETTE

Mr. Derbes, in other words, you've been talking about natural gas and everything. But, would you agree that unless these four words are taken out, the Public Service Commission has absolutely no constitutional jurisdiction whatsoever over anything?

MR. DERBES

Not entirely. But, my technical disagreement with you is of no serious moment. I think the words "shall regulate all common carriers and public utilities" are, in essence, an original and fundamental grant of authority. What the legislature would be doing in filling up the phrase, "as provided by law," it would essentially be defining what a public utility or a common carrier is.

MR. ARNETTE

But, in that definition....couldn't the legislature completely disregard anything as a common carrier?

MR. DERBES

I don't think so. But I do think it's arguable. Yes.

Further Discussion

MR. LAMBERT

Mr. Vice Chairman, fellow delegates, I agree with Mr. Derbes. It's arguable as to whether or not this amendment is necessary. I ask you for a number of reasons to reject this amendment.

The first reason being, the committee worked hard in this particular area in an effort not to make any substantive change basically in that provision. The reason for that was that apparently it had worked fairly well in the past. We didn't see any particular reason to tamper with it.

Now, "as provided by law," on line 19 in the committee proposal, is what he's asking you to remove in this amendment. A number of years ago in the town of Denham Springs there was an explosion in a home, and one of the reasons attributed to that problem, was that they did not have the malodorant (I think that's the proper word) in the gas system. Now, the Public Service Commission does not have jurisdiction to go inside the city gates, into the municipalities, unless by a majority vote the electors in that municipality request the Public Service Commission to come in. In this particular case, the Public Service Commission, nor the town of Denham Springs, nor the gas company supplying the gas to the home where the explosion occurred, had jurisdiction. No one acted. The Public Service Commission was prohibited, except for the fact that this language, "as provided by law," gave the legislature the authority to enact legislation to add the requirement that malodorants be placed in these systems. The Public Service Commission did this. This is one of the prime reasons why this language is necessary, and why I urge you, please not tamper with this particular language.

Thank you.

Questions

MR. TOBIAS

Louis, I'm reading the language that the Arnette amendment attempts to delete. If we do not say "as provided by law," could not the legislature define what a common carrier and a public utility is, since we do not prohibit it to them?

MR. LAMBERT

Possible. Or the Supreme Court could.

MR. TOBIAS

I know. But, if the legislature steps in and defines it, don't you think that the Supreme Court would bow to that definition?

MR. LAMBERT

It depends on the majority vote on the court, obviously. Let me, Mr. Tobias, let me just say this. In the past, the Public Service Commission has operated under this provision. "As provided by law" has provided the flexibility in the constitution allowing the legislature to take care of situations like the Denham Springs incident that I just mentioned to you. For that reason, if for no other reason, I ask you to please reject this amendment.

[Previous Question ordered.]

Closing

MR. ARNETTE

I just want to make one thing fairly clear. Senator Lambert stated that they wanted to keep it just about like the present law is now in the constitution. Well, I submit they didn't do a very good job, substantively, as it is in the old constitution. Well, I submit they didn't do a good job at that, either, because it stated in the old constitution exactly what jurisdiction the Public Service Commission shall have. I can go through the list. It's common carriers, railroads, street railroads, express, telephone, telegraph, gas, electric light, heat, water power, waterworks, common carriers, pipelines, canals....the list goes on and on, plus many statutes that also list the jurisdiction. But, there is definite constitutional jurisdiction in the old 1921 Constitution. Under the new proposal, there is none whatsoever. The legislature must provide any jurisdiction that the Public Service Commission has by virtue of these four words. That is the entire difference between the 1921 Constitution, and the new committee proposal to go into the constitution. Unless we take these four words out, you're not going to have any constitutional jurisdiction whatsoever in the Public Service Commission. Now, if that's what you want, that's fine. We'll have a commission with no powers at all. We'll have it in the constitution with no powers. But, if that's what you want, I just want to let you know for sure that's what you're voting on.

Questions

MR. LAMBERT

Mr. Arnette, obviously for the reasons you just mentioned, that's why, would you not agree, that we need the clause, "as provided by law." What we tried to do....why don't you mention some of the stuff that was in there. It was so detailed it was statutory material, much of it. What the committee was trying to do was retain the substantive law in that article. The "as provided by law," would allow the legislature to go into the other matters. Many of that....of those words in that provision that you are looking at, were put in there by constitutional amendment.

MR. ARNETTE

I realize that, Mr. Lambert.

MR. LAMBERT

Afterwards. They were not in the 1921 Constitution. They were added. Would you not agree that the legislature could, by legislative act, add what they feel to be necessary, and we....

MR. ARNETTE

They surely could.

MR. LAMBERT

....let me finish. Would we not accomplish what one of the main

objectives that we are here for, to, if possible--not all the time, but, if possible--to remove some of the unnecessary language when we can provide a vehicle whereby the legislature can put it back? Without removing any substance?

MR. ARNETTE

Well, that's exactly what I wanted to point out to the convention, Senator. I just wanted to point out that the legislature can put in what jurisdiction they want. They can also take away what jurisdiction they want. Which means that you have no constitutional jurisdiction at all. It's completely up to the legislature. If that's what you want.... that's what you can have by voting against my amendment. If you want a Public Service Commission with jurisdiction in the constitution, vote for my amendment. It's very simple. It's your decision.

MR. ANZALONE

Mr. Arnette, are you aware, since you are closing, and I'm going to ask you one of those "speechifying" questions, are you aware that if your amendment is adopted that the legislature, by legislative act, could attempt to define what common carriers and public utilities were?

MR. ARNETTE

They....could attempt to do that. But they could not....

MR. ANZALONE

But, if your amendment is not accepted, and no law is provided for the regulation of common carriers and public utilities by the Public Service Commission, that they could, in effect, turn this over to the Department of Agriculture if they wanted to?

MR. ARNETTE

Mr. Anzalone, no, they could not for the simple reason that the legislature does not define what the words in the constitution mean. The Supreme Court of Louisiana defines those words.

MR. ANZALONE

I've just a small point of disagreement. My second....

MR. ARNETTE

Now, if the Supreme Court would define a common carrier in a very restrictive manner, that's one thing. But the legislature cannot ever attempt to define words in the constitution, and how they are meant in the constitution, as you should well know.

[Record vote ordered. Amendment rejected: 21-88. Motion to reconsider tabled. Quorum Call: 87 delegates present and a quorum.]

Amendment

MR. POYNTER

The next amendment to (B) is sent up by Delegates Lambert and Nunez.

Amendment No. 1. On page 5, at the end of line 23, add the following:

"Notwithstanding any provision in this paragraph, the legislature shall provide for the regulation of natural gas by such regulatory authority as it may designate."

Explanation

MR. LAMBERT

Mr. Chairman and fellow delegates, what this amendment does is to make sure that what we adopt in the constitution does not make legislation that was adopted in the special session unconstitutional. Now, it does not lock anything in the constitution regarding intrastate natural gas. All it says is that "Notwithstanding any provision in this paragraph, the legislature shall provide for the regulation of natural gas by such regulatory authority as it may designate." In the special session, the legislature designated the Louisiana Energy Commission as that authority. But, with this provision, if the legislature should feel that it was in error in that Senate Bill No. 9, and they would like to change that, this gives the legislature the authority to put it in some other authority. For example, if they wanted to put it under the Public Service Commission, they could. If they wanted to put it under some other state agency, they could. I don't think it's controversial. I certainly hope you can go along with it.

Questions

MR. BOLLINGER

Senator Lambert, just now this convention strongly rejected an amendment by Delegate Arnette to delete the words "as provided by law." Is that correct?

MR. LAMBERT

That's correct.

MR. BOLLINGER

Was not it the intention of the committee that these words would give the legislature the authority to include or not include the regulation of natural gas by the Public Service Commission?

MR. LAMBERT

No, there's some question, obviously, as to whether or not there could be overlapping authority between the Public Service Commission or the Louisiana Energy Commission. I, personally, think that the Public Service Commission. . .in fact, I know they cannot regulate it as the constitution exists now because there is a prohibition, as you know, against the Public Service Commission regulating the sales of industrial gas to industries. However, in an effort to be abundantly careful, this provision basically leaves the authority up to the legislature. It specifically says they have the authority, and as they have acted in the special session, they have given that authority to the Louisiana Energy Commission. Now, if the legislature feels that they would like to repeal some of those provisions in the next session of the legislature, or two years from now, or three years from now, or ten years from now, they would have the authority to do that. That's the only purpose of this amendment.

MR. BOLLINGER

I agree with you that the present constitution does not allow the Public Service Commission to regulate the industrial sale of natural gas. But, does it prohibit any other regulation of natural gas?

MR. LAMBERT

In the city gates, yes--municipalities. The local subdivisions. . .

MR. BOLLINGER

Political subdivisions. . .

MR. LAMBERT

Municipalities, political subdivisions that have their own systems. There's a provision in here, though, to allow the municipality or the local governing authority that generate their own. . .that have their own supplies or their own systems to elect to come under the Public Service Commission. That provision was in our present constitution, and we retained it.

If there are no further questions, I ask for the adoption of the amendment.

MR. ARNETTE

Senator, do you realize that since my amendment failed your amendment is unnecessary because the legislature can do anything with natural gas they want to do? They can let anyone regulate it that they designate to regulate it, without your amendment.

MR. LAMBERT

I think that with my amendment that it makes it abundantly clear that the legislature definitely must designate some authority. Yes.

MR. DESHOTELS

Mr. Lambert, assuming, first of all, that the constitution is adopted as amended to this date, and secondly, assuming that your amendment fails, then there might be a possibility of having a five man elected body control natural gas in Louisiana rather than an appointed commission; isn't that correct?

MR. LAMBERT

If this amendment passes, that could happen. It's left up to the legislature. But, on the same token, it could not. It could be left where it is now.

MR. CANNON

Mr. Lambert, you are aware of the amendment that I have on the next section which. . .

MR. LAMBERT

No, sir; I'm not. No, sir; I haven't seen it.

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MR. CANNON

This one . . . it pertains to the cities not being exempt from regulation by the Public Service Commission in matters effecting safety. You know, the safety such as putting odor in the natural gas. If your amendment were to pass, where would this leave the concern for safety for the people who live . . . who are serviced by municipal gas distribution systems?

MR. LAMBERT

In view of the fact that in the special session in Senate Bill No. 9, there is a specific section on pipeline safety requiring the commissioner of conservation to come up with a set of rules and regulations in conjunction with the rules and regulations that the federal government have affecting interstate pipelines to conform with that. I haven't had a chance to look at your amendment, but I think it . . . in my own personal judgment and opinion, I feel like it might be a good amendment in the next section. But, I don't think it has any . . . it affects this section at all, 'cause this amendment only applies to Section (B).

MR. CANNON

Well, the fact is that natural gas and its distribution, you could . . . the legislature could designate this regulatory authority to any agency or shall designate some agency to regulate it. Would it be proper if they have designated someone other than the Public Service Commission to regulate these safety features, say, such as putting of the malodorous in gas? If they designate someone else, it wouldn't be proper to put the Public Service Commission to . . . into the policing of the safety for the people's benefit. Am I correct?

MR. LAMBERT

It's possible, but I don't . . . it puts the public safety . . . the Public Service Commission . . . if the legislature should give them the authority to require that they adopt rules and regulations providing pipeline safety, it would probably be a good idea.

Further Discussion

MR. BOLLINGER

Mr. Chairman, fellow delegates, I have no objection to the concept of this amendment, but I think that Delegate Arnette's amendment would have covered it. Assume this situation for a minute: we all know that this country is in a stage of a fuel shortage, not only with natural gas, but with all fossil fuels. With the shortage of natural gas, it's going to become more and more imperative that power generating plants revert to other fuels--diesel and heating oils--for the production of electricity. So, how about next year, we'll have an electricity crisis, and we don't have enough electricity. The legislature thinks it's wise to place all electric co-ops and companies in the state under this Energy Commission because electricity is the energy. It can't, according to the definition that has been given to the words "as provided by law." I think that's wrong. I think the amendment that . . . or the words "as provided by law," in the first sentence, allows the legislature to remove certain public utilities from under this jurisdiction of the Public Service Commission. This is good. It can deal with situations of emergency. So, why do we have to specify that natural gas doesn't necessarily come under the Public Service Commission. It can be placed under some other agency. If the words "as provided by law" do not provide this, we had better seriously look into this whole paragraph, because if next year electricity becomes a shortage in Louisiana, and the legislature tries to deal with the problem and says, "Oh, no, I'm sorry. The Public Service Commission has sole control over regulating electricity." This nice Energy Commission we have created has no jurisdiction. Please consider this and consider if the amendment, as proposed, is necessary. If it is necessary, I would advocate someone offering an amendment to include other forms of energy as coming under some other regulatory agency.

I move the rejection of the amendment.

Further Discussion

MR. NUNEZ

Mr. Acting Chairman and ladies and gentlemen of the convention, this is the same amendment that Mr. Gravel had yesterday, and after some objections from you all--some of the delegates and some of the other people involved in this--we worked on it last night and then again. It was changed this morning because it would have created a new section. We just included it in this section. Let me tell you what happens where . . . where I think we would stand in this state if we don't adopt this amendment. We had a ten day

special session, as you know. In that session we did three things: we raised taxes to the tune of \$350,000,000 and we lowered taxes on income tax that you all wanted, it seems from the dictates of this convention, on sales . . . on use of sales tax on food and drug, and we gave out teachers' pay raises, etc. Now, those things are good, but the main purpose of that session was to get more gas for Louisiana residents from Louisiana's natural resources: that is, from natural gas. After many hours of debate, and after many hours of work by several attorneys--I think Mr. Camp from southwest Louisiana was one of them--they put together a bill that is commonly called a "czar bill," or the energy crisis bill or whatever you want to call it. It was sixty pages long. They weaved and weaved in the confines of the constitution to make it constitutional. It's the understanding that the people that put it all together that if we don't put this provision in there, they seriously doubt whether we can handle it in the energy . . . in the Senate . . . what's commonly called Senate Bill No. 9. I think that this amendment is essential, because I, at first, was sort of against the whole concept of this special ten day session. But, if you hear the alarming and the frightening news that we heard, I'm sure you would agree with us that we are now in an energy crisis, that very soon our own industries, and our own cane fields, and our own aluminum plants, that vitally affect me, and our own sugar refineries, and our own oil refineries will not have the natural gas to run those plants. So, what has happened is that almost ninety percent of our gas is under control of the FPC, and it's in the interstate lines. What we were trying to do, the whole concept of what we were trying to do was to get more gas in the intrastate lines and get more new oil or more new gas finds in the intrastate lines. What we did, and what the creation of the czar of the . . . under the Conservation Commission, this will all be under his jurisdiction. I believe it's vitally essential that we adopt this amendment. All the amendment says is "Notwithstanding any provisions of this paragraph, the legislature shall provide for the regulation of natural gas by such regulatory authority as it may designate." Well, for your information, that authority has already been designated. Now, if that don't work, what you're doing, you're giving the legislature the authority to designate a new authority. I think it's a very simple. In my mind it is, and then I hope it is in yours. If we leave it like it is--if you read the amendment as it is before this section--specifically has powers and duties, "The commission shall regulate all common carriers and public utilities." This would take it and let the Public Service Commission or let the Energy Commission regulate, and in regulating, the only way he can reallocate--let me tell you this because many of you have popped this question, because it seems like this new Energy Commission that we have created can go ahead and reallocate the various gas allotted to industry or utilities in this state to various other people. That's not so. Before he can make that reallocation, the governor--the governor--must declare an emergency, under existing contracts. When he declares that emergency, the only amount of natural gas that he can reallocate from those various industries or users, whether it be industry or etc., is ten percent of his allocation. We specifically put that in there because a lot of people thought we were abrogating contracts, but we aren't doing that. The only thing this would do would be to . . . and I know this might sound not like the amendment, but it all deals with the amendment, gentlemen and ladies of the convention. If we don't do this, I think we might find ourselves in probably some problem somewhere along the road.

I would certainly urge you . . . I thought that this was worked out to where it would benefit the state and what we were trying to do: that is, number one--number one--conserve our new finds on natural gas in this state. When you sit down and realize that over ninety percent of our gas is going to the eastern market, when you sit down and realize that it's under the control of the FPC, which this state has nothing to say about, it sort of frightens you. Five years down the road, or four or five years down the road, we might have additional gas finds in this state that would be vitally essential to the well-being of our citizens. I think if we don't adopt something like this and allow us to go ahead with what we have done, then the special session went for nothing but a tax raising session and a tax repealing session.

So, I would ask you very seriously to consider . . . to give this amendment all your consideration. Please vote for it; it doesn't jeopardize anything in the Public Service's domain. But, it does give to the Energy Commission the right to regulate natural gas.

[Previous Question ordered. Record vote ordered. Amendment adopted: 90-15. Motion to reconsider tabled. Previous Question ordered on the Paragraph. Paragraph passed: 101-6. Motion to reconsider tabled.]

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Reading of the Paragraph

MR. HARDIN

"Paragraph (C) Limitation. The commission shall have no power to regulate any common carrier or public utility owned, operated, or regulated on the effective date of this constitution by the governing authority of one or more political subdivisions, except by the consent of a majority of the electors voting in an election held for that purpose; however, a political subdivision may reinvest itself with such regulatory power in the manner it was surrendered."

Explanation

MR. LAMBERT

Mr. Vice Chairman, fellow delegates, this is basically a, I feel, relatively simple section. It retains in the constitution basically what is there now. It prevents the Public Service Commission from going into city gates, by that I mean municipalities that own their own systems. Under the present constitution, the Public Service Commission does not have jurisdiction over these areas unless an election is called in that municipality and a majority of the voters so request that they come in. Now, it also provides that should they elect to have--the majority of voters in the subdivision, political subdivision--elect to have the Public Service Commission come in, and they come in and then one day they want to call an election and get the Public Service Commission out, they retain that authority. Basically, that is all that this particular paragraph does.

If there are no questions, I ask for your support.

Questions

MR. LANIER

Senator, as I understand it, that's basically the present law, isn't it?

MR. LAMBERT

Yes, sir; it is.

MR. LANIER

Has it appeared in work that your committee has done researching this subject, has that appeared to work well throughout the state?

MR. LAMBERT

Yes, sir; it has.

MR. LANIER

There's been no hue and cry by anyone to change that, has there?

MR. LAMBERT

Correct, that we know of.

MR. DERBES

Senator, just for the record, because I think there's some . . . a possibility of the provision not being entirely clear, the election that's required in order to change the provision is an election held in the local governmental subdivision.

MR. LAMBERT

With only those people there voting. Correct. Home rule, local option.

MRS. ZERVIGON

Senator, am I reading this correctly in that there is no way for a city which does not now regulate its public utilities to gain the right to regulate its public utilities?

MR. LAMBERT

By the Public Service Commission? I can't. . . I'm sorry, I didn't hear you good, Mary.

MS. ZERVIGON

It sounds to me, when I read this thing, as if those cities which are now regulating their public utilities may continue to regulate their public utilities unless they surrender that right.

MR. LAMBERT

Correct.

MS. ZERVIGON

What I'm asking you is whether there is a way in the future

for any city which is not now regulating its public utilities to gain the right to regulate it?

MR. LAMBERT

I don't think there's any prohibition against a city, to my knowledge, regulating its own public utilities. I think that what this deals with is not with that particular area, but it's whether or not they want the Public Service Commission to come into their, for example, municipality and regulate. If they do, they have to by a majority vote within that municipality so request; at the same time the right is reserved for that municipality by a majority vote of its electors to remove the Public Service Commission if they are not satisfied with the way they regulate.

MR. DESHOTELS

I'm referring to the language on line 26 which I think, that Ms. Zervigon is referring to. You have on the effective date of this constitution "seeming to be a delineation between which municipalities would be affected by this provision and which would not.

MR. LAMBERT

What we did, Errol, is to repeat what was in the source provision in our present constitution.

MR. DESHOTELS

But, it would seem to say...

MR. LAMBERT

Undoubtedly did not cause a problem back at that time so we assume that it would work effectively today, so we readopted basically the same language.

MR. DESHOTELS

But, do you see the problem and do you see a question there?

MR. LAMBERT

I see what you're talking about, yes, sir.

MR. KELLY

Louis, I'd like for you to explain to me just as briefly as you can, how this election--you say "except by consent of the majority of the electors voting in an election." Are the electors... is there going to be some process where they can go and call the election themselves or are they going to have to depend upon the governing authority to call the election?

MR. LAMBERT

It would be... this would be found... this could be done; there's nothing prohibiting the local government in this particular instance from adopting a procedure whereby they could elect to either select or reject this option.

MR. DESHOTELS

That's not the question. You say that in the first place you've got these premises. First, they... the municipalities say utilities are not under the Public Service Commission; is that correct?

MR. LAMBERT

Yes.

MR. DESHOTELS

All right. Now, let's suppose that John Doe, citizen, and a group of citizens want to put them under the Public Service Commission. How is that going to be done? Who can call the election? Can a group of citizens go and call the election?

MR. LAMBERT

Mr. Kelly, we did not go into that in the constitution, obviously. We left it to either the legislature or the local government involved.

MR. CANNON

Senator Lambert, you're talking about the election which can be held within this political jurisdiction, this municipality...

MR. LAMBERT

City of Baton Rouge... East Baton Rouge Parish.

MR. CANNON

East Baton Rouge Parish possibly, if they're operating their own utilities. Let me ask you this: what happens, or what recourse do the people have who are served by a municipality who live outside of that jurisdiction; they have no say--so on this whatsoever. I'm talking about let's say:..

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MR. LAMBERT

That is right. Let me say this, Harvey, you're right. If, for example, the city of Baton Rouge had their own system and they were providing services outside of the municipal limits of East Baton Rouge, the system obviously is supported within the parish. . . I mean within the city of Baton Rouge and, of course this, I would assume this could occur, but, I mean, I don't see how you could set up the machinery any other way than to provide for the electors within the municipality affected if they do provide services outside of the limits of the municipality. Of course, that's going to create a problem, but I don't know how you could take care of it.

MR. CANNON

Well, I think your main concern. . . the main concern is, and has been, the power of a municipality which puts up its bonding credit and what have you to build these systems within and without its jurisdiction.

MR. LAMBERT

Correct.

MR. CANNON

Within and without its jurisdiction.

MR. LAMBERT

I guess you could argue that the...

MR. CANNON

No one is talking about setting the fixing of rates. I don't think anyone has any qualms with a municipality fixing the rates on its own citizens. But, now, I still have this question about people that are outside of this jurisdiction having no, no political recourse. You know if the rates go too high the voters have a recourse every four years.

MR. LAMBERT

As you know, I don't. . . of course, I don't want to do anything to harm the people that live outside its jurisdiction. I know you don't, but I think, that probably. . . I think there is a provision in our law now whereby a special district could be created in that particular area and they could sell bonds and set up their own system.

MR. CANNON

Right.

MR. LAMBERT

I mean it's a situation that, you know, I don't know if there's any other way to handle it. This is the way it's been handled in the past. One solution might be to extend the city limits to include them.

MR. CANNON

Right. But, we have had some situations where a municipality serving another area which was completely outside of its city limits as well as the parish in which it was located failed to maintain an odor level in the natural gas.

MR. LAMBERT

Denham Springs system?

MR. CANNON

I didn't say that, sir.

MR. LAMBERT

I said it.

MR. CANNON

That was the case, yes, sir. By virtue of this negligence a family of four was burned to death because they just simply refused and they. . . after a petition and contacts by people, myself and others trying to get them to maintain this odor level. . . this odor level in the gas and they still didn't do it and then a tragedy like that happens. My concern is again for these people who have no political recourse.

MR. LAMBERT

I'm concerned as much as you are, Harvey, about it. I don't think, there's any way that if somebody has an idea, I think they should propose it here. I don't know how we could handle that in the constitution. It is a definite problem and I agree with you.

MR. LANIER

Senator Lambert, isn't it true that under Section 26 of the Local Government Article that the legislature has been mandated

to set up a uniform procedure for calling all of these various types of noncandidate elections such as the one that would be called for in this provision?

MR. LAMBERT

That's correct.

Amendment

MR. POYNTER

Mr. Cannon has one amendment here.

Amendment No. 1. On page 5, line 31, after the word and punctuation "surrendered." add the following:

"This shall not apply to safety regulations pertaining to the operation of such utilities."

Explanation

MR. CANNON

Mr. Chairman, ladies and gentlemen of the convention, this amendment which was passed out yesterday, reads: "This shall not apply to safety regulations pertaining to the operation of such utilities." Senator Lambert alluded to a solution to the problem particularly where people have no political recourse. These people... people living outside of a political jurisdiction such as the city limits, and being served by. . . served natural gas by that city. This. . . the systems being owned, this is in no way an attempt to bring rate regulations that. . . which the city may impose to bring controls over things such as their right-of-way, the selection of where the distribution systems go. It's merely the safety factor and primarily malodorant in gas. As you all know, natural gas has no odor. When it is distributed by a private concern the Public Service Commission and I would assume that now since these duties are being passed to the Energy Commission, the. . . that they will take over these regulatory functions. The thing that I am really concerned about is the fact that people in the cities who are served by a municipal gas system. . . the people living within the cities they have a recourse, a political recourse come next election time particularly if the Board of Aldermen or the City Council, or what have you, are not responsive to the safety and welfare of the people. It's really not that important within the political jurisdiction. But, when these. . . when gas is sold and distributed outside of the political jurisdiction these people have no recourse and I think it's in the public's interest that we mandate that someone, somebody regulate these safety features, primarily odor and gas. I think it's very important since we are shifting the regulation of natural gas from the action of the special session to another agency, I think we ought to make it clear that municipalities cannot completely ignore the safety of the people they serve. I'll yield to any questions.

Questions

MR. DERBES

Harvey, I. . . I'm not exactly sure I understand what you want to do, but are you saying that the. . . that the local governmental subdivision that regulates safety factors in the delivery of natural gas is not as well able to do as the Public Service Commission?

MR. CANNON

Not necessarily. What I'm saying is that when you take a problem to a governing body now and they have no -- and these people have no political recourse they're talking to strangers, outsiders-- that when you take this problem to them they say we're not regulated by the Public Service Commission, this is a. . . you know we don't have to put the odor in the natural gas, you know because they are not regulated. But, . . .

MR. DERBES

To just draw on that a little bit more, I've heard a lot of things said here in argument against expanding the number of Public Service Commissioners: that they don't have enough staff, they don't have enough funds and so on to do their job as presently constituted. What makes you think that the Public Service Commission will do a better job regulating safety in the local governmental subdivisions, I mean isn't that your basic thesis?

MR. CANNON

My basic thesis is safety for the people who have no political recourse. These are people living outside of the political jurisdiction which is the sponsor and owner of this gas system. Let me bring in one thing, Act 352 of 1970, offered by Senator De Blieux, required that the Public Service Commission regulate this malodorant in gas. This follows the situation like Senator Lambert alluded to, the city of Denham Springs, which serves an area running all the way to the Airline Highway in East Baton Rouge Parish. Now, we did try to get them to keep a level of malodorant in there--you know that

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foul smell is a wonderful thing when you come right down to it-- but.... and a family of four was burned to death.

MR. DERBES

Another one final question, if you don't mind, isn't safety just another part of overall rate setting? I mean, what I'm saying is, when you take into account the rates at which the local utility must deliver its gas you also have to take into account the cost of safety factors, etc. It would seem to me as a basic administrative task that when the person addresses his safety requirements and his rate schedules to the same body that the consideration of both of those together would be more effective and more efficient. Don't you... you see what I mean?

MR. CANNON

No, sir, I don't because I think nobody here is trying to question the rate setting ability of a municipality over its service.

MR. DERBES

No, but the rates are in part a function of the safety requirements. I mean, when I have certain costs for safety, I have costs for delivery and, therefore, those costs have to be taken into consideration in setting rates.

MR. CANNON

You're not going to sell it at list.

MR. DERBES

So one person would be setting the rates and the other person would be setting the safety requirements.

MR. CANNON

You're talking about ten cents a day per thousand users of natural gas on malodorant.

MR. LAMBERT

Mr. Cannon, you know that our committee with the exception of several, we do not object to this amendment; we feel it's a good amendment, and we feel that it would provide for a uniform safety code throughout the state in municipalities. Do you realize that?

MR. CANNON

Thank you, Senator Lambert. I appreciate that.

MR. LAMBERT

Do you remember the explosion, for example, in the Denham Springs system?

MR. CANNON

The Denham Springs system which is now inside the city of Baton Rouge.

MR. LAMBERT

Right. There was problems with the safety regulations.

MR. CANNON

There were none existing at the time.

MR. LAMBERT

Correct. This would provide some. Do you remember the explosion in Natchitoches several years ago? Do you remember the explosion in Houma?

MR. CANNON

I remember all of these, sir.

MR. LAMBERT

Is it not your motive to try to provide a statewide uniform safety code on pipelines transporting gas so as to protect the citizens?

MR. CANNON

Not so much pipelines, but the distribution system going to people's homes. That's what I'm concerned with.

MR. LAMBERT

Correct. That's what I'm talking about, domestic users.

MR. LANIER

Mr. Cannon, the way this thing is written this would apply in home rule units of government; is that correct?

MR. CANNON

Would apply in home rule units? Yes, Mr. Lanier, it would. But, again, I am not as concerned about the distribution of gas

and the safety and whether or not the city is responsive within its political jurisdiction. Where the problem comes is when this city extends its lines beyond its political jurisdiction and the people that it serves have no political recourse against the councilmen, the aldermen or whoever is not looking out for their safety. I think the public--the citizens of Louisiana who are served by municipal gas systems, just as those who are served by private gas distribution systems, deserve the right to feel safe. That's my concern.

MR. LANIER

But, Mr. Cannon, I appreciate the fact that you're trying to protect these people outside of an incorporated area. But, is it not a fact that your amendment as presently written would give the power to the Public Service Commission to tell a home rule city how to run its gas business or electrical business, etc.?

MR. CANNON

Only insofar as safety, Mr. Lanier. Primarily, this is malodorant, that the city will be subject to a uniform regulation. I certainly don't feel that the city such in your case, the city council of Thibodaux is going to be unresponsive to the people within the city of Thibodaux, because after all, they are going to have to come up for election every four years. But, when they extend their lines outside and we're not talking about rates, we're not talking about right-of-ways, we're not talking about the location of gas lines or . . . that's all within the domain of that municipality and the parish governing authority if these lines are outside. I just am concerned that the city council--I, having served on a municipal body myself--you don't quite feel the responsibility to persons who don't elect you; it's a natural thing. I would certainly hope that this, at least, a minimum level of safety and a standard of safety can be maintained.

MR. LANIER

Don't you feel that if, what you wish to do is a uniform safety code, that that is better done for the State of Louisiana by the legislature than by the five-man Public Service Commission?

MR. CANNON

Well, I'm not sure who has the regulatory power right now over natural gas. I would think that this is the prerogative of the legislature to assign it and whoever it is assigned to, that's who will control it.

Further Discussion

MR. DE BLIEUX

Mr. Chairman, ladies and gentlemen of the convention, Mr. Lanier might address these remarks to you with reference to the situation. Several years ago, of course, you've heard several references to the Denham Springs situation. This system of gas that goes into Denham Springs is... I don't know whether it's owned by Denham Springs or whether or not it's a private company that has a contract to supply gas with Denham Springs. But, they had a lot of difficulty in getting gas treated so that you could tell whether or not there were gas leaks. They test it and in a few months thereafter, after the testing, it would come right back and nothing was done about it. You can't force a municipality to have safety rules against its own self. You've got to have some outside body. As a result of that, the legislature passed Act 352 of 1970 to do exactly this: to force that municipality under the jurisdiction of Public Service Commission to put that malodor in that gas. Now, maybe you might say this is taking away something from home rule. That's the only thing we're taking away from, the fact that local municipalities for the safety of their citizens must obey the rules, and that's what this amendment is all about. The committee has no objection to the provision in there, and I think it's a good one for the safety and protection of the homeowners, of the users of gas in your municipality, my municipality and anybody else's, so that we can keep these things from happening. I see no reason why we should oppose an amendment of this kind.

Questions

MRS. ZERVIGON

Senator De Blieux, I don't fully understand the situation you're describing. Are you describing the situation in which the city council of Baton Rouge has different regulations for the gas delivered to customers within their boundaries than to customers without their boundaries?

MR. DE BLIEUX

I didn't get the last part of your question, Mrs. Zervigon.

MRS. ZERVIGON

I say, are you describing a situation in which the city

council of Baton Rouge has made differing regulations for gas delivered within the boundaries of Baton Rouge than for gas delivered outside the boundaries of Baton Rouge?

MR. DE BLIEUX

No, that's not the situation. The present provisions in the constitution does not give the Public Service Commission any jurisdiction over municipally-owned gas distribution systems. It has no authority because the legislature has to give them that authority. Now, as a result of the accidents we have had the legislature did give the Public Service Commission, not rate-making power, only the power insofar as being sure that the natural gas systems were complying with the state regulations insofar as the malodor was concerned. This is to protect those provisions alone. That's all it's for.

MRS. ZERVIGON

Well, what you're talking about is not so much a problem of regulation as a problem of enforcement. Isn't that correct?

MR. DE BLIEUX

That's correct.

MRS. ZERVIGON

Well, who enforces it? Who comes and knocks on the door and makes you be good in a situation like this?

MR. DE BLIEUX

Well, you mean, knocks on the door of the municipalities?

MRS. ZERVIGON

Yes, sir, or whoever owns the gas.

MR. DE BLIEUX

The Public Service Commission has that jurisdiction right now, and that's where we want to keep it because we're trying to preserve what's in Act 352 of 1970.

MRS. ZERVIGON

Well, Senator, you don't think the words "as provided by law" in the earlier paragraph continue this right?

MR. DE BLIEUX

But, this is a limitation. That's not in the same paragraph, Mrs. Zervigon. You're reading Paragraph (C) now, and that has the limitations in it, that the Public Service Commission has no jurisdiction over those systems. We're only saying here that they have no jurisdiction except for safety regulations. That's the only reason--except for safety.

MR. BOLLINGER

Senator, doesn't the Oscher Act, which was enacted into Congress, give a commission regulatory powers over industry without their consent?

MR. DE BLIEUX

Mr. Bollinger, Act (C) gives the limitations of the power of the Public Service Commission over commentaries and public utilities that are owned by municipalities. Where they are owned and operated by municipalities, then the Public Service Commission has no jurisdiction over it. What this amendment says is that the Public Service Commission will have jurisdiction only insofar as safety is concerned, not...

MR. BOLLINGER

You missed the point of my question. Let me start over. Did you know that there is a federal act which establishes safety regulations for industry?

MR. DE BLIEUX

Oh, yes.

MR. BOLLINGER

Does this not do the same thing as far as allowing the Public Service Commission simply to set some minimum safety standards that all utilities will have to follow?

MR. DE BLIEUX

Yes; you're correct. Now I understand your question. You're right.

MR. BOLLINGER

Don't you think this is a very good amendment?

MR. DE BLIEUX

That's right. I agree.

Further Discussion

MR. HEINE

Senator De Blieux, he touched on the point that I wanted to ask you. You are aware that the Federal Pipeline Safety Act that municipalities that own their utility systems do come under their minimum safety rules and this would include the people within the municipality and the people that served outside of the municipality. Just recently, my city had to spend twenty-five hundred dollars complying to these safety rules, and I know I just talked to Delegate Fayard and Denham Springs had to do the same thing. We have...every municipality that owns their gas system has a certain length of time that they have to comply with these safety rules. So, we are under their jurisdiction, so to speak, and although I'm not opposed to this, I really don't think that it's necessary.

MR. DE BLIEUX

That must be a recently passed act, Senator Heine.

MR. FLORY

Mr. De Blieux, isn't it true that the local governmental units do not come under the Occupational Safety and Health Act?

MR. DE BLIEUX

That may be right, Mr. Flory. I'm not sure. I don't know.

MR. FLORY

Isn't it also true that under the Federal Pipeline Safety Act that that would relate to as far as pressures and so forth, and the types of line, how deep it's buried does not affect the malodorance in a water system, for example, as to the pollutants in the water system?

MR. DE BLIEUX

You may be correct about that. I'm not sure about that.

[Previous Question ordered.]

MR. CANNON

Thank you, Mr. Chairsmn. I urge your favorable consideration of this amendment. Thank you.

Closing

Excuse me. Mr. Denney had brought to my attention one little point, and I'd like to have it stated just for the record. The city of New Orleans does have rate review power over their private operator, and this would in no way stop the city of New Orleans and its city council from regulating its rates over Louisiana Light and Power or whoever it is. At the same time, this would not preclude the city of New Orleans or any other municipality from placing more stringent standards upon itself. This would not in any way affect this. Thank you.

[Record vote ordered. Amendment adopted: 103-5. Motion to reconsider tabled. Previous Question ordered on the Paragraph.]

Question

MR. KEAN

Mr. Lambert, as I read Subsection (C), it's clear that a publicly-owned common carrier or a public utility would not be subject to the jurisdiction of the Public Service Commission. However, a municipality or a parish acquired some common carrier or public utility after the effective date of this constitution, it's not clear to me that that would be outside of the jurisdiction of the commission. But, it seems to me that under Subparagraph (B) that the legislature would have a right to provide by law that publicly-owned system even though acquired after the effective date of the constitution would not be subject to the jurisdiction of the commission. Would you agree?

MR. LAMBERT

You are exactly correct.

[Paragraph passed: 107-3. Motion to reconsider tabled.]

Reading of the Paragraph

MR. POYNTER

"Paragraph (D) Decisions on Applications, Petitions, and Schedules (1) The commission shall render its final decision on applications, petitions, and proposed rate schedules..."

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Chairman Henry in the Chair

[Motion to waive reading of the Paragraph adopted without objection.]

Explanation

MISS PERKINS

Ladies and gentlemen, I realize this is a very controversial section. There was a difference in opinion among the committee members, but I will present to you the section as adopted by the committee. I must admit that this is the first time since I've been here that I felt that I had a bear by the tail, and I'm just hoping I can convince you to give me a bear hug instead of annihilating me. So, here's the committee's report: Section (1) provides that the Public Service Commission shall have twelve months within which to render a decision on an application. Section (2) provides that if no decision be rendered within six months from the date of filing, then the schedule is deemed tentatively approved. Section (3) provides, if approved, the schedule may be put into effect subject to a protective bond. If disapproved, the schedule may also be put into effect subject to bond. Any refund claims filed by the customer are to be filed within one year of the date of final action on the claim. Section (4) presents a change in that we are putting a burden on the utility to file notice of the application of filing in the state journal and in each parish journal where the schedule would go into effect. The change is basically from the source provision or that we have taken out a great deal of the detail in that we have eliminated the requirement that any appeals from an order must be made within ninety days, that the orders will be tried with preference in the district court, and that if appeal is taken to the Supreme Court, that the court would have ten days within which to grant a return. Ladies and gentlemen, I'd like to point out that as you are aware, the procedure is when the commission makes a decision, if an appeal is lodged, it goes into the court of the commission's domicile, namely the Nineteenth Judicial District. If you'll refer down to Section (E), you will see where we have maintained that provision. At this time, I would like to point out to each of you that I realize that there is substantial opposition, and everyone will be given the opportunity to add their feelings on it. But, I also point out that there will be an amendment coming up, as Mr. Abraham attempted to submit earlier, "as provided by law". Let me discourage your support of this amendment because I do feel that we have reasonable compromise amendments to be presented to the convention. I'll answer any questions, Mr. Chairman.

Questions

MR. DUVAL

Lynn, of course, I admire your courage for presenting this particular proposal, and I'm glad that the Natural Resource Committee chose their big gun to present it. But, let me ask you a few questions about it. Do you realize that under this proposal, the way it reads, that a rate could go into effect without a hearing, and it can become final? Do you realize that that's possible?

MISS PERKINS

Yea, Mr. Duval.

MR. DUVAL

Do you think that's a...well, of course, I don't want to ask you your personal opinion, but you realize that is possible?

MISS PERKINS

Yes, sir.

MR. DUVAL

Do you also realize that under this proposal that the ordinary everyday consumer would then have to pay rates which were much higher without the elected commissioner ever deciding on the case?

MISS PERKINS

That's correct except you're assuming that they're much higher. They might be reasonable.

MR. DUVAL

This is true.

Also, Lynn, do you realize that under this proposal, that even if the rate proposal is rejected by the Public Service Commission, that the utility company can put the rate into effect with a bond?

MISS PERKINS

Yes, sir, that's right, a protective bond.

MR. DUVAL

That's even if they lose?

MISS PERKINS

Yes, sir.

MR. DUVAL

Now, if in a law case, if the person is the plaintiff and sues for a hundred thousand dollars and loses, they can't get their hundred thousand dollars by putting a bond in effect, can they?

MISS PERKINS

No, sir.

MR. DUVAL

O.K., one other question: what happens with this protective bond in the event, for instance, it's a taxicab rate? How do you refund that if the commission was wrong?

MISS PERKINS

Well, I would assume that the customer would have to file as is so provided in this particular section.

MR. DUVAL

So, if this happens, you better keep all your taxicab receipts, then?

MISS PERKINS

Yes, sir.

MR. DUVAL

O.K.

MR. ALARIO

Lynn, when they say if the commission disapproves the increase in whole or in part that the rates would go into effect, that meant the whole rate would go into effect, right? In other words, if the commission approved part of it, and even if the utility company was satisfied that that was it, then the rates would still go into effect until the court of last resort made their decision. Is that right?

MISS PERKINS

Yes, sir, the entire schedule would go into effect.

MR. ALARIO

I see. Now, Lynn, on the refund claims, as the committee proposal has it now, the customer would have to apply for the refund?

MISS PERKINS

Yes, that's correct.

MR. ALARIO

Those that wouldn't know what the law was, then, would probably not get the refund as such.

MISS PERKINS

That's right.

MR. ALARIO

Don't you think, maybe, that responsibility should be on the utility company rather than the customer?

MISS PERKINS

Possibly so.

MR. ALARIO

Lynn, what is the reason for putting in the rates ahead of time, I mean, after even the commission would disapprove it? What's the theory there for the utility people?

MISS PERKINS

The big problem is that the utility company cannot apply their rates retroactively. So, in this manner, they can put the rate into effect, but yet, they're putting up a protective bond. So, if the rate schedule doesn't go through, then they have to pay back the money to their customers.

MR. RAYBURN

Lynn, I notice here where in the event refund claims are in

order that you have to make them within a period of twelve months. Is that correct?

MISS PERKINS

Yes, sir. They put a prescriptive period and the prescriptive period is set as of the date of final action.

MR. RAYBURN

That's after it's been through the lower courts, the higher courts, and the final courts...that's after the final action from all appeals. Is that correct?

MISS PERKINS

Yes, sir.

MR. RAYBURN

Now, is there any provision here that says they've got to refund that money within a given period of time?

MISS PERKINS

No, sir, there is not.

MR. RAYBURN

Is there any provisions that say you shall get a little interest on those monies that have been erroneously invested for that period of time?

MISS PERKINS

No, sir, but I would like to refer to you the "as provided by law" statement, so I would think statutorially, this could be so provided.

MR. RAYBURN

Is there any law now that provides for that?

MISS PERKINS

Not to my knowledge.

MR. RAYBURN

In the event that the telephone compny applied for a twenty-five percent pay telephone rate, or ten cents, may we say....

MISS PERKINS

Yes, sir.

MR. RAYBURN

...and the Public Service Commission did not act within twelve months which is an elected body that has that power; am I correct?

MISS PERKINS

Yes, sir.

MR. RAYBURN

They did not act. How would refunds be made on a public telephone if I happen to use it ten times or twenty times or thirty times, and how would they know it was me that used it?

MISS PERKINS

Well, the only thing that I could say there is that the utility would have given faith to the statement of the customer, and I'd like to also say, to my knowledge, in the past when a claim has been filed because of a malfunction of a phone, the customer has been reimbursed his loss.

MR. RAYBURN

Well, Lynn, in a sense of fair play, since this is so urgent to the telephone company, and if they don't get relief within a six-month period, don't you think the people who are entitled to a refund should have some date established or some time limit established as to when they'll get their refund?

MISS PERKINS

Yes, sir.

MR. RAYBURN

Thank you.

Amendment

MR. POYNTER

Amendment sent up by Mr. Abraham which reads as follows:
Amendment No. 1. On page 6, delete lines 1 through 23, both inclusive, in their entirety, and insert in lieu thereof the following: "The commission shall render decisions on the applications, petitions, and proposed rate schedules in the manner prescribed by law."

[3016]

Explanation

MR. ABRAHAM

Mr. Chairman, ladies and gentlemen, this amendment deletes all of the language in Paragraph (D) and simply specifies that the manner in which the commission will operate shall be prescribed by law. Now, at the risk of repeating myself, when I was up here before, as I see this particular proposal, everything in here is in favor of the utility company, and the consumer is the one who is going to suffer. There is no protection for the consumer whatsoever in here that I can see. A schedule can go into effect without even having a hearing. The Public Service Commission can sit on its hand, the schedule goes into effect, and after twelve months, I would assume that it's considered permanently approved, and if the people start to holler then, well, then the Public Service Commission can say, "Well I didn't have enough time to make a study of it. I couldn't render a decision. You people wrote this into the constitution. Our hands are tied." I think that we need to keep this thing as flexible as it can be. Now, there's twenty-three lines in this particular section, subparagraph. We've got fourteen amendments on it. But, the thing is--and I say again to you--I don't think we should be trying to write this type of statutory material into the constitution. This is a legislative matter. Let's leave it in the hands of the legislature.

Further Discussion

MR. TAPPER

Mr. Chairman, fellow delegates, I just had a revelation. I understand that the great Senator Rayburn is going to close on this amendment--how much time do I have, Mr. Chairman?--and I know that I can't outdo him because he's going to give you that "little man" speech. So, I'm going to try to anticipate some of the things that he's going to say, and I also am going to give you that "little man" speech, or attempt to. I know that this is going to be one of those things where you're going to have to make a decision, so they will tell you, whether or not you're going to go with the big utility, or either go with the little man. All I want to make very clear to you is this: that if you're sitting out there in an area away from all of the utilities, and you want a little telephone, and you can't get it, you need to call a doctor in the night, it's tough. It's tough. Those of you who have been there, know it. I've been there. Now, what are we talking about? A question was asked of Lynn a while ago about the interest. Is this going to bear interest? Well, what we're talking about to the average consumer is a pittance, if these rates go on. The interest is infinitesimal. Don't let anybody come up here and tell you that they are opposed in this, or opposed to this amendment because they thought of the little man. You figure it out. Three or four pennies a month--what's the interest on that in six months or a year? You tell me. Ladies and gentlemen, in forty-two states, this same proposal has been in effect; it has been operating to the benefit of the people and the consumer for years and years and years. Now, what is the reason for this? Why should it be in the constitution? Why should it not be legislative? Well, it's been legislative for many years, but we've had experiences in this state where the public utility has lost millions of dollars because of nonaction on the part of the Public Service Commission. Now, I'm not faulting the Public Service Commission, but they didn't act. Now, let's just compare. What are we talking about? How much is it going to cost the individual consumer, and how much will it cost the public utility? Yes, let's get down to brass tacks. How much will it cost the telephone company, if they have to wait two years for a decision? Pennies to the consumer; millions to the company. Let's fact it. We have only one, don't we? Suppose we had none. I urge that you defeat this amendment.

Questions

MR. ABRAHAM

Elmer, you said that these poor little people out in the country couldn't get a telephone. Now, why can't they get a telephone? Is the telephone company that broke that it can't provide telephone service for them?

MR. TAPPER

Well, Mr. Abraham, if your amendment goes into effect, it will continue the same as it did, and in effect, continue to lose millions of dollars because the Public Service Commission doesn't act; yes, that's very possible.

MR. ABRAHAM

On what basis are you assuming they're losing millions of dollars?

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MR. TAPPER
I beg your pardon.

MR. ABRAHAM
On what basis are you assuming that they're losing millions of dollars? Do you have their financial report?

MR. TAPPER
Yea. They've lost millions of dollars because of inaction on the part of the Public Service Commission, yes.

MR. ABRAHAM
Has the telephone company ever failed to pay a dividend in the last umpteen years?

MR. TAPPER
I can't hear you.

MR. ABRAHAM
Has the American Telephone and Telegraph Company ever failed to pay a dividend in the last umpteen years?

MR. TAPPER
I'm not a stockholder, Mr. Abraham. I don't know. Are you?

MR. ABRAHAM
Well, I do know. I'm not a stockholder, but I do know. They have never missed a dividend.

Now, do you know that I have spoke to other utilities--now, we've not just talking about the telephone company--but I spoke to other utility companies, and all of them said they did not necessarily have this type of language in the constitution at all, that the legislature could give them the relief they needed. Only the telephone company is the one who's insisting to putting this in the constitution.

MR. TAPPER
Are you asking me the question, or are you telling me?

MR. ABRAHAM
Did you know that, that this was the answer I got?

MR. TAPPER
No, I didn't know that you discussed anything with any other utility companies.

MR. ABRAHAM
I discussed it with other utility companies, and did you know that they both said...they all said that they did not have to have this in the constitution; it could be handled by the legislature?

MR. TAPPER
I didn't know that. I think you could take up your time when you close to explain that to everybody.

MR. JUNEAU
Mr. Tapper, I was interested in your statistics where you said forty-two states had a similar provision. Was that what I recall you said?

MR. TAPPER
Yes, I think so.

MR. JUNEAU
Well, I think it would be important for this convention to know how many of those forty-two states put time delays of six months and so forth in the constitution.

MR. TAPPER
There are forty-six, Mr. Juneau, instead of forty-two.

Further Discussion

MISS PERKINS
Ladies and gentlemen of the convention, I rise in strong opposition to Mr. Abraham's amendment. If a time limitation was going to be put on the Public Service Commission with reference to the time that they had to render their decision, in all probability, legislature would have and could have already done it, but they had failed to do so. Probably for the very same reason that the decisions will be difficult to make with reference to the compromise on this proposal, that is two interests have to be weighed. You have the little people and the big corporation. But, equity demands that

we weigh each of their interests and make a reasonable decision because we represent all the peoples of Louisiana, and I know a lot of little people who have some stock in big corporations. I also know that if I'm in business, I've got to get a return on my money, on my capital outlay. I strongly urge that you defeat this amendment and let us proceed with trying to resolve the difficulties facing this convention. Thank you.

Questions

MR. ROY
Lynn, don't you agree that if this is not in the constitution and it's going to be dealt with by the legislature that when any poor little folk wants a telephone out in the country, he's going to have to call his legislator, who in turn is going to put the heat on the Public Service Commission, and that's the only way they may get it? Isn't that true?

MISS PERKINS
Yea, sir.

MR. ROY
It's really a legislator's holiday for them to try to say "just let us handle it," rather than be constitutionally protected and let the commission handle it. Isn't that true?

MISS PERKINS
Yes, sir.

MR. ABRAHAM
Lynn, have the utility companies ever been to the legislature for relief from this so-called inaction of the Public Service Commission in the past?

MISS PERKINS
I really can't answer that question, Mr. Abraham, but I would say this, that in all probability nothing would have been done because the Public Service Commission has improved substantially with reference to the time in which they render their decisions, and I think if anything could or would have been done, that the utility companies would have gotten relief by now.

[Motion to limit debate on the Amendment to thirty minutes. Substitute motion to limit debate on the Amendment to fifteen minutes for proponents and opponents respectively adopted: 52-34.]

Further Discussion

MR. J. JACKSON
Mr. Chairman, ladies and gentlemen of the convention, I'll speak very briefly on it. I recognize that as the proposal presently is constituted that many of you, whether you are against or for it, have some problem. My reason for being against the Abraham amendment is that I think that within this body here that whatever side of the fence that you're on concerning rate increases that it can be resolved. But, I think--and I thought I would never have the opportunity to say this--but, I think that this matter, what we're talking about, ought to be clearly laid out under a constitutional framework. I suggest to you that this is not a precedent in the fact that I think many of you have seen the need, and voted for, by a majority, to constitutionalize the need for the three-dollar license plate. Let me say that I'm not saying that I'm against this or against that, but I'm against Mr. Abraham's amendment because I think the subject in which we are talking about needs to have, particularly since we've laid the foundation for other sorts of, what I think, are people concerned, that we ought to provide some framework in the constitution for it. Now, I'm saying you could do that with some flexibility where it'd be just to the people and just to the utility company. I'm not taking a position on that. I'm just saying that it's of grave importance that it ought not just be left, be deleted and left without any particular reference to what's going to be the vote requirement within the legislature. I ask that you favorably vote against the Abraham amendment, and that we do have an opportunity to hear, particularly, one who has very limited information, like to hear as much argument as I can on this very vital issue that I think affects at least every citizen in the state.

Further Discussion

MR. LEBLEU

Mr. Chairman and fellow delegates, in one sense of the word I can see that this might work. However, the Public Service Commission is also an elective body. I think if we leave this up to the legislature, what we're actually doing is getting back to some of the opposition that people had against our present constitution--the way the legislature was voting to add amendments to the 1921 Constitution because they said they were ducking the issue. But, I don't think it's right for the legislature to...in session to enact laws that'a going to be detrimental to what the Public Service Commission might want to provide in its rules and regulations, because they also have to answer to the voters. If the voters don't like the way they are operating their office, they have the right at the end of six years to kick them out of office.

Another reason I say that we shouldn't leave this to the legislature is because I think simply by the actions that the Public Service Commission has not taken in resolving speedily some of these settlements indicates that they might be doing...taking no action simply for political expediency. I think there's a....I believe Mr. Abraham said there were fourteen amendments and twenty-eight lines. But I think there's enough amendments here, if we just continue, and consider these amendments, we can come up with something that's going to be a clear mandate for the Public Service Commission to take action. I think it'a going to be satisfactory to everyone of us and the Public Service Commission and the utilities people, as well. I have some reservations about the time limits, etc. But, let me tell you this, I've been fooling with some of the agencies of the federal government for five years and trying to get an evacuation route right-of-way. They continue to take no action or put off, or refer to someone else. It'a not good. I say, just put yourself in the same place as some business man who might need a rate increase, and can prove that he needs a rate increase. But, the Public Service Commission sits there and takes no action on it. I mean, it's not fair to the people in business.

So, I say, if we reject this amendment and consider some of the other amendments, I think we can clean up this whole section to the satisfaction of everyone.

Questions

MR. JUNEAU

Conway, talking about the delay periods, as I read this, if you would adopt the Abraham amendment, you would still have in Section (E) the one-year period that an appeal could be taken therefrom. Isn't that correct?

MR. LEBLEU

As I understand it, yes, sir.

MR. JUNEAU

So, even with the adoption of the Abraham amendment, we still have the mandate that there is that cut-off period of one year. Isn't that right?

MR. LEBLEU

Well, as I understand Section (E), that...at the end of one year, that would just allow the utility, or whoever is involved, to go directly to the Supreme Court. Is that right?

MR. JUNEAU

That's what I mean. You get it out of the commission, though.

MR. NUNEZ

Representative LeBleu, evidently everybody here knows you are a representative. I see you're for not deleting, or leaving this in the constitution.

I take offense. I'm sure you should, also. The remarks like Mr. Roy, that not to take this out, and give it to the legislature would give a legislative holiday, so to speak. Do you agree with a statement like that?--a wild statement like that?

MR. LEBLEU

Yes, sir.

Further Discussion

MR. ROY

Ladies and gentlemen of the constitution, and Mr. Chairman, I rise, of course, in opposition to this amendment. Let me point out one thing that, on it's face, makes it totally inconsistent.

Mr. Abraham tried to pass an amendment to Section (B) earlier, with respect to providing for this to be done by law. This amendment is totally inconsistent with (B), page 5, which gives rule-making authority to the commission. Now, what are you going to have? You are going to have a commission that'a elected by the people, five in number, from all over the state who represent the people, and who make certain rules. Then, you are going to have the legislature turn around and say, "Well, we don't like that rule, so we exclude it." Then, you are going to have the commission come back and make another rule, and legislature try to exclude that one because you are having it all as provided by law. It just doesn't make any sense. I stand, I don't accuse every legislator of what Senator Nunez is worried about. But, I'll tell you this...what's your problem, Senator Nunez?

MR. HENRY

Well, wait just a minute, Mr. Roy. Senator Nunez, do you have a question? Would you yield to the gentleman for a question?

MR. ROY

No. No, I'm not going to yield to him.

MR. HENRY

The gentleman refuses to yield.

MR. ROY

I've got to discuss the issues of this matter.

I have an amendment coming later I think that is a good compromise on this. I was against the committee proposal as it was because it was too much. But, don't be misled by these people who say that they are talking for the little people, because, the only way the little people are going to get something, now that we have a five man commission, is to make sure that that commission is responsive to the needs of those people and after studying what have you, will make the rules necessary to see to it that they get the services that they needed.

You're not going to get anywhere with respect to services for people unless the utility company can make some type of a profit on it. That'a just the way the capitalistic system works. The people are going to hurt in the end....are going to be those little people...unless we make sure that the legislature cannot, from day to day, and session to session, impose some type of whimsical rule on the commission that has been elected by the people. If that'a it, then we ought to appoint the commissioners instead of having the people of this state elect the five we are talking about.

Further Discussion

MRS. WARREN

Mr. Chairman, and fellow members of the delegation, Mr. Rayburn came up here when we were in the huddle and he said that "the committee was caught with its pants down."

I say to you, when I went to the Natural Resources Committee, I didn't even have any. I was so ignorant of what was really going on. It was not my choice to be on this committee, but I stayed on it after being put on it so I thought I could learn something. Of course, as I looked at parts, recommendations, I came up with what I thought that we had left out. So, I want to ask you to please defeat this amendment so we can do our job, and let the legislature do what it's supposed to do. Thank you.

Further Discussion

MR. CHATELAIN

Mr. Chairman and fellow delegates, I rise to strenuously oppose this amendment for the reason that we came here to write a constitution, not shirk our duties. I'd like to pose about three questions to you and let you go on your own.

Question No. 1. Why do we have a Public Service Commission? Because the Public Service Commission is set up to defend the people--to look out for the rights of the people--because the most of these utilities that have come under the province of the Public Service Commission are of a monopoly nature. You think about that for a while. If this is, in fact, a monopoly that they have jurisdiction over, shouldn't they have a right to look out for our interests?

All right. Fact No. 2, is why should we turn this over to a hundred and forty-four man, or forty-four person, annual legislative number rather than five commissioner? I say to you that we are going to have an annual session of the legislature, sixty days each year, and there would be a hundred and forty-four people subject to this problem every year. So, why should we, the consumers, be subject to that kind of a situation? Let's go

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ahead and put some provision in the constitution. I do wish that you'd vote against this amendment. Let's try to work out the problems. I'll grant you there are some problems in this proposal, but let's try to work them out as delegates to the constitutional convention.

Questions

MR. DUVAL

Mr. Chatelain, precisely what are you for?

MR. CHATELAIN

I'm against this amendment, sir.

MR. DUVAL

I know. But, I'm asking you, what are you for?

MR. CHATELAIN

I'm against this amendment because it deletes this section.

MR. DUVAL

Well, what....do you like the section as it is?

MR. CHATELAIN

We are not debating that, Mr. Duval. I'm coming up with something later.

MR. DUVAL

Well, let me ask you something else, Mr. Chatelain. You talked about the whim of these hundred and forty-four people. Now, you know these hundred and forty-four people haven't tampered with the Public Service Commission at all. We are tampering with them right now. What do you think about that?

MR. CHATELAIN

That's your pain, Mr. Duval.

MR. SHANNON

Mr. Chatelain, it's seldom that you will be bothered with this when you get in the legislature. Is that correct?

MR. CHATELAIN

Mr. Shannon, we are here trying to write a constitution, sir. I'm not concerned about the future so far as it relates to your question.

Further Discussion

MR. DESHOTELS

Mr. Chairman, I might say that you might have brought this on to yourself.

Ladies and gentlemen, Mr. Chairman, I'd like to address myself to the non-attorneys in the convention. They are talking about a procedure in a hearing. Now, we went over the judiciary article, and we gave jurisdiction to district courts. We gave jurisdiction to city courts, and the other courts. In none of these provisions did we say what procedure they must follow. Now, these district courts are trying people. Their lives are in the balance. But, we left that up to the legislature. We have a court of criminal procedure. There are many cases that come before the courts that involve millions of dollars; in fact, a copy of one was put on your desks by Mrs. Miller this morning. That procedure is taken care of in the court of civil procedure. Now, they come and tell you today that the utilities, for some reason or other, cannot be treated like the rest of the people of the State of Louisiana, and that the five man board of the Public Service Commission, which we will have, once this constitution is adopted, cannot be trusted to treat them fairly. That's a lot of bunk! Because, anybody knows that our utilities have to be protected, they have to be healthy, or we cannot get services. If they don't give the people the services, it won't be long before those commissioners are voted out.

So, that's a lot of bunk! Now, they are wanting....listen to this....they are wanting, ladies and gentlemen, to institute schedules and rates immediately upon filing a petition. Paragraph 3 says that. Now, we have a Public Service Commission that will hear their application on the merits, will listen to evidence. Now, after that Public Service Commission rules that they are not entitled to the rates, renders a decision, in spite of that, they can continue with their rates--they can continue with their rates. That's what the proposal says. Now, I grant you that possibly....possibly they may be entitled to everything they ask. For that reason, we have a one-year....a one-year limitation in which to reach a decision. Subsection (E) provides for that. The commission must reach a decision in one year. But for the commission to reach a decision....to reach

a decision....and in spite of that....in spite of that, collect rates from people is ludicrous. Now, some of these people can't afford to have saving accounts. But, we are going to have them pay rates....we are going to have them pay rates that we are told will be refunded in possibly two years, or three years, with interest. Well, these people can't afford to pay the extra rates. They have a hard time meeting their bills as it is.

Ladies and gentlemen, to say that the legislature cannot take care of this business as well as it takes care of criminal procedure, and civil procedure, in the remainder of our judicial proceedings in this state, is not a valid argument. It is not a valid argument. The legislature knows they must be responsible, and when they are setting out these rules of procedure, where do you think those people sitting up there are going to be? Where do you think they are going to be? They are going to be in the lobby over there, of the House of Representatives and the Senate. They will be represented then. No legislature is going to enact legislation that will cripple our utilities. That is not responsible legislation. I will not indict....I will not indict our commission, and I will not indict our legislature. That is what the committee proposal does.

I ask you to adopt Mr. Abraham's amendment and let this go where it belongs. Now, Mr. Tapper's waving over there. He says it's an issue of the little man versus the utility. Well, Mr. Tapper, if this proposal is adopted, my friend, you will have an issue of the utility versus the little man because you try and explain that to that person that's having a hard time meeting his utility bills, that he has to pay a utility rate that the commission says he should not be paying. He has to pay it in spite of the commission's ruling. Now, you explain that, and you will make it an issue. You will make it a false issue. It is not....it does not do that.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, it has been an implicit assumption in most of the debate by the opponents of Mr. Abraham's amendment, that the Public Service Commission has long and protracted delays in making all of its decisions. Well, I submit to you that I don't represent the telephone company or any utility company. So, I don't know about them. But, in the matters which I have had before the Public Service Commission, that is mainly in the area of transportation, I have found them to be exceedingly quick in rendering decisions, and have been very well pleased as in contrast to the courts, even, on that score with the Public Service Commission. I'm going to suggest to you that the reason for delay, if there is any, in making decisions with regard to setting utility rates, is because this is a very complex matter. Setting a utility rate is not like deciding a divorce case, as another implicit assumption seems to be in the debate here. You don't just decide, "Well, those fellows from Southern Bell, or from one of the utility--electric utility companies are pretty nice guys, and they didn't make enough profit last year. So, we are going to give them that rate increase." You really owe an obligation as a member of the Public Service Commission to send your staff up and to do as thorough an audit as possible to see whether the facts and figures you have been given are correct. Now, you know you always have lawyers on both sides of a case. But, don't kid yourself. You can have accountants on both sides of the case, too. There have been an awful lot of lawsuits in recent years involving the correctness, or lack of correctness, of accounts rendered by CPAs--particularly with regard to large corporate business transactions upon which stock is sold. If there have been misstatements made in accounts rendered in those events, you can be sure that the beauty is in the eyes of the beholder, also, in rendering accounts when it comes to utility rate making. You can take the same set of books and turn them over to two different accountants, just like two different lawyers, and get a little different story from each one. You can be selective in the figures you tend to emphasize. I'm just mentioning this to point out that this is a procedure that requires careful study, and by its very nature, is going to be more involved than many other decisions that the Public Service Commission has to make.

I'm not saying there ought not, perhaps, to be a time limit. And, the one year period in Section (E) doesn't particularly disturb me. It does disturb me, however, to say that a rate would automatically go into effect within six months if a decision hasn't been rendered, because I submit to you--now think about this a minute and be practical---if the utility company knows that a rate is going into effect within six months if a decision is not made, how cooperative do you think they are going to be in disclosing the facts of their operation to the people from the Public Service Commission who are charged with the duty to

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investigate it in order to reach a proper decision? I submit to you they might be most uncooperative indeed, and would have indeed a great inducement to be uncooperative.

I finally would urge you, as did Mr. Deshotels, to the fact that the court of criminal procedure and civil procedure, which effect the most important legal rights of our state, are entrusted to the legislature. If a six month period, or any other period is appropriate, let the legislature decide it after having proper hearings on the matter so that if the period of time they select doesn't work out, they can come back the next session of the legislature and change it. Let's not us be audacious enough to put that in the constitution where it would take an amendment to change it.

Further Discussion

MR. SCHMITT

Miss Perkins said that this would be a legislator's holiday if this amendment was passed. My father is a legislator, and I can tell you it would be no holiday to have people calling up on the phone all the time in order to get these things done.

Mr. LeBleu said that he doesn't think that the legislature should control this activity. I say to you, it's a lot better to have the legislature to have the flexibility to control this than to require for a constitutional amendment to be passed if we make a mistake in these procedures which we adopt.

Now, there are claims here that these utilities do not get quick enough decisions, and that they are not getting large enough increases in their rates in order to provide financial income to the companies. Why does it cost more for an intrastate, within the state, phone call than it does for a long distance phone call across state lines? This is not regulated by this commission. If you pass the next section, this gives relief to the utilities. An appeal would be automatic after twelve months. This appeal would be to the district court. Then, as a matter of right, they could go to the Supreme Court of the State of Louisiana. This right is not given to people who are injured in workmens' compensation cases, or injured and come to court and seek justice. This type of appeal is not given to the mother who seeks custody of her child, if the custody is in that of the father. These rights are very severe rights, and important rights to these individuals, but these are not given to them.

However, as a matter of right, you are going to give it to the utility companies. I don't think that this should be a constitutional right. If it should be decided to be given, let the legislature be the one to bear that burden--not let us. We've got enough things that are in this constitution which are going to make it hard to sell to the people. Let's not make it impossible. I believe that we should allow the legislature the flexibility and the ability to change these particular provisions in the future.

Thank you.

Closing

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, I thought long and hard about this particular proposal. I have many, many friends with the telephone company. In the years when I actively practiced law, I represented many of the public utilities. I have always offered them my full and total cooperation.

When the telephone company people came to me, and I read this proposal, I thought to myself, "How, and why, should any company ever think that it should be in a position in this state where it could get what no one else in this state can ever get, and that's an automatic decision." As an active practitioner for many years, as many of you lawyers are, you know that you'd love to be able to be in a position where you could automatically get a decision of a court, regardless of how ill-founded your claims may be.

Now, let me tell you that most public utilities that have to appear before the Public Service Commission are satisfied with the operation of that commission, and the manner in which they hand down their decisions. But, ladies and gentlemen, let's get to the gut situation here...what the real problem is. The real problem is the fact that it costs more money to make a telephone call from New Orleans to Shreveport, than it does from New Orleans to New York. What the real issue is that we have before us, is that the Public Service Commission has been properly representing the people of this state. Ladies and gentlemen, please, let's don't be so misguided as to believe that we should allow anyone, under any condition, to get an automatic judgement for any reason whatsoever. Now, I can't say that the Public Service Commission has not, at times, been at fault in not rendering decisions quickly. But, these matters are complicated

in nature. These matters, sometime, acquire more than a year of taking evidence before the matter can be submitted. Yet, this proposal would say that while the evidence is still being submitted, that a company could put an automatic rate into effect--in effect, get a judgment in their favor. This is the most ill-conceived idea I have ever seen. What gets me, and the reason I'm a little overwrought at this time, is because of the fact that I just never thought I'd ever see the day when a responsible company would come before a group like this and ask them to vote for such a ridiculous proposal.

That's the reason that I say to you, this provision is not amendable. Don't believe that any of these fifteen amendments coming along will do any good for this proposal. It's not going to. You know what's going to happen? We're going to spend two, three, four, five days of debate, and this proposal will never get sixty-seven votes to pass it, believe me. I, therefore, urge you to adopt the Abraham amendment. Let's leave this thing to the legislature where it belongs. Please, folks, let's don't take up two, three, four more days of valuable time fooling around with something which will never get sixty-seven votes to pass in the end. I, therefore, urge you to adopt the Abraham amendment so that we can move forward.

[Record vote ordered. Quorum Call:
105 delegates present and a quorum.
Amendment rejected: 26-80. Motion
to reconsider tabled.]

Amendment

MR. POYNTER

Delegate Rayburn sends up amendments at this time.
Amendment No. 1. On page 6, delete lines 5 through 17...

Amendment No. 1. On page 6, delete lines 5 through 17, both inclusive in their entirety.

Explanation

MR. RAYBURN

Mr. Chairman and fellow members...fellow members of this constitution...Mr. Stagg, my amendment proposes to delete Article II and III. They are the provisions that allow for an automatic increase in case the utility companies have applied for a raise in rates. Let me say here and now, we have a Public Service Commission. They are vested with the power and the authority to look at all problems and all evidence presented to them. If you leave these provisions in this constitution, you are circumventing public officials that were elected by the people of this state; and, you are attempting to do what they were elected to do. I, personally, don't think that's a right. Maybe you do. But, I don't. I am not trying to disturb the provisions where if they don't act within twelve months, then it shall go to the court-- to the lower court--and a provision for a direct appeal to the higher court. I am a little lost. I don't know who...what attorney prepared this language. If he's not well-paid, he should be well-paid. I'm not looking for a job, Mr. Tapper. The only job the telephone company could give me is a ditch-digging job, or a wire-twisting job connecting cables. I don't think you fit in that category. They might could do a little something better for you.

But, let me just tell you what this says. This says that in the event that they apply, there's no action taken within six months--six months, believe me--we adopted a salary schedule for the teachers. It took us six years to implement it. We weren't gerrymandered by the courts. But, if you pass this, any time they apply, if they don't act within six months--I talked to Mr. Earnest Clements who is my commissioner; and Mr. Roy, as far as the remarks that you made about legislators, other than voting on the commission, you know who's the public service commissioner in my area? You're looking at him--old Rayburn. Everybody that can't get a phone, they come to me. Everybody that is dissatisfied about their rates, they come to me. I'm the closest to them. We...my public service district goes from Pearl River County in Mississippi, to Orange, Texas. All the way across our great state. I try to help them; I call Mr. Clements; I make known their request to him. Some of them have never seen him. About half of them ain't never heard of him. I'm leveling with you; I'm telling you the truth. But, I do the best I can. But, here we're asking to do this for a public utility which, in my opinion, like you talk about a labor organization, has got a closed shop. If they ask for an increase and they don't get it, and he told me no later than a few days ago that they have got to audit all their holdings all over this country--sometimes it takes six or seven months. I'm not an auditor. Some of you are. Mr. Vick, you probably know about that; I don't. I can get my business together in about fifteen

minutes--tell you whether I'm winning or losing, or what I made and what I lost. Now, my friend, Lawrence Chehardy, it might take him thirty. But, I can get all mine together in about fifteen minutes. But, they tell me something as big as the Southern Bell, that it takes months, and months, and months to know what they are really making, or what they are not making. I don't know how big they are. But, I know this, if they had a took the money they've spent since this convention convened buying these steaks, I see some of them here with the "Steakitis." They'd eat 'em in the morning. I meet them in the White House. They get bacon and thought they had steak. If they'd took the money they spent on steaks and wining and dining these delegates, they could give us all a reduction. You believe me? I know of what I speak. They ain't took me too much because I told them this is the most ridiculous language I've ever read. You're go and elect the Public Service Commission to decide on rates and facts. Then you are coming here and asking this constitution to circumvent those elected public officials and just give it to them when they ask for it.

Now, they're going to give you a refund. Let's see how they are going to do that. They say here that after you've had your last day in court of the highest in the land, that refunds shall be made if you make an application within twelve months. You've got to make the application. You've got to ask for to give me back what you've done took; you've got to ask for it. Well, now, at the end of twelve months you ask for it. There's no provision here when you'll ever get it; don't say one word about when those refunds will be paid; no limitation. They didn't put that six months formula on this refund. Read it. Oh, yeah, if they want a little relief, we've got to have it in six months. But if they get those poor little ole devils' increase out there, they can give it back to them in twelve months, eighteen months, fourteen months, or thirty months, or forty months. Read the provision. You've just got to ask for it in twelve--twelve long months. Why didn't they say that we shall promptly return your refunds in case the rate's denied within the same six months period that they are so striving for in this article? Why didn't they do it? Is that fair? No. Well, in the event something would happen that this thing passes, I've got an amendment that says they are going to give it back in six months--'cause they're six month babies--and they're going to pay a little interest on it. Let me say here and now, one of the biggest problems I have representing my people is trying to get them a telephone. There's not a day, or week, of my life that somebody don't call me about "try to get me a telephone."

Now, if you are going to allow this to happen, and you are going to write language like this into our constitution, you might as well say that any time the courts don't act on a workman's compensation, or any other case, go ahead and give them what they sued for. Then later, if you make a mistake, give it back to them--bond it or do something else. Give it back to them. Is that right? Do you really think we ought to do that? Do you really think there's a chance to come to the legislature and say we want a raise, and you've got to give it to us within six months, or we automatically get it--school teachers or anyone else. That's what this language says. It circumvents what the people elected--three people in this state to decide on, and to look at the facts and to act on them. You are going to take away their power. I don't think it's right. I've got some good friends in the telephone business. Course, they haven't fed me lately; they heard how I was voting--which is all right with me. But, we'll work that out on down the road. But, I don't think it's right for them. I cannot conceive that a company as big as Southern Bell, could come before a body like this...intelligent people...and say to you that you elected a Public Service Commission, but, if they don't act in due time to suit us, just run over them, run by them, or run around them. If you start that in this state, they are going to be running around the courts; they are going to be running around the legislature, and every other public body. I am leaving the provisions where if they make an application, if they do not act within twelve months, then they go directly to the court. I'm leaving the provision in there where it can go to the highest court in the land and get it over with. That's the way I operate if I've got a claim; that's the way you operate if you've got a claim; that's the way you lawyers operate if you've got a client that's got a claim. I see nothing wrong with it.

I ask you to adopt my amendments.

Further Discussion

MR. DUVAL

Mr. Chairman, fellow delegates, I rise in support of the Rayburn amendment. Perhaps if we can ever consider discussion on what we have before us, we can arrive at an intelligent and reasonable decision.

Under the committee language, as has been so eloquently

pointed out by Senator Rayburn, a rate can go into effect. If the commission does not act, this rate can become final without ever a public hearing being held. This, of course, is insidious and totally against the interest of the people of Louisiana. I think we can achieve that oh, so delicate balance that is sometimes necessary, by adopting the Rayburn amendment in that it does mandate the commission to act. It gives the utility some remedy in the event the commission does not act. Under the committee proposal, even if the commission does act, and disapproves the rate, it can go in effect with a bond. Now, I ask you...I ask you to please think. Did the people of Louisiana, did your constituents, send you up here to allow that to happen? Is this the reason they wanted a new constitution? Is this why? I seriously doubt it. I seriously doubt that they sent you up here so they could pay higher rates, even when their elected officials disapprove a rate. If they happen to move or change their residence, they'll never get that money back. Besides, they have to go through the bureaucratic process of making a claim. This is so terribly statutory, it isn't funny. We'd be so terribly irresponsible by adopting this committee language. I think the only reasonable way to handle this is by adopting the Rayburn language, and arriving at a compromise here. It's saying that "All right Public Service Commission. You have to decide it in twelve months. If you don't, the utility has a right to go on to the district court without benefit of your decision, and without a presumption against you." But, to allow the other things that this committee proposal has, is totally statutory. Besides that, it would be a bad statute--much less a constitutional provision. How is this going to work? Do all of you know? Have all of you thought about it? Have you talked to your people back home, if they like this? Who do you represent here? I ask you that again. Now, let's be reasonable, please.

Question

MR. BURSON

Mr. Duval, with the large number of functionally illiterate people that we have in our state, who have difficulty in reading and writing, do you reckon that the telephone company and the utility companies might get to keep a whole lot of the money that they realize from illegal rate increases?

MR. DUVAL

Mr. Burson, that's an excellent question. I think that particularly in my area, it would really be a problem because a lot of people can't read and write and wouldn't know what the heck to do to get their money back.

Further Discussion

MISS PERKINS

Ladies and gentlemen, I rise in opposition to the amendment before this convention. Let me first state that Sections 2 and 3, or the bonding provisions, are not to circumvent public officials in that if the Public Service Commission does their job, then they won't be circumvented if they render a decision. Now, admittedly under the committee proposal, they can do this, but as you will note, there are several amendments on your desk that are attempting to achieve justice. What will happen under this Roy amendment which will be coming up, if there's a denial, then there will be no right to put the schedule into effect. If there is an approval, it won't go into effect until the date that the commission assigns. Now, if the decision is not made within six months, then under Section 1 they can go ahead and take an appeal. Now, something else that the Senator spoke of was the burden being on the customer, under this section, to file for a refund of the excess charged him. You will also note in the Roy amendment that that burden will be put on the utility company. They'll not only have the burden of making the refund, but it also states "as provided by law", and if we provide it by law, the legislature would have the authority to set any interest rate or any other provision that you might particularly be concerned about. I'd also like to point out to you, ladies and gentlemen, that we're not talking about Southern Bell alone. This is a big utility company. I understand why you have made mention to them, but don't make your decision on the basis of Bell Telephone Company. We have a lot of small, privately owned--well, publicly owned--but utility companies in parishes. For instance, my parish is not under the Bell Telephone System. We are under a private company. Yes, exactly. The service is poor, but let me say this: possibly if they could put their rates into effect prior to or right after the six month's decision, then you could be or receive better service. In the rural areas, this is a major problem. The utility companies do not have the funds to expand. So, I strongly urge that you defeat this amendment and give this

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convention the time to discuss the Roy amendment and other amendments that will be fair to the utility companies.

Thank you.

Question

MR. DUVAL

Lynn, do you think if we adopt a provision in this convention that allows rates to go into effect without a hearing by the commission, it'll help the passage of this document?

MISS PERKINS

I will agree that there will be some problem, but I'm also saying this: that we are trying to be fair. In fact, the only way, when we consider these amendments, that that rate will go on and go into effect--remembering that it's being bonded, remembering that the utility company is going to have to make refunds for the excess charge--the only way it will go in is if your public officials don't do their job. Because if they render their decision, then the schedule won't just go into effect without hearings. I am sure that these gentlemen would attempt to be as conscientious as Commissioner Rayburn is.

Further Discussion

MR. ARNETTE

Perhaps I shouldn't get up here and speak in favor of the Rayburn amendment because I might be the kiss of death, but I think a few things ought to be said anyway. First of all, I voted against the Abraham amendment because I think it is fair to have the utility companies get a decision within twelve months. That's why I voted against his, but I'm in favor of the Rayburn amendment because it takes out many provisions that are not only statutory in nature, but very, very bad provisions. I'd like to list a few reasons. First of all, if after six months a rate goes into effect, it can remain in effect forever--not just for another six months, or not just for another year--but forever. If the Public Service Commission never decides that case, that rate goes into effect forever under bond. I don't think this is fair to either the people of the state or the utility company to have to pay such a bond. The next thing is, if it does go into effect and the Public Service Commission never renders a decision on it, that a citizen can never demand a hearing except possibly through a mandamus proceedings on the Public Service Commission. Next thing is: let's talk about refunds. Senator Rayburn pointed out very well what effect these refunds are going to have. You've got to file for a refund. Now, this is fine with certain things like maybe your telephone bill or something like this. Everybody has been talking about telephone companies. Well, let's consider maybe bus rates or something like this. You don't even have a record of when you rode on a bus, or when you shipped a package on a bus. A lot of you own businesses, and you have things shipped all the time on buses, railroads, all kinds of common carriers that are regulated by the Public Service Commission. You'd have to keep a record of every time that you spent money and what amount of it was in excess of the legal rates, and then you'd have to file for refund. Now, this is totally ridiculous. I'm not going to keep a record of every time that I ride on a bus somewhere, and maybe I was charged a nickel too much each time. Even if these rates do go into effect under bond, a lot of times you're never going to have a refund of all the money because nobody is going to remember a lot of times when they were charged an excess. Now, the next thing that was said was that we can clean this up with certain amendments. Well, I think that's the main thing that's wrong with this section because if we need to work out amendment after amendment after amendment to clean up the section, that just shows you how statutory in nature it is, and we ought to leave it up to the legislature. I think that's probably the main thrust of Senator Rayburn's amendment, and that's why I'm really in favor of it.

Question

MR. J. JACKSON

Mr. Arnette, when Miss Perkins was up there, I was concerned about a comment that the Senator made about the process of determining...at least one of the criteria for determining any rate increases and audit of certain financial records. The Senator indicated that it would take more than the six months to ascertain if, in fact, this rate increase was necessary. So, my question is to you has that been a problem in the past of the Public Service Commission, to your knowledge, not deciding because they did not have the information?

MR. ARNETTE

Representative Jackson, I really don't have any idea about that. We had some testimonies that the commission needed more people, but I don't know if there's a six month cutoff date or an eight month cutoff date or a ten month cutoff date.

But, I think a year would be plenty long to render a decision. The thing that I quibble with is the fact that these rates would go into effect without a hearing ever being had on that particular provision. If the Public Service Commission never rendered a decision, I don't think the people, and even the utilities, would like that because they would have to have these rates under bond forever, not just for a certain period of time, for the next hundred and fifty years. I don't think it would help out a utility company to have to pay such a bond for that length of time.

Further Discussion

MR. JUNEAU

Mr. Chairman and fellow delegates, I will make my remarks very brief. You know it seems to me that what we're talking about is that there has been a problem in the past with regard to utilities in getting the hearings held and rates established, and that may very well be correct. But, I submit to you what Mr. Rayburn did and what Paragraph (E) has done, even under the Abraham amendment, is give you that mandate that the commission shall render its final decision within twelve months from the date the application is filed. That's very clear. Now, you know a lot of discussion has transpired as to, you know, if you'll wait just a minute we got something better coming. I'm getting tired of waiting tomorrow, tomorrow and tomorrow. Let's get the issue before the floor. The discussion has been with regard to the Roy amendment. That is the one that says that if they don't act in six months, it'll be put into effect. Well, now let me just give you an example of what can and very likely could occur. Southern Bell applies for a rate increase which is extremely complex. The auditing engineering problems are extremely complex. That is filed on January 1, 1974; it is docketed on the docket of the Public Service Commission. They say that under our docket we have hundreds and literally thousands of cases. This case will be heard within three months for a public hearing. That's reasonable. I consider that a current docket, and I think any lawyer here will say that's an extremely current docket. They commence having hearings on the third month. It is ascertained that there's a lot of information that's needed--not only from the point of expertise in auditing these engineering--but from the public as to what they think. They find it necessary to have hearings in the balance--in the rest of this state. It is found that those hearings, very likely, could go on for a period of two and a half months. The evidence is then assembled, and then it's six months and one day--one day--the Public Service Commission who was elected by this state says we do not think that the rate is correct. We disapprove the rate. Under the Roy amendment, and I submit to you, under any other amendment, that rate, even though disapproved, would be put into effect under a bond, and then the people have to wait till that issue is finally decided by the final court of jurisdiction in this state. I say that's wrong. I submit to you that the problem is that the telephone company in particular has sustained in this state, or has incurred in this state, as a time delay problem. I think that that ought to be cured, but that problem is cured by the mandate that within one year--one year--the decision has to be rendered by the Public Service Commission. If you'll look at Subparagraph (E), if it is not acted on in one year, they have got a right, an automatic right, to take an appeal. I submit to you that's much greater, much stronger than any right that you as a litigant have in any other civil action in this state. I submit to you that the Rayburn amendment is a good amendment. It's a mandate to do exactly what we are attempting to do, and I ask for your favorable consideration.

[Motion to limit debate on the Amendment to fifteen minutes adopted without objection.]

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, I just want to say that I just don't believe that the people who sat on this committee subjected themselves to the "steakitis" in writing this provision. I think they meant well; I think the provision goes too far, but I think that my amendment is better. I think that we ought to leave it there and just adopt my amendment later, that other people have endorsed. If you don't like some of the things in it, I think they ought to be amended also, and I think you ought to know a couple of things. Number one is: the law provides that this money, that one of the speakers spoke about, that the commission gives...the utility gets to keep in case it's reversed is not true. That money goes back to the state for any money that cannot be refunded to people. The other thing is in answer to Mr. Juneau's question about the

number of months it takes, as you know that under Provision (B) the commission itself has the power to make rules. Now, to me this is just like a person applying for a bank charter. When you apply for that bank charter, it is not considered filed, your application, until you have furnished the banking commission with everything with respect to the necessity or the requirements for issuing a charter. It's a very simple in this case what the commission can do. It can say that any time a utility company comes in, or a carrier, and requests a rate increase, it is mandatory that you furnish to us at that time that you file your application an audit prepared not only by you but an audit prepared by people whom we want to prepare it and for which you must pay. You all are not being told all the story. The commission has the right to make a utility company, or a carrier, subject its books to an audit by an independent auditor or someone appointed by the commission and charge the carrier or utility company for the charges of that auditor as well as any other experts. Now, the commission has the power to make rules, and it can say that your application is not considered filed with this commission until such time as you have furnished us with the audit that we want, and by our people at our request, and all other information that we need. At that time the six months begins to run. I ask you why shouldn't now a five-man commission, that we have allotted for, be able to decide a case within six months. It's got everything before it. If they can't decide it to obviate this company being able to bond it--as some of them suggest is so unreasonable--it can simply say on the fifth month and the twenty-ninth day, no, you don't get it, and there's no bonding of anything. The Supreme Court generally can decide cases of as great a complexity as this in less than that amount of time. The appeals that ultimately go to the courts of this state are decided in less than six months. You've got an independent commission, which has no other job but to decide those cases that come before it. I submit to you that they can do it. I don't disagree with some of the comments Sixty Rayburn has made. I'm just saying that I think you ought to know what all the facts are, and that there is a need for some type of constitutional provision with respect to the Public Service Commission and its powers.

Delegate Reeves in the Chair

Questions

MS. ZERVIGON

Chris, it's getting late, and we're all kind of tired. Where does it say that the money that's not refundable to customers goes to the state?

MR. ROY

That's provided by law at this time.

MS. ZERVIGON

Well, is there any reason, then, why we shouldn't provide everything else by law? That's a pretty crucial thing.

MR. ROY

Well, Ms. Zervigon, we've already provided in the first part of the article or the section, if you read it, that as provided by law, certain things may be done. My amendment even says that.

MR. DUVAL

Chris, being an old Jacksonian Democrat that I know you are,...

MR. ROY

Wait, what?

MR. DUVAL

Being a Jacksonian Democrat, as I think you are, if you went back to Rapides Parish and you said--you talked to all the citizens there--and you said, "You know what I did? I got a provision in there that if the Public Service Commission which you elected disapproves the rate, it still goes into effect, and you got to pay that higher rate." Do you think they'd say, "Hey, that's a good idea," or do you think they'd say, "You lost your mind?"

MR. ROY

I thought my amendment said, if they disapprove the rate within six months, they don't have to bond it.

Further Discussion

MR. NUNEZ

Mr. Acting Chairman and ladies and gentlemen of the convention, Mr. Speaker, or Mr. Chairman, if you would stop me at three minutes, I would like to yield two minutes of my time to the Chairman. He'd like to say a few words on this also, I understand.

Further Discussion

MR. NUNEZ

Mr. Acting Chairman and ladies and gentlemen of the convention, certainly it's a little difficult to get up here and oppose such friends that I've had that are here lobbying for this position, and I'll tell you why. It looks like they always send the nice guys down when they want to do something like this, and it makes it difficult. But, so be it, and you've got to do what you've got to do. I think the problem lies--and we've changed that problem already. You had a three-man commission, and that three-man commission rotated the chairmanship. That three-man commission was elected on a basis of every two years, see. They ran for six, and they were reelected. When the chairman was running, if he had a rate increase come up, they probably held it off, and I think that's probably what happened in a lot of cases. You now have a five-man commission. I think you've cured some of the evils. But I think if we go ahead and adopt this, we're putting in more evils than we've cured. We keep talking about the telephone company. Let me say to you here that I was amazed to find out how many people are regulated that this will effect. As a legislator, we get these notices from the Public Service Company. My bus line applies for rates; the trucking industry applies for rate increases. The other electric companies apply for rate increases. The bar pilots--do you remember five years ago or eight years ago or ten years ago in the legislature all the problems we had with the bar pilots, and we had to transfer them from the rate making body of the legislature over to the Public Service. They've done a good job there. Can you imagine these people when they find out that in six months, gentlemen and ladies, if you don't rule on me, my rate goes into effect. Now, that's the way I read this--not the telephone companies only--everybody who's regulated by the Public Service that applies to rates. Now, if I'm wrong, I wish one of these bright boys would get up here and correct me. But, I think I'm right. I also realize this: I know that a lot of you have said, "I'm committed to this", but I know that you're honorable enough that if you know all the facts, that you'll get uncommitted if it's going to do a.... be a detriment to this state. I think, and I've told the people that have asked me, I could not go along with a six month mandatory provision. I think it's bad.

Well, I think we're tampering with a balance of government here, and I think that if we went ahead and just said every agency that asks rate increase--the multimillion dollar insurance companies. I asked Sherman Bernard: he said, "Heck no," he said, "They've got to wait just like until we give it to them." These things are not automatic; don't make this automatic. I ask you to vote for Mr. Rayburn's amendment, and I yield the rest of my time to the Chairman.

Further Discussion

MR. HENRY

Mr. Chairman and members of the convention, it disturbs me a great deal if we don't adopt the Rayburn amendment because there're too many "what iffers" in this proposal that's being submitted today. What iffer we adopt it like it is; now, we foul it up and we lock it in the constitution. I don't think it's been thought out enough--and it's no discredit to the committee at all--but some of the questions that were just raised by Senator Nunez; some of the things that were pointed out by Mr. Duval; some of the things that were brought out by Senator Rayburn confuse me and they concern me, and we're talking about something that's awfully serious right now. If we adopt this, we're going to have to live with it because if this constitution is adopted--and I think it will be, and I believe you do, too--we're going to have to live with it from now on. Far too much in this convention we've legislated; far too much we've been lobbied, and lobbying is alright. Lobbying is fine, but I think we find ourselves in a situation here this afternoon, wanting to get through and wanting to go home and wanting to work toofast, and maybe just saying let's lie down and go to it because they were nice and because they are friends of ours, and let's help them out. Well, we're going to think about those people back in those little House districts and those little Constitutional Convention districts that we're representing because the people that are promoting this don't have their business in shape. They have not successfully explained to us the "what iffers" that are contained in this proposition. If it's that good, the legislature can take care of it. I know you've heard this probably far too much, but I don't want to take a chance on something that's this important. I don't want to take another chance on defeating this document. I ask you to vote for the Rayburn amendment so that we can get on with the business at hand and not take another unnecessary dangerous chance at killing this constitution. Thank you.

Further Discussion

MR. BURSON

Mr. Chairman, ladies and gentlemen, I hear the cries of moving the question, and I would do it except I was so astonished by the last vote that I feel like I have to bring out a few points here. Points that those of you in here, who fought so hard for agriculture, stop and think what automatic rate increases on railroads and truck lines are going to do to your people that's living in agricultural areas, like the one I come from where they ship all their rice to market on freight cars. For goodness sakes, the property tax issue was peanuts compared to this. Those of you here that were concerned and voiced great concern about the poor homeowner and the property tax that he has to pay, do you think that he's going to appreciate a thirty or forty dollar a month utility increase? That's what you're talking about. In other words, all the company's got to do is propose a rate increase, no matter how ridiculous it is, and they get it automatically if the commission doesn't decide. I submit to you that the commission regulating every truckline that hauls interstate, the railroads, the public transportation--the bus lines, taxi cabs--as well as all the electric utilities and the telephone companies, they'd have a stack of rate increase requests you couldn't see over if this went into effect. They wouldn't be able to decide them in six years if they wanted to and do an intelligent job on it. You're asking for so much trouble in this thing that it's simply unbelievable that we could seriously sit here and pass this committee proposal the way it is. If we take the Rayburn amendment and adopt it, as far as I'm concerned, we will have removed, certainly, the most objectionable material--the automatic rate increase facet of it. It mystifies me at the end how you could have been so concerned, as we have been on many, many votes in this convention, about the rights of the poor people, of the ordinary man, or whatever we want to call him, and saddle him here with automatic utility rate increases, is something that each and every person in this state is subject to whether they're on social security, welfare, or what have you. I plead with you, if you've done anything since this convention started, think about this amendment and adopt it because if you don't, we're in serious trouble.

Chairman Henry in the Chair

Questions

MR. CHATELAIN

Mr. Burson, you mentioned the fact that there'd be an automatic raise. After what period of time, sir?

MR. BURSON

Six months.

MR. CHATELAIN

I'd like to ask you this question, sir. Number two, how in this age of inflation and how could the average man operate a business if he had to wait six months to get relief the way things are going these days?

MR. BURSON

Mr. Chatelain, the only answer I can make to you, sir, is that before the age of public utility regulation, that farmers in the midwest--what caused the creation of railroad commissions in most states were that the utility rates were so prohibitive they couldn't ship their produce to market. If you allow this to stand, I predict to you that the Public Service Commission will be so deluged with rate increases they won't be able to rule on them if they want to rule on them, and they'll automatically go into effect no matter how outrageous, how ridiculous they are. I point out in this regard that this would affect all the trucks that bring the gasoline around, for instance. We're talking about...we're affecting so many things here it's inconceivable. We couldn't even name them all; you have to sit down and think about it for awhile.

MR. KEAN

Mr. Burson, there's been a lot of talk about the fact that the commission had delayed in making its decisions, and therefore, we ought to make it possible for someone to put something into effect in six months. But if I read this proposal correctly, even if the commission was diligent in its efforts and got all the information together and, based on that information, denied the request for the rate increase, the utility could nonetheless put that increase into effect pending final court action?

MR. BURSON

Absolutely. Only...

Closing

MR. RAYBURN

Mr. Chairman, fellow delegates, I'm going to try to be very brief. The language contained in this proposal affects far more than just the telephone companies. I know that they have been most active here. I have had no truckers, no taxicab operators, no wrecker operators, who are now under the Public Service Commission, or no other utilities to contact me about this proposal. I want to say to you people from the rural section, the language contained herein proposes the rates on hauling all of your commodities--rice, soy beans, cucumbers, strawberries, tomatoes, and many other things. I do not think that we should tell, to some people who's elected by the people to look over the rates, that if you don't act within six months we are going to put them into effect. Maybe you want to do that; I don't. I don't want to let my Public Service Commissioner say that "I didn't want your rates increased, but old Rayburn voted for a proposal where I couldn't do nothing about it and they increased them because old Rayburn gave them the authority and the right to do that." Maybe you won't answer those questions. I don't have the answer. I've been in a lot of campaigns and I voted for a lot of things that I really didn't know what I was voting for. But, I'll tell you what, when I got to running I found out a little more about them. I want to say here and now that I don't think this convention was called to take away the rights of elected public officials to do their job. Once this is started you could say to the governor of this state that if the Sheriff's Association applied for a raise--the clerks, the school teachers, and all the state employees, and if you don't give it to them it shall go into effect automatically after they request it and six months had lapsed. We are not writing a constitution to put these provisions in it. Why are those people here asking us to do this? Are they afraid? Are they scared? Do not they want to look at the facts? The law now says that before the Public Service can increase the rates or decrease it, they've got to have an audit made to find out whether they are in financial trouble or not; you're going to take that right away from them. I talked to my commissioner and he tells me that in some cases it takes six to eight months to get an audit completed before they make a final decision. I don't want to take that right away from him because the people elected him; I hope you don't. I have no quarrel with the telephone company. I've got some of my best friends that work with them and for them. But, I'll say this, they embarrass me when they ask me to write this language in the constitution of our great state. They are operating here, they are business people like all other business people in this state. Has any other business people come here and asked you for this right and this privilege? No, they haven't asked me.

All my amendment says is this: if they apply for a rate increase, if it's not acted on in twelve months, they go to the courts; that's what we have a court for. If you file a lawsuit, the courts decided and they decide this.

...and, I hope you adopt the amendments.

[Record vote ordered. Amendment rejected:
52-53. Motion to reconsider.]

Further Discussion

MR. DUVAL

Fellow delegates, I urge you to please reconsider this very close vote which is so crucial to the fate of this constitution. I think the Rayburn amendment as it has been said certainly is fair to the utility companies in that it does mandate the commission to act within a certain time. But, it also mandates the very insidious proposal which allows rates to go into effect which have been disapproved by the commission. This constitution and the press, and the people will be...the people will raise such a furor about this you will never hear the end of it when you tell them they have to pay rates that have been disapproved by the elected commission. This vote is too close; it certainly demands reconsideration and I implore you to please vote to reconsider it. One vote and I think the fate of this constitution can ride on this vote.

Questions

MR. BOLLINGER

Stan, will the passage of the Rayburn amendment preclude the offering of any other members to put some language in?

MR. DUVAL

No, it would not.

MR. BOLLINGER

Will it just not delete the parts that scare so many delegates?

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MR. DUVAL

That is correct.

MR. JENKINS

Stan, I'm wondering if an attorney wants to increase his prices or if the State-Times here in Baton Rouge, which is a monopoly in the daily newspaper market in this city, or if a local retailer wants to increase his prices in an inflationary situation, does he have to wait six months, or a year, or years, and years while things are in court to do that?

MR. DUVAL

No, sir, Mr. Jenkins, he does not, but utilities in Louisiana have been historically regulated because of the many abuses of the past. Moreover, I might answer your question as an attorney, when he represents a client and he doesn't get a decision in six months, he doesn't get the money either; that's another thing.

MR. JENKINS

You say there have been many abuses in the past. Haven't the abuses in the past been the political demagoguery on the part of some of the people on these regulatory commissions who have artificially held prices down and thus prevented people from getting the service that they could have gotten?

MR. DUVAL

Mr. Jenkins, the reason for a commission was because of the monopolistic utilities which had usurious rates, and I think the people of Louisiana would agree with that.

Further Discussion

MR. CHATELAIN

Mr. Chairman and fellow delegates, I wish you would give me about three minutes of your time and I'm going to speak to you from my heart. I think that you have seen displayed here this afternoon some of the greatest political pressure ever spoken, some of the greatest oratory, the rhetoric you've heard here this afternoon is...you have no equal to this. You've seen the greatest chairman a convention could ever have step down from the Chair and speak to you and it was all this pressure we have withstood. I say to you, let it be as it is. Let's not reconsider this. I say the people have spoken. You've heard words about steaks and feeding people. I think this is ridiculous and a personal affront to me and an insult to me and many of you, that they claim that the people took us out to feed us. I'm not speaking for the telephone company; I'm speaking for many people in this state. For twenty-seven years of my life I operated a transportation company in this state and I know the problems with the Public Service Commission. I say to you that they can and they should render a decision in six months time; that's what we are talking about. I don't buy this poppycock that they are feeding us steaks, every delegate here can buy his own food, but we still had the common decency to at least listen to the people. The people here from my parish, from my district, are decent people, people who serve in capacities of chambers of commerce presidents, and other great offices in the parish of Lafayette trying to render service to people. "Who owns" the utility companies in this state? The people. Don't the collective people have a right as the individual people have rights? I pose that question to you. Don't people have a right to get together and form little corporations and it so happens they have to go under the province of the Public Service Commission? Don't they have rights? Let's think about that for a while.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, I urge you to reconsider the vote on the Rayburn amendment. In answer to Mr. Chatelain, of course, the people don't own these companies, the stockholders own them. But, what's more important, they are monopolies and that's why they're regulated at all. I can't just go out and open up a bus line, or a truck line, or a railroad freight line in Louisiana if I want to. I can't just go out and open up a telephone company if I want to; I've got to be certified by the Public Service Commission. If I've got a truck line, I've got to get approval for the routes that I want to carry freight on before I can carry so much as a stalk of bananas on that line. Now, I urge you again, for goodness sakes, consider what you are doing here. I know we've had some effective lobbying on this thing and let me hasten to add, lobbying is part of the American political process, and I don't blame people for trying to protect their interest. But, I'm just trying to tell you, as Mr. Perez did earlier, that they went overboard in protecting their interest here and after all, we are supposed to look

primarily to the public interest and it just...I can't understand how people who have been so concerned about the property tax and the effect that it would have on the small homeowner could now be voting in favor of allowing that same small homeowner to get exorbitant increases in the rates on his utilities. I submit to you that homeowner might be a lot happier to pay an extra fifty or a hundred dollars on his property tax than he would be to pay that on a month for his utilities. There is no way in the world that you are going to avoid this eventuality. If you think for a minute now you're sitting in this building today and you are insulated to a great extent from discussion with anybody except the delegates who are here and the people in the back, whatever interest they may be representing, but if you think for a minute that when this story hits the street tomorrow that you're not going to get some telephone calls from your constituents wanting to know whether you were momentarily bereft of your senses when you allowed an automatic rate increase on freight rates, telephone rates, electric rates, and every other thing that's controlled by the Public Service Commission in this state to go into effect that I'll be very surprised, because I know a lot of things that affect people a lot less...I would simply conclude by asking you again to consider not only the wisdom of this policy but whether or not you want to see this frozen into a state constitution where it would take a constitutional amendment to change it. For goodness sakes, you know we have been acting like a legislature an awful lot, but we ain't one. Whatever we submit, if it's adopted--although I'll tell you frankly that if this is in there when it goes out, you're looking at one man that's going to be on the street opposing it. I'll tell you flat out and frankly as I know how; I don't believe in being devious about it at all. I'm sorry if that upsets anybody, but if it does it will just have to upset you because it's a fact. But, the point of it is, if it is accepted it will take a constitutional amendment to change this six month period of time that you are freezing in the constitution. Now, we haven't frozen periods of time in for people to file workman's compensation suits or anything else that involves bread and butter. If there is anything that involves bread and butter more than utility rate-making, I don't know what it is. That's the whole justification for having it regulated at all in the first place.

Point of Order

MR. O'NEILL

Point of order, Mr. Chairman. I thought we were speaking on reconsideration.

MR. HENRY

We are, but usually in the course of the discussion on reconsideration it opens the whole area to debate, Mr. O'Neill.

Questions

MR. FULCO

Mr. Burson, do you think it's fair to cause any business, telephone companies or any kind of business, to have to wait twenty-four months for a decision?

MR. BURSON

Mr. Fulco, I've represented workman's compensation claimants that didn't have a dime coming in that have had to wait for twenty-four months for a decision. I think Ma Bell is doing well enough to be able to afford to wait that long if it's necessary; yes.

MR. FULCO

Well, do you think it's necessary?

MR. BURSON

It depends on the particular circumstances of the case. If it's a complicated case, it may be necessary, to find the facts in that length of time.

MR. FULCO

Don't you think that by waiting that long that we are causing our own people to suffer, to be deprived that much longer for service?

MR. BURSON

I haven't ever heard anybody claim that they were deprived because their utility rates weren't raised; no, sir. We are keeping the one year period in under the Rayburn amendment.

Further Discussion

MR. TAPPER

Mr. Chairman and fellow delegates, I'm going to ask you not to reconsider, but to vote to lay it on the table. I would like to point out just a few things: (1) it was said that this was

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carried by or defeated by one vote. Well, let me remind you that we have adopted many, many measures here by one vote, not only by one vote but I've seen measures here that were not adopted, they were ties and the Chairman has had to cast a vote to break the tie; those are in the constitution. I have heard someone say here that we are dealing with the people's rights. Well, the gentleman that was here just a little while ago fought bitterly against the right of the individual to be represented in the grand jury when his life could be taken away from him and yet we went ahead and voted on that, and I think that was by one vote, so, let us not quibble over the one vote difference. But, on the subject at hand, we're talking about pennies on the part of the individual, don't let anybody confuse you on that. But we're talking about millions on the part of the utility. Now, what they want you to believe is that we are doing them a favor, we are doing these companies a favor by regulating them; they say they have a monopoly. Why do they have a monopoly? Is there anyone to compete with them? Is there anyone who wants to compete with them? We are doing them a favor by regulating them. Anyone else in private business can raise his prices, can raise his commodity and if you want to buy it, you're going to have to pay the price. Now, the people are crying, and hollering, and screaming to get rid of the regulation, get rid of the milk commission; you remember that, the milk commission. Yes, that's a regulation and if you don't think that's a monopoly just talk to your constituents. So, I ask you, let us not in the... be hoodwinked into believing that we are helping the little man by stifling decisions that sometimes take as high as twenty-three months. All we are doing by that is keeping people who need service from getting service. I urge that you vote against reconsidering and vote to lay this matter on the table and let's move on with the business of this convention. I will not yield.

Further Discussion

MR. JUNEAU

Mr. Chairman and fellow delegates, as indicated I think this is a very serious issue but let me point out one factor that I don't think has been brought out. You know a statement was made from this microphone, forty-two other states have similar provisions. I defy anyone to come up here and tell us which of those forty-two states have put a six month provision in the constitution. Now, let me offer this for your consideration. Let's say that two years from now--two years--we find that six months is unworkable because they can't get the information to make the decision and that's the reason. How are you going to change that?

Wait just a minute, let me submit to you this one final point. What we are talking about, then, is are you going to automatically put something in effect in six years or are you willing to accept Senator Rayburn's amendment which mandates and says "it shall be decided in one year," and if that's not good enough, you've got an automatic right of repeal. I submit to you, what more do you want? If you want to sit out on a limb and say we've got the constitution that's got a six month provision in it, you explain it because I frankly can't explain it. I'll yield to questions.

Questions

MR. DUVAL

Pat, this...even if the Rayburn amendment is adopted, the law is changed in that the Public Service Commission is mandated to decide within one year; isn't that right?

MR. JUNEAU

That's exactly...Mr. Duval, the problem has been--and that's what's been overlooked--there is no time requirement under present law as to when they've got to rule. The Rayburn amendment puts a one year time limitation on that; that's the point.

MR. WILLIS

Mr. Juneau, don't you think that the constitution is the place to remedy bad experiences in government?

MR. JUNEAU

I don't think that the constitution, Mr. Willis, can project into the future between three months, four months, six months, and seven months as to what's appropriate; no, sir, I don't believe that.

MR. WILLIS

Don't we gauge the future by the past, what's the present?

MR. JUNEAU

Yes, sir, I think we have taken care of that, Mr. Willis, because Mr. Rayburn has said in one year you'll make a decision, so I think we've taken care of that problem.

MR. WILLIS

Let me ask you this next question. Don't you think that we are forgetting and are oblivious of the provision previously adopted to the effect that the commission can make reasonable rules and regulations, and that those rules and regulations could be, "Mr. Public Utility when you come for a decision, you put all your chips on the table"? Don't you think then we don't have this loss of time in that six months and that to say that decision makers cannot make a decision in six months is rather ludicrous?

MR. JUNEAU

When a company or, as in a lawsuit, Mr. Willis, is asked to put all their cards on the table and ask for something in the neighborhood of a . . . million dollar increase, don't you think and hasn't experience shown, that you have to go back and get more information? I submit to you that that's about the case in eighty percent of the cases that come before the commission.

MR. JENKINS

Pat, you know I'm concerned about who is doing the regulating here. Isn't it true that the legal profession is regulated by lawyers, the medical profession is regulated by physicians, right on down on the line? But, in the case of these particular categories of enterprise, they are regulated by the customers' elected representatives. How would it be if all the lawyers had their clients elect a board to regulate lawyers? What would be the state of the legal profession, do you think?

MR. JUNEAU

I submit to you, Mr. Jenkins, because you are not talking about the same thing. I would gladly accept, as an attorney, the same benefits that we have under expropriations and so forth that's been afforded the public utilities in this state, so it's not the same thing.

MR. JENKINS

Don't you think when we have this situation where the customers of a business elect those people who will regulate that business that we be particularly careful to build in safeguards so that that business cannot be abused?

MR. JUNEAU

That's right, Mr. Jenkins, and that's entirely correct. I submit to you, you do that with a one year provision and you have circumvented that by turning back around and say "Even if you can't make a decision in six months and you don't have the information that we are going to automatically put that rate into effect." It does violence to me of what we are trying to do in this constitution in putting a six month provision in the constitution.

MR. JENKINS

But, you will admit that neither attorneys, nor retail dealers, or anyone else has to wait six months, or a year, or two years for some decision from some board. Don't you admit that?

MR. JUNEAU

I admit that, that's correct. As I said, this convention has decided there's a distinction between a private individual and a public utility.

Vice Chairman Casey in the Chair

[Motion to limit debate on the motion to reconsider to fifteen minutes adopted: 64-28.]

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, I resent some of the statements made from this podium as if some of us are "ogres" for voting the way we did. Let us argue on the merits of the proposal. I can understand a difference of opinion. However, I don't like being threatened and I don't like a lot of things that have been patched. It was said, for example, that the proposal was poorly drafted. The proposal was considered by two committees of this convention and we agreed on the drafting and it was done with the aid of a law professor. Two, it was said that we were wined and dined. It is very apparent that I was left out of something because I was neither wined nor dined. I don't think I saw any wine. It also was said that we were momentarily deranged. I assure you I was not deranged momentarily or permanently. However, I oppose the Rayburn amendment. I urge you not to reconsider. Is it fair to delay and delay and delay? The purpose is to force the Public Service Commission to act and

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reasonably promptly; after all, the employees need to know what to expect. I see no reason for the commission to delay it. I came here an independent and I shall leave here one. However, I do believe in fair play. I urge you to reject the Rayburn amendment and let us clarify any points which anyone says is not fair play. Thank you, Mr. Chairman, delegates.

Further Discussion

MR. LOWE

Mr. Chairman, ladies and gentlemen of the convention, contrary to many that's come before this mike, I find it difficult to get emotional about this problem because I don't really believe it's an emotional problem. I can frankly say that I'm not upset about those that criticize those delegates that voted one way or the other; we have a right to do that. I'm not upset, but I can frankly say I know how I voted and I know why I voted the way I voted; I have no regrets; I'll continue to vote that same way on this issue. We have a problem that we are trying to correct in this constitution that will probably never get corrected any other way and there's been a lot of things subjected into the arguments from steaks to people that don't know what they are doing. I think that everyone that voted on this issue knows what they are doing. Now, there's a couple of arguments that we had about the short time of six months. Well, we know that the rules are there for the Public Service Commission to set and those people that come under this Public Service Commission have to abide by it. Now, accounting is not an exact science, not to the penny, but accounting is a science; don't forget it. The free enterprise system that we work under evolves around accounting because we are able to tell investors and everyone interested in what's happening what the profits of a corporation is. If we couldn't tell them that, the free enterprise system wouldn't work. So, the Public Service Commission can mandate those people that come under their jurisdiction to furnish information and furnish the type of information that they want, they--the Public Service Commission--want. Now, you know and I know that once you have that information and you are satisfied that you have it all, six months starts to run if that's the rules of the game. Now, there is adequate time in that six month's time for any reasonable, prudent man, or group of men, to make a decision, and I'm not concerned about that. I'm concerned that maybe later on it might be too long. We are living in a sophisticated society, people can go broke in a month; they can go broke in a lot less than six months. I'm not concerned that once the facts are there that people can't make decisions. So, I'm not concerned about any of those arguments and I think that's the answer to the six months question. So, I'm here to tell you that I'm satisfied with the vote that we had. I hope that we don't reconsider. I hope that we lay it on the table and in the interest of time, I'll answer no questions.

Further Discussion

MR. ABRAHAM

Let me make a couple of points in answer to Mr. Willis' question to Mr. Juneau as to the rules and regulations that the Public Service Commission can make or require them to bring information in. Well, Mr. Willis, they can make all the regulations they want to requiring them to bring the information in, but there is nothing, nothing to prevent the utility from just not bringing the information, because all they've got to do is wait six months and they are going to get their raise into effect, so why should they bring it in? But, the thing I wanted to ask you people is, think what we have done now. We've placed a limit on our elected officials. We've placed a limit on a property tax. We are not allowing our elected officials to determine how much taxes they need in order to run our affairs and provide the services for us. Now, these people provide service for us too, just like utilities. We've placed a limit on license tax; we've frozen that into the constitution. We've placed a limit on the income tax. We have limited our elected officials in every way so that they can't tax us and these are the people who are supposed to provide services for us. Now, we are about to turn right around and say, O.K., no limit on the utilities. They can get their rate increase, they can charge anything they want. How can we reconcile these two positions, they are exactly a hundred and eighty degrees apart? I ask you to just think about this. I think we should reconsider this amendment and let's get this trash out of here.

Questions

MR. ZERVIGON

Mack, there's something that troubles me terribly. I've watched rate-making...rate-setting bodies trying to set rates; it's a terribly complicated thing. Is it your opinion that if the periods of time we've set in here are too short and we've left no flexibility,

that the only option open to the Public Service Commission is to tell everybody if there's a backlog on the docket, no, tell them no and then they would have to start the procedure all over again? Can we be certain that we are doing a favor even to the people who are asking for this procedure?

MR. ABRAHAM

That's correct, Mary. There is no assurance that even this time limit will do it.

MRS. ZERVIGON

And, then the only option left open is just for the Public Service Commission to say no, and we are back where we started, just about with almost no decision at all; isn't that correct?

MR. ABRAHAM

Not only that, but do you know what position this places the Public Service Commission in? All they've got to do is say no to everything without having a hearing or anything else, the rates go into effect and the Public Service Commission can sit back and say "Look, you all have tied my hands in the constitution."

MRS. ZERVIGON

Thank you.

Point of Order

MR. STINSON

Yes. My point of order is we should instruct the former Chairman to get his seat and not be politicking all over the floor. He's been standing here and going all over. He's over there now talking to Mr. Chehardy.

[Quorum Call: 92 delegates present and a quorum.]

Personal Privilege

MR. STINSON

I rose because Mr. Henry was still going around talking to people after you ordered him to sit down, and I don't think he should be exempt from our rules.

Point of Information

MR. RAYBURN

Since all delegates have a right to vote and walk among the other delegates--they've been doing it ever since I've been here--why should the Chairman be excluded? After all, he represents some people, also.

MR. CASEY

Mr. Rayburn, no delegate is prohibited from walking around and collecting votes in a very quiet manner; but, if anyone is going to disturb other delegates and disturb the convention and congregate in small groups, that's what I'm obligated to call down. Thank you, Mr. Rayburn, and thank you, Mr. Stinson.

Further Discussion

MR. SMITH

Mr. Chairman, I think we've heard enough speaking. I think they're all inebriated by the exuberance of their verbosity. I've been wanting to use that quite a while.

MR. CASEY

Would you repeat that, Mr. Smith?

MR. SMITH

I say I think all these speakers were inebriated by the exuberance of their verbosity. Mr. Willis taught me that. Anyway, I think we've heard enough from both sides. We've all made up our mind, and I....

[Previous Question ordered.]

Chairman Henry in the Chair

Point of Information

MR. TAPPER

I think the Acting Chairman said Senator Rayburn has a right to close.

A point of information or order: What is on the floor?

MR. HENRY

The motion to reconsider, which you made and you have the right to....

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You're both incorrect. Mr. Duval made the motion to reconsider, and he has the right to close.

Point of Information

MR. O'NEILL

Mr. Chairman, the question is not whether to table the motion to reconsider?

MR. HENRY

No, the delegates just voted to table the motion to reconsider. No. There was no motion to table the motion to reconsider.

Closing

MR. DUVAL

Mr. Chairman, fellow delegates, Mr. Smith's remark was probably well-taken. I guess I just consider this a very serious thing and something that requires a lot of thought. I certainly don't blame the utility companies for attempting to help their position. I think the constitution is not a place to put such a one-sided proposal in. I think one thing we've all failed to talk about and, perhaps, emphasize enough: Even if the Public Service Commission decides in one month, against the utility companies, their rate still goes in effect. There's no way you can justify that. I know you realize that, and I know you will vote for reconsideration.

Questions

MR. ALEXANDER

Delegate Duval, you say their rates will go into effect after six months?

MR. DUVAL

No, sir, I said: Even if the commission decides in one month from the time of filing, the rate goes into effect, and the people have to pay the increased rate, even though their elected commission decided against the utility company. That is what it says. If the commission disapproves the rate--it's what it says--if the commission disapproves the rate, the rate goes into effect under bond. That's what it says. Now, you read it.

MR. ALEXANDER

Oh, no, I think you're incorrect.

MR. ARNETTE

Mr. Duval, I have to admit I do agree with your interpretation of that particular point. But, don't you think what's going to happen--if we don't pass Senator Rayburn's amendment--is that the Public Service Commission will just deny all rate increases and say, "Well, I didn't raise your rates or anything, and I'm safe politically; and, yet, I didn't hurt the utilities too much because they can put it in after six months"?

MR. DUVAL

That's a good point, Mr. Arnette.

In answer to the question, it says: "If the commission disapproves the proposed increase, in whole or in part, the carrier or utility may place and continue the schedule in effect under the bond or security." I think any first grader can understand that language.

MISS PERKINS

Mr. Duval, did you know that your interpretation of the committee proposal is correct?

MR. DUVAL

Yes, ma'am.

MISS PERKINS

Did you also know that there would be amendments that would change the committee proposal with reference to this?

MR. DUVAL

Well, I think this amendment gets this bad language out now. It doesn't preclude anybody else from bringing in an amendment to let it stand on its own.

MISS PERKINS

Doesn't it delete the entire two sections--(2) and (3)?

MR. DUVAL

It deletes (3) and (4), but it doesn't prevent any amendment to this section--to this paragraph.

MISS PERKINS

Thank you.

MR. HAYES

Mr. Duval, is there a limit to what the utility company can propose and put into effect?

MR. DUVAL

No.

[Record vote ordered.]

Point of Information

MR. NUNEZ

Just please explain it: that red and green mean--oh, go all you want; just please explain it. I would make that request of the Chairman.

MR. HENRY

The gentleman moved to reconsider the vote by which the Rayburn amendment failed to pass. If the group does not reconsider the vote at this time--does not vote to reconsider the vote--then, the Rayburn amendments are dead.

[Motion to reconsider rejected: 50-54.]

Amendments

MR. POYNTER

Mrs. Warren sends up the following amendments:

Amendment No. 1. On page 6, line 1, immediately after the word "decision" and before the word "on" insert the following: "after a public hearing".

Amendment No. 2. On page 6, line 15, immediately following "resort." delete the remainder of the line and delete lines 16 and 17 in their entirety and insert in lieu thereof the following: "After the final rejection of a proposed rate increase, the applicant shall refund all monies paid pursuant to any increase placed in effect pending final approval."

Explanation

MRS. WARREN

Mr. Chairman and delegates, I know all of you are saying: I want to be home for Christmas. So, I'm not going to be real long; I'm going to be real brief. I noticed in PAR's comment where they referred to "the present rules of Public Service provides for public hearings on utility requests or change in the rates of return earnings on their investments, but such hearings are not required by law. In order to assure the continuance of such hearings, the constitution should require public hearings on requests for change in the rates of return." This is what my amendment intends to do--to see that we have hearings, public hearings. My second amendment was: In the provisions where it said, "The provisions that any rate increase tentatively imposed would be under bond, subject to refund, would give consumers the corresponding protection against losses for an unjustified rate increase," they mention that the clause that requires refund claims to be filed within a year, however, would cause to be interpreted as putting the burden of initiating funds on the consumer. I wanted to take that burden off of the consumer and put it on the company. This is my amendment. I ask your approval. Thank you.

Questions

MR. ALARIO

Mrs. Warren, on your second amendment, you don't have a deadline as to how long the utility company has to refund the customer.

MRS. WARREN

No, I didn't, Mr. Alario; I wasn't up on it. As Mr. Rayburn says, "I didn't quite have my pants on"; but I would appreciate Mr. Rayburn and anybody else--Mr. Rayburn has an amendment, and also Mr. Roy has an amendment that I think would be good.

Point of Information

MR. ALARIO

Mr. Chairman, are the amendments divisible?

MR. HENRY

Yes, they're divisible, Mr. Alario.

Questions

MR. ARNETTE

Mrs. Warren, you have a provision saying these funds will be returned. Will they be returned automatically?

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MRS. WARREN
Right. Without any burden on the consumer, that they would automatically come back.

MR. ARNETTE
Right. Suppose somebody...there's a rate increase, say, for a city bus system, or something like this, from, say, ten cents to fifteen cents. Are you going to require the bus system to keep a record of every extra nickel that each passenger rode? In other words, how will they refund this automatically? How will they know who to pay and how much to pay?

MRS. WARREN
Well, Mr. Arnette, I'm not quite sure. As I said to you, I took my action because I knew that we had left this out, and I wanted to be sure that we got something in here. I'd appreciate any help you can give me

MR. ARNETTE
But, Mrs. Warren, you do see the problem with your provision, don't you?

MRS. WARREN
Yes, Mr. Arnette, it is a problem, and I'm saying that you probably could help me.

MR. ARNETTE
I would if I could.

MRS. WARREN
Thank you.

MR. TATE
Mrs. Warren, have you checked to know what sort of things the commission handles without a public hearing that are sort of perfunctory applications that don't need a hearing? Have you checked to see what that might do to that, Mrs. Warren?

MRS. WARREN
No, Judge, I didn't. I think I told you, from the beginning, where I got my idea from. I thought it was a good one, and I thought I wouldn't let it pass. I know you're a little bit better than I am, so you can help me out. Help me, please.

[Division of the Question ordered. Previous Question ordered. Record vote ordered. Amendment No. 1 adopted: 86-11. Motion to reconsider tabled. Motion to suspend the rules to allow withdrawal of Amendment No. 2 adopted without objection. Motion to take up other orders rejected: 42-50.]

Amendment

MR. POYNTER
On page 6, delete lines 5 through 17, both inclusive, in their entirety (Mr. Roy, we need to add: including all floor amendments thereto) and insert in lieu thereof the following:

"(2) If a proposed rate schedule is approved in whole or in part within six months, it shall become effective on the date established by the Public Service Commission order; if no decision is rendered within six months from the filing of any proposed rate schedule, it may be put into effect, as provided by law, subject to such protective bond or security requirements until final action by a court of last resort.

(3) If the proposed increase is finally disallowed, in whole or in part, the utility or carrier shall make refunds within one year after any final action, and as otherwise provided by law."

Explanation

MR. ROY
Mr. Chairman, ladies and gentlemen of the convention, this amendment does about five things that, I think, most people were concerned about. First of all, it presents the present law which is if the commission makes a favorable ruling in favor or the rate increase, then it goes into effect, subject to the order of the commission: that is, whenever the commission declares it goes into effect. Now, the way the law presently is--and the way it works is--that within ten days of the order of the commission, any party--and that is anybody who's affected by it--has a right to ask for an injunction to either prevent the order from going into effect or not. If no injunction is asked for, if it is asked for and is defeated, then within ninety days thereafter, a person has a right to appeal. Now, so this thing provides that the com-

mission would determine when the pay raise would go into effect. I think that's good because you may have a commission that decides 5 - 0 for a rate increase, and they can determine when is the best time to put it into effect. The other thing it does is, following the semicolon--and you may get into a philosophical discussion about it--but it's my judgment that, if you mandate that commission to act within six months--and if not, that rate increase may be bonded as provided by law--you'll see that, from the other amendment I had, that I now put the words "as provided by law" immediately following "effect" so that the legislature can deal with that particular aspect of the rate increase to some extent--if the commission fails to act. Now, we may argue about it, but it's still my judgment that the problem has been that the commission has not acted. The commission can make rules and regulations, as I said, saying that the filing of the application is when you furnish us with these six, five, four, three, ten things. Until that's done, you have not filed an application for a rate increase. That would be constitutional; it would be upheld. Thereafter, I think any commission of five people ought to, within six months, be able to make a decision. If they cannot make a decision, and if they want to prevent the utility company or carrier from having an automatic rate increase, then they simply deny--on the fifth month and twenty-ninth day--the rate approval. Once they rule adversely within the sixth month, there is no bonding of these provisions as the original provisions provided, which I was against. Now, it also provides, of course, that the "as provided by law" means what type bond you have, etc.--those things of a legislative nature. The third thing it does is: it provides, unequivocally, in number (3), that after a final decision, if the rate allowed has been now disallowed, in whole or in part, it makes it the obligation of the carrier or the utility company to make refunds. There's nothing about a person having to file a claim for his refund. The company is mandated to make the refund and to make it within one year, and "as otherwise provided by law," which will then allow the legislature to fool with that only with respect.... the legislature will be able to do only one of certain things: it can set the amount of interest you will get on your refund: it can say how the refund will be made: that is, whether it's made in the form of a credit or whether it's made in a form of direct payment back to the consumer. But, the one thing the legislature may never do, without a constitutional amendment, is to make it incumbent upon the consumer, in some fashion or another, to have to file some type of claim for his refund. That's what it does. I move the adoption of the amendment.

Questions

MR. ABRAHAM
Chris, I believe you stated that, if the Public Service Commission waited until the twenty-eighth day of the fifth month and then disallowed the rate increase, then the utility could go to court.

MR. ROY
It can't bond the rate increase, but it simply allowed its appeal to the court.

MR. ABRAHAM
But, it cannot put the rate increase into effect: is that correct?

MR. ROY
No, it cannot.

MR. ABRAHAM
Now, what happens if the Public Service Commission, on the twenty-eighth day of the fifth month, rules that we will allow one-tenth of the rate increase to go into effect six months from this date? What position would you be in?

MR. ROY
The utility company may put that portion of the rate increase into law, if the Public Service Commission says, on a certain date; but the part that is denied, it has no recourse because it has been denied within the six months. Its only recourse is then an appeal.

MR. ABRAHAM
No, no, wait a minute. It says: if the rate schedule is approved "in whole or in part within six months." So, I have complied with this provision. I have approved in part, and I'm saying that if....

MR. ROY
Wait. Are you reading number (3)?

MR. ABRAHAM
No, I'm reading in this number (2). It says: "If a proposed rate schedule is approved in whole or in part within six months, it

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shall become effective on the date established by the Public Service Commission."

MR. ROY

That's a rate increase, man.

MR. ABRAHAM

So, I, as the Public Service Commission, am going to approve a part of this rate increase. I'm going to approve one-tenth of it. I'm going to say it goes into effect one year from this date. So, the utility now has no other recourse to the courts--do they?--because I have complied with your provision there.

MR. ROY

You don't understand the mechanics. Sure, they have recourse to an appeal in that case. They even have recourse to an injunction. What you did ask that you've forgotten to rebring up is the fact that the part that is denied within the six months cannot be bonded, but the part that is allowed--the rate increase that is allowed--the utility company can put it into effect and then appeal to the district court on the part that was disallowed. But, it cannot bond it and put that portion into effect.

MR. JUNEAU

Chris, as I read Subparagraph (1), we're mandating the commission that, within one year, these elected officials, they have to make a decision--isn't that correct?--even with your amendment.

MR. ROY

Shall render its final decision. Right.

MR. JUNEAU

Right. O. K. Then, we're turning back around in Paragraph (3), and we're saying if you don't render a decision in six months, that it's going to go into effect anyway. Isn't that right?

MR. ROY

If the carrier or the utility chooses to bind that portion that it will not rule on, yes.

MR. JUNEAU

O. K. Let me ask you this hypothetical situation. A rate is applied for on January 1; it's docketed three months later; the information which the commission has requested is allegedly furnished by a utility. It develops, though, that, in the opinion of the commission, that they have a lot more information; and because of the confrontation between the commission and the utility, it takes three months and one day--which would put us six months and one day--and in six months and two days, this elected body says: Rate is denied. Under your amendment, isn't it true--even under those circumstances--that the rate, at the option of the utility company, would still go into effect?

MR. ROY

Very plain, Mr. Juneau--you can read--it says, if after six months they have not ruled, that the carrier or the utility may bond it, subject to the provisions of law. So, you're right.

MR. JUNEAU

Yes. Right?

MR. ROY

You're right! I thought that was clear. But, the fact of the matter is, if they're not sure, all the commission has to do is to rule no on the fifth month and twenty-ninth day, and then cause them to go to the district court, at which time they can put in more evidence.

MR. JUNEAU

Mr. Roy, let me ask you this question. Why are we, on one hand, mandating the commission to rule within one year, and we turn back around and say: You can obviate that rule because we're going to tell you, under the constitution, in six months you're going to get it anyway?

MR. ROY

The reason that we are is because, in my judgment, most people see that sometimes the commission has sat when it should not have; and, as a result, the consumers suffer a lot when they're not able to get the services and the utilities they need because the company... The commission, on certain occasions, has not even considered something for eight or nine months, and they say: we need more material. It's sometimes been two and a half years before they ever get around to ruling on anything, under present law. That's not right.

MR. JUNEAU

All right. Mr. Roy, even under Mr. Rayburn's amendment, that wouldn't occur because there's a one-year time limitation. Isn't that right?

MR. ROY

I told you we could argue whether one year or six months, seven months, seven months-one day, you know....

MR. JUNEAU

One last question, Mr. Roy: If the experience of this state shows, in 1985, that six months--this magical figure of six months--is not adequate, how do we change that, Mr. Roy?

MR. ROY

Well, we can amend it, or the commission can simply act every time within the six months--like it should. If the experience shows that it's not in good in twelve months, like it has in the past, why do we keep it?

MR. JUNEAU

So, we'd have to go back to the people, possibly, for a constitutional amendment on a six-month provision?

MR. DUVAL

Chris, I heard you say it, but I merely wanted the intent for the record. In the event the commission would decide unfavorably within six months, the utility would have no right to bond, under this proposal; is that right?

MR. ROY

Absolutely right. No right to bond.

MR. DUVAL

Chris, it may not be clear to some people, under this: You would not oppose an amendment which only made that part of this amendment clear?

MR. ROY

Absolutely not. That's the intention of this amendment.

MR. DUVAL

Chris, one other question. The first sentence says: "If a proposed rate schedule is approved in whole or in part within six months, it shall become effective." Does the "it" mean the proposed rate schedule?

MR. ROY

No, it means the increase.

MR. DUVAL

I know, but what if it's only a partial increase? The "it" refers back to the proposed rate schedule.

MR. ROY

Then, that partial increase becomes effective, but the one that they disapprove does not become effective. They can't bond it.

MR. DUVAL

So, the pronoun "it" only refers to whatever was approved, then?

MR. ROY

Well, certainly.

MR. DENNERY

Chris, my question relates to the situation, if the proposed schedule results in a rate increase. Now, under the committee proposal, that increase could be put into effect--and you have added that such will become effective on the date established by the commission, with which I have no quarrel....

MR. ROY

Noise, I didn't hear your last part. I....

MR. DENNERY

I say: Under the committee proposal, if the proposed schedule results in a rate increase, it may be put into effect. You have added to that, that it shall become effective on the date established by the commission, with which I have no quarrel. But, you have deleted--and I want to know why you have deleted--that it may be put into effect, "subject to such protective bond or security requirements," etc. The reason that I ask that question is not

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with regard, for example, to the telephone company, but to the smaller utilities and carriers who have previously been mentioned. The committee proposal, I believe, protected the public so that if-- on an appeal by the public or by an individual, from the commission's ruling--the rate schedule was disapproved or lowered, under your provision the carrier or the utility must refund; but there is no protection for the public with a smaller utility or carrier. Was there a reason for deleting that?

MR. ROY

Moise, that's the present law. I'll tell you that, when I looked at Section (3) of the committee proposal, I thought it said what you said; but, if you read it closely, it refers to the tentatively adopted approval and does not refer to where you have....

You see, it refers to the automatic a'option which comes about as a result of no action.

[Motion to limit debate on the Amendment to thirty minutes. Substitute motion to limit debate on the Amendment to fifteen minutes rejected: 39-44. Motion adopted: 70-21.]

Further Discussion

MR. DESHOTELS

Mr. Chairman, ladies and gentlemen, I know we're getting tired, but let's hold on and not vote just yet for this amendment. I'll tell you why, Mr. Roy came out with the point that it was a good philosophy and a good concept to try and get the commission to arrive at a decision. I'm for that; I'm for them arriving at a decision as fast as possible. But, keep in mind that my understanding is that when a utility files a petition for a rate increase, it files its audit, its affidavits, its support for the rate increase. Now, some of them would have you say, "Well, the commission can rule on what the utility provides them." Well, obviously, whatever they provide them will be to their benefit and to their advantage. There has to be an audit. Some of these corporations have branches that extend throughout many states, and sometimes it takes more than six months. Well, I would propose to you that we allow utilities to institute, I would propose that we allow them to institute their rate schedule under a bond or security as provided by law, at the end of six months. But... but listen, but, if that commission arrives at a decision between the six months and the twelve months, then you have a decision and there is no reason in the world why--why--that rate increase should go on as the utility has proposed, because then when you have a decision, you have what the law is, until reversed. Now, Mr. Roy's amendment provides that there cannot be any rates instituted until after the first six months. But, he failed to tell you that if that commission, after gathering all of the facts and all of the evidence--and they need the time; even the utilities admit they need a year--if that commission comes in with a decision six months and one day--six months and one day--after the initial filing of the petition, then no matter what the rate schedule is, it continues under bond. That is not right.

I have an amendment--I have an amendment--that would provide for them to institute their rates at the end of six months, if there's no decision. But, gentlemen and ladies, if there is a decision between the six month period and the twelve month period, then there is no reason, in my mind, there is no reason why that rate should continue. If we're going to allow a rate to continue in spite of decision pending an appeal, well, then why have the Public Service Commission pass on it at all? Let's have the district court here in Baton Rouge give us a final decision, because we are circumventing--we are circumventing--five elected people. There's no reason for that. If you think about it, even the utilities admit that it may take a year to get a decision. So, why use the six month period? Gentlemen, think about that. I have an amendment, if you would take the time to go through your papers and look at it, I think that we might be able to settle on that. But, Mr. Roy's amendment is not the answer. I submit to you that it was not done intentionally, I'm sure, but Mr. Roy failed to point that out to you. But, ladies and gentlemen, I can't implore you too much that once we have an elective body make a decision, then by God, let's honor it, or let's not let them make it at all.

I thank you for your time. Vote against the amendment, and let's hold off a little while longer. Let's try and get at least something that's better than what we have now. Thank you very much.

Questions

MRS. ZERVIGON

Mr. Deshotels, you are an attorney, so maybe you can help me understand something. Most of the speakers have directed their

attention to Subparagraph (2). I direct your attention to Subparagraph (3) which says, "the utility or carrier will be required to make refund claims within one year." From whom is the utility claiming something? I don't understand what Subparagraph (3) means. Can you explain it to me?

MR. DESHOTELS

Mrs. Zervigon, the only thing I can tell you, I think what Mr. Roy's intent was that one year after the Supreme Court's final ruling on it, or the United States Supreme Court, after a final definitive decision, then, then you would have a refund.

I may not have understood your question, and I beg your pardon if I haven't. But, I think that was the thrust of Paragraph (3).

MRS. ZERVIGON

It says the utilities shall make "refund claims." Does that mean make good on claims? Is this the wrong amendment?

MR. DESHOTELS

I see your point. I have no way of knowing that. It's an excellent point.

Further Discussion

MR. BURSON

Mr. Chairman, ladies and gentlemen, I have great respect for the political acumen of the members of this body. Most of them have proven in other areas before they got elected or appointed to this convention that they had such acumen. I am still mystified as to why all that accumulated political wisdom has suddenly deserted this body this evening. Those of you who are in local politics, as I am, think back over the times when people in your community got mad at locally elected public officials. I'll book you that you can think of a whole lot of times when that was tied to either utility rate increase--if it's a publicly owned utility--or a garbage collection increase, natural gas rate increase, if they've got a city gas utility. Why? Because this is something that affects every citizen in this state every single month of his life when he comes to pay his bills. Do you think, by the wildest stretch of your imagination, that the present members of the Public Service Commission who have proven their political acumen, some of them over many, many years, are going to be meek and mild enough to let this affront to their present operation go by without informing the people of the pending increase in their gas bills and in their light bills and in their freight bills? I don't think so, not having had the pleasure, over the years, of listening to Mr. Ernest Clements from the stump. I believe he's going to be able to do a dandy job with that, and I think he will do it. I think the other members of the Public Service Commission will, too. I would, if I was in their place. Now, maybe that's all right with you. Maybe you don't mind throwing away a year's work that I think, by and large, has been good and seeing this document that we've worked so hard on go down. If you don't, that's fine. I'm giving you one man's opinion, but if you'll use that political acumen that you have and think about people who are going to go to the polls not voting on a new constitution, but whether or not they want their light bill increased, and see what kind of vote we're going to get. If you don't think they'll go to vote on that basis, then you don't have the political acumen that I think you do. This item about refunds is the biggest joke I have ever seen in my entire life. How in the world is a utility company, even if they want to, going to give people a refund with the mobile population that we have, particularly in the urban areas, to apartment dwellers and other people who may move quite frequently who have had their utility rates increased when the appellate process may not be finished for another year? I would really be... and how, in heaven's name, are they going to give a refund to the man who rides a bus or the other public transportation? Are we all going to have to start bringing around a pocket notebook and keeping a record of every-time we rode the bus and get the receipt from the bus driver so that we could put them together and ask for a refund after it's all over? How are we going to get a refund under increase in freight on all the goods brought into this State of Louisiana under the increased freight rates that we're going to get from the trucking lines? Would you mind explaining that to me? I'd be very interested to hear it.

Further Discussion

MR. ROY

Mr. Chairman, in view of some of the questions about the word "it," what it refers to, Mr. Willis suggested some things that I think are right. We would put "any increase that is allowed," instead of just the word "it." It would be "from the effective date of filing" rather than just the "date of filing," so there'd

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be no question but that the Public Service Commission could say that the filing has not occurred effectively until you do these things, to obviate what some other people say may occur: that is, that the utilities will in bad faith file something and not give any information. So, by putting the words "the effective date of filing" instead of just "date of filing," I think there's no question but that that will solve a lot of problems. That's what I was going to do, Mr. Chairman.

[Amendment withdrawn. Motion to take up other orders. Substitute motion for the Previous Question ordered on the entire subject matter.]

Point of Information

MR. PEREZ

A point of information. What is the entire subject matter at this time, now, if this particular amendment has been withdrawn? Are we talking about on the entire section?

MR. HENRY

No, sir. I think it would be on Paragraph (D), Mr. Perez, because we're going paragraph. . . letter paragraph by letter paragraph.

Point of Information

MR. JUNEAU

Is the amendment before the floor?

MR. HENRY

He's withdrawn it.

Point of Information

MR. ROY

Mr. Chairman, I just really thought that the Chair understood that those were technical amendments to take care of some questions that were asked. In good faith I withdrew it to resubmit the other. Now, if. . .

MR. HENRY

Well, now, Mr. Roy. . .

MR. ROY

I didn't withdraw it so that it wouldn't be resubmitted. I'll go with what I got. I was just trying to make it more clear.

MR. HENRY

I don't believe that Mr. Kelly's motion had anything to do with the fact that you withdrew your amendment.

MR. ROY

I cannot withdraw it and resubmit it like we've done in the past?

MR. HENRY

You. . . certainly you can, if that motion is not made, or if this motion or substitute does not pass. But, the gentleman has the right to make the motion.

MR. ROY

All right. I've learned my lesson. It will be all right, Mr. Kelly.

[Record vote ordered. Motion for the Previous Question on the entire subject matter rejected: 7-86.]

Point of Information

MR. ROY

Can I move to resubmit my amendment, or am I out of order in view of the motion by Mr. Anzalone and Mr. Kelly?

MR. HENRY

You would be out of order because he's moved to take up other orders, sir.

MR. ROY

Well, all right.

[Record vote ordered. Motion to take up other orders rejected: 75-59.]

Amendment

MR. POYNTER

Mr. Chairman, I do have the Roy amendments at this time. Amendment No. 1. (Now, the copies of these are being run off by the staff)

Point of Order

MR. SCHMITT

I'd like to see a copy of it before he begins speaking.

MR. HENRY

Now, may we proceed, Mr. Schmitt?

Point of Order

MR. PEREZ

Mr. Chairman, we are involved in a most important matter and one which I think may hinge the. . . whether or not this constitution may be adopted. I do believe we ought to stand aside long enough to see these amendments before they are presented. I'm tired, just as everybody else is. But, this is a very serious situation. I think we ought to stand at ease until we get these copies of these amendments.

MR. HENRY

We'll stand at ease pending the distribution copies of the amendment.

Point of Information

MR. AVANT

Why are we standing at ease? I understood the Clerk had a copy. Can't he at least read it to us?

MR. HENRY

Well, that's what we started to do. Let's just wait till we get them all so everybody will have a chance to look at it.

RECESS

[Quorum Call: 87 delegates present and a quorum.]

Motion

MR. SHANNON

Mr. Chairman, I'd like to make a motion that debate be limited on this amendment to thirty minutes.

Point of Information

MR. LOWE

Mr. Chairman, I was under the impression that we had already limited debate and that we were actually on the same amendment, that there was just some technical amendments he had made to it. So, I would think that we're under the time limit that we had already imposed.

MR. HENRY

I'd like to be able to agree with you, Mr. Lowe, but it is a new amendment.

MR. LOWE

Well, Mr. Roy is agreeing that we are under the same time limit. Of course, I know he doesn't make the rules, but. . .

MR. HENRY

Well, the problem that it's going to cause me is there are all kinds of hands being. . . that people are raising to speak. I know where we cut off out there, but I don't know how I'm going to administer it. If we. . .

Point of Information

MR. BOLLINGER

Mr. Chairman, how much time was remaining on the other amendment?

MR. HENRY

About twenty minutes.

Substitute Motion

MR. BOLLINGER

I would like to make a substitute motion that we limit debate on this amendment to twenty minutes.

MR. SCHMITT

I'd like to speak on a motion.

MR. HENRY

Mr. Schmitt, I have you on the list, sir. On the motion to limit debate?

MR. SCHMITT

I'd like to speak on the motion before us at the present time. Yes, sir.

MR. HENRY

All right, sir. Proceed.

Further Discussion

MR. SCHMITT

We are seeing before us at the present time an attempt at the utility companies of this state to railroad us into making an ill-advised decision. I believe that each person who believes that we should consider this problem in depth should come forward and speak at the present time so that we might effectively have a filibuster so that we could come back tomorrow and after we get a chance to get some response from the people across this state. We have heard from the utility companies. We have heard from those people who want to get the money out of our pockets, rightly or wrongly. We haven't heard from the people back home, and I can assure you when those people see the newspapers tomorrow, that they will . . . revolt at what. . .

Point of Order

MR. CHATELAIN

Mr. Chairman, I'd like to know: Did he arise on personal privilege, or is he speaking to this error?

Ruling of the Chair

MR. HENRY

He is speaking on the motion to limit debate and is out of order, sir.

MR. CHATELAIN

Well, thank you, sir.

MR. HENRY

In my late evening manner, I made a mistake, because a motion to limit debate is not debatable, Mr. Schmitt. So, I'll have to rule myself out of order.

All right. We have a motion to limit. . .

The gentleman appeals the ruling of the Chair, and it's not debatable because it's not. . .

You withdraw your motion? He withdraws his motion to appeal the ruling of the Chair.

[Previous Question ordered. Substitute motion adopted: 66-25.]

Explanation

MR. ROY

Mr. Chairman, I'm not going to take any time because other people want to speak. I'm sure Mr. Schmitt does. I want to say several things. One, I am not now, nor have I ever been, nor do I know that I ever will ever be employed by a public utility or what have you. Number two, we exchanged the word "it" to "any" on the second line so that there wouldn't be any mistake but that the only thing that could be bonded. . . the only thing that would go into effect would be the increase that the commission gives. Number three, we put the effective filing date so that you would have no problem in knowing that the commission may say "The effective filing date of this particular application is on the day that you do these things and the day we stamp them as having been effectively filed." Four, for Mrs. Zervigon, the last sentence on the (3), the last phrase, "and as otherwise provided by law," I thought I'd explain. I don't want the legislature to ever be able to say that it will impose upon the consumer the obligation to file any type of refund claim, but that if there is a disallowance of what was previously allowed as a rate increase, it will be incumbent upon the utility or the

carrier to make those refunds themselves. "As otherwise provided by law" simply means that the legislature may say at what rate of interest it will draw at the time, whether it will be paid back in the form of a credit on a bill or whether they will have to make a direct cash payment or payment by check. That's all the questions I have. I'm going to yield to one question from Mrs. Zervigon because I know she is interested. I'm not yielding thereafter because I think you all know what the issues are and you all want to discuss it with somebody else.

I yield to Mrs. Zervigon.

Questions

MRS. ZERVIGON

Chris, I appreciate your explanation on that last sentence, but let me ask you, why didn't you just say "as provided by law," and not stick the word "otherwise" in there which makes it sound like they can provide other than a year or other than a refund or other than something in the paragraph?

MR. ROY

Well, the "otherwise" is redundant, really, in my judgment. We can take it out, if you want. All I'm saying is that I don't want the legislature to ever impose upon the consumer the obligation to make any type of a claim to be filed to get his money back.

All right, Mr. Alario, I'll yield to you.

MR. ALARIO

Thank you, Mr. Roy.

Mr. Roy, you changed the word "it" to "any," now, so that your language now reads: "If the proposed rate schedule is approved in whole or in part within six months, any increase shall become effective." Now, did you change any language from "it" to "any?" Did we really do anything? Shouldn't it say, "any increase so approved?"

MR. ROY

No. No, because they. . . you can't, of course, approve a nonincrease. You can't approve a decrease. You either approve the increase or you don't. The "any" means that only that portion will go into effect. Let me tell you one last thing. For the benefit of those people who are worried about the discretion of the commission and to help out, the commission can say, "Yes, we're going to allow you an increase on fifty percent of your requests not effective until six months from today." So, the commission has all kinds of discretion.

Thank you.

Further Discussion

MR. SCHMITT

One thing I really don't understand, the committee proposal, itself, is essentially the same as the Roy, Lanier, et al amendment. Very few things in here are actually changed, yet there appears to be a lot more support for this amendment than for the original committee proposal. I certainly do not like to feel the pressure of lobbyists, no matter whom they might be. I listen to their plight, and I think they have a just cause. That cause being that in the past, there was an indeterminate amount of time between the time when they requested a rate increase and the commission acted upon that request. However, I do not feel that a six month period of time is a reasonable period of time. I think that the way that Senator Rayburn's original amendment was, was quite adequate in that it required the commission to make a decision within the one year period of time. Subsequent to that, they would have a right to go to the district court and immediately to the Supreme Court of Louisiana. I once again point out that this is something which is not given to many of the poor people who go before the courts and request rights from the courts and decisions from the courts. Many times, cases die in the courts because the party who was injured either on the job or in some type of accident or through some other cause dies, and as a result of our laws, no one has the ability to take their place. I do not feel that these people, these utility companies, should be given such special preference as we have been giving them throughout each and every one of these amendments. I don't know whether the six month period of time is the proper period of time. I really don't know whether the one year period of time is the proper amount of time. I do feel that this section of this article is entirely statutory. I do not feel that in any way it can be considered constitutional material. It really amazes me the number of delegates who have stayed around throughout this entire argument when many other times when we have had things which I have considered a lot more important, these people did not stay and remain. I certainly do feel that at this time we should make a

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stand, a stand to protect the interests of the consumer. Mrs. Brien, who originally was one of the strong advocates in this area has apparently backed down in this particular section. I certainly do hope that we can all get together on this and come up with something that's fair for all the people, not just the utility companies and the other companies who would benefit from this.

I request you defeat the amendment. Thank you.

Further Discussion

MR. JACK

Mr. Chairman and members, I rise in support of this amendment. Now, the Chairman has just asked me if I'd yield to a question before I started. Of course, if I start that, I may run out of time and never get to make this talk that I want to hear. Now . . . that was a pretty good one, wasn't it?

Now, I'm sixty-six years old, born in Louisiana. I've heard those arm waving talks since I was a kid about these big fat corporations and the poor man and all that. Let me tell you, the utility companies are not bad guys. Tonight, in all this cold weather, you're going to be glad you've got that heat. Up in my town, I'm glad we've got that Arkanaas-Louisiana gas company. They're drilling their own wells and are smart people. We're not going to be short on gas. I'm glad we've got SWEPSCO up there on lights, so we're going to have plenty of lights. That's a good utility. I'm glad on that phone company up there. Tonight, when I get to my room, it's going to be warm, I'm going to have an electric pad on my feet, I'm going to read a Hitchcock detective book, talking on that phone to that sweet wife. Now, I'm not going to run these utilities down. I'm going to tell it like it is. Now, forty-one years of practice in law, I ought to know any case can be decided in six months. Three Public Service commissioners, we've passed it to have five. Now, if they don't decide them in six months, it's their fault. I'm not running for anything, so I get up and say what is a fact and what I believe and what is so. Now, you can't have good service unless you pay for it. You know that. The poor man wants heat just as much as the rich one. He wants good phone service; he wants lights; he wants all these other things. Utilities are regulated by law as to the percentage of profit they make. I want good service, and I'm telling you there's no reason why they can't be decided in six months. Now, someone was talking about this amendment not any difference from the proposal on the yellow paper. It's a whole lot of difference. The proposal states about the middle of No. (3), "If the commission disapproves the proposed increase, in whole or in part, the carrier or utility may place or continue the schedule in effect under the bond or security." The amendment doesn't do that. If it's lost, you don't get under that bond or security. . . I mean, you. . . if it's lost, under the amendment, then they can't get under the bond or security and charge the increase unless they get a reversal. Now, this whole thing boils down to requiring a decision in six months. All courts, Supreme Courts and all of them, never take that long. I say, the thing is--and you watch it--we pass this, there won't be any decision that's delayed over that six months period and the penalty occurs because the public won't stand for it. Now, I say, this is a good amendment, and I'm tired of hearing people say, "Your constitution is in danger if you do this or do that." If we do what's right, the people will pass this. I . . .

Questions

MR. RAYBURN

Mr. Perez, I'm reading the amendment and I don't know your position on it, but is it. . . am I reading correct--no I don't, you know he's an off and on fellow-- I knew his position on mine, I don't know on this one. I hadn't discussed it with him. Am I reading correct here where this company is asking that if they ask for something and don't receive within six months they shall receive; is that what this amendment does? Am I further reading under (3) where it says that they've got twelve months to refund my money if they took it without the proper permission? In other words, they want to keep it twelve long months, but they want that six month action. Am I reading this amendment correct?

MR. PEREZ

Senator, you're reading it exactly right and that is. . .

MR. RAYBURN

With no interest or no nothing they. . . in other words, they're going to have to have their action in six months, but when they get my action they can keep it twelve months and do what they want to with it?

MR. PEREZ

Exactly right, Senator.

MR. RAYBURN

Am I reading it right?

Further Discussion

MR. PEREZ

Let me, . . . folks we have got to get this thing in proper perspective and I would hope that you would listen to what we're talking about. A rate-making decision is a very, very complicated procedure. It not only affects the rates which are being charged locally, but it has its effect with regards, for instance, with the telephone company as to how they operate in other states. Let me tell you I've tried cases before the commission, and I can tell you that it is very difficult for me in the relatively simple cases I have tried to expect to get a decision out of the commission within a six month period. So, let's don't kid ourselves folks, if we put this sixth month provision in here we are putting an automatic rate increase provision in for these public utilities because there is no way in a complicated rate making procedure for an intelligent decision to come out of the commission. Now, folks, understand that, please. Understand, that sixth month period of time is a virtual impossibility to comply with. Now, I might--and you might reflect upon this a little bit--these public utilities may be doing themselves a great disservice because what they're going to force the commission to do is to render judgments against them and then, they'll have to appeal it. Then, it will have to be reversed and sent back down for further trial below. This is the most ill-advised suggestion or proposal that I've seen come before this convention. I want to do what is right, as Mr. Jack has said, and I've got a lot of friends in the telephone company and I've always considered them to be my friends, but I am so positive on this subject matter because of the fact that I consider this to be the most ill-advised proposal that we've seen and the present proposal is no better than the others. You know in many rate-making cases they not only increase certain rates, but they decrease others. But, what this says is that only the increase goes into effect, but if they order to have a decrease in other areas, they get to continue to charge their decrease until final judgment, but they get immediate increase with regard to the other rates. For instance, say you have rates with regard to various kinds of customers on the sale of natural gas, they may increase some, decrease the others. But, what would happen under this proposal, the utility company would get the increase, but as far as a decrease is concerned, they continue that decrease in effect until final judgment. In addition, I don't know whether you understand that we're dealing over a long period of years into hundreds of thousands and millions of dollars of thousands and thousands of people's mon. . . of the user's money. Yet, we have absolutely no provision in here that this company or any one of these companies would have to pay back any interest. So, the effect of the matter is that, they jam through an increase in six months, have the use of the public's money for two, three, four years until this thing is finally decided and then give them their money back afterwards and they make a fortune off it with the high interest rates we have today.

Further Discussion

MR. GUARISCO

Mr. Chairman, fellow delegates, I'm a coauthor of this amendment and I'll support its concept. At the outset let me say that I carry no grief for the big utilities. I know not what demons are bedeviling this august body over this issue, but this proposal, I feel, is a reasonable exorcism. One delegate said that-- I heard him call another delegate a prostitute for voting against the Rayburn amendment. Another one I heard him say, "You're a sellout." Let me say to that person or those people that I neither embrace their morals nor their mistress. I fail to see the visceral connection between a steak in one's vote, but I yield to the experience of my elders. Our government has long suffered under the demagoguery or the intellectual rip-off so to speak of the nickel phone call and commission members who simply use the office as a way station on their voyage to the governor's chair. Or worse, those who fail to have the resolve or the inclination to rise from their chair. I feel that was a stable, orderly and deliberate disposal of rate request to economic and political climate to result in superior services for our citizens. Remember, that a regulated monopoly can be a friendly giant, and those of you who feel that rate increases are necessarily against people I don't think you're correct necessarily. It is not as night follow day, but the reason for the rate increases in most instances is to improve the services of the people. Do you know that we probably have some of the poorest, for example, telephone service in the country? I don't think it's because South Central Bell is picking on Louisiana. I'll yield to any questions.

Questions

MR. JENKINS

Mr. Guarisco, are you aware that if you took all of the people in the United States who are on party lines waiting for

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single unit service and all of those who don't have service and added them all up, you'd find that one out of five of those people live in the State of Louisiana?

MR. GUARISCO

Yes, Mr. Jenkins, I'm familiar with that, party lines, and... yes, single service, yes. That's correct.

MR. JENKINS

That the people here are not getting service. Are you aware that the reason for that is the fact that the capital has not been here for investment because the rate of return by the telephone company in this state has been the second or third lowest in the entire nation?

MR. GUARISCO

That's right.

MR. JENKINS

Isn't the only one way that we can give service to the people of this state is by, to some extent, removing this from politics?

MR. GUARISCO

Yes.

MR. BURSON

Mr. Guarisco, from the remarks that you made, do I take it that the ultimate purpose of this amendment as far as you're concerned would be first of all to do away with the nickel phone call?

MR. GUARISCO

Of course, not.

MR. BURSON

Well, you said that this would. . .

MR. GUARISCO

Now let me say. . . let me answer your question. The nickel phone call is, of course, . . . it's good for both sides. It's good public relations for the telephone company, they won't push to raise it from a nickel because the rates are in the long distance calls; it's not from the nickel. It's great politics for the commission members.

MR. BURSON

Now, the second question that I have is: can you tell me why this amendment and the whole committee proposal are framed in terms of increases in rates and nothing is provided for bonding or otherwise paying decreases in rates?

Closing

MR. ROY

Mr. Chairman, I have only three comments to make. In my judgment, Mr. Perez is a very astute attorney. I'm surprised he could not read though under Number 2, that the words "as provided by law" means that the legislature can cause the refund to have to carry interest of whatever amount the legislature chooses whenever a bond is put in effect. Number two, and Mr. Chatelain pointed this out to me: On October 6th the Middle East War started, the governor recognized the oil crisis and by November 23rd, 25th through December 3rd, he was able to call the legislature into session and get all the expertise if you will--some people may disagree-- to come up with a bill providing for some redress style of people. Now, I ask you, if you elect a commission and you increase it from three to five people and that commission has the daily task of concerning itself with the issues that. . . about which we're speaking, why is it after they can require you to put everything before them that they can't make a decision within six months? It defies logic to think of that in any other way. I'll ask you to vote for the amendment and then let's move on to something else. Thank you.

*[Record vote ordered. Quorum Call:
95 delegates present and a quorum.
Amendment adopted: 63-36. Motion
to reconsider tabled. Motion to
take up other orders adopted: 72-24.
Motion to revert to Introduction of
Resolutions adopted without objection.]*

Introduction of Resolutions [II Journal 1069]

*[Adjournment to 9:00 o'clock a.m.,
Friday, December 21, 1973.]*

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Friday, December 21, 1973

ROLL CALL

[95 delegates present and a quorum.]

PRAYER

MR. DE BLIEUX

Our heavenly Father, we thank Thee again for the privilege of gathering here. Be about Thy Father's business. We ask Thy blessing upon us during this Christmas season that we may have the true feeling of peace, that we may have a feeling of fellowship and compassion for all of our fellow beings; those that we have control over through this convention through the efforts and laws we make here that can be in Thy service. Let us have a true fellowship and friendship for all of our fellow men. We ask all of this in the spirit and name of the Christ child of the Christmas season. Amen.

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

MR. POYNTER

Committee Proposal No. 34, introduced by Delegate Lambert, Chairman on behalf the Committee on Natural Resources and Environment, and other delegates, members of that committee.

A proposal making provisions relating to natural resources and environment. Status of the proposal--the convention has adopted the proposal with the except of Sections 3, 6, 7 and 11 which have been deleted from the proposal. Presently, the convention still has under consideration a portion of Section 14. The rules have been suspended so as to provide that Section 14 will be considered lettered paragraph by lettered paragraph. The convention has adopted, as amended, Paragraphs (A), (B), and (C) of said Section 14, still has under its consideration Paragraph (D) of the proposal and the remaining paragraphs thereafter.

Motion

MR. LAMBERT

Mr. Chairman, at this particular time, obviously we're involved in much controversy in this particular Section 14. I am concerned about final adoption of the entire proposal. As you know, you need sixty-votes--as I understand it--in order to do that. What I would like to propose at this time, and I hope that the membership would go along, it's in the interest of the committee as a whole--the Natural Resources Committee--what I would like to ask for is a suspension of the rules to allow the convention to go back to handling this proposal on a section by section basis; we're now on a paragraph by paragraph. I would like to ask for permission to go back to a section by section basis to handle it; I want to tell everyone why. The Public Service Commission section has overlapping jurisdiction between the Executive Committee and the Natural Resources Committee. The Executive Committee's proposal is identical to this one, so that it will not jeopardize the passage of Committee Proposal No. 34. If the convention would let me, I would like to remove Section 14 from the proposal so that we can vote on the proposal. I think we can get it adopted without much trouble because there was not much opposition to the other portion of it. After that, we can handle Section 14 separately and everybody can do their thing on that particular section.

MR. HENRY

Senator, I think I heard what you said. You're going to ask that we suspend the rules and go back and did you say you had an amendment to delete this particular section if the rules are suspended for the purpose of salvaging the provision?

MR. LAMBERT

Mr. Chairman, yes, sir, and it would be resubmitted in its same form as a separate proposal so that it does not jeopardize the entire committee work up to this point.

Point of Information

MR. ROY

Mr. Chairman, do I understand that yesterday my amendment got sixty-three votes? It's about right, what's the Chair worried about salvaging, you use that word. I'm just wondering

why we can't amend things if they are not good and go on and keep on.

MR. HENRY

Mr. Roy, what I was trying to do was understand the intent of his motion, sir.

Point of Information

MR. CHATELAIN

He said something about bringing it up another time on a separate proposal, but when would that be, sir?

MR. HENRY

It would be after...it would have to be after....

MR. LAMBERT

Immediately following, hopefully, the adoption of Committee Proposal No. 34, which is....right after that, E.J., I mean, no delay.

MR. CHATELAIN

That's good.

Question

MR. GRAVEL

Senator Lambert, would your proposal with respect to Section 14, that is, deferring consideration of Section 14 also encompass removal from the article those provisions which we have adopted relating particularly to natural gas and the designation, of course, of natural gas out of the public utility provisions?

MR. LAMBERT

Mr. Gravel, no, it would not. But, I would like to ask the Chair to comment on that.

Point of Information

MR. GRAVEL

Well, I just walked in and I'm running a little late and I want to apologize, but we had made an amendment to Section 14 (B) that particularly exempted natural gas from regulation by the Public Service Commission. I'm just wondering what would happen to that particular provision.

MR. HENRY

Mr. Gravel, as I appreciate what the Senator wants to do, if the rules are suspended and an amendment then were to be offered to delete Section 14, then everything that's been adopted, to this point, in Section 14 would fall at the same time. Then, what would happen is we would come back with a proposal from the Executive Committee on the Public Service Commission, etc.

MR. GRAVEL

Mr. Chairman, may I ask for a recess for about five minutes so some of us could discuss this with Senator Lambert, because I think that a part of Section 14 is separable from that portion that deals with the Public Service Commission....

MR. HENRY

We'll stand at ease, then, for five minutes if it will help speed this thing.

[Quorum Call: 106 delegates present and a quorum.]

[Motion to revert to Section 2 adopted: 83-20. Motion to reconsider the vote by which Section 2 was passed adopted without objection.]

Reconsideration

MR. POYNTER

All right, it's been amended to read as follows: "Section 2. Natural Gas; Public Policy, Interstate and Intrastate Pipelines"

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Section 2. Natural gas is hereby declared to be affected with a public interest."--the rest of that paragraph has been stricken by way of the Singletary amendment--

"No intrastate natural gas pipeline or gas gathering line shall be connected with an interstate natural gas pipeline, and no interstate natural gas pipeline shall be connected with an intrastate natural gas pipeline without a certificate of public convenience and necessity issued as provided by law after due application for such connection and hearing thereon."

MR. HENRY

Read the Gravel amendments, Mr. Clerk.

Amendment

MR. POYNTER

Amendment reads as follows:

Amendment No. 1. Delete lines 24 through 27, both inclusive, including all floor amendments thereto and insert in lieu thereof the following:

"Section 2. Natural gas is hereby declared to be affected with a public interest and notwithstanding any other provision of this constitution, the legislature shall provide for its regulation by such regulatory authority as it may designate."

Explanation

MR. GRAVEL

Gentlemen of the convention, under Section 14 which deals exclusively with the Public Service Commission, at least by title; we have already amended Section 14 (B) to provide that with respect to natural gas, the legislature shall provide for its regulation and shall designate the regulatory authority that you will have control, supervision, and jurisdiction of natural gas. That particular provision clearly does not now belong in any section dealing with the Public Service Commission. It's apparent to me, and I'm sure to many of the rest of you, that there is going to be a great deal of discussion about deferring or reconsidering Section 14 or doing some of the things that some of the delegates may want to do. So, just to... I think clarify what we have done so far and not to make any other change than one that has already been approved by this convention, I'm moving to put in Section 2 the provisions with respect to the regulation of natural gas that this convention has already adopted as an amendment to Section 14 (B). By doing this, then, we can have a clean, clear discourse and discussion about the Public Service Commission. Now, I urge that you adopt this amendment which is really repositioning, so to speak, the natural gas regulatory provision that we've adopted that has nothing to do with the Public Service Commission and does belong in the article dealing with natural resources. I'll answer any questions.

Questions

MR. BOLLINGER

Mr. Gravel, I think you have a good amendment in that it's better than what we have. But, tell me this: What does your amendment do? It doesn't say anything.

MR. GRAVEL

It's the same amendment that we have discussed; I think Senator Lambert and Senator Nunez had offered it previously. What it does is to make clear that the legislature shall determine whether the Public Service Commission or some other commission or agency will have jurisdiction over natural gas; it leaves it completely up to the legislature. Many of us had a problem with the language that was contained in the Public Service Commission Article. Mr. Bollinger, and ladies and gentlemen of the convention, we have already adopted this amendment by a vote, I believe, ninety to seventeen. We're just putting the provision, frankly, where it belongs in the article and getting it out of the Public Service Commission, telephone company, other utilities battle that seems to be surfacing at this time.

MR. BURSON

Mr. Gravel, one thing about this amendment that disturbs me; whenever I see "notwithstanding any other provision of this constitution" it wakes me up. Is this intended or would it have the effect of circumventing the public notice and public bidding requirement that we adopted yesterday?

MR. GRAVEL

No, sir, it would not and nor...and the reason for that

is to make sure that no one could successfully contend that natural gas could be regulated by the Public Service Commission as a matter of constitutional directive or mandate as some of us feared from the language of [Section] 14 (B).

MR. BURSON

Well, isn't the real purpose of this amendment to give constitutional sanction to this monster bill that was passed in the last session of the legislature?

MR. GRAVEL

It's not necessary to do it, but it does...but the Senate Bill No. 9 does designate as the regulatory agency, an agency other than the Public Service Commission and, of course, that designation would be certainly valid under this provision; it would be invalid under any provision that the Public Service Commission...under any provision that would mandate the Public Service Commission to regulate natural gas. Now, Mr. Burson, let me be sure you understand me. This only repositions in the article what we have already done.

MR. BURSON

Well, I just don't see the need for the "notwithstanding any other provision of this constitution." I mean, if you make an affirmative statement that says, "Natural gas is hereby declared to be affected with a public interest and the legislature shall provide for its regulation by such regulatory authority as it may designate." it seems to me that would be plain enough without the other language.

MR. GRAVEL

Well, Mr. Burson, natural gas is a public utility, [Section] 14 (B) gives jurisdiction, mandatory jurisdiction to the Public Service Commission over public utilities. This particular provision here is to make it clear that notwithstanding that provision the legislature can designate as a regulatory agency some other state body besides the Public Service Commission.

MR. BURSON

Well, don't you think the proper place to put that language, then, would be right after where it says "the commission has jurisdiction over public utilities," where it would be plain you are only making that exception? It may open up another....

MR. GRAVEL

If it did, I wouldn't have proposed this amendment, Mr. Burson. I think this has to go in Section 2. I want to get this clearly out of the Public Service Commission mandatory provisions; that's what I'm trying to do. We all felt when this amendment was adopted, incidentally, that this could be done by Style and Drafting, but I don't want to take any chance on it.

MR. DUVAL

Just for clarity sake, the word "effected" is actually "affected" on your copy; isn't that right?

MR. GRAVEL

That was changed. I think the Clerk said it should be corrected.

MR. BOLLINGER

Probably, I misunderstood you when you first made your introductory remarks. You did say that if this section is adopted as you propose it, you will move to reconsider Section (B) as a Public Service Article and take out the language you put in at that time?

MR. GRAVEL

Yes, it should be taken out.

MR. DREW

Camille, referring to Section 14 (B) you had an amendment there that accepted...except for natural gas.

MR. GRAVEL

I don't think that passed, Mr. Drew.

MR. DREW

Well, what are you speaking of in [Section] 14 (B); what is the provision you're speaking of it?

MR. GRAVEL

The amendment to [Section] 14 (B) was a provision which

simply stated that "notwithstanding any provision", I think, in that particular paragraph natural gas would be regulated by such agencies that would be designated by the legislature. Mr. Drew, this does the same thing that we've already done, but I think it did refer to that particular paragraph.

MR. DREW

Well, the reason I was asking the question, Camille, I missed the adoption of that amendment somewhere in the confusion yesterday. But, would you tell the convention what your objection to the Public Service Commission handling the transportation and sale of gas as long as they are handling other type of carriers? What is the objection to it?

MR. GRAVEL

Well, Mr. Drew, I'll get back to merits then if you want to, but we have already provided by this amendment--which I think you may have missed and as I stated before--was adopted by this convention by a vote of ninety to seventeen, I think. We have already adopted this provision and made it part of Section 14 (B). Now, let me read it to you: "notwithstanding any provision in this paragraph, the legislature shall provide for the regulation of natural gas by such regulatory authority as it may designate." This convention has already said that either the Public Service Commission or some other agency such as the agency set forth or the Commission of Conservation, rather, in Senate Bill No. 9 can be designated by the legislature to regulate natural gas. All I'm doing is transferring this amendment out of this fight on [Section] 14 (B) or [Section] 14 rather and putting this where it should have been put in the first place. I urge that you adopt the amendment.

MR. LAMBERT

Mr. Gravel, is it not true that the way your language is drawn there's nothing in there that would keep the legislature from designating the Public Service Commission or any other state agency from handling...

MR. GRAVEL

That's correct.

MR. LAMBERT

...so, there's nothing to prevent public service or any other agency, it just depends on....

MR. GRAVEL

This is just....that's correct....

MR. LAMBERT

...provides flexibility?

MR. GRAVEL

That's right.

MR. LAMBERT

Thank you.

Further Discussion

MRS. MILLER

Ladies and gentlemen of the convention, Mr. Chairman, I do not object to most of what is in Mr. Gravel's amendment. I think that we can go with natural gas is declared to be effective with the public interest. We have gone with this much. We can go with the legislature providing for the regulation and the regulatory authority. But, when Mr. Gravel puts in there "notwithstanding any other provision of this constitution," he is trying to nullify the amendment you all adopted yesterday with the 75 vote, prohibiting the wheeling and dealing with the natural resources without notice, and public bidding, and hearings, and regulatory safeguards. That is a sleeper. I must say Mr. Gravel has more lives than nine cats, and nine times nine is you know what. You are not going to let this thing slip by you. I think you have too much good common sense for that. Why do we need in there "notwithstanding any other provision of this constitution" when you all have spent these many months writing all these provisions in to safeguard all these agencies. Let the legislature have it. We know it's perfected with the natural interest. I wouldn't oppose the amendment if Mr. Gravel would withdraw it and remove those words, "notwithstanding any other provision of this constitution." He's trying to do indirectly, what, to change indirectly what you all wrote into the constitution directly and openly and honestly yesterday. I ask that you either....that you reject the Gravel amendment. We'd be happy to come back in with another amendment which would delete those little words that give the loophole.

[3038]

What he's trying to do, in effect, is to give constitutional authority to the legislature to do what it did with the monster bill. But, if any of you read that monster bill, you can see that paragraph after paragraph, for forty-five to fifty pages, there's all kinds of loopholes. You must not ever let them get by without public notice, and bidding, and etc. He's trying to delete the very thing that you all wrote into the constitution yesterday. I say, just to please, don't let this happen.

Questions

MR. WILLIS

Mrs. Miller, the Lambert amendment...read that "notwithstanding anything in this paragraph" in Fourteen (B), you will remember. Now, if you were to properly supplant that amendment....

MRS. MILLER

I can't hear you, Mr. Willis. There's so much noise.

MR. WILLIS

If we were to properly supplant the Lambert amendment, or transpose it from Fourteen (B) to Section 2, then the Gravel amendment about which you properly found fault, I think, should read, if it has to read "notwithstanding"...."notwithstanding the provisions of Section Fourteen (B)", etc., instead of "notwithstanding the provisions of this constitution. Because, then his amendment, or Section 2, would be considerably superior to and would suppress the rest of the article. Isn't that correct?

MRS. MILLER

Well, I think you would be right on that....hopefully.

MR. THOMPSON

Is it, in your opinion, Mrs. Miller, what she said correct about this thing? Are we taking this public bidding out or not? What's your appraisal of this?

MRS. MILLER

Well, I don't....think it's needed. I think that you've written your safeguards in the constitution. I think by putting it in there, you are giving a hole for somebody to jump down when they want to do something under cover and kind of slyly. I think it's a dangerous thing to put in there. It absolutely contravenes everything else you all have done with natural resources in protecting them.

Point of Information

MR. THOMPSON

Mr. Chairman....may I ask you a question?

MR. HENRY

Proceed, sir.

MR. THOMPSON

Is this your appraisal, too?

MR. HENRY

Is it my appraisal? I think it would have the effect of undoing the Bureau amendment, yes, sir.

MR. THOMPSON

Thank you.

Question

MR. JENKINS

Mrs. Miller, do you think that this clause, "notwithstanding any other provision of this constitution" might allow the obligation of contracts to be impaired, or possibly some of the safeguards against taking or damaging of property to be done away with?

MRS. MILLER

I think you are right, Mr. Jenkins. It certainly could remove some of the safeguards. You were one of those who fought for some of the safeguards in that special session, and particularly not that you could abrogate contracts. I think this is an awfully dangerous little phrase in there "notwithstanding." I think you must defeat this....you really must defeat this.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, I know some of the people that I'm aligned with on this Public Service Commission business want to get this amendment adopted so we can get the proposal passed and fight the other battles. But, let me point out to you, there's no question in my mind this "notwithstanding any other provision of this constitution" would completely circumvent and undo what we adopted yesterday requiring public notice and public...or public bidding with regard to state mineral interests, as far as natural gas is concerned. Now, we've seen time and time again in this constitution the effort to slip something through to a seemingly innocuous phrase, "notwithstanding any other provision of this constitution."

I submit to you, if you're really talking about the Public Service Commission provision, then say it. You could say, "Notwithstanding the provisions of Section 14 (B)," if that's all that you really meant to affect. But, when you mean to affect more, you say what's said here, "notwithstanding anything else in this constitution" because we've got sixty pages of legislation in this state right now that gives to appointed officials all sorts of dictatorial powers regarding the natural gas in this state. It gives them the power to make the wheel and deal, supposedly in the public interest....we hope in the public interest. But, we don't have any guarantee. I want to tell you after what I've seen with this utility rate regulation, you'd better believe I wouldn't take anything for granted on that score. I guarantee you that.

Questions

MR. VELAZQUEZ

Mr. Burson, wouldn't you say that if we passed this amendment as written right now, that we have every safeguard that we've placed in this constitution to protect the property of the people of this state gone for naught?

MR. BURSON

I don't think there's any question about it. I think, for instance, it could well affect expropriation, as Mr. Jenkins pointed out. In other words, the legislature, as far as I could see, could provide for expropriation through this blanket authority. I think if he means it only to take out of the definition "utility, natural gas," he ought to say that. We say what we mean when we want to.

MR. VELAZQUEZ

You know what they would say back in my district about this thing? They would say, "Look, as if it was written by slick and more slick."

MR. WILLIS

Mr. Burson, in the constitution is a provision for due process of law, equal protection, expropriation, and the like in the Bill of Rights? Isn't that correct?

MR. BURSON

Yes, sir.

MR. WILLIS

When you say in this environment article that "notwithstanding due process of law, equal protection of the law, the provisions set forth here, expropriation," this would give the authority to that person?

MR. BURSON

I don't think there's any question about it.

MR. WEISS

Delegate Burson, the most of the questions were already asked. But I just want to read to you that section on the right to property from the Bill of Rights which reads, "Every person has the right to acquire, control, own, use, enjoy, protect, and dispose of private property."

When it comes to natural gas, then, this particular amendment would delete that section of the declaration of rights. Is that correct?

MR. BURSON

I think you'd have to read that article, then, "except natural gas which can be taken away from you by the legislature."

MR. ARNETTE

Hey, Jack. I've got a quick question for you.

In other words, Mr. Burson, the way you read this thing, it could mean that the legislature would say "all natural gas in the state is the property of the state and no private individual will have any interest therein." Could they say that?

MR. BURSON

I think it is very clear if it's affected with the public interest, and can be regulated....

MR. ARNETTE

Without payment of any money to any individual citizen? They could do this, couldn't they?

MR. BURSON

I understand that the provisions that would have gone.... were teased around the last session.

MR. ARNETTE

Thank you, Jack.

[Previous Question ordered.]

Closing

MR. GRAVEL

Mr. Chairman, ladies and gentlemen of the convention, I don't have any strong feeling about where this amendment is passed or not. The proposal that was already adopted by this convention, I think, forms an adequate safeguard in an improper place.

Now, just so there won't be any misunderstanding, if we had already adopted Section 14, and if there was contained in Section 14 (B) the language that says that the commission shall regulate all common carriers and public utilities, then, I would, instead of having put in the amendment, "except as otherwise provided in this constitution," would have said, "except as otherwise provided in Section 14 (B)." But, we haven't adopted 14 (B). It's only the intention of this amendment to make sure that the jurisdiction over natural gas is not exclusively with the Public Service Commission, and that it shall be with such regulatory agency as the legislature may designate. This amendment is for no other purpose. It's intended to serve the identical same purpose as the amendment previously adopted. I would certainly have no objection, if, when we consider Section 14, if we do today, or later on, and it's adopted, and the duties and the jurisdiction of the Public Service Commission is maintained in the same posture and position as it's presently set forth in 14 (B), to then, in lieu of using the words "except as provided in this constitution," utilizing the words, "except as provided in Section 14 (B)." We can't do that now because it hasn't been adopted. I don't care, as I say, whether we adopt it or not. It's just essential that we get it out of the Public Service Commission fight because the provision that we have is not one that is strictly and exclusively within the authority of the Public Service Commission.

I urge that you adopt this amendment.

Questions

MR. VELAZQUEZ

Mr. Gravel, if you don't feel so strongly about this thing, why don't you just....tear it up and hold it back....withdraw it? It means nothing that you just said it means.

MR. GRAVEL

I feel very strongly about....

MR. VELAZQUEZ

You just said you didn't feel strongly about it.

MR. GRAVEL

Will you let me get finished, Mr. Velazquez? I'll answer your question.

I feel very strongly about this provision being in the constitution. If they don't want to take it out of the Public Service Commission article as a consequence of passing this amendment, then don't take it out or they'll be fighting natural gas and telephone company rates at the same time. You're not going to accomplish what I think this convention wants to accomplish. That's to make a clear choice as to whether or not

it's going to consider the Public Service Commission article today.

MR. VELAZQUEZ

Do you realize that the way this thing is written you could drill a pipeline down my backyard?

MR. GRAVEL

Would....any other questions?

MR. ARNETTE

Camille, I hope you didn't intend this. But do you realize under that language, the legislature by mere act of the legislature could confiscate all the privately owned natural gas in the State of Louisiana and not pay a nickle to the private citizens who previously owned it?

MR. GRAVEL

There is no more authority, in my judgment, Mr. Arnette, granted by this particular proposed amendment, than the authority that was granted by the amendment that's already been passed.

MR. ARNETTE

Would this particular regulation of natural gas by the legislature is not subject to the Bill of Rights or the expropriation laws, or paying fair market value or anything else. When you say "notwithstanding any other provision of this constitution."

MR. GRAVEL

That's not any different from the language that we've already adopted which simply gives the legislature already authority to regulate natural gas and to designate the regulatory agency.

MR. ARNETTE

Regulation I don't mind, Mr. Gravel. But if you are going to give them the authority to take away a man's property without paying him for it, in other words, this thing isn't subject to the Bill of Rights any more.

MR. GRAVEL

Mr. Arnette, I don't agree with you at all. We are talking about the regulation of natural gas and the designation of the agency to regulate, which we have already adopted.

MR. ARNETTE

Well, why didn't you say, "notwithstanding any provisions of this article" perhaps?

MR. GRAVEL

Because this was not going to be in the article if we take it out and consider it separately in the executive article. There's not going to be anything else in the article.

MR. PEREZ

Mr. Gravel, it's your intention with respect to this particular amendment to strictly refer to the powers and duties of the Public Service Commission. Isn't that your real intention?

MR. GRAVEL

No, it's my intention by this amendment, as it was the intention of Senator Lambert, Mr. Nunez, and myself, by the other amendment, to authorize the Louisiana Legislature to regulate natural gas and to designate the regulatory agency whether it's the Public Service Commission, the Energy Commission, the Commission of Conservation, or whoever else might be determined by that....

MR. PEREZ

I understand that. But, possibly, you didn't understand my question. What I meant was that in the provision with respect to the powers and duties of the Public Service Commission, it was necessary to make this exception. Therefore, what you really intended was an exception to what was set up in the article with respect to the powers and duties of the Public Service Commission so as to allow the legislature to decide who would have that regulatory authority. Is that correct?

MR. GRAVEL

That's correct. It's an exception to what many of us considered a mandatory requirement that the Public Service Commission regulate natural gas.

[Record vote ordered. Amendment rejected: 42-64. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Amendment No. 1. Page 1, delete lines 24 through 27, both inclusive, including all Floor Amendments, and insert in lieu thereof the following:

Section 2. "Natural gas is hereby declared to be affected with the public interest, and, notwithstanding any provision of this constitution relative to the powers and duties of the Public Service Commission, the legislature shall provide for its regulation by such regulatory authority as it may designate. The legislature in its discretion, however, may grant such authority to the Public Service Commission."

Explanation

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, when the Gravel amendment was offered, there was serious objection to the words "notwithstanding any provisions in this constitution." In order that we can go forward, I have hopefully prepared an amendment which would strictly limit those words, "notwithstanding any provisions in this constitution," to the relative....to the powers and duties of the Public Service Commission." Then, to make it perfectly clear that the legislature, if it so desired, could give this regulatory authority to the Public Service Commission, I added the last sentence, "The legislature in its discretion, however, may grant such authority to the Public Service Commission." I hope that this will clear the matter up and make it possible now for us to move forward.

I yield to questions.

Questions

MR. CHATELAIN

Mr. Perez, I don't quite understand the last sentence over here, "The legislature in its discretion, however, may grant authority...." but, couldn't it do it without putting this language in there? Is this....or what?

MR. PEREZ

Well, there was some question as to the way the wording of the first sentence read as to whether it might preclude the legislature from giving such authority to the Public Service Commission. In order to satisfy that....the objection that was raised to that possible interpretation, the last sentence was added. I don't think it does us any harm to have it in there. But, on the other hand, it makes it clear that the legislature can give that authority to whomever it pleases, including the Public Service Commission.

MR. JENKINS

Mr. Perez, would you agree that the main reason we have a natural gas shortage in this country today is because of the regulation of the well-head price of gas, and the curtailment orders, etc., that have resulted on the federal level?

MR. PEREZ

Yes, sir. I agree with that partially. But, that's not the answer....the entire answer to the problem. I could go on on that subject matter for hours because I'm very familiar with it. That is one of the reasons, not the only reason. But I don't, I hope we don't address ourselves at this time to that particular subject matter because all I'm trying to do here is to take something which we have already adopted....which this convention has already adopted, and just shift it from one place in the article to another. I was hopeful that we would not get into the merits of this particular situation because of the fact that overwhelmingly the convention already adopted this particular provision.

MR. JENKINS

Isn't it true that in the past, there has been no regulation of natural gas price in Louisiana, certainly to industrial users, and yet, your amendment here mandates the regulation of the sale of natural gas. It says "the legislature shall provide for the regulation of natural gas", doesn't it?

MR. PEREZ

All I'm saying here, Mr. Jenkins, is that this particular amendment with regard to the legislature, "shall", was adopted by this convention two, or three, or four days ago overwhelmingly.

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Again, I would hope that we would not be getting into the merits of this thing because of the fact that we've already adopted it, and all I'm trying to do with this particular amendment is to move this provision from one part of the article to another so that we can facilitate the operation of this convention and move forward.

MR. JENKINS

But, what we are doing here is mandating the legislature to do something that it has not done in the past, and which we know has been one of the major causes of shortages in the past. Is that correct?

MR. PEREZ

I just feel that time is so short that I don't want to get into the merits of something which we argued extensively before, and the convention decided upon it.

MR. BOLLINGER

Chalin, I have two short questions. One, don't you think one of the reasons for Senate Bill No. 9 was the 1966 McKeithen amendment would have prohibited the Public Service Commission from regulating the industrial sales of natural gas?

MR. PEREZ

Yes, that's one of the reasons; as I understand it, they were trying to find some regulatory authority that might be able to do something about trying to keep some of the natural gas in this state.

MR. BOLLINGER

My second question is this: what is wrong with five elected officials, that being the Public Service Commission, regulating natural gas?

MR. PEREZ

Well, again, I go back to the same answer I gave Mr. Jenkins is that I hope we don't get into the merits of this particular situation since it was already adopted. But, this particular amendment does not give the authority to any particular agency. It just leaves it up to the legislature to decide, and the legislature in its wisdom may decide to give it to the Public Service Commission.

MR. ABRAHAM

Chalin, I understand the purpose of what we're trying to do here is simply so that we will be able to probably remove Section 14 from this article completely, and handle it as a separate article.

MR. PEREZ

I'm just hopeful that we can have a Merry Christmas and go home today, and that's the purpose of my amendment.

MR. ABRAHAM

Well, let me ask you this: we've wasted the better part of an hour now trying to get some language in here. We've reopened it to discussion and repetitive arguments and things like that. Wouldn't we be a lot better off simply to forget about trying to put language into the article now, and that way, whenever we handle Section 14 as a separate article, we use exactly the same language we had before that's already been passed? Wouldn't we save time by doing it that way?

MR. PEREZ

There are a number of people who are very much concerned about this particular provision. I think it properly belongs in this Section 2 instead of with the Public Service Commission. I'm trying to accommodate what I think is the consensus of the convention to try to get something solved so we can move forward.

MR. ABRAHAM

But, haven't we in trying to put it into Section 2, we've come right back and made reference to the Public Service Commission; so, can't it just as well be handled elsewhere?

MR. PEREZ

Well, it can be handled, I believe, at a later time depending upon what we do to the Public Service Commission by having Style and Drafting come back to the convention and make recommendations as to how to clean the language up.

MR. DE BLIEUX

Mr. Perez, isn't it necessary that we have this provision in order to validate the Senate Bill No. 9 that was passed too in this last regular session?

MR. PEREZ

No, not necessarily validate it. What it would do is that if the committee proposal went through, it would have taken the jurisdiction away from the Commission of Conservation and put it in the Public Service Commission. But, the act, as this now stands, of course, is constitutional as far as I know. I haven't gone into the details of it.

MR. DE BLIEUX

Well, that's the point I'm getting at. Now, at the present time, the act had to be passed in the way that it was because of the present prohibitions against the Public Service Commission regulating gas.

MR. PEREZ

The purpose of this amendment, as it was adopted and explained when it was adopted, was to give the discretion to the legislature to vest that authority in one of the agencies, and it's up to the legislature to decide whether it will be the Commission of Conservation, Public Service Commission, or possibly some other agency.

MR. DE BLIEUX

Later on, if the legislature sees fit to transfer this authority to the Public Service Commission, they could do so.

MR. PEREZ

Under this provision, yes.

MR. WILLIS

Chalin, we could have this morning decided upon this thing. You are on Style and Drafting Committee; I am, and so is Camille Gravel. Don't you believe that we could have transposed--and that's what Style and Drafting Committee does, is to regroup the language of the constitution--that we could have taken Section 14(B) and transposed it to "2" or vice versa. Don't you think we could have done that, and saved two hours this morning?

MR. PEREZ

Well, the problem is that we are now trying to delay consideration of the matter which has taken up so much of our time yesterday, and will take up today and tomorrow if we don't separate these issues. The whole purpose of this amendment is to put us in the posture where, if the delegates so decide, we can adopt the remainder of this proposal without adopting the Public Service Commission provisions.

MR. WILLIS

Well, I understand the strategy is to remove the "sweets" to you from Section 14 and put it in Section 2, and leave the "bitters" so that it won't be adopted. Is that your plan?

MR. PEREZ

No. It's to leave it so that hopefully we can get something passed because we have to realize that time is getting very short, that these proposals ...

Further Discussion

MR. GRAVEL

Mr. Chairman, ladies and gentlemen of the convention, I'll be very brief on this. I just want to speak in support of this amendment. This amendment clearly states exactly what I had intended by the other amendment. I can certainly see how many of you may have felt that the language that I employed in my amendment was maybe too broad. I don't think it was, but certainly, I can understand how some people did think it was. I urge that you do adopt this amendment so that we can go ahead and move to whatever other business we've got before the convention.

[Previous Question ordered. Record vote ordered. Amendment adopted: 77-24. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 99-4.]

Recess

[Quorum Call: 94 delegates present and a quorum.]

Further Discussion

MR. LAMBERT

Mr. Chairman, fellow delegates, earlier this morning I had mentioned to the convention that I possibly would come before you and ask for a suspension of the rules for the following reasons: (1) Just as your committees have worked hard, the Committee on Natural Resources has done the same thing. We find ourselves in a position now we don't know whether the proposal will pass or not. It may pass. There are some people that feel that it would pass. There are some that feel that it would not. I am concerned because of the closeness of the votes on the Public Service Commission section which is Section 14. When jurisdiction was assigned on that particular section, the Executive Department Committee was given jurisdiction, and the Natural Resources Committee was given jurisdiction. The Executive Department adopted a proposal. I don't know what the vote was in the committee. I understand it was a split vote. They adopted a proposal that is presently ready to be introduced from behind me. The Natural Resources Committee took the Executive Department Committee's proposal, and adopted it, and it's included in the Natural Resources Committee's proposal. Now, what I'm preparing to ask you to do, and I would certainly appreciate it if you could see fit to go along with me on this, I'm going to ask you in the form of a motion to let me place the Natural Resources Committee Proposal No. 34 back on the calendar. If you allow me to do that, then our committee will come right back and offer Committee Proposal No. 37 which is Section 14 on our Natural Resources Proposal. It will be offered back to you just as it is amended at this particular point. So, you will not lose any time that you spent yesterday on debating it one way or the other. We find ourselves...I think I speak for a large majority of the committee, maybe not everyone. We find ourselves in a position of wanting to pass our proposal just like you did. The Public Service Commission section, if it's good, it can stand on its own two legs. It don't need a crutch. If it's bad, it won't stand. If it's good, that's fine. Whichever way you feel on it is your business. I'm not trying to tell you to be for it or against it. That's strictly your decision to make and I know that you'll make the decision that you feel is best. But, I would appreciate it basically if you would let us remove Section 14, and let it come right back as a separate proposal at the same time allowing Committee Proposal No. 34, the Natural Resources Committee Proposal to be voted on and, hopefully, passed. If we could do this, we would have adopted all eight committee proposals. I would appreciate your consideration on this particular matter.

Questions

MR. CHATELAIN

Mr. Lambert, do you...are you familiar with the fact that Mr. Roy has an amendment up there already, and that it's been some amendments made to his amendment, and would you have any objection to run with that? If so, I think we can resolve the whole thing in the matter of a few minutes.

MR. LAMBERT

Mr. Chatelain, let me answer your question. Let me just say this: you may be right. Then on the other hand, you may be wrong, but if you do what I'm asking you to do, it won't prevent you from doing exactly that. But, the only thing that we could do is get our committee proposal adopted, hopefully. I mean, that's all I'm asking for.

MR. CHATELAIN

One other thing, you know you're talking about the other seven proposals that's been adopted. This would be the eighth one, of course. We're all anxious to adopt this eighth one. Believe you me we are. But, the same thing happened in the other... most of the other proposals. There were differences of opinions. There was loggerhead situations, and we finally sat down and resolved them. We were to be treating this one just a little bit different from the other seven. That's my only concern.

MR. LAMBERT

I don't think we would, but you're entitled to your opinion. Today's the last day. Everybody kind of would like to go home for Christmas, I believe.

MR. ROY

Senator Lambert, you are aware of the fact that my amendment passed yesterday 63 to 36, so that's not really a close vote on it.

MR. LAMBERT

Well, if your amendment's good, Chris, I don't think this is going to affect it. This don't have anything to do...it's

not going to bear one way or the other on your amendment. If you have a good amendment, it's going to pass. That's not the problem. I'm concerned about...All I'm asking you to do--if you don't want to, that's fine--all I'm asking you to do is let us adopt our basic proposal which the Public Service Commission, there was questionable jurisdiction on it. We, therefore, put it at the end of our proposal as Section 14. The Executive Department had it; they introduced it here as a separate committee proposal. If you got the votes for your side or for your position, whatever it may be, that's fine. I mean this is not going to take...make one vote or take one vote. That's not the point. I'm not trying to get involved in that part of it.

MR. ROY

It's 11:30. Don't you think it'd be better for us to work the rest of the day here and see if we can't do something rather than get into some type of to deny the delegates a chance to vote on it?

MR. LAMBERT

Chris, this wouldn't keep us from working the rest of the day. It would let the committee finish its work, and then let this stand on its own. If your amendment's that good, and if it's going to pass, it will come right after that and pass...

MR. ROY

Well, in the past, it's a matter of fact that when we've had controversial things, we've worked them out like Mr. Chatelain said, and if they didn't pass, they were reconsidered or not laid on the table, and I'm just wondering what the reason is here for this. I just don't see why we should change our procedure just because you all want to get out a proposal right now, for some reason or another.

MR. VELAZQUEZ

Senator Lambert, ineffect, what you're asking is for a division of Committee Proposal No. 34 into Sections 1 - 13 as one division, and Section 14 as amended as the other division?

MR. LAMBERT

Well, that's one way to put it, but I think, technically, it would become a separate committee proposal which would not... it would be severed from the basic committee proposal that has been adopted up to this point.

MR. VELAZQUEZ

The point I'm trying to make is couldn't you make your differentiation or your division and still keep Section 14 as amended as a separate proposal of the Committee on Natural Resources and Environment?

MR. LAMBERT

That's exactly what I would do if the convention would allow me. I have it in front of me. I have a Committee Proposal No. 37 drafted. It's a Natural Resources Committee proposal, and it has every amendment that's been adopted by this committee in it, and it's ready for any amendments that want to be offered to it...Mr. Roy, or whomever would have an amendment could go right into it.

MR. VELAZQUEZ

So, in effect, what you're saying is, let's, since we generally seem to be in accord on Sections 1 through 13, let's go ahead and accept that as one committee proposal of the Committee on Natural Resources and the Environment, and let's accept Section 14 as amended as another proposal of the Committee on Natural Resources and the Environment, and then go into doing whatever we're going to do to Section 14 alone, and leave it for Style and Drafting to combine those two sections into one again later on, as part of the overall constitution.

MR. LAMBERT

In other words, that's exactly right. What I'm asking is to allow us to introduce a separate committee proposal I think just as many other committees have done.

MR. J. JACKSON

Senator, if it remains as a section, it's going to take sixty-seven votes. If it says a proposal, it's going to take sixty-seven votes, also; right?

MR. LAMBERT

Yes, sir.

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MR. J. JACKSON

So, that, as chairman of your committee I think you explained that you all adopted this, but it should have been in the Executive Committee's proposal. But, you all just adopted it as a part of Natural Resources. So, in order to, since there's some controversy on this section, as Mr. Velazquez says, let's take your proposal 1-13, and make this another committee proposal, which is going to require sixty-seven votes either way; right?

MR. LAMBERT

Yes, sir. Thank you, very much.

MR. ROY

Senator Lambert, doesn't...how can you amend a proposal that's already on the calendar, and if so, doesn't it have to be read on three different days in all these things?

MR. LAMBERT

Yes, I'd ask for a suspension of the rules to allow for that. The Chairman would ask for that.

MR. ROY

Well, but the suspension of the rules can't govern how we operate in the committee; does it?

MR. LAMBERT

I think it can be handled technically and mechanically. If you'll agree to go along with it, I think it can be done.

MR. ROY

I don't agree on the merits at all. I just think that we're wasting our time and doing something we shouldn't be doing here.

MR. ALEXANDER

Would the effect of what you're asking the convention to do negate everything that has been done yesterday?

MR. LAMBERT

No, sir. It would not.

MR. ALEXANDER

The three sections that...or subsections that have been passed would remain with the amendments...

MR. LAMBERT

They would remain intact and be offered in the form of Committee Proposal No. 37 and at which point we would just take up right immediately where we left off, and Mr. Roy could offer his. If he has a compromise, that would be the time to offer it. I don't think it would take hardly any time at all.

MR. ALEXANDER

Thank you.

MR. LANIER

Senator Lambert, if the convention does not approve Section 14 by a 67 votes, then it's not a part of this proposal anyway; is it?

MR. LAMBERT

That's correct.

MR. LANIER

So, really, it doesn't make an awful lot of difference whether we consider it as a separate proposal or as the same proposal. If it's not adopted by the necessary amount, it won't be in here anyway, will it?

MR. LAMBERT

Well, the thing about it, if it's left in, and our committee—we're unable to get sixty-seven votes, of course, the whole committee proposal will fall.

MR. LANIER

That's what I'm concerned about.

MR. WILLIS

Senator, you answered the question I wanted to ask, but I want to ask it again for emphasis. You want to divorce Section 14 from the rest of the proposal because it is a bitter pill to almost a majority of the delegates, so that you can pass your proposal Sections 1 to 13, and then with this divorce, you'll let it be maculated; isn't that correct? Let it float its own way. You don't care about that part of your proposal anymore.

MR. LAMBERT

That's exactly what I'm saying. I don't think it matters if...I think the Public Service Commission proposal is either going to stand...or should stand or fall on its own merit. That's all.

Point of Information

MR. SHANNON

Mr. Chairman, this is a question to be directed to you. Do we have a motion on the floor?

MR. HENRY

The gentleman is moving to...

MR. SHANNON

I have not heard a...he said he intended to make a motion.

MR. HENRY

Well, make the motion, Senator. It's not debatable when he makes it.

Motion

MR. LAMBERT

The motion is to put Committee Proposal No. 34 back on the calendar.

[Record vote ordered.]

Point of Information

MR. DUVAL

Mr. Chairman, is he moving to return the entire committee proposal back to the calendar or just...

MR. LAMBERT

The entire committee proposal.

MR. HENRY

Let me explain what he's trying to do. If you all will give me your attention, I'd ask that you take your seats, and give me your attention because unless you are in favor of going the whole route, there is no point in voting for the first motion. As I appreciate it, what Senator Lambert is moving to do is to move to return Committee Proposal No. 34 to the calendar. If that motion is adopted, then what he will do is ask for a suspension of the rules for the purpose of introducing a new proposal to this convention, which will in effect be Section 14 of the present Natural Resources Proposal as it presently stands with amendments. If the delegates allow him to introduce this proposal under a suspension of the rules, he will ask for a further suspension of the rules for the purpose of engrossing it and passing it to its third reading, which will circumvent the need for it going to committee, it having already been there and been debated. If that is allowed, then, that new proposal will be on final passage. If we get to that point, then as I appreciate it, he's going to move then to call from the calendar the Natural Resources Proposal at which time he will offer an amendment to delete Section 14 of the committee proposal. Now, it's just as simple as that.

[Motion to return Committee Proposal No. 34 to the calendar adopted: 59-42.]

MR. LAMBERT

I want to thank the convention for your consideration on that vote.

[Motion to revert to other orders adopted without objection. Motion suspend the rules for the introduction of a proposal.]

Motion

MR. JENKINS

Mr. Chairman, I ask for a suspension of the rules for the purpose of allowing debate on this motion.

[Record vote ordered. Motion to allow debate rejected: 32-72. Record vote ordered on the to suspend the rules.]

Point of Information

MR. ROY

If we vote yes, then the committee proposal that we've worked on excluding the Section 14 comes back, or including Section 14?

MR. LAMBERT
No.

MR. HENRY

If you vote yes on this, you're allowing him to introduce Section 14 as amended as a committee proposal.

MR. LAMBERT

Just as it is now, Chris.

MR. HENRY

Just as it is now.

MR. ROY

But, if you don't vote yes, then there's no committee proposal at all.

MR. HENRY

Yes, sir. There is a committee proposal, but it's on the calendar. He could move to call it from the calendar.

Point of Information

MR. ASSEFF

It is my understanding, Mr. Chairman, of the rules that it requires either sixty-seven votes to suspend, or two-thirds of those present and voting. What I'm trying to understand is, how is fifty-nine out of a hundred and one, two-thirds of those present and voting?

MR. HENRY

Fifty-nine votes, Dr. Asseff, was on a motion to return the proposal to the calendar.

MR. ASSEFF

Wasn't it a suspension of the rules?

MR. HENRY

No, sir, Dr. Asseff, it certainly wasn't.

MR. ASSEFF

Well, I misunderstood you.

MR. HENRY

Yes, sir. I understand.

Point of Information

MR. JENKINS

Point of information, Mr. Chairman. The motion is to suspend the rules to allow the introduction of a resolution. Now, would that suspend all our rules, say, with regard to the date for introduction of new proposals, which was three months ago?

MR. HENRY

Yes, sir.

MR. JENKINS

The requirement to print new proposals; the requirement that they be referred to committee; that they lie over for so many days; all of those rules?

MR. HENRY

Well, if the rules are suspended right now, it would suspend the rule that we adopted requiring that all proposals be introduced by the fifth of September, or whatever date that was. To advance it, would require further suspension, Mr. Jenkins. Why do you rise, Mr. Perez?

Point of Information

MR. PEREZ

Point of information.

It was my understanding that the motion was for one singular, particular purpose, not a general motion....

MR. HENRY

The motion is to suspend the rules for the purpose of introducing the proposal.

MR. PEREZ

One particular proposal....not generally to allow everybody to introduce a proposal?

[Motion to suspend the rules adopted:
86-22.]

INTRODUCTION OF PROPOSALS
[II Journal 1073]

Reading of the Proposal

MR. POYNTER

A proposal making provisions relating to the Public Service Commission, becomes Committee Proposal No. 37, on behalf of the Committee on Natural Resources and Environment.

Point of Information

MR. ANZALONE

Mr. Chairman, point of information. Is what's on the floor right now Section 14 of this article?

MR. HENRY

No, 'cause there has been some amendments to Section 14.

Motion

MR. ANZALONE

Well, what I was thinking about is that if there is not going to be too much debate on the first thirteen articles of this provision, that what we could do while we are waiting for these copies is offer for final adoption the Committee Proposal No. 34, less Article XIV.

[Motion to revert to Regular Order No. 4,
PROPOSALS ON THIRD READING AND FINAL
PASSAGE, adopted without objection.
Motion to call Committee Proposal No. 34
from the calendar adopted without objec-
tion.]

MR. HENRY

Gentlemen, please take your seats, ladies and gentlemen. Please take your seats and let me explain to you, because apparently some people don't understand what is happening, what has happened. or what might will happen.

We have introduced a new proposal, in effect, Section 14.

Now, when we get some copies ready for you, we are going to move back into proper order and Senator Lambert is going to ask for a suspension of the rules for the purpose of engrossing it and passing it to its third reading, so that you will...be able to have engrossed copies of it.

Now, we have called, moved back to Regular Order No. 4, and called Committee Proposal No. 34 from the calendar.

Senator Lambert is going to offer an amendment in a minute, to delete Section 14 of that proposal. But, before he does that, he's going to move for a suspension of the rules to allow us to proceed under the normal rules of the convention, inasmuch as when we began to debate on Committee Proposal No. 14 day before yesterday, a rule suspension was allowed to consider that section, letter paragraph by letter paragraph. Consequently, it will either be necessary for a suspension of the rules for the purpose of him offering one amendment, to delete Section 14. Or, we will have to have a separate amendment for each letter paragraph.

Point of Information

MR. ROY

Mr. Chairman, if we vote to delete Section 14, and the rules aren't suspended to make sure that we get what has just happened to us, that is that we consider my amendment again, you all can fail, or they can fail to bring it back up and it's gone. Isn't that true?

MR. HENRY

If this convention were to refuse another suspension of the rules for the purpose of ordering engrossing this new proposal passed to its third reading, then, it would be referred to committee. The committee, that is right, could defeat or kill the new proposal. But, I think Senator Lambert explained all along what he proposed to do there, Mr. Roy.

Personal Privilege

MR. LAMBERT

Mr. Roy, let me just say this. That is not the intention of anyone....

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...let me assure you of this that the intention is to put Committee Proposal No. 37 in its proper form on the floor of this convention so it can be considered properly. There's no... I don't know why...what you are thinking. But I can tell you, you can just dismiss those thoughts because I would not...do anything like that, I can assure you. I would not be a party to it. I think that's what you're thinking that a move might be made to delete Section 14 from Committee Proposal No. 34 before Committee Proposal No. 37 is properly put before this body. That will not happen. I will not be a party to that.

MR. ROY

Fine. Well, that's why we...not that I don't trust you... but some other fellows who've, you know, who have done me in a little bit. Why don't we clear Section 14 first to be considered, and then I will go ahead and vote with you on your motion there.

MR. LAMBERT

Well, it'll be the first time.

Questions

MR. STINSON

Senator Lambert, so we won't have to even trust each other where we don't, would you agree that we vote--this convention--vote for passage of No. 37. Then, if it fails, then we'll leave it where it is.

MR. LAMBERT

Yes. In other words, you're suggesting to use our committee's work as a lever? Is that what you are suggesting?

MR. STINSON

No, we don't want your committee...

MR. LAMBERT

Hold that over our head?

MR. STINSON

No, we don't want your....

MR. LAMBERT

I understand; you don't think you are.

MR. STINSON

Don't you know the story is in the slaughter pen, the sheep won't go? So, they put a billy goat to lead them so they all get knocked in the head. We don't want your committee to be the billy goat and lead us in there and let us get knocked in the head. Isn't that right?

MR. LAMBERT

Mr. Stinson, I disagree with you. I don't think that's the intention. I don't think....

MR. STINSON

But, didn't you say that your fear was that the entire package would not be passed with this in there, even though you are for it?

MR. LAMBERT

I also said, yes. I said that there was questionable jurisdiction over who had authority of the Public Service Commission from the very beginning. For that reason, I'm asking that it be severed from the work that our committee has done--just as you did on your committee--and let it stand on its own, and let the Public Service Commission stand on its own. That's not going to make you vote one way or the other on it.

MR. STINSON

Well, why not in fairness, let us have the convention vote on that one first, then?

MR. LAMBERT

Why do you have to do that when it's on the floor? It's going to be on the floor before you. Why do you have to tie it to Committee Proposal No. 34? That's exactly what I'm asking you not to do. To let us go ahead and let the convention vote, and let us finish our committee report. Then, let what people want to do, do, on the Public Service Commission?

MR. STINSON

Well, when...the procedures that you are going to recommend -- when will 37 be up for a vote on the convention floor?

MR. LAMBERT

That would come as soon as it's passed out and it's reengrossed,

and the rules are suspended, and passed on to third reading, as I understand. The Chairman can correct me if I'm wrong. After which it's on the floor...it's ready....alright?

Then, an amendment would be offered to delete Section 14 from the Natural Resources. All right?

All right. After that is done, then this...then we would ask the convention to approve Committee Proposal No. 34, 1 through 13. If they do that, then the next step would be to take up the Public Service Commission. It would all happen in a sequential sequence.

MR. STINSON

Then, there'd be a motion to adjourn, and we'd be left holding the bag, wouldn't we?

Point of Information

MR. KILBOURNE

I'm sorry.

Mr. Lambert, will all these things you are talking about doing, all these complicated maneuvers, every time we do one it's going to take sixty-seven votes?

MR. LAMBERT

You are going to have to ask the Chairman, because I don't understand the rules that well.

MR. HENRY

The rule suspensions will require sixty-seven, or two-thirds of those present and voting.

Point of Information

MR. THOMPSON

Mr. Chairman, it's bound to be some way, under the rules, that we could be gentlemen enough to go ahead and take No. 34, or No. 37, rather, and adopt it. By the same vote, put this in the same order that somebody won't be distrusting everybody when they vote. Is there any way to do this?

MR. HENRY

Yes, sir, Mr. Thompson. But there's no way in the world to do it with about forty hands up in the air. I realize that they are legitimate questions. But, this is the procedure that Senator Lambert is trying to get us to, either one way or the other.

Questions

MR. TATE

Senator, if I understand it, if you make a motion to advance No. 37 to third reading, suspend the rules, then it automatically will get printed, and the fears of those who are worried about something funny happening will be put to sleep, supposedly?

MR. LAMBERT

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

MR. TATE

Is that motion coming now?

MR. LAMBERT

Yes, sir. The only reason it hasn't been made is because I didn't have a copy, and we were trying to let everybody have... see what it was before they were asked to do anything on it.

Point of Information

MR. STAGG

We were at the point of voting to put Committee Proposal No. 37, which is Section 14 as it has been variously amended. That was about to come to the floor for action by this convention while Committee Proposal No. 34 was up on the calendar.

Then, Mr. Anzalone moved to call from the calendar No. 34, and then it would have required an amendment to delete No. 14 from it. It could have then been moved to final passage and been laid to rest.

Would it not be, or what would be the parliamentary situation if Mr. Anzalone's motion to call No. 34 from the calendar was either withdrawn or defeated? Would we not then be working on the proposition of Committee Proposal No. 37, lay it to rest, and then call No. 34 from the calendar?

MR. HENRY

Yes, sir. You are exactly correct, sir.

MR. STAGG
Then, I would like to pose whatever appropriate....

MR. HENRY
You would like to move to....

MR. STAGG
.....a substitute motion to Mr. Anzalone's motion that calls
No. 34 from the calendar.

Point of Information

MR. ANZALONE
Mr. Chairman, was not my motion adopted without objection?

MR. HENRY
The motion was adopted without objection. Your motion
would have to be, Mr. Stagg, to return it to the calendar.

Motion

MR. STAGG
Mr. Chairman....my point is, I think we need to go to work
on No. 14, and let....

MR. HENRY
Would you move to return Committee Proposal No. 34 to the
calendar?

MR. STAGG
I do move it, sir, and urge it's adoption.

Questions

MR. LAMBERT
Mr. Chairman, let me ask this question, please. Let me just
say this so that Mr. Stagg will understand my position.

As far as I am concerned, and the committee members who are
in agreement with me on the Natural Resources Committee, if this
proposal, Section 14, is handled as a separate committee proposal,
I see no reason why we have to....in other words, we can wait....
on that. That's what we were asking for is to have it severed.
It can be argued first. I....mean that....if that would allay
any fears, Mr. Stinson mentioned that, I mean I certainly, I mean
if you're going to vote....for Committee Proposal No. 34 without
Section 14, you are going to vote for it later today, or are you
going to vote for it now?

Point of Information

MR. ANZALONE
Mr. Chairman, just several points of information. With all
of these suspensions that we were doing awhile ago, did not we
at that time sever Article....or Section 14 from Committee
Proposal No. 34?

MR. HENRY
No, sir. We have not. We're going to have to have an
amendment.

MR. ANZALONE
We've got to have a motion to delete.
Now, what's before this floor right now is Committee
Proposal No. 34 for final adoption, which does include Section 14?

MR. HENRY
It does include Section 14.

MR. ANZALONE
There has been another motion made by Mr. Stagg to return
Committee Proposal No. 34 to the calendar?

MR. HENRY
That's right. To then call, as I appreciate it, the new
Committee Proposal No. 37 from the calendar, and move it to final
passage.

Substitute Motion

MR. KELLY
The substitute motion would be to suspend the rules regarding
the taking up of Committee Proposal No. 34 in order to allow
Senator Lambert to introduce the amendment to delete Section 14
from that.

MR. HENRY
That motion's out of order right now, Mr. Kelly.

Point of Information

MR. RAYBURN
Point of information.
Mr. Chairman, do we not have before us at this moment, which
was just called from the calendar without objection, Committee
Proposal No. 34?

MR. HENRY
You are correct, sir.

MR. RAYBURN
Why couldn't we go ahead now and just delete Section 14
because we already have just reintroduced Section 14, have we
not?

MR. HENRY
Senator Rayburn, we could very well do that. There would
be nothing wrong with doing that if we could get enough people
to vote for it. But, the people are reluctant to go ahead and
completely delete this Section 14 until they know, I believe,
that the new committee proposal is in a posture to be adopted.
Now....

MR. RAYBURN
Well....that's....my point is this. I'm of the opinion that
the new committee proposal has already been introduced. Am I
wrong?

MR. HENRY
No, sir, you are absolutely correct.

MR. RAYBURN
It is introduced? Now, where....what is the status of it
as far as coming up for action....advance it, do we have to
advance it to a third reading?

MR. HENRY
We have to advance it for a third reading. I think that's
what some legitimate concern has been expressed over in
the convention. I think that's why Mr. Stagg has made his
motion to return this proposal to the calendar.

....We just need to move, one way or the other on this
thing. I think there are some people that are skittish. I
think we can relieve their fears.

Point of Information

MR. ANZALONE
Mr. Chairman, in the process of deleting article or Section 14
from this committee proposal, could not the amendment to delete
Section 14 be drafted in such a way that it would be incorporated
as Committee Proposal No. 37, and placed on the calendar subject
to call; and that if it were done, that any member of that
committee could call it from the calendar?

MR. HENRY
Mr. Anzalone, we are in a position where we can do exactly
that if we ever get to that point.

Substitute Motion

MR. RAYBURN
My motion is that we advance Proposal 37, I believe is the
number of it, to third reading and final passage at this time.

MR. HENRY
We are going to have to return this proposal because your
motion is out of order. Mr. Stagg has moved to return Committee
Proposal No. 34 to the calendar. If that motion is adopted, then
yours would be in order, sir.

MR. RAYBURN
Thank you.

Point of Order

MR. BURSON
I want to be very sure that we're just moving this thing
on to third reading and final passage where it will have to
come back here to the floor and be subject to full processes
of debate and amendment.

MR. HENRY
Mr. Burson, you know we are not fixing to do anything
contrary to that.

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MR. BURSON
All right.

[Motion to return Committee Proposal
No. 34 to the calendar adopted with-
out objection.]

Motion

MR. RAYBURN
Mr. Chairman, I now move for a suspension of the rules for the purpose of advancing Proposal No. 37 to the third reading.

MR. HENRY
The gentleman now moves for a suspension of the rules for the purpose of engrossing and passing Committee Proposal No. 37 to its third reading.

Point of Information

MR. CHATELAIN
Mr. Chairman, if you would be kind enough to explain to some of us who don't know all of these fancy parliamentary procedures exactly what happens there.

MR. HENRY
All right, gentlemen. Mr. Chatelain has raised a point of information. If the rules suspension by Senator Rayburn is adopted, it will mean that Committee Proposal No. 37--which is in effect, Section 14 on the Public Service Commission that we've been talking about all morning--it would mean that that new proposal would be in the posture of being called from the calendar for final passage at any time. It'd be printed, and it would be just a separate proposal, and it would be up for final passage.

Point of Information

MRS. MILLER
Now, where are we on No. 34? Are we in a position, a posture now, to be able to go on and adopt the rest of No. 34 minus Section 14?

MR. HENRY
If this motion for the rules suspension is adopted, and someone moves to call those Natural Resources provisions from the calendar, then if the appropriate amendment or amendments are offered, we could delete Section 14 and go on with final passage of that proposal.

MRS. MILLER
That's what we want to do. Now, whatever motion it takes, Mr. Chairman, I'd like to make that motion.

MR. HENRY
Well, we've got to dispose of Senator Rayburn's motion first, Mrs. Miller.

MRS. MILLER
Well, do we have to vote down Senator Rayburn's in order to go on?

MR. HENRY
If we don't support Senator Rayburn's motion, I shudder to think what might happen.

MRS. MILLER
O. K.

[Motion to suspend the rules to engross
Committee Proposal No. 37 and pass it
to its third reading adopted without
objection.]

MR. HENRY
Mr. Stagg now moves to call Committee Proposal....to advance to Regular Order No. 4, and call Committee Proposal No. 34 from the calendar. Is there objection? To which objection is urged.

Point of Information

MR. LOWE
Mr. Chairman, I see the look on your face, and I'm sorry. But we've talked about No. 37; we've talked about No. 34. I'm not--I don't have anything committed to memory on numbers.

MR. HENRY
Your point is well-taken.

MR. LOWE
If you tell me what No. 37 and No. 34 is at the moment, I'll be in good shape.

MR. HENRY
At the moment, I'm not sure, Mr. Lowe.
Committee Proposal No. 34 is the Natural Resources Proposal which contains the fourteen sections, including the Public Service Commission.

The gentleman now moves to call from the calendar Committee Proposal No. 34, to which objection....

Motion

MR. STAGG
My question was to move from the calendar to the floor, Committee Proposal No. 37, which is Article XIV.

MR. HENRY
I misunderstood you.

Substitute Motion

MR. RAYBURN
I now move that we call from the calendar Provision No. 34 where we can delete the fourteenth section from it, because we now have two proposals carrying the same language.

Point of Information

MR. ROY
Isn't it a fact that Committee Proposal No. 37 was brought to the floor without objection?

MR. HENRY
It was engrossed and passed to its third reading without objection. Yes, sir.

MR. ROY
All right.
Now, then, Mr. Stagg moved to consider No. 37?

MR. HENRY
Yes, sir.
Moved to call it from the calendar.

MR. ROY
Can't Senator Rayburn do the same thing after No. 37 is disposed of?

MR. HENRY
Yes, sir, he could. But, now, this motion is not debatable.

Point of Information

MR. ABRAHAM
Point of information, Mr. Chairman. As I understand our posture right now, we have a motion by Mr. Stagg to call No. 37 from the calendar.

We have a substitute motion by Senator Rayburn to call No. 34 from the calendar.
Now, if we...go ahead and adopt the Rayburn amendment, No. 37 stays on the calendar. We can dispense with Article No. 34, and then we can call from the calendar No. 37 and act on it, can we not?

MR. HENRY
That's certainly correct, Mr. Abraham.
Gentlemen, now this is just getting to the point that it's ludicrous. Now, there is no point in us acting like a bunch of children. Please, now, you either want to do one thing or the other.

Mr. Stagg, I apologize to you, I had misunderstood your motion. But, we're going to have to start proceeding in a reasonably organized manner.

The gentleman moves the previous question.
Mr. Stagg had moved to call from the calendar Committee Proposal No. 37, to which motion a substitute was made by Senator Rayburn to call Committee Proposal No. 34 from the calendar. To which objection is urged.

Point of Order

MR. STINSON

A point of order, Mr. Chairman. This to call it from the calendar takes sixty-seven votes?

MR. HENRY

It takes two-thirds of those....I mean it takes a majority of those....no, majority of those present and voting.

MR. STINSON

Majority?

MR. HENRY

Yes, sir.

MR. STINSON

Then, after he gets it here, it takes a majority to delete Section 14?

MR. HENRY

That's right, sir.

MR. STINSON

Then, when that is completely out, it takes a majority to pass it?

MR. HENRY

Sixty-seven to pass the proposal.

MR. STINSON

Then, No. 37 is still left hanging by itself and can be buried, couldn't it? Unless we get sixty-seven votes.

MR. HENRY

That's....it very definitely could be buried, Mr. Stinson. But, it could be adopted, as well.

[Record vote ordered. Substitute motion adopted: 62-43. Motion to recess rejected: 13-84.]

MR. HENRY

Senator Lambert is going to offer amendments, as I appreciate it, to delete all of Section 14. In order to accomplish that purpose, Senator, you are going to have to have a suspension of the rules.

The gentleman requests a suspension of the rules for the purpose of....let me explain it first, and what he's trying to do, gentlemen.

When we started debating Section 14, we elected and suspended the rules to consider it letter paragraph by letter paragraph. Consequently, when the gentleman comes with an amendment to delete the whole Section 14, then, we would have to suspend that rule which we adopted, to operate under the normal rules of procedure of this convention. That's the purpose of the motion.

Point of Information

MR. PEREZ

A point of information. If we do not suspend the rules, that means that the same thing could be accomplished, but you'd have to have amendment, after amendment, after amendment offered to accomplish the same thing. Is that correct?

MR. HENRY

That's correct. That's correct, sir.

[Motion to suspend the rules to consider Committee Proposal No. 34 Section by Section adopted: 76-30.]

Amendment

MR. POYNTER

The amendment was passed out a few moments ago. Sent up by Delegate Lambert, reads as follows:

Amendment No. 1. On page 5, delete lines 11 through 32, both inclusive, in their entirety, and on page 6, delete lines 1 through 32, both inclusive, in their entirety and on page 7, delete lines 1 through 12, both inclusive, in their entirety and all floor amendments thereto.

[Motion for the Previous Question on the Amendment.]

Questions

MR. STINSON

Senator Lambert, if this is adopted, will you agree, then, to return 34 to the calendar and then bring up 37 for passage?

MR. LAMBERT

Yes. I don't. . .If you're that suspicious, I have no objection 'cause. . .In other words, all. . .the only thing you have left, Mr. Stinson, at that time, is Committee Proposal No. 34 which does not have the Public Service Commission. But, you have the Public Service Commission before you, ready to come up. It's been. . .

MR. STINSON

I'm not. . .I'm not suspicious, I'm just cautious. I always carry an extra in my car in case I have a flat. I don't like to have them, but we needed it.

So, will you agree and give your word as Chairman that if we go ahead and adopt this amendment that then you will bring up your Committee 37, first?

MR. LAMBERT

Mr. Stinson, no I don't, and I don't know why you would want to ask me to do that. What's the reason for that?

MR. HENRY

All right. Gentlemen, this. . .

MR. LAMBERT

What's your purpose. I mean, what. . .

MR. STINSON

I'm just cautious is the reason.

Point of Information

MR. JENKINS

I have a question for Mr. Lambert.

MR. HENRY

You. . .He can close if the previous question is ordered, sir.

MR. JENKINS

Does he have the floor right now?

MR. HENRY

There's a motion pending on the floor for the previous question, Mr. Jenkins.

MR. JENKINS

Who made that motion?

MR. HENRY

Mr. Reeves.

MR. JENKINS

How could he make a motion for the previous question when Mr. Lambert had the floor? Then, after that, Mr. Lambert answered a question?

MR. HENRY

Yes, sir, Mr. Jenkins; he did.

MR. JENKINS

Well, then I guess he could answer my question.

MR. HENRY

No, sir; I don't guess he can.

Point of Information

MR. FULCO

Mr. Chairman, a point of information. I'm not straight on this in my mind. When you say, "and all delete....and all amendments" or do you. . .

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MR. HENRY

Well, now. . .now, we can't explain the amendment.

MR. FULCO

No, I'm asking for a point of information. Now, we say, if we say "delete all amendments thereto," will that delete all the amendments that we have adopted to that particular section?

MR. HENRY

It's just getting rid of the whole section, sir. Now. . .

MR. FULCO

Yes, but does it delete the amendments, Mr. Chairman?
Mr. Chairman. . .

MR. HENRY

Wait. No, now. . .

MR. FULCO

Mr. Chairman, please, do we say with. . . "delete the section with the amendments" or do we say "and delete all the amendments thereto?" It makes a difference.

MR. HENRY

Mr. Clerk, explain it. . .

MR. POYNTER

The language, Mr. Fulco, simply instructs the Enrolling Room not to leave hanging some language in the middle some place. It would have the effect, as I appreciate it, of instructing the Enrolling Room to delete all of Section 14 as it is presently amended.

MR. FULCO

That's good, but the amendment didn't say that.

[Record vote ordered. Motion rejected:
33-70.]

Point of Information

MR. CHAMPAGNE

It seems to me that everybody is getting in the act, and I just wanted to ask if you'd mind if a Cajun got in the act, too? The next question, sir, is that there seems to be an awful lot of suspicion in this convention going on. Would you agree with me that nothing can happen that the majority will not vote for?

MR. HENRY

I think you're exactly right, Mr. Champagne.

Further Discussion

MR. LOWE

Mr. Chairman and ladies and gentlemen of the convention, I won't be long. I respect the fact that you are anxious to move along, but the train is rolling pretty fast this morning, and I think we understand what's happening. I believe that the people that were opposed to Section 14 are anxious to get it out. Senator Lambert has said that he's afraid the Proposal No. 34 will fail if we don't get Section 14 out. Well, I feel strongly about Section 14, and I don't believe like the press does that we had a rate increase. I think that we took a problem that couldn't be dealt with anyplace else and dealt with it. Now, I believe that the people that are the proponents of 34, that want to pass it, will pass it after we get 14 out, if we cooperate with them. Now, I believe that once that's happened, we're going to kill 37 because we're not going to have their support. If would have had their support, they would have agreed to take 37 out and let us dispose of it. After we had disposed of it, there'd have been no problem to take 34 off of the calendar, remove Section 14, and we'd be in the same posture we are right now. Now, I say to you that if we'll go along with them, 14 is dead now, it's dead once and for all. I ask you not to make that mistake.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, it seems to me that you've got a choice here. You can either choose to get something accomplished today: that is, to pass the committee proposal without Section 14, or to be here the rest of the day to consider the twenty-some-odd amendments that are pending. I tell you, frankly, as far as Section 14 being dead, I think after everybody here goes home for the holidays, if it isn't dead, you'll wish it was. If you look at the headlines in the paper

this morning--and whether you like them or not, that's the headlines and that's what people are reading--"Rate Increase Vote By Delegates Given For Permitting Rate Increases Before A Decision Has Been Made." That is it. Now, I hate to burden you with the facts, but I've got a few that I want to let you know before I close, here, that the procedure for filing an application before the Public Service Commission involves, first of all, the filing of an application which must be published in the bulletin of the Public Service Commission. Then, under rules of the commission, twenty-five days are allowed for public protest or other filing. Because the bulletin is only published every fourteen days, this may well mean thirty-nine days at the outset before this can be placed. . . Mr. Chatelain, you just as well sit down, because I'm going to ask for personal privilege if I don't get to say it here. So, we could save everybody a lot of time. You've got to have a minimum, then, in some cases of thirty-nine days before the thing even becomes eligible to be put on the docket. Then, when it's put on the docket, at the present time, you get, in the normal course of things, a hearing within four to six months; because, you've got to remember that the Public Service Commission--now listen to this, listen; this is a fact--the Public Service Commission regulates four hundred motor carriers in this state and four hundred public utilities other than motor carriers, which includes twenty-six telephone companies, all taxis operating seven miles outside of any municipality. There are tank truck carriers in this state, right now, today, that have applied for three rate increases this year.

Point of Information

MR. CHATELAIN

The speaker is speaking. . . is it germane to the amendment before us? He's debating 14, sir.

MR. HENRY

Well, the. . . the amendment, as I appreciate it, is whether you delete 14 or not, Mr. Chatelain.

Question

MR. TATE

Mr. Burson, what you're talking about is on the merits of 14. Now, if I understand, in the sense of the convention action till now, it is for us, without regard to the merits of 14, to delete it from Committee Proposal No. 34 so that the noncontroversial part can pass and go on for drafting, and then for us to be able to debate the merits on the 37. Is that right, Mr. Burson?

MR. BURSON

Judge, that is probably correct. However, this is a motion to delete 14. It seems to me, to vote intelligently on that, you ought to know the merits of the case. That's what I'm trying to get into, if I can.

You will see. . .

Under the proposal as it stands right now, you'd have to make a decision within six months. So, if all the eight hundred of these utilities that are regulated file a petition for a rate increase simultaneously, which I think would be highly likely if such a provision became part of the law, the commission would have to accept or reject 4.4 petitions per day. Now, I ask you if this is designed to achieve intelligent rate regulation for public utilities in this state. Most important of all--and remember this--that an appeal from a Public Service Commission decision is an appeal only on the face of the record. The court can only examine the record. When a multibillion dollar corporation like A T & T sends in one of the Sears and Roebuck applications, to protect the public interests, the Public Service Commission does not have in its house utility rate-making experts. They've got to go out across the country and hire these men. Sometimes it might take them two or three months to even get access to somebody with that kind of expertise.

[Motion to grant an additional one minute for explanation rejected: Motion to limit debate on the Question to twenty minutes adopted without objection.]

Further Discussion

MR. ROY

Mr. Chairman and ladies and gentleman of the convention, if I knew with whom to deal up here, who was speaking for whom around here, maybe we could have shortened this debate a long time ago. But, you get one response, "Yes, I'll do something,"

and then later, "No, I won't agree to do that." It's just no reason--there's no reason in the world why this, what Mr. Stinson asked Senator Lambert, should not have been allowed. If we take 14 out of Section 34, then it appears to me that if those people are in good faith, who are on the other side, and if they're not going to then move to adopt 34 as a committee proposal and then move to adjourn and/or move to go to other orders of the day and not consider 37, then it appears to me that they should agree--if we take 14 out of 34--to put 34 back on the calendar, pull 37; let's debate 37; and then later, go on and adopt 34. Now, I don't see the reason why not. I saw a man respond, "yes," he was for it, and I saw somebody shake his head no, he was not, and it ended up that it was not, that there was something maybe sinister about this other thing. Now, I sat up here today--and they can run them rules besides me all they want because this is their ball park, and there's some of them have been in the legislature before. They know how it works, and they can get technical with me and beat me every time, but I know what's right. I know what we did yesterday. I know when we got sixty-three votes, and I know when this convention wants to discuss a certain issue. If you folks who are like me, who haven't committed to memory these rules and are not in with the people who know what the rules are, you're going to find yourselves going home without any issue on the Public Service Commission. For Mr. Burson to come up here and to quote some newspaper, some newscaster that didn't bother to stay here last night to see what we did do instead of what we did not do, I think is ludicrous. I am not bound by what the newspapers say. I don't care what they say as long as what I do is right, and we should debate the issue. They all reported this morning, and of course that's what some of the opponents wanted. They all reported, because I got a call from Alexandria, that we had allowed the public carriers and utilities to raise rates over the objection of the commission and without even a bond. You know that's not true, but it served its purpose. Well, I want to say one thing: I didn't come here to write a constitution for the newspapers, for PAR, for anybody else, and I'm not going to start doing it now. I urge you to, as long as they will not agree to what Mr. Stinson suggested, to vote against taking 14 out of 34.

Further Discussion

MR. DUVAL

Mr. Chairman, I think it's getting...I'm going to make a suggestion. I was hoping...I was going to make a motion to adjourn, but if it will placate somebody, if Mr. Lambert will withdraw his amendment and then move to adjourn, it might help this group because I think we're right at the standstill. We need to think about this thing when we come back.

Further Discussion

MR. LAMBERT

Mr. Chairman, fellow delegates, the intention in the very beginning I stated to you was to try to sever Section 14 from Section 34. I appreciate; you have done that, you have allowed us to do it. I appreciate that. So that there will relieve any suspicions--anyone, whomever they may be--I would like to withdraw the amendment. Well, that's allright, Earl, if you don't want to vote that way, don't. But in order to be fair with everybody I will ask you to allow me to withdraw the amendment. I'll put 34 back on the calendar, dispose of Committee Proposal 37, which is the Public Service Commission because I know that the ones that are asking me to do that are going to be fair enough and not hold the final adoption of Section 34 over anyone's head. I know that; so for that reason, I would like to withdraw that amendment and let this body move along.

Questions

MRS. MILLER

Senator Lambert, you know this is very fine to trust everybody--and I guess in the spirit of Christmas we should--but maybe we should have some record vote for everyone to go on record that we understand what you're doing, and we're going to honor this.

MR. LAMBERT

Mrs. Miller, I understand your question, but I don't feel that it's necessary. I don't want to request that.

MR. ABRAHAM

Point of information. Now, if we do as Senator Lambert requests--and let's just assume that 37 is defeated--then, still you have Section 14 in Article 34; do you not? And that would be debated all over again; would it not?

MR. LAMBERT

Mr. Abraham, can I answer your question? If Committee Proposal 37 is defeated, as far as I'm concerned, I have been assured that Section 14 will be deleted from Committee Proposal 34. If Mr. Stinson is asking me to trust him, and I'm doing exactly what he's asking. I expect--and if it doesn't happen, then I'm going to be completely disillusioned and disappointed. But, if something happens to Committee Proposal 37--after it stands on its own, rides on its own, whatever happens to it--if Committee Proposal 34 is hurt with Section 14 that's in it, then I'm going to be completely disappointed; I can tell you.

MR. ABRAHAM

Well, don't you agree then if we can move this thing along, they both will stand on their own feet, and one should not harm the other.

[Motion to withdraw the Amendment.]

Point of Information

MR. ANZALONE

Mr. Chairman, is this a debatable motion?

MR. HENRY

Mr. Anzalone, I know of no reason why it's not, but I don't know any reason that it needs to be debated. Now, it just appears that so much confusion is reigning in this convention right now, that we're going to have to get off dead center one way or the other, because we're going to stand around and be so antagonized by one another in another hour or two, that we might as well put the ropes up in here and get after it.

Further Discussion

MR. JACK

Mr. Chairman, I just want to say this. I'm not obligated by anybody that's making any agreement for me. I want that clearly understood. This thing's difficult enough advising yourself, and I'm going to vote like I see. Mr. Lambert is my chairman of the committee, but I don't want him to misunderstand. I'm not obligated by what Mr. Stinson said, what Mr. Lambert, or anybody. I'm going to vote my own conscience all the way down.

Further Discussion

MR. STINSON

...I want you to know that when Mr. Stinson asked Mr. Lambert that he says no, and I haven't even talked to Mr. Lambert since then.

[Previous Question ordered. Motion adopted: 83-19.]

Personal Privilege

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, I haven't taken any part in the debate upon this Section 14, but I certainly think that so far as what we've been doing here, we've been acting like a bunch of children. I'm getting a little bit tired of trying to wrangle out this and find out who doesn't trust who, who doesn't trust the other fellow. I don't believe we act that way in the legislature, and I notice you don't trust the legislature, but at least we have a little honor. I'm going to ask you to have a little honor. I'm not going to try to take an unfair advantage of one of you fellow delegates, and I hope you won't do that to me. I think Senator Lambert has well explained what his intentions were, and yet, he's been questioned and questioned, and sinister reasons, innuendoes leveled at him for that. I kind of resent that because I know Senator Lambert, and I know he wouldn't be a party to any of that stuff. I just ask you: please, let's have a little bit of trust in one another, at least here during the Christmas spirit, and get our work done. We were wasting a lot of time, and we're not accomplishing anything. I just spoke my piece because I just....

Motion

MR. CHATELAIN

Mr. Chairman and fellow delegates, I don't think it's a matter of trust and a matter of 'his and that and the other. I think we all trust each other. I think we've gotten to the point now where we ought to thank God that we've gone this far.

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It's just a few days before Christmas, and I think what we ought to do now is adjourn and go home and come back and fight this on the third day of January, and I so move, Mr. Chairman.

MR. HENRY
Until what time, sir?

MR. CHATELAIN
Nine o'clock in the morning on the third.

[Motion to adjourn to 9:00 o'clock
a.m., January 3, 1974 rejected: 46-56.]

Personal Privilege

MR. STINSON
Senator De Blieux, without calling names, I'm sure you were referring to me. Well, I was the only one that talked to Senator Lambert. I want you to know, members of this convention, I'm not a politician, but I've been in the legislature for thirty-four years, and I've seen people's throats cut and stabbed and all when they innocently stood by and were taken advantage of. There's no reason why the two opposing groups--and I'm not in either group--couldn't get together like we do on these other amendments and decide like we have all during this convention. But there's been nothing done this time. Now, Senator Lambert, I trust him. In fact, this is a bad thing to say, but I voted for him to be chairman of this committee...convention, and I think a lot of him. But I asked him the question, and he said, no, he couldn't agree to it, and he gets up and then says that I ain't in agreement and I ain't even talked to him. I said that you said that there was agreement, and when I questioned you, you said that you couldn't agree to take 37 up first, and I didn't talk to you after that. If there's anything to trusting or not trusting, I don't see why we can't work this the same as we have everything else that's been worked out. Mr. Roy has handled it, and Senator Lambert. I'm not even involved. But I think we should have a fair deal, and everyone should be treated fairly, and try to work it out. But, I haven't agreed; I haven't bound Mr. Jack; I haven't bound anybody; I haven't even bound myself. I have no authority to bind anyone. I'm not representing either side in this faction. I'm voting my convictions and what I think is best for my people. I don't intend to double-cross anybody. There's no reason for me to double-cross anybody, but I don't want to be double-crossed either, or the principles that I stand for.

MR. LAMBERT
I'm sorry if I offended Mr. Stinson. I don't know what I did, but I apologize....

Point of Information

MR. KEAN
Mr. Chairman, now that Senator Lambert has withdrawn his amendment and we apparently have two proposals on the floor, exactly where are we with...

MR. HENRY
We don't have two.
Gentlemen, please take your seats and let's get a little order in the convention.
We have Committee Proposal 34, Section 14, up for adoption, Mr. Kean.

Personal Privilege

MR. JENKINS
Mr. Chairman, I'm sorry to interrupt things as we're adjourning, but, you know, Christmas is upon us, and I really hate to see the convention depart on this note. For just a moment, I want to express my feelings as a delegate about the work of this convention. If you look back on the last five months, I think you'll see that we've accomplished many, many things that can substantially improve the condition of government and the condition of the people of this state. We're in the midst of one of many, many discussions we've had, and sometimes it seems like we won't ever resolve them. But, we will resolve this, and it's certainly an honor and a privilege for me to be associated with this group. I hope that when you're home for these few days, we talk to our people about some of the good things that we've accomplished instead of some of the things that we're having difficulty resolving, because if the people knew the things that we had undertaken, and the good we had done, I think we'd have a lot better public image than we have. So, I hope we can leave on that note rather than one of dissension.

MR. HENRY
Thank you, Mr. Jenkins, and a Merry Christmas to you all.

[Adjournment to 9:00 o'clock a.m.,
January 3, 1974.]

107th Days Proceedings—January 3, 1974

Thursday, January 3, 1974

Vice Chairman Casey in the Chair

ROLL CALL

[81 delegates present and a quorum.]

PRAYER

MR. WILLIS

Almighty and eternal God, shower your mercy upon us. Grant us the necessary blessings to make proper judgment on all issues which require decision. Strike here in our consciences to shun wrong, embrace right, and make proper decisions. Grant us the grace to conduct our proceedings with the requisite deliberation and speed. Deepen our faith, our hope, and our charity. Make us love what You have commanded and finally, guide us to make diligent, to make us diligent in our deliberations to present a pure plan of government to our people. So be it.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

REPORTS OF COMMITTEES [II Journal 1077-1078]

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

MR. POYNTER

On unfinished business, of course, is Committee Proposal No. 34, introduced by Delegate Lambert, Chairman on behalf of the Committee on Natural Resources and Environment.

A proposal making provisions relating to natural resources and the environment. Now, the status of this proposal is that the convention has adopted the first thirteen sections of that proposal with the exceptions of Sections 3, 6, 7, and 11 which this convention voted to delete. It still has under its consideration, however--has not completed work on Section 14. Of course, in addition to that on the last convention day, the twenty-first of December, under a suspension of the rules a separate proposal was introduced constituting Section 14 as amended and which proposal under further suspensions of the rules was engrossed and passed to third reading and presently appears in Regular Order No. 4, Proposals on Third Reading and Final Passage. In that light, I think, Senator Lambert at this time has a motion.

[Motion to return Committee Proposal No. 34 to the calendar adopted without objection. Motion to take Committee Proposal No. 37 out of its regular order adopted without objection.]

Reading of the Proposal

MR. POYNTER

Committee Proposal No. 37, introduced by Delegate Lambert, Chairman on behalf of the Committee on Natural Resources and Environment.

A proposal making provisions relating to the Public Service Commission. Article VIII, Natural Resources; Section 14, Public Service Commission.

Mr. Vice-Chairman, of course, this proposal now contains but one section, being Section 14; that section has been previously read.

Explanation

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, I'm going to make this very brief. I just kind of want to touch base back with you where we were when we adjourned. This essentially is

a different proposal from what was in Committee Proposal No. 34. If you will recall there was some statements made with respect to No. 34 that it allowed for an increase to be put into effect irrespective of whether the commission ruled favorably or unfavorably. I think that was misleading, but in any event, we later passed the amendment that I previously had submitted to the convention and this proposal essentially has those provisions in it. The first section, of course, (A) deals with the composition of the Public Service Commission which is increased from three members to five members. The second section deals with its powers and duties. I would like to call to your attention, rather Section (B), that the Public Service Commission is an autonomous body to a great extent other than the way we restrict it in this constitution and as we provide for it to be restricted by law, which means that the Public Service Commission can make reasonable rules and regulations with respect to the way rates and submission of rate increases will be filed, how they will be filed, what will be in them, etc. So, I want you to keep that in mind because it's very important when we later determine the issue of how long we are going to allow these folks to sit on an application for a rate increase without acting.

I'm explaining that Section (B) very clearly makes the Public Service Commission an autonomous type of rule-making body similar to the Civil Service Commission which can make rules and what have you. Now, it is to that extent restricted only by whatever we put in the constitution and, of course, what we allow as provided by law. Section (C) is strictly the limitations which I've just gone over. Section (D) is the controversial issue that was previously deliberated on. The first portion of it allows for or mandates the commission to render a decision within twelve months after a proposed schedule is filed; (D) (2) is a provision that provides that within six months from the effective date of the filing of the application the Public Service Commission shall render a decision or the increase which has been sought may be put into effect as provided by law and until action by court of last resort; (3) simply says if the increase is finally disallowed, in whole or in part, then the burden will be upon the utility or carrier to refund the money to the consumer and as otherwise provided by law--which would mean, in my judgment--the way that it would be refunded either as a credit or simply a cash payment back to the consumer. Section (4) of that proposal deals with the notice that shall be given. Section (5) deals with the appeals that may be rendered and it allows as you can see for the appeal by the intervenor or anyone else who is involved in the matter. Section (F) deals with the right of the Public Service Commissioner to regulate the sale of gas for industrial purposes and there was some other amendment that we had with respect to that. I think those are the issues. I understand Mr. Rayburn's got an amendment to delete the whole thing. I'll yield.

Questions

MRS. ZERVIGON

Chris, my mind is working slowly after New Year's, but the only case in which a utility could take an appeal is if a decision is not made? If a decision is made one way or another by the Public Service Commission, would there be no appeal?

MR. ROY

No, there would be an appeal one way or another.

MRS. ZERVIGON

Where does it say that? It just says "Should the commission not render its decision."

MR. ROY

Well, it says "Appeals may be taken by any party or intervenor and must be filed with the district court, within the time provided by law, at the domicile and direct right of appeal to the Supreme Court."

MRS. ZERVIGON

But, the sentence right before that just says if it doesn't make a...those two sentences don't get read together?

MR. ROY

No. I didn't read them that way, Mary, especially with respect to the "as provided by law" provision.

MRS. ZERVIGON

Thank you.

MR. ROY

Yes. Mary, I want to point out to you that in line 28 of that...well, that's alright.

MR. LEBLEU

It really wasn't a question. I just wondered if this amendment had been passed out; I don't seem to find one in my area over here and....

MR. ROY

It's the new proposal No. 37, Mr. LeBleu; I don't know if it was put on your desk....the yellow sheet.

Amendment

MR. POYNTER

Yes. We have several sets of amendments; the first one sent up by Delegate Rayburn reading as follows:

Amendment No. 1. On page 2, delete lines 10 through 20, on the second page, in their entirety.

Second Amendment--technical amendment--On page 2, at the beginning of line 21, change the number "(4)" to the number "(2)"

Explanation

MR. RAYBURN

Mr. Acting Chairman and fellow delegates, the amendments I propose delete Paragraph (2) and (3) on page 2 of the printed bill you now have before you that takes out the mandatory rate and also takes out the bond provision. It leaves, then, the provision under Paragraph (1) under (D) where it says, "The commission shall render a final decision after a public hearing on applications, petitions, and proposed schedule rates within twelve months." In twelve months regardless of what decision they might have rendered you still have the provision where you can go to court. I still feel like I felt last week that, we as delegates of this convention have no right telling to elected public officials if you don't do something when there is a given period of time, we're going to say that you've got to do it even before they have had time, maybe, to study the matter. I realize in some cases maybe they have been dragging their feet. Maybe like a lot of people think members of the legislature often drag their feet--sheriffs, assessors, clerk of court, and other public officials. I'm sure you can find some people that think a lot of us in public life have on different occasions more or less drug our feet. I'm sure you can hear it about the judiciary. But, I think that by adopting this amendment, then, you will have a fair and a reasonable proposal. You will be saying to the Public Service Commission that you shall render a decision in twelve months. You are saying to the public utilities or the people that are directly concerned if you think they have rendered the wrong decision you can go direct to the courts and in my opinion that's the way that this country operates. I do not think it's right to say to anyone before the people that are elected have a chance to review the facts that if we wanted, we're going to get it. Then, later down the line if we've made a mistake, you can take it away from us. I can visualize now someone trying to get back a refund on an increase taxicab rate or a refund out of a pay telephone. I don't know how you would get it refunded; maybe you do. If you think that we don't need the Public Service Commission, just come up here with a proposal and let's abolish them. But, after all, they are elected officials just like you and I are elected and they came here....they came in their offices just like you and I came to this office. I don't think we should sit here and, more or less, mandate them out of office. If they are not doing what they are supposed to do, then we need to change the commission; we need to change the make up. But, I'm only deleting the mandatory rate increase provisions that are now in this schedule. I hope you go along with the amendments. I move the adoption.

Further Discussion

MR. ABRAHAM

Mr. Chairman, fellow delegates, I rise in support of this amendment. I think it is a fair and equal way to treat this particular problem. The statement was made in here before we adjourned that forty-two other states or forty-six other states had provisions which provided for these automatic rate increases and bond requirements. Well, I submit to you that this may be true; I won't quarrel with that but none of this language is in the constitution in any of these other states. There are only thirteen states that even have the Public Service Commission in the constitution at all and Louisiana is one of them. Nowhere in any other constitution is there any language which spells out the manner in which the Public Service Commission shall operate; all of that is statutory material and it's handled by the legislature; I think that's the way we ought

to do it here. There is nowhere in any other constitution, any requirement, that the Public Service Commission has to render a decision within any specified period of time. We are going further than any other state by even saying that they must render a decision within twelve months. I think that what we've got in this particular proposal now places the burden on the consumer to take the Public Service Commission to court in order to get action, and I think that's the wrong way around. If anybody should take them to court and get action, it should be the utility. The thing that we do not want to overlook is the fact that this applies to all types of public service organizations. We are not just dealing with any one particular group of people or any one particular company or anything like that. So, we're going to have to think further than what the arguments have been in the past where it centered around the telephone company. By allowing anyone to be able to go to court at the end of twelve months, whether a decision is rendered or not, I think is a fair way to handle it. But, above all, the legislature is the one who must oversee activities of these different things...types of organizations like this; We need to have flexibility. It may be that in a particular instance six months might be enough time and in other instances it may take twelve or longer. But, I think we need to leave it flexible for the legislature to be able to handle these particular problems when they arise and let the legislature decide the manner in which these type of thing need to be done. I urge the adoption of the amendment.

Questions

MRS. WARREN

Mr. Abraham, maybe I should have asked Senator Rayburn this question, but I'm going to ask you. He mentioned that someone probably come up there with a proposal to do away with the Public Service Commission completely due to the fact that they can go to the courts on appeal, do you think it would be wise or do you think it would save the state money if we just eliminated the Public Service period?

MR. ABRAHAM

Well, the Public Service Commission, Mrs. Warren is a regulatory agency and I think the only issue that he was speaking on is whether or not we wanted it constitutionalized or whether we wanted simply another regulatory agency in the state government. As I said, only thirteen states have the Public Service Commission in the constitution. The other states do have a Public Service Commission, but it's all statutory; it's all created by the legislature. Only thirteen states actually have elected public service commissioners. The other thirty-seven states have them appointed. So, I don't... I think we're all pretty much in agreement, we do want to constitutionalize the Public Service Commission, but the question now is whether or not we want to write this other detailed language on how they're going to operate into the constitution.

MRS. WARREN

Well, I'll put it like this, I'm not so sure whether I would like to see it in the constitution at all since I heard Senator Rayburn speak. Do you know that the thing that puzzles me most is how long does one wait in indecision to make a decision? If they can go get it without the Public Service, I just as soon see them go and save money that the legislature handle it and the courts. We could just do away with it. I'm just trying. . . I'm really trying to get down to the bottom of it to find out whether we're just going to have somebody, an elected official--you can't mandate them to do anything by putting it in there--and they shall do it, and if they don't do it, it's no way of forcing them to do it because they are elected officials. So, I mean these are the things that's going around in my mind right now.

MR. ABRAHAM

Well, this is why you need to leave the details up to the legislature, Mrs. Warren, so that they can work these things out.

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, I rise in opposition to the amendment. At least today we didn't get some of the rhetoric that we got last time which I thought was a little misleading on this particular proposal. Now, let me tell you what I think is basically wrong with Senator Rayburn's approach to this subject. We have constitutionalized the commission, the Public Service Commission. We have increased it from three to five members. The sole and only purpose for the existence of a Public Service Commission is for five people in this state who presumably know something about business and about race, etc., can make decisions, can make initial decisions on applications for increases and for

other types of service. That is a political body. It is elected by the people. Now, what Senator Rayburn's amendment ultimately does is, it says, "Well, boys, we like to elect you people to make decisions; however, we're going to say this, that if you can't make a decision, then you can pass the buck onto the poor district court and make the district court make the decision that you should have made." I disagree with that. There are a lot of times in this convention that I would like to have not to have had to make a decision. Particularly, one time when I sat up there I wish I could have said, "Let's think about it a little longer or let it pass by default, let somebody else make this decision." But, I ran for this job to make decisions that I thought were best for the people of this state. I don't represent any utility or carrier; don't care to; I'm not saying I dislike them. I just usually am suing them. All I'm saying is I'm for what's fair, and I'm for what makes sense in political science, and if we're going to elect a Public Service Commission, then those fellows ought to make decisions. If, after they require a carrier or utility to present to them, at the expense of the carrier or the utility all of the information they need to make a decision and they cannot make a decision in twelve months because -- I have an amendment later that changes the six to twelve-- well, then we don't need a Public Service Commission. I just don't like the idea of one politician passing on another politician the decision making power that the first guy should have made. You know what's going to happen, we've increased it from three to five, every time there's an election coming up one of those guys say, "Boys, let's not make a decision this six to eight months because I'm running, and I'd like for things to stay like they are." As a result it goes on to the court and the poor court has got to make the decision and then they all sit back and say, "Well, we didn't make that decision, go talk to your judges about it." Now, I've got another amendment that later changes the committee proposal and says that it is applicable the rate increase only to public utilities. It excludes carriers --because I think Mr. Rayburn has a good point-- it would be hard to have people who have some type of refund that may be owed back them by a carrier to keep tickets on every Trailways Bus ride he took and stuff like that. But, with respect to public utilities they keep the rates of people and the bills I mandate them later to refund within one year's time any increased allowance that they shouldn't been allowed with legal interest and as provided by law. I just think we ought to face this issue, and it's a very basic decision that you've got to make; either you're for allowing the buck passing or you're not. I believe, like the great President Harry S. Truman, who had a sign on his desk and it says, "The buck stops here." I say that that sign ought to be put on the Public Service Commission's desk and they ought to say, "The buck stops here," and we're going to make a decision or else we're going to allow the utility to be put into effect, the rate increase, for the benefit of the little consumer who doesn't have the swat and the stroke that you or I have with respect to getting a telephone or something else that he badly needs. I'm against the amendment and I hope you vote against it.

Further Discussion

MR. CHATELAIN

Mr. Chairman and fellow delegates, I stand in opposition to the amendment. I say that we do need a Public Service Commission, Mrs. Warren, and we need one very badly. The purpose of us being here today is to write a new constitution for the citizens of this state. If we've seen in the past we've had problems with certain constitutional situations, we should try to correct those. I say we've had great problems in the Public Service Commission in the past and that's one of the reasons why, in your wisdom, you have increased the membership from three to five here in this present constitution. I say we need a strong, viable Public Service Commission. Why do we have a Public Service Commission? We have one because it is supposed to look out for the interests of the people of this state in a business that has a monopolistic trend or a monopolistic business. It does not control Ethyl Corporation or some of these big, large corporations that has to do with your life on a daily basis, but it does have to deal with the transportation systems of this state. It has to deal with the telephone system of this state. We're getting down to the real net of this argument, it's the telephone company versus the Public Service Commission. Let's look at it realistically, and let's look at it honestly. You've heard people stand here and say that they worry about the taxicab rate. There's not a man in this room or delegate in this room who knows darn good and well that taxicab rates are not controlled by the Public Service Commission, that on the contrary, they're controlled by the local governments; has nothing to do with the Public Service Commission. The Public Service Commission controls the businesses of this state that are, as I said before, that have a monopoly type business. Who owns these monopolies? The people either in this state or other states of this union own the Southern Bell Telephone Company and other corporations that we are discussing here now. It's whether or not the Public Service Commission should render a service;

should do it's duty. You say, "Well, why mandate in the constitution what the Public Service Commissioner should do and how soon they should do it?" I say that you have mandated for the governor of this state that he has to have a deadline for the budget. You spell out what day that deadline has to be; you tell the governor of this state when he has to call an election and all the guidelines on elections. You tell him when he must sign bills for them to become law; you have done that and it's reasonable. So, I say we need a Public Service Commission, but let's let the Public Service Commission render this service that they are elected for. They stand election for the purpose of rendering service to the citizens of this state. I, say to you that they certainly should be able to render a decision within six months or a year--and this talk about a bond-- I would rather have a bond of the South Central Bell System than many of the bonding companies in this state. Most of you people here know it, particularly you lawyers; and you insurance people know this. This is all a subterfuge; we're not talking about a realistic situation here. These bonds are just a factor in the overall allowing of these people to get a justifiable rate increase. Bear in mind that a Public Service. . . that any person under the jurisdiction of the Public Service Commission cannot come before the Public Service Commission asking or requesting for a rate increase unless they have shown by a documented proof that they have lost money or lost less than their minimal earnings for a period of at least one year before they can even appear before the Public Service Commission.

So, I ask you in all sincerity even though we just started this convention here this morning--these hearings this morning, don't vote hastily; think about what you're doing and let's try to write a document to protect all the people of this state. I'll yield.

Questions

MR. BURNS

Mr. Chatelain, I'm a little bit confused about part of your argument. There's nothing in this amendment that has to do with doing away with the Public Service Commission; is it?

MR. CHATELAIN

No, sir, but there's other amendments and this bears on it, Mr. Burns, and we're trying to delete this. I'm in favor of keeping at least this much in the constitution. That's my only argument.

MR. BURNS

Well, I'm definitely in favor of keeping the Public Service Commission. That's the reason I wanted to understand your argument, but so much of it was based on that you were against doing away with it.

MR. CHATELAIN

Well, Mr. Burns, if you'll remember the previous speaker before me were asked questions by Mr. Abraham, by Mrs. Warren and others and they questioned the need of the Public Service Commission in the constitution, and that was the reason why I prefaced some of my remarks by trying to justify the fact we do need in fact, a Public Service in the constitution.

MRS. WARREN

Mr. Chatelain, did you know that you had enlightened me something on the taxicabs? This is something I didn't know. Now, I'm going to let a little bit more of my ignorance hang out. Are the Public Service Commissioners--is that a part-time job or is that a full-time job?

MR. CHATELAIN

It's absolutely a full-time job with a full-time staff. They have not in my honest opinion, the members of the Public Service Commission as it now stands are. . . do not report to Baton Rouge on a full-time basis as ordinary employees do, but they work from their homes. They have a staff either in their home or in the city where they reside and that staff is, of course, is what they stand behind.

MRS. WARREN

I have one more question to ask you: what is the salary of a Public Service Commissioner?

MR. CHATELAIN

I don't rightly know at this point, but I think it's seventeenfive; I'm not sure.

Further Discussion

MR. HAYES

Mr. Chairman and ladies and gentlemen of the convention, I rise in support of the amendment. Number one, I can't see. . . there's one part about the whole program here, they say to put under bond; what I can't understand, they never say how much they were put under bond. Do you understand that if you permit the Public Service Commission or permit the utility companies to put under bond, they can put anything under bond they want to put? Don't you know they can double your utilities, put it under bond? You can put anything under bond. They can triple it and put it under bond. So, if they don't have any limit to what they can put under bond, your telephone bill could be doubled tomorrow under bond. Now, if we're going to have a Public Service Commission of five people, they have a job to do, just let them do it. After you leave the Public Service Commission you'd have a court to go to that's elected and paid for by the state to do another job. Now, what you're saying is if these two people fail to do their job you're going to send them to my pocket; this is what I don't want you to do under a bond. Once you get rid of this money under a bond it comes out of your pocket. Do you realize that? That's what you're voting for. To test, say, now if the Public Service Commission fails to do the job, you're paying them to do it; if the courts fail to do it, you're paying them to do it, then you say go in my pocket. I don't want them in my pocket. Now, if you can get them something without going into my pocket, all right. Now, this bond that they've put up means nothing. You can bond anything and justify anything; you want to. You let me bond something and tell me to justify it, I'll expand and show you where I needed the money. This telephone business is nothing but a bunch of cables under the ground hooked to a computer on the other end and looks like it should be cheaper instead of more. I can't see the need for such an emergency, so I urge you to support this amendment.

Questions

MRS. WARREN

Mr. Hayes, I'm still trying to find out and I'll probably be asking everybody that comes up to that mike regardless of what side of the fence he's on, do you know how much money goes in the Public Service Commissioner's pockets since you. . .

MR. HAYES

I don't know, but I understand that they're full-time people and they have a job to do and what we need to do, Mrs. Warren, I believe is let them do that job and render their decision, but the exact salary, I don't know. I understand it's something like seventeen or eighteen thousand. But, they're paid enough money to render their decision just like any judge of competent jurisdiction. Then you have a court that would render a decision if they don't. But, what they're trying to do, Mrs. Warren, is to render a decision on my pocket. That's what that bond is all about. The bonds. . . they put up a bond, take the money from me and I don't have it.

MRS. WARREN

I understand what you're saying, but you still haven't answered my question because as far as I'm concerned, the bond that they put in their pocket comes out of the taxpayers' money too.

MR. HAYES

Everything eventually. . .

MRS. WARREN

I'm trying, . . . you don't get my point. . .

MR. HAYES

Go ahead.

MRS. WARREN

Now, I'm not on either side of the fence. I'm trying to find out how much these people make on full-time jobs in order to render a decision, and if you don't know, just tell me you don't know. Thank you.

MR. HAYES

I don't know the full-time salary of the Public Service Commissioner or the judges either, but they're paid on a full-time basis.

Further Discussion

MR. LOWE

Mr. Chairman, ladies and gentlemen of the convention, I'm sure that many of you recall the vicious battle that was going

on before we left to go home for the holidays. I can't for the life of me understand why this issue is so emotional. We have a history of inaction on the part of the Public Service Commission. If we did not have a history of inaction, we wouldn't be here today talking about this particular issue. Now, you know and I know that the Public Service group and the services they render play an important part in the life of every individual in the State of Louisiana. We cannot doubt that; that's a fact. We have people say that we shouldn't be talking about this particular issue in the constitution, that it's legislative material. Well, perhaps it is legislative material, but the legislature hadn't seen fit to deal with it. I'm not sure that the legislature nor the Public Service Commission can look objectively at the problem that we have. The reason why they can't look objectively at it is because what we're talking about touches the life of every citizen, every voter in the State of Louisiana. So, if we have a history of inaction on the part of the Public Service Commission, we have a history of inaction on the part of the legislature to deal with the problem. I submit to you that we should be dealing with the problem that we're dealing with in the constitution. Now, I've heard one of the delegates stand up and say that by the bonding procedure your rates are going to be doubled. Now, you know and I know that if a Public Service comes before the Public Service Commission with a proposal that's unreasonable, they'll turn it down, the Public Service Commission will turn that proposal down in a New York minute. There's no doubt about that. The only time that there's no action is when a rate appears to be justified and the Public Service Commission won't act. Now, these men run for office, they're not drug from their homes and placed on the Public Service Commission; they asked for the job. When they run for the job, they tell you they're qualified. They tell you they know what they're suppose to do. It's a sophisticated operation, and they'll tell you about all of their qualifications and why they should serve and why they're qualified to serve, and if you put them in that position, that we'll have some efficiency in the Public Service Commission. Well, I grant to you when they run and they get elected, well all of a sudden some of the qualifications are gone. So, maybe we need. . . not maybe, there's no doubt that we need in the constitution some provision to see that these people act. Now, we've heard that it takes ten months to gather material to give to the Public Service Commission. Well, the Public Service Commission makes the rules about how to submit application and the time limit starts to run from the time the application is submitted and that means that the application is complete. It's not submitted until it's complete. So, once a Public Service Commission has all of the information that they need, all that they prescribe that they have to get before they act, they have twelve months. Now, that's enough for any prudent man that's knowledgeable in the area that he's dealing, to act. Now, what we're doing with Senator Rayburn's amendment has taken us right back where we were. We take twelve months to act; if you don't act it goes to the courts and the courts can kick it around for two years, so we're back to three years of the inaction. I say let's vote this amendment down and when Roy comes up with his amendment we get something that's workable for the State of Louisiana. So, I ask you to oppose this amendment and let's go on to something better.

Questions

MR. HAYES

Mr. Lowe, is there any limit to how much they can put under bond to your knowledge?

MR. LOWE

Not to my knowledge. The thing is, if the rates are too high, the Public Service Commission will turn them down, Mr. Hayes; you can bet your bottom dollar on that.

MR. JUNEAU

Mr. Lowe, you talked about a two year delay in the court; you are aware or you not that under the present law that the appeals to the district court are by preference and can be tried summarily; are you aware of that?

MR. LOWE

I'm aware of that.

MR. JUNEAU

Are you further aware that the appeal is direct to the Supreme Court and there's a specific time delay which all other lawsuits in the state do not have?

MR. LOWE

I understand that.

MR. JUNEAU

So, what are you talking two years in court?

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MR. LOWE

I don't know; there's no mandate about how fast any court has to act that I'm aware of.

MR. J. JACKSON

Mr. Lowe, it's my understanding that you're a C.P.A. Could you give me some idea taking, let's say one corporation that a utility that applied for increase an estimated amount of time for you to . . . for someone to examine their books, some reasonable time to determine the financial basis or the financial rationale for an increase? Would you consider that would be a lengthy time?

MR. LOWE

Would I consider it what? I'm not hearing you very well.

MR. J. JACKSON

Would you consider --I'd assume that the Public Service Commission would have to do similar audits such as you would do in terms of a company if requested. Does that process take a lengthy amount of time or is it relatively short?

MR. LOWE

Well, . . .

MR. J. JACKSON

Let's say if it's large as some of these utility companies that we're talking about presently.

MR. LOWE

Mr. Jackson, I think you've asked a good question. Now, let me tell you what the answer to that is. As I appreciate it, the Public Service Commission can make the rules by which the application is filed. Now, if the Public Service Commission says that attached to this application will be an audit done by an independent certified public accounting firm to be selected by the Public Service Commission; well, all of the work is done the way the Public Service Commission wants it done before the application is ever filed, so that's really no problem. No matter how much time it takes it only works a hardship on the utilities because they're held up until the application is filed. But, once it's filed, it's filed with everything that they want on it.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, I rise in support of this amendment. The amendment omits from the proposal things which are essentially legislative in nature. They involve . . . the language in the proposal that would be omitted by the amendment involves things which are essentially matters of day-to-day operation of the Public Service Commission. Before we broke for the holidays in the tumultuous last day, I attempted to make some points--and I was probably as tumultuous in making them as the general assembly was. I'd like to make them calmly today. The staff of the Public Service Commission at the present time consists of twenty-nine people. They have no inhouse capacity of the type of expertise that's required to analyze a Southern Bell rate increase application, particularly if the Bell Telephone Company has elected to file rate increase applications nationwide. The type of expertise that's required to analyze such an application is limited to a few individuals in the United States. These few individuals--and their services are in great demand. It's not uncommon, I'm told by lawyers who deal in this type of rate application in the defense against the request, to have to wait two or three months just to get together with the expert that you need to testify on your side. Any appeal from a Public Service Commission ruling is based entirely on the record made at the hearing before the Public Service Commission. If you provide for any kind of automatic or retroactive rate increase without allowing the Public Service Commission to build a record on behalf of the public--which after all it is there to represent--then you have in effect presented a situation where only the utility company's information will be in the appellate record. I think the results on appeal there would be obvious. The Public Service Commission at the present time regulates eight hundred utilities--four hundred motor carriers and four hundred phone companies and electric utilities. This includes thirty railroads, twenty-six telephone companies, and eighteen electric cooperatives. You can readily imagine what would happen if we provide for an automatic rate increase provision or a retroactive rate increase provision within a six month period of time, or even a twelve month period of time. If all of these utility companies or motor carriers file simultaneous requests for rate increases, it would simply be impossible to process them all with that staff of twenty-nine members that I'm telling you the Public Service Commission has. This is why this is a legislative matter. Any measures which would make decisions of the Public Service Commission move with

greater probity must of necessity provide for a greater staff. I see no alternative to that. I've heard a lot of remarks here about the history of inaction of the Public Service Commission, but I've yet to hear a single fact or statistic to substantiate this. My own experience, which has been limited to representing motor carriers, is quite to the contrary. I find that I can expect a decision there much quicker than I can in the average court of law. I would submit to you that you should wonder why, with all of the utilities and motor carriers and other people regulated by the Public Service Commission, you have been deluged with requests for change by only one group--primarily the telephone company. Apparently the other people must be very satisfied with the treatment that they've received before the commission because I dare say you've not been contacted by a single one. Finally, I would make the obvious point that anything that provides for a refund on automatic rate increases is simply inoperable. When you consider the mobility of our population, the fact that you would have to require a refund on such things as freight rates, cab fares, bus fares, and so on, makes the impossibility of such a setup obvious. I submit to you that this amendment will take out the most objectionable features of this particular article and will leave it in a posture where the utility company, if it is agreed, will have recourse directly to the courts, and the courts can make the decision on the matter. That is really all that they should ask for.

[Previous Question ordered.]

Closing

MR. RAYBURN

Mr. Acting Chairman and fellow delegates, I would like, Mrs. Warren, to say that the salary of the members of the Public Service Commission is \$17,500.00 per year. I know you were deeply concerned about their salary, and I checked it out to make sure that that figure was correct, and it is correct. Let me say once again that my main opposition to this proposal as it now is, is the provision that provides for mandatory rate increases. I have to disagree with my good friend, Mr. Roy, when he says, "Do not pass the buck to the judges." That's rather an unusual course for him to take. If he don't want that done, I don't know why he just don't amend this proposal and take out the appeals part of it. I'm sure that Mr. Roy did not really mean that when the Public Service did not act, that they were really passing the buck on to the judiciary. That's part of the judiciary's job: that if the legislature acts or any other public body acts--that if it acts unwisely and the citizens or some citizens of this state's mind--that they have the courts as a recourse. Thank God we still have the courts of this land as a recourse. Now, if you adopt my amendment, then the legislature at a later date wants to change it--they want to say, "Yes, we want to make it mandatory in eight months, twelve months, sixteen months or five months or four months--they will have the right to do it. But, I sincerely believe it is a mistake for us to take this trend and put language of this nature into this constitution. Whether or not it will ever happen, you're going to have the people of this state thinking that they're going to get their telephone rates raised or their other rates increased without a chance or an opportunity for them to be heard in the courts of this land. Later on they'll hear it. I really don't think in my heart it's right, and I've told the people that's asked me to support this, and the only people that's asked me to support it are the telephone people. Nobody else under the Public Service Commission has even mentioned this bill or this proposal to me. If it's so good, looks like they would all be over here. There's a lot of people, as Mr. Burson told you, that's governed by the Public Service Commission. Looks like they'd be standing in line waiting to tell us or ask us how to vote, or to give them a little relief, if all this business in the past is so bad, if all these delays have caused so much trouble. I have not heard it; maybe you have. I have heard a few people to tell me--and over the weekend I got several long distance calls, and if necessary, I can name where they originated and who they were from--telling me and asking me, say, "For God's sakes, don't let that proposal pass." Well, I says, "I'm doing all I can." I can't entertain; I can't take people out; I just got my big mouth, and I'm trying to use it. I hope the people will listen to me, but that's all I've got. Even had a former member of the legislature to call me. He said, "Do you think it would help any? I'll get a caravan on top of caravan and come down there." I said, "No, we're in enough trouble now." We haven't got but a few more days, and I hope I stand it. Let us ease out of it the best way we can. We've had enough commotion, enough turmoil, and

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enough strife. Now, if you think--and if you want that brand on you and on your conscience--that you done something that would let the public utilities of this state place an increase on the back of the citizens that you and I represent without having a fair hearing, without getting all the information, and without going through the courts of this land, then you vote against my amendment. But, if you believe I'm right, you vote for my amendment, and I move the adoption thereof.

Questions

MR. CHATELAIN

Uncle Earl--I mean Mr. Rayburn; I'm sorry.

MR. RAYBURN

Mr. "Want to Be Public Service Commissioner"...you might have been kidding some of these delegates when you said you didn't know what it paid, but any time you qualify for something, you're going to know all about the pay.

MR. CHATELAIN

Delegate Rayburn, Mr. Burson alluded to the fact that the staff of the Public Service Commission is a limited staff. Can you tell me, sir, whether or not it is a fact that when someone applies for a rate increase, or something to the Public Service Commission, that that utility in fact pays for the staff necessary to make that investigation? Is that right, sir?

MR. RAYBURN

I think they pay for the audit, yes, sir--for the audit.

MR. CHATELAIN

As a matter of fact, they pay for the staff necessary to look into the application; is that right, sir?

MR. RAYBURN

It's my understanding that they pay for the audit, not necessarily the application, but they pay for the audit.

MR. CHATELAIN

They pay for the staff, too, sir.

MR. RAYBURN

Let me say this, Mr. Chatelain. Even though the late and great Earl Long and I were good friends, I kind of resent somebody kind of trying to make a mockery out of one of my good friends that was a good friend of the people of our great state.

[Record vote ordered. Amendment rejected:
48-56. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Next set of amendments are sent up by Mrs. Brien. Mrs. Brien, do you wish your amendments?

Two amendments were passed out by Mrs. Brien. The set that she wishes to go with has three amendments on it. The set she is not going with only has two. Look for the set with three amendments.

Amendment No. 1. On page 2, line 8, delete the word "twelve" and insert in lieu thereof the word "six".

Amendment No. 2. On page 2, delete lines 10 through 20, both inclusive, in their entirety, including the amendment proposed by Delegate Roy and adopted by the convention on the twenty-first.

Amendment No. 3. On page 2, at the beginning of line 21, delete the numeral "4" and insert in lieu thereof the numeral "2".

Explanation

MRS. BRIEN

Mr. Chairman, delegates, I changed the twelve months to six months. I can see why the Public Service Commission cannot render their decision in six months. Quite a few states have only six months, and some of the states only have a hundred twenty days. I think the set time is very important. Forty-seven out of fifty states require prior authorization of rate changes by the Public Service Commission. Forty states allow the Public Service Commission interim rates. Justice delayed is always justice denied. All Louisianians, all human beings are consumers, but never forget that it is not all Louisianians who

are fortunate enough to be consumers of the services of the public utilities and common carriers. Remember that the reason there are many or not is not only because of indecision, but also because of stifling decisions...or to any consumer because anyhow he's poor, he is glad to pay a few pennies more for good service. In the section, appeals, again it brings out very strongly the decision should have been made and rendered in six months, and the carrier has the right to direct appeal to the district court if the Public Service Commission fails to make its decision in six months. With the lead line... With the lead all about bonding, it takes out the whole bonding provision because we won't see no other way than the commission give their decision in six months, what is a sufficient time to decide. It also makes the commission more responsive to the people. When a regulated public utility applies for a rate increase, that utility has already experienced or shows that it will experience inadequate earnings. The utility, properly, must present hard, solid evidence to substantiate its application. That's why I want solid time for the commission to act otherwise. The utilities suffer inadequate earnings, and the consumer is left out without service. We see it's always the one what needs the service the most is the loser. So, I ask you: please, accept my amendment.

Question

MR. ROY

Mrs. Brien, the only difference between your amendment and Mr. Rayburn's amendment is that you reduce the term to decide from twelve months to six months?

MRS. BRIEN

Six months; that's right because six months is a sufficient time. If you research it, you'll see that most all the states have six months and less. We have a lot of states that have only a hundred twenty days.

Point of Information

MR. BURSON

This is really a point of information, Mr. Chairman. This amendment doesn't jibe with the copy of the proposal that I have as far as the line numbers. I think some other delegates find the same thing.

MRS. BRIEN

Well, it's the wrong amendment. It's the....

MR. CASEY

Just a moment, Mrs. Brien. Particularly, what line...

MR. BURSON

Well, none of them. I've got this typed copy that was handed out to us. It just doesn't...

MR. POYNTER

Do you have the amendment with three amendments on it, Mr. Burson?

MR. BURSON

Oh, you've got a yellow copy reprinted?

MR. POYNTER

Yes, sir.

Mr. Vice-Chairman, in light of the question, there's one thing in the amendment that is unnecessary. On Amendment No. 2 it says, "On page 2, delete lines 10 through 20, both inclusive in their entirety..." and it goes on to say "including the amendment proposed by Delegate Roy." That language is not necessary in that that amendment was adopted to the other proposal, and the text of it is incorporated here, but it's not necessary to recite that language. So, actually, after the word "entirety" on the second line, you ought to just delete the remainder of that verbiage. It's unnecessary; perhaps confusing.

MRS. BRIEN

Also, in the section of appeals, we added on "all appeals shall be tried summarily and in preference to all other suits." So it makes it strong again that they have to act on it, so there is not more time wasted about it.

MR. POYNTER

Mrs. Brien, that's not in this amendment as it's passed out now.

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[Amendment withdrawn.]

Point of Information

MR. TATE
Mr. Chairman, is the amendment going to be divided?
She just withdrew it?

MR. CASEY
Judge Tate, there's a question as to...a parliamentary question as to whether it's a divisible or not. It has not been resubmitted anyway right now.

Amendment

MR. POYNTER
The effect of what Mrs. Brien wants to do, if you still have the other copy of the amendment--the other amendment that she passed out--she in addition wants what is on the other amendment is Amendment No. 2. It ought to be "On page 2, line 32, immediately after the period "," add the following sentence: "All appeals shall be tried summarily and in preference to all other suits." She wants to add that as Amendment No. 4, which would read: "On page 2, line 32, immediately after the period "," add the following sentence: "All appeals shall be tried summarily and in preference to all other suits." The text of that language can be found before you in the form of the other amendment she had passed out, and in particular, Amendment No. 2 of the other set of amendments. It would become Amendment No. 4 here.

Point of Information

MR. GOLDMAN
If Mrs. Brien is going to change her amendment, there's another place...isn't there another place that should be changed in Section (E). It still carries "within twelve months", and her other amendment says "six months." That needs to be corrected if it's going to be consistent.

MR. CASEY
I think that's correct, Mr. Clerk.

MRS. BRIEN
I don't think they passed it out.

MR. GOLDMAN
It's on line 28 on page 2.

MR. POYNTER
That's right; "On page 2, line 28" it's your point.

MRS. BRIEN
Yes, well, that's on the other amendment here.

MR. CASEY
Okay. Let's stand at ease for about five minutes in order that the proper corrections can be made on the amendment.

[Quorum Call: 95 delegates present and a quorum.]

Amendments

MR. POYNTER
All right.
Mrs. Brien now has sent up the amendments. Copies have been distributed. These are the same amendments that have been read before. I'll read them in detail.
The first four amendments have the effect of reducing the time frame for the decision from twelve months to six months. Then, deleting the language on page 2, lines 10 through 20. The fifth amendment is a separate proposition, on page 2, line 32 adding the requirement that "all appeals shall be tried summarily and in preference to all other suits."

Explanation

MRS. BRIEN
Well, I think I explained it enough. I only would ask you one more question. What is wrong with our Public Service Commission when all other states have six months and less to make their decision? I ask your favorable vote on this amendment.

Further Discussion

MR. SMITH
Mr. Chairman, I think the only change this makes is six months. We argued out the other one pretty thoroughly. I now move the previous question.

Point of Information

MR. DESHOTELS
Mr. Chairman, could the question be divided?

MR. CASEY
Well, let's take care of the previous question first, Mr. Deshotels.

[Previous Question ordered. Question ruled divisible. Quorum Call: 100 delegates present and a quorum.]

Further Discussion

MR. TATE
Mr. Chairman, the No. 5 amendment--I didn't hear it discussed up there at all, and it involves serious questions of judicial administration. It looks like we won't have a chance to raise them.

MR. CASEY
Well, Judge Tate, the question has already been called...

MR. TATE
Yes. All right, sir.

MR. CASEY
And no one wished recognition for the floor.

MR. TATE
All right. I made my point, maybe, I hope.

Point of Information

MR. FLORY
Mr. Chairman, could we ask for a suspension of the rules so that we could discuss that? I agree with Judge Tate on Amendment No. 5.

[Motion to reconsider the motion by which the Previous Question was ordered rejected: 44-59. Amendments rejected: 19-89. Motion to reconsider tabled.]

MR. CASEY
The Clerk will read the Roy amendment.

Amendment

MR. POYNTER
Amendment No. 1. On page 2, delete lines 5 through 32, both inclusive, in their entirety and insert in lieu thereof the following: "(D) Applications..."

[Motion to waive reading of the Amendment adopted without objection. Motion to limit debate on the Amendment exclusive of opening and closing to twenty minutes adopted without objection.]

Explanation

MR. ROY
Mr. Chairman, ladies and gentlemen of the convention, this amendment changes several things in the committee proposal that we adopted previously. If you'll follow with me...Of course, it still provides for the effective filing date of the application which means, as I pointed out under Section 1. (B) "Powers

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and Duties,"the commission may say that you've got to furnish us with all this information at your own expense before we'll even consider your proposed increase. Now, you'll notice that Section 1 mandates the commission to decide, rather mandates the advertising or the proposed schedule for common carriers and public utilities. Then, of course, Section 2 says that they should...shall render a full decision on the application etc., within twelve months. Now, getting to Section 3, there is a change from the committee proposal in that on the second line of Section 3, it is applicable only to a public utility. The reason that the change was made was because there were some legitimate issues brought up with respect to common carriers. You buy a ticket to ride Trailways or Greyhound or any other common carrier, and it would be impossible, as a bookkeeping record, to have anything with respect to the automatic increase because there'd be hardly any effective way that you could be-- if the increase were wrong--there'd be hardly any way that you could be repaid or refunded your money. So, the commission would be entitled to--under the first part of Section 3, the first sentence--to permit the proposed increase in rates in whole or in part to be bonded even prior to the time that the commission has rendered its decision. That's solely within the discretion of the commission, which is where I think it ought to be. The five men sitting there may have, as a general notion, that in this particular rate increase request that they think that it's probably valid, but rather than make a final definitive decision, they say go ahead and bond it subject to our approval. If we go ahead and approve it at the end of that time, you're all right. If they disapprove it within the twelve months, then of course the commission may order that the bonds, previously allowed filed in support of the proposed rate increase, would then be disallowed. Now, that just gives some more leeway to the commission in its discretion to allow the bonding to be put in effect. The second sentence is the one that really makes some substantive changes. It changes the six months on the effective date of the application to twelve months, within which time that the commission must rule. It provides that the increase may be put into effect as provided by law so that the legislature will still, in the final analysis, be able to make such rules and regulations appertaining to the way that this bond will be put into effect, and of course, subject to the security requirements. Finally, that bond, as provided by law, would be in effect until a court of last resort rules on it. Remember now, it's restricted only with respect to utility companies because they're the only folks that have a record of the amount of charges that were imposed on you, and they're the only ones that can really refund back to you whatever they overcharged in case they're ultimately reversed. Section 4 provides that the utility shall make a full refund with legal interest thereon, within the time and manner prescribed by law. Now, here again there's no question but that the legislature may provide the manner in which the refund will be made, whether as of a credit or whether a direct payment. However, the legislature may never change and impose any obligation upon the consumer to file anything to get his refund back in case any proposed rate was disallowed. Finally, Section (E) deals with the appeals. There were some questions as to how the appeal would be taken. This simply provides that the appeal may be taken in a manner provided by law as to any party to the law suit or to the rate increase request. The legislature can provide how many days you have within which time to get into the district court. It may provide that the district court may obtain other evidence to determine this particular issue. It may restrict the type of evidence that may come in subsequent to it, and it also provides for the time it may provide for time limitations with respect to filing an appeal to the Supreme Court. The only other thing the legislature may not do is: it may not take away your direct right of appeal to the Supreme Court. Let me tell you why that's important. We have provided all along in this constitution that our appellate courts would be able to review questions of law and fact in any decisions rendered by district courts. Now, what you have here in essence is an appeal, maybe, from a commission ruling to a district court when new evidence is taken in. The district court could make an error on the law or on the evidence, the facts, for which reason the Supreme Court would have a direct right of review over it. For those reasons, I ask that you adopt the amendment.

Questions

MR. DUVAL

Chris, under the...I think Paragraph 3 is really the salient paragraph to this article. In Paragraph 3, the first sentence, it allows the Public Service Commission, by its own rules, to allow a rate to go into effect prior to a decision: is that correct?

MR. ROY

Yes.

MR. DUVAL

Now, in the event the Public Service Commission did not decide that case ever, that rate would remain in effect forever; would it not?

MR. ROY

If it didn't decide, then you go to sentence number two which would permit the application to continue in effect as provided by law.

MR. DUVAL

Well, I'm asking you this though: why would the utility want the Public Service Commission to decide if the rate is already in effect, and it's in their favor? If the commission never decided, it's possible to have the rate remain in effect, is it not, without ever a decision being made? Is that possible under this?

MR. ROY

It's certainly possible. I don't think that a Public Service Commission would allow a rate to stay in effect and never rule... I don't think they would say, "Look, we're going to allow you the rate increase, and we're never going to rule on this thing, so in effect we're giving you a rate increase without a ruling." I just don't see that.

MR. DUVAL

But, it is possible under this?

MR. ROY

Well, yes, certainly.

MR. DUVAL

My next question is directed to the second sentence. It's a permissive sentence, is it not, where it permits the legislature to make such laws to implement bond or security if no decision is rendered; is that right?

MR. ROY

The legislature may provide the method and the provisions with respect to how it goes into effect, but in my judgment, it mandates...it allows the utility to put it into effect subject to whatever laws the legislature passes on it.

MR. DUVAL

In other words, the intent of it is to give them the specific constitutional rights to place this into effect if no decision is made, but it's subject to such regulations as the legislature may enact; is that correct?

MR. ROY

Right.

MR. DUVAL

But, don't you think it's subject to interpretation? Do you think it's clear that the utility has the constitutional right to put it into effect, or do you think there might be some question that the legislature would have to enact a statute to give them this right?

MR. ROY

No, I think that they have the constitutional right to put it into effect subject to whatever the legislature says with respect to it.

MR. SINGLETARY

Chris, in Paragraph 3 you refer to the effective filing date. In Paragraph 2, you just say the date of filing. Did you mean to say the effective date of filing in Paragraph 2?

MR. ROY

Yes, that's meant there too.

MR. HAYES

Mr. Roy, if I understand this correctly, you have a constitutional right to put this rate into effect, but you can only get your refunds provided by law which is something different altogether; is that correct?

MR. ROY

No, as provided by law modifies the...

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MR. HAYES

All right. If it's not provided here, how are you going to get it back? You say as provided by law; that's not provided here; is it?

MR. ROY

Section 4, then provides how you're going to get it back. The two things Section 4 says is that you never have the obligation to file anything--you, the consumer--and that you get it back with legal interest and as otherwise provided by law within one year.

MR. HAYES

Is this something that the legislature will have to do in order for me to get it back--provide this by law? Am I correct?

MR. ROY

Yes, the legislature would provide by law within what period of time you get it back. They may say within six months.

MR. HAYES

Well, good, but they have a constitutional right to do this to me. Is that correct? That's what I'm trying to find out.

MR. ROY

I miss...The only constitutional mandate is that the obligation to remake the refunds is always on the utility company. But, the method and way of making it and time of making the refunds with interest is provided by the legislature.

MR. HAYES

You're confusing me. They have a constitutional right to impose this?

MR. ROY

Who?

MR. HAYES

The utility company.

MR. ROY

No.

MR. HAYES

That's what I see here.

MR. ROY

No, no. Section 4 deals with the...2 and 3. In other words, suppose the commission, six months after an application was filed with it, granted the rate increase and put it in effect. Then subsequently, a year and a half or two years later, the Supreme Court says you should not have granted the rate increase; then Section 4 is applicable, and the utility company must make the refund with interest subject to the method and time being developed by the legislature.

MR. PEREZ

Mr. Roy, I'm trying to get back again to that explanation you gave as to why we are now limiting this provision primarily to one which would primarily benefit the telephone company. Isn't it true that railroads who carry freight, or anybody else who carries freight, has Bills of Lading, and therefore, would be in a position to rebate in the event their rate increase was not upheld?

MR. ROY

Yes, sir, Mr. Perez, that's true, but I feel that a bird in the hand for the consumer is worth two in the bush if you're talking about, and you know that it's impossible to then adjudicate the issues of the little guy that gets on the Trailways bus, though, and doesn't ride on a bill of lading.

MR. PEREZ

Isn't it also true that the man who gets on that bus has a ticket, and that on that ticket is stamped the date on which he traveled? So, therefore, he'd be in a position to get a rebate.

MR. ROY

That certainly is true, and I can't see some poor little guy who's riding a bus keeping tickets for years and years to determine whether he should get a refund or not, and then having to go through the process of filing the application.

MR. PEREZ

So, again aren't we really saying what we're doing is limiting this thing to put a special provision in the constitution just for one company--the Southern Bell Telephone Company?

MR. ROY

No, because a utility can be an electric company. In response to your question--because I want it clearly understood as far as I'm concerned--I think the consumer of this state, be he a guy who gets electricity or gets...is entitled to good telephone service, is going to be benefited by this provision because it's going to make the Public Service Commission act. It's going to allow service to be rendered for money that's worth something now instead of fifty cents on a dollar later down the line where only the big shot gets anything in return.

MR. PEREZ

Well, have you seen Louisiana Power and Light Company or any of these other public utilities up here complaining of this thing? I can't see the only group of lobbyists that we've seen up here the telephone company people?

MR. ROY

Mr. Perez, I have not been around the legislature like some other people here, and I know no lobbyist. The only one I know that's here is a telephone company lobbyist, and I wouldn't know who the other people are in any event.

MR. PEREZ

May I suggest that you look up into the audience, and I'll be glad to point out a half a dozen to you?

MR. ROY

Well, you probably can. I understand you represented them at one time. I didn't.

MRS. ZERVIGON

Chris, you voted against Senator Rayburn's amendment; did you not?

MR. ROY

Yes, I did.

MRS. ZERVIGON

Didn't want to leave that discretion to the legislature to set up the sort of mechanism you're talking about here; isn't that correct?

MR. ROY

No, you're wrong.

MRS. ZERVIGON

Why is it you voted against that amendment?

MR. ROY

Because Senator Rayburn's amendment would have allowed, in my judgment, if we're going to have a constitutionally created Public Service Commission, it would have then not allowed what I intend to seek here which is: that they're going to rule on those applications or else they're going to feel the heat of the people one way or the other.

MRS. ZERVIGON

Well, he left in the part, or would have left in the part that said that they had to rule within twelve months.

MR. ROY

Yes, but saying that they have to and putting something that makes them rule, is a horse of a different color, Mrs. Zervigon.

MRS. ZERVIGON

Well, you have here that the commission may permit an increase. Right?

MR. ROY

That's correct.

MRS. ZERVIGON

And then following that, "after the twelve month period an increase may be put into effect." The second may refers to the utility company, right?

MR. ROY

Right.

MRS. ZERVIGON

Not to the commission.

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MR. ROY

To the utility company.

MRS. ZERVIGON

But then after that almost everything that happens in your amendment after that is "as provided by law."

MR. ROY

Right.

MRS. ZERVIGON

So, aside from the fact that we have an automatic rate increase, your amendment is very little different than Senator Rayburn's in that everything is provided by law. Isn't that so?

MR. ROY

No, there's a lot of difference because the constitutional right for the rate increase as provided by law, in my judgment, would mean that the legislature could say, "look, the PSC has not acted; it's been fourteen months. These people have finally bonded this thing, and the rate goes into effect." Now, we're going to provide--the legislature would say--we're going to provide, though, that at that moment the case is then to be considered by a district court, and if that court then rules one way or the other on it, they could modify the constitutional mandate that was automatically allowed previously. There's just a lot of difference between my concept and Mr. Rayburn's. His is that: let the courts decide, and mine is: let the people whom we elect decide initially, and then let the courts review it.

MRS. ZERVIGON

But, to get back to this distinction between what's going to be constitutional and what's going to be statutory, in your Section 4 the consumer gets his money back in a manner prescribed by law.

MR. ROY

In a time and method, yes.

MRS. ZERVIGON

So, they could really make it rather difficult if the law read that way?

MR. ROY

Who?

The legislature? I don't think Sixty would let it happen.

Further Discussion

MR. ABRAHAM

Ladies and gentlemen, I rise in opposition to this amendment. Let me tell you what this really does--and this is the sleeper in here. The second sentence of Paragraph 3 states that "if no decision is rendered on the application within twelve months... the proposed increase may be put into effect as provided by law and subject to such bond or security requirements, until final action by a court of last resort." This places the discretion in the hands of the utility company as to whether or not they want to place these rates into effect, and they can go ahead and do so. As provided by law, simply prescribes the manner, and what can happen here is that they can post their bonds; they put their rates into effect, and nobody has anything to say about it because they have a constitutional right to do so. Unless some consumer, or somebody--the Public Service Commission or a consumer--takes them to court, they don't have to worry about going to court. The Public Service Commission can let it ride, and the rates will stay in effect forever. Now, I ask you: is this the proper way to do business in this instance? Words, "provided by law", doesn't really mean anything here. But, the thing that really bugs me is why are we insisting on putting this type of language into the constitution? We don't have any such language for any other elected official. We've got statewide elected officials. We've got the treasurer, commissioner of insurance, elections, agriculture, and what we have done with these people--now, these are statewide elected officials; they control our destinies in many ways too--and in about for five or six or seven or eight lines, we have written dissent language into this constitution which simply says that they will have certain general duties, and they'll have other powers and other duties as provided by law. Now, these are statewide elected officials. But, here we are taking the Public Service Commission which consists of five members, and we're going to write detailed language into this constitution to tie their hands as to what they can do and what they can't do. I repeat again there is no other language in any other state constitution similar to this. Those people that say that there are limitations in other states,

these limitations are statutory. What we're saying in effect, also, that if an elected official doesn't act, the public has to pay. Now, we're saying this, well, we want this done in the name of providing good services, but I'd like for the legislature and the state government to provide me with a lot of services too. But, I don't see any mandate that we have that the legislature is going to either have to provide these services, or if they don't provide them, there's going to be an automatic tax increase so that they will be provided. This is what we're saying in effect right here that in order to provide a...supposedly provide additional services that we're going to have an automatic rate increase. Now, I have not gotten into personalities or companies or anything here before, but I say to you that we're writing one particular language in this constitution for one particular company. And that's all because I have not been approached by any other utility for any relief here. They all feel that their relief should be to the legislature. I say that the South Central Bell Telephone Company ought to have its relief to the legislature too. Now, I'm not going to quarrel with the fact that they do need some relief. I'm not going to quarrel with the fact that the Public Service Commission may not have acted responsibly in the past, but I say that the relief should be in the legislature and not in the constitution. Now, you see passed out on your desk some information that I had printed up. It shows you a comparison of these telephone rates in Louisiana with those in Texas. We pay more for our long distance rates in Louisiana than we do in Texas. Now, why if things are so bad here, why are we paying more? If you say Texas doesn't have the services they should have, still the relief, though, in Texas is in the legislature and not in the constitution. I've heard many, many people get up here during this convention and talk about the rights of the people. Well, I'm telling you you're taking away the rights of the people here. You're putting the burden of responsibility on the people to have to go to court to make their elected officials act. I think the responsibility should be on the utility company, but this particular amendment does not even require the utility company to go to court because they can place the rates into effect, and then they can just let it ride. I urge the rejection of this amendment.

Question

MR. ALEXANDER

Mr. Abraham, there has been quite a bit of discussion about the inability of the Public Service Commission to properly audit books, etc., within a specified period--six months or twelve months--because, possibly, of the wide spread operations of the company. But, is it not a fact that any kind of data gathering activity: that is, the auditing, etc., would be confined to Louisiana intrastate where the company operates?

MR. ABRAHAM

No, sir, Mr. Alexander, because in auditing the books of these subsidiary company, they must go all the way back to the parent company because the parent company can make the subsidiary make or lose money as it so desires simply by charging with overhead charges and other costs from other subsidiaries. So, you've got to go deeper than just what goes on right here in this particular company's books.

MR. ALEXANDER

But the operation....

MR. CASEY

You have exceeded your time, Mr. Abraham. I'm sorry, gentlemen.

Further Discussion

MR. WOMACK

Mr. Chairman, fellow delegates, there is one thing I would like to correct at this time where the former speaker said that the wording "as provided by law" meant nothing. If you will go back and reread that section or that paragraph or that sentence in Paragraph (3) it says "if no decision is rendered on the application within twelve months after such filing date the proposed increase may be put into effect as provided by law and subject to protective bond." In other words, the legislature... they can't put it in; the legislature has got to provide the manner in which it would go in. The second thing that I want to point out is it looks like a lot of people are missing the boat. It seems that someone here is operating under a theory or philosophy that this money is going into the pockets of the stockholders or the telephone company. I remember back just a few years ago when they applied for a rate increase and, of course, it wasn't politically nice for the Public Service

Commission to grant it, so they just studied it. We studied it for four or five years. By the time they got through studying we had two or three elections, by that time, the rate increase that they had applied for was absolutely meaningless because times and economical conditions had changed. During that period of time literally thousands and thousands of people wanted better service that they couldn't get. Now, we've spent a lot of time talking up here about the money that it's going to cost the consumer. Well, I don't care what it cost me, I want the service and you give me the service within a reasonable fee, that's what I want. I've got many, many people that want to get away from that eight party line that they can't use. I've got a lot of people that I want to call that's on a eight party line where I can't use my private line because I can't get their's for an hour at a time. In order to get rid of that condition, the utility company, the telephone company has got to have a little profit. When you grant them a rate increase to show them that they are going to have enough money to pay off a bonded indebtedness, then they are going to sell debentures or sell bonds in order to make this service available. I would like to remind you of one other thing, when you get an area that they can't economically serve, nobody else can serve it because it's franchised out and it's franchised out by this same Public Service Commission that won't act, so the people are just caught between the rock and the hard place. This whole section here is designed to get a Public Service Commission to act. This suits me a lot better than the original because it does give the full twelve months. When they come in and file an application, they want the application considered on its total merits so they include every aspect of the economics in their application, there is just absolutely no reason to take longer than twelve months. At the end of this twelve month period of time, then, the rate increase can be put into effect according to this constitutional provision as provided by law and after bond is....or a certain security is put up to guarantee the payment and then it's paid off according to the court. What other protection you can give the consumer, I don't know. What this does is gives the utility company the opportunity to come up with a sufficient rate that will allow progress to be made. So, I'd urge the adoption of this amendment.

Questions

MR. DUVAL

Mr. Womack, I'm interested in your interpretation of the second sentence in Paragraph (3). Now, Mr. Roy, who introduced the amendment indicated that the utility would have the constitutional right to put its rate increase into effect, of course, the legislature would have to pass....would be mandated to pass laws regulating this and stipulating the type of bond or security. But you do agree, don't you, that the utility has the constitutional right to do this under this proposal; is that correct, sir?

MR. WOMACK

I think possibly it would have the right to do it, the legislature provide the manner in which it will be done. What you are trying to say is, probably, if you're opposing this--it sounds like maybe you are--you're saying not only does the Public Service Commission won't act but the legislature won't act. I certainly don't agree with that. I think the legislature would tie it down very well.

MR. DUVAL

That gives me another question. If we do make a mistake here in this constitution it can't be changed, but couldn't the legislature direct itself to this problem, I have a lot of faith in it? Couldn't it handle this problem? Don't you think it's primarily statutory?

MR. WOMACK

Well, I don't see any question but what it could be done. I think you could abolish about ninety-five percent of what we've done and say that you just shall have just one blank sentence pretty well covering everything and cover it all by the legislature.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, Mr. Womack's close makes a good beginning for my remarks because it seems to me that this is obviously a legislature matter. If the legislature will act to put into effect laws requiring a protective bond, if the legislature will act to provide for a refund with legal interest within the time and the manner prescribed by law. If the legislature will act to provide for an appeal to be taken in a certain manner, if the legislature will do all of these things, then I think it

is obvious that the legislature can handle this entire matter and ought to handle this entire matter rather than this constitutional convention. It seems to me that this is the most presumptuous thing that we have done if we undertake to make a final decision on this matter. If the legislature were considering legislation on this point, it would have full scale hearings, would hear both sides of the question, would hear not only from the utility company representatives but also from the Public Service Commission who has the expertise in this manner, who could tell us about the procedure and what is involved. We, here, most of us delegates to this convention have not heard sufficient evidence to reach an arbitrary decision that if a decision is not made within a certain period of time that a utility should have the right to put an automatic rate increase into effect. We simply are not--I put it to you and I think if you will look into your heart you will agree that most of us are simply not that familiar with the kind of procedure that is involved here. Most of us, I submit to you, would find the average application involved here unintelligible if we had to sit down and read it and reach the kind of decision that we want the Public Service Commission to reach here with such dispatch. Now, there is a common misconception that invades most of the remarks that have been made in favor of this scheme, that is, that we are talking about one request for a rate increase by one utility company made once a year. Do you realize that it's entirely possible for a utility company to make three or four rate increase requests within a single year all of which would be governed by this same language? Do you know that as a matter of fact there are tank truck carriers in Louisiana because of the fuel situation that have this year, this past year of 1973, made not one, or two, but three requests for rate increases during this year? So, I adjure you to think of the fact that the ramifications of this provision go far beyond one rate increase request by Southern Bell or by any other public utility company. Now, I've heard a lot of conversation about what is the law in other states but no one's placed a memorandum on my desk or on your desk showing us what the law is in other states. I would bet that if they did, we would find that this is not in the constitution of any other state. But, if such provisions exist at all, they exist in the statutes where indeed they ought to exist. We've heard also the argument that Southern Bell or the other utility companies will pay for the necessary audits. Now, ladies and gentlemen, let's be realistic. Certainly if Southern Bell is paying for the audit, the auditor would be less than human if he were not inclined to view things favorably from their light. I don't think that that is the answer to protecting the public interest and public utility rate regulations. The only truly impartial auditor, the only truly impartial examiner or expert in those instances are either one who is in the full-time employment of the Public Service Commission or one who is paid by the Public Service Commission for the services that he renders. I think if you will look into your hearts on this matter and forget the emotional arguments that have overwhelmed us perhaps--and I have made as many as anyone on this particular issue--the proposal we are being presented with here is first of all legislative, secondly, it is impractical in that I defy anyone and I have not heard any of the proponents even attempt to do so to get up here and explain how refunds would be made in our highly mobile population. Finally.

...that what we are involved with here is the interest of the public and the public in the main is a rate payer.

Further Discussion

MR. WILLIS

Mr. Chairman and fellow delegates, you may leave your chair and kick facts out of doors but on your return you will see them nestled deep in slumber like a kitten near your chair. Recently I revisited that little glade of cool green shade, that gentle hush retreat that quiet sanctuary on the plantations where the birds converse alone and the bees exchange pollen for nectar with the flowers, not to learn about the birds and the bees, but to take this document under advisement. It did not take me twelve months, not even twelve hours to decide my course on this present question of the Public Service Commission. The most generous legal minds will assure you that one year to decide any case or controversy is ample for the dullest. Indecision or failure to decide timely is not public service. The commission issued to duly elected Public Service Commissioners implies the duty because they are fully paid to work full time and to decide if public service is to be rendered. If you value public service, you should mandate public servants by their commission to act by judgment and not by affection.....and by all means to act timely and deliberately. In the face of our facts revealed

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by experience and statistics to this convention not to set a day of decision or time for action for public servants would be as wise as reproving the hot sun or the frost. I do not look with terror at the suggestion that such a course would raise rates, that in the language of the board is a tale told by an idiot without any significance whatsoever. The only thing it will raise is the level of service, popular applause, based on misguided or half truths mean nothing to me. I feast on the integrity of good conscience. The reason Texas has low, long-distance rates is because they don't allow their commissioners to play nickel politics; it costs ten cents to use their pay phone. In all good conscience, I proclaim that those elected to decide should decide because justice delayed is justice denied, only justice satisfies all. Those elected to decide should not drag their anchors and so ours and lose our position, our station, our bearing, or our heading. In nautical language or in the talk of the sea, let the theme song of all public servants be "Anchors Away." Thank you, Mr. Chairman.

Question

MR. DUVAL

Mr. Willis, as usual, I'm tremendously impressed with your erudition and eloquence and knowing, of course, that you have a distrust or at least a reluctance to trust the legislature in some instances, I'm wondering why the bird is going to the consumer here in the sense that his refunds are left up to the legislature but the utility is protected in the constitution.

MR. WILLIS

Well, first of all, your question is based on a presumption--and I may say a vicious one--that I distrust the legislature; nay, I trust them very much. I might say that my legislators, both of them, are my first cousins--my Senator and my Representative. Now, to answer your question, the trust, dear sir, is not that it is lacking, it's just that I like a little assurance and this is irrepealable law.

Closing

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, I just want to point out a couple of things. First of all, Monday Lowe just reminded me that financial statement preparations, etc., and reporting and auditing as assigned to a certain well established principle that one can require of the company and thereafter the rate of return on the investment can be figured out almost to a dollar and there shouldn't be any problem there. Now, I'm going to yield to some questions because I know Justice Tate has one.

Questions

MR. TATE

Now, Mr. Roy, would you accept an amendment that says on line... when it says "If no decision is rendered on the application within twelve months after such filing date the proposed increase may be put into effect" but add "but only as provided by law and subject to minimum requirements"?

MR. ROY

Well, Justice Tate, we've talked about that. I will accept that amendment and I'm sure that will satisfy Mr. Duval--wherever he is--with some of the questions that he had on it. Alright, Mr. Duval?

MR. TATE

Alright. Now, may I ask you this? Then, the text of that amendment would be the rates could not be put into effect unless the legislature provided a general law which perhaps could require a court review before they get put into effect; is that correct, sir?

MR. ROY

Well, the rate could not be put into effect unless the legislature passed a general law setting forth how it would be done.

MR. ABRAHAM

Chris, I think my question was partially answered, but what I was going to ask is that if the legislature did not provide anything by law under this present language the rates could be put into effect; could they not?

MR. ROY

That was my interpretation, the others disagreed with me but to make it perfectly clear we are going to have that the legislature has got to set.....

MR. ABRAHAM

Alright. Let me ask you one other question and to answer a remark that was made by some other speaker, I don't remember who. Are you aware that the research staff prepared on May 16, Staff Memorandum No. 13, which did the research on other Public Service Commissions in the state and spelled out which ones have language in the constitution and which ones do not?

MR. ROY

No, I don't have that.

MR. KEAN

Mr. Roy, I was concerned about the point that Mr. Perez raised about the possibility that if the commission permitted the rate to go into effect by putting up bond, that the matter could just sit there for some indefinite period of time. It's not clear to me in Paragraph (E) dealing with appeals as to whether or not that paragraph is intended to apply to action taken under Subparagraph (3). I ask you whether or not you would be willing to accept an amendment to your proposal which would make it clear that if the commission did permit the rate to go into effect or the public utility did put the rate into effect with bond that the right of appeal in (E) would apply to that action as well as final action of the commission?

MR. ROY

Mr. Kean, the answer to that is yes. I think it could be a little redundant in view of Judge Tate's request that will be added "but only as provided by law," but if that makes you feel better that it will be in the appellate provision part, we would accept that amendment. So....

Mr. Chairman, in view of that, I would like to withdraw the amendment for the purpose of adding these...which I think are technical amendments as suggested by Justice Tate and Mr. Kean. I think we can get on and pass this thing right away.

[Motion to suspend the rules to allow withdrawal of the Amendment adopted: 93-4. Amendment withdrawn.]

MR. CASEY

O.K. Mr. Roy now resubmits his amendment, as corrected. Will you explain the corrections, Mr. Clerk?

Amendment

MR. POYNTER

There are only two changes in the amendment. The first one comes in Subparagraph (2), the first line of Subparagraph (2) would read: "Within twelve months from the effective date of filing." The second change comes in Subparagraph (3) and comes in the third to last line which presently reads "the proposed increase may be put into effect,"--add the words "but only"--"but only as provided by law." We've got a third change.

[Motion to recess for lunch rejected: 27-69.]

Point of Information

MR. BURSON

Mr. Chairman, I think that this is a very important matter, under the rules, I believe we're entitled to have in writing what we are voting on. I certainly would like to have it in writing. I don't care whether we go to lunch or not, but I would like to know what these changes are in writing.

MR. CASEY

Mr. Burson, it's my understanding that the amendment is being run off with the corrections and will be passed out in a couple of minutes, so let's just...

MR. POYNTER

The third change, I'll go ahead and read it, adds another sentence to (E) which reads: "The right of appeal granted herein shall extend to any action by the commission, including, without limitation, any action taken by the commission or by a public utility under the provisions of Subparagraph (3) above."

Explanation

MR. ROY

Mr. Chairman, ladies and gentlemen, I'm going to be very quick---to accommodate Mr. Singletary, we put the word "effective" before the word "date" on the line at (2) so that it would be consistent. To answer Justice Tate's question, we added the words "but only" before the words "as provided" in Section (3). With respect to Mr. Kean's suggestion, we added the additional sentence that the right of appeal to the district court or to any court would be with respect to the bonding or any allowance that the commission had made for or against the utilities, so that leaves it completely up to the courts to review that particular issue so there is no question about the courts being able to review the issue of bonds and, with that, I submit the question and ask for a record vote.

Point of Information

MR. STAGG

The convention adopted a limit on debate on this matter. The rules were suspended simply for the purpose of making an amendment to the amendment. Now, I think the time for the question has long since arrived and I move the Chair so to act.

MR. CASEY

Mr. Stagg, I would have to rule that this is a new amendment, substantial changes have been made and it's more than just some minute corrections. We have a new amendment. If you wish to make a motion to limit debate that's certainly in order, but I feel compelled to recognize whoever wishes to speak under the rules.

MR. STAGG

Mr. Chairman, I would like to move to limit further debate on this to ten minutes.

[Motion to limit debate on the Amendments to ten minutes adopted: 65-36.]

Point of Order

MR. PEREZ

Does it require a suspension of the rules to limit debate?

MR. CASEY

No, it does not.

Further Discussion

MR. NUNEZ

Mr. Acting Chairman and ladies and gentlemen of the convention, it seems like we have been on this provision for eternity and it just so happens that unfortunately it was probably the last paragraph that we would have adopted before going into adopting our full constitution, that we had worked on for a year. It's very unfortunate that the telephone company saw fit to inject this into this constitution. A lot has been said about how many states have this. There's a chart over there. There's forty-eight out of the fifty states require positive action from the Public Service Commission before any rate increase goes into effect. Now, what does this amendment do that Mr. Roy has injected into this new amendment, or the reamended amendment? It says, "But only as provided by law," which means to me in my way of thinking that none of it's necessary because it has to all be provided by law. Now, what are we going to do, sit here and placate the telephone company because that's all it applies to? Now, it applies to no one else. The way I read it, it doesn't apply to anyone. It just applies to Southern Bell, or any telephone company doing business in this state. I don't know how many you have, but I have one--Southern Bell. Maybe you call it a monopoly; maybe you don't. Maybe you're going to put a whole sheet of paper in a constitution to satisfy some whims of Southern Bell, and that's what you're doing. That's exactly what you're doing because now you say, "As only as provided by law," which means if the law don't provide, I can't see how any of it could go into action. I just don't see how we can sit here, and destroy what we have done on a provision of this magnitude. On the last article we were ready to adopt. Ladies and gentlemen, I wish you would reject this amendment and let's get on with the business of this convention.

I see no reason why we should continue, and it just amazes me that we sit here and see the power struggle going on to get

this particular provision in the constitution. It's just amazing, and I'm sure you all heard like I heard over the holidays; my people didn't like this provision in the constitution. I can't find anybody who has in the parish. If you would bring up that last case on the Public Service Commission, I'd like the people to see just what that case consisted of. Mr. Alario, would you roll up the last case, those two voluminous boxes of stuff, that was the last rate increase by the Public Service Commission, or the increase requested by the telephone company to the Public Service Commission. Maybe you think that you can do this in six months or a year. Well, if you think a three hundred and sixty billion dollar company as the telephone company with the resources they have, with the legal services they have can outdo your Public Service with a nine hundred thousand dollar budget, I think you ought to go ahead and vote for this provision. That's what it amounts to. Look at the last case. It's volume on top of volume on top of volume. Just look at it if you're a mind. Take your time, and look at it. That's the last case. Now, you look at the limited resources of your Public Service Commission and how many attorneys they have, and if there's an appeal, if there's an appeal, mind you, Judge, this is what they base it on, if I'm not mistaken, is the record. Now, can you see a poor citizen or an individual bringing suit, bringing suit against this increase? I can't. I can't see any one of you all having the resources to match what you have here.

I'm trying to proceed orderly, and Mr. Chairman, let me reflect that. I don't mind the impoliteness on myself, but I think the impoliteness that's projected on this convention and the fraud projected on the people of this state by what we're trying to do here--I think that's impolite to the people of this state. I think somebody's going to reckon with it. One day we'll all have to bear for what we do here. You go ahead and laugh if you want. You can mock the people of this state if you want, and that's what you're doing. When you say "an automatic increase," that's what you're doing, gentlemen.

Further Discussion

MR. TATE

Mr. Chairman, fellow delegates, I hesitate to rise on a matter on which I have no expertise. However, I think at this stage of the convention's deliberations on this issue we have reached a point where we can reach a fair and practical compromise of the opposing views. I have voted with Senator Rayburn consistently. Those telephone people stop at nothing... I have voted consistently with Senator Rayburn throughout these proceedings because I believed with him, and I do believe with him that it would be most unwise to fix in the constitution an automatic rate increase on public utilities when the commission does not act, no matter for what good reason the commission has been unable to act. However, the proponents have pointed out--and I think the original Rayburn amendment would have permitted the utilities to go into court if the commission did not act within twelve months and show cause why a temporary rate increase might not be permitted, pendency... during the pendency of the proceedings, subject to bond. Now, as I read this amendment, and I am assured by the authors of it that this is the extent, and I think it unambiguously so provides, this amendment now cures up automatic constitutionally mandated rate increase if no decision's reached. It says as I read it--and you can read it better than I can--if no decision is rendered on the application within twelve months after such filing date, the proposed increase may be put into effect, but only as provided by law and subject to restrictive bond requirements. As I read that, it means unless the legislature provides for the mechanics of it by a general law, and this, in that general law thing that can go to court after twelve months and file a rule to show cause why they shouldn't have a temporary rate increase. The commission could show that they have volumes and volumes and can't reach its mark easily and efficiently. So, as I envision this amendment, it just says, "The legislature may in the future provide by a general law that the utilities may get a temporary increase providing they provide sufficient bond to protect the consumer if the commission doesn't act within twelve months." I think in summary, and in conclusion I think that this is a practical resolution of the computing requirements before us. I personally would have preferred the Rayburn approach. Leave it all subject to law. But, this apparently suits a preponderant number of delegates, and I'm willing to vote for it in the effort to get through with this matter with fairness to the people and conclude the question.

Questions

MR. TOBIAS

Judge Tate, is it not true that this type of provision

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would not only apply to the telephone company, but would also apply to every other public utility in this state, including gas companies, electric companies, etc?

MR. TATE

I don't know if it's a friendly question, but as I read it, any increase in rates is subject to this requirement.

MR. TOBIAS

Second of all, would you believe me if I told you that there was some duplicate material in that stack that was presented?

MR. TATE

I would not believe that because they are honorable men who labored under it and brought it up.

MR. RAYBURN

Judge, if the language that you just said where you include in there "but only as provided by law," if we're going to adopt that, why couldn't we just come back up in the beginning and say "within twelve months from the date of effective filing date, the commission shall render a full decision on each application as provided by law," and leave out all this other stuff here?

MR. TATE

Senator Rayburn, I voted with you on that approach. Apparently, we didn't have enough delegates to agree with us on it. I'm willing to accept this as accomplishing the same results, and allowing the ...our good friends up in the gallery to go home and say we brought home a little tiny piece of bacon.

MR. RAYBURN

Well, Judge, would you agree then that if you...if this language is adopted, that that's all it actually says "as provided by law" on any application or anything that might come before the commission, if they don't act on it within twelve months, it shall be in effect or not in effect shall be it provided by law?

MR. TATE

I would give you qualified agreement. I think the constitutional language says they have to decide it within twelve months. So, then it says, if they don't decide it within twelve months, then the legislature may provide for a general procedure by which they could put in the rates temporarily. The courts could or someone could put in the court the rates temporarily pending final decision.

MR. RAYBURN

Judge, would you believe the Supreme Court decides all these matters in twelve months?

MR. CASEY

You've exceeded your time, Judge.

[Record vote ordered. Amendment adopted: 81-29. Motion to reconsider tabled. Motion for the Previous Question on the entire subject matter.]

Motion

MR. NUNEZ

I object to the railroading of this proposal. It's 12:30. Mr. Chairman, I move we recess for lunch.

[Motion adopted: 92-11.]

Recess

Chairman Henry in the Chair

[Quorum Call: 94 delegates present and a quorum.]

Personal Privilege

MR. NUNEZ

Mr. Chairman and ladies and gentlemen of the convention, right before we recessed for lunch I presented you with a file on the filings of the telephone company for the rate increase to the Public Service Commission. There was a question as to the accuracy of that information. I've been asked by several people was it accurate, and was the documents in there accurate simply because, I think it was Mr. Tobias and Mr. Stinson questioning what we had in there as to the accuracy of them. Let me assure you that I would not get up before you on this microphone--or anybody else--on a matter as serious as what I consider we have before us and give you a false document. Every item in there was docket number by docket number from the Public Service Commission, and it's available for you to look at. When I was asked before, I personally went through it, and I found no duplications at all, and I found no false information. I just thought I would pass that on to you because I resent when I tried to make a point with the voluminous amount of material that's presented in a rate increase that someone would question that I would give you false information. I resent it very much. I certainly hope that you realize that I would not do that, and I consider the seriousness of this particular proposal as magnanimous with the passage of this constitution. I don't think I've made my feelings any clearer than I have. I've tried to. I think it's a very serious proposal. I think it can jeopardize our whole constitution, and I resent very much the fact that I was questioned as to the validity and the honesty of what I was trying to do. I thank you, ladies and gentlemen.

Amendments

MR. POYNTER

Amendment No. 1. On page 1, line 11, after the word "Term" and before the word "There" change the period "." to a semicolon ";" and insert in lieu thereof the following word and punctuation "Domicile."

Amendment No. 2.--and there is a correction in it.

Amendment No. 2. On page 1, line 19, after the word and punctuation "chosen." add the following: "The commission shall have its domicile at the state--and this is the change; not "ol" but "al";"state capital, but may meet, hold investigations, and render orders elsewhere in this state."

Explanation

MR. JUNEAU

Mr. Chairman, fellow delegates, if you will look at the provisions in the current constitution regarding the Public Service Commission, it establishes where the actual legal domicile is of the Public Service Commission. As I read the proposal relating to the Public Service Commission that's now before you, that particular aspect was not covered. I think it's appropriate to actually put the situs of the domicile of the Public Service Commission in the constitution because if you don't that...the legal domicile of the commission could be moved about. Now, I think of the magnitude it's of statewide significance and affects the whole state, and I think that the reason that they had it in the prior constitution should be carried over into this constitution to establish the actual domicile at the state capital.

Questions

MR. WOMACK

Mr. Juneau, as the broad term of "at the state capital" does that mean the state capital building or in Baton Rouge?

MR. JUNEAU

Well, it'd be the state capital in Baton Rouge. It's where your state capital is physically located, Mr. Womack.

MR. WOMACK

The reason I asked the question, you know normally they meet, I think, maybe a lot of times in the Natural Resource Building or in the Welfare Building, and I'm just wondering if that state capital is broad enough term there.

MR. JUNEAU

That's why the language which you see here, Mr. Womack, is the identical language that you have in the current constitution because it says "but may meet, hold investigations, and render orders elsewhere in this state," which, you know, other places in the state, but there's nothing to preclude them from having

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meetings as they now have. It's the current law in the State of Louisiana. But, I think it's imperative that we put the situs somewhere.

MR. ROY

Mr. Chairman, you weren't here earlier, and I had handled the committee proposal, and I think that's a good amendment. I think it ought to be stated where the domicile of the Public Service Commission is.

MR. BROWN

Why do you say it's so imperative, Mr. Juneau? You said, "It's just imperative that the situs be stated." Why is it so imperative?

MR. JUNEAU

Well, I can conceive of a situation where the commission could physically move the actual domicile, for example, to Monroe, La., in one year, then physically move it to Shreveport. I think it's important for the people in this state to know when they have problems relating to the Public Service Commission that they know that they can go to one place to address their problems concerned in the Public Service Commission; that is, the situs of the state capital.

MR. BROWN

Well, that may be true if you live in Baton Rouge, but maybe you live in Jonesboro, La.; you might want to know that it might come to Jonesboro one of these days.

MR. JUNEAU

Well, I think something as important as the Public Service Commission affects all areas of the state, and ought to be located, its offices in one physical location, the primary location.

MR. TOBIAS

Pat, are you familiar with the doctrine of forum non conveniens, the federal doctrine? We have the same doctrine in Louisiana which allows the district court to transfer an action from one district court to another district court if the parties to the case are involved there, for example, for the convenience of the party. Do you believe that that can presently be done under the present constitution?

MR. JUNEAU

No.

MR. TOBIAS

For the convenience?

MR. JUNEAU

No.

MR. TOBIAS

All the constitution says is that the domicile shall be East Baton Rouge, and the suit shall be brought there. Do you think that prohibits that court there from transferring it? It just says "suit shall be brought there."

MR. JUNEAU

No. I think it fits in with your appellate provisions and all the other provisions in this document which say that appeals should be brought at the domicile of the commission; the domicile of the commission has to be East Baton Rouge Parish. I just said it's almost imperative you put that language in.

MR. BOLLINGER

Delegate Juneau, as you know, my cohorts from Lafourche is continually worrying how everything affects Thibodaux. My question is, how does this affect Lockport?

MR. JUNEAU

I thought the question was, how did it affect Bollinger Shipyards? I really don't know, Mr. Bollinger.

[Previous Question ordered. Amendments adopted: 101-1. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Delegate Abraham has two sets of amendments. He wants to

[3066]

go with the shorter. It's actually two amendments, but it's much shorter in length.

The amendments read as follows:

Amendment No. 1. On page 2, delete lines 6 through 20, both inclusive, in their entirety and insert in lieu thereof the following:

"(1) The commission shall render decisions on applications, petitions, and proposed rate schedules in the manner prescribed by law."

Amendment No. 2. On page 2, at the beginning of line 21, change the number "(4)" to the number "(2)".

Mr. Abraham, for clarity we need to say "on page 2, delete lines 6 through 20 both inclusive in their entirety, including all floor amendments thereto," to make sure that it clearly deletes the Roy amendment, your intent, I believe.

Then that would not affect the Juneau amendment, since that's to a different page, but it would delete the Roy amendment.

Explanation

MR. ABRAHAM

Ladies and gentlemen, in the Roy amendment we put in a lot of language, but all of the language hinges on "as provided by law" or "in the manner prescribed by law." It throws all of this a-till back into the legislature. To provide the manner in which these rates are going to be put into effect, provide for refund, the legislature will have to provide for the manner in which refunds are made. So, what my amendment proposes to do is simply say that this commission shall render its decision on applications, petitions and rate schedules in the manner prescribed by law. Let the legislature then go ahead and determine the time limits and everything else because I can foresee where it may be necessary that there may be different time limits placed on how long on the Public Service Commission for different types of public services. I don't think we need to tie it down in the constitution. I don't think we need all this language in the constitution. I think everyone here is in agreement they want a time limit placed on the Public Service Commission. I'll go along with that. They do need to be mandated to act. But, I think that with my amendment by putting this all in the legislature, we are more flexible, and that if a particular thing does not work, then the legislature is in a position to change it. I think we'll be far better off to go ahead and leave this thing in a flexible position. I don't think anyone is going to quarrel with the fact that the legislature now is going to have to come up with some rules and regulations by which the Public Service Commission can act. I urge the adoption of the amendment.

Questions

MR. ROY

Mr. Abraham, do you realize that you take away from the commission the power to enact and regulate and provide for reasonable rules and regulations of its own accord when you simply say that anything it does has got to be provided by law by the legislature?

MR. ABRAHAM

No, Chris, because in the paragraph (B) I believe it is, that we say "it shall adopt and enforce reasonable rules, regulation procedures necessary for discharge of the duties, and shall have such other powers and perform other duties as provided by law." So, I don't think we're doing a thing here than what we've already said before.

MR. ROY

You don't really mandate any type of decision or force any type of decision-making process like my amendment provides with respect to some type of almost automatic rate-making... that is, bonding process. Is that right?

MR. ABRAHAM

That's right because here again I think we need to be flexible in this because if one particular system does not work, we need the legislature to be in a position to change it, and I think that relief should be to the legislature.

[Previous Question ordered. Amendment rejected: 41-65. Motion to reconsider tabled.]

Amendment

Further Discussion

MR. POYNTER

Senator Lambert sends up amendments at this time.
Amendment reads as follows:
Amendment No. 1. On page 3, delete lines 1 through 13,
both inclusive in their entirety.

Explanation

MR. LAMBERT

Mr. Chairman, fellow delegates, this is Section (P) under Jurisdiction. This area, I think we've discussed before, has to do with Natural Gas, etc., and what we have done is left it up basically to the legislature so that it did not conflict with the Louisiana Energy Agency that was set up in the last session of the legislature. I think this point has been discussed at great length and there's no need for me to go into it in any detail at all, other than, it conflicts. . . it's conflicting language and this was put into our proposal prior to the special session of the legislature. Due to the actions that were taken in the legislature, this now would be in direct conflict with that. As a result of that, I'm asking that it be deleted. It's still left up to the legislature, we've set that up already --- that mechanism.

[Amendment adopted without objection.
Motion for the Previous Question on
the entire subject matter rejected:
40-65.]

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, my remarks will be very brief. In the posture that we find ourselves, I am convinced we would be far better off in not having anything in the constitution at all about the Public Service Commission. If we reject this committee proposal, then automatically the whole subject matter would be, unless another proposal were introduced, relegated to the statutes where I think it probably undoubtedly belongs. As far as the provision for rate increases, if in fact, the proponents of the last amendment that was adopted meant what they said, it could be only as provided by law, then it would have to be threshed out by the legislature anyway. But, if, as some of us feel, the first sentence in Paragraph (3) is a sleeper which would provide an escape hatch for the Public Service Commission simply to permit a tentative increase and then never rule on the subject thereafter, thereby effectively allowing a rate increase without a public hearing, which goes contrary to every tenet of administrative law of which I am aware, then I think we certainly ought to reject this proposal. In so rejecting it, we will leave it to the legislature where the legislature can have the kinds of hearings involving a full dress discussion of the procedure of utility rate-making which we most certainly have not had at this convention, and I think we will be doing the people of our state a great and signal service. I ask you to vote against adoption of the proposal.

Questions

MR. LeBLEU

Mr. Burson, before we went home for the holidays, there was quite a bit of debate about the hearing set up by the Public Service Commission to hear testimony from the applicant. I can find nothing in this section that specifies that a hearing has to be held, except they have to make a decision at the end of a year.

MR. BURSON

Mr. LeBleu, I agree with you entirely and it is entirely possible that under this language you could make a decision without ever having a hearing giving the opponents a chance to express their views on a rate increase.

MR. LeBLEU

One other question and to get back to the first sentence in Paragraph (3)--as I read this, the Public Service Commission could hold a regular meeting and accept an application, then, permit the applicant to institute his rate increase or a portion thereof at that time which might be two weeks after he applied or a month or three months, or . . . is that right?

MR. BURSON

Yes, sir, that's certainly possible.

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, I think that many of us have been lulled, so to speak, into sleep over the fact that we think that we may have adopted a provision which would not give to the telephone company the automatic right to put a rate increase into effect. Let me read to you, if you will, that provision which is the heart of the whole proposal and let's see if we can figure out what it means. It says "if no decision is rendered on the application within twelve months after such filing date, the proposed increase may be put into effect, but only as provided by law and subject to protective bond, etc." Now, there are many of us . . . or many people here that I have discussed this subject matter with and they believe that the meaning of this provision is that the rate increase will go into effect, but only the form and the manner can be provided by the legislature. So, that there is a great deal of doubt in my mind and in the minds of many of the delegates as to whether or not we have accomplished what maybe we think we have accomplished or maybe what some of the proponents of this amendment would have us believe it would accomplish. Therefore, I very strongly urge you that because of the fact that this provision primarily gives the right. . . certain rights to the telephone company then leaves the rights of the subscribers or of the people up to the legislature, that this whole subject matter with respect to rates should be left to the legislature and that, therefore, we should not adopt this provision. I, therefore, strongly urge you --and they need sixty-seven votes, remember, to pass this article-- that we reject the article and hopefully, on reconsideration, we might be able to straighten the subject matter out. I'll yield to questions.

Questions

MR. ABRAHAM

Challn, see if you interpret this the way I do. As I understand it, that if I am a utility I can go to the Public Service Commission with a request for a rate increase, and at the same time, also request that the rate increase be put into effect in full on a tentative basis. Then, by the provisions of the last sentence of Paragraph (E) if the Public Service Commission says, "No, you cannot have a rate increase on a tentative basis," I can then go to court and apply for the rate increase on a tentative basis; do you read this the same way as I do?

MR. PEREZ

Well, there are many questions unanswered as far as I'm concerned in this language, but that which gives the most problem is whether or not it really means that the legislature can or cannot give the automatic increase, but that under this wording it would appear to me to mean that the automatic increase would go into effect and only the method or the manner would be provided by the legislature. I have serious doubts as to the meaning of these words. I think an awful lot of other delegates do also.

MR. CHATELAIN

Mr. Perez, I was rather busy at the close of your remarks, but I thought I heard you say that this should be left up to the legislature?

MR. PEREZ

I'm talking about with regard to the rate-making procedure, yes.

MR. CHATELAIN

Because I know you and I sit on the Local and Parochial Government and your philosophy has been not to trust the legislature.

MR. PEREZ

No, sir, I've never taken that position. I think that there are certain provisions which should be in the constitution to protect the rights of the people and there are some provisions which should not. In my judgment, this does not protect the rights of the people, it protects the rights of one company, the telephone company.

MS. ZERVIGON

Mr. Perez, in line with that last question you were asked, wouldn't it be consistent to say that if we're going to leave some folk's rights to the legislature we ought to leave all folk's rights to the legislature. But, if the utility is going to be constitutionally protected, the consumer ought be also?

MR. PEREZ

Well, that's the whole point that I've been trying to make, and

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that is, that this proposal takes care of the telephone company, but it doesn't take care of the people. That's the reason I've been so much opposed to it.

Further Discussion

MR. DESHOTELS

Mr. Chairman, fellow delegates, we've heard quite a bit about our work over the holidays. We've been told by various state officials that they are confused and that they are uncertain as to what they're going to be doing about this constitution. They're saying that we're getting into areas that are not constitutional. . . that are not constitutional material. I submit to you that we are doing this in this instance, but worse than that, worse than that, we are favoring, we are favoring a particular. . . a particular veated interest, and we are favoring utilities obviously. We're telling utilities that we will give them constitutional protection and we're telling our people that we're supposed to be representing, that we will leave your fate up to the legislature and that we're getting tired. Many of us felt that this should not be so, but you hear talk about some people sitting at the other end of the hall that are saying, "Well, we need a compromise." Fellow delegates, we should not be compromising here. We should stick to our convictions and not allow friendships that have started since in January and courtships that have started since in January influence our decision and have us put something in the constitution that will be there for years to come. Now, you think back -- and your kids someday will probably be reading your vote on this thing, assuming that it's passed, and they'll be saying, "Daddy, how did you justify the particular vote you made here?" "Well", you say, "We argued this before Christmas and we came back and we were tired and we figured we had to compromise." This is not a compromise, it's a capitulation and it's an affront, it's an affront to people of the State of Louisiana, it's an affront to people that pay utilities and pay these companies' way. Now, they tell you, "Don't worry about it. It only means a few cents of rate increase to people. It only means a few cents to them, but it means millions of dollars to us"--and it does, and it does, and they want it all their way. Well, gentlemen, we are having an energy crisis that I don't need to tell anybody about. Our utilities will be affected by it, they are affected by it. Our rates will be affected by it. We will have a tremendous. . . I think a tremendous revolution in our source of energy and our costs of our utilities and we need the latitudes, we need the legislature to be able to act in this area in the future. We need some looseness in this particular field, especially here. We reversed the committee's proposal upon the committee chairman's request as to the jurisdiction of the Public Service Commission, because of a special session of the legislature that was passed the last part of last year. Well, look how quickly we're changing. A special session of the legislature had us change a proposal that a committee had thought a few months ago was good. I submit to you that this is only a beginning. I submit to you that this is not a compromise and you should not be compromising issues of this nature and of this magnitude. Stick to your guns and do what you believe is right. This is not a compromise. Thank you very much for your attention.

Further Discussion

MR. JUNEAU

Mr. Chairman and fellow delegates, I would like to make these remarks very brief, but it seems to me that the one thing the people wanted us to do was to write a constitution that was easily read and easily understood. As I read the amendment that was attached onto the Roy amendment, it means only one thing. It means that you would, under this proposal, have an automatic rate increase by the commission at the expiration of a period of twelve months. Now, there's been a lot of discussion, does that mean this or does it mean that; that's what it means to me and it means that to a lot of people in this convention. It simply says-- I read that as purely the mechanics; the mechanics and the mechanics alone ought to be worked out by the legislature. So, let's get the issue before us; if you are in favor of that philosophy, which I thought a lot of people were opposed to--if you're opposed to that philosophy well then vote against this proposal and we'll try to straighten that out. But, if you are in favor of an automatic rate increase, then vote for the proposal. I just personally don't subscribe to that philosophy.

Questions

MR. DUVAL

Pat, is what you're saying that the language. . . the language says that the. . . "if no decision is rendered on the application within twelve months after filing date, the proposed increase may be put into effect," so doesn't that give the constitutional right to have a rate increase without a hearing; is that right?

MR. JUNEAU

I don't see any other way to read it.

MR. DUVAL

And the "only as provided by law" means the way you're going to do it is going to be provided by law, but you still have a right to do it constitutionally.

MR. JUNEAU

Mechanically, what procedure you go through.

MR. DUVAL

Wasn't it represented to this convention, I'm sure in all good faith, that their intent of this was to leave the right up to the legislature too; isn't that right?

MR. JUNEAU

Well, if you want to do that, you ought to say that and this doesn't say that.

MR. DUVAL

Thank you.

MR. LANIER

Mr. Juneau, as I read this language it says that this proposed increase may be put into effect. Am I correct in that the word "may" is permissive as contradistinguished to the word "shall" which is mandatory?

MR. JUNEAU

That's right.

MR. LANIER

Now, this provision only comes into effect if no decision is rendered within twelve months; is that correct?

MR. JUNEAU

That's right.

MR. LANIER

Now, in the (2) part here it says "within twelve months from the effective date of filing, the commission shall render a full decision." Would that be mandatory language to require them to render a decision?

MR. JUNEAU

Nobody disagrees with that. That's right.

MR. LANIER

Would you also agree, that if the commission failed to render a decision within that twelve month period that mandamus would lie to compel them to render a decision?

MR. JUNEAU

That's right.

MR. LANIER

Because this is a mandatory duty established in the constitution.

MR. JUNEAU

Under Paragraph (2). That's right.

MR. LANIER

So, really what we have here is if they don't act, the increase possibly could be put into effect, but in any event you still can go ahead and compel them to decide, can't you?

MR. JUNEAU

That's right. By the same token, it just seems ridiculous to me on the one hand to say legally we're going to compel you and subject you to a mandamus suit to act within twelve months and then we turn back around and say, "Well, if you don't act within twelve months the rate may be. . . the rate increase may be put into effect, but the mechanics will be left up to the legislature." It just doesn't make much sense to me.

MR. ALEXANDER

Mr. Juneau, did not the convention pass a resolution or an amendment on December 20, 1973, authored by Delegate Warren which stipulates that the commission shall render its final decision after a public hearing on application petitions, proposed rate increases, etc.. Is that not true?

MR. JUNEAU

I think that's right, Reverend. I had an awfully difficult time with putting that language together with what is in this amendment.

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MR. ALEXANDER

So then the statement that the commission may render a decision without a public hearing is definitely and positively erroneous, is it not?

MR. JUNEAU

Reverend Alexander, what it says is "if no decision is rendered by the Public Service Commission---this is what I'm reading---" within that twelve month period the proposed rate increase may be put into effect." Now, where is the public hearing?

MR. ALEXANDER

But, Mr. Juneau, what is being implied--am I asking you...

MR. JUNEAU

The Roy amendment superseded that too, Reverend Alexander.

Further Discussion

MR. LANDRUM

Mr. Chairman and fellow delegates, I wish to make my position known at this time that the idea--we have heard many people say that you're voting for an automatic rate increase. I do not believe that is the case. As far as I am concerned, that is not the case. But, what is the case? A group of men elected by the people to make decisions, you're simply saying to these people, "then, decide, make a decision. Don't pass it on to someone else. . ."

I think it is wrong for one to even to just say that you're voting for an automatic increase. I know I wouldn't vote for an increase in my phone bill or my light bill. But, certainly people who are in responsible positions, if they are to make decisions, well then let me make decisions. I've noticed two men who are contemplating running for this office, those two men, they seem to be for the idea that they should make decisions, and since we have voted to increase the size of the commission from three to five, it simply says to me then that we are going to have somebody on that board who is willing to make decisions. Don't just give people the false idea that we're just voting for an increase, because that isn't so. That isn't the case in my vote, but I am saying this, that if they are to make decisions then let them make decisions. Those of you in the legislature who are hollering about leave it to the legislature, then I wish the legislature would make decisions too, when it would come to that three dollar license plate; that's where you need to make the decision.

Further Discussion

MR. NUNEZ

Mr. Chairman and ladies and gentlemen of the convention, I think if we look back at the original proposal and we read it, we'd have no doubt in our mind what the intent --and let's call it like it is-- what the intent of the telephone company was. They didn't mince their words when they put this provision in there, and they did not try to hide the fact that they were trying to get an automatic rate increase if the Public Service Commission did not make a decision in six months. I think you know the drastic effect of what it would have been had we just adopted blindly that provision. I say to you, thank God for the people of this state, we did not adopt that provision. Because of some people's insistence and because of various amendments and because of three days of arguments, we're now at a proposal or a provision that seems to be a compromise. You have such learned lawyers that as I've heard get up here--as we've heard--and say, "I think, and I believe and it may be," but they're not sure. They're not sure because if you read line. . . in Section (3) "the proposed increase may be put into effect." By whom? I would assume by the utility companies, by the utility companies. I think we have a proposal here that in this particular day after the holidays we've adopted, probably hastily so, without just clear deliberation and clear thinking on. I believe, if we look back at the original intent--and I still think that intent is there--the people who want this rate increase automatically haven't changed their mind; they haven't conceded anything. They haven't hid the fact that they're trying to get that Public Service Commission to act within six months or twelve months

and if they don't act, they want those rates to go up. So, then they have modified the language; they've put some "ifs, ands, onlys, and buts" in there but what does it mean? Do you want to take the chance at this late date after putting one hard year of work on this constitution--I'm very sincere about this because I consider myself a hardworking delegate-- I've given you as much time as I possibly could and that's been a heck of a lot and I look out there and I see a lot of you people have too, and I'm seriously and completely concerned with this provision and I have been from the very beginning. I told my friends that I have been with the telephone company. I look at the coalition of people behind this and at the expense of making more enemies. I noticed the AFL-CIO is seriously interested in passing this provision. I wonder about that combination of people trying to pass this automatic rate provision. I'm just concerned that we're doing the wrong thing. I'm concerned that we should look at it a little harder. So, with those concerns, ladies and gentlemen, I would ask that you reject this amendment and let's look another time at this proposal. We've been having some mighty close votes to delete this whole provision or to allow the legislature to do it. But, if you read it carefully, and you read the "onlys" and the "ifs" and the "ands" and the "buts" in here, I don't think that the most learned men in here know exactly what we're doing. You heard the good Judge get up here and say he thinks and he believes. I think one of the closing remarks one of the delegates said was, "Give our friends in the balcony a piece of bacon." Now you think that's the attitude to operate this convention under; I certainly don't. I certainly don't and I'm dead serious and I'm in dead earnest about that. I don't think that the majority of you feel that let's just give them a little bacon and let them go home, let's put a whole page in the constitution with a few onlys and ifs and make it look like we've given them something. I'm afraid we are giving them what they want. I'm afraid we're giving them too much. I'm afraid we're not giving the people enough. I think if we vote this in, we're going to be awful sorry for it. We've got a chance in this next vote to reject the amendment, to reject the amendment and look at it again. I don't care if it takes us until January 19th, I think this proposal is important enough that we give it the most serious consideration. I just read a staff proposal on my desk and I saw some things in there that I heard said up here that aren't true. I'm for relying on the staff to give us that information. I'm sure what the staff is telling us is accurate, but this thing has gotten to the point where we just don't know exactly what we're doing and I think we're jeopardizing a good year's work. I don't want to sound like an alarmist. I just feel like we ought to look at it a little further and I just feel like if you read Proposal No. 34 and read Section (2) "if decision is not rendered within six months from the filing date of any proposed rate schedule, it shall be deemed to be tentatively approved," which means it goes into effect. That was their intention, that was what they wanted to do and that, I believe, is what they still are doing. I hope you agree with me, and I hope you'll look at it, and I hope you reject it. Let's look at it a little closer. I don't think we ought to do this. I don't think the most. . . the people who have committed themselves to do it don't want to really give the telephone company that much say-over the rate-making structure of this state, over duly elected officials, even if it takes six months or twelve months. You saw the brief that I brought in here, or the case every bit of that information is factual. Every bit of that information was filed with the Public Service Commission and every bit of that information, if it's turned down and they go to court, will probably go to court. Can you imagine a citizen trying to sue if they think it's an unjustified rate increase?

Further Discussion

MS. ZERVIGON

Mr. Chairman and delegates, you've heard a lot of speeches up here in opposition to the proposal. I, too, rise in opposition to the proposal, but for a slightly different reason. I agree with the speakers before me that it makes no sense to make the rights of the utility constitutional and the rights of the consumer statutory, and we've done that throughout. But, in addition to that, let me point out one more thing we've done because I'd like to you sort of add it into your consideration. Section (1) of the Roy amendment discusses common carriers and public utilities. When you read Section (3) about a time limit on decisions and the proposed schedule going into effect, it says that for a public utility the commission may allow the schedule to go tentatively into effect it doesn't mention common carriers. It seems to me that this is a sloppy draftsmanship in that Mr. Roy meant not to affect bus lines because so many citizens ride them. He had. . . he, by the side door also affected truck lines and it seems too that this is saying that they may not permit a tentative schedule for common carriers, which are truck lines, in these days of energy shortages and fifty-five mile an hour speed limit and that sort of thing is a terrible mistake, and is one more argument for leaving it all to the legislature

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so that it may be flexible. Mr. Deshotels made one of the best arguments that was made up here--if we're going to scratch the last section of the proposal that's been discussed for months and months in committee because of a special session of the legislature, under actions of that special session of the legislature, that in itself, our vote in itself, is an argument for flexibility and leaving things to the legislature. So, I urge you to vote against the proposal and let us come back with something either minimal or nothing at all.

Questions

MR. WEISS

Delegate Zervigon, in the past several weeks I've noticed that there's been a lot of votes for political expediency in this constitution. I'd like to know whether you think that the passage of this committee proposal as amended would either enhance or detract from the passage of the constitution?

MS. ZERVIGON

Dr. Weiss, I really can't comment on that. I tell you my folks at home just mostly say, "You all still up there?" I don't think we ought to cast our votes that way. I think we ought to write the best constitution we can and then go home and explain it to the folks; they're going to be listening to us. I really don't think we ought to make up our minds that way.

MR. BURSON

Ms. Zervigon, in line with your argument about leaving this matter to the legislature, isn't it true that according to the staff memorandum that was passed out to us that only thirteen states of the fifty states mention Public Service Commissions or Railroad Commissions in their constitution, but all fifty states have such commissions in effect to regulate public utilities?

MS. ZERVIGON

That's as I understand it. I think that's a very good idea especially since there amendments are not considered at length. You remember we put a debate. . . limit on debate or hastily drawn and may have side effects, for example, on the large truck lines that we just really don't fully appreciate at this point and which wouldn't be able to be changed by the legislature should we find that we have made a mistake.

MR. ABRAHAM

Ms. Zervigon, isn't it true that on page 1 of this proposal we have specified that the commission shall regulate all common carriers and public utilities as provided by law. Then, we also say "it shall adopt rules, etc., and shall have other powers and perform...as provided by law." So, all . . . at the very beginning of this proposal we're saying that the legislature is going to make these provisions. Wouldn't we be consistent then in saying that they'll render these decisions as provided by the legislature?

MS. ZERVISON

Well, that would make sense to me. On the other hand, I think, that the thing I was arguing about doesn't really go on and say "as provided by law" because if you constitutionally say that they may allow a proposed schedule to go into effect for utilities, but you don't mention common carriers in that paragraph and you've mentioned them all the way throughout, it seems to me there's a clear implication is that they may not allow that for common carriers.

[Previous Question ordered on the entire subject matter.]

Closing

MR. ROY

Mr. Chairman and ladies and gentlemen of the convention, I'm going to be very brief. First of all, with respect to some of the sub rosa comments that are going around that there is no hearing required, I direct your attention to page 1 which says that the commission shall regulate all common carriers and public utilities as provided by law...there is presently and there always will be a public law that allows all meetings to be held in public, in any event. If any secret meeting were ever held on anything like this I can assure you it would violate all the provisions of our constitution with respect to due process and equal protection of the laws as well as all federal constitutional provisions. So, that dog just won't hunt, as one of my good friends who is from north Louisiana says, that's not accurate and it's no use to listen to a bunch of comments and questions that just don't address themselves to the real issue here which is whether you're going to force the utility companies to sit...and any common carrier...

to sit for years and years and years when they've had a proposed rate increase for the benefit of the little consumer that they could put into effect and maybe get a bunch of people off party lines and find out that

the commission because of its political anxiety...decides two or three years later, no or yea, then the 100 million dollars to be spent for getting people off party lines can only be...get 50 percent off because the value of the dollar has gone down. Now, I don't understand one of the delegates questions about, "but only as provided by law." That was satisfactory with Justice Tate and I think that if I had my judgment to make as to whom I would...whose opinion I think would be better on that issue, I just would have to go with Justice Tate. I don't think it's ambiguous in the slightest. The other thing is that the particular rate increase or the bonding of it is all subject to review by the district court at any stage of the proceeding and that was to accommodate Mr. Kean's comments with respect to that issue. There's just no question, but that we need a Public Service Commission that's going to act. This particular proposal mandates that commission to act, and if it doesn't act it's got to look to the people. I ask for the favorable adoption...let me point out one more thing with respect to Mrs. Zervigon's argument...I don't follow it. She says that if you read Section 3, that since it doesn't say anything with respect to common carriers, the legislature under (B) on page 1, could not provide for some rate increase for common carriers. Well, that is just not the law. The fact of the matter is that when you leave to the legislature any power as we do under Part (B), then unless there's a specific constitutional prohibition as a matter of law the legislature may do it. All of that is just window dressing. There are a lot of smoke screens. There's everything to try to defeat what we have finally said we want...a Public Service Commission that's going to rule on rate applications and in the absence of is going to have to account to the people on that particular respect. I'm not answering any questions. We've said enough about it. I think it's very clear and I move for the previous question.

[Section passed: 67-47. Motion to table reconsideration. Record vote ordered. Motion adopted: 68-45.]

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, off at the end, it's simply amazing to me that in a constitution which we have almost completed drafting we have not guaranteed any citizen of this state a decision in any tribunal whether at the trial level, the appellate level, or the Supreme Court level. Whether it is a case involving rights of widows and orphans, whether it's a case involving workmen's compensation benefits and a man who may be starving without them, whether it's a case involving imprisonment for 99 years for armed robbery or life imprisonment for conviction of murder, we have not guaranteed anyone in any of these circumstances a guaranteed decision within 12 months, but yet we have the audacity, the temerity and the ill-considered judgment in my view to give to Southern Bell Telephone Company the right to an automatic decision within 12 months or they can put into effect an automatic rate increase. It seems to me without a doubt that this is a sad day for the people of the state of Louisiana, and I'm very sorry that we have come to such a point in this convention. If any of you would examine in your hearts one more time, I hope we can find the two or three votes that we need to defeat this proposal which is not in the best interests of the people of this state.

Questions

MR. CHATELAIN

Mr. Burson, did I hear you right when you said that we didn't have the nerve, the gall and the audacity...what do you mean by that, sir?

MR. BURSON

I did not say gall, I think I said the nerve and the temerity and the audacity.

MR. CHATELAIN

Well, we have operated, Mr. Burson, haven't we not, sir, on the premise that a majority of 67 votes count?

MR. BURSON

That's correct, Mr. Chatelain, and I certainly agree that the majority can prevail. I am simply questioning in this particular instance the wisdom of the majority decision. I mean no personal reflection on anyone. It's simply a matter of policy as far as I'm concerned. I think it's bad policy.

MR. STINSON

Mr. Burson, do you know that you have shamed us all so that we're going to all have to vote just like you tell us to in the future?

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MR. BURSON

Mr. Stinson, I would hope that you would. I'm afraid from your votes up until now though that that hope will be in vain.

MR. STINSON

Mr. Burson, you know the worse thing that could ever happen to me is to vote exactly the way you do, I think. You're entitled to your opinion and I'm entitled to mine. Isn't that so?

MR. BURSON

Mr. Stinson, I would never deny your right to your opinion. In this instance I question only your judgment.

Further Discussion

MR. WILLIS

Mr. Chairman and ladies and gentlemen of the convention, rhetorical capacity to magnify a seeming vice in a proposal to diminish its many virtues may certainly tend not to make it plausible, palatable, propitious or popular. It requires just a little reference to the days that are gone for a full realization of the wholesome thrust of this proposal. The proposal miraculously transforms aspirations to reality. It does not retreat from reality. Destroying tolerance does not destroy tyranny which begins where the law ends. The biggest guns in the arsenal of tyranny may be silenced by good government well planned. From bad government to tyranny can only be destroyed by curtailing the power that nourishes it or provides it with servile tools. Constant experience amply demonstrates that every man invested with power is apt to abuse it and to carry his authority as far as it will go. Abuse of power can be by act of omission or commission, by men or commissions. To prevent this abuse it is necessary from the nature of things that power should be a check to power. We must have as many of these constitutional "guardian angels" as possible, or we will sooner or later have to drink from the bitter cup of disservice held by the hand of the overpowering and overpowerful. When virtue goes into orbit it leaves the propensities to usurp power. Remember, virtue itself turns vice being misapplied. Perhaps my analogy is too strained and leaves you with mere superficial plausibility. I nevertheless propose that if attention be directed to the substance rather than the surface or symbols of the proposal you will realize the speciousness of the arguments against it. It is not too fanciful to say that the repetition of inaccuracies do not beget the truth, that the repetition of an error does not make it right or that beautiful adjectives do not make a portrait pretty nor do ugly ones detract from its beauty. The proposal is positive, precise and protective of all prospective consumers. Experience requires the proposal. The two committees with jurisdiction on the matter propose it. I do not oppose it. I approve it and I will support it. Thank you.

[Previous Question on the Proposal.]

Closing

MR. ROY

I just want to respond to Mr. Burson's comment again with respect to the way that the appeal is going to be made. It says that "the appeals are made as provided by law." Now that's very, very clear. The legislature can provide that you appeal to the district court. It will be on a new record if it chooses...that you can add further testimony...that you can't...that it provides the number of days within which you have time to appeal...that it provides for appellate procedures to the Supreme Court...ladies and gentlemen, I just...if you're going to meet an issue, you meet it head-on, and you say what really is there, and you quit trying to play the harem-scarem game. As an attorney...anybody...as a layman...anybody can read that that Section (E) that provides for appeals, "as provided by law" means very clearly that the legislature shall provide the methods of a hearing in the district court and a hearing in the Supreme Court of Louisiana and the only thing it may not do is to deny the right of a direct appeal to the Supreme Court so that the Supreme Court can review the questions of fact involved in the case. That's it! Anybody who tells you anything less than that is just not telling it to you like it is. I move for the adoption of the proposal. Thank you.

[Quorum Call: 107 delegates present and a quorum. Proposal passed: 67-47. Motion to revert to Proposals on Third Reading and Final Passage adopted without objection. Motion to call Committee Proposal No. 34 from the calendar adopted without objection.]

Reading of the Proposal

MR. POYNTER

Mr. Chairman, Committee Proposal No. 34, read this morning,

a proposal making provisions relating to natural resources and the environment. Again, the status of the proposal...the convention has adopted the first 13 sections of the proposal as amended, save for 3, 6, 7 and 11, all of which were deleted from the proposal...has under consideration at the present time, Section 14, and in that light Senator Lambert, I know, has an amendment here which was distributed the other day to said Section 14.

Explanation

MR. LAMBERT

Mr. Chairman, fellow delegates, at this particular point as we had discussed at great length the Friday we were here prior to our recess...at this time I would like to offer an amendment on our Committee Proposal No. 34 which would delete Section 14 referring to the Public Service Commission. This has been covered previously here today under Committee Proposal No. 37. Hopefully, you will go along with this after which we feel that we would be in a position with your concurrence to finally adopt the Natural Resources and Environment Committee Proposal. So, I ask you to please go along with this amendment.

Amendment

MR. POYNTER

Amendment No. 1. On page 5 delete lines 11 through 32, both inclusive in their entirety. On page 6,.... lines 1 through 32, both inclusive in their entirety. Page 7...lines 1 through 12, both inclusive in their entirety, and all the floor amendments thereto.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Amendment sent up by Mr. Avant, Lowe, LeBleu and many, many coauthor.

Amendment No. 1. On page 7, at the beginning of line 13, add the following section:

Section 15. Department of Wildlife and Fisheries, Commission Enforcement Officers

Section 15. Nothing in Article VII of this constitution relating to civil service shall be construed to prevent the legislature from supplementing any civil service pay plan for regularly commissioned officers of the enforcement division of the Department of Wildlife and Fisheries.

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, if you will recall one of the last days that we met here before we recessed for the holiday season, we adopted an amendment to the civil service provisions which would allow the legislature to supplement, if in their wisdom they saw fit to do so, a civil service pay plan for the uniformed enforcement officers of the division of state police. That was a very good amendment in my opinion and a very sound thing to do. It has come to my attention that the enforcement officers of the Department of Wildlife and Fisheries, your game wardens, if you choose to use that term, are a group of law enforcement officers who have in many, many particulars the same hazards as do the officers of the state police. For example, in the enforcement of the wildlife and fishery laws and regulations, they daily encounter in remote areas people who almost universally are armed. I know that it was the officers of the enforcement division of the Wildlife and Fisheries Department who apprehended an escaped murderer, a man who had murdered and was convicted of murdering several people and who escaped from the East Baton Rouge Parish Jail and for many weeks was able to elude the regular police officers and secrete himself in the swamps of the Archafalaya Basin. He was apprehended and brought back to custody by officers of the enforcement division of the Louisiana Department of Wildlife and Fisheries. I have talked this amendment, explained it to everybody that I could possibly reach in the time that I have had today. I have, I think, by the latest count 75 people who have coauthored this amendment with me. I think it is very obvious what it does. It does not require a whole lot of explanation, and I ask your favorable vote on the amendment. I remind you that it adds a new section. It does require 67 votes, and I would ask your support for the amendment.

Further Discussion

MR. LE BLEU

Mr. Chairman and fellow delegates, this is just an effort to do for the enforcement officers of the Wildlife and Fisheries

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Commission what the legislature has done for the municipal police, deputy sheriffs, state police and so forth, and I ask you to please go along with us on this amendment.

[Previous Question ordered. Quorum Call: 104 delegates present and a quorum. Amendment adopted: 94-13. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 95-12. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 103-7. Motion to reconsider pending.]

Personal Privilege

MR. LAMBERT

Mr. Chairman and fellow delegates, what I want to say is very short and very simple. On behalf of myself and the Committee on Natural Resources and the Environment, we certainly appreciate your considering what we had to offer you. We appreciate what you offered to add to the proposal, and on behalf of the committee, I want to thank you very much.

[Motion to call Committee Proposal No. 35 from the calendar adopted without objection.]

Reading of the Proposal

MR. POYNTER

Committee Proposal No. 35 introduced by Delegate Jackson, Chairman, on behalf of the Committee Bill of Rights and Elections which is a substitute for Committee Proposal No. 1 by the same gentleman on behalf of the committee.

A proposal making general governmental provisions.

Explanation

MR. A. JACKSON

Thank you, Mr. Chairman. Ladies and gentlemen, we call your attention to Committee Proposal No. 35 which makes provisions for certain general provisions that we believe to be important to this constitution. It is composed of nine sections. We do not intend to take a lot of time explaining it because the sections are rather simple and we would ask that you would give your attention so we could move through this in the next thirty minutes. I would now ask the delegate responsible for Section 1 to explain it.

Amendments

MR. POYNTER

This is of a more of a technical nature, I guess; it does not affect any particular section.

Amendment No. 1. On page 1, delete lines 12 and 13 and insert in lieu thereof the following: "Article II. Distribution of Powers".

Amendment No. 2. On page 1, between lines 21 and 22 insert the following: "Article XII. General Provisions".

Explanation

MR. TATE

Representative Jackson was just going to say, I believe, that the Bill of Rights Committee has no objection. This is in the nature of a technical amendment to add in Style and Drafting. The constitution as we see it will start with a Preamble, the Bill of Rights, and then we would separate Sections 1 and 2 of the present proposal into an Article II called Distribution of Powers, talking about the Executive, Legislative and Judicial. The remainder, we've put in a General Provisions because then the organization would be: Article I. Bill of Rights, Article II. Distribution of Powers, Executive, Judicial and Legislation, Article III. Legislative, Article IV. Executive, Article V. Judiciary, etc. It would make it a little easier, I believe, in our final version, and for that reason I would appreciate your favorable approval subject to any questions or discussion.

[Amendment adopted without objection.]

Reading of the Section

MR. POYNTER

Section No. 1. Three Branches

"Section 1. The powers of government of the State of Louisiana are divided into three distinct branches—legislative, executive and judicial."

Explanation

MR. GUARISCO

Yes, Section 1 is simply a reaffirmation of the three branches of government as contained in our 1921 Constitution. I ask for your favorable adoption of the Section.

[Previous Question ordered on the Section. Section passed: 100-0. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

Section 2. Limitations of Each Branch

"Section 2. No one of these branches, nor any person holding office in one of them, shall exercise power belonging to either of the others, except as otherwise provided in this constitution."

Explanation

MR. GUARISCO

This is simply what we all know and understand to be the doctrine of separation of powers. The only difference between this statement and the statement of the 1921 Constitution is simply that it says "except in instances hereinafter expressly directed or permitted." At the end in our proposal we have "except as otherwise provided in this constitution." You may say, "Well, where in this constitution do we have other branches of government participating or encroaching upon others?" One example might be impeachment, another example may be where administrative bodies act as a court before those issues are submitted to a court, etc. I'll submit to any questions.

Question

MR. LANIER

Mr. Guarisco, as a matter of fact and just for the sake of the record, aren't these two sections necessary in order to keep us in compliance with the federal constitution?

MR. GUARISCO

Absolutely, Mr. Lanier. Yes.

[Previous Question ordered on the Section. Section passed: 107-1. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

Section 3. Civilian-Military Relations

"Section 3. The Military shall be subordinate to the civil power."

Explanation

MR. VICK

Mr. Chairman, that's a restatement of the Constitution of 1921. I think it belongs in any constitution in an enlightened democratic republic. I'll answer any questions.

Question

MR. STAGG

Since this is now Section 12 or 13, shouldn't these be renumbered as 1, 2, 3 and 4?

MR. HENRY

They can do that in Style and Drafting, Mr. . .

[Previous Question ordered on the Section. Section passed: 107-0. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

Next Section--Section 4. Right to Direct Participation. "Section 4. No person shall be denied the right to observe

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the deliberations of public bodies and examine public documents, except in cases established by law."

Explanation

MR. JENKINS

Mr. Chairman, delegates, this is to create the presumption that public meetings and public records are open to the public unless a specific law denies access to them. This won't change any of our statutes. Our statutes presently spell out which cases are denied, and really the relevance of this is to say that in cases where there is no law on the subject that if there has not been a specific denial of the right to public access, then access would be allowed either to the meeting or the public document involved. So, I urge the adoption of this section.

[Previous Question ordered on the Section. Section passed: 104-6. Motion to reconsider tabled. Motion to pass over Section 5 adopted without objection.]

Reading of the Section

MR. POYNTER

Section 6. State Capital
"Section 6. The capital of Louisiana is the city of Baton Rouge."

Explanation

MRS. SONIAT

Section 6 reads "the State Capital of Louisiana is the city of Baton Rouge." As we know, Act II of 1972 relating to the Constitutional Convention prohibits the convention from doing anything about removing the capital of Louisiana, so for this reason we just stated that the capital of Louisiana is the city of Baton Rouge. I urge the adoption.

[Previous Question ordered on the Section. Section passed: 105-1. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

Section 7. Forced Heirship and Trusts
"Section 7. No law shall abolish forced heirship. The determination of forced heirs, and the amount of the forced portion, and the grounds for disinheritance shall be provided by law. Trusts may be authorized by law for any purpose and a legitime may be placed in trust."

Explanation

MR. STINSON

Fellow delegates, you have the brochure that was handed out. This makes very little change from the present provisions of the constitution, except it provides more that the legislature can set up what the forced portion shall be, what percentages as it is at the present time in the Civil Code. It guarantees though that the forced heirship shall not be abolished, that's in our present constitution. It has always been in the law of Louisiana. For someone that may not know what forced heirship is, that is, that your children cannot be, as in Texas, for example, be left a dollar or five dollars; they have a forced portion depending on the number of children. You have the right in Louisiana under the present law and under this to disown a child for certain reasons. It says that "the legislature shall set up such reasons." The reasons are: an attempt on the life of a parent or marriage of while a juvenile without authority, against their wishes, etc., but that is not in the constitution, it's in our laws that the legislature can change at any time. This is the basic law saying there will be forced heirship and to determine who the forced heirs are and the amount and the grounds for disinheritance shall be provided by law. In other words, by the legislature. It says, "Trusts may be authorized by law for any purpose." That's authorized in the legislature as it does at the present time. We have a trust code as you know, but there's no reason for putting it in the constitution. I think that covers this. If there are any questions, I'll be happy to try to answer them.

Questions

MR. BURSON

Mr. Stinson, did you all have expressed to your committee

a great deal of opinion from lawyers across the state on this provision?

MR. STINSON

Mr. Burson, we had resolutions from a great number of Bar Associations from the different parishes asking that it please be retained in the constitution as it is at the present time.

MR. BURSON

While I was president of the St. Landry Parish Bar Association, I know we passed such a resolution. Did you have any resolutions recommending that it be taken out from anyone that you can recall?

MR. STINSON

I don't recall that we did. I think all were in favor of it and urging us to retain it.

MR. FONTENOT

Mr. Stinson, I see there's no reference to the provisions which had in the old constitution which had to do with adopted children having the same rights as legitimate children. Why did you all leave that provision out of there?

MR. STINSON

Because it doesn't say even "children" it says "forced heirs" and the legislature will say who forced heirs are. In this section we don't even refer to children. It just says "forced heirs as shall be determined by the legislature."

MR. FONTENOT

But, in the old constitution adopted children, regardless of what the legislature says, have the same rights as legitimate children, yet, we're not saying that in this new constitution, the way I read it.

MR. STINSON

The committee felt that it shouldn't be in the constitution. Neither do they say that children will be forced heirs of fathers and mothers and their ascending line. It will be left up to the legislature.

MR. ABRHAM

Mr. Stinson, going further with Mr. Burson's question. Did you have anyone appear before the committee recommending removal of this thing from the constitution from any particular people, not necessarily a resolution, but did any people appear to request that it be . . .

MR. STINSON

We had one person-- some misguided lawyer from New Orleans was there.

MR. ABRAHAM

You didn't have any people appear?

MR. STINSON

I'm not reflecting just the vote. . .

MR. ABRAHAM

You didn't have any people appear; you only had lawyers appear?

MR. STINSON

No, sir. One attorney.

MR. ABRAHAM

No people though, just lawyers.

MR. STINSON

Well, he was. . . he walked in; he was a person.

MR. AVANT

Ford, what I want to ask you is this: This sentence, "The determination of forced heirs and the amount of the forced portion and the grounds for disinheritance shall be provided by law." Now, what I want to know is this: In those situations where you have children of two marriages--and it happens quite frequently-- and you may have a second community between a man and his second wife or vice versa a woman and her second husband, where you have children by a previous marriage who are grown, you know the law is now that they are forced heirs, and you can't disinherit them and you can't even encumber their legitime with a usufruct as I understand the law. Now, under this section as it's written, would the legislature be permitted to provide that in those situations that a man could take care of his surviving spouse by leaving her the

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usufruct of his half of the community to the detriment of say his major children by another marriage that he may have had? Could the legislature do that?

MR. STINSON

I feel the legislature could, as they can under the present constitution.

MR. AVANT

You think they can do it under the present constitution?

MR. STINSON

If they change the Code Articles, yes.

MR. JENKINS

Mr. Ford, with regard to who was for this and who was against it. Isn't it true that our committee didn't receive maybe more than two or three resolutions from local Bar Associations wanting to retain forced heirship and that we didn't have but one person come and speak in favor of taking it out and probably, I don't remember any coming and speaking in favor of leaving forced heirship in; do you recall any?

MR. STINSON

Mr. Jenkins, I don't know how many resolutions the committee received, but I received a number—they were sent personally to the different members, I think.

MR. JENKINS

Isn't it true that we adopted this provision just a couple of weeks ago by way of amendment and there was no real advanced public notice so that there would have been no way that people could have come and testified one way or the other in advance because they had no idea it would be coming up; isn't that true?

MR. STINSON

Mr. Jenkins, I was not present at the last meeting that you referred to, but we had discussed it before at prior meetings when it was discussed in detail.

MR. JENKINS

One other question: Under the Right to Property Section in the Bill of Rights we had originally included in there the provision that laws regarding forced heirship could not be abolished, but do you recall that the convention deleted that requirement under the Right to Property in the Bill of Rights?

MR. STINSON

As I recall, it was the understanding it would be placed in another place in the constitution, as I recall.

Vice Chairman Casey in the Chair

MR. DENNERY

Mr. Stinson, isn't it correct that I introduced the amendment to remove the provisions concerning forced heirship with the understanding that I would introduce a delegate proposal concerning it?

MR. STINSON

As I recall, I think so, yes, Mr. Dennery.

MR. DENNERY

Wasn't that delegate proposal brought before your committee and as a result of that this was the section that was adopted?

MR. STINSON

That's correct, yes, sir.

MR. DENNERY

There were lawyers who appeared before your committee in favor of it.

MR. STINSON

Yes, sir.

Amendment

MR. POYNTER

Amendment sent up by Delegate O'Neill reads as follows:

"Amendment No. 1. On page 2, delete lines 9 through 14, both inclusive in their entirety."

Explanation

MR. O'NEILL

Ladies and gentlemen of the convention, as you heard in the question and answer session there was some debate even within the committee on whether or not this provision should be included in our new constitution or not. Contrary to what several delegates have said, I have been contacted by various counsels for the aged who have asked that these provisions on forced heirship be removed from the constitution so the legislature can provide for these things as it deems necessary. Now, I have some very strong personal feelings on the subject of property and what have you. I feel that a man ought to be able to do with his property as he wants. But, there is a strong opinion and I can see it and I could accommodate it that minor children should be provided for from the parents, and state, and what have you. I can accommodate that position. I think the convention needs to speak on this because of the great number of old people in our state who would like to see such provisions removed. I'm not an attorney, and I can't discuss and describe all the nuances of a state law and of forced heirship to know how property goes from one person to another. But, I do know that many injustices have been perpetrated upon people who do leave their property. The provisions in the Civil Code cover this matter quite clearly and I think that they would be sufficient in light of what has been done over the past. You know, this law evolves from the French people who were sort of the feudal lords. They had huge estates which they felt rightly should pass to their children. Well, I think we have come of age now to where those kinds of things don't happen; and those few people who have big estates—well, I would dare say that ninety percent of them—would care to leave them to their children anyway. I think the convention, as I said, does need to speak on this. I know that there are strong opinions and many divided opinions. I'll try to answer the questions as well as I can but, as I say, I don't know all the nuances of forced heirship so, please, bear with me if I don't know all the details.

Further Discussion

MR. SINGLETARY

Mr. Chairman, ladies and gentlemen, I rise in strong support of Mr. O'Neill's amendment. It may surprise you to know that when I was campaigning for this office, this is one of the most often raised questions from people, they just weren't happy with the situation. Presently, I think, the law is...contains many inequities. For instance, if the man remarries and has children by a prior marriage, if he writes a will to provide for his second wife, to provide for her security that will is no good and children by a prior marriage can come in and force that surviving spouse to sell that property and distribute the proceeds among the heirs. Likewise, if a man dies and has no descendants, if his parents are living they can come in and dispossess that man's wife. Whether you are for forced heirship or against it, I think it has no place in the constitution. We have previously provided that the legislature can pass laws providing for forced heirship in the Bill of Rights where we said that the legislature...that people have the right of ownership subject to reasonable regulations established by the legislature. I'm not sure, but I believe our constitutional provision requiring forced heirship at one time caused a constitutional amendment during the Huey Long era when it was feared that our state was losing a lot of money to other states because our citizens were going to other states to establish trusts which were unconstitutional. I believe there was a constitutional amendment including trust in the Forced Heirship Article. So, I urge you to please support Mr. O'Neill's amendment; just delete this section.

Questions

MR. NEWTON

Mr. Singletary, isn't it true that under the present Civil Code provisions that there is a disposal portion which is not part of legitime of the forced heirs?

MR. SINGLETARY

Yes, that's correct.

MR. NEWTON

...and, so the problem that you are addressing yourself to about these poor widows, with careful planning they can be taken care of through the forced portion so that they can't be run out of their homes; can't they?

MR. SINGLETARY

Well, Mr. Newton, unless you establish a trust—and I'm not even sure you can do it under a trust—if there is a forced portion,

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a forced heir is entitled to come in and demand his forced portion; isn't that right?

MR. NEWTON

That is correct. But, isn't it correct that there is a disposal portion and through careful management and planning, you can take care of these problems of having the widows thrown out of their homes?

MR. SINGLETARY

Not in every case because if a person has a home on a lot and he wants a will to protect his surviving spouse and he has forced heirs, you cannot put the forced portion...you cannot subject it to a usufruct, if I read the code correctly. I don't believe that you can prevent a forced heir from coming in, at least in the situation if there is a forced heirship ascendant or a child of a previous marriage that can come in and force the surviving spouse to sell the property and distribute the proceeds. But, without getting into the merits or the problems of forced heirship, those situations can be corrected by the legislature. But, let's not go any further than we already have with regard to forced heirships. So, I urge you to vote for Mr. O'Neill's amendment and let's delete this section.

MR. DENNERY

Alvin, included in that section in addition to the provisions about forced heirship there is another sentence which permits the establishment of trusts in Louisiana; is that correct?

MR. SINGLETARY

Yes, that's correct.

MR. DENNERY

Now, under the present law if we had no such provision in the constitution, under the Civil Code Articles we could not establish trusts in Louisiana; could we?

MR. SINGLETARY

Under the present constitution?

MR. DENNERY

No, if except for the present constitution?

MR. SINGLETARY

No. Mr. Dennery, under this constitution that we are writing it would be my understanding that the legislature could amend the code.

MR. DENNERY

I understand that, sir. I'm asking, though, if it were not amended, we would not be permitted to have trusts in Louisiana; would we?

MR. SINGLETARY

I guess you're right, Mr. Dennery, but....

MR. DENNERY

What's worrying me--and I'll put this in the form of a question--do you agree that there is a problem in the event we do not put the authorization for trust in the constitution that the present trust conceivably could be all knocked out and no future trust could be established? Isn't it true that...

MR. SINGLETARY

No. I don't agree with that, Mr. Dennery, because I believe that under the provisions that we have written so far, the legislature could amend the code.

MR. DENNERY

Well, then, wouldn't it have to be....

MR. SINGLETARY

...and, we had provided that the legislature can subject ownership to reasonable regulations which would mean that they could establish...laws dealing with trust.

Further Discussion

MR. TOBIAS

Mr. Chairman, fellow delegates, I hesitate to rise on this amendment and oppose it. I am in favor of striking the first two sentences of this proposal. I think that abolishing forced heirship out of the constitution does not in and of itself abolish forced heirship; it's statutory. As I presently read Louisiana constitution and statutes, the legislature could

very simply say that each child is a forced heir to the extent of one dollar. My main objection to this amendment is the striking of the lines 13 and 14 and these are the reasons why. Historically in this state, the Louisiana Supreme Court has been very, very restrictive on the use of trust; it has historically detested trust. Section 16 of Article IV of the 1921 Constitution has been amended...was amended in 1944, amended in 1952, amended in 1958, amended again in 1962. Each time it was amended solely for the purpose of overruling decisions of the Louisiana Supreme Court, striking down the laws that were enacted by the legislature respecting trust; that was the reason. The Louisiana Supreme Court consistently struck down trust and by our deleting, by adopting the O'Neill amendment, by our deleting "of" of that sentence, I have the fear that we may be reinstating jurisprudence which the people of this state--and when I say jurisprudence, I mean, cases of the Louisiana Supreme Court--we would be reinstating that jurisprudence which would have the effect of abolishing trust. I think it's very, very dangerous. I think it's unfortunate that our law has developed this way. But, I think by deleting that section, we are getting ourselves into a mess.

We passed upon this particular question of forced heirship very lightly in Section 4 of the Bill of Rights proposal and we deleted it on August 30, by a fifty-nine to fifty-five vote. I repeat, I'm in favor of deleting lines 10 through 12, but I just cannot support this because of that last of lines 13 and 14. I urge your rejection of the amendment.

Questions

MR. SINGLETARY

Max, could your suggestion be adopted, maybe, in some transitional measure?

MR. TOBIAS

I hate to take it out of the constitution, that provision on trust. I think it's a dangerous, dangerous thing we are doing. I think that nobody wants to take away the right of an individual to create a trust; it would force people to put their property in trust and just go to other states to do it.

MR. CHATELAIN

Max, I don't know this is the reason I'm trying to ask a question and trying to formulate thinking on this...how I should vote on this. Right at the present time, I think, it's a legislative act that has to do with spendthrift trust. Would this do any violence to that or is this anyway connected in the present constitution?

MR. TOBIAS

In my opinion, if we delete lines 13 and 14, there is a--and that's my legal opinion...but just thinking about it very shortly, I've only thought about it for about the last ten or fifteen minutes--but I think we may have the effect of striking out our trust code in this state.

MR. CHATELAIN

Well, you know, many people in this state take advantage of this trust and it's being used more and more as time goes on; is that correct?

MR. TOBIAS

I realize that, yes, but I just....

MR. CASEY

You've exceeded your time, Mr. Tobias.

Further Discussion

MR. STINSON

Members of the convention, I would like to clarify several things. First, I would like to...some of those that might not know what the forced heirship is under the present law, of course, it is not in the constitution. Now, as to children, it's in the Civil Code, Article 1494. Now, if a person has one child, that child is forced to receive or they are forced to leave that child one-third of the property, two-thirds can be given to anyone, stranger, any charitable organization, any relative, or anyone. If there are two children, they have to be left half of the property. If there are three or more, the children have to be left two-thirds of the property. If there are no children, under the present law--not in the constitution, but in the Civil

Code--if their father and mother are living, they get two-thirds of the property. If there is one, either father or mother living, they get a one-third. There is some question in the jurisprudence during the Greenlaw Case as to whether it's one-fourth or one-third. Now, the reason is why should we have forced portions? I'm old-fashion enough to believe that children should still help in the family and they help while they are children in accumulating some of the property that their parents have. If you don't have forced heirship as in certain states you can leave them a dollar or five dollars and say, "That's all you're worth to me." The basis of our government and I believe all good government is our family group. I feel that a government, or a state, or a country is only as strong as the family ties. When we don't have families as in Russia and other communist countries, we don't have the love; we don't have the feeling. I think that forced heirship is based on that and we should retain it in our constitution because if we don't we are going to find that a lot of us will reach an older age, we momentarily do not think as we ordinarily would. A father or mother might not be mentally insane enough to be interdicted or prohibited from making a will. But, in a moment when they are not right up to par they might will the property away to someone else and hurt the family tie, ruin the family connection. Now, someone said that if an older person marries a second wife and has children by the prior marriage that it would be to the injury of the second wife. Well, now, the husband...there are a number of ways he can will that wife the disposal portion, in fact, if he has only one child he can will her two-thirds of his property; he can leave her an insurance policy; you can get government bonds made in her name; he can will other use of broad coverage. But, these changes are not in the constitution, they are in the legislature as they should be under this and under our past constitution. Now, as to the trust, if you don't have forced heirship, you wouldn't have a trust anyway, you're going to give them to someone else and usually the trust is to guard the property for some child that might not be exactly financially responsible and the parent is concerned about his future security. That's the concern of the parent, he should be the one to say what he wants to do with it; by putting it in you don't say he has to have a trust; it's if he wants to. After all, you argued one time was his property should be given away and another says, "Well, it's his property, but he shouldn't say how his child is going to have it; that's contradictory. But, under this it simplified leaving it to the legislature subject to change as times change. I would like to ask you to please let's reject this amendment and leave it like it is and leave it up primarily to the legislature as to who the forced heirs are, what the percentages are, and things of that type. So, I would like to urge you, please, let's vote this amendment down.

Questions

MR. BURNS

Ford, in line with what you just said. Do you not agree that if we do away with forced heirship that it's equivalent of authorizing disinheritance of children?

MR. STINSON

Yes, sir, I certainly do. Mr. Burns, what I'm fearful of is when a person gets up much older than we are, you know they pick up little things and they hold against a child because maybe the child doesn't come to visit them every day, so he doesn't love me any more, I'm going to cut him out and you have subject to that, it's not sound basically that we should disown a child. Why should you be adopted as some stranger to someone when the child is yours, it's your life and blood, he helped you accumulate it?

MR. BURNS

That's one of the greatest dangers I see of doing away with it, it would permit that to...enable it to be possible.

MR. STINSON

Yes, sir, I certainly agree. I still say, Mr. Burns, that usually those children help them accumulate it, of course, some of them.....

Further Discussion

MR. SMITH

Mr. Chairman, fellow delegates, I rise opposed to this bad amendment. I think it's very ill-advised. I'm not saying anything about my good friend, Gary O'Neill, but if you noticed, no lawyer introduced it. I think very few of them are going to support it. I've been a practicing attorney for over forty-four years; I've done a lot of succession practice, practically

more of that than anything else. I've written quite a few wills. But, I think I'm more adverse in heirship and succession proceedings. I think our forced heirship is good; it's fair, it's equitable. Mr. Stinson said it might in some cases--done some wrong and some others that have happened. But, I think all together like he said when a person leaves one child he can give away two-thirds, that's the disposal portion, two children, a half, three or more, a third, his wife is taken care of, too. When you have community property, the wife gets a half of the property anyway. If there are children of the marriage, she gets the use of the other half. So, I think everyone is well taken care of. If they have no children, then, the parents come in for a fourth or maybe a third, it's kind of confused right there. So, I think we have a very good law on forced heirship and it's been in our law from time immemorial. As a lawyer of many years and has done a lot of practice in the successions, I think we should go ahead and reject this amendment without any question. I, now, I don't think it's entitled to any more debate. I now move the previous question.

[Motion for the Previous Question rejected: 24-65.]

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, not having had the many years of experience in the practice of law that Mr. Smith has had, I've nonetheless had enough experience to view any abolition of the guarantee of the right to forced heirship as a serious mistake. I oppose the amendment for that reason. It seems to me that in our civil law system in Louisiana that we can be proudest of our laws on property and on succession and inheritance. The stability of our society, in my view, depends to a great extent on maintaining forced heirships. My reasons are thus: if you do not have forced heirship, you leave always open the possibility for squabbles among children, for instance, as to who is to obtain the favored position. You even leave it possible for some children to be shut out altogether from their inheritance. I think you put temptations in the way, of human nature being what it is, where you will have situations where people will be completely disinherited and alienated thereby from their family and in all probability for the remainder of their lives. You also have other motives of the stability of society involved here; the motivation of support for the children that one leaves behind; the motivation for the support of aged parents who are also forced heirs under this system because if the individual responsible does not support them, then assuredly society itself must do so. I feel that you increase very greatly the danger of imposing upon people who because of advancing years no longer possess perhaps the mental capacity to deal with wily schemes to induce them to leave their property to one individual or another and completely eliminate the inheritance of their other children or perhaps of their needy parents. So, for all of these reasons, I urge you to reject the amendment and to maintain the essence of the committee proposal which, I think, maintains the essence of our present law which is contained in Article IV, Section 16 of the present constitution and says succinctly that no law shall be passed abolishing forced heirship; let's retain that.

Question

MR. BURNS

Mr. Burson, in your practice of law, have you not had on many occasions a couple come to your office for the purpose of having you draw a will and when you explain to them the Louisiana law, they say, "Well, we don't need a will, that's the way we want it"?

MR. BURSON

Very many times, and I've also had the experience of people coming to the office to draw up a will, unfortunately, to find out whether or not they could disinherit two or three children and that situation, I'm afraid, would happen all too often.

Further Discussion

MR. RIECKE

Mr. Vice-Chairman and ladies and gentlemen, I have a particular interest in this amendment because you see I happen to be personally going through the process now of making a will and settling a succession. Under the present Louisiana law, two-thirds of my estate goes to my children who helped me to build up my business, and I think they are entitled to that. But, what I particularly object to in this amendment is the elimination of the establishment of the trust because you see when I remarried I lost the use of the property which my first

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wife and I possessed. Therefore, in an effort to try to take care of my new wife, whom you all know, who is only entitled to one-sixth of my estate, my lawyer is drawing up a trust so that upon my death she will be taken care of for the rest of her life only by one-third of what I own. If we would eliminate in this constitution the establishment of a trust, I don't know what my lady would do to support herself after I pass away. As you know I'm kind of an old man and she is a young woman, and I want to see that she is taken care of after I pass away. So, please, vote against this amendment which was submitted by a very young man who hasn't had the experience that I'm going through now. I know he will change his mind when he gets to be seventy, as I am. So, please, vote against this amendment. Thank you.

Further Discussion

MR. DENNERY

Mr. Riecke makes a hard act to follow, but I would point out to the convention the basis for forced heirship in Louisiana. It really goes back almost before the Populist Movement. If you all will take a minute and listen to me, as Mr. Jack would say, I will tell you some very interesting historical facts.

Under the English law, it is customary to leave all of one's estate to one's eldest child. This is known as the law of primogeniture--the eldest son, excuse me--and the French people, way back around the time of Napoleon, felt this was unfair because it was a method of building up large estates. The French people in our state also agreed that it was not a good idea to keep building up estates, generation after generation, because you would accumulate all the wealth in a very small group. That is the purpose, basically, of the laws of forced heirship. You can still disinherit an ungrateful child under certain specific bases--I think there are ten--of which I think only one has ever been upheld. The other nine are rather out-of-date now--such as refusal to bail somebody out if he's held by pirates for ransom--but the law of forced heirship is a basic law in this state. I don't believe it should be completely abolished. I do agree that there are some situations, under the present laws of forced heirship, which are unfair. I believe that the legislature can correct these, but I do not believe that the legislature should abolish the laws of forced heirship. The third sentence in this section is possibly more important. This is the one which authorizes the legislature to permit trusts to exist in Louisiana and to place the forced portion of a child, or an ascendant, subject to that trust. This is a method of protecting other heirs and, at the same time, permitting income to go to a widow or a widower, or a mother or a father, or a child who is an incompetent. It seems to me that it is essential for us to have something in the constitution which specifically permits trusts because trusts, like the law of primogeniture, are frowned on in the French law. Under our present-day tax setup in this country, however, trusts prove to be a very useful tool to lawyers, to accountants, and to anybody who's interested in protecting an estate from estate taxes. For this reason, I strongly urge you to defeat this amendment. The section is very simple; there is very little in it; it is not in great detail. It leaves a lot of leeway to the legislature; and, yet, it freezes into the law--and, I believe, quite properly--some of the basic concepts of our Louisiana law.

Questions

MR. J. JACKSON

Mr. Dennery, on the forced heirship, there's been some question, now, and tremendous debate about legitimacy and illegitimacy. There still would be a portion--if some suit is filed regarding the legitimacy or illegitimacy of a child--there still would be a portion under forced heirship whereby--let's say it resolved--whereby a person could very well, of the disposable portion, determine where that would go. Right?

MR. DENNERY

Yes. It depends upon the type of illegitimacy under the present code, but the code could be amended to protect that situation, Mr. Jackson.

MR. J. JACKSON

If the code is amended--let's say the code is amended--would this constitutional provision about forced heirship prevent or negate any changing of the code?

MR. DENNERY

I don't believe so. As a matter of fact, I think the code could probably provide that illegitimate children have as many rights as legitimate children.

MR. RIECKE

Yes. Mr. Dennery, I have a great deal of respect for your judgment, but you didn't say--in order to make it perfectly clear--you didn't say whether you were for or against the amendment.

MR. DENNERY

I said I was against the amendment. I urged everyone to vote against it.

MR. RIECKE

O. K. Fine. I just want that made clear.

Further Discussion

MR. JENKINS

Mr. Chairman, I rise in support of this amendment. Mr. Dennery very accurately discussed the historical background of forced heirship: the fact that primogeniture was the rule in England, requiring that sums be left to the oldest son; and how the French people in Louisiana chose to go with another system as an alternative to that--the idea of forced heirship--that children and other relations should receive a portion of an estate, to the exclusion of all others and possibly against the will of the deceased. The difficulty is that, in relation to primogeniture, forced heirship is a good concept, but there is another alternative. Both of those concepts are contrary to the idea of freedom of disposition. Both primogeniture and forced heirship say that a person's property is not truly his own, in regards to disposal. The state will determine, to some extent, how that property will be disposed of. I suggest the proper concept in a free society is that a person's property is his own and, when it comes time to dispose of it, he has the right to dispose of it as he sees fit--whether it be to his children or other people. The history of forced heirship was that we needed to break up vast estates. Land--a constant redivision. That is no longer socially desirable. Just the contrary is true. Tracts of land, in particular, are increasingly needed to be consolidated, not broken up. That is out-of-date. One of the bad things about forced heirship is that it gives children a financial interest in the death of their parents. At present, it is all but impossible to disinherit a child. Now, here's what a child can do to a parent: He can testify against him in court, falsely; he can have him committed to an institution, falsely; he could fail to support his parent when in distress. But, for none of those reasons, could a parent disinherit his children. That parent would be required, on death, to have certain of his assets and possessions go to that child who had wronged him in the past. There's no justice in that. Now, it's been said that this provision protects the idea of trusts. The best way to protect the concept of trusts and to promote their use is to delete this section so that the legislature can adequately deal with the question of trusts and not have constitutional limitations with regard to forced heirship. In any case, the present provision in the constitution says that forced heirship shall not be abolished. This says it shall not be abolished, but the heirs and their amounts can be determined by law. That means that the legislature could establish a system whereby one dollar would have to be given to each heir, and that would satisfy the forced portion; so it's not an effective prohibition. The only thing it can do is to muddle the law with regard to trusts and muddle the law with regard to the freedom of disposition. The social policy, if you're interested in social policies that ought to be pursued, is against forced heirship because children should be encouraged to take care of their parents. If you have a system of forced heirship, there's no financial incentive for children to take care of their parents because, whether they take care of them or not, they're going to get the forced portion. Virtually nothing the child does, except attempt the life of the parent, can change that. If children in this state knew that they could be disinherited for reasonable grounds, they would have more incentive to care for their elderly parents--to keep them out of rest homes, to keep them out of institutions, to give them the proper attention that they deserve. Forced heirship is contrary to that doctrine. By deleting this section, we will not abolish forced heirship, however; we would leave it to the legislature. That's where I think it ought to be left. The legislature can deal with this and, if in the future the legislature desires to change the laws of forced heirship, or abolish forced heirship, in its wisdom, it could do so. But, we don't need what is basically a Civil Code provision placed in the constitution. This belongs in the Civil Code, not here in the constitution. So, I urge you to adopt this amendment, delete this provision, leave it to the legislature; and, possibly, someday in the future we might have a system that would encourage children to take care of their parents, rather than giving children a vested interest, automatically, in the death of their parents. So, I urge the adoption of the amendment.

[Previous Question ordered. Record vote ordered. Amendment rejected: 11-93. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Next group of amendments sent up by Delegates Denny and Alphonse Jackson.

Amendment No. 1. On page 2, line 10, after the word "abolish" and before the word "forced" insert the word "descending".

Amendment No. 2. On page 2, line 11, after the word and punctuation "heirs," delete the word "an" and insert in lieu thereof "the".

Amendment No. 3. On page 2, line 12, after the word "for" delete the word "disinheritance" and insert in lieu thereof "disinheritance". (How do you say that? Has that got it, Mr. Denny?)

Amendment No. 4. On page 2, line 13, after the word "law" delete the words "for any purpose".

Amendment No. 5. On page 2, line 13, after the word "a" delete the portion of the word "legitimate" and the remainder of the word at the beginning of line 14, and insert in lieu thereof "forced portion".

The gentleman does not wish to offer the first amendment. He does not want to offer the first amendment, so Amendment No. 2 will become Amendment No. 1; Amendment No. 3 will become Amendment No. 2, etc.

Explanation

MR. DENNERY

I would like to explain that I deleted my first amendment because there was some question about whether we should limit forced heirship to descending heirs only, or should it remain, as it is now, in the ascending line? Now, it is true that under Social Security and pensions, etc., there is not as great a need for the forced heirship in the ascending line; and the legislature, therefore, within the framework of this section giving the determination of forced heirs and the amount of the forced portion, can take care of that situation if it is desirable to do. The purpose of the other amendments, really, are more or less technical. The insertion of the word "the" rather than "an" is purely technical, in the second line. "Disinheritance" is the word that is used in the Civil Code, and I thought it better to use the same language which the Code has, instead of "disinheritance." The fourth amendment--I deleted the words "for any purpose" because there was some question as to whether that did not limit the legislature, rather than make it more flexible; and, therefore, I have removed trusts so that trusts may be authorized by law. Instead of using the word "legitimate," I have gone back to the words "forced portion," which were used previously. These two words are interchangeable but, since we used "forced portion" on line 11, I thought it more desirable to use "forced portion" on lines 13 and 14. I would ask the adoption of the Amendments Nos. 2,3,4, and 5. I'm advised that the Committee on Bill of Rights and Elections has no objection to these.

Question

MR. AVANT

Mr. Denny, this is just one of those questions for the record. If your amendment is adopted, then, under this section as amended, the legislature would have the right by statute to change the classification of persons who are forced heirs, change the amount of the forced portion, or do virtually anything that, in their wisdom, they thought was correct with the system--insofar as correcting what they may feel to be inequities but they could not abolish the system. There would be a system of forced heirship, but what it consisted of, and all of the refinements thereof, would be up to the legislature?

MR. DENNERY

Yea, air. That's the whole purpose of this section, and I believe, Mr. Avant, that that's basically the law as it presently stands.

[Previous Question ordered. Amendment adopted: 101-3. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 102-6. Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

"Section 8. Protection of Vested Rights

[3078]

Section 8. Vested rights shall not be divested, except for the purposes and in accordance with the substantive and procedural safeguards established in this constitution for the taking or damaging of property."

Explanation

MR. JENKINS

Mr. Chairman, delegates, this is similar to the provision found in Article IV, Section 15, of the present constitution. That provision deals with ex post facto laws, laws impairing the obligation of contracts and vested rights. The provision on ex post facto law and laws impairing the obligation of contracts were placed in the Bill of Rights, and this provision would be placed here. I urge the adoption.

Chairman Henry in the Chair

Questions

MR. PEREZ

Mr. Jenkins, what are vested rights?

MR. JENKINS

A vested right--and I'm going to give you a technical definition, but I think it'll be correct--is a right to enjoyment, present or prospective, which belongs to a particular person. It must be absolute, complete, and unconditional, independent of any contingency, not a mere expectancy or contingent interest. There are three sources of vested rights: One is by contract; second is by statute; and third is by operation of law. An example of a vested right created by a contract would be the right to receive a thing for a price. The source of a vested right created by statute, for example, would be the right to receive Social Security benefits or to hold a judgeship, once you've been elected to that office. An example of a vested right which is formed by operation of law would be the right to redress for a tort claim, for example.

MR. PEREZ

And, this article would say that these vested rights "shall not be divested, except for the purposes and in accordance with the substantive and procedural safeguards established in this constitution." Where are those procedures that you talk about?

MR. JENKINS

They would be spread throughout the constitution. I think most would be found in the Bill of Rights, particularly the right to property, also due process of law, also the equal protection clause, and others that bear on such activities--the right to access of courts, all of the normal provisions that apply in such cases.

MR. PEREZ

Is there anything that you know of in the constitution which protects the right of prescription? to acquire property or lose property by prescription?

MR. JENKINS

I'm sorry; what?

MR. PEREZ

Is there anything that you know of in the constitution which gives the right to persons to acquire or lose property by prescription?

MR. JENKINS

No, it's not a question of giving that right; it's that you have no right granted anywhere not to lose by prescription. A vested right comes about by one of the three means that I talked about: either by contract, by statute, or by operation of law.

MR. PEREZ

Property is one of those rights, isn't it?

MR. JENKINS

Only to the extent established by law.

MR. PEREZ

So that the only way a person could lose property would be by expropriation provided in the Bill of Rights, and under no other conditions--including the fact that a person could never lose his property by prescription to another person?

MR. JENKINS

No, I don't believe that prescription of property has ever been interpreted as within the concept of vested rights. I don't think, under the present law, it has ever been interpreted that way. Do you understand that what we're doing here is similar to the present

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law? Just and adequate compensation has to be paid at present, when vested rights are divested, and just and adequate compensation has never been paid--nor has it been argued that it must be paid--in cases of prescription. This could, naturally, in no way change that.

MR. PEREZ

Isn't it true that there is a very significant change from the present constitution? because the present constitutional provision simply says "nor shall vested rights be divested, unless for purposes of public utility and for just and adequate compensation previously paid." But, there is no provision in there which would say "in accordance with the substantive and procedural safeguards established in this constitution." Isn't there a significant difference?

MR. JENKINS

I think the only difference would be with regard to the other concepts that we've already granted, like right to trials by jury, compensation to full extent of loss, and things of that nature.

MR. AVANT

What you have said, Mr. Jenkins, has interested me. You would agree--would you not?--that under the law, if a person is injured in the course and scope of his employment, he would be entitled to Workman's Compensation benefits if he met the definition of the law, etc. Right?

MR. JENKINS

That's right. That would be one created by statute--a vested right created by statute.

MR. AVANT

That would be a vested right, though? Now then, under that statute, under certain circumstances, he may lose that right if he refuses to cooperate with the physicians--just deliberately so--and various and sundry other possibilities where he might lose that right. Isn't that correct?

MR. JENKINS

Well, those are part of the rights. Those conditions are conditions precedent, I think, to it.

MR. AVANT

So, then he would have a jury trial to determine whether or not he had lost his right to receive workman's compensation, under this provision; would he not?

MR. JENKINS

I don't think that that's a case of divesting a right. That's a question of whether the right exists. Now, if you were going to take away his right to sue, for example, surely, he would have a right to trial by jury. That would be a strange case. In other words, there's a difference between divesting a right and saying that no right has ever existed. A person who is not entitled to judgment, in a particular case, is not entitled because he doesn't have a right to. It's not a question of his having a right which is then divested.

MR. AVANT

All right. Well, let's get on to something else, then. If I go out to an automobile dealer and buy an automobile, and pay for it and go get a license, then it's my automobile and I have a vested right to it; do I not?

MR. JENKINS

You have a vested right to receive it; correct.

MR. AVANT

All right. Then, if I loan that automobile to somebody and they start to transport heroin in it, that automobile can be taken away from me by....

That automobile can be confiscated by processes that are established by statute now. Correct?

MR. JENKINS

That's correct, and this does not change that.

MR. AVANT

Well, would not, then, that become a jury trial--if this is adopted--as to whether that automobile would be forfeited because I loaned it to somebody and they transported heroin in it?

MR. JENKINS

No, because we've already provided that...we've had a complete exception, under Section 4--the Bill of Rights, for contraband. We

except contraband from the prohibition against taking effects and things. That automobile, in that case, is contraband--just as certain drugs would be, or certain weapons would be.

MR. AVANT

As I remember that provision, it says that movable property will in no event ever be expropriated, except in cases of contraband.

MR. JENKINS

Personal effects, it says, should not be taken--not movables, necessarily.

MR. LANIER

Mr. Jenkins, when we're speaking of vested rights, do we mean tangible, as well as intangible, rights?

MR. JENKINS

Well, a right is not a tangible thing in any case. When you say a tangible right, I suppose you mean a right to a thing.

MR. LANIER

A tangible or intangible thing; right.

MR. JENKINS

In the cases of the tangibles, generally, our law with regard to property takes care of those. Also, let me say this with regard to the types of vested rights--the vested rights being created in three ways: by contract, by statute, and by operation of the law--there is an absolute prohibition in our present law against impairing the obligation of contracts; so, with regard to vested rights created by contract, there is now--and we have already agreed again to maintain in the Bill of Rights--the absolute prohibition against impairing the obligation of contracts.

MR. LANIER

But, what I'm getting at is, since vested rights can be tangible and intangible and we've provided for a method of taking the tangible, if we do not provide for a method of taking the intangible, then they cannot be taken. Would that be correct?

MR. JENKINS

No, that is not correct because the courts have made a distinction, consistently, between property and certain vested rights. They have made that distinction; they have said that the two are different. The typical thing would be like Social Security benefits, to which you may have a vested right, but it is not property.

Amendment

MR. POYNTER

Mr. Perez has two sets of amendments: One's to delete, and the other....

The amendment simply reads:

[Amendment No. 1.] On page 2, delete lines 15 through 19, both inclusive, in their entirety.

Explanation

MR. PEREZ

Mr. Chairman and ladies and gentleman of the convention, I think that, from the discussion which we have already heard with respect to this section, that there is a great deal of confusion as to what the word "vested rights" means. But, one of the most important of all vested rights, of course, are property rights. In the Bill of Rights Section, we have gone into great detail, and we debated--as I recall it--at least one, maybe two, days on the question of right to property. I will quote to you the first sentence, which says: "Every person has the right to acquire, control, own, use, enjoy, protect, and dispose of private property. This right is subject to the reasonable statutory restrictions and the reasonable exercise of the police power." Then it goes on to talk about how property may be expropriated. One of the things that very much concerns me, with respect to this provision, is that, if you read the second clause which says "vested rights shall not be divested, except for the purposes and in accordance with the substantive and procedural safeguards established in this constitution for the taking or damaging of property," then it would mean to me that under no conditions could anybody lose their property, except through expropriation. Now, we have many, many, many exceptions under the laws of this state as to how persons can lose their vested rights, their property. We have the laws with respect to prescription, where a person can lose his property if he allows someone else to take possession of that property for ten years or for thirty years, depending upon whether he's a good-faith possessor or not a good-faith possessor. We have the provisions, under the

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law, where a person can lose his automobile if they have narcotics which are seized into it. We have executory process under our mortgage laws. This provision is so foreign to so many of these various so-called vested rights, which we now have, that it would seem to me that we would put ourselves in a position where we would be virtually doing away with the right of a person to lose property under any circumstances, except by expropriation. Let me call your attention that the words "vested rights shall not be divested"--it does not say "to the public." It is not limited in any way; it is general. You just absolutely cannot lose your rights, "except in accordance with the substantive and procedural safeguards established in the constitution for the taking or damaging of property," which is Section 4 of the Bill of Rights, which requires that the only way you lose property is through expropriation. I say this is a very ill-advised section. I don't think we need it. I think that we have more than adequately protected the right to property and the right to vested rights under Section 4 of the Bill of Rights, and this particular provision is so general in its terms that I just can't get to the end of my imagination as to what could be interpreted...what this section could be interpreted to mean. I therefore strongly urge you that we do not need this provision and that, therefore, the amendment which I have offered should be adopted--which would, in effect, delete the section. I'll yield to questions.

Questions

MR. WILLIS

Mr. Perez, irrespective of how you define "vested rights" it has to be referable to property; doesn't it?

MR. PEREZ

That is no question about that particularly because of the fact that the last few words say how you lose the property you have to...some of the safeguards established in this constitution for the taking or damaging of property.

MR. WILLIS

Now, to project my question, there are two kinds of property: movable and immovable. In each there are two kinds also, corporeal which you can touch, and incorporeal, which is a right evidenced by such as a mortgage note.

MR. PEREZ

That's correct.

MR. WILLIS

Now, with those two precepts in mind, if that section stays in, it is a total destruction of the prescription provisions of our laws.

MR. PEREZ

Yes, I've already commented on that where, in my judgment, this would do violence to all of the various laws of prescription and I might say that many, many of you who own your homes, you might go back and find somewhere along the line that the prescriptive rights is what protects the title of your property.

MR. WILLIS

Well, I was coming to that, but then my next question will be if we destroy the thesis or the theory of prescription not only would that happen, but there would be never an end to litigation and there would be no quiet title in Louisiana.

MR. PEREZ

That's certainly true.

MR. JENKINS

Mr. Perez, you have an amendment which you apparently will offer if this one fails that says "vested rights shall not be divested unless for purposes of public utility and for just and adequate compensation previously paid"--the present constitution. Do you think that that negates all prescription laws in the state?

MR. PEREZ

No, sir, it doesn't.

MR. JENKINS

Then, why would this?

MR. PEREZ

Because of the fact that you are limiting the method by which you can lose vested rights, you say "except for the purposes and in accordance with the substantive and procedural safeguards established in this constitution for the taking or damaging of property," and the only way you can lose property under those

provisions which is Section 4 of the Bill of Rights, is through expropriation of funds.

MR. JENKINS

So, you are of the opinion that if divested...if vested rights are divested...no, that if someone loses his property by prescription, that is a divestiture of vested rights. So, then, why haven't we been paying compensation all these two hundred years when someone loses property by prescription?

MR. PEREZ

Because if you will read the present provision in the constitution, it says "unless for the purpose of public utility," and that has been interpreted by the courts as to mean expropriation and for a just and adequate compensation previously paid.

MR. JENKINS

In other words, just and adequate compensation previously paid is a prerequisite to taking for a public utility. Is that correct?

MR. PEREZ

The two terms "unless for purposes of public utility" and "for just and adequate compensation paid" limit the words "nor shall vested rights be divested" in the present constitution, and that has been interpreted by the courts to mean that you can't...the public cannot take property unless through its appropriation or other methods which will comply with other constitutional provisions, and I say to you, sir, that under the article and right to property that we have every protection that is needed to a property owner. I can't conceive of why we would need this proposed section in the constitution.

MR. JENKINS

Do you realize that this is proposed not to protect the right to property because the courts have made a distinction between the right to property and vested rights. Do you realize that?

MR. PEREZ

I'd like for you to elucidate a little bit if you will. A vested right is certainly a right to property, and you can lose that right through prescription, that is, by adverse possession by another person. That's one example. There are many, many other cases where vested rights can be lost by the action of others or by the failure on your part to do something. You are so limiting this provision which says that you can't lose vested rights under any condition unless it's in accordance with the substantive and procedural safeguards established in this constitution for the taking or damaging of property. That strictly refers to expropriation. That's the only way, as I read Section 8, that a vested right can be divested.

MR. JENKINS

Mr. Perez, really, you seem to ignore the things I said in answer to your question earlier. Don't you agree that vested rights can be divested only by the state?

MR. PEREZ

No.

MR. JENKINS

How can one private individual divest another of his rights?

MR. PEREZ

By virtue of the articles of the Civil Code and other articles of law, for instance, again, with respect to prescription.

MR. JENKINS

Can you cite even one case that has ever held that prescription is a divestiture of rights?

MR. PEREZ

Well, I'm sure I could if I dug into the law books, but I know we've been covering a varied subject and a lot of different matters, but there was no question under any reasonable interpretation that a right...that the word "right" means your right to property. You have your provisions in here with regard to right to property. That's what your Section 4 is entitled--"Right to Property." That right may be divested by virtue of prescription.

Further Discussion

MR. JENKINS

Mr. Chairman, I really hate to say it, but you've been getting bad factual information from Mr. Perez. The information

he's giving you is simply not the law. I have researched it. He admits he hasn't opened the books; I have. There is no instance I've found in any citation found in our constitution that has ever held prescription to be a divestiture of rights. For one thing, prescription is a private action that occurs as between private parties, or as between the state and a private party, the state being as a private individual in the case of prescription. Divestiture can only be taking place by the state or by a political subdivision. That's always been the way it's been interpreted. There are two prerequisites in our present law for divesting vested rights. First, it has to be for a purpose of public utility. Second, it has to be with just and adequate compensation. Prescription has never been held to be such a thing. You don't have to pay just and adequate compensation for prescription. The arguments you're getting here are not even germane to the subject because divesting vested rights has nothing to do with prescription. Also, Mr. Perez's argument seems to be with the Right to Property Section. This gives no additional rights to a citizen to enforce his property rights. The property right protection is found in the Right to Property Section in the Bill of Rights, as well as scattered throughout the miscellaneous provisions throughout the constitution. What this section does is to maintain the present protection that people have for vested rights which are other than property rights. Naturally, it protects the property rights, by referring to the Property Rights Section. But, it protects those other vested rights such as the right to social security benefits from the government which comes about by statute; the right to a pension benefit from a private company, which would come about by operation of the law; the right to sue in a tort claim, which would come about by virtue of the operation of law; the right to hold a public office, which comes about by statute; now, that's what this deals with. It says that if you're going to take such a right, divest a person of such a right, you have to do so for the purposes outlined under the Bill of Rights and other provisions, and with the same compensation and so forth, required there. We've already discussed the Property Article. This doesn't affect that, but an important thing to remember is that the Property Rights Section does not protect all vested rights. It only protects those vested rights which are property rights, and there are other vested rights. One example I know the educators would be concerned about would be their right to their retirement benefits. That is a vested right, and we have always provided in our law that those vested rights cannot be divested except with payment of just and adequate compensation for purposes of public utility. Now, we must have a provision in this constitution protecting vested rights. We've always had that, and certainly we could disagree as to whether we ought to make the same procedures with regard to taking of property or whether or not we should just continue the same provision. But, certainly, we can't just delete this section altogether and not have protection in our constitution of people's vested rights. So, I urge the defeat of this amendment.

Questions

MR. TOBIAS
Woody, is this provision in the present 1921 Constitution?

MR. JENKINS
Yes, the present constitution says in Section 14 of Article IV "nor shall vested rights be divested unless for purposes of public utility and for just and adequate compensation previously paid."

MR. TOBIAS
Then, that's the other Perez amendment?

MR. JENKINS
That's the other one, but you notice that the language that I just read you conforms with the provision for taking property under the present constitution. We have changed that provision to Section 4 of the Bill of Rights. It's reasonable and logical to change this provision as well to conform so that the procedures, the purposes, the safeguards, and so forth remain the same.

MR. TOBIAS
I don't see how this provision doesn't go further. Could you explain how it does not? In other words, this...

MR. JENKINS
Well, you know, I'll try to explain again. There are different types of vested rights. The right to property is one of them, but every vested right is not a right to property. There are other types of property rights. Vested rights come about by

three means: contract, operation of law, and by statute. Most of those aren't property rights, and if a person is going to have his vested rights taken, they ought to conform to the same procedures as if his property were taken. But, the taking in every case is taking by the state or a political subdivision. That's the only sort of taking that a Bill of Rights or a constitution can deal with. It's for the statutory law to deal with the relations of persons--theft, and things like that, defining those things.

MR. AVANT
Mr. Jenkins, I believe you made the statement that we would-- to this effect--that we've just got to have this provision about vested rights in the constitution, that we've always had it.

MR. JENKINS
That's correct.

MR. AVANT
Now, there's no similar provision in the United States Constitution, is there? There's a simple provision that says that no person shall be deprived of life, liberty, or property except by due process of law. Isn't that all it says?

MR. JENKINS
I'd have to check. I believe you're right. But, you see the courts have reached the same result under the U.S. Constitution in many cases involving impairment of the obligation of contracts. They've, I think, found other bases such as equal protection and due process to imply most of these things. But, our constitution has had this since 1812 and it's been in every constitution we've ever had, and I think we sure need it.

MR. AVANT
Now, under the United States Constitution, isn't it federal constitutional law that you cannot divest a person of a vested right except by due process of law and in accordance with equal protection of the laws and all of the other constitutional guarantees that you have?

[Previous Question ordered. Record vote ordered. Amendment adopted: 71-30. Motion to reconsider tabled.]

Amendment

MR. POYNTER
I don't have distribution copies of Mr. Jenkins's set of amendments which has the effect of adding back a Section 8 with different language.
Amendment No. 1. On page 2, delete lines 15 through 19, both inclusive, in their entirety--which has already been done--and insert in lieu thereof the following:
"Section 8. Protection of Vested Rights
Section 8. Vested rights shall not be divested, unless for purposes of public utility, and for just and adequate compensation previously paid."

Explanation

MR. JENKINS
Mr. Chairman, this is the same as Mr. Perez's second amendment that he apparently was going to offer if his first one had not passed. This is the present law verbatim out of the Article IV, Section 15 of the Louisiana Constitution of 1921. It is the same language that has been in every state constitution since we've had a state. Truly, we would make a terrible mistake if we wouldn't give this constitutional protection to vested rights because you're talking about more than property rights. Property rights are protected in the Bill of Rights, but other vested rights are not except in certain limited ways. So, I certainly urge you not to make a mistake and leave this out, and go ahead and adopt this amendment to preserve the present language of the 1921 Constitution.

Further Discussion

MR. GRAVEL
Mr. Chairman and ladies and gentlemen of the convention, I speak briefly in opposition to this amendment because I think it definitely causes some serious problems. Irrespective of whatever language may be in the present constitution, based upon what we have done already in the proposed new document I think we've got to proceed with real caution. This particular provision as I interpret it, would prohibit the Department of

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Highways, for example, from taking property necessary for a highway development unless and until there had been a final adjudication by the court including those cases in which a jury trial was held, on up to the courts of last resort, that the compensation paid was just and adequate. If you read it very carefully, you'll see that there can be no taking of any kind of private property until the determination has ultimately and finally been made that the compensation is just and adequate. Now, we've already provided for the adequacy and fairness of compensation payment. But, that should not stand in the way of a public right being exercised to take property in those instances where property must be taken for public purposes. Therefore, I move, if there are no other speakers, I move the previous question on the amendment, and ask that you vote against it.

[Motion for the Previous Question withdrawn.]

Questions

MR. WEISS

Delegate Gravel, you said that this is in the old constitution. Since 1921, for fifty-two years, then, this has been in the present constitution. Has it interfered with the acquiescence of highway rights-of-way, or has it interfered in any way with just compensation? Why can't it be in the present constitution?

MR. GRAVEL

You've got a special quick-taking provision that's in another section of the constitution that refers, I think, to the Department of Highways.

MR. WEISS

We don't have that in the present, in the '73.

MR. GRAVEL

Not specially for the Department of Highways. I really am very much concerned about the language because this amendment indicates to me that there can be no vesting of title in the expropriating body, whether it be local government or the highway department, or some other body that's entitled to expropriate unless and until just and adequate compensation, which is now a jury fact question has been determined and paid. I think it's a very serious problem, and I ask you to vote against the proposed amendment.

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, we have just a few minutes ago overwhelmingly voted to remove this Section 8, and even though the provision which is suggested by Mr. Jenkins now is not as damaging or would not be as bad as the present provision. I'm satisfied that everything has adequately been taken care of, and what we've already adopted in the Bill of Rights, and in fact if we adopt this provision as has been said before by Mr. Gravel, it will in certain respects conflict with the present provision. So, I, therefore, urge you to defeat the amendment.

Questions

MR. TOBIAS

Chalin, what does the phrase "public utility" mean to you? Could it not be interpreted to mean to whatever the legislature says is public, is public utility? Doesn't "public utility" mean public usefulness?

MR. PEREZ

That's a possibility...public utility generally means public use, as I...or for the use of the public, generally, is the definition I'd give for public utility.

MR. TOBIAS

But, it could be interpreted a lot more broadly than that, could it not?

MR. PEREZ

Well, it has been determined in many cases that there are many things which are questionable, but that the legislature has declared to be something of public utility.

MR. O'NEILL

Mr. Perez, I saw the same amendment on my desk, but it had your name on it. Did you plan to oppose your own amendment, or was

MR. PEREZ

If you will notice, I offered the amendment to delete the section first because I didn't think it was needed. In the event the first amendment offered by me failed, I was going to offer the second one because of the fact that I felt it wasn't as bad as the first one. But, I again reiterate the fact that I don't feel that we need it, and that's why I went with the first amendment first to delete the entire section because I don't think it's needed.

[Previous Question ordered.]

Closing

MR. JENKINS

Mr. Chairman, all I can say is that we really ought to think about this issue. Leaving this out would be like leaving out freedom of speech, or some other comparable provision. We've had this in our constitution for so long; is it needed? Yes, it is the only constitutional protection we have for the divestiture of rights other than property rights. Now, all these great problems that Mr. Gravel alluded to...you know, we've had it since 1812; we've been living with them so long I guess we can continue to. I certainly hope you will go ahead and adopt this amendment. It is exactly the 1921 constitutional language and that of the constitutions that preceded it. It says that if vested rights are divested it has to be for a public purpose and with payment compensation. So, I urge the adoption of it.

[Amendment rejected: 39-66. Motion to reconsider tabled.]

Personal Privilege

MR. TATE

Mr. Chairman, fellow delegates, at your desk in front of you should be a package of paper like this with a big "1" on it. It's the Style and Drafting Report on Judiciary. If you don't have it, Butch over there--raise his hand--there's a pile over there. You can go get one or he'll send one to you. I understand that the Chairman is going... with your permission, is going to call this up in the next day or so. Is that right, sir?

MR. HENRY

That's right, yes, sir. I'm listening, Judge; we're going to call this up in the next day or so.

[Motion to consider Section 5 previously passed over adopted without objection.]

Reading of the Section

MR. POYNTER

Section 5. Oath of Office
"Section 5. All officers before entering upon the duties of their respective offices shall take the following oath or affirmation: "I, (A B), do solemnly swear (or affirm) that I will support the constitution and laws of the United States and the constitution and laws of this state and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____ according to the best of my ability and understanding, so help me God."

Explanation

MR. A. JACKSON

Mr. Chairmen, ladies and gentlemen, Section 5 sets forth the provision that will be used as an oath for all elected officials, all public officials. It is substantially the same as in the 1921 Constitution with the exception that it deletes the exception clause and I, therefore, move the adoption of Section 5.

Questions

MR. LANIER

Mr. Jackson, as you and I previously discussed about this, the way this thing is written, it pretty well follows the present constitutional provision that nobody can legally be in office unless they take this particular oath; is that correct?

MR. JACKSON

That is correct.

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MR. LANIER

As we discussed, Louisiana Revised Statute 42:1 defines a public office as any elective or appointive position of any type whether it be a board, or commission or otherwise which is established by the constitution or by a statute; is that correct?

MR. JACKSON

That is correct.

MR. LANIER

If, we leave this language as it is, we could be creating a situation for all of these various boards and commissions similar to the one that C.C.'73 found itself in where we took the statutory oath on the first day, but then we had to come back and take the constitutional oath and ratify our previous actions; wouldn't that be correct?

MR. JACKSON

That is correct.

MR. LANIER

Would you have any objection to deleting the language that makes this a mandatory oath before entering upon the duties of the office and leave that up to the legislature to determine the point and time when the oath would have to be taken?

MR. JACKSON

I don't have any serious objection; we discussed it in committee. I would suggest that you offer your amendment and let the convention decide.

Amendment

MR. POYNTER

A set of amendments sent up by Delegate Lanier.

Amendment No. 1. On page 1, line 30, after the word "officers" delete the remainder of the line and on line 31, delete the words "their respective offices".

Explanation

MR. LANIER

Mr. Chairman and fellow delegates, the purpose of my amendment is to leave in the requirement that all public officers must take the prescribed oath, but to remove the constitutional requirement that this absolutely must be done prior to the time that he assumes his duties. I do this for several reasons. As you will recall, the first day that we came here, we took an oath that was prescribed in the statute that created us, Act 2 of 1972. We did not take the oath that was prescribed in Article XIX, Section 1 of the present constitution. As a result of this, if you will look at the second day's proceedings in our journal, we got an opinion from the attorney general of the State of Louisiana recommending to us that we take the constitutional oath and also to ratify our previous actions, part of which, I might add was the election of our Chairman and the establishment of our temporary rules committee. I believe that if we leave this language in here, we're really constitutionally creating a trap for the unwary such as we were here in C.C.'73, in that under the present statutory law and I would specifically refer you to R.S. 42:1, the term "public office" is defined as follows: "as used in this title, the term public office means any state, district, parish or municipal office elective or appointive or any position as member on a board of commission, elective or appointive when the office or position is established by the constitution or laws of this state. Public officer is any person holding a public office in this state." Now, if you look further in Title 42, under 42:161, it is a statute which does prescribe as follows: "all public officers shall take and subscribe the oath or affirmation required by Article XIX of the constitution before acting in their respective offices." What I'm suggesting is, that if we leave this language that I'm seeking to delete, and the specific language is: "before entering upon the duties of their respective offices," if we leave that in there then we have constitutionally provided that nobody can act unless they take this oath. I think we would be leaving open situations with all of these boards and commissions where they might find themselves in the same position that we were in, where through inadvertence is no question of any bad faith; everybody wanted to take the right oath and ultimately we did, but we could have a situation created where all of these people who didn't take oaths would be acting ultra vires. Now, it may be that ultimately the legislature in its wisdom may wish to prescribe that such offices as judge or district attorney or House of Representatives or Senate, that they must take their oaths before going in office. But, with reference to some of these minor positions we could--well, maybe in the future--wish to provide that the oath must be taken within

ten days after assuming office. So, I think, that rather than use this language and I might add, that the language in the committee proposal is even more restrictive than the present language. In the present Article XIX, Section 1, there is an exception to this rule where it says "except as otherwise provided in this constitution." There is no exception in the language that is proposed here. I would suggest that what the committee proposal has is presently provided for by statute. If we lock it into the constitution, we could be creating and probably will be creating a trap for the unwary and some of these minor boards and minor positions, and that we should leave some flexibility in this area for the legislature to act. I have no opposition. I think it's a good thing that we require the oath of office. The issue is, at what point in time do we require the oath of office, and I think that legislature can make that determination depending on the type of office it is or, at least, they could have the flexibility under my amendment. If my amendment is not adopted, then, of course, I think we would be in the position that you may absolutely not take any public office as defined in the statutes unless you take the prescribed oath, which could leave some people in the position like we were in here, in the convention on our first day. I would urge the adoption of the amendment. Mr. Chairman, I'll be happy to try and answer any questions.

Questions

MR. AVANT

Mr. Lanier, wouldn't it be better just to amend the statutes and make the statutory oath conform to the constitutional oath?

MR. LANIER

I think, well, the present statute does conform with the present constitution.. .

MR. AVANT

All right, don't. .

MR. LANIER

. . . if we adopt this, then as I read it, the only difference between the statutory provision and the new provision will be the numbers. In other words, the R.S. 42:161 says that "all public officers shall take and subscribe the oath of affirmation required by Article XIX --now this may not be Article XIX-- of the constitution before acting in their respective offices." So, I think the only way that the present law would be out of line with this provision would be within the particular article that it designates. What I'm saying is, if we lock this requirement in here, then in the future the legislature would not have the authority to provide different means for taking the oath for different types of public offices.

MR. AVANT

Well, now what my question is and what bothers me. Suppose you just leave it in there to the legislature as to when an elected or appointed officer is going to be required to take the oath of office; that would permit him to assume the duties of the office before he ever took the oath; right?

MR. LANIER

That is correct.

MR. AVANT

Now, what's going to be the situation, the criminal law being as highly technical as it is--and this is what really bugs me-- if someone has assumed the duties of the office, but has not taken the oath and then would be guilty or commits an act which, had he taken the oath, would be nonfeasance or misfeasance or dual officeholding or any of the various and sundry criminal offenses that he might commit. I'm afraid that you'd just be creating a technical loophole for that fellow to walk right out the door without being guilty of a crime although he's. . .

MR. LANIER

I don't think that's accurate, Mr. Avant, for this reason. If the manner of taking office is provided by statute, and if he assumes the office in compliance with the statute even though the statute allowed him to take the oath at another time, he would still be legally in office and required to do certain things statutorily. Actually, you have brought up a good point from the other way around. If you stop and think about all the different agencies, if those people haven't taken the oath, it may well be that you would fall into your situation where you couldn't do this because of this constitutional provision because they hadn't taken the constitutional oath just as we didn't on the first day that we were here. So, I think perhaps the point you're raising is a stronger argument for my approach than it is for going against this approach.

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MR. AVANT

Well, I wasn't taking any approach and I'm satisfied with your answer and I think you may be right. I just don't want to create a situation where someone, because of the technicality of not having taken the oath yet, or actually performing the duties of the office, could maybe escape through some loophole.

MR. LANIER

I think you've raised a real good point, Jack, and the point is really that this is a two-edged sword. It can cut both ways, you see. If they are required to take it and they haven't, they're not legally in office. On the other hand, if you have a statute that says that they shall do it a certain way and they do comply in that way even though it doesn't require an oath initially, they could still be in violation and chargeable. But, it is a two-way sword; it depends on which way you look at it.

Further Discussion

MR. TOBIAS

Mr. Chairman, fellow delegates, of course, about one year ago today I was the one who caused all the trouble over the oaths and I almost hesitate to rise in opposition to this amendment. But, I would point up this and I think that each person should consider,

do you want your elected officials to exercise the duties of their office without swearing that they will uphold the constitution and laws of this state and of the United States? I think it's a small thing to ask to say that they have to take an oath before they can exercise the duties of their office. I would reemphasize the points that Delegate Avant made regarding the question of whether he could get out of the charges of malfeasance if he did not take this oath. It's nine words, I don't think it hurts anyone to leave those nine words in, and I think it provides a protection to guarantee that your public officials will uphold the laws of this state.

[Previous Question ordered. Amendment adopted: 52-45. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 98-4. Motion to reconsider tabled. Motion to revert to other orders adopted: 55-44.]

Report of the Secretary
[II Journal 1091-1093]

[Adjournment to 9:00 o'clock a.m.,
Friday, January 4, 1974.]

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Friday, January 4, 1974

ROLL CALL

[87 delegates present and a quorum.]

PRAYER

MR. STOVALL

Let us pray. O God, our health and ages passed, I will hope for years to come our shelter from the stormy blast and Thou eternal home. We give thanks to you for the gift of this new year. We accept it as a sacred trust from you. We accept it as an empty form to be filled with things worthwhile, service to You and to one another. May we begin this day in the decisions that we made to do those things that will contribute to the welfare and the well being of our state. Bless each one here assembled and guide us in our deliberations for we offer our prayer in Your name and to Your glory. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

REPORTS OF COMMITTEES LYING OVER
[II Journal 1094-1095]

* * *

[Motion to withdraw Delegate Proposal No. 53. Substitute motion that Delegate Proposal No. 53 be engrossed and passed to third reading.]

MR. POYNTER

Delegate Proposal No. 53, introduced by Delegate Leithman. A proposal making provisions for education and necessary provisions with respect thereto. Comes from the Committee on Education and Welfare. Reported without action.

Explanation

MR. LEITHMAN

Mr. Chairman, members of the convention, it's not my intention to go into this matter and prolong this issue. This is Delegate Proposal No. 53, this is the single board of education concept. I'm asking you now to merely have this proposal engrossed and passed to its third reading. At this time we have, also on the calendar, Delegate Proposal No. 54 which is just a statement on education. I'm not going to go into the context, it's not really proper to go into the context of the proposal but I merely wish to point out at this time that I don't feel any other subject matter in the constitutional convention has attracted more attention and more disfavor to the constitution than has the Education Article which we have adopted thus far. In closing, I want to reemphasize and I think most of you have been contacted in your local areas that your student government people, your student bodies of each of your independent universities have contacted you, or should have, the alumni association of the universities are behind the single board concept. You have the letter from the governor, Governor Edwards. You have a letter, also, from Superintendent Michot supporting the single board concept. The State Board of Education has already publically announced their support of the single board concept. Several members of the State Board of Education have indicated that they will oppose the constitution in toto, should it remain with the five boards as we now have it. The LTA Association, this is your teaching people around the state, your teachers have supported in their convention a single board concept. The Association of College Presidents or deans, I don't know the exact terminology of the organization, but they as a body have gone out to support the single board concept. In final, your legislature has already gone with the Superboard; your Committee on Higher Education which several of your members here serve at this present time are very much concerned about it and as a legislative body, you may see the constitutional convention opposed by the Committee on Higher Education which is compromised of state legislators. So, this is the case, I think, it's overwhelming that we do something about the education proposal. I think we have been criticized enough with the situation that we are in now. I will ask you to merely pass this. This is just keeping it alive. The governor is not happy and he's not content with the five boards that we now have. I don't know what the future lies, it's going to happen quickly. My mere request of you is to keep No. 53 alive and on the calendar, it may never come to the floor, but let's not just discard a single board concept. I'll ask when

the time comes to merely ask that it be engrossed and passed to its third reading. Thank you.

Questions

MR. BURNS

If we have any alternatives, have you given any thought to try to get this on as an alternative?

MR. LEITHMAN

Yes, Mr. Burns. We are considering an alternative proposal and it's pretty much a parallel to the single board to this particular proposal. So, it's not in line by line, but it is a similar....

MR. BURNS

Same concept?

MR. LEITHMAN

Yes, sir.

MR. HERNANDEZ

Mr. Leithman, this is that proposal that we beat to death for about a year in committee; isn't it? Isn't it the same one?

MR. LEITHMAN

I think the spread was two votes or three votes. I don't think two or three votes is indicative of a hundred and thirty-two delegates of the constitution.

MR. HERNANDEZ

Well, it was reported without action more as a courtesy to you than anything else; wasn't it?

MR. LEITHMAN

No, sir.

MR. HERNANDEZ

Well, we reported it without action to keep from just saying reporting it unfavorably.

MR. LEITHMAN

If you would read under your morning...order of the day, you'll see about eight or nine education reports lying over. All of those were reported under the same circumstances and there was no favor granted on any of them.

MR. HERNANDEZ

Reported without action?

MR. LEITHMAN

Without action.

MR. HERNANDEZ

And, rather than report them unfavorably.

MR. LEITHMAN

Right, all eight or nine of them.

MR. HERNANDEZ

You didn't consider that a courtesy to you?

MR. LEITHMAN

No, sir, in fact, if you remember the committee, we wanted to handle them all as a group without action.

MR. HERNANDEZ

Yea, sir.

MR. LEITHMAN

You remember that?

MR. HERNANDEZ

Yes, sir.

Further Discussion

MR. THISTLETHWAITE

Mr. Chairman, fellow delegates, this plan is the so-called Montana plan for higher education which is a two board plan calling for a Board of Public Education for elementary and secondary and a Board of Regents for higher education. The State of Montana has a population of about the size of the city of New Orleans; it's got five degree granting institutions; it's the only state with this same setup. These two boards, then, are theoretically--according to the plan--form a single board to

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discuss mutual problems. In Montana this board functions.... this plan functions as a two board plan. There are no advantages that this plan offers the State of Louisiana compared to the advantages that the plan which this convention has already adopted or offers, and I see no reason for keeping this plan alive at all. I urge that the convention turn down any further action with regard to this Montana plan and drop it, let it fall by the wayside. I urge opposition to Mr. Leithman's proposal.

Further Discussion

MR. COWEN

Gentlemen of the convention, this is a single board true and it sounds real good when you say that a single board is going to handle all of education. But, we who supported Committee Proposal No. 7 feel that this is a true single board plan in every respect and it has the management boards who will take the load off the day-to-day cares of the board and the management of the higher education. We feel that, really, we have a single board in every respect so far as planning and coordination and budgeting is concerned. We feel that really this No. 53, the board that Mr. Leithman says is really a single board and can do so well can not do all the jobs it's supposed to do and also handle the day-to-day affairs. We do not feel that this is a good plan. We urge you to reject it because as Mr. Thistlethwaite already outlined to you it is a Montana plan and it does not work in the same respect at all that has been described in Committee Proposal No. 53. We urge its rejection.

Questions

MR. STINSON

Mr. Cowen, we've already voted a number of times on this same idea. If this is advanced and put on the floor, don't you predict that it may be three or four days more battling back and forth?

MR. COWEN

I think so, true.

MR. STINSON

We really don't have that much time; do we?

MR. COWEN

No, we do not.

MR. JUNEAU

Mr. Cowen, I agree with you that we ought to save the time of this convention. Would you, in view of the publicity we've got on this....would you be agreeable to passing a rule, maybe where we could in open debate discuss whether or not this should be....this kind of concept should be an alternate on the ballot?

MR. COWEN

I don't even think it ought to be an alternate on the ballot, Mr. Juneau.

MR. ROEMER

Don't you think that what Mr. Leithman is trying to do is just in view of the feedback that many of us have gotten when we've gone home, particularly these of the education, is leave open the possibility that we want to discuss this again, I mean, I think that's a fair request; don't you?

MR. COWEN

Mr. Roemer, if we're going to have selection, let's go to an alternative and decide what we are going to do about that and let's bring it up there. We don't see any reason to continue to discuss this matter now.

MR. ROEMER

I see. But, you've made it clear that you're not even in favor of putting this as an alternative on the ballot; are you?

MR. COWEN

I am not.

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, normally all I would want to reopen is the date for qualifying for a delegate to this convention. However, in view of the great controversy over the question of a single board for higher education and the fact that many do feel very strongly about it, I urge that you vote to engross and pass it to third reading and keep it alive in the event that this convention decides to reconsider it later. We always can

reject it when it is called from the calendar. The vote was close and it may well determine the fate of the constitution. It was said that we don't have the time. Well, if we fail to reconsider some of these decisions, we may well have wasted fourteen months, so it's a question of two days versus fourteen months. I urge you to vote to engross and pass it to its third reading. Thank you.

Further Discussion

MR. HERNANDEZ

Mr. Chairman, ladies and gentlemen of the convention, this is the same old proposal that we've beat to death for a year now. It's been brought up in committee time after time, this same concept has been voted on before and it is not practical. It has been definitely proven to the membership of the Education Committee that there is a dire need for more boards. Frankly, this is aimed at the L.S.U. Board of Supervisors, that's one of the main things it's aimed at. Now, L.S.U. is a wide and varied system of education, it includes the university and everybody knows that Louisiana can only support one big university. Then, it has its various schools; its medical schools--one in New Orleans, one in Shreveport; it has the dental school. We have experiment stations scattered all over the State of Louisiana. We have county agents and home demonstration agents in every parish of the state. It is not the same as any other school in this state; it's an entirely different concept; it's an agricultural college; they also have this land grant program. One board cannot possibly look after all of the education in the State of Louisiana and give the L.S.U. system the attention that it must have in order to be a success. I urge you to defeat this proposal to engross and pass to the third reading this Delegate Proposal No. 53; it is just not a practical situation. Thank you very much.

Further Discussion

MR. SEGURA

Mr. Chairman, ladies and gentlemen, fellow delegates, I had sat on the Education Committee and attended all the meetings where this particular proposal was brought up from the very beginning of our meetings. We've heard debate; we've heard discussions; we've heard reports from everyone concerning this and your committee voted this proposal down. I ask you not to waste the convention's time with passing this on to third reading. The Committee Proposal No. 7 has been misreported to the people time after time. I think if you stop and look at it you will see that Proposal No. 7 does exactly what the proponents of this proposal are asking for. They are asking for a single board for higher education--everything of importance--the proposal that you adopted, Proposal No. 7, everything of importance, that is, the budget, the money that's going to be spent or allocated to each one of the universities, the curriculum that's going to be taught at each one of the universities, and the planning or the creating of new schools, the adding of branches, the consolidating of branches. That is all under the control of the Board of Regents; that's all under the control of one board; that's the important board. If any of you have sat at the State Board of Education meetings, you can see that under our present system this State Board of Education cannot physically handle all of the work they have to do to handle eleven colleges and universities. If you threw everything under one board, that would mean they would have to handle curriculum, budget, planning of campuses, and consolidating of campuses, plus managing all eleven and throwing L.S.U. in there--that's physically too much. The only reason other boards have been created in Proposal No. 7 is to divide the work and these management boards are merely management boards; they do not have the status of the Board of Regents, they don't have the powers of the Board of Regents. So, I ask you not to pass this on to third reading.

Further Discussion

MRS. CORNE

Mr. Chairman, ladies and gentlemen of the convention, I rise to ask you people to vote this proposal to its third reading. I believe that due to all of the publicity that we have received in the State of Louisiana, due to the opinion of our public officials and of our college deans--by the way, Mr. Leithman, it was the college deans that you were talking about--and all of the....almost all of the leaders in the State of Louisiana have expressed the fact that we have put too many boards in the constitution, we're constitutionalizing too many boards of education. I believe, I sincerely believe, as an educator, that multiple boards for the state colleges and universities in our state will lead to fragmentation of education. I do not see

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how all of these multiple boards vying for the tax dollar at every chance that they possible can get will not lead to confusion, to dissension and to the fragmentation of education. As a long time educator, I certainly feel that L.S.U. is a wonderful college and that we should keep it that way. We should keep our state university the major university of the state. But, I do not want to minimize the importance of our other colleges and universities in our state, they are also doing a service to the people. I can assure you that in my community, in my locality that there is very, very much opposition to this fragmentation of education that we are trying to put in the constitution today. I certainly think that Mr. Leithman's proposal deserves to be passed onto its third reading. I certainly would ask you to vote favorably on this. I thank you.

Further Discussion

MR. CHAMPAGNE

Mr. Chairman, ladies and gentlemen, I rise very briefly to suggest to you that we have discussed this issue; we have debated it at full length; we have had amendments put to the Proposal No. 7 at length and in the end, we decided on the committee's proposal with various changes. I urge you to oppose Mr. Leithman's proposal for third reading, simply that in the limited time we have to complete this convention I think we should devote our efforts to consideration of such matters as alternates and such. If you consider thirty-two form letters that I received--form letters--which were simply statements that are fed through to these organizations as organized opposition, I suggest that it is. This is all that I received from any people throughout this state in opposition to what we did, thirty-two form letters from one city in this state. When I discussed over the phone with no less than ten of these people, they said they had been misinformed and that's the reason why they misunderstood it. I suggest to you that there has been nothing that has been so misrepresented to these people than anything in this convention than this suggestion on... they simply say you have a lot of boards and that is not the truth and this is not what's being done. I urge you to vote against Mr. Leithman's proposal.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, this morning we have about six or seven different proposals that's been reported by the Committee on Education, Health, and Welfare without action. The action taken by that committee was more or less an action to clean up its files. I ask you this morning to reject the motion that's been made by Mr. Leithman to engross and pass this proposal to third reading and final passage. Regardless of whether you are for or against a proposal on education as an alternative, Mr. Leithman now has on the calendar for final passage Delegate Proposal No. 54 which deals with the whole realm of education. If it is the will of this convention that there should be an alternate then, of course, that Delegate Proposal No. 54 could be made as such. We do not need Delegate Proposal No. 53 on the calendar, it deals with issues that's already been resolved by this convention. For example, it calls for an appointed superintendent of education that this convention has decisively voted time and time again for elected officials, so that I see no reason whatsoever for this convention to clutter up the document with these types of proposals with the short time that we have left to complete the work of this convention. I ask you to vote no on this motion.

[Previous Question ordered.]

Closing

MR. LEITHMAN

Members of the convention, I apologize for taking so much time on a nonfinal issue. This is merely to keep a proposal alive and on the calendar. I don't want you to be misled; this is not a vote on or with this proposal or against the proposal. This is merely not to throw it out, not to reject it, but keep it there because we know what we have in No. 7 is no good. I think all of us will agree with that. There's no proposal that has gotten more scrutiny, more adverse publicity than has No. 7, the proposal that this convention passed out with ridiculous five boards. I have one more organization which I omitted, and I apologize, and that's the Louisiana Vo-Tech School Directors' Association who is appealing to you also, along with the many, many other educators, or all of the educators, around this state to turn down No. 7 or redo it, revamp it, so it will be a progressive working article for this constitution. So, all I'm asking you is to keep it alive and keep it on the calendar until such time as we have an opportunity to straighten up No. 7 or put it in a progressive light. I just don't know what... which direction No. 7 should go, but we know it's bad and you were

told this by virtually every educator in the state. It's not just Leithman standing there or Juneau or Mrs. Corne or any of us, it's every educator in the state. Every organization of educators in the state is opposing No. 7; it's not my personal opinion. A single board concept is the way that universities are going around this nation today and I don't think we should revert back to a five board system that we now have. I don't care what arguments are advanced to you, in your heart you know five boards is no good to run education in a single state such as Louisiana. Mr. Goldman, I'll yield to questions.

Questions

MR. GOLDMAN

Mr. Leithman, did you know that I am not an educator? Did you know that I am an educatee? Did you know that I have a large number of educatees including those in my family and many, many others who have talked to me about this and as an educatee, I agree with you that the five boards are very bad as far as the education of the people of this state.

MR. LEITHMAN

Mr. Goldman, in response, I think a vast majority of these fellow members, these delegates sitting next to you and I, have the same opinion that you do. I know people have spoken to them, I know they've read the editorials around this state and I know they've heard from their alumni associations and their universities in their areas; I know that this is true. I'll yield to Mr. Stinson.

MR. STINSON

In other words, you think that all of us are voting against what we know is best?

MR. LEITHMAN

What was the question?

MR. STINSON

You said that you know the majority of us agree with you, so in other words, we are going ahead and voting against what we think is right then; is that your opinion of us?

MR. LEITHMAN

I didn't say agree with me, I said that I feel a majority of these people here know that five boards in an article is wrong. A majority agree with that....to that point. If you disagree, I'll leave myself clear because you must be in the minority.

MR. STINSON

Well, the vote so far cast in this convention shows that you're in the minority; doesn't it?

MR. LEITHMAN

Mr. Stinson, when we voted for Proposal No. 7 with the five boards there was no way for the public to react until that article was passed. Now that five boards have been passed in Article 7, now you see the reaction, so when we voted on it we might have done it in good conscience. But now that the reaction has come to us from our educators we must sit back and reappraise our situation. We're about to blow the entire constitution over education which there's no reason to.

MR. McDANIEL

Mr. Leithman, if we vote your proposal down and then we set the machinery to open up every article that we've passed so far for amendments or dressing up, wouldn't that really be the opportunity, with amendment, to come back and present your ideas at that time to what this convention has already passed?

MR. LEITHMAN

All that I want to do is keep this alternative proposal alive. I have no indication to ever call this thing from the calendar unless there's good cause to do so. I just want this proposal to stay alive and be available should the time come that we have to, or have the opportunity to go with an alternative proposal. That's all I'm asking. I'm not asking you all to vote for final passage. I'm asking you to keep the thing alive, that's all.

MR. McDANIEL

We don't have any rules at the present time on alternatives, but I would certainly support taking another look at Education. You could do what you really want to do with an amendment and even if we pass it today, isn't that actually what we're going to have to do at that time?

MR. LEITHMAN

I don't really follow your question, because my intent with this proposal today is merely to keep it alive. I don't know what

the convention is going to decide in the next fifteen or sixteen days. I have no way of anticipating that, but I just want this....

MR. NUNEZ

Mr. Leithman, don't you believe that if we've made mistakes that this would be the time to correct it, and the questioning of Mr. Stinson and of others would lead you to believe that if you were in the minority or if we've made the mistakes, we shouldn't go back and correct those mistakes? Also, the reason why we haven't laid those committee proposals on the table is simply because of that, that very possibly there're some things that we can...that the public is not accepting. I think we proved yesterday that the minority is not always...might be in the minority, but you're not always wrong.

MR. LEITHMAN

I agree with you, Sammy. So, in closing, ... I'm merely asking you for a favorable vote to keep this proposal alive and this is not a final passage; it's merely to keep a rare hope alive for the State of Louisiana.

[Record vote ordered. Substitute motion rejected: 46-49. Motion to reconsider tabled. Motion to withdraw the proposal adopted without objection.]

* * *

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

MR. POYNTER

On Unfinished Business is Committee Proposal No. 35 introduced by Delegate Alphonse Jackson, Chairman on behalf of the Committee on Education and Bill of Rights and Elections which is a substitute for Committee Proposal No. 1 by the same gentleman on behalf of the committee.

The status. . . the proposal is a proposal providing for general governmental provisions.

The status. . . the proposal the convention has adopted as amended, Sections 1 through 8 of the proposal. Presently still would have under its consideration Section 9 and in addition, there are pending at the desk a number of amendments which would propose the addition of further sections to this proposal.

Reading of the Section

MR. POYNTER

"Section 9. Limitations on Banking
Section 9. No law shall permit multi-bank holding companies, metropolitan banking, or statewide branch banking, except by a favorable vote of two-thirds of each house of the legislature."

Explanation

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, this is another one of those noncontroversial matters that I've been designated to handle, in a sense. Let me explain what this is all about and then I'll answer questions after I give my explanation. First of all, maybe you should know generally in terms what the terms multi-bank holding companies, metropolitan banking or statewide branch banking amount to. Presently under the law of Louisiana no bank may extend beyond its parish boundaries with branch banking. No multi-bank holding companies may exist in this state and no metropolitan banking is allowed. Now, there is a trend in this state apparently to move in the direction of allowing these three different types of banking interests to exist. For years and years Louisiana has not allowed this particular type of conduct by banking interest. I think it's good. I believe in the system of independent banks, generally community-operated with community directors running them. Multi-bank holding companies, statewide branch banking and metropolitan banking in my opinion means the demise of the small bank which is the center generally and the backbone of the local community in civic and other types of endeavors of that particular area. An independent bank as defined in most definitions means that its management is by directors and officers who are local citizens and its policies are to serve its community first and best with profits accruing to the benefit of the local area in which its stockholders live; that just makes common sense that local banks that operate in a local community are generally composed of local people and its interests are usually centered around their particular locale. A branch bank is a type of commercial and savings bank with geographically restricted

statewide operations. Its concentration of deposits and policies are usually heavily directed toward financing of business and industry. Then, a multi-bank holding company is even a little different from that; it's a type of bank that's something like a big flagship and around it all over the state are other little banks that it has bought up and what have you. Its operations are almost entirely concentrated toward financing of business and industry. The profits for its stockholders and accumulation of funds are generally such that it ends up that the subsidiary bank that it owns in a small area its. . . most of its deposits or most of its earnings are brought to the big bank and they go out to big industry and big business; I'm opposed to that. I think that for the years and years that Louisiana has operated so successfully we've had only one bank failure in about fifty years due to ineptness or due to something else other than the depression. We've had a great banking system in the state. I think that anything that changes that, any allowance for a change should be made by a much more considered opinion than a simple majority of the legislature, because I believe that banking affects every individual in this state more so than civil service by which we require a two-thirds vote to deal with it. The state civil service system admittedly has about sixty thousand employees under it. Yet, we provide that for the legislature to deal with it, it will take a two-thirds vote. All I'm saying is that banking touches every person in this state and it's so sacrosanct, it's so important that if you're going to have a radical change, if there's going to be a departure from what has been the law of this state for years, and years and years, then it ought to require more than a simple majority vote. Now, I'm going to tell you why. I'm not that strong on economic theory, but I do believe I know something about politics. Banking has remained outside of the scope of politicking in this state to a great extent and the reason it has is because of the independent banks in this state. There's just no way that they could be concentrated into a political mold of some type that would back or put vested interests behind some particular individual. But, if we allow multi-bank holding companies, if we allow statewide branch banking you're going to end up with four or five giant banks in this state running the economy of the State of Louisiana in the banking industry and when you have that then it's easy for four or five big banks to get together and then you get the tremendous wealth and power banks behind politics, so I'm against it for that reason. Let me give you some statistics of what has happened in the past. In the past several years there have been more than sixteen hundred communities and neighborhood banks lost to statewide branch banking concerns and multi-bank holding companies in those states where they are allowed. Now, let me allay the fears of you with respect to one thing; now argument is going to be made that of course, when you. . . when the state prohibits this by a two-thirds vote, what will happen if the national government all of a sudden allows the national banks in the State of Louisiana to engage in that type of practice? Presently, the law of the United States is that the national banks in this. . . in their respective states may not engage in statewide branch banking nor multi-bank holding companies unless the state law allows it. Louisiana is one of the fifteen states that doesn't allow it. Now, the answer to that is very simple; if the national government allows the states' national banks to engage in that type of conduct, then there's no question but that our state banks will have to compete with them and I'm sure there would be no problem in the legislature going ahead and allowing that circumstance to occur when it does, in fact, occur. Let me give you some statistics of what is happening in different areas where you've had this, this super concentration of wealth in a few areas. California is the best example of what happens. In 1971, California had one hundred forty-four separate banks and one hundred sixteen were operating three thousand one hundred and seventy-one branches, more than twice the number that they had in 1959. In 1959, California had fifty-four unit banks which is the independent bank. In 1971, they had dropped to twenty-eight. In the 1920's the bank of California incidentally deposits more than twenty-nine billion dollars or more than fifty-one percent of the total commercial bank deposits in the State of California. This is one bank, because of California allowing multi-bank holding companies and what have you. The five big city-centered institutions in California control or have on deposit eighty percent of all deposits in the State of California; that is, the Security Pacific National Bank, the Crocker National Bank, Wells Fargo, United California, and Bank of California. Everywhere that the states have allowed this type of conduct to be practiced, little banks which are community oriented and which have been helping and been the backbone of the communities have gone under. It just is common sense that if you have a man who's not from the area who's running your bank, you're going to end up with either a stranger in there who's not going to know the local needs and won't even generally be amenable to them. There's no argument that can be made that this will stifle the economy of the state. You all are familiar with the correspondent banking; you know what that is, a bank somebody comes in to borrow money from me and I say, "Well, we can't handle that big a loan; however, I've got a correspondent banker in Alexandria -- like maybe the Guaranty Bank--

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that's got a hundred times the assets that we have," and you get some participation; that has been done in the past. All I'm saying is that I think that in the final analysis when we talk about what is good for the people of this state, when we talk about the human needs that are requisite in banking, when we talk about some fellow -- and I've talked to people in the local banks who know this-- if you're from a small community you'd know that around Christmastime you get a lot of little people coming into a bank. They want to see the president because they'd like to maybe borrow fifty dollars to get some little loan. The president, at his discretion, may lend that money. He's not going to make any money on it, but it's worthwhile. You get statewide branch banking, get multi-bank holding companies, get strangers operating in a community and you can kiss goodbye any consideration of the local man and the local needs, because when you finally get to that point, when you go in to borrow money from a guy that you don't know and it's being run by some flagship bank in New Orleans or Shreveport or what have you, he pulls out a little bulletin -- a book like this-- and it's just like going to borrow from the F.H.A. Mr. Roy, if you meet all these requirements, if you send us a few pictures of your house and what have you and everything else, we'll make the loan. If you can't meet these requirements, I have no say-- so on it." I am opposed to the concept of huge corporate interests engaging in and finally controlling and taking over community owned banks that have operated successfully for years and years. I ask the adoption of this particular amendment.

Questions

MR. BURNS

Chris, what do you mean by metropolitan banking?

MR. ROY

I'm glad you asked that, Mr. Burns. A metropolitan banking concept is that, like in the city of New Orleans they say the metropolitan area of the city of New Orleans is not just a city the parish boundaries which are now restricted to, but maybe all of Jefferson Parish, all of St. Bernard Parish, and all that, that the metropolitan area would be one hundred radius miles and it ends up that they then say although we're not allowed to go across our parish boundaries, if we're a metropolitan bank, we may go in there and compete with the local bank and buy it up.

MR. BURNS

That includes St. Tammany Parish?

MR. ROY

That includes St. Tammany Parish; you're right.

MR. ABRAHAM

Chris, I understand now that the law is in the statutes just statutory law that there will be no multi-parish banks; is that right?

MR. ROY

Right, correct.

MR. ABRAHAM

Well, I don't understand; if it's already in the statutes, why are we attempting to constitutionalize this?

MR. ROY

Well, Mack, there's a big trend right now toward going in that direction, to changing the law, that I think has been good for years and years. Let me say one other thing, I think if we don't have a two-thirds vote in here, there will be a blood-letting every session of the legislature -- you know we've changed the sessions to be every year-- every year you're going to have the big, big banks using all their influence, all their money to try to get rid of that law so that they can engage in multi-bank holding company activities and statewide branch banking. That's the reason that I'm for preventing it.

MR. SMITH

Chris, do you think this will help the small country bank, this provision?

MR. ROY

Yes, sir.

MR. SMITH

In what way?

MR. ROY

Well, Mr. Smith, the small country banks are geared to their local area and they're geared to what's good for the customer, what's good for the bank in the community will help out. If you don't have

this law, what you'll have is some big bank sending out an arm of its branch down into that small country area and maybe for a few months or a few years giving some additional services until they run the little people out of business and then the first thing you know they either gobble up the little bank or they just run it out of business. Then, you've got no small bank anymore and you've got more competition and all.

MR. SMITH

Well, I think it's a good amendment.

MR. ROY

Thank you, Mr. Smith.

MR. JENKINS

Mr. Roy, isn't it true the Louisiana Banking Association is opposed to this provision, thinks that it ought not to be included in the constitution?

MR. ROY

No, Mr. Jenkins, if you recall-- I don't know if you were there that day-- but if you recall, when the L.B.A. came back the second time and I told them that we had amended it to allow a change by a two-thirds vote, in fact, the lobbyist said, "well, personally I'm for it, I don't know how the L.B.A. really feels," but the Independent Bankers' Association of Louisiana definitely said they're for it. I'm not sure whether either one of us is exactly accurate on the position of the L.B.A. I would think that the fellows in the L.B.A. who have the big, big banks would tell you that they're against it. But, the other people in the L.B.A. who are interested in local stuff are for it.

MR. JENKINS

But, the Louisiana Bankers' Association did say in essence that while they did not oppose the concept at this time, they did not think that something like this ought to be in the constitution now and forever; isn't that true?

MR. ROY

At one time they had a publication when-- you remember when the committee first came out there was an absolute prohibition-- they had a publication that said they were opposed to it. When we changed it to the two-thirds vote their position on the paper was, "we're neutral." So, the L.B.A. in my judgment is neutral on this particular thing. I've got a publication saying that, Woody, is what I'm talking about.

MR. CHAMPAGNE

Mr. Roy, did you know for a fact that the L.B.A. on the amendments since you have changed it and required the two-thirds has taken a "no position" stand? The reason for that is there are some big ones who don't want it in there and then some little ones who like it in there, so they have taken a "no position" stand.

MR. ROY

That's what I thought I'd said. I said neutral, but your language is more appropriate, no position on it.

MR. PLANCHARD

Mr. Roy, Mr. Champagne got his question answered and I wanted to let you know that I read the same correspondence that he read, probably to the same effect.

MR. ROY

Thank you, Mr. Planchard, I didn't want my word to be doubted on it.

MS. ZERVIGON

Mr. Roy, when we're presented with committee reports most of the time the Chairman or committee member gets up there and says we've been studying this thing for six months, we've been studying this thing for nine months. How many months' study has your committee put into this?

MR. ROY

Well, I guess about three weeks.

MS. ZERVIGON

Do you have figures for us on how many states have this prohibition or how it works in other states where they don't have this prohibition, whether there are small banks and that sort of thing? Can you give us -- hand out to all the delegates that sort of thing? Have you talked to bankers in other states, small bankers, about how it works for them and that sort of thing?

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MR. ROY

Ms. Zervigon, I can give you a lot of statistics. I'll be happy for you to read this book and you may be edified a little more, but the point is this: I approach this on a philosophical basis. I don't approach it on the basis of statistics, although the statistics are in my favor, I believe. I approach it on the basis of what's good for the little community and what's good for the banking industry of this state, and that's how I approach it. I don't need to study anything a long, long time to know whether it's good or bad. I just have to look at it and see. If it's a philosophical thing with me, then it's not hard to decide. I didn't study civil service a long time and I didn't study your local government issues a long time, and I didn't agree with them. I think I made some pretty good decisions; I may have made some bad ones.

MS. ZERVIGON

But, those committees had studied them for quite a long time in subcommittee and in full committee; isn't that correct?

MR. ROY

The committee studied a lot of things and it looks like that the taxpayers have studied the Public Service thing.

I don't want to be argumentative; at least I told you we had it about three weeks. If that's relevant, then you've made your point; in my judgment it's not.

MS. ZERVIGON

But, isn't it true that on issues like Civil Service and Local Government that there has always been something in the Louisiana state constitution, but there has never in the past been anything on banking in the Louisiana state constitution?

MR. ROY

You're right, but there's been something in the statutory law.

MR. LOWE

Chris, my question has to do with the concept of banking in the State of Louisiana. Now, isn't it a fact that the whole concept of banking in the State of Louisiana is built around the needs of the local community and that before a bank can go in that there has to be a need exhibited beyond any reasonable doubt before a charter will be granted for that bank?

MR. ROY

Right.

MR. LOWE

Now, don't you believe that if multi-banking was allowed, that we would completely destroy that concept and then we would be only be talking about which bank wanted to get the largest, to be the biggest superbank in the state. We'd get away from the local needs and then we would only be concerned about who was the biggest superbank and where could you go to get within the concept of, "I will be the biggest bank in the State of Louisiana." Isn't that one of the real issues in this thing, getting away from the local needs and moving toward the needs of the large bank and doing banking that multi-banking can do, rather than at the local level?

MR. ROY

You move toward the needs of the . . . and the impersonality of it and what happens is that, the branch . . . the statewide branch banking --it's a lot easier to get a branch bank than it is to get a new chartered bank that should be competing with local people on the local level. Instead, you've got a statewide big old bank that sends a branch bank into a little community with strangers maybe on it, and the board of directors don't necessarily belong or come from that area. That's the whole point.

MR. LOWE

To take that further, maybe the only purpose for having gone there in the first place was to compete against the other superbank rather than to meet the needs of the individual in that area?

MR. ROY

That's correct.

MR. J. JACKSON

Chris, it may seem odd to you, but I did talk to some bankers that I know, and I'm very serious. One of the concerns-- and I want some information on it-- one of the concerns is that, as you know, we do have Liberty Bank in New Orleans which is the multi-ratio bank and we're getting ready to have Republican National . . . a Republican bank which will be another multi-ratio bank which is part of a multi-holding bank company. Their concern--and did you know--that on the national level, they're fearful that congress is

presently getting ready to enact some legislation that will allow for national banks to expand in the state, and at the same time, give additional authority to savings and loan banks. . . savings and loan corporations to allow them to perform certain banking services. They feel that if we lock in this constitution the kind of language, even though it does have some flexibility, that it may take a constitutional amendment pending what Congress does to adjust our banking situation to the national legislation?

MR. ROY

I disagree with that. I think that they've told you accurately that there is some legislation pending in congress to allow national banks in the state, where they're not allowed to do so.

MR. J. JACKSON

Okay.

MR. ROY

Where they allow national banks in the states where they are presently not allowed to do so, to go ahead and engage in multi-bank holding companies and statewide branch banking. My answer to that, is we don't need a constitutional amendment. If they do that here, our legislature simply says once congress usurps again the field of banking that it should not have because the history of national banking way back there in the seventeen hundreds was horrible, but once congress does it, our state banks will automatically be allowed to do it to protect themselves. I just think if we take a united stand right here, it may be that the trend would be stopped. I really feel philosophically that multi-branch bank holding companies are bad for the local communities.

Amendment

MR. POYNTER

Mr. O'Neill, then, sends up amendments joined by Mr. Tobias, Newton and others.

Amendment No. 1. On page 2, delete line 20 through 24, both inclusive, in their entirety.

Explanation

MR. JONES

Mr. Chairman, ladies and gentlemen, this article that you have under consideration is Article XXXV; it's a general governmental article; it tells you where the state capital is; it tells you your three branches of government and on top of all of that, you have this other provision tacked onto this general governmental article which is to restrict one industry in our state, one of the best private industries we've had which has been regulated through legislative process for many years and has been very successful. This is not the kind of article that should be in the constitution. We should eliminate this from Committee Proposal No. 35. Now, let me give you an idea where we stand in the state right now. The idea of bank holding companies started on a national basis about five or six years ago. They tried it in Louisiana; immediately the legislature passed a law preventing branch banking across parish lines; that's the law today; you can only have your bank in your one parish. Then, they went to holding companies and the law was passed in the legislature that you can have a one bank holding company and that no bank, no holding company can own more than . . . or twenty-four percent must own less than twenty-five percent of any other bank. Now, all this provision is doing is locking into your constitution a statutory provision that you should not have there because times can change and you're going to have the opportunity by our federal legislation to have to be forced to amend this constitution if business changes. I think what's happened over the years business has always gone forward, it's gone up. But, when business . . . since World War II should ever begin to restrict, you're going to need large banks to be of assistance in communities where the small banks are not able to handle the loans. Now, there's one thing I want to call to your attention, that this is not in the 1921 Constitution; it has nothing to do with the regulation, or the general articles, or the people of the State of Louisiana and for that reason, I ask that you delete it. Now, one other thing that I think should come across here and, that is, that when these little banks are always talking about that they take care of the local people. A bank makes its loans of its depositor's money. Mr. Roy can have his money in one bank. I can have mine in another one. Mr. Caaney can have his in another one and what will happen will be that your . . . in a state bank you are regulated by a State Banking Commission. They tell you what percentage of loans you can have. They investigate your bank. You can no more have a different system of banking for a local bank than you can for a large state bank; it's your money; you are the depositors. I know that you don't feel that some local banks should use your money in a

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different way than authorized by the State Banking Commission. Also, State Banking Commissions have interlocking arrangements with the federal investigating authorities everybody's got the same rules because it's your money. One thing that I'm sure that all of these little state banks have federal deposit insurance. Now, I don't think they would want this tape played back to the FDIC to say that we're going to use different rules for local people than we do for any other department. The bank's money is the money that you leave in there because of compensatory deposits or your own savings. This is not the kind of article that should be in the constitution. I think you should delete it. I favor and ask that...urge that you vote for this floor amendment sponsored by Mr. O'Neill and several of us. Thank you.

Vice Chairman Casey in the Chair

Questions

MRS. WARREN

Mr. Jones, this is really new to me, and I haven't had any contacts from anybody in the banking business. I heard Mr. Roy stand up there and make some statements as the advantage of having this in the constitution. Now, I would like for you to tell me some of the disadvantages of having it in the constitution.

MR. JONES

The disadvantages of having it in the constitution is that this is nothing more than establishing a two-thirds rule where this private industry--and banking, remember, is a private industry, it's not cooperative; they are stockholders; it is business--and it is regulated by the legislature. This is merely an attempt at over-kill....in my opinion, because you do not have these rights under the laws now in the State of Louisiana. All you are doing is locking into the constitution a statutory provision which will make it more difficult for you to remove at a later time if the situation changes.

MRS. WARREN

I still haven't got it. I understand you saying locking it in or not locking it in, but I'm trying to find out what would be the advantages of the people who are going to use these services of having it not locked in.

MR. JONES

Not locked in the constitution?

MRS. WARREN

Right. What advantage would it be to these citizens?

MR. JONES

The bankers...the most competitive business as, probably, as any in the United States or any in Louisiana is banking. It is to your advantage insofar as development of industry to have available funds. This is what the banks say and this is what their real interest is because if you don't have the deposits and you don't have the size, I don't care who you are, you can't lend your depositors money if you don't have the loan capability. Banking is such a business that they do cooperate in order to attract industry to the state. Now, you take Lincoln Parish or Webster Parish, and I'm not throwing any discredit on any parish, but you take some parish that needs development, if you cannot have available credit through, maybe it would have to be, a multi bank holding company, then your parish is not going to develop; the credit is not there, your ability to borrow money is not there. You can only lend the money you have or your depositors and you are limited as to what you can lend by state law and they do get together and...to the federal agency and also the state agency insofar as the examination of banks are concerned. A little bank can't lend you as much as a large bank can. Now, that's not a popular argument but that's the basic principle.

MR. NUNEZ

Mr. Jones, you just said that this should not be locked into the constitution because of various reasons. I noticed yesterday you voted to lock in the provision that the telephone people wanted into the constitution when using the same arguments, I think that consistency would probably be a better method of handling the situation.

MR. JONES

One has to do with judicial administrative procedure and the other one has to do with regulation of a private industry. Insofar as utilities are concerned, there are many of them that are cooperative. There are no cooperative banks. There may be cooperative credit unions.

MR. HEINE

Mr. Jones, I'm not as familiar with this subject as I would like to be, but I did want to ask you a question. I know on my tax rolls that the Baker Bank, which is domiciled in the city of Baker, is one of my largest taxpayers. Now, a branch bank that moves into my city, they don't pay this same tax because they are domiciled in another section. Now, this to me has a big bearing. Also, banks, as far as I'm concerned, not only lend money, they pay an important part especially in a small city. Now, I know you wouldn't realize this in New Orleans, but the local bank gets involved in civic affairs; they make donations to the local community which the larger banks, the experience that I've had, they can say, "Well, we got to bring it before the board," which may be down in New Orleans or in Baton Rouge and this type of thing.

MR. JONES

May I ask, turn that question back on you: what taxes don't they pay?

MR. HEINE

Sir?

MR. JONES

You say the branch bank that moves in to, say, East Baton Rouge Parish....

MR. HEINE

I'm not sure what the tax, but....

MR. JONES

I'm pretty sure that the parish collects all the taxes and the branch they...all your taxes are ad valorem taxes and state income taxes and I'm sure the bank pays them.

MR. HEINE

No, sir. Senator Rayburn or maybe one of these fellows can explain this, but there is a tax that is paid by a bank; I know, I've had this problem right here in East Baton Rouge Parish where there is a bank which is domiciled in Baton Rouge and they pay taxes on the, I guess, on the money that they've got that we do not receive because it is not domiciled in my city. I fought over this and....

MR. JONES

Mr. Heine, I can't answer you until you tell me what kind of tax it is; I really don't know; I can't understand.

MR. HEINE

It's an ad valorem tax.

MR. CASEY

Mayor Heine and Mr. Jones, just a minute, gentlemen. The purpose of this is to ask questions, the....

MR. JONES

Well, he is asking me back and I can't answer them.

MR. CASEY

Well, O.K., if you all want to get into a discussion, you all hold a private discussion or, Mayor Heine, I'll recognize you for the floor later on.

Mr. Roemer has a question.

MR. ROEMER

Delegate, you made the statement about resources and being able to apply them at a local level. Can't these small local banks have corresponding relationships with other banks and make the kind of loans through their corresponding bank that is necessary to finance local growth?

MR. JONES

They do that.

MR. ROEMER

Well, then, I think your argument is wrong then.

Further Discussion

MR. HERNANDEZ

Mr. Acting Chairman, ladies and gentlemen of the convention, I rise in opposition to this amendment that deletes a provision in the constitution that we definitely need; when I said "we", I'm talking about the country bank in the State of Louisiana. There is no doubt about the locally owned and operated banks having a distinct advantage to the people of that area. Now,

I'm referring to the...especially the rural areas in the State of Louisiana. These independent banks are geared to the individual needs and requirements of the people in that particular area. I think there is no doubt about it, all of you that live in the country know that an independent bank does often relax its rules and regulations and stretches them to a certain extent; I think there is very little doubt about that. There is always room for interpretation of the rules and regulations. So, the independent bank has that distinct advantage of knowing the needs of the people there, both their individual needs and their business needs and they are in a better position to understand those needs and to do everything they can possibly do to help this individual or this business meet their requirements. Now, Mr. Jones is correct in his statement that oftentimes these small country banks do not have the ability to loan as much money as may be needed; those occasions are rare, however; they are very rare. But, as was pointed out by Mr. Roemer in his question, all of their country independent banks have corresponding banks in the city that they can call on when additional funds are needed; that is a common practice. Now, it's been mentioned today, "Why do we need this in the constitution?" As many of you know, if not all here, know that there is a plan right now for these syndicates that are being formed to buy up these local banks. When they do, they have lost their independence and it's a just not the same when you go in those banks. Now, I'm connected with a small country bank in Leesville; it's wholly owned--locally owned and operated. We do try above everything else to meet the needs of that community; that is our first objective. For those reasons, I just wanted to point out these practical sides. For those reasons, I do urge you to defeat this amendment which would delete this provision from the constitution. Thank you.

[Motion to limit debate to fifteen minutes rejected: 24-58.]

Further Discussion

MR. CHAMPAGNE

Mr. Chairman, fellow delegates, many people in this state... as I was saying, I feel that many people in this state, in fact, I believe a majority of the people of this state feel that banking institutions provide services that can best be performed at a local level by local people. In view of that, we have reason for Mr. Roy's amendment and opposition to deleting it from the constitution. To those among you who say there was no such provision in the Constitution of 1921, I would remind you that in 1921 there was absolutely no need for it at that time. There has been and I am aware of very wealthy people in this state going about the state attempting to buy out local interest in banks with the intention of forming great corporations throughout the State of Louisiana engaging in very large banking facilities. This is simply another system of the big fish eating the small fish and getting bigger all the time. Now, these people simply go about it, and I've seen it in action, the more money they get the more they want and they keep working in that direction. Actually, I feel that banking can best be formed at a local level and for those of you who say there may be additional funds needed, this provides no problem because with corresponding banking performed by local banks with larger metropolitan banks, these people can get funds when needed and it gives local observation of the control of these funds. Because of a possible conflict of interest, I'm not going to vote on the issue, but it's clear to me that while it may represent special interest it also represents the small people who are accustomed to going to their local banks for services. I urge you while I myself will not participate in the vote, to vote against this amendment to delete it. I feel that it does have a place, like other provisions, it's just a little more legislation in the constitution but it does have a place in Louisiana's constitution. I also urge you that this is a little different from a definite provision by any means. I urge you to keep the two-thirds provision because in future times if there comes a need for metropolitan banking, or multi banking, or statewide banking, then we will be in a position to urge our legislators to permit such. For that reason, I urge your disapproval of this amendment to delete. Any questions, I'll be glad to answer them.

Questions

MR. ROY

Mr. Champagne, with respect to competition, you've mentioned about corresponding banking; right? Now, if the little bank needs extra money or money for something, it may ask its correspondent bank to participate.

MR. CHAMPAGNE

Right.

MR. ROY

If that correspondent bank doesn't agree, it can go to another bank; can't it you?

MR. CHAMPAGNE

Right.

MR. ROY

But, if you have statewide branch banking and that branch bank in that little town disagrees or the parent disagrees with the little branch bank asking for participation, that ends the application of the particular citizen; does it not?

MR. CHAMPAGNE

That's correct.

MR. ROY

So, with respect to the issue of competition, competition is diluted when you have statewide branch banking because the branch bank can only go to its parent bank, whereas in the independent banking situation, the independent bank can go to its correspondent bank or any other bank; isn't that true?

MR. CHAMPAGNE

Yes, sir. I might add that these correspondent banks are looking for customers all the time.

Further Discussion

MR. ABRAHAM

Fellow delegates, I rise in support of this amendment and let me tell you why. I'm just real disturbed about the way that we are writing legislative material into this constitution. Yesterday we wrote material into the constitution for one special interest group. Today we are attempting to do the same thing. When are we going to stop all of this, on January 19? This is a proposal from the Bill of Rights and Elections Committee. Now, what does this have to do with the rights of the people? Why is this in this committee to begin with? Why wasn't this thing brought before the Revenue and Finance Committee, or the Local Government Committee, or the Commerce and Industry, and Health, Education, and Welfare Committee? What's it doing here? I don't see the need for this type of language in this particular proposal at all. If we are going to start writing this type of thing in, I've missed the boat then; I should be up here pumping for prohibition against chain store supermarkets in order to protect the independent grocer. I just don't see the need for this type of language in this constitution at all. I think we have been criticized enough by writing special interest legislation in this constitution; I think we need to put a stop to all of this. Let's take this out of this proposal, clear up the proposal, and then let the proposal be what it should be.

Further Discussion

MR. ROEMER

Mr. Chairman and fellow delegates, I rise just to make a short statement and say that I oppose any attempt to change the committee proposal in regard to Section 9. I'm not exactly an expert on banking; I've borrowed a lot of money from them in the past so that makes me somewhat knowledgeable. I have an interest in a small bank in Bossier City that I readily admit and am proud of. Some people have said that if we strike out Section 9, we will have hurt the small rural banks; I don't think that; that's not why I'm opposed to striking out Section 9. I don't think we will hurt the small rural banks if we permit these multi-bank holding companies; quite the contrary, I think we might help these small banks. I think the price of the stock will go up because a certain, few, large powerful banks will be going around the state buying up all the other banks. But, it's not our job here to protect the small rural banks. Our job here is to protect the people who do business with the small rural banks. Just because the price of the bank stock goes up that's not going to help the people who do business with that bank. Here's the concept I would like to get across to you. In areas like the ones that I come from, a relatively rural area, a small area, not many people, not many large businesses, the people that borrow money from our local banks depend not so much on collateral, not so much on banking expertise as on their relationship with their banker. Now, I've been in states where they have these multi-bank holding companies and I've seen these large banks gobble up all the big banks, and I know what their personnel practices are. They ship people in and out just like carrots or vegetables. A man works his way up through the system; he spends six months in one small bank; then he spends six months in a little bit larger bank; then he spends two years in a larger bank; then, finally, he goes to the main office. Well,

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how can you develop the personal relationship with your banker in these local rural areas when the bankers themselves keep getting shifted around all the time? The point I'm trying to make is that at the very backbone of our economic and social society in these areas like the ones that I come from, the very backbone of that is the trust, and honor, and economic stability of these local banks. I think that the issue is important enough to the local people; they want to know who their bankers are; they want to develop those lines of relationship. That all we are doing here in Section 9, we're not prohibiting multi-bank holding companies, but we are saying to the legislature, "Gentlemen and ladies, this is important enough to require more than a simple majority vote to allow the multi-bank holding companies." Now, the issue goes even broader than that. In some states where they allow the multi-bank holding company law a few banks, in the case of Mississippi, two banks control all the majority, the assets of all the bank deposits in that state and with that tremendous financial strength becomes great political strength. They in turn control who the next governor may or may not be. They in turn control what the legislature does to some extent. This thing can get to be so powerful, and so strong, and so concentrated in the hands of a few people that it just boggles your mind when you think about it. I think the Louisiana law in regard to banks is good now; I think it's working. I think all we need to do in this constitution is what it says in Section 9, that is, "Legislature beware, be wary of any attempt to change, be wary of any attempt to go to the multi-bank concept because if you do you run the danger, you run the danger of destroying, or at least impairing, not destroying, but at least impairing the effectiveness and the relationship on the local level of local people to their local banks. That's my statement, that's the way I feel.

Point of Information

MR. DENNERY

As I understand it, the Bill of Rights Committee... a statement that was made by Mr. Abraham caused me to raise this question. The Committee on Bill of Rights and Elections is to consider the Preamble, the Bill of Rights, human rights, obligations of citizenship, distribution of powers, suffrage and elections, the amendment process, and future constitutional conventions. The Committee of Legislative Powers and Functions considers the legislative department. Other provisions that may not be covered by the areas of responsibility shown above may be assigned by the Coordinating Committee to the appropriate substantive committee. I would ask, Mr. Chairman, if there has been any formal assignment by the Coordinating Committee of this question to this particular committee, or shouldn't it have been taken up by the Committee on the Legislative Department?

MR. CASEY

Mr. Dennery, I would have to ask the Chairman of the Bill of Rights to answer that question to find out if the assignment was made to their particular committee.

MR. DENNERY

I would appreciate the Chair doing that because if it's not properly before us I think we ...

MR. CASEY

What rule are you quoting now, Mr. Dennery?

MR. DENNERY

Well, it's Rule 49 (B) about other provisions. But, of course, Education and Welfare considers things of this matter, too, and Revenue, Finance and Taxation conceivably might consider this. It just occurs to me that the wrong committee may have handled it, and if so, possibly we should not be even discussing it at this time.

MR. CASEY

As the presiding temporary Chairman at this time, I'd like to use my prerogative and ask the Chairman of the Bill of Rights Committee to answer that inquiry.

Mr. Jackson.

MR. A. JACKSON

Mr. Vice-Chairman, ladies and gentlemen of the convention, while the Committee on Bill of Rights and Elections was not assigned this particular subject, we were assigned by the Coordinating Committee, general government provisions. It was our understanding that this then allowed members of the committee to consider such proposals, and this proposal came before our committee. The committee considered it within the purview of the scope of the work assigned to the committee. Therefore, it was considered. I do not believe that there is any violation

of the assignment because this is, in our opinion, a general provision that could not have been assigned to any of the other committees. Now, we have other provisions such as forced heirship. That was not assigned to the committee...

MR. DENNERY

Mr. Chairman, forced heirship was assigned to the committee. It was assigned as a delegate proposal.

MR. A. JACKSON

Well, my point is that it's a kind of a general provision that didn't fit very well in any of the other basic articles.

MR. DENNERY

I'd like a ruling from the Chair because Commerce and Industry, or whatever it is, Labor and Industry certainly seems to cover this field better than the Bill of Rights.

MR. A. JACKSON

Mr. Chairman, I also would like to point out to the committee that when this proposal was presented to the convention, no one raised any objections to it. It was passed on to its third reading. Secondly, I'd like to point out to the convention that if the provision is in the wrong place, Style and Drafting can easily move it to some other article. So, I think it is before the convention--and I'm not here to decide what the convention wants to do with it--but, I think that it is properly before the convention, and it's up to the delegates to decide what disposition they would like to make of it.

MR. CASEY

In answer to Mr. Dennery's point that he has raised and has requested a ruling from the Chair, the Chair would have to rule at this time that it is appropriate that Section 9 is at this time properly included within Committee Proposal No. 35, that it's appropriate for the convention to be considering Section 9 at this time, and the appropriate action to be taken if the convention sees fit to...if they wish to, they can remove it from Committee Proposal No. 35. I think it's the eleventh hour now; this is one of the last proposals that the convention is going to take up. The Chair, at this time, sees no other alternative but to continue the consideration of Section 9, and the Chair so rules.

Mr. Nunez...Mr. Abraham, you had completed your remarks?

MR. ABRAHAM

No. I wanted to make a comment that Committee Proposal No. 1 we have had for a long time, but there was nothing in Committee Proposal No. 1 relative to this. This has only been on our desks for a couple of days.

MR. CASEY

Mr. Abraham, the Chair has ruled. If you wish to move to overrule the ruling of the Chair, that would be fine.

Further Discussion

MR. NUNEZ

Mr. Acting Chairman and ladies and gentlemen of the convention, I think not only is this proposal necessary...well, let me say at first, I rise in support of the committee proposal and against the amendment to delete that proposal which we are considering. I think not only is this proposal timely, I think that this convention absolutely should consider it because there's been a move on in this state for the past four years, and it's a movement that's very strong to give these multi-bank holding corporations or the large banks, so to speak, the right to move into the various parishes and therefore, take over these smaller banks. I think this would be a terrible mistake, and I think all you have to do is look at what between the national and state government did in 19...I think it was '66, or '68 when we allowed the various homesteads to do the same thing. I've got homesteads in my parish; you ride down a little rural road; you see a big half a million dollar or a million dollar building just sitting there. They have no business, no business at all, but what they're doing is they're stopping other people from locating in that parish. This is exactly what these big banks want to do. I think that two-thirds vote is appropriate because I think the move has been on and very possibly the banks would have been successful in getting a majority of the legislators to allowing the multi-bank holding corporations to expand into various parishes. I think if we want to preserve the concept of banking as we've known it in this state for the past hundred years, we should put this provision in. I personally preferred a stronger provision that would have prohibited

the multi-bank holding corporations from expanding into the parishes...into the various parishes, but I think that would be unwise in the event that we have national legislations or national decrees, or what have you, to allow other state banks to come into our state. I think that this is the only thing we can do at this time to protect our small banks. I think if we don't do this, we're going to find what Mr. Roemer said in several states that the large banks have just gobbled up the small banks and what you have is one or two banks controlling the entire state. I think to preserve the banking heritage in this state--and that is the banks doing business on a local level, and those local people knowing the situation and not get involved in the big collateral type of situations where if you don't have "X" number of dollars of collateral, you can't make a loan--I believe that we would be preserving the banking heritage as we've known it in the state for the past hundred years. I would ask you therefore to defeat the amendment to delete the section of the committee proposal and to go on and adopt the committee proposal. I think it's a good one; and I think it's timely; and I think it's needed. So, I would ask you to defeat it and vote for the proposal.

Chairman Henry in the Chair

Further Discussion

MR. LOWE

Mr. Chairman and ladies and gentlemen of the convention, I'll say from the beginning that I am for Section 9 of Committee Proposal No. 35, and opposed to this amendment that would delete it from this proposal. In the beginning I would also tell you that I serve on the Board of Directors of a small local bank. I'll explain to you why I could very easily be for this amendment that would delete this proposition in Committee Proposal No. 9. Now, when large banks or large financiers get to go out and buying up local banks, I'll tell you what happens. The stockholders benefit. If you hold a large block of stock in a bank, and it's selling for forty dollars a share, and someone wants control of that bank, they're not interested in the fair market value of it. They're interested in the control of that bank. I'm here to tell you that if I'm holding stock that I could have to go--have to go out and sell at forty dollars a share, I could possibly get sixty or eighty dollars a share for it. Now, that's not a fairy tale; that is true. You can bring some people up here that will tell you that they've seen it happen because what the individuals are interested in is the control of that bank. So, if I weren't interested in the overall community, and interested in myself or some shareholder that wanted to make a big profit, you could go for multi-bank holding companies because you're sitting back and able to make a big profit if this happens. Now, the banks that are set up in the State of Louisiana are set up to fulfill a local need, and the personal touch is there in these small communities. Don't think it isn't. I practice in the city of Baton Rouge, and I have my clients come to me occasionally and tell me, "Do you know some small bank that I can go do business with?" I'm tired of talking to the tenth vice-president of this bank. He doesn't understand my needs when I talk to him. Often I find myself in a financial need that is there today. He tells me he'll take it before the loan committee, and he'll let me know something next week. Well, that's not the personal touch. That's not taking care of the needs of that small businessman in that small community. We're inviting this sort of thing, of getting out of touch with these people that have to operate in a sophisticated society that moves rapidly, that the only people that they have to talk to are the people that understand their needs--the needs of little people. Now, as a bank director, I would rather lose three hundred or five hundred small loans than one big loan. I'll tell my bank president any day, "If a man comes to you and he needs money, I hope that we can lean over backwards and loan it to him if there's any chance at all that we can justify it." I'd rather do that and make five or six hundred small loans in a small community than make one big loan. That's being in touch and responsive to the people in that community. You get a multi-bank that comes in and the point was made by Mr. Roemer that they're moving people all the time, in and out. They have to. You get a good man and you're going to move him up the ladder. The people never know who they're dealing with. They can never get their questions answered right away. The loans don't come through for a week or two weeks if they come through at all. Now, Mr. Heine made a good point. You know how we tax banks in Louisiana; we tax them on capital stock and the capital stocks of banks are at the home office. If you tax ad valorem taxes on the stock of a bank in New Orleans that has a branch in Fort Allen, there's no way at all of Port Allen getting their fair share of that particular ad valorem tax because it's going to be paid where the stock of the home

office is. Now, we have a local need of banking in the State of Louisiana, and it's deeply ingrained in our whole economic and social setup. They serve a need in our community, and we're only asking you to do one thing. We're not saying do away with multi-banking. What we're saying is, take a serious look at multi-banking, multi-bank holding companies. If it's good, well let it stand the test of the two-thirds vote, and if it's good, it'll pass. There's no doubt about it. But, that puts the small independent banker at least on a par with the large, financial institutions because they can move a lot faster and get things accomplished a lot faster if they decide they want one thing or another. Now, I can give you a personal example: some years ago, I wanted to make a loan at a savings and loan; and I went to a local savings and loan, and I knew no one there. But, I had a need to move rather fast. I talked to them, and it was going to take a week to get an appraiser out to look at; and then it was going to go before the loan committee; and then this and that; and it was going to be about a month before I got an answer. I called someone in Baton Rouge that I knew personally. The next day the appraiser was there and the day after that I got my answer. That is a true story, and that's where the personal touch is important. I ask you to defeat this amendment and let's not send our people that are looking for loans to the loan sharks.

Further Discussion

MR. RAYBURN

Mr. Chairman and fellow delegates, I rise in support of the committee proposal and opposed to the amendment. I want to comment just a moment, and I would like to welcome Mr. Roy back with the poor folks. Mr. Roy, we're glad to have you back; I don't know how long you'll be with us, but we're certainly glad you're with us now. I regret that you can't bring some of your associates. I've heard some people come to this mike this morning and say, "This does not belong in the constitution." I want to admit that in my opinion it does not belong. But, it seems to me that we fell by the wayside many weeks ago as to what does and does not belong in the constitution. But, I'm a little concerned what could happen on down the road if you allow the big banks in this state to take over all the little banks. I was somewhat concerned as to what side I was going to be on, trying to be a person that's always been for the poor folks, I finally made my mind up that I would be on the side of those poor little rich banks, and let those big rich banks do the best they could. But, today there's a trend for the larger areas to take over the smaller areas. It's happening in the legislature. It's happening with proposals that are now before us. I think it's time we done what we could to stop it. Your local bankers know the community and know the people better than anyone else. I believe I'm an authority, not on operating a bank, but on doing business with a bank. I'm kind of like the old boy that worked in a paper mill with me many years ago. We was all talking one morning and he said, "Well, I told my wife yesterday that if something happened to me that I wanted the Board of the Directors to be my pallbearers, that they had carried me this far in life and I wanted them to go all the way." Well, I'm in about the same predicament. But, I know what a local bank means to a local community. I would hate to see us do something that would disrupt the operations that we now have with our local banks who certainly has a more interest in a local community than some holding company or some investors that was a hundred or two hundred or three hundred miles away from your local area. All the bankers in my area know the people. They know you; they know me; they know your family. Those are the kind of people that when you need help will usually help you quicker than someone that don't know that much about you. For that reason, I ask you to vote against this amendment, and vote for the committee proposal.

Questions

MR. ALARIO

Senator, do you think this issue now has broken down into a battle between the little millionaires and the big millionaires?

MR. RAYBURN

Well, I think that that was pretty well said, Mr. Alario, because I don't know of any banker that's ever asked me to get on the welfare; I don't know of any stockholders that's ever asked me to help them. I know a lot of people that does business with the bank has asked me to help them.

MR. HENRY

Senator Rayburn, wouldn't you say that those proponents of home rule, wouldn't you say that this would be financial home rule?

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MR. RAYBURN

Well, I think it's the closest thing there is to a man's heart.

Further Discussion

MR. WEISS

Mr. Chairman, fellow delegates, I regret that this issue has come before this convention, but as a member of the Bill of Rights Committee, I did not sign this committee proposal, and I would...two of us of the Bill of Rights Committee did not sign this committee proposal. It does not reflect the entire thinking of two of us. The discussion thus far has clearly brought out the issues. I regret that it has come before you because I thought this should be handled in committee, should be debated fully, but as many members have pointed out, this is an eleventh hour. I think the people of the state would appreciate it because they are not interested in whether they are poor rich banks or rich rich bankers that we're fighting over here. They are... those who made that statement, Delegate Rayburn is absolutely correct. That's what the issue is here. I still am interested in the people and in this constitution. If we are writing a constitution, I think it's necessary that we recognize what is legislative and what is statutory and also what is constitutional material. There are four hundred and fifty-two pages of banks and banking material in statutory law, and not one comment on banks in the present 1921, or current, as amended, Constitution. This section was brought up as a railroaded issue. There is no question that this section was brought up at the eleventh hour. There is question whether it even belongs in this section. For that reason I was forced to walk out with another member because we were not allowed to present our views and ask questions. Subsequently, we returned the following day at which time we found the committee proposal was considerably amended, and certainly it is much better, much better for the poor little rich banks now than the rich, rich banks. But, on the other hand, it is not, I believe, constitutional material, and am in favor of this floor amendment. I hope you will vote favorably. The reasons that those who spoke against it the following day, when this had already passed the committee and was entered and engrossed, are some of the following reasons: if you're interested in the poor people of the state, as many of you profess to be, consider this, as testimony before our committee after this was passed indicated. There are certain parishes in the state which do not even have credit cards. Bank Americard and other cards are not even issued to these people in certain parishes. Why? Because as one delegate, Delegate Nunez, stated, we are preserving the past hundred years of banking. If this is what you want, preserve the past hundred years of banking. Let's have some more Baker Banks in our political operation; let's have some more opportunities not to know what the interest rates are in the rest of the country in contrast to what you must pay because of a monopoly in a particular parish. Let us understand that a mobile population cannot cash a check in another parish, next door without extensive identification because they have no way of knowing from one parish to the next, which bank they are doing business with and whether they are qualified. If you are interested in small people, let's keep this statutory law, and this is all I ask you. I think the issue should not have come before this convention, and it's for that reason I thought we should have debated it fully in committee. It was not debated fully in committee. I regret that this has come to your attention. Now, we have testifying for us many of the bank holders, many of the stockholders of banks, and they are the first to tell you that this is necessary in the constitution. Let us face it as it is. Of course, their stocks would go up and they could sell it. But, if you own stock in a particular corporation, would you rather receive an annual dividend, or would you rather sell out at once? This is no problem, and I've been here one year now with you delegates, a neophyte at this political process, and I believe that we are ruining the democratic process in haste. It is for that reason that I oppose this being brought to the floor without further consideration. Vote in favor of the present floor amendment by Delegate O'Neill.

Further Discussion

MR. WINCHESTER

Mr. Chairman and fellow delegates, the disadvantage of being one of the latest speakers is that everybody else has kind of stolen your thunder. I wanted to explain that as an assessor I thought this would do violence to the various parishes in the bank assessment, but Mr. Lowe explained that. I'm definitely opposed to this amendment to delete this section from the article. This country was founded on free enterprise, and a

local bank is certainly the heart and foundation of free enterprise. When I was first married, I lived on overdrafts, and if I hadn't had those overdrafts--I know a computer wouldn't have given them to me from a big bank--now, as I announced some months ago, I had an application in for the Commerce and Industry for a eighty million dollar plant. So, you see what a small bank can do to carry on a young man and let him get to manhood. Your local bank knows the needs of the citizens. It is organized by the local citizens. The dividends are paid to the local citizens. In answer to Mr. Abraham's observation that this is not constitutional material, I say, "Where there's smoke, there's fire." This issue has almost broken up the Louisiana Bankers' Association--the big bank on one side; the small country bank on the other. I say that we should defeat this amendment. I have enough troubles already, if we do away with the little banks. I'm having trouble as a middle-aged man with this newspaper ad that says, "Live with gusto; you only go around once." Well, that's kind of getting me, see. Then, they come along with this ad on small cigars, that the ladies cannot refuse Winchester. That's giving me a lot of trouble. So, please, please, don't take the little banks away from me. I don't know what I'd do without the little banks. I urge the defeat of this amendment, and go with the committee proposal, please.

Questions

MR. BURNS

Mr. Winchester, you've gotten past that overdraft stage, haven't you?

MR. WINCHESTER

Yes, I have.

MR. BURNS

What I meant was, you'd have a rough time living on overdrafts today when they charge anywhere from two to three dollars for every check that they turn down.

MR. WINCHESTER

Mr. Burns, I was paying that. I had a secretary the banker used to call and said to tell Mr. Winchester to send some money. She said, "I always thought that people went to the bank to borrow money, but when the bank needs money, they call you."

MR. JONES

Dan, I'm glad you brought up that in regard to what Monday Love said because we checked out that law, and when you have a parish bank which crosses parish lines, you divide your taxes proportionate to the amount of interest you have there.

MR. WINCHESTER

The amount of what, sir?

MR. JONES

The amount of capital interest you have in the parish. His particular example was the Port Allen Bank and a bank in New Orleans. Across parish lines, you divide it according to the amount of capital in use in the particular parish.

MR. WINCHESTER

That's right. The total assessment in 1972 on the assessment roll for banks was over \$201,000,000 assessments of banks in the State of Louisiana.

MR. JONES

Dan, all this amendment does...it doesn't change the law of Louisiana; isn't that correct? In other words, there's now a law on the books that you can't have branch banking across parish lines.

MR. WINCHESTER

That's my understanding, yes.

MR. JONES

There's one exception, I think, which was blanketed in in Calcasieu, I think in Lake Charles. You also cannot have except a one bank-holding company right now.

MR. WINCHESTER

That's my understanding, yes.

MR. JONES

So, all this law is doing is overkill...taking it out of the hands of the legislature and pushing it up, making it more difficult.

Further Discussion

MRS. ZERVIGON

Mr. Chairman and ladies and gentlemen, as we've been writing this constitution over a year's time, we've made a few people mad, off and on. But, we kind of had to because there were things that we had been addressed in the '21 Constitution that we had to address in this constitution, one way or another. I urge you not to make additional people mad by sticking something in this constitution that's never been in any of our other constitutions. There is adequate protection for the small banks, has been over time. But, I urge you not to stick this in the constitution at this point, in this way because, ladies and gentlemen, we don't know what the heck we are doing. I don't own stock in any bank. I don't sit on the board of directors in any bank. I don't have relatives in the banking business. I don't have any interest in this thing as a personal matter. But, I can tell you that I hate to stick something in the constitution when I don't really know very much about it. If you'll be honest with yourselves, you'll know that most of you who don't sit on boards of directors, who don't own stock, who don't have relatives in the banking business don't know what the heck we're doing, either. Savings and loans can go across parish lines. What have been the abuses of that? There's a bank in Calcasieu that was blanketed in by the grandfather clause. What abuses has that bank perpetrated on the parishes outside of Calcasieu? We don't know. Mr. Roemer says that two banks in Mississippi have more than fifty percent of the capital in the state, or something like that. We don't know whether that's true; we don't know whether that's peculiar to Mississippi; we don't know what the other factors are. I urge you not to change something that is working very well for large and small banks; make people mad that we don't need to make mad; worry folks that we don't need to worry on three weeks notice. When I asked Mr. Roy how long the committee had been saying it, he said three weeks. Let me point out to you that one of those weeks was Christmas; that study was kind of a wrong word for that. They had testimony one day, but we have not one piece of paper on this subject. It isn't like civil service or property tax where we had reams of paper, lots of letters from our constituents where we could read and study what went on in this state over time, what went on in other states. This was something that, more or less, caught us by surprise. This is what the people who are on the other side, the people who belong to the dissident faction on this issue are angry about, that they had very little notice; on the first vote, they had no notice at all, that they haven't been able to present their case, that really they expected if they ever got to change the law at all, that it would be done in the legislature, that we wouldn't consider it because nothing had ever been in the constitution before. You all were very, very knowledgeable about banks--groovy. You know, all five of you all, cast an informed vote. All the rest of us, I think, better vote to take this out because we don't know what we're doing. Thank you very much.

MR. HENRY

Would you yield to a question to Dr. Weiss?
The lady yields.

MRS. ZERVIGON

Mr. Chairman, I hesitate to yield to questions. I don't know anything about banking, and that's why I'm going to vote to take it out.

Further Discussion

MR. TOBIAS

Mr. Chairman, fellow delegates, if we don't adopt this amendment, it will be poetic justice for the small banks of this state because they will get exactly what they deserve. Nothing that we put in this constitution can affect national banks--not one thing. The United States government can authorize national banks in every parish of this state. It can authorize that national banks may form national bank multi-parish, multi-state holding companies. What are we doing now? We're freezing out, if we don't adopt this amendment, we're freezing out the possibility of allowing small banks to expand and to protect themselves from the large banks. I think it's very, very dangerous, and I urge you, adopt this amendment.

Further Discussion

MR. ROY

Yes, sir. I just want to point out one thing. It's very important. People talk about the exchange when a multi-bank holding company comes into existence. Let me tell you how they deal with the local bank, then. They don't exchange money for

stock in that local bank under the threat of maybe kind of almost running them out of business, saying we're going to compete against you. They go to the little bank stockholder in that local community, and they say, "We will give you stock in my multi-bank holding company which has its interest in finance companies, banks here and there, and everything else, in place of your stock in your local bank." That's how it's done. They don't even bother to pay that little guy his cash for his stock. What does he do? If he doesn't take it, and they end up competing to the extent that they run him out of business, the stock is worth very little anyway. But, that's how the exchange takes place, and why? Because for some reason the federal government allows some type of tax credit when there's an exchange of stock, and you don't have to report a gain on it. You're just exchanging stock. But, what happens to the little fellow who gives his stock to the big multi-bank holding company? He never gets much dividend on it because the multi-bank holding company's officers are the ones who make the money. You give me a corporation that's rich enough, and the executive officers make the money. The stockholders, you know, just don't get too much. That's the only thing I wanted to point out. I urge the rejection of this amendment.

Further Discussion

MR. J. JACKSON

Mr. Chairman and ladies and gentlemen of the convention, earlier today..at least earlier in the discussion, I pointed out to Mr. Roy that, believe it or not, although I represent one of the poorest districts within the state, that we are concerned very seriously about banks. Particularly, we have been operating over the last year with a multi-racial bank designed to provide some services and some meaningful programs from the private sector to our area. Now, I can appreciate the concerns of the small rural banks. I would like to suggest to you that there is no bank smaller in this state than the one existing multi-racial bank in the city of New Orleans. In conferring with bankers who, I would assume, would have the same kind of perspective as many of the rural banks, their fears are that; that when the national banks come in and that they begin to buy up various savings and loan companies, and that when they begin to accumulate the stock of other small rural banks, that when the question comes up in the legislature as to allow all banks to expand, particularly all state banks to expand, that they have the control into some of these small rural banks. It would be very hard if we provide a constitutional provision which does allow for a two-thirds vote of the legislature; it would be hard to get that two-thirds vote. Because, particularly if you recognize, as a matter of fact, that the reason that many of us who run for office have to secure various loans from various lending institutions, and somebody will throw that up in your face and say, "Well, you've got a loan with my bank now." I believe, as Mrs. Zervigon, that if we under the present statute, if there needs to be some adjustments to accommodate small banks and large banks, that it would be more readily easier to do it in the legislature, than necessarily having to overcome, which in my opinion is a strict constitutional prohibition. So, for that reason I ask you, and taking on the advice of persons who are more expertise in this area, ask you to vote favorable for the adoption of the amendment.

[Previous Question ordered.]

Closing

MR. JONES

Mr. Chairman, ladies and gentlemen, the issue is clear here. You've got a provision in your constitution which does nothing more than provide for the provisions of an overkill in the regulation of your banking industry. It does nothing but raise it to two-thirds, where you've got the laws on the books right now. You're taking it out and just making it more difficult. It's a provision which should not even be in this particular section of the constitution. I think it's clear that it's statutory, and it's something we ought to leave to the regulation of the legislature, and I urge that you vote in favor of this amendment and delete Section 9 from Proposal No. 35. Thank you.

[Record vote ordered. Amendment rejected:
39-65. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Mr. Dennery sends up the following amendments:
Amendment No. 1. On page 2, line 21, after the word "permit" and before the word "multi-bank" insert the words "foreign or domestic".

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Amendment No. 2. On page 2, line 23, after the words "two-thirds of" and before the word "each" insert the words "the elected members of".

Amendment No. 3. On page 2, line 24, after the word and punctuation "legislature." add the following: "No law shall permit multi-parish operations of building and loan associations, savings and loan associations, or homesteads, except by a favorable vote of two-thirds of the elected members of each house of the legislature."

Explanation

MR. DENNERY

Mr. Chairman and delegates, my amendments, I think, establish the validity of Mrs. Zervigon's remarks when she spoke in favor of the previous amendment which was defeated, namely that the Section 9 as it's presently written, I don't believe has had enough study; and I'm not sure that the amendments I suggest are sufficient to really protect us in this state. For example, my first amendment inserts the words "foreign or domestic" because, as a matter of fact, there are some out-of-state banks which operate in the State of Louisiana. Now, it seems to me if we're going to prohibit local domestic multi-bank holding companies, metropolitan banks, or statewide branch banking, we certainly should prohibit it as far as foreign banks are concerned. A lot of international banking is done by foreign banks which have offices, or could have offices in any one or more of the parts of the State of Louisiana. The second amendment that I propose, is, I suppose, more technical than anything else. A favorable vote of two-thirds of each house probably should be a favorable vote of the elected members of each house." Now, the third amendment is offered because at the present time you can have multi-parish operations of buildings and loans, savings and loans, and homesteads. It would seem to me that if you're going to restrict banks to operating within their own parish except by a two-thirds vote, then you should do the same thing as far as homesteads, building and loans, and savings and loans are concerned. As Senator Nunez mentioned, at least one of the New Orleans homesteads has a branch in St. Bernard which, presumably, will cause difficulties for local St. Bernard homesteads. It appears to me that in order to be fair on this, if we're going to restrict multi-parish banking to...or rather restrict the legislature to require it a two-thirds vote in order to permit multi-parish banking, we should do the same thing with regard to multi-parish operations of building and loan associations, and the like. It is for these purposes that I have submitted these amendments, and I'll be pleased to answer any questions, Mr. Chairman.

Questions

MR. TOBIAS

Moise, is Amendment No. 3 exercise of the principle, "what's good for the goose is good for the gander"?

MR. DENNERY

Yes, I suppose you could say that.

MR. HAYES

Mr. Dennery, does the state have any control over the federal savings and loan association, or building and loan association, as you refer to here?

MR. DENNERY

I'm not sure that they do, Mr. Hayes.

MR. HAYES

They don't have any, as you know it? O.K., so this would not control them; they would be free to ramp as they willed. Is that correct?

MR. DENNERY

I believe that's correct. That's one of the reasons I think this entire amendment...

MR. HAYES

Now, if you would put all these controls on state banks and leave them free, what good would this do?

MR. DENNERY

Well, we're doing the same thing with national banks now, you see?

MR. HAYES

Now, the next think is, can't these savings and loan associations, federal, go at least fifty miles in radius?

MR. DENNERY

I think they can go a hundred miles...

MR. HAYES

A hundred miles and do what they want to. Therefore, this would be almost useless, wouldn't it?

MR. DENNERY

I beg your pardon.

MR. HAYES

This would be almost useless, then, if they can do all of that: wouldn't it?

MR. DENNERY

No, but it would restrict them to that. It would restrict them to their parishes.

MR. HAYES

The state, and not the federal.

MR. DENNERY

Well, I'm not sure what the federal is, Mr. Hayes, frankly.

MR. WINCHESTER

Mr. Dennery, in Amendment No. 3 the word "operations," what does that mean exactly please in the first line of Amendment No. 3?

MR. DENNERY

Well, it means what it says, Mr. Winchester. It means they can't operate outside their own parish unless the legislature authorizes it.

MR. WINCHESTER

If you have a building and loan office in Iberia Parish, they cannot make loans in St. Mary's?

MR. DENNERY

Unless the legislature authorizes it. This doesn't say they can't do it; this says that the legislature may authorize this, but it requires a two-thirds vote, just as it does for multi-parish banking.

MR. WINCHESTER

Well, now, what does it do now?

MR. DENNERY

As far as I know at the present time, a homestead can lend money anywhere in the state. That's my understanding of it.

MR. WINCHESTER

Thank you.

MR. ALEXANDER

Mr. Dennery, as you know there are some homestead, I know one that operates...it's domiciled in Orleans, operates in Jefferson and St. Bernard. I'm concerned about what would this amendment do, anyway? What purpose would it serve?

MR. DENNERY

Well, the purpose that it would serve, Rev. Alexander, is to require the legislature to authorize such operations by a two-thirds vote. In other words, as Mr. Tobias said, presumably what's sauce for the goose is sauce for the gander, and homesteads, building and loans, and so forth obviously compete to a certain extent with banks. So, if we're going to limit banks, then we ought to limit homesteads the same way. That was the purpose of it.

MR. RIECKE

Where you have a homestead operating in two different parishes, would your amendment make them close the homestead that's in another parish, if it were passed?

MR. DENNERY

Not since they're operating under the present law. I don't know what the effect of that would be because if my amendment were adopted and the original statute had been adopted by a two-thirds vote, I don't think it would have any effect, Mr. Riecke.

MR. RIECKE

You mean those already in existence could continue?

MR. DENNERY

I would assume so, if the legislature had passed that law by at least a two-thirds vote.

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MR. RIECKE

I just don't understand that. You mean...I'm asking specifically, if you have a homestead which operates in Orleans Parish and one in Jefferson...as a branch in Jefferson Parish, if we pass this amendment, would they have to close their branch in Jefferson Parish?

MR. DENNERY

My answer to you, sir, is that under the law as it presently stands any statute which is valid when it was enacted, and becomes invalid under this constitution, would be invalid. But, under this constitution, the only requirement is that the statute has been passed by a two-thirds vote of the house and the senate. Now, if it had been passed that way, I don't know how they were passed. Each one may be a different act, but if the act by which homesteads were authorized to go outside of their own parish, had been passed by a two-thirds vote of both houses of the legislature, this would have absolutely no effect on the validity of their present operation.

MR. WEISS

Did you know that the bankers whom I spoke with say that the federal legislation or any act of federal law is not undertaken without state recommendation and approval as a rule? That includes federal banking actions. I don't know about the savings and loan.

MR. DENNERY

I think that's true with banks. I don't know that it's true with the other.

MR. BURSON

Noise, don't you think that your amendment goes further with regard to savings and loan than the committee proposal does with banks in that your Amendment No. 3 prohibits multi-parish operation of building and loan associations, whereas the Section 9 simply prohibits multi-bank holding companies, metropolitan banking or statewide branch banking, but says nothing about operations from one parish to the other, for instance?

MR. DENNERY

That's quite possible. Frankly, when I worded this, I couldn't figure out how else to word it, Mr. Burson. The purpose of it was to prevent the multi-parish branches, I suppose.

Point of Order

MR. DUVAL

Mr. Chairman, I just wanted a ruling as to whether this is divisible or not.

MR. HENRY

Divisible, yes, sir, it is.

MR. DUVAL

I request that it be voted on...

MR. HENRY

In three different votes?

MR. DUVAL

Yes, sir.

MR. HENRY

All right, sir.

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, I rise in opposition to Amendment No. 1 and No. 3. Amendment No. 2 is all right. Now, let me tell you with respect to No. 3 what's really dangerous about it. I told you that a present federal law with respect to statewide branch banking and multi-bank holding companies allows the national banks to do only what the state permits. Now, presently in Louisiana you can't have that so they don't do it. But, present federal law with respect to savings and loan associations, federal savings and loan, is not the same as to national banks. Federal savings and loans may go within a hundred miles of their parent savings and loan organization, so that if you pass No. 3, you're going to penalize your state savings and loans which can compete with the federal system right now because in the state law we are allowed, our state law does permit savings and loans to open up branches within a hundred miles. All I'm saying is that you can't possibly pass this and treat our local savings and loans equally with federal savings and loans. So, I urge the rejection of it. Number one, I don't think it's needed. I think it's very plain that the provision says that no law shall permit multi-bank

holding companies, and I never understood why we had to put "foreign" or "domestic." We could not bind, of course, the federal national banks if the federal government did something about it. I don't see the need for it. The second amendment is good, and I would vote for it.

Questions

MR. BURNS

Mr. Roy, with reference to your now saying that the second amendment is good, didn't you have that in your original proposal, and then you changed it to satisfy a lot of people that were opposed to the simple majority?

MR. ROY

Well, Mr. Burns, I think...

MR. BURNS

...and then came around and told us that ought to meet all the objections.

MR. ROY

Our initial committee proposal was an absolute prohibition which would have taken a constitutional amendment to allow. Then the Independent Bankers' Association and the LBA said, "Look, that's not good; we need some flexibility." So, we then changed it to two-thirds vote. I understand that Mr. Dennery's amendment is more of a technical nature because we do provide by a vote of two-thirds of each house of the legislature; and he just says by a two-thirds vote of the elected members of each house. I don't see any problem there. Style and Drafting can take care of his. I think his second one is a technical amendment, and I have no objection to it.

MR. DREW

Chris, I'm concerned about Amendment No. 3. Under the banking provision, which we just refused to delete, there would be nothing in there that would prohibit me from going to Shreveport, living in Minden and borrowing money any time I saw fit, but when you say multi-parish operations of a building and loan association where my home is located in Webster Parish, would I not be confined to having to do business with a building and loan association in that parish?

MR. ROY

It could be argued, Mr. Drew. I don't know...It's confusing.

MR. DREW

In other words, my question is, is a mortgage on property in Webster Parish in operation? That's the question that bothers me?

MR. ROY

I think that's another reason to vote against it, but the main reason I'm against it is because it discriminates against our own state savings and loans.

MR. DENNERY

Mr. Roy, I didn't understand your objection to the first amendment. Would you be good enough to repeat it for me?

MR. ROY

Mr. Dennery, I didn't fully understand your explanation of it or the need for it, but my opinion is that when you talk about a foreign, if you are talking about something outside of the United States that may be one thing. But, I think the language is broad enough that when our law says, "No law shall permit multi-bank holding companies"; the only exception to that rule would be that national banks, if Congress chooses to authorize them to, will be permitted to operate as Congress sees fit. But, foreign banks, if that's what you're talking about, I don't think...

MR. DENNERY

No, I'm talking about banks outside of the State of Louisiana. As you probably know, we do have some banks from outside of the State of Louisiana with offices in the State of Louisiana. My question is: The same basis that you said you didn't want to favor the federal building and loans over the state building and loans, why would you do this?

MR. ROY

Well, I misunderstood your explanation. I thought you were referring to "foreign," I was not paying attention; I'm sorry. As a foreign....

MR. HENRY

You've exceeded your time, Mr. Roy.

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MR. ROY
I withdraw my objection of "i".

Further Discussion

MR. HAYES
Mr. Chairman, ladies and gentlemen of the convention, it appears that this third amendment in particular here would put your state savings and loan association at a disadvantage to your federal institutions. If your federal institutions can go a hundred miles, why would you want to limit your state institutions from going at least where they can go? I don't see any need for this at all, Amendment No. 3. You are only saying...well, all you're saying here is that what you are going to do is limit, and limit, and delimit the state while the federal institutions can run wild as I can see it. If they can go one hundred miles, I can see no need for [Amendment] No. 3 at all.

[Previous Question ordered.]

Closing

MR. DENNERY
Mr. Chairman, I would ask for a division of the question. I will waive my right to close.

MR. HENRY
All right. The gentleman had already requested that the question be divided, so....

MR. DENNERY
Mr. Roy advises me that the committee now has no objection to Amendment No. 1.

[Amendment No. 1 adopted: 95-8. Motion to reconsider tabled. Amendment No. 2 reread and adopted: 101-3. Motion to reconsider tabled. Amendment No. 3 reread. Record vote ordered. Amendment rejected: 18-84. Motion to reconsider tabled.]

MR. POYNTER
Yes. Mr. Conroy sends up amendments at this time.
Amendment No. 1. On page 2, line 22, after the word and punctuation "banking," and before the word "or" insert the words "multi-parish".

Explanation

MR. CONROY
I disagreed with the philosophy of Section 9 and voted for the amendment to remove it but the convention felt otherwise, and I think that the arguments in favor of Section 9 that have been presented indicated that the intention was to prohibit all multi-parish branch banking not just a prohibition against statewide branch banking. So, I regard this somewhat as a technical amendment to conform with what the intent apparently of this convention is and that's to prohibit multi-parish branch banking. I discussed it with Mr. Roy and I gather that he agrees with this change to clarify the language of the section and prohibit multi-parish branch banking. I'll answer any questions about it, if there are any.

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 75-30. Motion to reconsider tabled.]

Recess

[Quorum Call: 70 delegates present and a quorum.]

Personal Privilege

MR. ROY
Mr. Chairman, ladies and gentlemen of the convention, in the past when I've been speaking to groups about the convention, I've always said that I thought we got good press coverage, particularly, of the Times-Picayune, the States Items in New Orleans, the Advocate and the States Times. I just read again for the second time today a statement in the Baton Rouge Times that we passed a provision yesterday that allowed for the automatic increase of rates irrespective of what the legislature does which is just absolutely untrue. The

same headline was this morning in the Morning Advocate and I called it to the attention of the writer and he said he was not responsible for the headline although the headline was, in fact, erroneous. If there is any media around here, except for the Picayune and the other New Orleans paper, the Items, which is doing what I say is a fair job. I wish they would please print the truth on the matter that what we passed yesterday will allow an increase if the legislature implements such an animal and it's just not so. People are being misled and it's not going to change my view on the thing as a result of that. If they can't understand it, then my good friends over there in the Baton Rouge media, I would be happy to show it to them how plain it is.

Amendment

MR. HARDIN
First amendment is sent up by Delegate Singletary and many other delegates.

Amendment No. 1. On page 2, line 25, add the following section, Section 10, that's a change from [Section] 9 on the copies that were passed out.

"Section 10. Administrative and Quasi-Judicial Agency Code
Section 10. Rules, regulations and procedures adopted by all state administrative and quasi-judicial agencies, boards and commissions shall be published in one or more codes made available to the public."

Explanation

MR. SINGLETARY
Ladies and gentlemen, this would just require the quasi-judicial agencies, boards and commissions of the state to publish their rules and make them available for the information of the public just like we require local governments to publish their laws. So, I move its adoption.

[Quorum Call: 82 delegates present and a quorum. Amendment adopted: 86-0. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 87-0. Motion to reconsider tabled.]

Amendment

MR. HARDIN
Next amendment which is being passed out now is sent up by Delegates Corne, Juneau, Willis, and Segura.
Amendment No. 1. On page 2, after the language added with new Section 10 add the following language:
"Section 11. Preservation of Linguistic and Cultural Origin
Section 11. The right of the people to preserve, foster, and promote their respective historic linguistic and cultural origin is recognized."

Explanation

MRS. CORNE
The proposal is very short; you have it before you. We feel that the cultural importance of bilingualism and the advantages that we have in Louisiana for the preservation of the historical and linguistic origin of our people should be fostered, preserved. I would ask your favorable consideration of this proposal.

Questions

MR. JENKINS
Mrs. Corne, your intention with this section is not to grant any additional authority to the state government, is it, but rather to give certain rights to the citizens of the state; is that correct?

MRS. CORNE
Yes, to the people of the state to preserve and foster their origin.

MR. JENKINS
But, not to the government; it's not a grant of authority to government; is it?

MRS. CORNE
No.

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MR. HAYES

Mrs. Corne, will this give you the right to do anything that you can't do now?

MRS. CORNE

Mr. Hayes, I really don't believe that it would give us a right to do anything that we don't want to do now. However, it would be an encouragement to preserve that which we tried once before to almost eliminate in the State of Louisiana and it would then be an encouragement for the people not to attempt this again.

MR. J. JACKSON

Mrs. Corne, it's just a technical question. I wanted to know was that myself or Alphonse Jackson on the amendment because it doesn't clarify?

MRS. CORNE

You wanted to know...I didn't understand your question.

MR. J. JACKSON

One of the coauthors name is Jackson. O.K., I just wanted to make sure. I think it ought to be corrected....

[Previous Question ordered. Amendment adopted: 95-1. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 99-1. Motion to reconsider tabled.]

Amendment

MR. HARDIN

The next amendment is sent up by Delegate Denny. On page 2, line 25, after the language added by the Corne, et al. amendment and adopted by the convention, add the following "Section 12. Validity of Existing Legislation Section 12. Existing legislation not in conflict with this constitution is valid and in force."

Explanation

MR. DENNERY

Mr. Chairman and delegates, the purpose of this amendment is to clarify once and for all what the courts will have to look to in order to determine the constitutional validity of legislative acts. At the present time, the jurisprudence in Louisiana has held that a statute which is invalid under a previous constitution cannot be validated by a new or amended constitution even when the constitutional amendment proposed that the same session of the legislature at which the statute was adopted was later ratified by the people and put into effect. Now, this amendment provides that if the legislation, which is presently on the books, is not in conflict with the constitution which we are presently drafting regardless of its validity under prior constitutions, the courts can hold and should hold that that legislation is valid and in force. The reason for this is to avoid questions which may come up and to avoid really, primarily, endless litigation because we will not have to refer back to prior constitutions in order to determine whether a statute presently on the books is a valid statute. Now, I have discussed this matter with Mr. Jenkins at length. Mr. Jenkins has an amendment to it which will presumably come up in which he argues that if a legislation was not valid when it was adopted, that it should not be validated by virtue of this constitution. I present this to the convention because I think this is a matter of some importance. I think we should reach a decision. Should we require our courts to go back to the Constitution of 1921 and prior constitutions, or should we merely require the courts to look at the current constitution when adopted in 1974? Certain members of the staff have suggested that this would simplify the problems which presently exist in the field of constitutional law and it was for this reason that I introduced it. I believe in all probabilities it will simplify matters; it may confuse them, though; I want in all honesty to tell you this and I think you should consider it very carefully before adopting it or rejecting it. I think after we have discussed it, the record will reflect what this constitutional convention deems proper and the courts can then be guided accordingly. I'll be pleased to answer any questions.

Questions

MR. JENKINS

Noise, I know that your intention here is to simplify

things, but wouldn't you be making things much, much more complicated by raising the possibility that laws that have been declared unconstitutional now and which...others which are unconstitutional but which have never been declared so-- but we all know are unconstitutional, such as some of our segregation laws and things like this---could possibly be at some time in the future argued that they are revived by virtue of this constitution? Wouldn't there, then, be a doubt raised and the possibility that people could be constantly arguing that laws are being revised by this con....revived by this constitution?

MR. DENNERY

Revived? Well, I don't know if that's necessarily true, but I will say that the majority of the states in the Union now take the position that under...which would apply under this amendment. In other words, the majority of the jurisprudence is that if a statute...if legislation is valid under the current constitution it makes no difference whether it was valid under prior constitutions.

MR. JENKINS

Well, let me ask you, what is existing legislation? What does that term mean?

MR. DENNERY

Well, it's...as far as my understanding of the term and the way in which it was used here was to indicate a statute which had been adopted by both Houses of the legislature and signed by the governor---that's the existing legislation.

MR. JENKINS

Would it have to be something that was adopted pursuant to all the formalities and all the procedures of the constitution under which it was adopted?

MR. DENNERY

No, it would have to be valid under this constitution.

MR. JENKINS

So, in other words you could have....

MR. DENNERY

...previously been declared unconstitutional, then I would think it is no longer existing legislation and could not revive something that the courts had declared unconstitutional. But, as you and I discussed, there is a presumption in the law that all statutes are constitutional until the court...the highest court holds them to be unconstitutional.

MR. JENKINS

Well, here's an example: Suppose under the 1921 Constitution a certain act or a thing that purports to be an act was not signed in open session by the Speaker of the House, for example. Now, our new constitution does not provide an act has to be signed in open session. Now, are you telling me that even though under the 1921 Constitution an act did not meet all the formalities and requirements necessary to become truly an act that we would somehow be giving it legitimacy under this constitution?

MR. DENNERY

Yes. I think under this amendment you would be; this is basically a statute of repose. In other words, it says that everything that has been enacted by the legislature up till now is tested under the constitution which is now in effect.

MR. JENKINS

But, don't you...isn't the question is: What has been enacted? If something was not signed in open session; if it doesn't have three readings; if it didn't get the majority of the elected members; if it wasn't published, then it's not enacted?

MR. DENNERY

Well, it wouldn't be valid under this constitution anyway, so I just....

MR. JENKINS

But, you just told me that something not signed in open session would be.

MR. DENNERY

No, no, no, you gave me another example. If it were not signed in open session, and we did not require that in this constitution, then it would be good. But, if it did not have three readings--and we do require three readings in this constitution--it would not be valid. The point of the thing is to

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present it to the courts so that the courts will not have to go beyond the current constitution.

MR. JENKINS

But, the last question I want to ask is, what this does is, it says that a piece of legislation which was unconstitutional when passed by the legislature will now become constitutional if it conforms with this constitution; is that correct?

MR. DENNERY

That's correct.

MR. PEREZ

I think you started something.

MR. DENNERY

Maybe I ought to review it.

MR. PEREZ

Do you realize that this is the present provision of the 1921 Constitution that "all laws enforced in this state at the time of the adoption of this constitution not inconsistent therewith and constitutional, when enacted, shall remain in full force and effect until altered or repealed by the legislature or until they expire by their own limitation"? Wouldn't you think that this type of provision would be a lot more appropriate because of the fact that any law which is previously adopted should be able to stand the test of the constitution then in force; wouldn't you think?

MR. DENNERY

Well, Mr. Perez, there isn't any question about that being the law. I think that either way is appropriate as long as we know which way this convention determines that the court should go. Under the present constitution, of course, you would have to examine the validity under the constitution when it was adopted as well as the constitution in effect when it's tested. Under this amendment, you would only have to test it against the current constitution.

MR. PEREZ

Don't you realize that in addition we have a number of provisions in the present constitution which will be carried over as statutory material and that area should also be dealt with in an amendment of your kind; wouldn't you think?

MR. DENNERY

No, I think that will be carried out in the transitional measure section; I hope it will anyway.

MR. PEREZ

Well, the reason I'm asking that question is because of the fact that the provision in the '21 Constitution is in the schedule; did you know that?

MR. DENNERY

No.

MR. PEREZ

...and, don't you think that it's appropriate that your particular amendment should also be in the schedule?

MR. DENNERY

I have no objection to Style and Drafting...

MR. DERBES

Mr. Dennery, I seek information. Would you further elaborate then on the issue that Mr. Perez raised? In other words, what happens to material currently in our existing constitution, which as a result of our deliberations becomes statutory in nature? How would actions or other.....that came in conflict with another act of the legislature, for example. Would your amendment be of any help in resolving that conflict?

MR. DENNERY

I don't believe so. I would think that that's a matter that the transitional measures section of this constitution is going to have to take care of. Presumably, anything which was in the present constitution and is carried forward as statute law would have priority and precedence over any other statutory material.

MR. DERBES

Why?

MR. DENNERY

...I say presumably, because I think that's probably what

they will put in that section; I don't know what will be in the section.

MR. DERBES

D.K. I understand that. Now, one other question. I can't remember what I wanted to ask you, my mind is kind of....

MR. DENNERY

I don't remember my answer either.

MR. DERBES

Never mind, I pass.

MR. O'NEILL

Mr. Dennery, this is a complicated thing. Just for some other delegates, do you have any examples you could give just for exposition purposes that you might have in mind on this?

MR. DENNERY

Well, I don't have anything special in mind---there are cases and as based on the previous constitutional provision, as Mr. Perez read. Our courts hold that in order for a law to be valid, it has to be valid when enacted under that constitution and, again, it must be valid when tested under the present constitution. My purpose was merely to prevent...as I called it a statute of repose and to make it simpler, so that we would only have to look at one constitution. We wouldn't have to go back and find out, was it valid in 1898, or 1896, or 1925; it was purely an effort to change our law, there isn't any question about that; it would change our present law.

MR. AVANT

Moise, I appreciate what you're trying to do, but one particular area where it appears to me that this would wreak havoc is in the area of local and special laws. Now, there are certain provisions in the present constitution as to the manner in which local and special laws must be advertised. Yet, there are different provisions in the proposed constitution which we have adopted. So, if we adopt your amendment, and then this constitution is adopted, it would appear to me that every single local and special law that has been enacted pursuant to the '21 Constitution and was valid when enacted falls.

MR. DENNERY

Well, my recollection of the way Mr. Perez read that section was that it had to be valid under both constitutions then. So, I presume if you don't have this, it will have to be valid under both constitutions now.

MR. AVANT

It just seems to me that it's something I think we'd better look at because I'm not...

MR. DENNERY

Jack, I quite agree with you. I have no extremely strong feelings on this. I think it's something we should consider and we should determine whether we want to look at one constitution or whether we want to look at all of our constitution. If we decide to change the law, we'll change it. If we decide not to change the law, the courts will have the benefit of this debate and learn what we meant.

MR. TATE

Mr. Dennery, I don't want to talk about bacon or anything like that right now. But, I do want to ask you a question. It's a long statement. Are you aware, as I believe Mrs. Zervigon's Transitional Committee is working on the problem, and they have staff memos that have gone into the issue, and that perhaps it might be better to withdraw it, and let the transitional...

MR. DENNERY

I have no objection, Judge, as long as you can assure me it will come up then. I don't know what's in that section right now. I don't know what provisions...Mrs. Zervigon may be able to answer that question, though.

Judge Tate asked if you had a provision similar to this in the Transitional Measures Section.

MRS. ZERVIGON

Mr. Dennery, are you aware that my committee hasn't met on that subject yet, so that what's in my mind and in Mrs. Duncan's mind and in Judge Tate's mind is really not official in any way, shape or form.

MR. DENNERY

Well, I think I would prefer not withdrawing it, Judge.

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MR. FLORY

Mr. Dennery, don't you think it would be better to put this back on the calendar at the present time in view of the questions raised, and particularly with reference to local and special laws because I know that in the past, local and special laws had to be advertised three days prior...thirty days prior to the convening of the session? We changed that to two days, thirty days before introduction. Now, what that would mean is that every pension law, every local and special law technically would be unconstitutional under the new constitution if it...the dates didn't fall properly within the thirty days prior to introduction?

MR. DENNERY

Mr. Flory, I have no objection to doing anything on it. I stated when I started that my purpose in introducing this amendment was to get the matter before the convention. I think it's something that we should decide one way or the other. If Mrs. Zervigon's committee is going to take it up, I would be pleased to withdraw the amendment with the understanding that I can introduce it when her committee proposal comes up. I'd be perfectly willing to do that.

Mr. Chairman.

Under the circumstances I ask leave to withdraw this amendment at the present time with the right to resubmit it at a later date.

[Amendment withdrawn.]

Amendment

MR. POYNTER

Next amendment sent up by Delegate Dennery.

Amendment No. 1. On page 2, line 25, and after the language added by the Convention Floor Amendment proposed by Delegates Corne and Juneau, and just adopted, add the following section. It becomes:

"Section 12. Laws Authorizing Supplemental Pay

Section 12. Any law authorizing supplemental pay shall be enacted only by the vote of two-thirds of the elected members of each house of the legislature."

Explanation

MR. DENNERY

This is an amendment, as you may recall, when we discussed civil service, and again yesterday, at the session on yesterday, we have adopted two provisions in the constitution which permit the legislature to authorize supplemental pay for certain state employees. One is the state patrolmen and one of the uniformed enforcement officers of the Wildlife and Fisheries Department. The purpose of this amendment is merely to assure that a two-thirds vote of the elected members of each house of the legislature adopt such a law before it becomes effective. It's a relatively simple amendment. The purpose of it is that, in my opinion, as I argued before--although I was unfortunately unable to be here yesterday--as I argued before under civil service, I think that the idea of permitting the legislature to supplement any one group's pay is a very dangerous one from the point of view of civil service. Therefore, since the convention has indicated very clearly that it disagrees with me on that, I'm asking the convention to make certain that the legislature gives its due consideration and adopts any such statutes by two-thirds vote of the elected members of each house. I strongly urge the adoption of the amendment.

Question

MR. AVANT

Mr. Dennery, your amendment is not limited, is it, to supplemental pay for members of the classified state civil service? It would also require, would it not, a bill providing supplemental pay for municipal firemen or policemen or deputy sheriffs, to be adopted by a two-thirds vote; would it not?

MR. DENNERY

It probably would, Mr. Avant. That thought had not occurred to me, but I would have no objection to amending it to limit it to classified people in the classified service in the state.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I rise in opposition to the proposed new section in that it, first we have not defined what is supplemental pay. Are we talking about pay that we

make jointly to judges, district attorneys, clerks of court, etc., on down the line? Are we talking about all the salaries paid in this state on a joint basis with local government from now on going to require a two-thirds vote of the elected members of the legislature even for new positions? I don't think this is a realistic framework at all as far as constitutional law because what you're talking about is for appropriation of funds, two-thirds vote of the legislature. I would ask that you reject this new section proposed by Mr. Dennery.

[Previous Question ordered. Amendment rejected: 44-60. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Delegate Landrum sends up amendments at this time.

Amendment No. 1.--There are going to have to be some changes again--On page 2, line 25 after the language added by Convention Floor Amendment No. 1, proposed by Delegate Corne and adopted by the Convention today, add the following:

"Section"--you need to make it "12" now instead of "10."

"Section 12. Burial of Indigents; Appropriation

Section 12. The legislature shall appropriate adequate funds for the burial of indigents."

Explanation

MR. LANDRUM

Mr. Chairman, fellow delegates, in keeping with the American principles, we believe that we should take care of our dead, even when they are not able to do so themselves. I have here from Mr. Goldman one of his three-dollar cigars, or five-dollar cigars, I believe; he carries them. He told me he wanted his remains cremated. He wanted to be placed in this tube here. Well, it costs money to do that, and there are those who cannot pay for a funeral. Today we are to the place now where most of the city or parish burying grounds are just about running over. We even have the new thing going now where the rest havens and other garden parks or cemeteries where you have to pay to bury the dead. Many times you find families who had to make loans to pay for funerals. We would ask that you would support this amendment so that we would take care of our dead, as we have with the living. Thank you.

Questions

MR. STINSON

What would be included in that? Would it include a gratuity to the minister that performed the ceremonies?

MR. LANDRUM

I would have to say to you that you're a little late. Mr. Landry wanted to know whether or not I would accept an amendment saying that the minister would not be paid. I told him that I would agree to that.

MR. STINSON

I'm sorry. I wanted to be sure that was taken care of, Rev. Landrum.

MR. GOLDMAN

Rev. Landrum, did you know that that cigar you mentioned is sixty cents at retail and forty cents at wholesale, and I buy them wholesale.

MR. DERBES

Rev. Landrum, can you assure us that if this amendment doesn't pass all of the dead poor people will vote against the constitution?

MR. LANDRUM

Mr. Derbes, you have made it possible for me to express my opinion about the constitution. When you need...no, I don't think I'll go into that, but at least their families will be here. They will express an opinion one way or another. Some of them are here now in this state. So, they'll be able to express an opinion. If it was left to me, I would tell them to support the constitution. That's what I would tell them, to vote for the constitution. In spite of all of its problems, the difficult times that we've had, in spite of many bad features about it, I still believe that when we are through, it will be worth our consideration. So, I would tell them to definitely consider it.

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MR. LEBLEU

Rev. Landrum, I just wondered if you are aware that local governing authorities or parish governments now have the privilege of, or are allowed to pay, I know in our parish, up to one hundred dollars, for the burial of indigents. Perhaps, they don't have that in Orleans, but I'm sure that they are allowed by state law to do that.

MR. LANDRUM

In some local parishes, yes, I would say that you have some type of program, but now, as you know, a hundred dollars really will not take care of our burying a person, not even in country parishes now. When you consider a casket, burying grounds, most of this is going to private business. It's no more of a city or a parish thing. Most of these are owned by private individuals. So, you have to pay for it. You have to pay for the opening and closing of a grave. I think there is a need for the state to do something along this line.

I ask your favorable vote.

[Previous Question ordered. Amendment rejected: 28-73. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mrs. Zervigon sends up amendments.

Amendments read as follows:

On page 2, line 25--need to add that what's being distributed at this time--and after the Convention Floor Amendment No. 1 proposed by Mrs. Corne and adopted by the Convention on today, add the following section, and this would become, of course, still 12:

"Section 12. Laws Enacted by Electors; Limitations

Section 12. Notwithstanding any provisions of this constitution to the contrary, the legislature may submit proposals to the electors of the state for their approval at a regularly scheduled election held throughout the state. A proposal approved by a majority of the electors voting thereon shall be deemed to have the force and effect of law, but only for a period of one year or until adjournment sine die of the next following regular session of the legislature, whichever is sooner."

Before this amendment is introduced, there is one change that needs to be made. The very last word of the text of the amendment should not be "sooner"; it should be "later."

There's a more substantial change than that on the amendment, and you'd need to follow this.

It all affects the last clause of the second sentence which reads, "but only for a period of one year or until"--and here's the first change: strike out the words "adjournment sine die"; insert in lieu thereof, "the effective date of laws of the next following regular session of the legislature, whichever is sooner...whichever is later." Excuse me. That other change I previously mentioned, "whichever is later."

I'll read that second sentence again. "A proposal approved by a majority of the electors voting thereon shall be deemed to have the force and effect of law,"--and the qualifying phrase as to the effective date of that is--"but only for a period of one year or until the effective date of laws of the next following regular session of the legislature, whichever is later."

Explanation

MRS. ZERVIGON

Mr. Chairman and delegates, I'm sorry for the confusion. I had asked for changes in the copy, and the staff apparently didn't get the word. I asked for the changes yesterday. But, the intention remains the same. As the constitution is presently drafted, there are two ways to pass things with the effect of law. One is to have the legislature pass the law in the regular manner with the three readings and that sort of stuff. It says in the Legislative Article that the legislature is the legislative body in the state. The other way would be to have concurrent resolutions passed by two-thirds vote of the legislature, approved by a referendum of the people, and that would be a constitutional amendment. I think there are times when the legislature wants to take the pulse of the people when it really isn't appropriate to amend the constitution. This would allow the legislature that freedom. There are times when either an issue is terribly emotional or when legislators really don't know what the feelings of the people are that they might want to hold a referendum. The problem is that if the only way to hold a referendum is to put something in the form of a constitutional amendment, then in the future when legislators know how the people feel, or when the issue isn't as hot anymore, if any changes need to be made, they must be made by constitu-

tional amendment. This would allow the legislators to have a referendum on something that would then have the effect of the statute which the legislature, once they got the feeling of the public, could amend as they amend all statutes in the future. It's just a convenience. I add it in this article because this article as it originally came from the committee had several sections on initiative and referendum. Those were deleted in committee, but that's why I cast this amendment to this particular article rather than sticking it in the Legislative Article. I'll yield to any questions, Mr. Chairman.

Delegate J. Jackson in the Chair

Questions

MR. DERBES

Thank you. There's no gubernatorial veto in this, right?

MRS. ZERVIGON

No, the people would pass or veto.

MR. DERBES

In the event...it also seems to me not to provide...you said that the legislature can then amend what has been referred to the people for approval without subsequent referral to the people for approval?

MRS. ZERVIGON

That's right, and as a matter of fact, if you'll read it, if the legislature takes no action at all, it'll have to. This just gives a way of the legislature to take the pulse of the people. I'm certain that the legislature could now, if they want to, appropriate money for a Harris poll and take the pulse of the people, but then they would have to wait till the next following regular session to pass something into law. It may well also be so that the legislature could put a referendum on the ballot to take the pulse of the people, but not one that has the effect of law because it says in the Legislative Article that the legislative power rests with the legislature, not with the people. So, this would allow the legislature as itself a statute needed to be established now, if the people really wanted it now, to have something of the force of statutes between today and the next regular session of the legislature.

MR. DERBES

Why did you exclude the gubernatorial veto from the system?

MRS. ZERVIGON

It just seemed to me that when the people were going to express their views one way or another, that was unnecessary. In addition to that, Jim, it lapses, you see, after the year is passed or the next following session unless the legislature passes it into law as a regular statute, and at that point the governor could veto it, if he had the nerve.

MR. DERBES

What about a proposal that...never mind...Thank you.

MR. DE BLIEUX

Mrs. Zervigon, did you know that this is one difficulty that a legislator doesn't have; that is, finding out how his constituents feel about the proposed legislation? If he doesn't find that out, then you know he doesn't last very long, only to the next election?

MRS. ZERVIGON

Senator De Blieux, I'm not sure I'll agree with you. The other sort of mechanism that's been established in the legislature in cases like this is to set up an interim committee. For example, on the Sex Education Committee, they set up an interim committee. But, it seems to me that they put a phrase in the form of a referendum and put it on the ballot. They knew everybody in the state felt very strongly about sex education; they just weren't sure how many were on one side as opposed to how many on the other. If they could have put it on the ballot in the form of a referendum, we might have had a law either prohibiting or allowing sex education now, rather than having it assigned to an interim committee, the members of which drew per diem, but nothing much ever resulted of it that I remember.

MRS. WARREN

Ms. Zervigon, you were mentioning that this would be a feeler. I'm wondering, don't you think that the representatives could be a good feeler if they put themselves to work to feel

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their constituencies at less cost to the state, instead of having a referendum for a feeler; let the representatives feel their constituencies?

MS. ZERVIGON

Mrs. Warren, this is no additional cost to the state, if you notice; I'll say it's got to be a regularly scheduled election. So, there's no additional cost to the state with this provision. What I'm saying is, if they are of a mind not to go out and talk to their constituents on this, or if they are in a position where they know their constituents feel very, very, strongly on both sides of an issue, but they're not quite sure how many are on one side as opposed to how many are on the other. The only way they have now to put a referendum on the ballot is to amend the constitution. That's one of the ways we've gotten useless material in the constitution in the past is as a form of referendum. I'm giving a form of referendum to put statutes in statute books. I don't believe that it will be used very often, but I think it will keep some useless material out of the constitution because it is a way to put referendum on the ballot.

MR. SLAY

Ms. Zervigon, let me see if I get the real meaning here. I don't know what all is behind this, but as I look, I gather that you're saying that the legislature can call an election at a time they set the machinery in work . . . in motion for an election that's going to be a period of some three or four or five months, then that election is only going to be good until the next regular session which is about another year or so. Isn't that a terrible expense to go to to pass something that is not going to have the effect of law after the next regular session? It automatically expires; is that what you're saying?

MS. ZERVIGON

Mr. Slay, it's no expense at all because it goes on the ballot at the next regularly scheduled election. It's the same sort of provision for constitutional amendments; the difference is it doesn't stick something in the constitution. So, that if in the future you want to change it in some detail or delete it in whole, you don't have to amend the constitution again. In other words, if the legislators want to bother the people on some subject that is not in the present constitution, they only have to bother them once. They don't have to go back year after year to amend it slightly or to amend it out in the future.

MR. SLAY

All right. We're saying at the next regular scheduled election throughout the state?

MS. ZERVIGON

Yes, sir.

MR. SLAY

Now, how often do we have an election throughout the state, a regular scheduled election throughout the state?

MS. ZERVIGON

Congressional elections and gubernatorial elections.

MR. SLAY

All right. Now, that's every two years for the congressional election?

MS. ZERVIGON

Well, two years for congressional elections, the gubernatorial elections is in the intervening time.

MR. SLAY

All right. Now, we're not speaking about the democratic primary, we're speaking about the regular election in the fall. So, when the legislature meets in May --so it's going to be in November before this can go on the ballot--that's still going to be an expense....

MR. DUVAL

Mary, I just wanted to get one thing clear. You have the phrase "notwithstanding any provisions of this constitution to the contrary, the legislature may submit proposals to the electors of the state," now, these proposals would be ratified by the people, but . . . these proposals could not abrogate constitutional provisions; is that right?

MS. ZERVIGON

No way.

MR. DUVAL

So, your intent here is clearly that this could not. . .

these proposals could in no way abrogate the provisions of the constitution; is that right?

MS. ZERVIGON

The provision to the contrary to which I refer, is the first section of the Legislative Article that says "the legislature is the legislative body of the state."

MR. DUVAL

I just wanted to make it abundantly clear that this could . . . in no way could this referendum abrogate constitutional provisions.

MS. ZERVIGON

In no way.

MR. DESHOTELS

Ms. Zervigon, Mr. Duval asked part of my question, but my second question is: I am referring to your statement that this was a mechanism for the legislature to feel the pulse of the people on a particular issue. Why couldn't you simply provide for your referendum, but not provide. . . or not have a provision that it will have the force and effect of law for one year? Just simply say that they can submit a referendum to it and then act on it in the next legislative session. This would, I believe, would clarify and would alleviate some of the fears that some of us have that this would provide for a constitutional amendment that could last for possibly one year without requiring a two-thirds vote of the legislature to submit it to the people.

MS. ZERVIGON

It would have the force and effect of law. Law means "statutes"; statutes can't be contrary to the constitution. I'm not an attorney, but it's been told to us in this body over and over again so I can't see what your fears are in that regard. As far as the other question is concerned, it seems to me that the legislature could appropriate money and take a referendum door to door on the voting machine or anything like that if they wanted. This is to only cover the case in which they wanted something to go into law right away. They can't pass now laws contingent on approval by the people, except to stick them in the constitution. I want to give them two ways to do that. One is to stick them in the constitution but, if they do that, then, forevermore, to change them, we have to amend the constitution. The second way, is to put them in the statutes temporarily on approval by the people. That's all there is to it. It's really very simple; there's nothing behind it, as Mr. Slay said. I wish I were that clever, but I'm not.

MR. ABRAHAM

Mary, isn't there a danger here that we would be placing ourselves right back in exactly the same position where we are now; where we could have fifty-one propositions on the ballot and the people are having to decide whether this is . . . they should vote yea or nay on these things and then in disgust would be just as disgusted with this thing as they are with voting on constitutional amendments?

MS. ZERVIGON

Mack, let me answer that question this way. What you're asking me is, doesn't this tempt the legislature to pass the buck? I'm saying if the legislature is tempted to pass the buck there's really no way for us to stop that except to elect better and better legislators which I believe we have done over time. But, what this says is, if the legislators want to pass the buck, they pass it once. They don't lock themselves into the point where any time they want to make another decision on that same subject even though it isn't so hot they still want to pass the buck. We then have to vote on it again. So, it seems to me that this is a way of limiting the number of things on the ballot because what you're saying is that the hot issue of 1974 goes on the ballot only in '74. The hot issues of '75 go on the ballot only in '75 and there are no '74 old dead issues on the ballot in '75, if you understand what I mean. So, my intention is to cut down the number of things on the ballot in this way. I don't expect it to be used very much, I don't see the legislators wanting to pass the buck very much. As Chris said, we were all elected to come up here and make decisions and I see the legislators doing that more easily than any of the rest of us because they're accustomed to it. But, in that one case where they want to they don't have to stick something in the constitution, they could just take a referendum and stick it into the statutes instead.

Further Discussion

MR. NEWTON

Mr. Chairman and fellow delegates, I rise in support of this amendment. At first I was against it because I felt that

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I didn't want the legislature passing the buck. I hope the legislature under the new constitution will not pass the buck. They certainly won't have to as they have in the past. I certainly hope that they won't pass the buck by proposing constitutional amendments. But, if they don't, and if they do decide they want to pass the buck, I'd rather have them doing it in this type of a form rather than in passing and trying to get constitutional amendments passed. I, therefore, support this amendment. I'll be glad to yield to any questions.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I'm just going to say a few words, but this is a very bad provision not for the . . . any of the reasons that have been mentioned so far, but I want to point this out to you when it says "notwithstanding any provision of this constitution to the contrary that the legislature may do these things and that that will be the law for a stated period of time." In my humble opinion, the provisions of the constitution could be changed for that limited period of time. Then, the big bugaboo is, if a provision of the constitution is changed by this process and the change only takes effect for one year; then that time runs out, then what is going to be the constitutional provision after that because there's no provision in here at the end of that time, then the old constitutional provision goes back in effect. So, it's just about the doggonest thing I've ever seen. I hate to say ill-conceived, but it's full of all kind of bugaboos. Not only the fact that you're going to have two hundred and fifty propositions on the ballot every time you have an election, but I think that the thing that I have pointed out to you has a very serious defect in it and for that reason alone, it should be rejected.

[Previous Question ordered. Amendment rejected: 16-89. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Dennery has further amendments at this time. The pages will be passing out the amendments.

The amendments will read as follows: On page 2, line 25, and again you have to insert the language--after Convention Floor Amendment No. 1 proposed by Mrs. Corne, adopted by the convention on today, add the following: Section (blank) becomes Section 12.

"Section 12. Laws Authorizing Supplemental Pay

Section 12. Any law authorizing supplemental pay for state classified employees shall be enacted only by the vote of two-thirds of the elected members of each house of the legislature."

Explanation

MR. DENNERY

You will recall that Mr. Avant pointed out to me that the earlier amendment which I submitted and was defeated would require a two-thirds vote of the elected members of each house even if it referred to parochial employees. Recognizing that that may have been-- it certainly was not my intention-- I felt that I should come forward with this amendment which provides that supplemental pay laws for any state classified employees shall be enacted only by the vote of two-thirds of the elected members of each house of the legislature. You will recall the debates on Civil Service in which many people felt that Civil Service should be subject to a two-thirds vote of the legislature. The purpose of this amendment is to require that two-thirds vote because this constitutes an amendment to the Civil Service law and the rules. In other words, it changes the regular pay plan which would have been adopted by the commission and approved by the governor and the legislature and permits authorizing supplemental pay for two specific categories of employees. It seems to me that there could be no objection to requiring a two-thirds vote in order to do this. I urge you to adopt this amendment. I'll be pleased to answer any questions, Mr. Acting Chairman.

Further Discussion

MR. FLORY

Mr. Chairman, once again I rise to oppose a proposed newer section relating to this particular subject. I'd hope you'd pay particular attention to the language proposed in this amendment. For example, in the last special session of the legislature, the legislature appropriated some, I think, eighteen million dollars or better for state classified employees and nonclassified employees

to supplement the present pay they get in a 5.5 percent cross the board cost of living increase. Had this been a constitutional provision at that time, it would have required a two-thirds vote of the legislature to appropriate the funds to make that possible for the state employees. I don't believe that I ever heard Mr. Dennery say while we were discussing Civil Service that he thought that it ought to take a two-thirds vote of the Civil Service Commission to change the classified pay plan for state employees. What he has done here is only take care of the classified state employees who are the least paid in the state. Yet, the nonclassified employees can be granted tremendous supplemental pay increases with only a simple majority vote of the legislature. Now, that's how ridiculous we've come in proposing something of this type. I ask you to vote against this proposed new section.

Further Discussion

MR. WOMACK

Mr. Acting Chairman, fellow delegates, this is another one of the bad proposals, as I see it, that's been offered. If you really want to get some opposition to this document when it's submitted, you tell fifty thousand classified employees that we're not going to permit the Executive Department to grant you a raise when it develops on an interim between sessions that you have the money and can afford it when they were denied that raise because it wasn't anticipated you were going to have that much money when the session was there in the regular session. I think you can generate a considerable amount of opposition by this. Number one is, when the money is available, I can't think of any better place to put it than to put it in your top-flight employees in the State of Louisiana. Personnel, personal services is probably the largest item that we have within state government. In many of the budgetary units it reaches up around an eighty percent factor. I just think you'd be doing irreparable damage to the document that we're going to submit to the people if you would add a section in there like this. I think you would generate an all-out war by these classified employees, and I think they'd be totally justified in taking that position. I think you could seriously consider this and reject this proposal.

Question

MR. WEISS

Delegate Womack, I simply wanted to ask, back in the Executive Article the governor was instructed by the constitutional action to present an operating budget. Now, wouldn't this be within a planned operating budget for the fiscal year to anticipate. . . based upon anticipated state revenues, to state this? I don't see that the argument you present is logical against this floor amendment, if such is the case.

MR. WOMACK

Dr. Weiss, I don't know whether I quite understand your question or not. The Executive Department, the way it operates now, Civil Service makes the recommendation for a pay increase and you call it, supplement-- I don't know what you call it, but a new schedule-- it has to be submitted to the Executive Department and the Executive Department has to accept or reject it based on the availability of money. But, if they submit it in November, and the money is available, then this says that you'll have to have two-thirds vote of the legislature, and I'm assuming it would have to call a special session of the legislature to get that two-thirds before you could pay the employees this increase. So, I just think you're kidding yourself. If the money is available and the legislature has made the money available and during the period of a year never will all the budgetary units have enough money to make it during a period of a year. But, the way we've handled it in the past maybe seventy-five or eighty percent of it could be handled within the budget that they had. In the case then, you'd go back and get the authority by mail ballot for the . . . from the legislature to authorize a deficit financing for that period of time to take care of those minor budgets. Then, the Budget Committee and the Division of Administration would go in and honor a change of allocations to transfer money around in the departments in order to catch those remaining budgetary units that didn't have it. You have a good system for working it now. I think to say, that to come back and say that you were going to require a two-thirds vote of both houses that would mean while they were in session, I think you would really be doing irreparable damage to it.

[Previous Question ordered.]

Closing

MR. DENNERY

In closing, I think I should point out to you what I believe to have been some errors of fact presented by Mr. Flory and by Mr. Womack. In the first place the supplemental pay that was adopted

at the last session of the legislature was adopted in accordance with a pay plan which was submitted by the Civil Service Commission. So this law, this provision would have absolutely no effect as far as that's concerned. Mr. Womack is apparently talking about all increases in pay. This particular provision is only aimed at the two groups, the two special interest groups who have proven already to this convention the power that they have by having themselves placed in the constitution as exceptions, major exceptions to the general Civil Service rule of having a Civil Service Commission which is non or a political, fix a pay plan which will be uniform throughout the state for all of the state's employees. Now, it seems to me grossly unfair to permit one or two special groups to be able to go to the legislature-- and they have the power-- they've shown the power here, obviously, because they've gotten these two amendments through here; they have the power to go to the legislature. All I am requesting this convention to do is to protect the Civil Service System by saying to the legislature in those two instances where the legislature is by this constitution authorized to grant supplemental pay without going through the Civil Service Commission; the legislature must adopt such a law by a two-thirds vote. Now, a two-thirds vote is difficult to get. It should be difficult to get. This is a very, very serious thing because it affects all state employees. If one group of state employees is raised and another group is not raised, you're going to have a lot more enemies than you have friends; you members of the legislature. It seems to me that you should be very careful; it is quite possible that the two groups involved are entitled to supplemental pay, but, if they are entitled to it, then a two-thirds vote of the legislature is not too much to ask to authorize it. I urge you very strongly to adopt this amendment.

[Amendment rejected: 34-75. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Tobias. . . .the only amendment left was one by Mr. Tobias that I don't think he's going to push real hard which is entitled:

"Section 6.1 Geese

Section 6.1. What is good for the goose is good for the gander."

You want that one, Mr. Tobias?

MR. J. JACKSON

No further amendments.

Further Discussion

MR. JENKINS

Mr. Chairman, delegates, I really rise primarily for the record. With regard to the question of divesting vested rights, I contemplated offering a similar proposal again, but I'm not, not because I don't think it's important, but because the staff advise me that they feel like a section of the Bill of Rights that has not been discussed will cover the question of compensation and due process for divesting of vested rights; that section is now numbered Section 15 of the Bill of Rights, "Access to Courts." It provides "all courts shall be open and every person shall have an adequate remedy by due process of law and justice administered without denial, partiality or unreasonable delay for injury to him in his person, property, reputation or other rights." The term "other rights" will certainly be construed to include all vested rights that they cannot be taken without due process, and the concept of justice would certainly require compensation in such cases. So, on that basis and because of the advice of the staff, I'm not going to offer a further amendment in that regard.

[Previous Question ordered on the Proposal.]

MR. LeBLEU

Mr. Chairman, I was going to request Mr. Jackson to close because I had some questions that I wanted to ask him about some of the amendments that were offered on the banking section and I'd just like to get those straight before I vote because I might have to vote against the whole works.

Personal Privilege

Closing

MR. A. JACKSON

Mr. Chairman, I'd like to seek permission to yield at this time to Mr. Roy who handled that section, and I'm sure he would be in a better position to answer the questions.

Questions

MR. LEBLEU

Mr. Roy, Delegate Conroy had the convention adopt an amendment which applied to multi-parish banking institutions. In our area we have one or two banks who have branches in various parishes, and of course, in the parish in which I live if it weren't for that, we just might not even have a bank. I just wondered what the effect of Mr. Conroy's amendment would have on the existing situation.

MR. ROY

I don't think it has any effect on the existing banking situation there, and I'm aware of the fact that the Calcasieu Marine Bank does have multi-parish banking. But the present law exempted it, in any event, Mr. LeBleu. So there's no problem there at all; it was not the intention to have that.

Chairman Henry in the Chair

MRS. ZERVIGON

Chris, what you say confuses me. I didn't think an existing law could supercede the constitution. Is there some other thing that saves Calcasieu Marine?

MR. ROY

The Calcasieu. . . .When the Calcasieu Marine Bank had its multi-parish banking many years ago, subsequently the legislature passed the laws prohibiting statewide branch banking, and where we're prohibiting here. Of course, they had to exclude the Calcasieu Marine Bank because you can't divest people of vested interests. Now, it cannot continue on in the future with other multi-parish banking as it did in the past, and neither can we do that. We can't here today pass an ex post facto provision in this constitution that would deprive vested rights from people. We can say in the future there shall be no more, but we can't certainly take it away by this constitution. That's all I said was that we could not take it away, and it was not the intention to take away. The status quo remains the same, but with respect to future multi-parish branch banking, statewide branch banking, metropolitan banking, or multi-bank holding companies, it would take a two-thirds vote of the legislature.

MRS. ZERVIGON

But you're not saying that a previous statute supercedes the new constitution.

MR. ROY

Oh, no. No, I just said, as a matter of fact, when the legislature passed the act prohibiting multi-bank holding companies and statewide parish branch banking, they had to except the Calcasieu Marine Bank because it was already in existence, and that would have been ex post facto legislation which is contrary to the Bill of Rights provision and contrary to the United States Constitution.

MRS. ZERVIGON

Well, I thought ex post facto legislation was something in which you prosecuted somebody for something he'd done in the past.

MR. ROY

No, it's not restricted to criminal activity only. It's also restricted to civil stuff, that what was legal in the past and what was done, presently becomes illegal. That's ex post facto legislation also.

MRS. ZERVIGON

Well, when the Congress divided up Standard Oil, Standard Oil had been a national company, right? and they made it go into Standard Oil of New Jersey and the various other small portions. It had been legal in the past for Standard Oil to be so large, but under the new monopoly laws, it wasn't legal in the future so they were forced to divest themselves of some of these parts of the company; isn't that so? Could Calcasieu Marine be forced to divest themselves of the banks in other parishes.

MR. ROY

No.

MRS. ZERVIGON

Under what provision of the constitution is that so?

MR. ROY

Well, I just say that we cannot pass ex post facto con-

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stitutional provisions that would do away with the Calcasieu Marine Bank. The Standard Oil provision was that they were violating the anti-trust laws of the United States.

MR. DERBES

Mr. Roy, I don't know where your definition of ex post facto laws comes from, but as I understand it--and isn't this not a fact--that a law can be passed with regard to an existing activity, and if the existing activity continues to exist after the passage of the law, the activity becomes unlawful under that law and is not subject to ex post facto challenge; isn't that correct? Isn't that what all of the anti-trust laws are about, Mr. Roy?

MR. ROY

Ex post facto, as my understanding, is that you make illegal what once was legal.

MR. DERBES

What once was--there's a difference between what once was, and what was and continues to be. Don't you understand that?

MR. ROY

I understand that you could...the state could say that there'll be no more selling of alcoholic beverages, and therefore, you couldn't sell it any longer. But, the state, in my judgment, cannot pass a law that takes a legitimate business and makes it--discriminates against that particular business, and no other. There's a difference between a general law and a specific law.

MR. DENNERY

Chris, under the way this section now reads, it says, "No law shall permit metropolitan banking, multi-parish, or statewide branch banking." Now, does that mean that a bank in East Baton Rouge Parish may no longer make loans in West Baton Rouge Parish?

MR. ROY

No, no.

MR. DENNERY

Because it says it prohibits multi-parish banking. And would it also prohibit Shreveport Bank from lending in Caddo, or a New Orleans bank from lending in the metropolitan area of New Orleans because it doesn't say metropolitan branch banking; it says "metropolitan banking"? Now, won't that, therefore, prohibit a local bank from lending money in any parish except the one in which it is authorized originally to do business unless there is a two-thirds vote?

MR. ROY

No, that's not my interpretation of it at all. Metropolitan banking in the industry means a bank that goes out of its parish boundaries, and you contend that this is a now a metropolitan area and you're in several parishes. It will not permit the bank to extend its fingers out into other parishes.

MR. DENNERY

You mean it may not extend by means of a branch, but you don't say a metropolitan branch bank. You say "metropolitan banking," and it seems to me particularly, since right after that you talk about statewide branch banking, that it's quite possible that you have made a distinction, which you did not intend to make. I think it would be perfectly horrible for the State of Louisiana if no bank were permitted to do business at all outside of its own parish. That certainly is not the law now.

MR. ROY

And that's not the intention of it. If you believe that that's what it says, Mr. Dennery, and if it's a serious consideration--I don't see it that way--but if it's serious enough to where that the convention thinks that and that we think we ought to put metropolitan branch banking, I think we ought to do it.

MR. DENNERY

Well, it seems to me that for the record--and particularly for Style and Drafting--you should state specifically what your intention is so that if then we vote in favor of this entire proposal, Style and Drafting will know what the intention of the convention was. Right now, I don't think they can really tell.

Point of Information

MR. WEISS

This is such an unusual committee proposal. Is it possible to divide the question? We have earlier had Article II and Article XII. There are two articles in this proposal, and I would like to know if the question is not divisible on this proposal. I think it should be.

MR. HENRY

No, because I believe under the rules we provide Section by Section, but we have to adopt the entire proposal at one time.

MR. ROY

Mr. Chairman, in view of Mr. Dennery's concern about this, I guess the thing to do would be to ask for about a five minute recess, and let's put the words in so that there's no question about it, and then bring it back up as more or less a technical amendment; I would think.

Further Discussion

MR. SHANNON

Mr. Chairman, the previous question had been ordered, and Mr. Jackson waived his closing and left it to Mr. Roy.

MR. HENRY

So?

MR. SHANNON

The previous question had been ordered without objection.

MR. HENRY

Yes, sir, but the gentleman has the right to close, Mr. Shannon, and--if you'll just let me finish--if we take a recess, if we do have a problem, I think it might be wiser to take a five minute recess if the problems can be resolved and suspend the rules, and go ahead and make whatever change might need to be made. So, we'll stand at ease for five minutes.

Point of Order

[*Quorum Call: 97 delegates present and a quorum. Motion to reconsider the vote by which the Previous Question was ordered on the Proposal adopted without objection.*]

Amendment

MR. POYNTER

The amendment would read as follows: (proposed the addition at the present time of a new section.)

On page 2, between lines 19 and 20, add the following:

"Section" (and might as well make it 9 in light of, I think, what Mr. Roy is going to propose if this one is adopted.)

"Section 9. Limitations on Banking

Section 9. No law shall permit" (and watch your copy, here. The word should be inserted "foreign or domestic".) "No law shall permit foreign or domestic"-- (Now some copies have those words slashed in, and some don't.) Should read:

"No law shall permit foreign or domestic multi-bank holding companies or multi-parish branch banking, except by a favorable vote of two-thirds of the elected members of each house of the legislature. This section does not prohibit the continued operation of existing multi-parish banks."

Mr. O'Neill, did you want me to read old section...Now, this is not amending at the present time old Section 9, but you want me to read it anyway?

All right. Section 9, which is presently adopted as amended, reads...Again, this amendment does not amend this; it adds a new section. Section 9, as presently amended reads:

"Section 9. Limitations on Banking

Section 9. No law shall permit foreign or domestic multi-bank holding companies, metropolitan banking, multi-parish or statewide branch banking, except by a favorable vote of two-thirds of the elected members of each house of the legislature."

Now, that's Section 9, as amended, I read the last time.

MR. HENRY

All right. Now, what Mr. Roy has done, though, is to offer an amendment which would, in effect, add a new section.

So this time, Mr. Roy, will you explain your amendment?

Explanation

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, in answer to Mr. Dennery's question, we removed entirely metropolitan banking because we feel...and we also removed entirely statewide branch banking. We feel the prohibition against multi-parish banking would of course include the concept of a metropolitan bank extending its fingers out into another parish and taking up other banks. So, I know Mr. Dennery doesn't like the provision, but in any event, we've accommodated his views on that. The second sentence which says, "This section does not prohibit the continued operation of existing multi-parish banks"

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is of course to satisfy Mr. LeBleu's position with respect to the Calcasieu Marine Bank, which has been operating several branch banks in parishes for many years. We would move the adoption of it.

Questions

MR. ARNETTE

Chris, when you say multi-parish banks, how do you mean this? In other words, the Calcasieu Marine Bank could put in more branches in more parishes?

MR. ROY

No, when it says that multi-parish branch banking--you omitted the word "branch." There can be no longer any branch banking, multi-parish branch banking, without a two-thirds vote of the legislature.

MR. ARNETTE

But it says this doesn't affect the operation of existing multi-parish banks. In other words, you're exempting Calcasieu Marine Bank from this completely.

MR. ROY

No, the continued operation--the continued--as it's now presently operated.

MR. ARNETTE

So, in other words, they couldn't go into other parishes?

MR. ROY

No. Right.

MR. ARNETTE

Okay, I just want to make this clear for the record.

MR. ROY

Right.

MR. FLORY

Mr. Roy, you inserted the words "foreign or domestic" before multi-bank holding companies. Is it your intent that the term "foreign or domestic" also applies to multi-parish branch banking?

MR. ROY

Yes, sir.

MR. TATE

Mr. Roy, just for legislative intent, when you say "except by favorable vote", you mean by law enacted by favorable vote of two-thirds?

MR. ROY

Right. Yes, sir, Justice.

Mr. Chairman, if there are no further questions...

MR. BURNS

Mr. Roy, as I told you before, I was very much interested in that metropolitan banking wording in your previous amendment. Are you sure that this amendment takes care of that situation?

MR. ROY

Right, Mr. Burns, because, presently, you see a metropolitan bank can, of course, extend its branches within the confines of the parish in any event. So when we put that the prohibition is against multi-parish branch banking, then it doesn't matter what you call it, it can't go into the other parish. It accomplishes the same thing; I've checked it out with the staff and what have you.

MR. HAYES

Mr. Roy, I just wanted to clarify some of this information. I probably tried this this morning, and this question--if I understand--federal banks can operate in the same territory, if I'm correct, we're regulating state banks here; is that correct?

MR. ROY

National banks operate in the state pursuant to state law with respect to branch banking and what have you. Yes, sir.

MR. HAYES

They operate exactly like the state banks. They must abide by this....

MR. ROY

No, no.

MR. HAYES

Okay. The only thing what I want to bring to your attention.... You wouldn't want to tie one dog, and let the another one run a loose. What I'm trying to do is say if we put down some limitations on the state banks, where the national banks can run wild, I don't think you'll be doing justice to the state banks. This is what I'm trying to bring out now. I'm not arguing...Have you taken this into consideration?

MR. ROY

I explained that this morning. My judgment is, of course, that--and I've said that the national banks if they're authorized to engage in multi-bank practices, I'm certain that our legislature to allow state banks to compete is going to allow it to do so. The reason I was opposed to Mr. Dennery's amendment this morning with respect to savings and loans is because federal savings and loans do engage in operations in other parishes within a hundred miles of the principle office. Our state law permits our state savings and loans to do that to compete equally with the federal savings and loans.

MR. HAYES

One more question: Do you have the latitude in here for the state banks to do what the federal banks do?

MR. ROY

By a two-thirds vote of the legislature, yes. But we can't govern federal, national banks in any event. The Congress determines the method by which national banks will operate in the states if it chooses. So far, the Congress has said, "We will abide by the rules of the states in which our national banks are operating."

MR. HAYES

That's not my answer, but thank you.

MR. LEBLEU

Mr. Roy, the sentence that I was interested in this section--and of course that applies only to this new proposed section under this amendment--my question was going to be: Don't you think you should have had Amendment No. 2 which, maybe, should have deleted Section 9?

MR. ROY

Mr. LeBleu, we'll have to come back...if we pass this by the sixty-seven votes, then I have another amendment coming to delete old Section 9 which we had already adopted. This will then be the proposal...This will then go in the proposal to be voted on in the entire matter. This right here.

Are you satisfied that this language is...

MR. LEBLEU

I'm satisfied that this does what I want it to do providing Section 9 is deleted. But we might adopt this and...

MR. ROY

And then we have to go back and delete the old Section 9 which is the thing that we're trying to correct right here.

MR. LEBLEU

What I'm thinking about is what happens if we don't delete Section 9 by another amendment?

MR. ROY

Well, then we've got two sections that are passed that contradict each other. I think if in our wisdom we pass this, then in our wisdom we're going to do away with the other one.

MR. NUNEZ

Mr. Roy, if you just wanted to take care of a situation of the question that Mr. LeBleu raised, why did you just not add: "this section does not prohibit the continuing operation of existing multi-parish banks" to your present provisions rather than making a new section and going back and delete the old one. I preferred the language in the old section, myself.

MR. ROY

Well, we had a problem with the question that Mr. Dennery raised that I felt was legitimate on...to the extent that it may bother some people that when you said simply "metropolitan banking", you may have been prohibiting banks in metropolitan areas rather than the concept which we were trying to prohibit except by two-thirds vote, which was a metropolitan bank operating outside of the parish in which it is domiciled. When we then refigured it, we just figured that multi-parish branch banking, the prohibition there, would cover what we tried to do the first time.

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That's the only reason. There was a matter of which way to go, Sammy, and we just went this way.

MR. ARNETTE

Chris, I think the problem would be solved a lot better if you have your last sentence read: "This section does not prohibit the continued operation of existing branches of multi-parish banks." Add branches there; that way that the existing multi-parish banks could not add additional branches in other parishes. I think you need to put that word "branches of" in there.

MR. ROY

I disagree. Then, somebody would say, "Well, the only thing you're talking about is the branches and not the main bank." I think this is very clear that it permits the Calcasieu Marine Bank, which is the problem that we have here, to continue to operate as it is presently operating. It's a multi-parish bank; that's what it is. It's not a....

MR. ARNETTE

Right. And you wouldn't prohibit any of their operations by this section. In other words they could go into additional branches in other parishes.

MR. ROY

No, it says "the continued operation of".

MR. ARNETTE

Of existing banks, not of existing branches.

MR. ROY

It can't go into any other parishes under present law. It...

MR. ARNETTE

As long as that law is changed by a majority of the legislature, though, they could.

MR. ROY

No, it can't.

MR. WINCHESTER

Mr. Roy, the part that says...the last sentence that we're talking about. Would that permit the legislature before the constitution is passed to give power to do these things that we're trying now to prohibit?

MR. ROY

I would think so, Mr. Winchester. I'd think that if the legislature meets in '74 and allows multi-parish branch banking that that's it, and I always felt that way. I never felt that if we...I always felt that this constitutional mandate, even without this last sentence, could not have made illegal what the legislature would have been allowing before. But in deference to Mr. Derbes and them, I think that this clearly sets forth what we tried to do.

MR. WINCHESTER

And then this section would not apply until the constitution is adopted; is that right? I mean, this last sentence.

MR. ROY

Your hypothetical case: if the legislature in '74, even with this passed, turns around and makes multi-parish branch banks, and fifty banks go and do that; and then the constitution is adopted, then in the future it would take a two-thirds vote to allow any other bank to do it, but those that would have been operating under the present law, that would have allowed it, would still continue to operate as such.

MR. WINCHESTER

Thank you, sir.

Further Discussion

MR. WEISS

Mr. Chairman and fellow delegates, we have a chance to correct a very serious problem. I think it's quite obvious now that what we on the committee, that is, two of us, chose to debate within the committee should not have come before this convention, has unfortunately come before the convention with the statement that was made to me that we need not debate it in committee; we can debate it on the floor. Now, for two and a half hours, we've spent time debating the matter which occupies some four hundred and fifty-three pages of statutory law in banks and banking. Now, we have crystallized in this

wonderful four or five lines those whole four hundred and fifty-three pages that some special interests are interested in having constitutionalized. It is entirely unnecessary; it is statutory law. It has been told this to Mr. Roy; it has been told to me; and I agree with the Governor of the State of Louisiana who feels that this is not constitutional material on the occasion I had to speak with him some two weeks ago. If you want to assure what this section says and that is: limitations on banking, believe me, vote for it because it will limit banking in the State of Louisiana. Banking like all other major products and services in the country are changing. It's a dynamic situation. It's a situation which is extremely changeable, and it is influenced by politics, and politicians are influenced by banks-- a la Baker, a la Lafayette. There are a few other areas in this state that have been pointed out lately. I'm glad the mayor here has acknowledged he hasn't had much to do with the Baker Bank directly, but nonetheless, it is influencing politics. It is influencing the people of the State of Louisiana, and we are hand-tying in the constitution some preferred special interest operations: namely, multi-bank holding companies which is not even mentioned--much less in our constitution--not even mentioned in the statutory law as far as our researchers have been able to provide me. Furthermore, the multi-parish banking operation is a very complex situation. There is no reason for this to be constitutional law. I hope you will vote down this amendment, and since Mr. Roy has agreed to delete the other section, I hope you will do so after this one is defeated. Then, we can go on with progressive banking and a futuristic constitution which will not lock in certain aspects of banking that most people here are confused about, are not aware of, and it will certainly not eliminate small banks. As a matter of fact, if this passes, I don't see any reason why we couldn't institute a section limiting grocery stores, drug stores, insurance agencies, insurance companies, department stores, law firms, and other such multi-parish operations which are currently in existence and haven't hurt the people of Louisiana one bit. We, in Lake Charles, had one hospital when I went there then; now, three. Believe me, the services in these hospitals have improved tremendously by virtue of competition. The small bank will never lose its place in any of the parishes; I can assure you. There will not be a big Bank of America that will gobble up all of Louisiana. Believe me, our legislators will not allow it. If you have faith in the legislature, fine, but don't make this constitutional law when it's strictly statutory, and then label two-thirds for the legislature to make that decision. I ask that you vote against this section.

Further Discussion

MR. CONROY

I really had wanted to do this just as a question to Dr. Weiss. I had voted against the section as it came up originally, and I still disagree with the concepts. However, I think the section as rewritten now is a far better thing to have in the constitution. The convention has spoken that it wants this in the constitution. I don't think that we would have a chance to go back and correct this section any other way. So, I think the thing to do is to adopt this particular section, and then go back and delete the other one, but I don't think we'll get the votes, Dr. Weiss, to go back and delete the section that was passed unless we first do adopt this. That's my concern about...

Questions

MRS. ZERVIGON

David, when I spoke this morning, I said that I was voting against it because I didn't understand it. I didn't think it had been properly researched; I didn't think we'd put enough thought into it, and it frightened me a little to be doing something like that. Are you sure that we've corrected everything now? If we don't allow ourselves time for phone calls from home, as we have between this morning and this afternoon, how are we going to know we haven't goofed up again?

MR. CONROY

Well, Mary, we may, but I am satisfied that the language that is in this proposed amendment now is far better than what we've had before because it at least does eliminate some questions that puzzled some of us; for example, as to what is metropolitan banking? At least it eliminates that phrase, for example, and puts it strictly on a basis of multi-parish branch banking which I think is understandable. I still feel it may be a mistake, but I'm saying this is far better than what we've done earlier; so I think this is a better thing to have in than what we've got in there right now.

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MRS. ZERVIGON

But, isn't it also so that we don't know what the Congress is going to do in the future so we don't know what our competitive position is going to be in the future?

MR. CONROY

Well, yes, that's the reason I didn't think anything should be in the constitution in the first place. As you know I voted against this, but I think that...because it didn't apply to federal banks, didn't apply to homesteads, and it seemed to me to be limiting just to state banks and creating a lack of competition situation I didn't think was appropriate. But, I do think, again, that regardless of all that, the proposal now being made is far better than what we've done, and we should adopt it.

MRS. ZERVIGON

Isn't it also so that it doesn't prohibit, nor does the present law prohibit, a person or a partnership from owning banks in more than one parish?

MR. CONROY

That's correct. Some are presently owned by private individuals in more than one parish.

MRS. ZERVIGON

So, we're protecting the small millionaire from the medium-sized millionaire, but the great big millionaire could go in and gobble them all up; isn't that correct?

MR. CONROY

Well, there is at least one who has several banks.

MR. CHAMPAGNE

Mr. Conroy, I was going to....I think you mentioned this; I'll put it in a form of a question. Is that, in other words, what you have here is the opportunity to make it clear that this does not apply to those banks who now have multi-parish banks? As we are not rehashing the issue; we are just simply deciding; in other words, the alternative is to accept what we have now or to get this; is that right?

MR. CONROY

That's my understanding. I think this is better than what we've got right now, clearer as far as what the intent of the convention has been, even though I disagree with that intention.

MR. GRAHAM

Mr. Conroy, are you satisfied that the last sentence of this amendment does prohibit the continued expansion of the multi-parish bank that we presently have into other parishes?

MR. CONROY

Other than the parishes that's in at the present time?

MR. GRAHAM

Right.

MR. CONROY

That's my understanding, yes. I was not as concerned by that part as I was by the first sentence.

MR. WEISS

Delegate Conroy, help me answer this question. I agree with you fully that of the two evils this is the lesser. But, can you help me answer the question: Do two wrongs make a right?

MR. CONROY

No, but we will wind up, hopefully, only with one, not two.

MR. JONES

Dave, you know this provision provides for an exception for the parishes of Allen, Calcasieu, Cameron, or Jefferson Davis insofar as the existence of multi-parish and should be branch banking? I'm not trying to defeat this amendment; I think I've got the sense of the convention. But, wouldn't it be better legally, really, to leave out that last sentence which begins "This section does not prohibit the continued operation of existing multi-parish banks"? I think that you....these people if they are multi-parish banks and they are in existence, they can go into some other parish--this just makes good sense. You can't explain away something that's already on the books. If you try to put it in there, I think you are opening the door for an

interpretation that they can....these individual banks that operate in these five parishes in preference to all the other parish branch banks can go throughout the sixty-four parishes of our state and carry on multi-parish branch....banking as it says now.

MR. HENRY

You've exhausted your time.

[Previous Question ordered. Amendment adopted: 88-24. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Graham, Jones, and Roy amend up amendments at this time. Now the amendments as the amendments were passed out....

Point of Order

MR. DENNERY

Mr. Chairman, I know that on the vote for Mr. Roy's amendment undoubtedly it got enough votes, but I do not believe that it was correctly tabulated. I know that Mr. Singletary told me he did not vote and it came up green; it seems to me we should have a roll call vote on that.

MR. HENRY

Mr. Dennery, we kind of find ourselves in a predicament that the rules don't provide for. I don't think that other vote is going to affect the overall outcome because this section has to be adopted: it has to finally be adopted. If a majority of the delegates desire, we will take a roll call vote, but I think the net effect is going to be the same, Mr. Dennery.

MR. POYNTER

First of all strike out the first amendment and the Graham, Jones, Roy amendment. The only change is in the instructions to make it clear that the amendments are in order at any rate.

Amendment No. 1. On page 2, strike out Convention Floor Amendment No. 1 proposed by Mr. Roy adding a new section, between lines 19 and 20 and insert in lieu thereof the following:

"Section 9. Limitations of Banking
Section 9. No law shall permit multi-bank holding companies or multi-parish branch banking, unless enacted by two-thirds of the elected members of each house of the legislature. This section shall not prohibit multi-parish banks which were lawfully operating as such prior to January 1, 1974; however, no such bank may extend its operations to any parish in which it was not operating prior to said date unless authorized to do so by a general law enacted by two-thirds of the elected members of each house."

Explanation

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, this was in response to Mr. Jones's questions and Mr. Graham's about assuring that maybe the Calcasieu Marine Bank, which operates in some five or six parishes now would not, prior to the law going into effect, be able to start operating in more parishes than it presently is; it's just a much more detailed provision with respect to that; everything else stays the same. I urge the adoption of it.

Questions

MR. DENNERY

Chris, did you deliberately leave out "domestic and foreign" in the first sentence?

MR. ROY

No, Mr. Dennery. I don't know how it got left out unless they grabbed one of the others. It should read after permit "foreign or domestic." I don't know how it got left out; I didn't prepare it, but you're right, Mr. Dennery, that has been adopted all the way through.

MR. HENRY

Did you want to temporarily withdraw it and resubmit it?

MR. ROY

Temporarily withdraw it and resubmit it with the words

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"foreign or domestic" after the word "permit," and before the words "multi".

[Amendment withdrawn.]

Amendment

MR. POYNTER

All right. The section as amended would read, the only change at all in what's been distributed, first of all the instructions which say: strike out Convention Floor Amendment No. 1 proposed by Mr. Roy adding a new section between lines 19 and 20, and insert in lieu thereof the following:

"Section 9. Limitations of Banking
Section 9. No law shall permit foreign or domestic multi-bank holding companies", etc. The rest of the text is exactly the same.

Explanation

MR. ROY

With that, Mr. Chairman, I move the previous question on it. I think we have deliberated it all along and since it's going to take a roll call vote....

Questions

MR. CHAMPAGNE

Mr. Roy, in order to make it perfectly clear I was asked by one of the delegates, and I want you to emphasize for the record that the first sentence, "No law shall permit foreign or domestic multi-bank holding companies or multi-parish branch banking, unless enacted by two-thirds" does not mean that one bank cannot conduct business in another bank from another parish from a location in this parish; it simply means that this parish, unless authorized, cannot go into another parish.

MR. ROY

Just bank, unless authorized.

MR. CHAMPAGNE

Bank.

MR. ROY

Right; you are absolutely right.

MR. JENKINS

Mr. Roy, you may remember when this came up in committee there was no opportunity for the delegates who served on the committee to discuss this proposal.

MR. ROY

No, I don't remember that, Mr. Jenkins.

MR. JENKINS

Did you know that I was not allowed to even speak on the proposal and that no one else other than you was even allowed to speak on it; did you know that?

MR. ROY

No. I know that we voted to call the question, which is a democratic process and you lost out; the question was called and you stomped out. The next day it was brought up....rather the following Monday it was brought up and the people that you are talking about changed.

MR. HENRY

All right. Now, this is not germane to what we are talking about here. If you gentlemen have got a problem, we ask that you go outside and resolve it.

MR. ROY

You're incorrect.

MR. JENKINS

Mr. Chairman, I don't have any problems. The question that I'm asking: Don't you think if this were given adequate committee hearings in advance that we would not be given the problem now of the constant resubmission, withdrawal, and resubmission, and withdrawal of this proposal?

MR. ROY

Mr. Jenkins, we had committee hearings on a Bill of Rights for six months, and when we got over here, we had a heck of a time with it, so in answer to your question, no.

MRS. WARREN

Mr. Roy, why did you set the "as prior to January 1, 1974"? Why it wasn't effective of the date of the passing of the constitution?

MR. ROY

Because, Mrs. Warren, if the banks...if the one bank that presently is allowed to have multi-parish branch banking, if it would, as a result of this, start trying to extend it further--which I didn't contemplate at all--we thought it would be unfair so, we make it as of January 1, 1974, except that the legislature can allow all of it to be done by a two-thirds vote.

MR. KEAN

Mr. Roy, as I understood Mr. Champagne's question, it related to the first sentence in your section. The last sentence says that "however, no such bank may extend its operations to any parish in which it was not operating", you're not talking about there that a bank which was not then operating in a...was not then making loans, for example, in another parish could not make loans in that parish?

MR. ROY

No. We're talking about it may not extend its branch banking operations.

Further Discussion

MRS. ZERVIGON

Mr. Chairman and delegates, I would just like to reiterate my very strong feelings of this morning which have become even stronger during this afternoon. We don't know what we are doing. We don't know the effects of what we are doing. We are pulling and resubmitting, and pulling and resubmitting, and changing a little word here and a little word there which may have vast implications that we don't understand. If we were assured this morning that what we were doing was a good thing, and that it was the present law. Now, we find that we would have abolished a bank that served five parishes very well or at least forced that bank to divest itself of its branches. I urge you to leave this to the legislature where it has been handled very well for years and years; it's not the sort of area we need to get into. I don't know enough about banking. I haven't had the months to study it that have all the other areas of our action, and I'm certain the same is true of many of you. I would like to bring up one more thing. It's been discussed back in my part of the room but never brought to this microphone and I really kind of hesitate to do it because I don't know enough about this either. But, in my part of the convention hall back there, the question has been raised as to whether some of these people that own bank stocks or sit on bank boards should really be voting on this. I don't know what the Code of Ethics says. I know that I'm alright because I don't own bank stocks and I don't sit on a bank board. But, I think maybe we should look into some of this stuff. It frightens me when we act so precipitously than withdraw and act again as precipitously. I'm not certain we have it right yet and that's my reason for voting no. I intend to write a note and stick it in the Journal. Thank you very much.

Further Discussion

MR. WEISS

Fellow delegates, I would only like to point out that the present section as presented to you is in the present statutory law of the State of Louisiana with one exception and that is that it requires a majority of the legislature to make the decision; this says two-thirds of the elected members. Therefore, I see no reason for this to be incorporated in our constitution; it somewhat hamstring, if anything, the intent of those individuals to prevent this by a very peculiar twist that now two-thirds of the legislature rather than the majority are required to vote on this. This is statutory law and not constitutional. I ask you vote against it.

Questions

MR. DENNERY

Dr. Weiss, in reading this second clause here in the last sentence it says "however, no such bank may extend its operations" now, I believe Mr. Roy said that was intended to mean branch banking operations; it doesn't say that; does it?

MR. WEISS

No, it doesn't.

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MR. DENNERY

Furthermore, that says that no specific bank may do something unless authorized to do so by a general law. How can a specific bank be authorized by a general law?

MR. WEISS

Well, I asked Mr. Graham that question, I, of course, am not familiar with the technicalities, but his explanation was that it would apply through general laws to all banks. So, it further restricts, as I see, the operation of the state. As Delegate Jackson pointed out, it's going to make it more difficult for the banks in this state who are small multi-parish banks to perform their functions within the realm of the legislature by requiring a two-third vote. I really don't see the intent of this particular section; it simply compounds confusion.

Further Discussion

MR. HAYES

Ladies and gentlemen of the convention, this is just merely confusion. This amendment simply presupposed that every parish in this state has equal resources. Some of these parishes don't have anything but deer and rabbit. You have to extend your lines sometime across the lines sometime to get people in order to serve. You can't just stay and hold you at a line that was established for the wagon and the horseback there a long time ago. So, this is all this amendment is doing is trying to restrict everybody within some confines here when they should be permitted to move from one parish to another, if necessary. So, we can't hold a person with a bank in a parish where you have no people. Every parish in this State of Louisiana doesn't have the same identical resources, so I think this is a bad amendment.

[Previous Question ordered. Quorum Call: 95 delegates present and a quorum. Record vote ordered. Amendment adopted: 77-23. Motion for the Previous Question on the Section.]

Point of Information

MR. WEISS

In voting on this section, has the previous Section 9 already been deleted so that in the future on this vote is it a vote for this section alone, or is it a vote to approve or disapprove of this section which allows the other section to remain in?

MR. HENRY

Well, the vote which will transpire now is on this section. If we adopt this section, then we will have two, in effect, Sections 9. I would assume from the tenor of the discussion this afternoon that someone would propose then to delete old Section 9 after the proper procedural motions and palaver has been dispensed with.

MR. WEISS

What happened to this Amendment No. 1? I thought it was included in Amendment No. 2?

MR. HENRY

The amendment before it was offered, was redrawn.

MR. WEISS

Completely?

MR. HENRY

Yes, sir.

[Previous Question ordered on the Section. Section passed: 84-24. Motion to reconsider tabled. Motion to suspend the rules to reconsider the vote by which old Section 9 was passed adopted without objection.]

Amendment

MR. POYNTER

Yes, Mr. Chairman I have an amendment.

It simply reads as follows:

(They've not run the distribution copies)

It's simply:

On page 2, delete lines 20 through 24, both inclusive, in their entirety and delete all amendments adopted thereto.

It strikes out old Section 9.

Explanation

MR. ROY

That simply is a procedural amendment to delete old Section 9 so that we can move on to an adoption of the entire proposal.

The old Section 9 that first started all these comments, way back there. If there are no questions, Mr. Chairman, I move the previous....well, if there are no more objections...

MR. DENNERY

I'm just confused, Mr. Chairman, which is not unusual.

Did the amendment we just adopted amend the old Section 9 at all?

MR. HENRY

No, sir.

MR. DENNERY

O.K.

Question

[Amendment adopted without objection. Previous Question ordered on the Proposal. Proposal passed: 81-26. Motion to take up other orders adopted without objection.]

Personal Privilege

MR. JUNEAU

Mr. Chairman, fellow delegates, I have not been aggrieved, but I thought you would be interested in this information. Saving except a few minor provisions which have been adopted by this convention, and a very few, I thought you would be interested to know that as of this time that in the 1921 Constitution, or the constitution we're living under day, there were approximately 240,968 words--that's up to what we're dealing with at this time--and what we have adopted thus far in the proposed constitution is the substantial and enlightening figure of 28,107 words which is a reduction of over eighty-eight percent in words.

[Adjournment to 9:00 o'clock a.m., Saturday, January 5, 1974.]

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Saturday, January 5, 1974

ROLL CALL

[69 delegates present and a quorum.]

PRAYER

MR. BURNS

Our Heavenly Father, we thank Thee for seeing us through this week safely. We would ask this morning for Thy continued guidance and direction in all that we do here in this convention. We do this with the full confidence that whatever we do in Thy name, and according to Thy will that our labors will not be in vain. We ask all these things, and offer this prayer in the name of our Savior, Jesus Christ our Lord. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

PROPOSALS ON THIRD READING AND FINAL PASSAGE

[Motion to call Committee Proposal No. 36 from its regular order adopted without objection.]

Reading of the Proposal

MR. POYNTER

Committee Proposal No. 36 as introduced by Delegate Alphonse Jackson, Chairman on behalf of the Committee on the Bill of Rights and Elections, a substitute from Committee Proposal No. 24 by the same gentleman on behalf of the Committee, a proposal relative to constitutional revision.

Mr. Jenkins, did you want some general remarks before I read the first section?

Explanation

MR. JENKINS

Mr. Chairman, because this convention has spent more than a year in preparation and work on this new constitution, I think that if there is any article that we ought to be particularly capable of dealing with and informed on, it should be the article on constitutional revision. I think the philosophy of the committee in submitting this proposal to you is not that we are submitting something that we are married to, or that we are defensive about; but something that we have worked on and think would be an improvement over the present law, and which we'd like your help and suggestions on.

As you recall, there are several means of altering or revising a constitution. It can be by amendments initiated in the legislature. Usually this requires a two-thirds vote of the legislature, and submission to the people.

Sometimes, constitutional reform comes about because of a constitutional revision commission. Generally, such a commission initiates a proposal which is sent to the legislature, and then acted upon just as though it were a constitutional amendment. This, of course, occurred several years ago in Louisiana, and is occurring today in the state of Texas.

The third major means of altering a constitution is by a constitutional convention. Constitutional conventions are of different types, of course. Some are limited in their authority; some are unlimited. The limited conventions can propose only certain amendments, or changes in certain fields of endeavor. An unlimited convention, like our own, can propose an entire new constitution. Constitutional conventions can be sovereign or not sovereign. You will recall that the 1921 Constitution was a sovereign convention which meant that it did not have to submit its work to the people for their ratification whereas our convention is not a sovereign convention. We must submit our work to the people for their approval. Also, conventions can be initiated either by the legislature, or directly by the people.

Now, let me, if I may, talk a little bit about this proposal. You'll see that Section 1 of this proposal is essentially the same as our present law. You look in our present constitution, Article XXI, you'll see that one means for revising or altering the 1921 Constitution is provided, and that is by amendments. No method or means, or procedure is established for calling a constitutional convention. That, undoubtedly, is a weakness

in our present constitution because there was no guide, there was no formula, there were no procedures established for the calling of this convention. We stand, in fact, perhaps, in something of legal limbo because we are dependent on court decisions in the past to legitimate our existence, rather than constitutional authority contained in the 1921 Constitution, which would give us a logical train of legal connections creating us. If you look at Section 1, you'll see that what we have done, if you compare it to the old constitution, is to shorten that section substantially, and to make, probably, only two real changes in it of any magnitude.

The first change in Section 1 is the change providing that notice of intention of a legislator to introduce a constitutional amendment, has to be published in the official Journal of the state before the beginning of the session, the fact that he intends to introduce an amendment, and what the nature of that amendment would be. The reason that this is included is because we feel that there must be some effort to screen, or limit, the number of amendments that are offered. But, none of the proposals for doing that seem to be appropriate other than this one; a strict limitation on the number of amendments seems unworkable because no one, yet, has devised a system for logically deciding which amendments would appear on the ballot, and which would not. Also, the plans that have been tried in other places for certain screening committees in the legislature, saying what can be on the ballot, and what can't, seem to create small tyrannies there, limiting and frustrating the will of the legislature. So, what we've provided in Section 1 is a means whereby we screen proposed amendments by requiring prior thought before they are introduced, so that a legislator has to think at least ten days in advance of the session, before he introduces something. We do this now for local bills; we do it for retirement bills. It has worked well in those areas. If publication is important enough in those areas, certainly it's important enough for constitutional amendments.

The only other major change in Section 1 would be the fact that the present constitution provides that you can only amend one article at a time in a given amendment. We provide that you can change more than one article so long as an amendment is confined to one object.

Section 4 of this proposal is also the same as the present law. Sections 2 and 3 are new. We'll talk about those more as we go along. But, those provide, in Section 2, a means whereby a convention could be called by the legislature, just as this one was called. In Section 3, a means whereby the people have an opportunity to call a convention from time to time. This is a trend which is being adopted in most of the new constitutions being considered around the country. It is a means for providing a frustration factor so that long periods of time will not be allowed to pass, caused by legislative inaction which might prevent people from calling a constitutional convention.

So, with those introductory remarks, I'd like to move that we go on and consider Section 1.

Questions

MR. DENNIS

Woody, did your committee consider any other methods for slowing down, or making more difficult, the amendment process such as the manner in which some states require passage twice by the legislature; by a three-fourths vote; or even require a majority of those voting in an election, instead of voting on the particular amendment? If you did consider these, I'd like to get the thinking of you and the committee as why you did not incorporate some of these ideas into the proposal.

MR. JENKINS

They were....we did consider both of these things quite thoroughly, Judge. The first proposal, and we considered this both in the form of amendments to the text of this proposal, and in the form of delegate proposals. The first idea that you mentioned being the requirement that, say, two sessions of the legislature will have to consider a constitutional amendment. We believe, really, that that first would lead to not more detailed consideration of constitutional proposals, but less, for this reason. We felt that the first time a constitutional amendment came before the legislature, the legislature in all likelihood would take the attitude, "Well, we've got to consider this again next year, anyway, so let's go ahead and pass it this year, and we'll let discussion begin on it. Then we'll consider it next year." So, we felt that the first passage would probably be a formality which would occur automatically without much consideration or discussion. Then, by the time the second year came around, one of two things might happen; either the legislature would say, "Well, we passed it last year. So, it only follows logically that since we all voted for it last year, we need to vote again for it this year." That's one possibility so that it would receive little consideration. The second possibility is that if it does consider....get consideration during that one year,

changes and alterations would have to be made in it. But, the only thing is, if a constitutional amendment is passed in one form the first year, and in an amended form the second year, then it is no longer the same proposal exactly. The only real safeguard against having...in favor of the idea of having two successive legislatures consider a proposal is, that the exact same proposal be passed twice. Otherwise, if amendments are allowed, the whole nature of the proposal can be changed or reversed substantially. So, it just seems reasonable that the best thing to do is first to do what we've already done; establish a constitution which is brief, which is flexible, so that a large number of amendments are not needed; so that every time the legislature wants to accomplish a certain end, it doesn't have to go to the people. It can do it itself.

The second thing is to require that before a legislator introduces a proposal, that he gives notice of his intention to do so in advance so that he has thought it out, so that it is not a last minute proposition that he introduces the day, the final date for introducing proposals. You know this happens so often.

Then, the third thing will be for the legislature, because of the constitutional revision process we've gone over for the past year, to realize more and more that they have a responsibility to put on the ballot only those things that are absolutely necessary. Now, that's the reason that we did not consider, and we did not include the...we did consider, but did not include the concept of two successive years passage for constitutional amendments. We recognize, however, that there are some good arguments in favor of that. If it could be made workable, certainly it's worthy of some further consideration, perhaps.

The second proposal is that the people of the state be required, when they vote on an amendment, to vote for it in a majority of the total electors in the state rather than the requirement that a majority of those voting on the amendment pass it. Frankly, that seems completely illogical. For the first place, a small number of voters participate in the amendment process. We don't think...I don't think, that that's necessarily bad, because I think that those who are not participating are generally not informed; that the more we require they participate without some knowledge of it, the less informed judgment they'll make.

The next thing is, if we require that a majority of the total voters approved a proposition, we'd probably never have anything adopted at all; some things that might be fundamental, and they are drastically needed in the state.

The next thing is that elections, historically, by the people, are always decided by a majority of those voting on the proposition—majority rule. It certainly seems reasonable that even if only twenty percent of the voters vote on a proposition, if eleven percent vote for it, and nine percent vote against it, that is pretty indicative of the general sentiment of the public. The public, probably, could be divided that same way. You'd find that fifty-five percent are for it, and forty-five percent are against it. It's caused a great deal of frustration in some states where you'd see maybe one-third of the people, or one-fourth, or one-tenth of the people able to stop a constitutional amendment that would really be needed. So, that's the reason that that wasn't included.

Another consideration is that the reason we've had so many amendments has been the fact, generally, that they've been needed because of the length of our constitution, and the complexity of it. The problem has been in the last few years, passing those amendments. The last thing we need to do is make it more difficult to pass amendments. The thing that we need to make it easier--that we need to somehow do, is to screen amendments to make it less necessary to have amendments. But, when amendments are proposed, not to make it more difficult to pass them at the polls. So, those are the reasons that we did not include in the proposal those two concepts.

MR. AVANT

Woody, I've got a question about Section 2 and Section 3. I'll get the three first because I think I understand it.

That is, every tenth year, at the Congressional election, there will be a proposition on the ballot to whether or not there will be a convention. If the people vote that there will be a convention, then the convention will consist of delegates elected from the representative districts, just like this convention, and then the legislature may provide for not more than twenty-seven appointed delegates.

Now, am I correct?

MR. JENKINS

That's correct, sir.

MR. AVANT

All right. Now. But, on this other deal, if two-thirds of the elected members of each house of the legislature place the proposition on the ballot at some other time, not this ten-year proposition, then, the only proposition, as I understand it, would be whether there will be—whether there will be a convention, and the manner in which that convention will be constituted does not have to appear on the ballot. Is that correct?

MR. JENKINS

I think the way that the section is worded now, that is correct, Jack.

MR. AVANT

If the legislature puts the proposition on the ballot, and they didn't specify, which they would not be required to do, how the convention would be constituted, and the people voted to have the convention, then the legislature could set that convention up any way they saw fit by simple majority vote. Is that correct?

MR. JENKINS

I believe that's correct, Jack. That's right.

For that reason, let me say this, Jack, that in the committee originally, I had inserted in the committee, language in Section 2 just as that in Section 3; that it would have to be a hundred and five elected from the representative districts, and no more than, I think we had fifteen appointed by the governor. However, at the last committee meeting, the committee saw fit to take that out. I objected to that. But, that was the committee decision. I will have an amendment, when it comes to Section 2, on my own behalf, to require that when the legislature submits the question of whether to call a convention to the people, that it specify the composition, term, and duration of the convention. But, that's not the committee position.

MR. BURNS

Mr. Jenkins, I haven't had too many questions asked me by my constituents about this convention. But, do you realize I've had more people express their concern about what steps we are going to take to make it harder in the event that this constitution is adopted, to have a repetition of the same thing to be set in motion again to where we'll still have a flood...a barrage...of amendments? That is really their concern. So, with that in mind, I would suggest that we do everything possible in this article to prevent such a situation occurring. Do you not think that this action that we are going to take now is going to have a great voter appeal?...that you could convince the voters that this same situation is not going to happen again?

MR. JENKINS

I think you're right, Mr. Burns. I think that...I think that when we do this, we have to do only things that make sense. I think that this proposal as we've written it does make sense, and that at first we have a constitution that is pretty basic in nature, and you won't be required to have a lot of amendments.

Second, we've...said here that because of the publication of notice, that you won't have these last minute filings in the legislature, on the last day to introduce legislation, which we've had so many of in the past. I think those things will be the major safeguards.

MR. STINSON

Woody, with reference to the introduction and passage on two consecutive sessions, isn't there a possibility, as you mentioned briefly, that the second session of the legislature they could almost entirely amend it into a new constitutional amendment. Now, if that was done, which could be done with a majority vote, couldn't it?--amendments.

MR. JENKINS

Yes, sir.

MR. STINSON

If it was completely changed in the second session, and the constitutional requirement is that these subject matters be passed in two consecutive...isn't the question whether it would...be constitutional or not, if it was actually the new substance would only have been passed in one session? Isn't that right? There's a possibility?

MR. JENKINS

I think...that's right, Ford. That creates a problem. I don't know whether it's insurmountable or not. But, that is one of the problems created.

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Well, anyway, we're going to have delegates on the committee discuss the individual sections in more detail. So, if I may, I'll let them go on with the beginning of Section 1.

MR. ABRAHAM

Woody, Mr. Avant asked the question that I had, dealing with the makeup of the convention as far as Section 2 and Section 3 is concerned. If I understand your answer correctly, it was deliberately intended by the committee not to have the makeup of the convention the same in both Section 2 and 3. Is that correct?

MR. JENKINS

That's correct.

MR. ABRAHAM

If so, what was the thinking as to why they should not be the same?

MR. JENKINS

It's difficult for me to explain because that was not my position--perhaps some other members of the committee may be able to explain that--but I think that they felt it ought to be left to the legislature and that maybe, particularly, a large convention such as this is not the best way to write a constitution. I think what may have been their main concern was the fact that maybe we have been too large and cumbersome, and the legislature ought to have discretion to make whatever sort of convention they might like to have.

MR. ABRAHAM

Would not the same reasoning apply to Section 3 then? I don't understand why....

MR. JENKINS

No. There is a distinction. The reason the committee--and we did all of these things by narrow votes--but the reason the committee included the number in Section 3, and not in Section 2, is this: Section 3, we think, provides a method to alleviate frustration on the part of the people, to give them a way to control their own destiny. The only way we could do that is to mandate that you have to have the vast majority of the delegates, at any convention called by the people, chosen by the people. We were thinking, in particular: Think of the years when we did not have the one man-one vote principle in this state. The legislature was required to reapportion itself periodically, but did not--certainly not on a population basis--and there was no way, under the law, that really a majority of the people could always control their destiny, because the one man-one vote principle was not being adhered to. This Section 3 provides a means whereby the people, periodically--if they want to--can say: We want a convention that alters some basic things, and we want our elected people to be there.

Reading of the Section

MR. POYNTER

"Section 1. Amendments

Section 1. (A) An amendment to this constitution may be proposed by joint resolution at any session of the legislature, provided that notice of intention to introduce any such joint resolution and a summary thereof shall have been published in the official journal of the state at least ten days before the beginning of the session. If two-thirds of the members elected to each house concur in the resolution...."

Vice Chairman Roy in the Chair

[Motion to waive reading of the Section adopted without objection.]

Explanation

MR. A. JACKSON

Mr. Chairman, Section 1 of this article is composed of three parts. We'd ask that you would give full consideration to each part because we believe that this is a very important consideration that will enable us to round out a very good document for the people of this state. Now, the new section is not different in a lot of respects from the present constitution. There are some things that we'd like to point out that we believe to be improvements. First of all, in part (A) of this section, there is a requirement that ten days before the legislative session that the proposed constitutional amendment, or the joint resolution that will be introduced, will be published in the official journal ten days prior to the session. Some individuals have said, "Well, why do you want to do this?" Well, we think that this will require

members of the legislature to think about the subject and to research the subject, and not to introduce constitutional amendments without giving full consideration to their import. We also believe that this will require that the constitutional amendments that are proposed by way of joint resolutions will be based on need. We believe that this will, in itself, reduce the number of constitutional amendments that will be introduced. We believe that this is a vast improvement over what is presently the practice in this state, by way of amending the constitution. We also would like to point out that we believe, since we have dealt with local government in the manner in which we have, that we will not have as many constitutional amendments as we have had in the past. We think that the considerations that we have before you make sense; that they present to you an orderly procedure in which to amend the constitution. We believe that the parts composing this section will enable us to update our constitution when it's necessary, but will prevent the proliferation of a large number of constitutional amendments.

Mr. Chairman, with those remarks, I would yield to questions, and I know that there are several amendments.

Amendments

MR. POYNTER

The first set of amendments, then, is sent up by Delegates Bergeron and Asseff--a set of three amendments.

Amendment No. 1. On page 1, line 15, after the word "any" add the word "regular" and on line 19, after the word "if" insert the following: ",during the session and the next succeeding regular session,"

Amendment No. 2. On page 1, line 26, after the word and punctuation "electorate." insert the following: "In emergency situations, an amendment may be proposed by joint resolution at a single session of the legislature pursuant to the above procedures if three-fourths of the members elected to each house concur in the resolution."

Amendment No. 3. On page 1, at the beginning of line 23, insert the words "an explanation of".

Explanation

MR. BERGERON

Mr. Acting Chairman, ladies and gentlemen, I'd like to just take a moment right now and extend my congratulations to each and every one of us who are delegates to the Constitutional Convention. Today marks the one-year anniversary that we've been delegates. We've been sworn in, one year. January 5, 1973, we were sworn in as delegates, and this marks a one-year anniversary. I'd also like to say that I think we've worked very hard, and I hope our efforts will be rewarded.

Now, what I'm essentially proposing by my amendment is to provide for two successive terms before an amendment is presented to the people. Now, let me explain the procedure that would occur. First of all, the amendment would be introduced at any regular session of the legislature. It would be voted on and, if passed by two-thirds of both houses, it would lay over for one year. It would then come back the following session, be voted on again, and, if passed again by two-thirds of both houses, will be presented to the people. You know, the biggest qualm I've heard--from going to public information meetings--is that the people do not want to go to the polls, time and time again, and vote on constitutional amendments. Well, that's why they elected us. That's why they elected representatives and senators--that's their job; that's their job. They don't want to be bothered, so to speak; they don't want to have to go to the polls and vote on thirty, forty, and fifty constitutional amendments at a time. You know, we've been here one year today, and it's been the most enjoyable experience of my life; but I think each and every one of you will agree with me that we don't want to be here ten years from now doing the same thing we're doing now. Our present constitution was adopted in 1921. Well, since 1921, we've had five hundred and thirty-six amendments adopted by the people. Let me just give you a few statistics. Since 1962, the people of Louisiana have gone to the voting polls and voted on two hundred and eighty proposed constitutional amendments--two hundred and eighty, in an eleven-year period. Since 1968, which is five years, they have gone to the polls and voted on one hundred and forty-one constitutional amendments. Now, you might say, "Why do you want this amendment to lay over for a year?" What's the main reason? Well, I'll tell you the main reason. I do not feel that the voters of the state have adequate time to really know what they're voting on, under our present system. Sure, it's put in the official journal of the state. The people get to read the proposed constitutional amendment. It's not expressed in laymen's terms. We have the most wonderful system of government in this country, the democratic process, the democratic process. That's the way we run our government. Everyone has a voice in our government--from

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the working man to the richest man. But, I feel, in order for our government to work well, to work smoothly, the voters of the state have to be informed as to what they're voting on. How can someone vote intelligently if they don't know what's before them? So, consequently, you go into the voting poll, you see forty constitutional amendments; the people try to read them right there; they get flustered and then vote no on every amendment. This one-year period would provide for the amendment to be discussed at civic organizations. Representatives can get together with their constituents, speak at meetings. PAR can send out literature. The League of Women Voters can send out literature and explain to the people what the constitutional amendment will be--what will they be voting on. After this year period is over, the representatives and senators go back to the houses; if they have a consensus from their constituents that they do not particularly care for this constitutional change, well, they'll simply vote no the second go-round. You won't gain your two-thirds vote. Therefore, the people won't have to go to the voting polls and vote on it. My amendment also provides....I might just mention that this is not a new concept. There are sixteen other states in the United States which employ one form or another of this concept, which requires for a year interim period before the amendment is presented to the people. I've also provided that, in emergency situations--some people say, well, what happens if we need an amendment presented to the people right now; it's a state emergency; we have to have it--I provide for a three-fourths vote. If indeed it is an emergency situation, I don't believe that the house or senate would stop the amendment from going to the people. If you'll notice, my third amendment also provides for an explanation--not just printing the proposed amendment--an explanation of what the changes will do, in layman's terms, in layman's terms, so everyone will know how that amendment will affect you. You know, the legislature has, at some times, been called emotional on certain issues. I feel that this interim period of one year will help to solve that problem. I feel that the legislators can go home and talk to their people because, if they don't, what are they here for? They represent the views of their constituents. They act as a mirror to the people they represent. So, I feel, to accurately know what the people want, how they feel on constitutional amendments, this is the best method to obtain the goal. You know, it was said up here earlier that, if an amendment is passed in the first session, laid over for a year, the representatives and senators can come back and completely change the nature of the constitutional amendment. That is not so; that is not so. They may come back and make technical changes, but they cannot substantially change the amendment. Otherwise, it would be a completely different amendment. Well, O. K., what if it's adopted the first time by two-thirds vote, it lays over for a year, they come back, and they realize that the people want a change, and they don't want to let this thing lay over another year? Well, if they realize that, and that's the views of the people, I feel that they will be able to obtain a three-fourths vote; then, it can be presented to the people that year. I daresay that we have tried our hardest and we have tried our best here at the convention. We all realize that there has to be some form of amending the constitution. It has to be a good form for needed change, but I do say--I do say--that we have to guarantee the citizens of this state, no matter how perfect a document we have, that we will not be in the same boat we're in now; that they will not have to come back to the polls, time and time again, and vote on constitutional changes. I feel that's our--my objective and the other gentlemen who offer amendments to this section--I feel that it's an objective of each and every one of us. We have to write in some guarantee that in twenty or thirty years we will not be back here at the Constitutional Convention writing another constitution, because our document which we've....

[Rules Suspended to allow additional time.]

Explanation continued

MR. BERGERON

Thank you for giving me a little more time. I won't use up the whole five minutes for my explanation; I'll yield to questions. But, you know, you have to look at why we're here now and understand it. We're here because so many constitutional amendments have been added to our constitution--so many changes. They were necessary; yes, they were necessary, but so many proposed constitutional amendments were not necessary. That is the problem. How do we stop the problem? I daresay that this would be the best method of solving the problem. I'll yield to any questions at this time.

Questions

MR. DUVAL

Phillip, I'm starting off with Amendment No. 3, when you insert "an explanation of" the proposed amendment. Now, it's

your intent--isn't it?--to have the amendment and the explanation published. Isn't that right?

MR. BERGERON

My intent is to have the amendment and an explanation published so that everyone in the state will be able to read, in layman's terms, what that amendment and change will be.

MR. DUVAL

The way it reads, however--and maybe I'm incorrect; I'm just trying to piece it together--it apparently only requires an explanation of the amendment to be put in, rather than the full amendment, and I don't think you wanted that. I may be mistaken, but that's the way it apparently reads. I think, certainly, the full amendment should be published.

MR. BERGERON

I agree with you, Stan; I think it should be published. I don't know if you agree with me or not; I feel that an explanation is definitely needed.

MR. DUVAL

Right, but the way your amendment reads, you won't have the full amendment published; you'd just have an explanation, and I'm wondering who's going to prepare the explanation. I'd like to see the whole amendment. The way your amendment reads, you just have an explanation without the amendment.

MR. BERGERON

O. K., Stan, if this amendment's passed, if you'd like to offer an amendment, I'd be happy to endorse it with you.

MR. DUVAL

All right. One other thing I wanted to ask you, Phillip, is the emergency provision--that could apply to special session or a regular session; is that correct?

MR. BERGERON

Right. You're correct. No. Excuse me, Stan; I'm sorry. An emergency--the three-fourths vote can be required at any regular session.

MR. DUVAL

Well, that's not what it says, I think; that's not what the amendment says.

MR. BERGERON

"If, during the session and the next succeeding regular session...."

MR. DUVAL

No, no, I'm asking about your emergency provision, your three-fourths emergency provision.

MR. BERGERON

The emergency provision simply requires that, if legislation is needed, it will be obtained--the constitutional amendment will be passed to the people--by a three-fourths vote.

MR. DUVAL

And that could apply, I'm asking you--at a special session, the emergency provision could be passed; is that correct? "At any single session of the legislature," as I recall it.

MR. BERGERON

Yes, you're correct--"any single session"

MR. DUVAL

O. K. What is your intent...What is an emergency? Do you intend for the legislature to define it?

MR. BERGERON

Well, Stan, that's not up to me to decide. If the representatives and senators can get three-fourths vote to pass an amendment, I'm sure it's an emergency.

MR. DUVAL

That's sufficient for you? O. K.

Further Discussion

MR. A. JACKSON

Mr. Vice-Chairman, ladies and gentlemen of the convention, I rise in opposition to these amendments. While I certainly recognize that this is a very complex question, and I'm sure that there are serious questions in the minds of all of us, I do not believe that this amendment will correct nor improve upon the work of the committee. I say so for the following reasons: First of all,

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who will stand up in the halls of the legislature and declare that their resolution is not an emergency? If somebody wants a joint resolution passed, they're going to say that it's an emergency. So, we get ourselves into a very difficult situation--if we're trying to limit the number of constitutional amendments--when we say that "in an emergency situation." Oh, I can think of many reasons to set forth to declare that a resolution would constitute an emergency and, therefore, the constitution ought to be revised. Now, we provide for this by simply saying that you can propose a joint resolution at any session--which means that, if the executive branch of this government decides that we have an emergency, and we believe that the executive branch would be in a better position to know whether we had a real emergency, that he could then call the legislature into extraordinary session, and such a joint resolution could be proposed. We believe, then, that we would be dealing with emergencies and we would not have a proliferation of joint resolutions being introduced. Now, the author of this amendment suggested that we ought to have resolutions passed on two occasions---at two sessions of the legislature. He suggested that this was being done in many states. I would suggest that this is correct; but, when you look at the states in which this is required, you will find that they have short, very basic documents--much shorter than even our proposed new constitution. Therefore, they do not have to deal with the changes, and they have the flexibility. As someone has suggested, if you've really got a basic constitution with flexibility and that allows for creativity, you will not have a large number of constitutional amendments. I would suggest to us that, even with the vast improvement that we have, that there will possibly be some need for constitutional amendments. Now, he says that another reason for requiring that we pass it at two succeeding regular sessions is the fact that people will have a chance to study it. Well, if you'll look at the committee's proposal, you will see that we have required that the constitutional amendment would be published in the Official Journal ten days prior to the regular session. If we adopt this new constitution, that would mean that you will have a minimum of five to six months to consider a proposed constitutional amendment. We believe that that's sufficient time because, if you have two years, people are going to forget about the fact that such a constitutional amendment is being offered, and they're not going to study it because they know it has to pass the legislature again. They're not going to give attention to it until the election is almost approaching us, so we do not believe that that is going to allow for any more study than what we have proposed. Therefore, we would ask that you would reject this amendment because we believe that we have presented an orderly fashion for amending the constitution.

Further Discussion

MR. JENKINS

Mr. Chairman, I think Mr. Bergeron has an idea worthy of consideration because of the fact that it would allow more consideration than we've had in the past of these proposed amendments. The question I raise is whether or not, by the nature of our work here in reducing the size of the constitution and making it more flexible, we would have already accomplished the first step in meeting that objection and, by secondly providing that a legislator has to know in advance of the session what proposed amendment he's going to introduce, whether that will lead--because of our longer sessions--to more consideration of these proposals. Definitely, you have a problem when you require that exactly the same thing be passed in two sessions, because the benefit of allowing the delay would be to allow public discussion of the issue; but, if in the second session you're not allowed to amend the proposal introduced in the first session, then the public discussion of the issue may not be of value to you. For instance, suppose you had a proposal to set up two boards for higher education--one with board of elementary and secondary education and one for board of regents--and you proposed in your first amendment that both boards would be elective. Then, public discussion during the year indicated that the first board ought to be elective and the second one appointive. Well, you couldn't make that change during the second session and, thus, you would not have benefited from the public discussion. Now, maybe a system could be worked out to allow changes like that. I don't know that it's in the proper form right now to do that, though. So, for that reason, I think there's merit, but perhaps what the committee has come up with, with the notice, etc., would be more workable.

Chairman Henry in the Chair

Questions

MR. BERGERON

Woody, you do realize that technical changes can be made in

the second session, and, if there is a consensus by the people of the state that they want the amendment changed in some way, you do realize that it can be changed by a three-fourths vote of the legislature--that amendment--on the second reading.

MR. JENKINS

I'm not aware of how your amendment would allow the technical changes. Maybe you could explain that in your close. To me, it appears that it says that the joint resolution and that would have to be passed in two consecutive sessions and if it has been changed, it's not the same joint resolution. Maybe you could explain that in your close a little bit.

MR. BERGERON

O. K. Well, let me just ask you this last question. If there are needed changes in the amendment, which is passed the first time, it can be obtained by a three-fourth vote of both houses.

MR. JENKINS

Well, you see, that's true, if it's an emergency. The only thing is that two-thirds and three-fourths vote doesn't seem to me to be the distinction because, if you look at proposals that are constitutional amendments, either they are controversial and there is a close vote, or they pass ninety to two, or something like that. I don't see that changing from two-thirds to three-fourths is really a significant change. If you'd have, maybe, a higher percentage, I could see maybe it would be.

MRS. ZERVIGON

Woody, we've cut out of this proposed constitution a lot of the things that used to generate amendments....necessary amendments--judicial, districts, and a lot of the very special local things. Isn't that correct?

MR. JENKINS

That's correct, Mary. In fact, if you would take a list of the last time we had the sixty amendments on the ballot, you'll see that almost all of those were necessary to accomplish the legal end in view. The legislature could not have done them by mere statutes. Those things won't be necessary under the new constitution. I certainly hope and trust the legislature will be responsible enough not to propose things that aren't legally necessary to the end wanted to be accomplished.

MRS. ZERVIGON

But supposing the legislature should goof up ever so often, then the main responsibility lies with the people to vote on anything that isn't really necessary for an amendment to the constitution. Isn't that correct?

MR. JENKINS

Well, that's true.

MRS. ZERVIGON

And, the literature analyzing the amendments by the Public Affairs Research, by the various newspapers, and that sort of thing always specifies whether it's an addition to the constitution which doesn't really need to be there as an amendment or whether it's a change in the present constitution which does need to be there by amendment; isn't that so?

MR. JENKINS

That's correct.

MRS. ZERVIGON

So, perhaps, the people just need to be good citizens and that's the point of this whole new constitution is that the people are going to really need to pay attention to their citizenship obligations; isn't that correct?

MR. JENKINS

That's correct. Oh, another thing about Phil's proposal, despite some of the good things about it is, in the legislature, you know, legislators being political animals, don't like to vote against one another's proposals. I think you'll have a situation where the first time this joint resolution comes up, everyone will hate to vote against it because any time something doesn't have legal effect, you don't want to vote against someone's proposition. I think that would cause a lot of things to be passed that first time that maybe shouldn't be.

MR. PUGH

Mr. Jenkins, under the terms of this amendment, is it not highly possible that you could have an amendment proposed in the fourth year of one legislature; then, it would have to be proposed

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in the first year of a brand new entirely separate body and, therefore you wouldn't even necessarily have the same people considering the proposed amendment?

MR. JENKINS

Well, that's true. You know in fairness to Phil's proposal, though, this is done in some other states and perhaps there's a way to work this out, Bob. It's not clear to me, though, and it seems like there're some difficulties to it.

MR. CHAMPAGNE

Since you have, if this proposal were to pass, a constitutional requirement that it be submitted in two successive terms of the legislature. If the second session was to materially alter it and then it was proposed as a constitutional amendment, you might be doing something that's unconstitutional because you wouldn't be putting it up twice. So, in other words, you might have to go the third time around before the legislature.

MR. JENKINS

I think that's the way I read it; now I might be wrong, Walter. The courts possibly would not interpret it that way if there were just technical changes, but it seems to me that's what it says—that it has to be the same resolution and if one word is different.....

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, I disagree with Delegate Jenkins and I shall attempt to answer his question. I am interested in a short document which has basic provisions. The proposed constitution will be short, but so was the 1921 Constitution, as adopted. Though I may not agree with what is in the proposal, I do think we should try to keep it short. By a three-fourths vote of the elected members it may be submitted at one session or changed in any manner that the legislature deems necessary. In my opinion, one of the principal problems in Louisiana is the large number of proposed amendments that are submitted to the voters. Eight hundred and two amendments have been submitted since 1922. Look at the 1921 Constitution as it was adopted, '21, you will see that it's about the same size as the one that we will submit. Only about twenty-six percent of the registered voters vote on the amendment. The people simply cannot and will not consider fifty-five amendments at one election; they become confused and defeat them all, including the good ones. I am not sure that anything will reduce the number of proposed amendments except a limit on the number, which may be unrealistic or result in logrolling. Most amendments, whether you like it or not, are proposed routinely. I've watched the legislature for many years. The argument is this: let the people decide. But, the people don't want to decide. They expect the legislature to consider proposals thoroughly and submit only the necessary and important ones. Now, do remember this argument, this point: Many amendments are proposed, not because they are needed to get around a constitutional prohibition—now, remember that—but rather to give constitutional status to a popular fad or concept of the hour in order to protect it against a change by a future legislature. So, regardless of what we do, we are not going to change that. The legislature has tied its own hands—go back and look at the amendments—and apparently the legislature doesn't trust itself; rarely are amendments considered on their merits; I've rarely seen them. It always is, "Let the people decide." The purpose of this proposal is simply to cause the legislature to reconsider the proposed amendments before submitting them and thus result in probably better thought-out amendments. Do bear in mind that by a three-fourths vote you may submit it at one session, so if they've made an error in the original proposal it may be corrected in one session by a three-fourths vote. If you know the legislature at all, you know that if it's an emergency or important....the legislature, you will get the three-fourths vote and that is the only purpose of the amendment. Something must be done, otherwise good amendments are going to be defeated. Please don't tell me that because we have included certain provisions in the constitution, they won't be necessary. I'll let you in on a secret, the amendments weren't necessary under the '21 Constitution but eight hundred and two were submitted and over five hundred adopted. So, please do remember that.

Are there any questions? I do urge you to adopt the amendment and at least give a fighting chance to reducing the burden placed upon the voters who don't want to consider them. Twenty-six percent of the registered voters consider them, that speaks for itself.

Questions

MR. STOVALL

Dr. Asseff, you just stated that you disagree with many provisions in this proposed constitution?

MR. ASSEFF

That is not germane, Reverend Stovall. I simply said whether I agree or disagree is immaterial.

MR. STOVALL

Dr. Asseff, if the constitution is passed and there are many things that you and others disagree with, should not there be some reasonable way whereby the constitution can be amended in the future to correct the things which you and others might disagree with?

MR. ASSEFF

Well, we will by the three-fourths vote and that's one reason, Reverend Stovall, that I want to be in the '76 legislature.

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, I planned to move the previous question, but Mr. Burns said he was going to speak, so I just want to say a couple things. When I came down here I had the same impression about making it tough to amend the constitution because of the number of constitutional amendments we've had. I sat on the committee and proposed several methods of making it tough, one of which was that you would have to have a majority of the people voting in the election to vote on a constitutional amendment or, if less than a majority of the people voted in the general election voted on amendments, it would take a three-fifths vote to pass an amendment—something like Illinois had. We held public meetings on it. The committee was against me almost to a man, and woman, and when we got to the public meetings, CABLE appeared, PAR appeared, the League of Women's Voters appeared and they all said, "Mr. Roy, you got bats in the belfry. If you take out all of the statutory material in the present constitution that you all intend to take out, you are going to obviate the necessity of a lot of amending processes." If you think about it, they said, the constitution is a basic document of this state. It's planned by the people of this state and it ought not to be in the place that it is difficult to amend if an amendment is needed; that's the whole issue. When you're talking about amendatory processes of the basic law of this state, you ought to have a simple method of amending it. With that in mind, I withdrew. I felt that they were right, that I was wrong on it. I made the same argument to Phil; we are good friends about it. But, I think he's wrong; I think Dr. Asseff's wrong. I think that we ought to go ahead and reject these amendments and adopt the section about like it is.

[Motion to limit debate on the Amendment to ten minutes adopted without objection.]

Further Discussion

MR. BURNS

Mr. Chairman and fellow delegates, as I indicated in my questioning of Mr. Jenkins when he was explaining this entire proposal, that I think this...as far as the voters of the state are concerned, I think this is one of the most important questions we're going to have to decide. I have read or looked over the ten amendments that are on my desk. I can't convince myself that we're going to accomplish the purpose of limiting the future number of amendments that are going to be submitted to the people at every congressional election any other way than by putting a definite maximum on the number of amendments that can be submitted or appear on the ballot at any one election. I'm further convinced and more definitely convinced that the voters of the state are not going to understand it any other way but that they will have the assurance that at no time will they ever be called on to vote on any more than ten amendments, or fifteen amendments, or whatever number that you put on it. I know that we, perhaps most of us, understand all the legislative mechanics that are being submitted from this podium on these different amendments, but, I don't think any of them are going to accomplish that purpose; it might make it harder to get an amendment through the legislative process, but all of you that have been in the legislature and all legislators now—I served in there for four years—and I know there's ways to get these amendments adopted in the legislature; it's about a "you scratch my back and I'll scratch yours" procedure. So, while we might make it harder by the passage of some of these amendments, I don't think it's

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going to accomplish its final purpose any other way than by putting a definite limitation--and I repeat it again because I think this is all-imporsnt--we in the next two weeks are in more or less in the polishing process of making these different articles more acceptable. I think this is one of the most important ones that we can make acceptable or make clear to the people by adopting one of these amendments. I'm not sold on any definite number to be submitted at any one time. But, I am sold on the idea that that's the only way we're ever going to accomplish its purpose, and particularly, the only way the voters of the state are ever going to be....understand it, rather, and be satisfied.

Further Discussion

MR. JACK

Mr. Chairman and members, I am...rise against this amendment. I think I have the proper answer in the floor amendment by myself, Smith, Fulco, Shannon, Asseff, and Mr. Velazquez. The people are tired of having so many amendments to have to consider. Now, I've prepared amendments that read, and will come up a little later, "No more than six proposed amendments shall be submitted to the electors of the state at any one election"--not more than six--"the legislature shall provide the method for selecting which amendments shall be submitted at a particular election. The effective date of this paragraph shall be January 1, 1978." Now, if it turns out when you reach my amendment, you don't like six, the next one's ten, and the last one's fifteen. Personally, I think six is proper. The order of those amendments will be decided by the legislature. The reason the effective date of my amendment will be January 1, 1978 is to give a chance to do any corrective work you may have to have on the constitution; you see, if the constitution is adopted before the general election of November of this year, 1974, you'd have that election, then, you'd have the one in January or February of 1976 and the November, '76; that would give you three times before this was in effect. We've got to limit them, that is the mandate from the people, and this is the people's constitution. Now, the amendment before us just doesn't answer the questions. To begin with, I can't see having to pass a constitutional amendment at two successive sessions and the authors recognize that by talking about in case of an emergency, then they've got a different method, but it takes three-fourths. Now, that's just not proper. I was in the legislature and everybody claims things are emergencies. The governor calls extraordinary sessions as emergencies, whether they are or not. The members...the governor wants a bill, they declare--the governor does--a bill to be an emergency and those things. Now, I think we should do what the people want and to defeat this complicated amendment. Then, when we get over there under Section (C), we'll add my amendment which is (D), so, thank you.

[Previous Question ordered.]

Motion

MR. STAGG

Mr. Chairman and fellow delegates, at the Clerk's desk there are a dozen amendments pending to this proposal. If we have to call the roll on every vote, we'll be here far beyond the allotted time, until the voting machine is repaired. I would like to suggest to the convention the possibility that we suspend the rules and that we sparingly use record votes and that votes on amendments be permitted by a rising vote; the tally count made by the Clerk could be the accepted count on the failure or passage of each amendment. Mr. Chairman, I move, therefore, that we suspend the rules to permit voting on amendments by a rising vote and that we dispense with record votes except upon the passage of sections or proposals where they are required by the rules.

MR. HENRY

Is what you're moving to do just suspend the rules so that you can't call for a record vote?

MR. STAGG

I had hoped that we could discourage unnecessary record votes and only use those record votes required by the rules and the suspension of the rules is to permit voting by rising vote in order to conserve time which is the biggest problem we have at this moment.

MR. HENRY

Mr. Stagg, just a minute, because I'm trying to get straight. Now, you're not suggesting that the rising or standing vote would be the record vote, are you, Mr. Stagg?

MR. STAGG

No, sir. When someone requires a record vote or when the

rules require a record vote, it will unfortunately be necessary to call the roll.

MR. HENRY

All right, Mr. Stagg, Mr. Poynter and I have a different opinion as to what you're trying to do. I'm saying that you are moving to suspend the rules; he believes that you are making a suggestion. Would you clarify that please?

MR. STAGG

Mr. Chairman, I move that we suspend the rules to permit rising votes on amendments and that the roll call be only when a delegate or a proposal is requiring a record vote and that the delegates accept the suggestion that they sparingly call for record votes on matters in which they have a deep, abiding interest or controversy.

Point of Information

MRS. ZERVIGON

Mr. Stagg, I just want to make sure that if we are going to vote by standing, I count as much as you do.

MR. STAGG

You will, Miss Mary, every time.

Point of Information

MR. JENKINS

I was wondering if Mr. Stagg and maybe Mr. Poynter could help us with this. I noticed yesterday when we voted and it didn't seem to tally up there, the lights did come on. Perhaps, we could simply vote and if the lights come on the Clerk and others could check it from the lights while we go on with our business; couldn't we? Could we do something like that?

MR. POYNTER

Mr. Jenkins, even if that would be possible, they are working on the machines so...and trying to fix it, so it wouldn't be possible at the present time.

Point of Information

MR. DE BLIEUX

Point of information, Mr. Chairman. Is there anything in our rules says we can't do what Mr. Stagg wants to do without suspending the rules?

MR. HENRY

No, there's not. We could do it without that, we'd just have to sort of agree not to have record votes with the exception of how our rules already provide.

Questions

MRS. WARREN

Mr. Stagg, you said by a standing vote. What you mean that so many people stand without calling the roll?

MR. STAGG

Yes, Ma'am, that on an amendment those in favor will rise and they will be counted. Then, those opposed will rise and be counted and that will be the deciding vote on those amendments, the dozen of which are now facing us.

MRS. WARREN

All right. Now, in this case, that would mean that every delegate would have to be in his seat?

MR. STAGG

That is correct, Ma'am; it wouldn't work otherwise.

MRS. WARREN

Thank you.

Further Discussion

MR. CHAMPAGNE

Mr. Stagg, I hesitate to suspend the rules at this time, but I would agree to what you want if the majority agrees to that. In other words, I don't like the idea of suspending the rules for various reasons, but I would agree to a standing vote. I think it's a good proposal. I would suggest that you merely ask for a majority to do that and if the majority agrees, I think we could do without suspending the rules.

MR. STAGG

Thank you, Mr. Champagne.

MR. HENRY

Mr. Stagg, I'm still confused with your motion.

Further Discussion

MR. TOBIAS

Mr. Chairman, as I interpret Mr. Stagg's motion, it is a motion for the suspension of the rules for the purpose of making the motion for a record vote out of order.

MR. HENRY

Well, your interpretation is wrong, Mr. Tobias, because he has already said that.

Now, Mr. Stagg....

MR. TOBIAS

...except on sections and proposals...

MR. HENRY

Mr. Stagg, rephrase your motion if you will, I mean, restate your motion?

MR. STAGG

Mr. Chairman, what my motion is, by clarification, is simply that record votes will occur only where the rules require a record vote.

[Motion that record votes be taken only where rules require adopted: 77-34.]

Point of Information

MR. AVANT

Under Mr. Stagg's rule now, I would assume--and tell me if I'm correct--I could move to suspend the rules for anything that might occur to me, and we would have a standing vote; and if two-thirds of the people that stood, without a record vote agreed, then we could suspend the rules further by nonrecord vote standing, and do anything that might pop into one's head.

MR. HENRY

That's just about correct, yes, sir.

Closing

MR. BERGERON

Thank you, Mr. Chairman. I'd just like to clarify one point. If the amendment does pass, I will come back with another amendment to make sure that any proposed constitutional amendments will be presented to the people in the form that the amendment will be published, and also an explanation will be published. Ladies and gentlemen, if you feel now that the people of Louisiana have enough time to vote on constitutional amendments, to understand what they mean, and to intelligently vote...cast their vote, yes or no--fine. This is not needed. If you feel that what we've done in the Bill of Rights Committee is enough guarantee to the voters of Louisiana that they will not be to the voting polls voting on thirty, forty and fifty amendments every time--fine. This is not needed. I'm sure you're heard hue and cry as I have. The people do not want to go to the polls and vote on constitutional amendments at every election. If you have not, you have not been listening. Every meeting I attended, people wanted a change. What are you all doing about going and voting on all these constitutional amendments at every election? What are you all doing about that? What kind of changes are you making? Will it guarantee me that I won't have to go and cast a vote on something I really don't know about? Well, if you think that what we have here is enough guarantee, fine; you don't need my amendment. If not, consider voting for it. I think we all have the same goal. We want to leave the decision in the hands of the legislators. That's why they're elected. That's their job. If there is need... change needed in the constitution, let the people vote on it. But, let them have enough time to know what they're voting on. Don't send them blindly into the voting polls not knowing what the subject matter is. That's what the amendment pertains to. I would simply urge that you consider voting and adopting this amendment. Thank you very much.

[Amendment rejected: 34-77. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The first amendment is the Pugh-Casey amendment. Mr. Pugh's name appears first.

Amendment No. 1. On page 1, line 26, immediately after the word and punctuation "electorate." add the following: "The election shall be statewide and the resolution shall provide for the date on which such election shall be held."

Explanation

MR. PUGH

Mr. Chairman, fellow delegates, the present constitution provides that a constitutional amendment may be submitted to the electorate at the time at which members of the legislature of the State of Louisiana are elected, or at the time at which members of the House of Representatives in Washington are elected, the only exception to that, and the only time at which a special election can be held is if it's held in relation to education. This amendment provides that the resolution itself shall specify the date on which it is to be submitted to the electorate. It may be submitted a year from the time, two years from the time, or a little more than sixty days from the time that the resolution is passed by the houses here in our legislature. Nowhere in this proposal is there a reference to when these elections will be held relating to constitutional amendments. I'm not unmindful of the fact that there's a proposed election code to be submitted to the legislature and passed by the legislature. Be that as it may, I think it's appropriate that there be a provision within this proposal whereby the legislature in its wisdom can set forth the date on which the election is to be held. In addition to that, there's no provision in this proposal to provide that it's to be a statewide election. I appreciate the fact that the word "electorate" is used, and for that reason, may be construed as being the statewide electorate. However, I think we should specify that the amendment must be passed statewide, and also specify that the resolution which provides for the amendment also specifies the date on which the election is to be held. I'll yield to questions.

Questions

MR. JENKINS

Did you know, Bob, that, of course, since we were silent on this was that the question of the date would be left to the legislature, specifically, as provided by law, and law may be an election code; it may be the revised statutes? But, under the way we have it because we're silent on it, we believe it's provided by law. Do you really think it's workable to provide that the resolution itself would specify the date rather than the other laws of the state?

MR. PUGH

Yes, I do. You know, I've been practicing law about twenty-five years, and I know what has happened to good intentions before, and I'm not satisfied that just because we believe that's the case, that that is, in fact, the case or will so be construed. I'm saying the importance of the submission of a particular issue to the electorate, the legislature knows when they want that amendment, how important it is, and at what time it ought to be submitted to the people. I think it's a tragedy that today you can't amend our constitution except at a general election, and not at a special election unless you go through the subterfuge of dedicating part of the funds for education.

MR. JENKINS

Well, of course, I would have no objection to our providing that special elections can be called by the legislature, but the problem with saying that the joint resolution will set the date is this, isn't it: that a joint resolution is not law until the voters have approved it? We can't very well allow the joint resolution which is not law to have the effect of law by calling...by setting the date for the election on which it's to be considered; don't you think?

MR. PUGH

No, I don't. I don't think whether or not...I don't think law's got anything to do with the date on which you submit this to the people to vote on it. Besides that, my good friend, David, who's smarter than I am, says that's the present law,

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and I heard him say it earlier, but I knew good and well somebody would ask me where it is, so I didn't say anything about it.

MR. HERNANDEZ

Mr. Pugh, in your amendment is that "said resolution shall provide for the date on which said election shall be held." Suppose there be ten amendments and ten different dates suggested, and how would you handle that situation?

MR. PUGH

You know, I've got to believe that legislators are, you know, grown men, and that they are not going to provide that it's going to be on ten separate days. I just can't believe that, Mr. Hernandez.

MR. HERNANDEZ

Well, even if it was on three separate days...

MR. PUGH

Sir, I can't believe they would do it on three separate days.

MR. HERNANDEZ

All right. Then, which amendment would take precedence, and establish the date on which the election would be held?

MR. PUGH

I'm saying that the resolution that calls for it is the one that specifies the date on which whatever the resolution is it's to be voted on by the people. I say that if the legislature wanted to, they could have one every day. I believe we've got a better chance of having a new legislature after they do that.

MR. HERNANDEZ

Thank you, sir.

MR. STINSON

Bob, don't you think you should put "the joint resolution" instead of just the resolution? You're very technical, and one place we refer to "joint resolution"; one place to "amendment"; and now you say "resolution." It may be someone said, well, it will just have to pass the house or the senate, and not both if you don't put "joint."

MR. PUGH

I certainly have no objection to the use of the word "joint." I think that in its context, it can only refer back to that specific resolution; it's perfectly all right.

MR. STINSON

But, in the place you have been very technical and changed everyone else's. I would suggest that you change yours, too.

MR. PUGH

It has been brought to my attention that this same provision is in fact the present constitution reads, "The legislature shall designate the election at which the said amendment or amendments shall be submitted to the electors for their approval or rejection." The only forward position I'm taking from that is that they actually specify the date because as I said earlier, under the present...under our present constitution, you can't have, regardless of what the crisis may be, you can't have an amendment to our constitution unless you wait till what may be almost two years until these people are elected. I think that's a tragedy.

[Previous Question ordered. Amendment adopted: 67-25. Motion to reconsider tabled.]

Amendments

MR. POYNTER

This set of amendments is sent up by Delegates Casey and Pugh. It's the same authors, different order.

Amendment No. 1. On page 1, line 15, after the word "legislature" change the comma ",", to a period ".".

Amendment No. 2. On page 1, delete lines 16, 17, and 18 in their entirety and on line 19, delete the words and punctuation "beginning of the session."

Explanation

MR. CASEY

Mr. Chairman and delegates, the purpose of this amendment merely is to delete the requirement pertaining to publication

in the Official Journal of the State, ten days before the beginning of a legislative session. Publication sounds great for the purpose of giving notice to people generally. But, first of all, the publication required in this particular section indicates that the publication will occur in the Official Journal of the State. First of all, I question the advantage of that to start with. How many people is that really going to notify that a particular constitutional amendment is going to be introduced at the coming session of the legislature? Who's going to pay for the cost of this publication? Legislators, in many cases, receive requests from many of their constituents to introduce legislation. Legislation may be...that type of legislation, it may be necessary to amend the constitution. Now, who's going to pay that? It's not going to be the state. It's either going to be the legislator himself, or the particular constituent who makes the request. It's merely an unnecessary requirement. This requirement, ladies and gentlemen, does not exist today in today's constitution. I understand the motives of the Bill of Rights Committee. I think I understand, anyway, that their motive was that it is a method merely of limiting the number of constitutional amendments. But, the whole purpose of this Constitutional Convention, itself, is to eliminate in the future the number of constitutional amendments that we have had in the past. As you may or may not remember, in the year 1970, when fifty-three constitutional amendments appeared on the ballot, approximately--and I may be wrong on the exact number--but, approximately, twenty-eight of those applied to local government only. Now, I feel through our Local Government Article that we are adopting in this convention, it will eliminate altogether, except for future technical amendments, it will eliminate altogether the need for constitutional amendments affecting local government. Of course, the other purpose of this convention is to eliminate, as far as possible, future constitutional amendments on general law and statutory material that exists in today's constitution. So, we're solving that problem with this particular convention. We're requiring under this constitution a step that is completely unnecessary, and I feel will be burdensome to the constituents of many of our legislators who will handle legislation in the form of constitutional amendments in the future. Absolutely unnecessary. Why not require that every piece of legislation that you introduce in a regular session has to be published? There's not a great amount of difference. Why require it only for constitutional amendments? As you may know--and I may be incorrect on this--the only other publication requirements that are called for on legislation, to my knowledge, are matters affecting retirement systems, and are matters requiring publication in local newspapers where a local government constitutional amendment is being introduced. That's under today's constitution; as I recall or as I understand, it would probably be required under this constitution. This is an unnecessary step; it is burdensome to somebody who has to pay for it. It may be one of you all in this particular group today that's going to have to bear the burden of the cost of the publication. So, please delete this particular requirement. It's absolutely unnecessary.

Questions

MR. DERBES

Mr. Casey, if the material is published in the Official Journal before it's even introduced in the legislature, who pays for the publication?

MR. CASEY

That was exactly one of my points. It either has to be the individual legislator, who is going to handle the legislation, or the constituent, or group that makes the request of you, a legislator, to introduce it.

MR. DERBES

Also, it's not necessarily an official state document at that time, is it?

MR. CASEY

That's absolutely correct.

MR. DERBES

Furthermore, Mr. Casey...

MR. CASEY

It could drastically change by the time the process is taken and gets through the legislature.

MR. DERBES

That was my second question. As a member of the state legislature for several years, what has been your experience

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with respect to the characteristics of the bills first filed, as is related to their ultimate characteristics when they're finally passed? In what percentage of the times, are they substantially changed?

MR. CASEY

Well, I have to be honest with you that the percentages, that most of them remain pretty much the same, but the point is, they're all subject to change and can accomplish something completely different from the time they were originally introduced in either house of the legislature.

MR. DERBES

Thank you.

MR. HERNANDEZ

Mr. Casey, didn't you intend to delete lines 16, 17, and 18, rather than just 17 and 18?

MR. CASEY

Mr. Hernandez, there was a corrected amendment. You may have the wrong amendment. But, the corrected amendment deletes lines 16, 17, 18 and the first part of line 19. So, that has been corrected; and I assume the Clerk has the correction...

MR. HERNANDEZ

Thank you, sir. I just wanted to call it to your attention.

MR. CONROY

Mr. Casey, aren't the restrictions here though, very similar to the restrictions which we did enact already with regard to local and special laws?

MR. CASEY

That's what I had indicated already, Mr. Conroy, that I mentioned only two other instances where publication is required, and that is retirement bills and bills affecting local bills, you might call them.

MR. CONROY

But, this is not greater requirement, or no greater problems than we have with regard to local bills, is it?

MR. CASEY

No, but the point is that the requirement does not exist today. Those other requirements do exist today, and we're adding an additional burden, which I feel is completely unnecessary. We're already eliminating by this convention, the multitudinous constitutional amendments we've had in the past.

MR. CONROY

But, Tom, would there be any restriction on when a resolution to amend the constitution could be adopted or introduced, any effective limitation, if you remove this provision?

MR. CASEY

There is no limitation at all. It would have to go through the session and then be voted on by the people, which is today's process.

MRS. WARREN

Mr. Conroy asked one of the questions that I wanted to ask. But, I'm going back to where the burden would be on that individual legislator. Does each representative of the legislature have an office and a secretary in its respective districts?

MR. CASEY

Mrs. Warren, they are authorized a legislative assistant, and they are authorized to have a legislative office, and they receive reimbursement to the extent of one hundred dollars a month for that office. So, they're authorized to have it. I won't say that all legislators have it.

MRS. WARREN

Well, now, they have that much for that office. Now, do they have a secretary in that office?

MR. CASEY

They are authorized to have a legislative assistant. There's no requirement that the secretary sit in the office. She could maybe work at home, and take care of the business of the legislator if she has a typewriter and whatnot at home, and she uses the telephone there. The mechanics of it are left up to the legislator.

MRS. WARREN

What I'm trying to get at, wouldn't it be possible through the mechanics that they have to get some information and some to their constituencies, through the legislative assistants that they have, whether it's a secretary, or whether they do it in the office?

MR. CASEY

Well, it's certainly possible, but again, I have to be honest and say that the spread of information would certainly...cannot be that extensive. The point is here, I just feel the publication is burdensome and unnecessary that's being required under this section. The legislator can certainly do anything within his prerogative to disclose information to his constituency. How he does it is certainly up to him.

MRS. WARREN

Well, in the event that one doesn't get it to his constituency, would you blame that constituency for voting against the amendments when they came up if they were not knowledgeable of it?

MR. CASEY

Mrs. Warren, I did not honestly understand that question.

MRS. WARREN

I'm saying if the people within the area can't get the information of what's going on, and it's thrown at them real quick, could you blame them for voting against these proposed amendments when they don't have a chance to know what's going on or look into before it happens?

MR. CASEY

Mrs. Warren, I blame, and I have no hesitation in blaming everybody, for not properly informing themselves. If people are going to be responsible voters, I blame them very much for not assuming the responsibility to educate themselves through publications like Public Affairs Research Council on anything they have a responsibility to vote on.

MR. WINCHESTER

Mr. Casey, if the need for a constitutional amendment arose during a session, with the way the section is now written, it could not be considered, could it?

MR. CASEY

Mr. Winchester, you bring out a point, very good point, which I failed to bring up that in many cases, when the legislative session opens, and through discussion between legislators and their constituents, much, much legislation is drafted and originates after the first day of a legislative session; and where a need becomes apparent, and this would eliminate absolutely the possibility of introducing a constitutional amendment after the opening of a legislative session.

MR. WINCHESTER

Thank you.

MR. DUVAL

Mr. Casey, on local laws, who writes the summary? I was wondering under this, who would prepare the summary and the notice of intention?

MR. CASEY

Well, of course, this leaves it wide open. Whoever is going to introduce the legislation, the legislator, I would assume, would have the responsibility for preparing the summary.

MR. DUVAL

But, you don't see the actual bill. It's just a summary prepared by that legislator.

MR. CASEY

That's right. Of course, a summary, as you know, can be somewhat misleading.

MR. FLORY

Mr. Casey, isn't it true we're really talking about two entirely different matters, when you're talking about an advertisement of this type, and then try to relate it to the advertisement of a local and special bill because a local and special bill is to give notice to the local government that something is about to occur that might affect them, and once it's passed by the legislature, they can't do anything about it? But, just to the contrary, after the legislature has acted on a constitutional amendment, the secretary of state is required by the constitution to publish in every official journal in the state, in each parish, before the people vote on it. So, there's no need really for this type of an advertisement.

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MR. CASEY

You're absolutely correct, Mr. Flory, and I think you make a very good point.

MR. STINSON

Mr. Casey, we were trying to discourage numerous amendments to the constitution. Your argument is you want to make it easier. Don't you think that the purpose has been explained by the committee spokesman that the ten day is those that will be carefully thought out--not at the last minute be thrown in there and said, well, we are going to pacify some group or somebody---that comes down in the middle of a session and wants one introduced, or within the required time to start with. The purpose of this amendment by the committee is to discourage, except those that are badly needed and thought out in advance, don't you think?

MR. CASEY

Mr. Stinson, there's no doubt about it. I understand the motives of the committee. You are absolutely correct. But, the whole point is, we are eliminating, by this convention we would hope, the necessity of a multitude of constitutional amendments. We hope, through a good, stream-lined constitution that we are going to offer, that there will be, it will be a rarity that we will have constitutional amendments. I think this document in itself is going to, in the future, limit constitutional amendments.

MR. STINSON

But as a experienced member of the legislature, and a public official, you know that it's a hope, but only a hope, because people are still going to run in at every session, like they always have, aren't they?

MR. CASEY

Ford, I agree. We...legislators are certainly human beings, and have a tendency to naturally introduce as much legislation as would please their constituents. You know that, and I know that. But, the point is, it will not be as necessary. The point is, also, it is, you know and I know, much good legislation arises during a legislative session after the first day. By this process, we are eliminating the possibility of good legislation in the form of constitutional amendments which may be very necessary in the future, and which may require, possibly, the calling of a special session after the regular session, just to adopt the constitutional amendments....

MR. STINSON

I agree with you that much good arises during the session. But, doesn't...isn't it a fact that much, much more bad legislation arises during the session?

MR. CASEY

Well, that's open to argument, Ford.

MR. WILLIS

This is a friendly question, Tom. In the legislative article, we have provided similar machinery with respect to laws. In this instance, we are providing...put a question mark to this. Don't you think that this proviso here, that you are seeking to strike out, it limps because it has that word, "a summary thereof"? Now, you may sum up something one way, and I another. We presume we are both reasonable. But that there is a court of last guess that will say that that summary is no good. Therefore, the notice hasn't been given. The...and under due process, and equal protection, and the like, the amendment itself, even if the people approved it is no good.

MR. CASEY

Well, Mr. Willis, that's certainly the point that Mr. Duval touched upon, and which I think Mr. Derbes implied.

MR. WILLIS

Oh, I see.

MR. CASEY

It's certainly open to interpretation as to what your concept and my concept of one particular piece of legislation is. As Mr. Derbes pointed out, it can drastically change...dramatically change from beginning to the final adoption.

MR. WILLIS

I'm taking up and analogizing a summary to head notes of an opinion. Sometimes those head notes don't actually portray what that opinion says.

MR. CASEY

We know that very well in reading the actual cases.

MR. MUNSON

Mr. Casey, Mr. Stinson really asked my question. I would like an opinion from you in regards to the question that he asked you.

Doesn't your amendment, as compared to the proposal as submitted to us, make it easier for the legislature to submit amendments to the people, rather than more difficult?

MR. CASEY

Bob, at the risk of being repetitive, you're absolutely correct. There's no question about it. I honestly admit that it opens the door to the legislature submitting to the people additional constitutional amendments. But, my answer consistently has been the very purpose of this convention is to eliminate the necessity of future constitutional amendments. Our document has so much statutory material, and local government material in it, that it just leads itself to the necessity for multitudinous constitutional amendments. This is being eliminated by this convention, we hope. But, the point is, we at least have to make the normal processes of law easily available to the people. The majority of legislation, as we both know, is developed after the legislature opens, Bob.

MR. GOLDMAN

Delegate Casey, can you tell me whether or not the purpose of this is to inform the public of a proposed constitutional amendment, or to make it harder to propose one?

MR. CASEY

The committee's purpose, Mr. Goldman, I think, was to make it harder and to limit the number of constitutional amendments. But, on the other hand, I question just how many people will be honestly informed by the requirement of the publication in the official journal of the state of a proposed summary of a constitutional amendment.

MR. GOLDMAN

Did you know that I question that, too? If the purpose is also to make it harder, wouldn't it be...make it harder if you required the legislator to put up a thousand dollars with each one of the amendments for the constitution he puts up, and not get it back until the...amendment is either voted down or up?

MR. CASEY

Well, that would be one way of penalizing an individual legislator.

MR. BERGERON

Tom, with the deletion of 16, 17, and 18, and part of 19, looking over Section 1. Comparing it with our present constitution, is it substantially the same process of amending the constitution?

MR. CASEY

Well, first of all, it's substantially the same, as I understand, except that what I'm trying to eliminate is not a requirement contained in today's constitution.

MR. BERGERON

Right. In other words, if we eliminate this, we will have more or less what we have now with the present constitution.

MR. CASEY

As I understand, yes. But I could be subject to correction there.

Further Discussion

MR. JENKINS

Mr. Chairman, delegates, I really don't understand why Mr. Casey is so concerned about this. It's the one thing the committee felt was important enough in the present amending process to include to try to rationally restrict the number of amendments offered. If I had any idea that the convention might delete this, frankly, I would have considered Mr. Bergeron's proposal a lot more seriously because I think his provided more consideration than is presently given to the amendment process.

Now, let's be practical and talk about how the amendment process really works. I want to refer you to what Senator Sixty said a couple of months ago. What is the best way to pass a bill, or to pass a joint resolution proposing a constitutional amendment? What is the best way?

The best way is to propose it on the last day for filing

bills--to get it to a committee hearing as fast as you can--preferably with little or no notice, and get it to the floor as fast as you can. That's the best way because that's the way it passes. The less people know about it, the more chance it has of passing. Now, the reason we put in this requirement that you advertise in advance is not to give public notice. That wasn't the purpose. It will, it will give all of the people who read the official journal, and keep up with official notices, it will give them notice. But, that's not the purpose. The purpose is to get away from this last minute stuff so that before the session, a legislator has in mind what he's going to propose, and puts in the official journal that he intends to propose it so that he can't get away with his last minute proposal. What does it cost? It costs about six, or eight, or ten dollars. That's what it costs. It will be paid for by the legislator, just like retirement bills and local bills which have to be advertised or proposed right now. That has created no problem--no problem at all. It just requires that people think in advance. This will create no problem, either, except for the folks who want to propose things at the last minute and slide them through.

Now, it's been suggested that this is going to create all sorts of problems when we have emergency situations. I have in front of me the thirty amendments that were on the ballot in 1973. I have, also, in front of me, the fifty-three that were on the ballot in 1970. I want to read you just a few of them. I haven't been able to find once that would have occurred in the first twenty or thirty days of the session; Repeal State Property Tax; Eliminate State Property Tax Relief Fund; Special District Debt Assumption; Property Evaluation for State and Local Taxation; Hurricane Protection; Revision of Article on Elections; Sixty Day Annual Sessions; Civil Service Commission Membership; Women Eligible for Jury Service; Special Elections for Amendments; Civil Service Preference for Viet Nam Veterans; Residency Requirements for Voting; Election of Unopposed Candidate; Paving Assessments in New Orleans; Orleans Parish Levee Boards; City Parish Consolidation in East Baton Rouge; Special Districts in Kenner; oh, you looked up the old one. Civil Service, City Park in New Orleans; Viet Nam Veterans Bonus; Changes in LSU Board; there haven't been any like that in the past. What happens if you have an emergency between sessions which is ninety percent of your days in the year? You wait for the session. Constitutional amendments don't need to be made for emergencies. That's what legislation takes care of. We've already provided all sorts of exceptions, and all sorts of compromises in this constitution, to take care of emergencies. Emergency sessions of the legislature can be called by the governor without any notice at all. We have the special debt requirements that allow you to appropriate money, in effect, without--with only interim approval by the legislature, etc. This is not...this is not even an argument or a factor. Listen, what we are trying to do here is to make sure that before someone comes up with a constitutional amendment in the legislature, he's thought about it in advance enough to put a little ten dollar ad in the State Times in Baton Rouge saying that he intends to, and what the general purpose of that amendment would be, just like he has to do now for retirement bills and local bills. If it's so important for retirement and local bills, it certainly must be important for constitutional amendments. That's the most important thing the legislature does is consider constitutional amendments. But, it hasn't been given proper consideration in the past. It has been a last minute affair too often. So, I urge you to reject this amendment.

Further Discussion

MR. CONROY

I rise in support of the committee proposal, and in strenuous opposition to the amendment to delete the requirement of notice. I think that we have to keep in perspective the mandate that I believe nearly every one of us here received when we were elected, and that was to restrict the way in which this constitution is amended by the legislature, and the number of amendments which are submitted to the people. This notice requirement seems to me to be clearly a provision which is intended to restrict the legislature in permitting it to take up last minute amendments of the constitution. That's the whole point. The point is to prevent exactly what Mr. Casey has suggested should be allowed. It's to prevent it so that the...you cannot get into the situation where the legislature finds itself considering new legislation which somebody notes is in conflict with the existing constitution and then saying, "Well, we can solve that. We'll run through an amendment to the constitution as well."

The whole point is that if this document that we're working on is to mean anything, it should have some stability to it, and not be subject to such last minute changes. If it's going to be changed, there should be notice published before the

session so that you cannot get into this possibility.

I disagree, also, with Mr. Casey, as to why the previous constitution was amended so much. It didn't start off as a monumental document in 1921. It was a fairly short document. I haven't seen any tally of the number of words in the original 1921 document, but it was nothing like what we are dealing with right now. Most of what is in the constitution right now was subsequently added by amendments by the legislature, and adopted by the people, it's true. But it...we will be right back where we started if we suggest to the people that no severe restraints are necessary on the legislature. The history of this state has taught us quite to the contrary. We do need these restraints on the legislature. They are necessary. I think this is a very sound proposal that has been made by the committee to require advance notice, again, not so much for the purpose of publication, but to be sure that before the legislature goes into session, that there is some restraint on the number of amendments that can be introduced, considered at that session of the legislature.

I urge you to reject the amendment submitted by Messrs. Casey and Pugh.

I will yield to any questions.

Questions

MR. BURNS

Mr. Conroy, don't you think the objection to this publication...advanced publication...on the grounds it might cost the legislator, or somebody, some money, is one of the best safeguards of protection that there won't be so many amendments introduced in the legislature?

MR. CONROY

Well, I guess it could be considered that way. Actually, Mr. Burns, I consider that such a nominal matter because we're not talking about a huge amount of money there. If we're talking about amending the constitution...there ought to be a few dollars in fee.

MR. BURNS

I'm assuming....if it was a....problem, let me ask you one thing....

MR. CONROY

I don't think it's a problem because it's the same thing you have with local and special elections....

MR. BURNS

One more question. Don't you think that that advance publication will more or less satisfy the voters even though they don't read it, you would at least be able to say that they had the opportunity to inform themselves of what was to be voted on.

MR. CONROY

Well, again, Mr. Burns, I think the most important restraint would be on the legislator itself. Notifying the public would be helpful in that return.

MR. FLORY

Mr. Conroy, maybe I'm a little thick. But, could you explain to me what good it does to publish something in the journal in Baton Rouge if you are going to introduce a constitutional amendment affecting the Ouachita Parish School Board, or the city of New Orleans in the Vieux Carre Commission?

MR. CONROY

The reason, Mr. Flory, is that if you have not published it in advance, you cannot introduce it. The purpose here is to preclude the possibility of it later being thought of and introduced later in the session of the legislature. That's the purpose.

MR. FLORY

Well, if that's the purpose of it, then, why don't you just put an amendment in here saying you can't have constitutional amendments?

MR. CONROY

No, I disagree with that, Mr. Flory, and I'm sure you do, too. There should be constitutional amendments. But, they should be thought out in advance of the session of the legislature, not thought of as last minute things in the legislative session.

MR. HENRY

Will you yield to a question from Dr. Weiss?

MR. WEISS

Delegate Conroy, in this convention over the year, we have

experienced sleeping overnight on some of these floor amendments. They have come back considerably improved. Don't you think that ten days is a minimum that should be required for submitting such a proposition, or even considering such amendments to the constitution to the people of the State of Louisiana?

MR. CONROY

I think it's a very modest requirement. I think what we have to keep in mind is that it is somewhat in line with the type of proposition Mr. Bergeron suggested earlier where the thing had to wait over a year. This just requires ten days advance notice, but does preclude last-minute charges to run up a lot of constitutional amendments to submit to the people.

Further Discussion

MR. DE BLIEUX

Mr. Chairman, ladies and gentlemen of the convention, I rise in support of this amendment. I'd like to bring to your attention a few statements as to why I think it's important.

First is, one of the things the present provision provides for is notice of the amendment. It doesn't say what type of a notice that has to be published. So, how are you going to determine whether or not that the notice that was published was sufficient for the amendment? After all, there's not too many people that pay very much attention to legal advertisements unless they are particularly interested in that particular phase. So, therefore, if you are going to notify the people about this amendment, you are not going to get it done by requiring a publication at the expense of some legislator or some particular constituent of his that is only interested in that particular amendment. I certainly feel like that maybe there might be a notice published, and then the amendment, as finally enacted, would not be in accordance with the notice, and, therefore, would become unconstitutional because of the fact it wasn't properly published. So, I think you are running into a lot of ramifications. If you want to be sure that there is not the last minute getting through an amendment like Mr. Jenkins said, why not require that the amendment be prefiled ten days before the session? That would take care of the situation. You don't have to say it has to be published in the newspaper, because if you prefile it, and it's open to public, the newspapers will let everybody know there's an amendment filed for that purpose. I certainly think it would get a lot more notoriety than requiring a legal publication of facts that you are going to introduce a proposed amendment. For that particular reason, I certainly feel like this amendment ought to be adopted because it certainly is not going to serve the purpose for which Mr. Jenkins said it would serve. I can tell you that.

I ask you to approve the amendment.

Questions

MR. JENKINS

Senator De Blieux, I'm having difficulty understanding some of your reasoning; your reasoning is right now that if a local bill is advertised in advance of the session, and if a local bill ends up in a different form from the advertisement that it's unconstitutional?

MR. DE BLIEUX

I didn't say that.

MR. JENKINS

Well, you said that's what would happen under this.

MR. DE BLIEUX

I said under the proposed constitutional amendment. It certainly can take an entirely different end than what was intended in the original publication.

MR. JENKINS

Well, isn't it obvious the courts are only going to require...

MR. DE BLIEUX

I certainly think that if you, as your knowledge of law, that you know that it could be if it didn't fulfill the requirements of a notice and be in accordance with the notice that it might... it could end up by being entirely different, and, therefore, would have sufficient publication.

MR. JENKINS

Isn't it obvious that the courts are going to only require that the proposal as introduced substantially conform to the notice and not the proposal as finally passed?

MR. DE BLIEUX

That's what I'm talking about, Mr. Jenkins.

MR. JENKINS

Well, all right, then. If what you said is not correct, is it?

MR. DE BLIEUX

I certainly think it might reflect upon the constitutionality of some issues....

MR. JENKINS

Now, don't you agree that just as I said, the purpose of this is not to give widespread public notice; that the purpose is to be a screening device so that legislators, before they introduce a proposal, will have thought about it before the session, rather than coming up at the last minute with something that nobody knows anything about, and getting a sympathy vote, a personal vote, and passing it out with a two-thirds vote?

MR. DE BLIEUX

If that was your intentions, why didn't you state that it be prefiled, then it would have to be thought out rather than just preadvertised; require the bills of the proposed amendment to be prefiled before the legislature meets, then you can say it was well thought out. But, you can try to publish it in the newspapers, and you know the....

MR. JENKINS

Well, we certainly, if this amendment passes, we'll sure do that, Senator.

MR. DE BLIEUX

....amount that's going to be published in the newspaper has to be small, and, therefore, would not provide the sufficient information as to the whole purport of the amendment.

MR. LEBLEU

Senator De Blieux, I believe the Baton Rouge Morning Advocate is the official journal of the state, isn't it?

MR. DE BLIEUX

That's correct.

MR. LEBLEU

Do you know the statewide circulation of the Baton Rouge Morning Advocate, outside of East Baton Rouge Parish?

MR. DE BLIEUX

No, I don't. It's....it is a fairly wide. But, it certainly does not cover the state as the dew--you might say that.

[Previous Question ordered.]

Closing

MR. CASEY

Mr. Chairman and delegates, I would just like to point out some....a very few points why I feel it's important to at least consider the possibility of adopting this amendment, eliminating the necessity of publication in the official journal prior to the introduction in the legislature, of intention to file a constitutional amendment. I think one thing that we have had certainly a problem in in the constitutional convention here is the idea that we have on occasions, maybe over-reacted--over-reacted--to the sentiment of people for constitutional reform. I think this is one of the indications of over-reaction. The purpose of this convention is to eliminate future constitutional amendments. I really don't think that many of them will be necessary in the future. It's an unnecessary burden that we are imposing upon legislators and their constituency. Also, it takes away from legislators, and their constituency that flexibility--that flexibility that is going to be necessary in the future after legislatures convene. Many people then become interested in the legislative process. It is not until then that legislators are contacted by many of their constituency to at least obtain....obtain from their constituency what their needs are. We are eliminating this possibility in the future by imposing an unreasonable burden upon legislators and their constituency. This requirement of ten day notice....people don't get interested in legislative sessions until we convene. Let's face it. That is human nature that that actually happens; that people are not aware of the legislature until we go into

session and at least leave the road of the door open to the possibility of a legislator serving his constituency. That is what he is there for. It is his responsibility to introduce legislation. We are, through this method, possibly, just maybe, perhaps taking away the necessary flexibility that is necessary to introduce good legislation...or rather, good constitutional amendments which maybe are necessary to correct an error that we have made here in this convention. That is my mandate.... my mandate is not necessarily to worry only about the number of constitutional amendments that we are going to have in the future. My mandate was to do an intelligent job on this constitution in the hope that in the future we would not have many constitutional amendments, in the hope that we would offer to the people a general governmental document by which our people can operate under. I don't think we should hinder the operation in the future, of the good legislative process that exist today.

I urge adoption of this amendment.

Question

MR. WEISS

Delegate Casey, the representative in my district gets the Morning Advocate, and he reads about it. If there is anything medical that gets by him, I sure would think twice before voting for him for reelection, and tell my friends likewise.

But, there's an inconsistency that I seem to appreciate in your reasoning. I wonder if you'd explain the fact that this is an unrealistic request that legislators keep up with events. Yet, you say, that you don't anticipate many more constitutional revision amendments.

MR. CASEY

As I've stated many times here, I do not anticipate the necessity of many constitutional amendments because we're curing, we hope, the requirement, for instance, for local...for amendments affecting local government. As I said, in the 1972 session there were twenty-eight constitutional amendments that affected local government. We hope that that is being eliminated, and through a good streamlined constitution, we hope we are curing many of the other problems that existed. As you know, many of the state agencies that exist today have been put in the constitution. Take the domed stadium, that's in the constitution, and it really, probably, shouldn't be there, to tell you the truth....

[Amendment rejected: 52-53. Motion to reconsider tabled: 58-47. Motion to take up other orders of business. Substitute motion to recess for one hour for lunch rejected: 38-57. Motion adopted: 65-37.]

Report of the Secretary
[II Journal 1107-1108]

Announcements
[II Journal 1108]

[Adjournment to 2:00 o'clock p.m.,
Sunday, January 6, 1974.]

110th Days Proceedings—January 6, 1974

Sunday, January 6, 1974,

ROLL CALL

[70 delegates present and a quorum.]

PRAYER

MR. HAYNES

Join me as we pray. The God of our Fathers, the God of our eternal goodness we pray that Thou will bless us, and guide us, and protect us. We pray that among other things that we are to achieve out our efforts to write a constitution to make this state better for all people, that we would learn to live as brothers here amongst one another. We pray that Thou would bless the Chairman of this Convention, the governor of this state, the leaders of this state, and the leaders of this land. Help us as we go to perform this important task that we might make Louisiana a state for all of the people that they might have life and have it more abundantly. Amen.

PLEDGE OF ALLEGIANCE

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

MR. POYNTER

Committee Proposal No. 36 is on unfinished business being a proposal introduced by Delegate Alphonse Jackson on behalf of the Committee on Bill of Rights and Elections (Substitute proposal for Committee Proposal No. 24 by the same gentleman on behalf of the Committee on Bill of Rights and Elections.)

A proposal relative to constitutional convention.

The status of the proposal, the convention still holds it under its consideration the first section of that proposal which deals with proposed amendments to the constitution; it also adopted one amendment to that section to date by a suggestion on yesterday that we have been considering the amendments out of an order by paragraph. We still, Mr. Chairman, have a number of amendments pending to this section, in fact, there are a number of amendments still pending to Paragraph (A) of this section.

Amendment

MR. POYNTER

To [Paragraph] (A) there is still--though the distribution copies haven't arrived--about ten amendments and at least one more, I'm sure of, that's being typed, I believe, at this present time.

Amendments sent up by Pugh, Flory, A. Landry, and others:

Amendment No. 1. On page 1, line 16, after the word "that" strike out the remainder of the line and strike out lines 17 and 18 in their entirety and insert in lieu thereof the following: "such resolution has been prefiled at least ten days before the"

Explanation

MR. FLORY

Mr. Chairman and delegates, yesterday, as you recall, there was quite a bit of debate and discussion on the question as to the validity of whether or not a constitutional amendment prior to its adoption should have been advertised in the Official Journal of the State of Louisiana prior to its introduction into the legislature. As you recall, that vote for some fifty-three, fifty-two and the language remained in the proposal as it is now. In the discussion it came out that the intent, really, of the committee, as I appreciate it, was to in some way prevent a multiplicity of amendments being submitted on the ballot at a particular election. Mr. Pugh came to me yesterday afternoon and asked me--due to the fact he had to go to Shreveport and might not get back in time to handle an amendment that he had; they were going to advertise it to also require the pre-filing. When I got here today, in discussing it with a number of the delegates here, there was some strong sentiment instead of the advertisement that you require instead the pre-filing of the

resolution itself at least ten days prior to the beginning of the session and that's what the amendment does. I believe it accomplishes what the committee set forth to do in their work in trying to limit the number of constitutional amendments on the ballot. One of the major advantages of this is, of course, that you prefile a resolution as it is. That way, it becomes accessible; the press picks it up and advertises the contents of what it might be and that way the public is made aware of it, the legislators are made aware of it prior to the convening of the session. I think it's a much better approach in limiting the number of amendments on the ballot when they are voted on. I will be happy to answer any questions, Mr. Chairman.

MR. A. JACKSON

I simply want to state, Mr. Chairman, that the committee has no objections to the amendment.

Questions

MR. CONROY

I wondered whether it would be possible during the session to amend the resolution under your provision; it would not, would it?

MR. FLORY

Yes, sir, it would because there is no stipulation saying that it would then...that you could not amend it, all it says that it has to be prefiled, does not in anyway inhibit the legislative process; it's not intended that way, Mr. Conroy.

I move for the adoption, Mr. Chairman.

MR. WILLIS

Mr. Flory, is that in parallel with and provide similar to what the Legislative Article does with respect to laws? Do you understand my question?

MR. FLORY

Yes, sir. I'm not quite sure I can answer it without looking at the Legislative Article because it may be a conflict, I'm not sure, Mr. Willis, in all honesty. I think we have...in the Legislative Article and I'm quoting from memory now "provided for the introduction of bills up to midnight of the fifteen days after the convening of the session." So, we would have to correct that in some fashion.

MR. WILLIS

Do I understand the correct thrust of the amendment to be the sport of fair play by giving timely notice?

MR. FLORY

Yes, sir.

MR. WILLIS

Thank you.

MR. CHATELAIN

Gordon, if during the session of the legislature it was deemed it was necessary perhaps to have an amendment to the constitution, then in this year you couldn't do it, would you have to wait until the next year; is that correct?

MR. FLORY

That's correct...although, at a specially called extraordinary session with sufficient notice to file ten days prior. There is a subsequent amendment to this for consideration to eliminate the extraordinary session from this provision and it would depend upon, of course, the will of the convention.

MR. CHATELAIN

What does it mean, the main thrust of this amendment, and what are we trying to do here? Please clarify.

MR. FLORY

Well, if you recall a debate yesterday centered around the fact that the committee, in their attempt in dividing a proposal was trying to limit in some way the number of amendments submitted to the people and to make it a little more difficult to introduce constitutional amendments and have them then voted on all at one time by the people. There was some sharp division of opinion in the convention as to the wisdom of the process chosen by the committee and saying that it ought to be published in the Official Journal. A lot of people believing there was no necessity of publishing it because it required that a summary be published. The problem being is that if I were going to have something introduced as a constitutional amendment, I could draft the summary, take it to the newspaper, have it inserted in the official journal. Then, not

even have an author who is a member of the legislature at that point, so that then when the resolution was actually introduced, and it was amended later on, it was possible that the amendment as amended may not meet the summary that had been filed in the advertisement; so, that you would then have a constitutional question.

MR. O'NEILL

Gordon, of course, you make the distinction between a bill and a joint resolution; I know that. But, just for the record, these... this process, of course, will be subject to all safeguards and the procedures that have been established in the Legislative Article as drafted? ...and, that is your intent?

MR. FLORY

Oh, yea. As for format, etc....it would have to be in possession of each House three days, three readings, that sort of thing a two-thirds of the elected membership, etc.

MR. GRAVEL

Mr. Flory, it just occurred to me that possibly there should be some amendment to the proposed amendment that I coauthored with you indicating by whom and with whom the resolution should be pre-filed.

MR. FLORY

Now, I considered that, Mr. Gravel, but as you well know the only way you prefile it...prefile a bill, you prefile it with either House. I think if it affected taxation, I wanted to leave it open to where it would have to go by the Senate and House rules. As you well know, the rules of the House and the rules of the Senate are different, and it was my intent that if it was filed in the Senate it would be filed in accordance with the Senate rule; filed in the House, it would be filed in accordance with the House rules.

MR. GRAVEL

I just was wondering whether, in view of the fact that we are talking about a proposed constitutional amendment, whether there might not be some advantage in requiring that this pre-filing be by a member of the legislature with the secretary of state. We are talking about the constitutional amendment process and this is really mainly for the purpose of giving notice, I believe. If you are satisfied, though, I have no big problem but it does appear to me that the amendment together with the language that is being amended doesn't specifically say "by whom or with whom" this pre-filing should take place.

MR. FLORY

Well, it was my intent that it be done as is now the procedure in pre-filing it with the Clerk of the House and the Secretary of the Senate. I would rather keep it that way because I know of no part that the secretary of state played other than keeping copies of bills that are filed as far as his official function until after such bill has been signed in open session or in session and then by the governor; then is certified by him, it's already been passed; then, his official function takes over.

MR. GRAVEL

Do you have any objection to putting after the word "prefiled", "as provided by law" so there wouldn't be any trouble with this language?

MR. FLORY

No, sir.

MR. GRAVEL

A technical change.

MR. FLORY

None whatsoever, Mr. Gravel. With the permission of the Chair, I would be happy to withdraw it and insert that because I think that was the intent. Certainly, the legislature ought to be able to provide the procedure whereby.....

MR. GRAVEL

Mr. Henry, had indicated that maybe either that or "as provided

by rule of the legislature" would take care of that. I'm just a little worried about it not being pinned down.

MR. FLORY

Your point is well taken, Mr. Gravel. I would prefer, myself, to put in there "as provided by law" as that would, then, provide uniformity of both Houses. I would like to ask for permission to withdraw it and insert that after re-submission, Mr. Chairman.

[Amendment withdrawn.]

Further Discussion

MR. FLORY

In light of the subsequent discussions, I believe it would be better to insert instead "as provided by law", "as provided by the rules of the legislature" so that the Senate could maintain its integrity and how they handle their business. The House could maintain its integrity insofar as the actual mechanics of handling legislation.

Amendment

MR. POYNTER

The amendment would read, as amended, as follows: "such resolution"—the text of it—"such resolution has been prefiled, in accordance with the rules of the Houses of the legislature, at least ten days before the". Insert between the words "prefiled" and the word "at", this ", in accordance with the rules of the Houses of the legislature,"

Questions

MR. RAYBURN

Is anything in your language that makes it a matter of public record once it's prefiled? Right now, if I prefile a bill and tell them to hold it, I can prefile it and it's not public record unless I release it.

MR. FLORY

There's nothing in here, Senator. It was my understanding that the rules of the legislature were at the stage of discussion of changing the rules to make that public any time it's prefiled. I didn't want to interfere with the legislature because I thought it was something they ought to determine. The House has made that determination, the Senate has not; I didn't want to disrupt the work of the Senate.

[Previous Question ordered. Amendment adopted without objection.]

Amendment

MR. POYNTER

The Jenkins amendment was passed out yesterday, reads: On page 1, line 16, immediately after the words "provided that" and before the word--and here this has to be changed, it used to read "notice" but now we've got to say--and before the word "such" added by Convention Floor Amendment No. 1 proposed by Mr. Pugh and others and just adopted, insert the following: ", except with respect to extraordinary sessions,"

Explanation

MR. JENKINS

Mr. Chairman, this is introduced in response to a problem that Mr. Casey raised yesterday in some of his discussion. The fact is that under the provisions we provided earlier the governor could call a special session with only five days' notice and in such case it would be impossible for legislators to prepare in advance and prefile or give advanced notice of intention to introduce a constitutional amendment. So, this would make an exception to this general rule for the cases of special sessions so that a constitutional amendment could be introduced, in the case of a special session which generally is called for some emergency reason without this pre-filing. So, I would like to urge the adoption of this amendment.

Questions

MR. ROEMER

Mr. Jenkins, what would be the rule in regard to prefiling with extraordinary sessions now? Would there be a certain time frame? Would it be the same as the governor's call of five days? Would you explain that to me?

MR. JENKINS

Well, my understanding is that there is no law on the subject right now with regard to last days for introducing constitutional amendments; that's the present law for special sessions. There is a, I think, it's the twenty-first day or something like that now for regular sessions. In fact, in a special session any joint resolution would have to be introduced at least five days before the end of the special session because it takes five days to go through both Houses. Generally, most special sessions are about ten days in duration so this would mean that the fifth day, in fact, would be the last day and there would be requirement of prefiling. Generally, those are not prefiled in the case of special sessions.

MR. SMITH

Mr. Jenkins, an extraordinary session, if it's not in the governor's call, would you have a right to introduce a constitutional amendment?

MR. JENKINS

Well, the rules for special sessions would not be affected one way or the other, if it's within the call, you could; if it's not within the call, you could not.

MR. ABRAHAM

As I appreciate it, Woody, by putting this amendment in then it would throw a door open then to anyone to prefile bills on a special session...not a prefile bill, but to have a constitutional amendment during a special session; wouldn't it?

MR. JENKINS

Yes. Anyone could introduce a constitutional amendment that was within the call of the special session without prefiling; that is the intent of it. The reason is that special sessions can be called on five days' notice under normal conditions under the Legislative Article that we have passed and, thus, there would be no ten-day limit that could be met. Second, because in emergency situations under the Legislative Article we have passed, the governor can call a special session with no notice whatsoever. So, it isn't reasonable or logical to require prefiling ten days before a session when we have sessions that can be called normally on five days' notice or with no notice at all in emergency situations.

MR. ABRAHAM

I appreciate that, but we run a risk then of opening the door into a multitude of constitutional amendments...proposals during a special session; would we not?

MR. JENKINS

In practical terms, no, because the call of a special session is always limited and whatever the call deals with would limit the subject matters to such amendments. If it's one to deal with property taxes, then you couldn't have amendments on other matters. So, I don't think in practical terms that it would open the door. I don't know what else we can do, really, because we can't very well require a ten day prefiling in the case of special sessions when you can have them called on lesser notice.

MR. FLORY

Mr. Jenkins, I appreciate what you are trying to do, and I know that you only get sometimes a five day notice in case of an emergency, only a forty-eight hour notice in an extraordinary session. But, let me call your attention to line 15 of the proposed article where it says that "an amendment to this constitution may be proposed by joint resolution at any session of the legislature." Now, in light of that what I believe, what that language means is irrespective of whether it's in the call for an extraordinary session or not that it could be considered and that was one of the safeguards of the ten day prefiling. Now, I think that perhaps we may need to give some more consideration to your approach in extraordinary sessions and say that "only those in the call on that subject matter in the call." I don't think you intend to expand the call to that extent; do you?

MR. JENKINS

No. The intention of the committee was not to allow an amendment on any subject matter to be introduced at any session. It was to say that you can consider constitutional amendments at any

session. But, naturally, if it's a special session, this would conform to the same requirements as all other bills because you notice it has to meet the procedures and formalities required for passage of a bill. A bill cannot be passed in a special session unless it's within the call of that session and maybe we need to work on the language to be sure that there's no ambiguity involved. But, the intention is not to open the door on special sessions to...

MR. FLORY

That's the reason I called your attention "at any session" so that we might clean that up.

MR. CHAMPAGNE

Mr. Jenkins, do you know that I share the same fear that this thing here may enable the thing that we want to prevent, a flood of amendments and this just might be the place that where they are going to put them all in this special session in the wording that you have. Actually, we have in the Legislative Article a provision that "the legislature shall meet at least once a year"; right, sir?

MR. JENKINS

I'm sorry, sir. What was that last question?

MR. CHAMPAGNE

The legislature in our present article would meet at least once each year; is that right?

MR. JENKINS

That's correct.

MR. CHAMPAGNE

Now, I personally believe that's enough for times in which... to have these constitutional amendments proposed and I'm afraid, or do you that I see a possibility of opening the door to all these constitutional amendments in this special session unless on the wording you have, sir.

MR. JENKINS

Well, that's not the intention, Mr. Champagne, and truly I'm trying to help matters here not mess things up. So, if someone would like to come up with some better language or work on that, I would be glad to go along with something that would be clearer. In fact, maybe the best thing to do would be to have a second sentence in the paragraph that would make a specific exception in the case of special sessions. In fact, why don't I withdraw this amendment and I'll get with Mr. Champagne and others and work on that.

[Amendment withdrawn.]

Amendment

MR. POYNTER

Mr. Jack sends up amendments which read as follows:
Amendment No. 1. On page 1, between lines 26 and 27, insert the following paragraph:

"No more than ten proposed amendments shall be submitted to the electors of the state at any one election. The legislature shall provide the method for selecting which amendments shall be submitted at a particular election. The effective date of this Paragraph shall be January 1, 1978."

Explanation

MR. JACK

Mr. Chairman and members, yesterday when I was up here on one of those rare occasions and was talking before this microphone I mentioned about the amendment I'm not going to discuss. The people, as you know, are tired of having thirty, forty, and fifty constitutional amendments submitted to them. During my campaign that was one of the promises I made to try to reduce and limit the number. I've given this a lot of study. I've talked to numerous members. While I have three amendments, one would limit it to six; one to ten; and one to fifteen. The overwhelming number of people I've talked to favor ten. Now, if you will listen closely this is a short amendment; it says "on page 1, between lines 26 and 27 insert the following paragraph:

"No more than ten proposed amendments shall be submitted to the electors of the state at any one election."--that limits it to ten amendments or less, not more than ten, at any one election-- The legislature shall provide the method for selecting which amendments shall be submitted at a particular election."--the last

sentence—"The effective date of this Paragraph shall be January 1, 1978." Now, the reason for making the date effective January 1, 1978 is, in case, with this new constitution you need some repair work, additions, or deletions by constitutional amendments as we figure you might need in a new document. You would have the general elections in which to do it of November, 1974, the one that's either January or February of 1976, and the November, 1976. As I interpret the amendment passed yesterday--I believe it's Mr. Pugh's--you could have the legislature--in that amendment yesterday--could set dates for constitutional amendments. So, my interpretations are you've got those dates also. Now, the whole purpose of this constitution, the reason we're in session is because the people had clearly shown we cannot operate under the 1921 Constitution as amended. I'm not bad mouthing that constitution; it was good in its day but the day's passed and the people are not going to vote on myriads of constitution. They were mad about it and they defeated all of them the last times out. Now, I say this is a fine amendment. We are writing a constitution for the people. We should limit it to ten. The times out you need a special election, which has nothing to do with this, you do have the machinery by naming a date in the amendment like that amendment that was passed yesterday. If there are any questions, I'll be glad to try to answer them for you.

Questions

MR. CHATELAIN

Mr. Jack, I'm listening very attentively to your argument. It seems to me like that we've been here about a year trying to write a new constitution and this is not very good testimony to our handiwork. It looks like that we're trying to encourage--to me anyway--rather than to discourage and I see unnecessary restriction in the way. Can you explain to me here a further reason for action?

MR. JACK

I don't follow you. Everybody makes errors, but that would just encourage you in it if you knew that you could just submit all you wanted. But, you can't submit all you want because the people are going to defeat them. They are sick and tired of being flooded with amendments. The last time I think there was fifty or sixty and they killed every darn one and before that, they killed nearly all of them. One time they killed even the one that would keep us from getting federal highway funds; it's a serious thing.

MR. LANIER

Mr. Jack, suppose there was a need for more than ten amendments in some type of an emergency situation, what would we do in that type of a circumstance?

MR. JACK

Well, number one, this "provides the legislature shall provide the method for selecting which amendments shall be submitted at a particular election." I don't think we would ever have a legislature, sir, that would put ten other amendments before an emergency amendment; I just can't imagine that. But, as I stated yesterday, there was an amendment passed that provides that the date for the submission of an amendment is put in it and that means you could have even a different election if the legislature so wanted. The present law is that you can't call an emergency election for a constitutional amendment. But, you've got to realize, Mr. Lanier, the 1921 Constitution is just the same situation as the 1921 Ford or Buick; it's just done for, they were both good in their day; now the '21 Buick, of course, has an antique value. But, as far as getting out and going about, it's shot.

MR. LANIER

My second question, Mr. Jack, is that if someone wished to get around the limitation of this proposal, couldn't they lump several different amendments into one or, say, amend an entire article as one amendment in order to get around the limitation that you propose?

MR. JACK

I don't think so. But, you're kind of going on; I can tell you're against this amendment. You're kind of going to have to assume that the legislature is a bunch of crooks....

MR. HENRY

You've got about four more people to find out something....

MR. JACK

Let me get onto the rest because I'll put you down as doubtful.

MR. HENRY

I'm going to put you down as out of time here in a minute, Mr. Jack.

MR. DENNERY

Mr. Jack, I suppose that the . . . your amendment, here, which is to limit to ten amendments, is probably the one that I've heard most about from my constituents. They are all in favor of limiting the number of amendments. I'm worried, however, sir, that your amendment doesn't go far enough, because I can conceive that a legislature might provide for, say, thirty amendments. In each resolution, they would say that the first ten will be voted on on this election, and the next ten, two weeks later and the next ten, two weeks later, so that under your amendment, you could still have this flood of amendments. Now, don't you think it would be wiser to say something to the effect that "No more than ten amendments shall be submitted as a result of any one session of the legislature"?

MR. JACK

Well, let's do it this way: let's pass this, and then I'll be glad to join you on an amendment. That's the only way I know to do it. I'll be glad to talk to you if you'll come up and let's go over that.

MR. O'NEILL

Mr. Jack, do you think this might encourage the legislature to pass ten amendments a year and try and fill the limit, so to speak?

MR. JACK

No, I don't think it will cut any ice one way or the other. If they can read the handwriting on the wall, this ought to kind of make them leery of passing them because the people are sick and tired of it. This little thing is a vital thing to passing this constitution, up my way.

MR. STINSON

Mr. Jack. . .

MR. JACK

I know that's unfriendly, but go ahead.

MR. STINSON

Well, yes, sir, I'm against it. But, your argument is the fact that they voted them down before. Well, you've never said that they did wrong by voting them down because we've existed and prospered by them being voted down. Maybe you think it is right....

MR. JACK

I thought some of them were good, Mr. Stinson, they voted down.

MR. STINSON

You had a lot--in the legislature, you've had a lot of good bills that were voted down, too, haven't you?

MR. JACK

I have, but I don't know about you.

MR. STINSON

I said you. . . all of us.

Mr. Jack, my main objection to your. . . is that who is going to determine the ten? I know the answer--the governor or the administration is going to control the ten and not necessarily the merits of the ten that are. . .

MR. JACK

Mr. Stinson, time is nearly out and somebody wants to. . . Mr. Lanier--I put him down.... you and I have discussed it so that I concluded, after a lot of deliberation long ago, you are against it, and there's no way I can...

MR. STINSON

But you know why.

Further Discussion

MR. RAYBURN

Mr. Chairman, fellow delegates, let me say that I concur in what Mr. Jack is trying to do here. I attempted that some twenty years ago, some eighteen years ago, and some sixteen years ago in the legislature. I sought, as chairman of a

committee of the legislature, to try to come up with a reasonable number of constitutional amendments that could be placed on the ballot at any one election. The committee made some recommendations. But, we got in the most furor in the legislature as to how you were going to determine priority, whose amendment was going to get on the ballot, and whose was going to be left off. Well, the governor liked it and said "put it on" and didn't like mine and says "take it off." I'm just giving you this food for thought because I've been up and down this road, time and time again. I think Mr. Jack was in the legislature when I attempted this one time. I'm pretty sure Mr. Stinson was there. But, we've caused a state of confusion in the legislature as to how will you determine what proposition will go on the ballot if you're going to have eight or ten or twelve or six, and we were unable to ever get anything passed by the legislature, so finally I just gave up and said let the people decide. Well, they finally went to deciding. They voted against most every one in the last year or two that they've had a chance to vote on. I don't know the solution, but I'm afraid that this solution has no business in our constitution. I'll tell you why. We might make enough mistakes in this constitution trying to re-write it, then we'll have to put more than ten the next time around on the ballot to try to correct something that we've done that needs correcting. I'm not saying that will happen, but it could easily happen. It happens here every day. We change it every day we meet. We go back and rewrite it and add to it and take from it, and certainly, some of that's going to happen to the final product that this body adopts. Believe me, if you're around, you'll know that I'm telling something that's fixing to happen, and if it does happen, I'd hate to see our hands tied where we couldn't correct it. I for one am willing to just let the people speak on them. I've tried to limit. I've tried it time and time again in the legislature but so far we have never been able to come up with a number that would work. Suppose you have twenty-five proposals--or thirty-five which we have had--who's going to determine what ten will be placed on the ballot? If you've ever seen any political politicking going on from the governor right on down, that's the best way I know to see it go on. The one that's kind of in gethis on the ballot, and those that are out will just have to do the best they can. I just wanted to give you the benefit of some of the knowledge that I've had trying to do this very thing in the legislature, and there's some of these old heads here that know about what I'm talking about, because they were in the legislature when we attempted it.

Questions

MR. JACK

Mr. Rayburn, I'm an old head. I'm so old from being back here I didn't even know where this newfangled mike was then. Now, you used that expression "hands tied." I'm going to use one of yours. You like them wild hogs; you mean "hog-tied;" is that right?

MR. RAYBURN

Well, it's bound to be tied regardless of how you get it tied, Mr. Jack.

MR. JACK

Now, another one here about the time element--if you read my amendment, you would see the effective date of this paragraph shall be January 1, 1978. That has three years--three general elections--to do with our work on the constitution, for the legislature who, I think, can work out things. I was there twenty-four years, beginning in 1940; I didn't find them all that confused. They are a political body. But, if I ever saw confusion in this country...I'm sixty-six...it's been operating under confusion, city, state, and federal ever since I was big enough to read and write. If we're going to not pass laws because confusion is going on, I don't know when we're going to pass them; do you?

MR. RAYBURN

What's your question, Mr. Jack? I'll attempt to answer it.

MR. JACK

What I'm talking about: Do you think we should quit passing new laws until the confusion is over?

MR. RAYBURN

No, sir, I don't think that, but I did want to just briefly tell you how I feel about this amendment, that we have attempted

that for many years in the past in the legislature and we could never get off the ground with it. I certainly would like to see some limit--some workable limit--placed on the amount of the amendments. I don't have the answer for it; I'll be honest with you.

MR. CHAMPAGNE

Senator, as you pointed out, though, if we set the number in the constitution, then the only problem in the legislature would be to decide who's first and who's last; right?

MR. RAYBURN

That's true; unless they submitted one, too, and changed that.

MR. CHAMPAGNE

Yes, sir. But, you do agree that if we set the number, it would only be who gets in there; that would be the only problem; right?

MR. RAYBURN

That's true, Mr. Champagne. It would be who would be the best maneuverer ...

Further Discussion

MR. TOBIAS

Mr. Chairman, fellow delegates, I agree with what Mr. Jack is trying to do, but I don't believe that his solution is a workable solution. First of all: Suppose the legislature proposes forty amendments and we have this provision that no more than ten proposed amendments shall be submitted to the electors of the state at any one election, it would still be possible for the legislature to submit forty amendments by simply either lumping them together and having you vote on, say, three in one vote, or have an election each day--ten a day--because that's a separate election. All you're doing is adding to the cost. It's just not workable. I for one do not believe that what we're drafting is going to be a perfect document; we have made mistakes. But, I don't know what all the mistakes are, and I think that to set a limit of January 1, 1978 may not be a long enough period of time. I think that the flexibility is needed; it's unfortunate. I will also point out that even if more than ten amendments were submitted to the voters at one election and the people ratified more than ten amendments, that they would still be valid on the same basis that the constitution that we are presenting to the people would still be valid because the people will have spoken after the legislature had proposed.

I urge the rejection of the amendment. I do not know of any workable solution. Mr. Chairman, how many speakers are there on the list?

MR. HENRY

There're six more.

MR. TOBIAS

Then, I'll move to limit debate to thirty minutes.

[Motion to limit debate on the Amendment to thirty minutes rejected: 40-63.]

Question

MR. BERGERON

Max, can you foresee that if this were adopted, the first proposed constitutional amendment would be to raise the number of constitutional amendments?

MR. TOBIAS

Very likely.

Further Discussion

MR. DE BLIEUX

The best way that I know of to eliminate the necessity for amending the constitution is not clutter up the constitution with a lot of needless legislation. I know it's late in the day--and I'm speaking about the total time that we have been debating this constitution--to start trying to correct that situation now, but as you may believe, I think that we have a lot of legislation, unnecessary legislation, contained in this constitution. As a result of that, I foresee the time that whenever we started working with this constitution we are going to need more than ten amendments to clean it up. I might say

some of the things that Mr. Jack has proposed here may require some amendments to do that. I just feel like that the argument, the confusion, the time it would take trying to decide who's going to get his amendment on, and which amendments are going to be submitted and which ones are going to be left off, will get us in a lot more confusion, take a lot more time and effort than it would be in trying to get through the legislature the constitutional amendment itself. I might suggest this to you, that if we continue having our constitutional amendments proposed at elections for each congressional election, you really will only have one congressional election between now and the time when this particular provision would go into effect wherein that you could see whether or not you needed amendments to the constitution, and that would be the election that would be held in 1976. If this proposed constitution is not adopted and put into effect until the congressional election of this year, then certainly the '74 election will be gone and out of the way. Then say you'd have the election in '76, and on January 1, 1978 then you would have the limitation, so you'd only have one election between now and that time. I certainly don't believe that the constitution would be law and in effect long enough for us to determine whether or not that we have done a real good job in putting together a new constitution or whether or not we will need more than ten amendments in order to clear it up. I just have an idea from my standpoint, my experience in practice as an attorney, that we are going to have a lot of cleaning up to do as the years go by in this, and therefore, we may have need of more than ten amendments. For that particular reason, I think that it would be a bad amendment to place in the constitution, particularly at this particular time. Now, I would think that we could find some other method of reducing the number of amendments proposed rather than sticking something else like this in the constitution, which might require a constitutional amendment in order to eliminate this limitation to do the very thing which Mr. Jack spoke about. Therefore, Mr. Jack, you can put me down as doubtful on this amendment, I can assure you.

Questions

MR. CASEY

Senator De Blieux, you were practicing law when the... supposedly the new Code of Civil Procedure was enacted, were you not?

MR. DE BLIEUX

That's correct.

MR. CASEY

In the late 1950's.

MR. DE BLIEUX

That's right.

MR. CASEY

Isn't it a fact that today in every legislative session we're correcting errors in that particular code even though it's been in effect already some fifteen years?

MR. DE BLIEUX

Twenty years.

MR. CASEY

Twenty years.

MR. DE BLIEUX

Yes. We are doing that, Mr. Casey, and I would say that the bills we have making the corrections are more than ten each session of the legislature.

MR. ULLO

Senator De Blieux, don't you think we have a mandate from the people that they don't want all these amendments, and don't you feel that it's much more important for us to pass the new constitution than to think about cleaning it up at the present time?

MR. DE BLIEUX

Dr. Ullo, you might be right. We had a mandate--- I thought we had a mandate to start our work too, on that, but it seemed to me a lot of people thought they had a mandate to attack a lot of stuff in the constitution which is going to cause constitutional amendments. If we had left out a lot of this legislative garbage, I just... it wouldn't be necessary.

Further Discussion

MR. GUARISCO

Before I begin my remarks, I'd just like to say that I do resent persons who come to this microphone--and in particular, one person--who comes to the microphone and speaks for or against an amendment, and after he makes his verbal garbage speech, moves to limit debate on everybody else.

I speak in favor of the Jack amendment. Mr. Rayburn spoke against it. It's here not to put limitations in the constitution insofar as constitutional amendments, but unfortunately, we're supposedly here to atone for the alleged sins of the 1920 Convention, and that's just one law right now. Now, everybody realizes that if we do our job here and I think we have--in especially the local government area--then the necessity for constitutional amendments or carte blanche authority by the legislature will not be necessary. Some sixty-five percent of all constitutional amendments since '21 have been to the local government action--those things that were purely local government in nature but had to be voted on by the state in general. Now, I think we need some selling features for this constitution, and one of the selling features--and I think it's a positive one--to go back to the people and say "Look, remember all those amendments that you turned down, the ten out of ninety-four that you passed, the eighty-four that failed in the last few years, it proves that you did not want all those amendments on the ballot." If you can show the people that they will not have to vote on all those amendments, then it might be somewhat of a selling feature or a positive action on our part. Now, I know and I think the best argument that's been given has been given by Senator Rayburn that those amendments are going to get on the ballot and who's got the strength over here to put their particular items on the ballot is important, and I think that's probably one of the best arguments. But, I think it's offset by the fact that if Senator Rayburn or members of the legislature feel like they're going to have carte blanche authority and they overload this thing again with forty, fifty, sixty amendments, then it's a shame because the people are probably going to vote all of them down so the good ones, again, won't pass. So, I don't think they'd be accomplishing anything. Before this convention was called, there was a constitutional revision committee that put what was supposedly good amendments on the ballot. The Louisiana Constitutional Revision Committee had good amendments, but those also failed. So, the people were completely fed up with all those amendments.

Now, by limiting the amendments, another argument that I think we can make, if the legislature is going to have only ten maximum, then I think they're going to be a little more judicious in what sort of amendments they place on the ballot. I also think that, and I know, that many, many, many amendments were poorly drafted in nature, that is, they didn't even have the efficacy of some of the bills that passed through the legislature. It was very easy to pass an amendment. In fact, I think Mr. Jack told me that it's easier to pass a constitutional amendment through the legislature than an ordinary bill. So, if we're going to overload this thing, we don't have very much faith in what we're doing here today. I have a lot of faith in what we've done. If the legislature just overloads this thing anyway, or puts things on the ballot to try to trick the people, I think they're going to pay for it at the ballot box.

I'll yield to any questions.

Questions

MR. ROEMER

Tony, the speaker prior to you talked about cleaning up the document, and I think that there probably are some things that we're going to find that we need to have the legislature clean up on our behalf in the years ahead. Don't you agree that Mr. Jack allows the flexibility to do that by not putting this into effect until 1978?

MR. GUARISCO

Absolutely.

MR. ROEMER

Don't you furthermore agree that when you talk about the loose phrase "cleaning up," what's cleaning up to one person is undoing to another? I think if we left this thing open to amendments willy-nilly, that we might find out that a lot of this clean up attempt is just an intent to circumvent some of the things that we tried to do here.

MR. GUARISCO

I think you are absolutely right, Delegate Roemer. What some

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people already have in mind, there's no doubt in my mind, that they're going to rewrite this constitution by amendment just as soon as we finish.

Yield to another question.

MR. DE BLIEUX

Mr. Guarisco, do you recognize the fact that the present constitution having been in effect for fifty years that it has had seven hundred and thirty amendments proposed in that period of time?

MR. GUARISCO

I think six hundred and something; yes, sir.

MR. DE BLIEUX

Do you know that the average has been better than fifteen amendments per year? Now, of course, we only vote every two years on that, which means that we have had an average of approximately thirty amendments per year on that--on the constitution.

MR. GUARISCO

That's probably correct.

MR. DE BLIEUX

Now, so you mean to say that when we get through here with all the stuff that we have put in this constitution we will not have to amend it any?

MR. GUARISCO

Oh, I don't say that at all, Senator De Blieux. I'm sure they'll have amendments, but only those amendments that are judicially considered and not just willy-nilly carte blanche just adding amendments to have amendments. Let the people decide, so to speak. The people don't want to decide all those issues.

MR. DE BLIEUX

Well, do you recognize the fact that. . .

MR. HENRY

The gentleman has exceeded his time, Senator.

Further Discussion

MRS. ZERVIGON

Mr. Chairman and delegates, we have three things that prevent numerous constitutional amendments in action in the State of Louisiana. One in the constitution, and two as just the social dynamics of what's going on right now. In the first place, many of the things that have generated amendments in the past needed constitutional amendments, we've taken out. The minute description of judicial districts was the main generator of a lot of amendments--unnecessary amendments. The other thing we've taken out that generated a whole lot of amendments is the minute description of local governmental agencies. All that stuff is out. Now, there are things in the new constitution that I think ought to be statutory, but my statutory is your constitutional, and I don't know that we ought to get into a fight about that today. But, you can look at the list of constitutional amendments that have been submitted to the voters in the past three years, including the fifty-three that failed, and see that most of the things that needed to be amended in those amendments, we no longer have in the constitution. That's the first place. But, in addition to that, the legislature, now, even under the '21 Constitution, are looking very carefully at every proposed constitutional amendment and asking one another, "Now, does this really need to go on the ballot because my people are really mad; they don't want to consider so many of these things?" The legislators are taking care of that problem, number one. If they should begin to slip up and not take care of it anymore, the people are going to take care of it themselves. It seems to me that what you do when you put a number like "ten" in the constitution is it acts as a . . . not necessarily as a limit. For example, it seems to me that the people--if you put seven unnecessary constitutional amendments on the ballot--would vote them all down. So, the number "ten" won't mean anything. It seems to me that by sticking this finite number in, the number. . . the year we need eleven constitutional amendments, the ninth constitutional amendment will be a repeal of this section or a change of the number. It really makes very little difference. The ninth constitutional amendment will say, "plus anything ratified at this election may go into the constitution." So, let's trust the legislators to keep the constitutional amendments down as they have been doing over the past several years and trust the people to get mad as heck if they don't, and not stick this unnecessary number into our constitution.

Further Discussion

MR. CONROY

I strongly urge you to support this amendment. I think this is why we are here. I think it's why those of us who were elected were elected to be here, is to be able to go back to the people of this state and not say, "We hope that we have cut down the number of amendments," but to tell them, "You can be sure that you will not ever again have to vote on more than ten amendments at any one election." That's what the people of this state want. That's what they have told us again and again and again. When we leave here if we believe in this constitution...if you believe in what we have done here, what we are about to complete here, when you go back to your districts to talk to the people, to ask them to vote for approval of what you have done here, one of the very first questions you're going to be asked is, "Have you limited the number of amendments? Will we still have to vote on so many amendments?" If you can't point specifically, word for word, in something that we have done to say, "Yes, we have done it. We have limited the number of amendments. You cannot vote on more than ten," no other answer is going to satisfy the people of this state. It is not going to satisfy them to tell them that we hope that this will not happen again. We hope the legislature won't make the same mistakes it has in the past, but remember, the legislature we were talking about is one that in recent years, despite the reactions of the people, were still submitting thirty, forty and fifty amendments to the people at every election. The legislature has been unable to restrain itself in the number of amendments which it submitted to the people. I think the only way we can restrain them is in this constitution to tell them, "You cannot submit more than ten to the people of this state." It requires a two-thirds vote to submit a proposed amendment to the people of this state, two-thirds vote of the legislature. Surely two-thirds of those legislators if they know that they can only pass ten, can decide which of the ten they will submit at any given election. Moreover, on the provision in this section, we have permitted them to be submitted at more than one election. So, if there is some emergency indeed, then we can have special elections to consider additional amendments at that time. But, I again say that the history of this state has shown that we need such a restraint and restriction on our legislature in this state, and the people of this state expect us to put such a restraint and limitation on the legislature. In answer to the suggestion or question about whether there wouldn't be a future constitutional amendment to increase this number, I can virtually assure you that if there was such an amendment submitted to the people of this state, there's no doubt in my mind that they would overwhelmingly reject any amendment to increase the number of amendments above ten. I think this is an adequate number. I cannot understand the arguments against it or suggestions against it. If we've done a decent job, if we've done the kind of job we think we have done, we intended to do, then I can't see why we would be telling the people, "You may need more than ten or twenty or thirty amendments at some future time." If you believe in what we have done, you ought to be able to back it up with a promise that there will not have to be more than ten amendments at any one time at any session...at any one election.

Questions

MR. SUTHERLAND

Delegate Conroy, I have been sitting here listening to all the arguments on this and I can say that I am confused. I've heard Mr. Casey who is a legislator say that with the new constitution we would not have a need for additional amendments. I've heard Senator De Blieux and Senator Rayburn say that there's no way in the world that you can get by without more than ten amendments. Now, when I start hearing the legislature speak this way, it's confusing to me because I think we have to limit the number of amendments. If there is confusion in the legislature, there's going to be even more confusion in the minds of the public who are going to have to pass on this thing, and I guess I'll have to put this as a question: Don't you agree that a responsible legislature would make sure that what they submitted to the people was important enough to call for a vote of the people and that what they were asking them to pass on would be necessary to the constitution?

MR. CONROY

Yes, I think that with the pre-filing requirement that we have, the legislature would be able to look at the total package of what it's got before it
...amendments...to pick out the ten that the most important

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to be submitted at that election. If another election is needed they can...

MR. DE BLIEUX

Mr. Conroy, I hear you speak about the legislature introducing all these constitutional amendments. Do you recognize the fact the legislators as representatives for the people of their district have to be, you might say, requested to introduce an amendment before it's proposed before this legislature? Do you know the legislature doesn't just dream up these amendments, that somebody else usually asks for them, before they are passed?

MR. CONROY

Well, in that case, Senator De Blieux, I assume that they would have no problem in exercising appropriate judgment on which of the ten most important to submit to the people at the next ensuing election. I think that the legislature has shown itself incapable of restraining itself in this area, and that's why I think we have to impose this restriction on the legislature.

MR. DE BLIEUX

Don't you recognize the fact that the restraint has to be from the people, not from the legislature?

MR. CONROY

That's exactly what we're going to do. We're going to let the people vote on this constitution and decide that whether they want such a restriction, and I think they will, Senator De Blieux.

MR. DE BLIEUX

Do you recognize the fact that these past amendments we had was because they were requested by the people that we represent and that's why there were so many proposed?

MR. CONROY

Obviously not by a majority of the people voting on it because most of them were turned down, Senator, and there are other people to ask questions, so I think it would be appropriate to move on to someone else if that's all right.

MR. DE BLIEUX

Well, I just want you to recognize the fact that the legislature's not irresponsible to the people it represents.

MR. BERGERON

David, in looking at this amendment more closely, I've kind of had a change of heart in it, and I've seen some very good points in it. Don't you feel that if we're to go back and tell the people that we have provided for prefiling of the amendments and a limit of ten, the voters would say, "Yes, then you've accomplished something; you've shaved down the amendments that you will be presenting to us to vote on"?

MR. CONROY

I think that this is going to be the most important question that most of the voters in this state will ask, and they will insist on a satisfactory answer to that question, and the only satisfactory answer is that we have limited the number of amendments.

MR. LANDRUM

I wonder if you would answer me this: you said something about what the mandate we had with the people to cut down on the amendments; now, really, are we supposed to cut down on the amendments or the cause or causes for amendments?

MR. CONROY

Well, Reverend Landrum, hopefully, we have done both, but I don't think that we can assure the people that we have cut down on the causes. I don't think that we can guarantee that we have cut down on the causes unless we ourselves are willing to say that we're satisfied we've done it, so satisfied that we're going to assure you you don't have to vote on more than ten amendments at any other time. That's what we're willing to put behind our assurance that we have cleaned up the document, that good calibre.

MR. LANDRUM

Then, what in effect you're doing to the legislature, the same thing, what we have a problem right here. How could they

select the ten best amendments? I mean, you have a difficult time trying to do that right here.

MR. CONROY

Rev. Landrum, they don't have to eliminate those beyond ten. If they feel there are more than ten that are important, they just simply don't submit them at the same election. But under what we have adopted yesterday they don't all have to go in a congressional election. They can have another election if it's absolutely necessary to do so, and it is that important to do so. But, it's not having to vote on them often that I think would bother the people. The thing that bothers the people is going into that voting booth and having fifty or a hundred switches to choose fifty among to decide which way you're going to vote on fifty some odd amendments and waiting in line for a long period of time before you can get in there. Now, this business of waiting in line is one of the things that they complain about a great deal in my particular area, and they want to be sure that they can get in and get out of that voting booth, and the only way they can do that is to hold down the number of amendments.

MR. LANDRUM

Don't you think Mr. Casey's argument yesterday is a valid argument that under local government many of the amendments that we have dealt with in the past would not be necessary, and if the legislature's going to be responsible for this, to be able to select ten, I would think that legislature should also be able to refrain from submitting as many amendments as...

MR. CONROY

Well, Rev. Landrum, in that regard, I think we have to look at history, and history has shown that the legislature has not been able to discipline itself in this area, and I think that we have to put this restraint.

MRS. WARREN

Mr. Conroy, I don't know if you heard the one that Representative Casey mentioned the other day when I asked him a question about, you know, an amendment that we had. What he said was that he thought that the people should become more educated—all of us, he said. Now, don't you think that our electorate would be better able to become educated if they didn't have to take so many doses at one time?

MR. CONROY

Positively, Mrs. Warren. There's a big difference between being able to educate yourself on ten propositions at a given time, and trying to educate yourself on fifty propositions at any given time.

MRS. WARREN

Senator Rayburn mentioned the fact that the legislature had been confused, and I'm saying, do you think that they will probably still be confused since they can't come up with who is going to put it on the ballot, the less confusion it will cause because if they knew they didn't have but ten, they would probably make the right decision?

MR. CONROY

That's exactly right, Mrs. Warren. In the past they have...by submitting them all.

Further Discussion

MR. BURNS

Mr. Chairman, fellow delegates, I've sat there in my seat putting myself in the status of a voter rather than a delegate to see if I could satisfy myself when I went to the polls to vote on the adoption of this constitution, if I were satisfied with the convention, had made it impossible or provided a means whereby the voters would never be called on to vote on thirty or forty amendments at any future election. So far, I'm sad to say that I haven't heard one amendment or one speaker suggest any definite clear method other than the amendment offered by Mr. Jack, to accomplish this purpose. When I sit down, you're not going to get any more help from me. But, the thing that concerns me is I've heard some of the argument and discussion all having to do with the trouble and confusion of the legislature after this document is adopted by the people, and it goes into effect. What I'm concerned about is not the worries and the confusion that's going to exist in the legislature after the convention is passed. What I'm worried about is getting the constitution passed, and adopted by the people. I think that so far, I think the only clear, understandable, definite

proposal or amendment rather than's been submitted to us that the voters can understand, is the one that Mr. Jack has in his amendment. They'll know that you can't be called on to vote for any more than ten amendments in any one election when they go to the polls. One of the gentlemen just now said that couldn't you tell the voters that you have prefiling proposal or section in the constitution. I'd hate to go up on Beeson Creek up in the rural section of St. Tammany Parish and voters ask me, "What have you done to where we won't have to vote on forty or fifty amendments at any time in the future?" I'd have to tell them, "Well, we provided for prefiling of the constitutional amendments before each session of the legislature." You can imagine what effect it would have on them, so I say in all sincerity for those of us, and I'm sure all of you involved, everyone, after we've been here all these months and just with two weeks to go that our prime objective from here on out should be what can we do to polish up this constitution. What can we do to assure its passage? At this time, I know of no other thing that we're acting on at present that's more important than to present something to the people that's going to add to, I'd say, a overwhelming question as far as I'm concerned: what are you doing so we won't have to vote on all these amendments in the future? As I say, up till now, Mr. Jack's amendment is the only one I think has presented any solution insofar as the voter is concerned.

Questions

MR. SMITH

Mr. Burns, don't you think that we have a clear mandate from the people to limit this constitutional amendments at least down to ten or maybe down to six? Do you think they've shown by in 1968, I believe when they had fifty-two...I mean, that may be further back, that they don't want any more amendments, that many, they're not going to vote on them?

MR. BURNS

I stated yesterday, Mr. Smith, not that I mean that I've been deluged by questions by the people in my district, but I definitely state that I've had more questions asked me about what we were going to do about the future amendments to be submitted to the people than all the rest of our work up here put together.

MR. SMITH

Well, don't you think the legislature that I having served in and you have, is going to keep on putting amendments to the people regardless of whether they're constitutional material or not, and if we don't have some limit, they're going to keep that up; don't you think so?

MR. BURNS

Well, I don't have any fault to find with the legislature, but the only thing I say is, "Let's get this constitution passed." Then, they can take care of the problems or the mistakes that we've made. But, let's don't take a chance of not getting it passed or it won't be any need even discussing what's going to happen afterward.

MR. TOCA

Mr. Burns, you're talking about limiting it to ten amendments on the machine. I see here it's sixty...1967, we only had two amendments on the machine, and the people rejected one. Now, you know they understood these two amendments. We're trying to say now that if we put over ten the people won't understand it. Is that what we're trying to do now?

MR. BURNS

No, no. I didn't say that. I said the people are concerned about having forty and fifty amendments on the ballot and then have to go there and try to wait in line to vote on it and not understand any of it. You know, Mr. Toca, that's been publicized ever since the convention began as to what is going to be done...

Further Discussion

MR. HAYES

Mr. Chairman, members of the convention, I shall just be one minute. I think that I've heard so many people discuss the amendments, seemingly, that seemed to be the reason we're having this convention. I didn't think that was the case. I thought the people turned down the fifty amendments because they had a right to turn them down if they didn't like them. The only thing I can see to limiting the number of amendments on the constitution, or the number of amendments you can propose to the constitution will do, will cut down on the amount of time you stay in the voting booth. You are really denying the people the right that they

have to turn down amendments. They can turn an amendment down. There's no reason why you can't turn it down. You talk like you've got to pass it. If people don't understand fifty, they may not understand ten, like someone brought out a minute ago. I didn't vote against a single amendment because it had fifty on the machine. I voted against them because I didn't understand them. When it came back with the highway fund, you got it passed because the people understood it. If you have somebody to get out and explain amendments when they're trying to get them passed, people understand them; they'll pass them. There's no need to try to fool the people. There's no need to try to fool the legislature, either. If we put ten on here in some sort of way, the legislature will probably feel that we are guaranteeing them that ten amendments will pass. You can't guarantee them they'll pass, don't care how many you put on. You can't guarantee the people a good constitution if you tell them you're not going to have but ten. I don't know where the magical figure came from. I understand they have twelve jurors, I believe, because at the Lord's Supper they had twelve. I don't know where this figure ten came from; maybe because our counting symbol is based on base ten. Thank you.

Vice Chairman Casey in the Chair

Questions

MRS. WARREN

Mr. Hayes, I think I understood you to say that you didn't know about the magic figure and whether they would understand them and on and on. Now, we heard one delegate say they had two amendments only at one time, and one passed and one didn't. So, the people had a chance to read that and decide that they wanted one and they didn't want the other one. Did I understand you to say that it would cut down on the time that people spend going into the polls?

MR. HAYES

He didn't say that the others....I don't know whether they understood them or not.

MRS. WARREN

I say, he said it. I didn't say he said they understood. I'm asking you. Couldn't you conceivably believe that they could have time to understand two amendments, and reject the one that they didn't want and take the one that they did?

MR. HAYES

You will have more time; I would say this, they would have less time in the booths to vote on them. Two amendments wouldn't take you as long in the booths...it wouldn't take as long to vote on two as it would to vote on fifty.

MRS. WARREN

Then, I think you mentioned about the legislature; do you feel that our purpose is here to make the legislator think that the people are going to vote on these amendments because there's not but ten, or are we supposed to make it for the people?

MR. HAYES

It appears to me you're trying to limit it to ten to guarantee that ten will pass. I got that from listening. That's what I got gathered that we're trying to guarantee somebody that if we get ten they'll pass--a magical figure, ten. I don't know where you got ten from. I don't know where they got ten from. I don't know why they didn't come up with nine or eight or seven, or some other figure, maybe...

MRS. WARREN

Well, that's the reason I asked you because we got entirely different interpretations; thank you.

MR. HAYES

I don't know where ten came from.

MR. RIECKE

Mr. Hayes, when there were fifty-two amendments on the ballot, I assume you voted at that election?

MR. HAYES

I voted.

MR. RIECKE

I would like to ask you, did you understand every one of those fifty-two amendments completely?

MR. HAYES

I probably didn't understand all of them, no. That's why I

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didn't vote for them all. I didn't understand all of them. I voted for the ones I probably understood. I don't remember all the fifty of them at this time.

MR. RIECKE

Well, don't you think that's what the people thought, that they didn't want fifty-two because they didn't want to vote on anything they didn't understand?

MR. HAYES

But, the ones that I understood most are the ones that were advertised, whoever was pushing certain amendments. I'm saying if you push or advertise, when they defeated the highway, the one that's dealing with the highway funds, they came back and made you understand just exactly what you done. At that time the people understood what had happened. I'm saying if you will put more time on making the people understand what amendments that is, and the importance of them, they will pass them on round one.

MR. RIECKE

Don't you think it takes more time to teach the people about fifty-two amendments than it does two?

MR. HAYES

Well, if it takes more time, I'm saying, yes, but I don't think you should limit the number. I think they still have a right to vote for however many you want to give them to vote for.

Further Discussion

MR. SHANNON

Mr. Chairman, ladies and gentlemen of this convention, I have not come to this microphone often during this whole convention. But, this is one thing that I feel very serious about. I feel that if I had a mandate from the people of this state, it's in this one area. I have not talked to one person, not one person, not only in my district, but in the Parish of Caddo, and all the parishes between here and Caddo where I stopped and talked and discussed anything about the constitution, and this was prior to the Constitutional Convention. The people did not want to be burdened with having to digest this many amendments. I don't believe there is one person in this convention that can tell me that you digested on the last election when we had fifty-odd amendments, that you digested every one of them and could vote intelligently on it. I challenge you to it. I read them. I read them all, and I spent some study on it, but I did not understand all of them myself. I don't believe one-tenth of the people in this state understood them. I don't believe that you believe that, either. Now, we have some talk up here about all the amendments we might need to correct what's in this constitution. Well, let's not worry about that because if we have such a constitution that needs all those amendments, this constitution is down the drain to start with. We have ample time to make moderate corrections in this constitution. We have two sessions, or two times that we can vote on it before this amendment would be accepted, and that is ample time. Let me tell you something: I don't know because I haven't researched it, but I'd say if you research it that a great majority of your constitutional amendments that have been offered to the people of this state to vote on is things that did not need to be carried to the people. They could have been settled in this legislature. What happened? The legislators shirked their responsibility because of political views on the thing, that they could say, "Oh, let the people decide it." Don't you forget it, there's been numerous, numerous constitutional amendments offered from this legislature down here that were statutory material. I strongly support and urge that you vote for this amendment. Thank you.

Question

MR. LEBLEU

Mr. Shannon, if you think that the people in the state don't want to vote on the constitutional amendments, then that's a big reason for wanting us to draw up a new constitution. Don't you think there could be some method that a legislature could amend the constitution itself, rather than submitting all these amendments to the people, if you think that's a big, big reason?

Further Discussion

MR. CHAMPAGNE

As you look back at the time when you campaigned for this position, I'm sure you will remember that when you talked to the people about this position, the top of the list they placed, less amendments to this constitution. We don't want to have to vote

on all these constitutional amendments. We want our legislature to take their responsibility and enact legislation for people of this state. We don't want to have the buck passed to us to make decisions when we elect them to make the decisions in the legislature. We've provided for longer sessions of the legislature, not shorter sessions. They shall have more time to provide whose amendment gets on the ballot, and because I feel these legislators, some of whom we have here, are outstanding people, because I feel they are fully capable of doing this, I urge your support of this amendment. If there's anything wrong with this amendment, it's not ten we need, it's six, and I propose to vote for six. I am quite happy with this constitution to date. One of the good features, and one we keep talking about is the way we have cut it down in size. Let's help our legislature make sound decisions in their future possible amendments, and provide less legislation in our new constitution. It is amazing to me that one of the most outspoken critics of our deliberations in this assembly has been that he says, we are putting legislation in this constitution, and he was one of the most outspoken critics when I advocated the three-dollar license, because he says, "That is legislature." Then, he gets up here and says, "Let's not cut down the number of possible amendments; let your legislature make that decision." I suggest to you in all fairness that if those of us in that position that were in the legislature on many occasions, as this gentleman suggested, these constitutional amendments are made, because the people back home requested that of them. I tell you that this is to help these legislators in the future say, "We are limited in the number of amendments we can propose; I favor your suggestion; I shall bring it up as legislation, not as legislation in the constitution."

Questions

MR. ROEMER

Delegate Champagne, as I understand your remarks, what you're saying is that we've already done many things in this body to limit future constitutional amendments, that is, strong local and parochial, etc., etc., But, you're saying, let's do one thing more, and let's have a specific prohibition against a number of willy-nilly thirty, forty, fifty amendments. Isn't that what you're trying to say?

MR. CHAMPAGNE

That's right, and I also want these legislatures to have the possibility of debating at length and putting on sound constitutional amendments, not legislation in the constitution.

MR. JENKINS

Mr. Champagne, we kind of had lost in this discussion the method by which the number would be limited. Can you shed some light on how the legislature might effectively limit the number?

MR. CHAMPAGNE

The effective number, it would be limited in the constitution.

MR. JENKINS

No, I mean the method by which they might select the ten or the six or...

MR. CHAMPAGNE

It's very simple to me, Mr. Jenkins. In other words, we vote, and the number of votes, I would suggest that. We don't have to decide that now, but simply vote in the legislature; the one that gets the highest number of votes is first priority.

MR. JENKINS

But, you haven't provided that. This article provides that if a joint resolution gets two-thirds of the vote, and if it's prefiled, then it's going to be on the ballot. Are you going to provide the first ten, the ten with the highest number... I mean, there's no constitutional authority here for saying the one that gets the ten highest votes.

MR. CHAMPAGNE

Well, Mr. Jenkins, I have full confidence in the legislators' ability to do that, just like amendments to this proposed constitution. I would suggest that if we have twenty and we want six, the one that gets the highest number is number one; the second, number two. That's a simple matter.

MR. JENKINS

Well, now, wait, Mr. Champagne. The ones that would get the highest number of votes would probably be the least controversial, and most technical. In other words, a very technical amendment... My question is, suppose you have ten amendments that pass between

maybe, a hundred and five to zero, or ninety to five, or something like that. They may be very technical amendments. In fact, those are the sorts of amendments that get big votes, but very important amendments may pass by a very narrow vote. Yet, you would say that the ones who get the highest number of votes get preference to those that get a lower number of votes?

MR. CHAMPAGNE

I would think that if you have that problem then it's time to get to legislating in the legislature and pass them in the form of legislation, rather than constitutional amendments.

MR. JENKINS

Well, now, that would be fine if it's legally possible, but so many changes can't be made by legislation. They have to be made by constitutional amendments. You know, haven't we had a problem at this convention we're still wrestling with, getting a system for putting alternatives on the ballot; and we still haven't resolved that question at this convention. Yet, here we will be imposing on the legislature a problem which we haven't been able to resolve yet at this convention.

MR. CHAMPAGNE

I feel that since they make the decision and since they put them on the ballot that that's their responsibility, sir. I feel they're fully capable of doing that.

Further Discussion

MR. WEISS

Thank you, Mr. Chairman, fellow delegates. We've come to another extremely controversial problem. I would like to reflect for you the thinking of the Bill of Rights and Elections Committee in its majority. We presented to you this proposal after much consideration, much debate and thought on this matter, and Mr. Jack came before the group with first four, six, eight, ten, or whatever number of amendments that we would like to limit this constitutional revision as we see it to be presented to the public. Certainly we are all in agreement that we are attempting to limit the amendment process. There's no question about that. We do have a mandate to do this. All of the comments that are made at this microphone before, I think we all agree upon. I think it's simply a matter of how to go about doing this, and I will try to convey to you the picture of the majority of the Bill of Rights and Elections Committee and why we elected not to put a limit on the Constitution Amendment Revision Article. First of all, this is not the cure for the disease. We hope, as one delegate so eloquently said, that this is not good testimony to our handiwork. We have done a fine job thus far, particularly in reference to the Judiciary and Local Government Article. Now, perhaps from the Shreveport area they have had problems up north because the 1921 Constitution had such things in it as the Caddo Parish jail site fund, and also the municipal ice factories as to how they should be voted upon and an election held for that purpose. Now, back there, fifty-two years ago, there may have been reason in the course of years to revise this. Certainly, there has been much revision, but this is not the cure. The amendment Mr. Jack, and the future ones that he proposes to present, is nothing more than a hot poultice amendment. It does not cure the problem. There's no sense in taking an aspirin for a headache that can be due to either brain tumor or constipation. That's all you're telling the public now, that you're giving them a limit of ten. Let me show you what happened in the past twenty-five years. Nine of these twenty-five years there were less than ten amendments presented to the general public, less than ten. Frequently, as some of the more politically astute have pointed out to me, it's been nothing more than a popularity contest for the governor in office. This is the big concern that we weighed in considering whether to put a limit upon the number of proposals that would come before the people. As far as whether the people will think it over, that's a farce. Back in 1940 there were four amendments and all four of them were rejected. If it's no good, it's no good. If you have fifty amendments and two come out, somebody's thinking somewhere that there must be two good amendments in that group. As far as the legislature having a problem, yes, they've had a problem, but they've had a bad document. When you have poor protoplasm to work with, you can't do very much, and I can assure you, as a physician, this is a problem sometimes, but you can't put wings on a devil. This is a problem, and we have created a good document. We've created a good document, and we've particularly been careful to create a careful Judiciary and Local Governmental Article which should not require a great deal of revision. It will be taken care of locally. Please do not handicap the people that are in the process of government, the legislators who Delegate Rayburn spoke of repeatedly, and I think, honestly, of the problems they have. I do not believe,

and I think you will feel the same way, sitting here after a year, that we do not try earnestly and strive earnestly to come to answers to these problems. The only problem is how to go about doing this. Limiting it to ten is a dangerous procedure. It will turn over to the governor, the one in power, to make the selection and then, to select those articles which he thinks would be to his advantage, perhaps, for reelection or other political influences. I urge you to defeat this and future amendments that Mr. Jack intends to propose, and I still give Mr. Jack credit as an outstanding legislator because as he came before this committee, he said there were two things he stood on his platform in wanting for this constitution. I was more interested in generalities and the welfare of the State of Louisiana. He was concerned with income tax reduction and limitation on the number of constitutional amendments. He's batting fifty percent at this time. I don't think he deserves a hundred percent for this, and I urge you to vote against this floor amendment.

Question

MR. RAYBURN

Dr. Weiss, in your opinion, if there are fifteen constitutional amendments that have been approved by the legislature and they were trying to make up their mind as to what priority they would establish, and we just had a new governor elected, and one of them provided that the governor couldn't run for a second term, what priority do you think it'd get?

MR. WEISS

Well, I think you can answer that best, Delegate Rayburn, as a politician and you know where they stand.

Further Discussion

MR. NUNEZ

Mr. Acting Chairman and ladies and gentlemen of the convention, if we were going to keep the 1921 Constitution as we have it now and just revise it, I would say to you that this is an excellent amendment. In fact, the Revision Commission submitted this exact amendment to the people. You know what they did with it. They did exactly what they did with the other fifty-three. They voted it down. I would say that we have, and I think there's not much more I can add to what has not already been said as to the amount of revision we have done in this constitution that would require us not to submit amendments to the people. I think the safeguards are there. The people who say we have to do this because this is what the people want you to do, I would submit to you, you have already done it. But, let me say something in defense of the legislature because it looks like we always take a little bombing when it comes to submitting constitutional amendments. If you look back from 1921, or '22, immediately after the 1921 Constitution was written, there was only four amendments; then thirteen; then fourteen; four, eighteen; five, fifteen; fourteen; twenty-two; twenty-eight; and I'll skip a few years there. Then we'll go on to 1956 and 60's when every bit of the government grew just like industry grew, just like the whole state grew and the whole nation grew. Then we started getting up in the forties and the fifties and the fifty-two's and the fifty-three's. I submit to you that the legislature passed these constitutional amendments because they are absolutely necessary when dealing with some of the prime functions that they were dealing with, that is, government. Just look over most of amendments and you'd see what I'm telling you is true. I think Mr. Avant has a list, and he went over them recently, just now in fact that out of the past thirty amendments that there were now...if this new constitution was in effect, you only need twenty-nine...twenty-nine would not be needed. If you'd go back to the time we submitted fifty-two to the people, fifty-one out of fifty-two would not be needed. So, what were we doing? We were meeting the needs of a problem of the people in an archaic constitution. That's why we are here. The fifty-two and fifty-three amendments were the end result of why we are here. All of it is a direct result because the people had to go and change the constitution. Let me give you another fact of life. Before 1940...1960...1970 and '72 and '68, the people were passing these amendments. Something evidently happened; they became more informed, or maybe government had become more distasteful, or more distrustful, and they started defeating them. So, does that mean that we should now limit the number of constitutional amendments on the ballot. Why don't we get down to the basic argument or basic reasons why we should limit them? We should limit them because the people don't want to vote on them? Absolutely not. We should limit them because they aren't needed. I would submit to you they will not be needed if we adopt this new constitution. If you had a chance to submit this one amendment to the people if this constitution

is not adopted, it would be to limit a number of amendments. Then, what would you do? I'll tell you what you would do. I think Senator Rayburn brought out a good point. I'll tell you what you would do; 1972 in the special session, and there's twelve amendments, all administrative amendments. If we don't adopt a new constitution, and you get these situations where the administration has eight or nine, you can bet they'll make it ten, and the people's voices in the legislature will never be heard as far as the amendments are concerned. You will have only administrative amendments on the ballot. But, my whole point, if I can leave with you today here on this particular amendment, is that if you want window dress, and evidently, a lot of us want to, if you want to just window-dress and tell the people, "Look what we've done." I've heard that said not more than ten times up here today. The people want us to do this. If you want to window-dress and tell the people, "Look what we've done." We've limited the only thing that you can receive to ten. Well, go ahead and do it. I'm not really hung on this; I don't think it makes that much difference, whether you make it ten or fifteen or five; it's a window dressing thing, the way I look at it. But, if you're window-dressing, you make it look like the legislature has been derelict in their responsibility, and that they won't hold it in the future, and I submit to you you're wrong. You're dead wrong. The reason for these amendments was because they were absolutely necessary. Just look at them. The city of New Orleans and all of their problems they had with the limitation of millage, hurricane evacuation or protection levees, or various other projects that were needed, needed by local government, needed by the judiciary, needed by various other agencies of state government. That's why they're on the ballot. The reason why the people defeated them, I think they were just fed up, not with constitutional amendments--the same reason they defeated sixty-five or seventy-five percent of the legislatures and it's...the legislators, and the same reason why they threw a good number of our elected officials out of office. They are just fed up with government as we knew it in the past. You want a change? Then, cause it. But, I think we ought to give it a chance to try.

Further Discussion

MR. VELAZQUEZ

Mr. Chairman, fellow delegates, I rise to support this amendment. It seems to me this is a very necessary amendment. It gives us what the people have continually told us they want. They want an end to long lists of constitutional amendments. I know people who don't vote at all when you have a large number of amendments. They stay home. I think that we want to have as many people to vote as possible. Now, Mr. Jack gave necessary leeway in this amendment by not allowing it to go into effect until January 1, 1978. I'm not a prophet. I don't think many of you other speakers are a prophet. I know Mrs. Zervignon isn't a prophet or Mr. Casey. Mr. Tobias might have better credentials for being a prophet than the other one. But, I think he's just as wrong. We can tell you that the Local Government Article is going to solve all of our problems. We don't need any will. Emergency problems tend to be handled by emergency legislation. Often, legislators begin pouring in amendments. Old Jim threw in an amendment; I've got to throw in one, too. Everybody will know I'm on the job. I think that we are no longer in the day of fifty-year constitutions. The national trend tends now to be toward constitutions only lasting twenty to twenty-five years. Those who say, this is not the answer have themselves presented no answer to the problem. Yesterday Mr. Casey moved to deflect, the people don't seem to have enough education to handle the problems. But, these are the same people who had enough education to elect him here, so that now they have enough education to understand the amendments. Having only ten amendments on the ballot will not guarantee it to the sponsors of these amendments that the amendments will pass. But, they will guarantee that the people will have a chance to look over the amendments and make a proper decision based on what the amendments themselves say, and not on the governor's personality or somebody else's personality. The people have always seemed willing to do their duty. Often it seemed sometimes the elected officials are not willing to do their duty. They tended to seem to want to pass the buck on down the line. I think that Mr. Jack and his associates have written a garbage disposal amendment. From now on the garbage will be disposed of here in Baton Rouge instead of being spread all over the state for the entire population to dispose of. If you're going to have garbage, dispose of it where you create the garbage. You don't spread the garbage all around. They might wrap a pretty little package and throw it in his garbage can. This amendment offers the legislature...this amendment does not tell the legislature how to pick the ten. If they can't handle which ten should be...if they don't know how to pick

which ten, then perhaps we've made errors in the people we've sent up here. I think our legislature is capable of setting up a system for determining which ten will go on the ballot. So, I support this amendment, and I urge you to also vote for it. Thank you.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I rise to oppose this amendment because I think this is a very dangerous amendment. I, in the first place, we talk about the mandate that we supposedly are under. I would refer you to the constitutional amendments that were submitted in November of 1970, which were fifty-three in number and the ones that were submitted in November of 1932 which were thirty in number. I don't profess to be one hundred percent accurate in the fast time I have gone through these, but I think if you will go through them you will find that I'm not very far from wrong. Of those fifty-three amendments that were submitted in November of 1970, I believe you will agree that fifty-two of those amendments wouldn't be necessary under this constitution. Of those that were submitted in November of 1972, I believe you will agree that twenty-nine of them would not be necessary under this constitution that we are proposing. Now, let me tell you why I feel this is a dangerous and a bad amendment. Of those twenty-nine amendments that were submitted in November of 1972, six of those amendments, as I read it, were absolutely necessary because of the situation in which we found ourselves as a result of the ruling of the federal court with regard to property taxation. Now, not being able to foresee the future, I just don't believe in painting yourself into a corner. Who are we to stand here today and say that a situation will not arise in the future as a result of the ruling of the United States Supreme Court or for some other reason, where we just absolutely have to have more than ten constitutional amendments to get ourselves out of the particular predicament in which we find ourselves? I just respectfully submit to you that when you've closed all your options and you paint yourself into a corner to where you can't move when you have to move, that you're doing a very dangerous thing. I think we have complied with the mandate that we had to do something to limit the necessity for just a whole multitude of constitutional amendments. If you will look at this list, you will find the thirty-one in November of 1970, thirty-one of those fifty-three amendments have the asterisks by them which indicates that they are purely local amendments. They'll have to receive a majority vote not only statewide, but in the particular area covered. In November of 1972, of the thirty, twelve were amendments of that nature. All of the rest that I referred to were strictly matters of a statutory nature that had found themselves or found their way into the constitution, and the only way you could change them was by constitutional amendment. But, the most important thing, and the thought I want to leave with you, is that we did find ourselves in a position in 1972 because of the rulings of the federal court with respect to our system of property taxation that something had to be done, and the only way it could be done was by amending the constitution. It took six amendments to get it straightened out, if it's straightened out. Who are we to sit here and say that fifteen or twenty years from now we won't find ourselves in another such position where it may take eleven amendments to extricate ourselves from a very bad predicament in which we are floundering? I say that when you paint yourself into a corner and you fore-close your option to where you cannot operate and do what is necessary, that you're making a terrible, terrible mistake. I urge you to please vote against this amendment for that reason.

Chairman Henry in the Chair

Question

MR. DENNERY

Mr. Avant, I have read Mr. Jack's amendment several times and I don't see anything in here which limits the right of the legislature to submit amendments to the people. I only see in here a provision that no more than ten shall be submitted at any one election. According to the amendment which was adopted yesterday, each resolution can provide for the date of the election. We are not painting ourselves in a corner, as I read this. I would ask you to explain what you mean when you say that.

MR. AVANT

Well, Mr. Dennery, unless you want to go to the alternative of having multitudinous elections, statewide elections, where

you're going to submit ten this month and ten the next month and ten the following month, I think you have painted yourself in a corner. Now, if that is the alternative that you would suggest, I'm told that a statewide election, if you're going to operate in that fashion, costs, somebody said, a million dollars. I don't know how much one of them costs, but I don't think we ought to be in a position of where we've got to have an unnecessary expenditure of money just to get around something that we've put in the constitution.

Closing

Further Discussion

MRS. WARREN

Mr. Chairman and fellow delegates, I rise in support of this amendment. I heard Mr. Jack and others mention a platform that they ran on. I did not run on a platform that they would not have all these amendments. But, I heard time and time again that having a new constitution, we won't have to be voting on so many amendments at one time. I have heard this all over the State of Louisiana. The reason that I did not make any promise of putting this in the constitution was because I realized that I had one vote, and one vote just wouldn't do it. I was reminded of a famous quote from King Solomon, and I'm going to read it to you. It says, "One who does give a gift he promises is like a blowing over a desert without a dropping of rain." So, I did not want to be caught in that position. But, I would like to give you two other quotes from King Solomon, which says, "Do you like honey? Don't eat too much of it, or it will make you sick." A second quote is, "Don't visit your neighbor too often or you will wear out your welcome." I say to the legislators, and many times people have shown you that you were out your welcome by putting so many amendments on the ballot. I say to you, they will do it again. I say to you in this day, it is changing; we are now living in the day of revelations, and many things are being revealed; many people are waking up and they are wanting to be knowledgeable on what they are going to vote on. They are not going to the lever and pull something just to be pulling it. Many times, I say to you, people have called me and said, "Mrs. Warren, we are having an election tomorrow and we have a number of amendments on the list. Would you explain this or that to me?" I tried in some instances, and when I looked at it and I knew time was running out. I said, "Well, I'll tell you, if you don't understand it, it might be a good thing that you just pull that lever against it." I'm telling you this is what I have done. If it comes again that I have to do the same thing, this is what I am going to do, and I am going to use my time to try to educate people, like Mr. Casey said that they should be, as to how they should vote on these things and this convention has given me a great opportunity to know just how things were. I'm going to ask you to support Mr. Jack's amendment, and I'm going to ask you to do it in the interest of the education of our electorate across the State of Louisiana. I thank you very much.

Questions

MR. WILLIS

Mrs. Warren, I refer you to Tennyson's poem of "The Vision of Sir Launfal," where he was in search of the Holy Grail, and in that he says, "Tis not what you give, but what you share. For the gift without the giver is bare." Don't you think that this amendment is a bare gift to the people, that it is naked because I know that I could lump in one amendment fifty-two amendments, and that this is a bare gift?

MRS. WARREN

I'll grant you that, Mr. Willis, and I'm not as familiar with Tennyson as I am with King Solomon, but I'll tell you one thing with the mass that's waking up everyday, you're not going to be able to lump very much much longer.

MR. WILLIS

Well, Mrs. Warren, may I ask you one more question, then, in projection of your argument. If this amendment states that we should put the barricade against more than ten amendments, some speakers have said that a barricade against six would be better. If you project the argument, ten is good, six is better; wouldn't be zero best?

MRS. WARREN

I don't know, but did you know what King Solomon said about a city without any laws?

MR. WILLIS

I know what King Solomon said to the husband and wife who couldn't decide on a child, who wanted to cut it into.

[Previous Question ordered. Record vote ordered.]

MR. SMITH

Mr. Chairman, fellow delegates, I know you all are tired, and I am, too. I'm not going to talk but a few minutes. But, I don't get up here too often, but I do like to get up when good government is at stake. I think it is now unless we pass this amendment. I'm a coauthor of this amendment. They're asking what legislators or former legislators think about this good amendment. I take the floor as a former legislator of sixteen years—I was proud of it, but I'm proud I'm not there anymore—to say that this is a fine amendment. As I said a while ago, and I asked a question, I feel that we have a mandate from the people of our state to cause some legislation limiting amendments, and this is one that I think is real good. In the future, if we have too many amendments, people are not going to vote for them regardless of their merit. As we know we had last time, I believe we had twelve, and all but one was defeated. I think they had some good ones in there, but they were defeated because people are tired of voting on lot of amendments they don't understand. Usually, when these amendments come up on the ballot, people don't go to the polls because of their apathy. They don't understand them; they are couched in terms they can't understand; so they just stay away, or else they don't vote for them. You look and see how many people don't vote on amendments that vote for candidates. It's thousands of them. You know and I know, if you've been in the legislature, every time the legislature meets, we come up with numerous amendments, constitutional amendments, that don't belong in the constitution. Lot's of them are statutory, but if we keep on not limiting the number, we'll still have a lot of grubby garbage as Mr. Tobias says, to put in the constitution. We're trying to get rid of it, and we are getting rid of all this statutory material. Let's don't have any more by voting them in through this constitution amendments. But, I say lots of times, the legislator put in these amendments for something they'd all want to pass on to the people; they're shirking their responsibility. I know when I was in the legislature I believe one time we had fifty-two we passed on to the people. They passed, most of them. But, most of the people didn't know even what they were voting for. They don't want that anymore; they've become more knowledgeable, and I feel like ten...like you say, who's going to decide that? Well, the amendment here provides that the legislature shall provide the method for selecting which amendments shall be submitted at the election. I thought they put a lot of confidence in the legislature. Let them decide. Some people say we're going to have emergencies all the time. Well, I think we're not going to have more than ten emergencies that we can take care of every two years. So, let's go ahead, gentlemen, and do what the people want us to do. You all know and I know, I ran on this platform limiting amendments. I made talks around the state, and I feel like that it would help sell this constitution if we tell them that we can't pass more than ten constitutional amendments next time to put to them to vote on. So, let's don't clutter up the constitution with any more statutory material. So, I ask you, let's go ahead and vote for this amendment limiting...the fact...might be a good idea to limit it to a little less, but if we have ten, I think that's a good number. I say this in all sincerity and conscientiously, I think this is good government, and I ask you to vote for it, and I believe the people of this state would be well satisfied if the vote we make today is for this amendment. I thank you.

Questions

MR. ALEXANDER

Mr. Smith, I have mixed feelings about this amendment, but I would prefer the one limiting the number of amendments to fifteen. Will that one be also introduced?

MR. SMITH

No, sir. If this one passes, I think that will be it.

MR. ALEXANDER

No, I mean if this one is defeated.

MR. SMITH

Well, I don't know. Mr. Jack, he's...I feel like ten is plenty. I don't think we should have any more. The next one would be twenty. I think ten is a real good number, and I think we ought to stop with that.

MR. JENKINS

Mr. Jasper, can you give us some idea of what sort of procedure the legislature could adopt that would be workable and practical and fair that could facilitate such a limitation?

MR. SMITH

Well, I think we have a good legislature, Mr. Jenkins. You're a member of it, and I feel like that we ought to come up with ten good amendments. They could say, well, these are the ten best, and put the others off, maybe. But, as you know and I know, a lot of these amendments are put in purely to get some to shirk their responsibility to the people. They're really not good amendments. But, I don't think during any legislature you're going to have more than ten amendments that need to be passed on the people.

[Vote on the Amendment tied: 53-53.
Chairman votes nay breaking the tie.
Amendment rejected: 53-54. Motion
to reconsider tabled.]

Personal Privilege

MR. JACK

We are writing a constitution. We're over here because the voting machine don't work. I don't know whether this cockeyed thing is working right. It's a very poor method of voting -- part of them on the machine up there, part of them orally, part of them going up there afterwards, then the final tie breaking-- I think as important as this is we ought to vote for it tomorrow over on the whole. . .

MR. HENRY

You're not on your point of order now.

[Motion to table reconsideration.]

Point of Order

MR. JACK

For a point of order again, Mr. Speaker . . . haven't been answered. Are you going to say we've got to vote by this method here with a part on the machine that hadn't been raised before, part of them not on the machine meeting over here. . .

MR. HENRY

Mr. Jack, if you asked for it you can get a roll call vote, if you desire.

MR. JACK

I want a roll call vote.

[Record vote ordered. Motion to re-consider tabled: 60-51.]

Amendment

MR. POYNTER

Next amendment sent up by Messrs. Jack, Smith, Fulco, and others. Amendment No. 1. On page 1, between lines 26 and 27, insert the following paragraph:

"No more than fifteen proposed amendments shall be submitted to the electors of the state at any one election. The legislature shall provide the method for selecting which amendments shall be submitted at a particular election. The effective date of this Paragraph shall be January 1, 1978."

Explanation

MR. JACK

Mr. Chairman and ladies and gentlemen, I'd appreciate it if you would be quiet for just three minutes because that's all I'm going to take. Now, I'm going to lay this on the line with you. Bluntly, you're choosing between the legislature and the people. I listened to everybody talk who got before this microphone-- a lot of you didn't, but that's what you're doing--I'm not going to answer any questions until I finish. This provides for fifteen. This is the people's constitution as a whole, not yours, not mine, not the legislature's; for it to operate properly you've got to set a maximum number. Now, you do what you want; I've done my duty. I'm convinced more than ever after listening to talks against my first amendment that you're thinking that voting against my amendment the vast majority of those are thinking about reflecting on the legislature; that is not the thing to do. The only reason, absolutely the only reason we are here to write this new constitution is the people said, we are not going to continue to vote on a million constitutional amendments period. Amen. That's the end of it. That's why you are here. Now, I say if you want good government and you want to submit a constitution for the people to ratify, you pass this amendment around to many more than fifteen amendments. All that other talk is hogwash. Now, let me tell you to quote somebody. . .

Mr. Velazquez was pointing out about the excess garbage; he's right. I'll go one further, it's not pleasant to think of, but thus food goeth--and I heard this statement it's not original-- it's fine for you, but if you eat too much of that best food and make a hog of yourself like too many amendments for the people, you eat too much food, you're going to vomit it and who wants to wallow in that mess. That's the mess you're giving to the people when you hand them fifty or sixty constitutional amendments. The legislature has done that and we have no guarantee they won't do it again and being for proper, good government. I want to make it impossible, so let's pass this limiting this to fifteen amendments. Give the people a constitution they want. I hope the word gets back to them how everybody votes on this because I know they want a limitation. I thank you and I hope you will support this and put it in the constitution. Thank you.

Further Discussion

MR. JACKSON, J.

Mr. Chairman, ladies and gentlemen of the convention, I rise in support of Mr. Jack's amendment, not that I necessarily see that there is that much difference between ten and fifteen because that's the basic issue of this amendment, but it does in effect give some additional latitude. I think that at any one point I would not want to be part of a body that would have to submit more than fifteen amendments; I think it just gives us an additional latitude. Let me say that unlike Mr. Jack, I don't believe that the opponents of this amendment were talking hogwash. I think there were some tremendous merits on both sides of the argument. The question that I pose to raise at this point if that is, in fact, the case is that prior to the establishment of this convention whether we like it or not, the forces, whether it was the legislature, the governor's office, or constituents themselves really spread out the call that we need to have a constitutional convention because of the excessive amount of amendments that we have to vote on. Now, I'm just saying whether we like that or not that is a fact of life. I think that the Jack amendment as being proposed now gives that latitude. In addition, what it attempts to do and I think when you go to vote on this --really I'm not saying you ought to do it for window dressing-- but I don't think none of you can deny whether we like it or not that their call is there. I agree that the Local Government Article and some of the other articles have removed the causes that bear tremendous amendments, but I agree like someone said up here that it becomes valued judgment, do we feel in our conscience that people really feel that the reason why we're here was a very explicit-- and I guess no more than anything Mr. Jack's amendments and the discussion here today has crystallized to a tremendous extent the need for us to put some sort of limitations on the amount of amendments. I think that fifteen is more reasonable than ten, and I ask your favorable support. I'll yield to questions.

Questions

MR. NUNEZ

Mr. Jackson, do you think. . . wouldn't you agree that if we adopted this fifteen limitation and there were fifteen on the ballot every year, that we have failed in our workings in rewriting the constitution?

MR. JACKSON, J.

Well, you know that becomes a valued judgment too. Basically, I think, the document, personally, is going to limit by its nature and its content the amount of amendments. I think that it's the matter of how the amendments are proposed, the quality of the amendments and the contents of the amendment. That's really the test. I do not believe contrary to what one legislator said that in every case that all of the amendments that were proposed was a method of shirking our responsibility because that has not been the case. I just think that it becomes a valued judgment at this point, what you want to do. I just think that some people oversaw the need for the call of this convention on the basis that we need to decrease the amount of amendments, and tragically as that has been, that is, in my opinion, the case.

MR. NUNEZ

Would you also agree that over the next fifty years, if my mathematics serve me right, fifty times fifteen would be about seven hundred and fifteen. . .

MR. JACKSON, J.

I'm not implying. . .

MR. NUNEZ

which is about. . . let me finish -- which is about the same number we've had over the past fifty years?

MR. JACKSON

Well, I'm not implying that if we put ten, fifteen that we're going to have the maximum amount of amendments. I think that

the legislature in its deliberative body will only propose those amendments that are necessary. I do believe that the document that we have drafted is very futuristic in its contents, and if need be, --like someone said in opposition-- if need be, you might have to exceed fifteen. I don't think that you're going to get to the point that often that we're going to be proposing amendments more than fifteen amendments. I could have maybe seen a possibility with ten, but I think the danger of exceeding fifteen is much less than that of exceeding ten, so . . . and I think that we've got to agree that there are merits on both sides, and that I'm just basically saying wherein all of that, is that I firmly believe that some people have oversold the call for this convention. If no more of them -- Mr. Jack's amendment-- attempts to crystallize and has crystallize within this body here the need for us to put some sort of limitation. If need be, Senator, I think that their mechanism within this article that would allow, if there was--let's say we had to get sixteen-- that would allow for the calling of maybe. . . it might have to happen that you might have to call a special election to consider an amendment. But, I think fifteen is a great deal of latitude.

Further Discussion

MR. DERBES

Mr. Chairman, I think the theory of this amendment is essentially the same as the theory of the previous one. We have a very limited amount of time remaining for our deliberations. I would, therefore, request the name of the . . . those people on the list to speak and if there are no other people on the list, I would move the previous question.

[Motion to limit debate on the Amendment to thirty minutes adopted without objection.]

Further Discussion

MS. ZERVIGON

Mr. Chairman and delegates, I don't agree with Mr. Jack that we're making a choice between the legislature and the people. I believe that what we're doing is choosing our wisdom and our ability to see into the future over the wisdom and ability of the people year by year to decide what constitutional amendments are necessary and which are not. The people over the past few years have become very, very cautious about voting on constitutional amendments. They're going to vote no more often than they're going to vote yes regardless of how many are on the ballot. So, I think, perhaps what we ought to do is to leave this to the people not only this year, but every year in the future to decide which constitutional amendments are needed and which are not. I voted against this before, not because the number ten was in there, but on concept. I hope that the authors of this amendment, if the fifteen fails, don't come back with twelve and half. The idea that we've considered one member after another and that there's an amendment that says six amendments sitting on our desk as well proves that we don't really know what number would be right in the year 1980. So, please, let's trust the legislators and the people to decide in the future. Believe me, the people will decide; if it isn't necessary; they're going to vote it down like they have in the past, like they did after the fifty-three. . . the year after the fifty-three I believe there were twelve on the ballots; the people passed two. It proves that they can pick and choose and I beg of you, just don't have this condescending attitude toward the voters of the State of Louisiana. They know what they want. They know how many is too many and we can't choose today how many is too many for this year, next year, or however succeeding years.

Questions

MR. LEITHMAN

Mary, I have just a series of questions and I think some of you delegates should pay attention to these questions because this could affect you particularly in some of the outlining areas. Mary, my first question: do you think that there's a possibility that a parish like Jefferson and Orleans can get together in future legislatures?

MS. ZERVIGON

Absolutely. It's happening now and it's going to happen more and more often in the future.

MR. LEITHMAN

If Jefferson and Orleans were to get together and pick up just a couple of other votes around the parish. . . around the state rather, do you think this coalition could virtually control every constitutional amendment if it is so limited that goes to the people?

MS. ZERVIGON

I think that's perfectly clear. I think that other thing is that hasn't been pointed out is that almost any method that the legislature would choose to select amendments that would go on the ballot would either favor the governor's amendments or the least controversial amendments. The

least controversial amendments are likely to be either very, very localized issues or those issues that are least needed. So, I beg of you . . .

Further Discussion

MR. CASEY

Mr. Chairman and delegates, I'll make my remarks very brief, but I know you've heard me say many times already the purpose we're meeting here is to limit constitutional amendments, that will be the end result of our efforts, we hope, and grant that I've had many requests at cocktail parties and meetings I've gone to that that is the hope of many individuals. But, you don't gage your votes and you don't make intelligent decisions by what emotionalism is being announced to feel the reaction of people to multitude in this constitutional amendments in the past. You make decisions based on intelligent information that you have. I think here we're going from this sublime to the ridiculous and back. We tried ten amendments we're now taking up fifteen and many of the proponents of the ten amendments which we considered before was that this is what the people like and we may get a few votes for the new constitution when we finish our efforts. Well, when these people, gentlemen and ladies,-- when these people see fifteen amendments and you know and I know that that's not going to happen in the future, but when these people see that we can submit as many as fifteen amendments and it's in writing in black and white in their constitution, you lose the whole psychological effect of the limitation of constitutional amendments that we're try. . . just trying to arrive at through a new constitution. When people see in black and white that their legislature is going to be limited to fifteen amendments, they know that they probably won't understand those fifteen amendments any better than they understood fifty-three amendments which we submitted back in 1970 that a lot of people voted no on just because they didn't understand it, which I personally think is a ridiculous reason to vote against constitutional amendments just because you don't understand something. That's a presumption that you make in saying that it's bad just because it's on the ballot and you don't understand it, and I know a lot of people that have told me that is the reason that they have voted against constitutional amendments. That's neither here nor there, but you've lost your psychological effect when you put a high number like this in our constitution. It's nothing but over reaction to demand the voters, it's emotionalism and I don't care whether you've gotten a thousand letters or had a thousand people tell you to do this. Vote intelligently, don't put something like this in the constitution and let's face it, all the legislators here-- and I'm one of them-- I know what happens in the legislative session, I'm not an administration floor leader, I vote with them when they're right, I vote against them when they're wrong and, by golly, you know what's going to happen when my constitutional amendments come up for consideration, are they going to be considered as one of the ten or the fifteen that appears on the ballot? No. The administration is going to have the greatest impact on deciding what will appear on the ballot, and those favorable to the administration will have their amendments on the ballot, and people like me are going to be left out. Vote this amendment down. It's absolutely unnecessary and ridiculous.

Questions

MR. JUNEAU

Isn't it true as opposed to dealing with these little hypothetical numbers we're talking about, the real place to respond to the demand for people on constitutional amendments was when you dealt with the Local Government Article, isn't that true?

MR. CASEY

Mr. Juneau, I said yesterday, as you know in my arguments, that 1970 the fifty-three constitutional amendments we had, twenty-eight of those were local government, that's eliminated now.

MR. JUNEAU

That's my point, Mr. Casey. So, since we took care of the problem in Local Government Article and knocked out the necessity probably for over eighty-five or ninety percent of these multitudinous amendments people have had to vote on; isn't that right?

MR. CASEY

Absolutely correct, Mr. Juneau.

MR. JUNEAU

So, then if that's true, it's kind of ridiculous to start putting numbers of ten, fifteen, twenty, whatever you want to put in.

MR. CASEY

I think it's going to have a very bad psychological effect.

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MRS. WARREN

Mr. Casey, I think I heard you mention the fact voting against something because you didn't understand it and, of course, I kind of picked on it because I'm one of these that's kind of stupid, if I don't understand something I strictly vote against it, and I think the others do the same. I ask you....

MR. CASEY

Mrs. Warren, I don't underrate you at all. I think you undersell yourself.

MRS. WARREN

I asked you as an attorney, seriously, if you prepared a document for one of your clients, would you ask them to read it before they signed it if they were signing a paper or something, or would you guide them to tell them what was in it, or would you just let them sign it blank?

MR. CASEY

Mrs. Warren, it depends on the clients, it depends on the documents, and it depends on the situation; I don't answer questions like that as an attorney, it depends who my clients are. I'm not insulted whether they read it or don't read it. I feel that they have confidence in me as an attorney and that's their business if they wish to read it; I like them to read it, though.

MRS. WARREN

Well, I tell you, I have some....do you know that I have faith in my attorneys, but I tell you experience has taught me one thing, you don't sign it unless you read it.

MR. CASEY

Well, Mrs. Warren, that's no justification for people voting down fifty-three amendment just because they don't understand it, if that's what you referring to. I think that's ill-responsibility on the part of the citizens of this state.

Further Discussion

MR. FULCO

Mr. Chairman and fellow delegates, I'm not down here to convince you or to persuade you in any way to vote for the fifteen. I've lost my enthusiasm for the fifteen because I was in favor of ten and much more than that, I was in favor of six. Now, I know what I'm talking about because I have seen from firsthand how the people were disgusted, amazed, they were frustrated, and confused. They stayed away from the precincts on election time many times because there were too many amendments to vote for. We were making it necessary for them to deprive themselves of performing a civic duty and that was to go to the polls and vote which we always urged the people to do. All throughout my many speeches before civic organizations and on the streets and being confronted by people, all I could hear throughout this one year that we have been working on the constitution what we are trying to give the people was "Don't let us have to vote on too many amendments at general elections." That was the one thing they understood about the purpose and the call for this constitutional convention if they didn't understand anything else. They did know what they wanted and that was that they didn't want too many amendments on the ballots at a general election, make no mistake about it that is one thing they did know. Now, we have disappointed them....I'm only saying this, that we have terribly disappointed the people when we defeated the ten amendments, ten amendments was a reasonable figure. I doubt that we will have too many elections where we will have as many as ten amendments in the future because in writing this constitution, we have seen to it that there will not be necessarily as many as ten amendments in the future, because we have expressed confidence in the legislature in the future by allowing the legislature by a two-thirds vote to take care of what the people would have to take care of in the future in the form of a constitutional amendment. No, I'm not enthusiastic about fifteen; I could care less if it passes. I wasn't enthusiastic about ten, my enthusiasm would have been based on the six limitation. I'm going to tell you that if this matter is given proper publicity back home you will hear from your people, they will let you know how disappointed they are that you did not limit it to ten and much more that you did not limit it to six. I don't criticize you for your vote, you have a perfect right to vote as you saw fit. But, I'm only telling you what the possibilities will be when we do get home.

Questions

MR. ANZALONE

Mr. Frank, is there anything in your amendment that would prohibit a constitutional amendment from affecting all eight articles of the constitution when it is proposed to the people?

MR. FULCO

Anything in the amendment that could....

MR. ANZALONE

Yes, sir. Could I propose a constitutional amendment under this....what you have here that would affect all eight articles of the new constitution?

MR. FULCO

You can submit a constitutional amendment affecting each or you can submit them affecting the eight, it doesn't....

MR. ANZALONE

So, what you're talking about is the complexity of the fifty-three amendments that were defeated. But, in actuality, what you can do under your proposal is to make them further complex by combining them into fifteen amendments rather than the fifty-three that appeared on the ballot in 1970?

MR. FULCO

I don't know that would be the case, I can't see where you could write an amendment that's going to....would cover fifty-three otherwise, but....

Further Discussion

MR. ALEXANDER

Mr. Chairman and delegates, there are three sides to each question as a rule--your side , my side , and the right side . I'm going to discuss the right side . I'm not even going to discuss my side . Now, I have analyzed this question and I've made several startling discoveries. One, we cannot as human beings write a perfect document that will not require amendment forever. To do that would mean that we ascribed to ourselves divine powers, which means that we are infallible, that we know everything and we are beyond error. Now, everyone here who is without error or is beyond error stand and you may vote against this amendment. Now, originally I voted for the amendment stipulating allowing ten... the submission of ten amendments at one time. But, I still feel that if the kind of emergency arises that would require amending this constitution that the people of this state should have the opportunity to do so and some leeway in doing it. Now, let me mention one or two unanticipated occurrences that could take place in this state. For example, there is presently under development the vertical-type take-off airplane, of that concept they perfected a means that each backyard will become a little airport. It means that airports, then, must be controlled and I know legislature is there. There is a question of solar energy which means that an entire parish may be taken for that purpose. Somebody may discover U-235 uranium in Plaquemines Parish or some other parish, it means that the whole parish may have to be evacuated. I am just mentioning those things that could develop that we have no idea they would. So, I'm saying to you that I think fifteen is a good number; I think twenty is too many; and, I think to hog-tie us and put the State of Louisiana in a position where it will be almost impossible to revise or to change this document would be bad for all of us. Thank you.

Questions

MR. BOLLINGER

Reverend Alexander, in your opening remark you said there were three ways of looking at this issue--your way, my way, and the right way. Did you imply by that that you and I are wrong?

MR. ALEXANDER

Not necessarily, I think we may be on the right way now, this was the third way.

MR. WEISS

Reverend Alexander, I was doing a little figuring and if we had passed the ten amendment limitation, in fifty years I thought we would have about five hundred amendments. Now, I feel if we pass the fifteen, we would have seven hundred and fifty amendments because the question I ask you is this: Don't you feel that a limit soon becomes a standard and, therefore, each year we would expect to find fifteen amendments to the constitution whether they are needed or not but just to fill up the spaces?

MR. ALEXANDER

Well, Doctor, I agree with you to some extent. But, I believe that we have built-in provisions in this new constitution that would discourage amendments anyway, that's No. 1. Number two, I believe that once the constitution shall have been amended two hundred times it becomes almost a new document anyway because the '21 Constitution was just about eighty percent amendments and it should have been discarded. So, once it's amended two hundred

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times it should be discarded or a constitutional convention should be called and a new document written.

Further Discussion

MR. JENKINS

Mr. Chairman, delegates, on the Bill of Rights Committee we went through this same process of argument that the convention has done. We've started off, I think most of us thought there was a lot of appeal to setting a maximum number of amendments because there is no doubt that the public is fed up with having to vote on a large number of amendments. There is no doubt that they frequently do not make a good decision because of the large number of amendments. But the thing I think we've found on our committee was the same thing that we are learning as we discuss this proposition that sometimes the most obvious way to do a certain thing is not necessarily the best. The most obvious way to do something about the large number of amendments is to put an absolute ceiling on it, but that is not the best way. I think we have already done in this convention and we will do when we adopt this article the things that will drastically reduce the number of amendments and here's why. First of all, you must, I think, agree that the reason in the past we've had such a large number of amendments is that there has been a legal necessity for having such a large number of amendments. In other words, if the legislature wanted to accomplish a certain end, legally, it could not do it by statute, it had to amend the constitution and as proof of that, I have the last two ballots that we voted on, 1972 and 1970—fifty-three amendments and thirty amendments. If you go down that list, you will find that almost without exception everyone was legally necessary to accomplish the end in view; it was not something the legislature put on there because they wanted to pass the buck; it was something the legislature could not accomplish by statute; they had to have a constitutional amendment to do it, that is not necessary in the future—will not be. For one thing, if you looked through the list of amendments you will see that about sixty percent of them have been local amendments, virtually none of those will be necessary. So, right off the bat you can see that we will be cutting by sixty percent the number of amendments. Now, secondly, we were requiring that bills that would amend the constitution be prefiled. That is bound to reduce by half the number of amendments proposed because legislators traditionally have operated on a last minutes basis and come up with brainstorms during the session and introduced them. If they have to think in advance and introduce things in advance that amend the constitution, you are going to see a drastic reduction in the number introduced; I think at least fifty percent. You can figure that of the forty percent remaining that would be reduced to half of that, twenty percent. I don't see how in the world we will have at most more than twenty percent of the number of amendments we've had in the past, probably not that many. So, the first things are, there won't be the need to have a large number of amendments. Second thing, prefilling is going to drastically reduce the number of amendments that are introduced. Another thing is, the legislature is going to be meeting in general session every year, not every other year, that means in your off years you're going to have some of the slack in amendments taken up that you have in your even numbered years. The fourth item is that if you look in Section 1(C) you'll see that we made a change in the law. We provided there that an amendment can amend more than one article of the constitution if it's confined to one object, the old law was that it could only amend one article. Now, that would further reduce the number of amendments because so often we've had to have four or five amendments on one subject to accomplish a certain end because four or five different articles were being amended at the same time, that's going to further reduce the number of amendments. But, most important of all, I think that holding this constitutional convention will have increased the understanding of our legislature of the nature of our constitution. We are going to have more people in the legislature who understand how our constitution operates. We are going to have more people in the legislature who want to reduce the number of amendments. I think they are going to ask themselves two questions: First, is an amendment necessary? Second, is it desirable? We haven't had that sort of philosophy before but because of the legislators who are in this convention; it's going to be increasingly true in the future and because of the people in this convention are going to be elected to the legislature in the future.

Further Discussion

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, I'm usually very brief, but I'm going to ask you to allow me a little... than I usually take at this microphone because I think this is a very important issue; it would not have been debated for this period of time if it was not important. Now, Mr. Leithman asked Mrs. Zervigon if she did not feel that in the future the New Orleans and Jefferson delegations could form a block and put any amendments

they wanted to on the ballot and cut anyone else off. Well, I'm not completely naive; I know that that is a possibility, but I'm realistic enough to know and I have enough confidence in the delegation from those two parishes coupled with the fact that sometimes they do need a few redneck votes to get things done that I don't worry too much about that. This is one of the few occasions that I have risen at this mike to oppose some of the elder statesmen of the legislature. I have great respect for their wisdom, their experience that they have, I'm a freshman legislator. But, let me go into this, there were questions raised and stated from this podium that if we put a figure in the constitution that it would almost be a mandate to the legislature to put fifteen on the ballot; that is the most ridiculous argument I have heard against this proposal. Now, I've done some very quick counting, but let me give you these figures because I think they are very pertinent. In this voting on amendments from between the years of 1922 and 1972 during the first fifteen times that amendments were offered out of the whole thirty-three, during the first fifteen times, nine of the fifteen were fifteen or under submitted. During the last eighteen times that amendments have been submitted, it has been sixteen or more. Now, if I remember my Louisiana history correct, and it's been a long time since I've been through the political part of it, that it was during those earlier years, those first fifteen years after 1921 that so many local matters were incorporated into our constitution to put it into the state it is in now. I don't think that if without those local matters, which has been mentioned here time and time again, that we have deleted those from the Local and Parochial Provisions Article. Therefore, we have accomplished this purpose without putting it in the constitution. Now, let me go a little further and to show you what happens about these constitutional conventions. If you have your same chart, which is available to you, you will find this; I think it has been mentioned here before, that where you have numerous constitutional amendments or even few constitutional amendments and if you will look at the first election after Sam Jones was elected there was a hundred percent approval. If you will look at the first election after Jimmy Davis was elected, there was a hundred percent approval. If you will look at the first election after the first constitutional amendment election after Earl Long went in, in '56 had a hundred percent approval—ten of a hundred percent approval the first time; Long a hundred percent approval the first time; McKeithen was the first governor that had constitutional amendments offered within the first two years after he came into office and didn't get a hundred percent approval of the amendments. So, it has been a popularity contest for the governor because people did not understand in many cases—I have to agree with that—of what they were voting on. But, now we have said this from this podium, time and time again during this debate. We have said, "We have accomplished this purpose. We have already accomplished this purpose by eliminating these local matters." I think we have to a big extent. We have further accomplished this purpose by providing that you can revise an article by one constitutional amendment, talking about the cleanup procedure that may follow in the immediate years after this constitution is adopted. If there are five or six, or ten minor technical errors or errors that have to be corrected in one article, that one article can be re-adopted and straighten out six errors at one time. Now, you have heard from the proponents of this... I mean the opponents of this amendment, time and time again that we have already done this and this work so this is not necessary. Well, ladies and gentlemen, if you believe we have already done it, let's show our confidence in our work and put this fifteen amendment limit into the constitution. I would hate to go to one of my constituents and he says, "How many amendments are we going to have to vote on?" I said, "I think we've got it setup to where you... we won't submit more than fifteen." But, I can't say it, if it's not in the constitution, please support this amendment.

Closing

MR. JACK

Mr. Chairman and fellow members, first, I want to ask for a record vote. I furthermore want to ask for a vote by voice, the machine is broken down over there at the convention hall; it's broken down; it's telling a story about the vote, I was told this by a deputy clerk; it's true if it would be against me, but it's not a correct vote. I don't want to be computerized. I say I move for the record vote plus a voice vote, Mr. Chairman.

MR. HENRY

Mr. Roemer wants to know what you said about computers, he didn't hear you, that's Mr. "Sixty" Roemer up here.

MR. JACK

I don't know about his computer, but this computer up here is not doing right, and I want a ruling because I think....

[Record voice vote ordered.]

MR. JACK

I'm not going to talk but a minute, but I want to get my mouth open.... so, a voice vote is ordered; is that correct, also?
Mr. Chairman?

MR. POYNTER

That's correct, Mr. Jack.

MR. HENRY

Yes, sir.

MR. JACK

O.K. I'll just close with this note. It's again shown to be a battle between the people and the legislature anyway you cut it. Fifteen is a good number. I think you ought to follow it. Just use your own conscience. But, I don't see how you can go against the people. Nobody opposing this has said anybody has told them, "We don't want to limit the number of amendments." So, your mandate is to vote for this. Thank you.

Question

MR. LEBLEU

Mr. Jack, when those folks in Caddo told you that they didn't want to vote on so many amendments, did they tell you that they didn't want to vote on so many amendments that were statewide or they didn't want to vote on so many amendments say that pertain to New Orleans, or Jefferson, or Cameron, or other parts of the state where they felt that they had not responsibility?

MR. JACK

Number one, you have it entirely wrong when you say "those people in Caddo." During the entire twenty-four years that I was in the legislature, I had people from all over the state talking about there were too many amendments, they didn't have time to study them. The history was, and you check it for a long time...no time could we consider them. For a good, long time the protest was passing them all. But, in these years seeing that didn't work they voted against them all. It's not just the people from Caddo I talked to. You know, any legislator talks to people all over the state and they have been against all these amendments for the twenty-four years I was there. I don't limit it just to Caddo, as a delegate....

MR. HENRY

You've exceeded your time, sir.

[Amendment rejected: 34-78. Motion to reconsider tabled.]

Personal Privilege

MR. LOWE

Mr. Chairman and ladies and gentlemen of the convention, yesterday when we met there was only one roll call and that was the opening roll call to open the day's proceedings, after that there were no record votes at all. The point that I wanted to make to you is we use the Official Journal to see whether you were present or not, you often miss the opening roll call but vote on a subsequent record vote. So, we are able to pick you up by means of that. Now, if you missed the roll call yesterday and came in late and attended the convention, you might see me and give me a little affidavit or something so that we will know that you were present. Thank you.

Personal Privilege

MRS. ZERVIGON

Mr. Chairman, I'm aggrieved, I don't know if I missed the opening roll call. Mr. Lowe said we often miss the opening roll call, only some of us do.

MR. JACK

Mr. Chairman, this old dog....I want to go with it.

MR. HENRY

All right. Mr. Clerk, read the amendment.

Amendment

MR. POYNTER

Amendment No. 1. On page 1, between lines 26 and 27, insert the following Paragraph:

"No more than six proposed amendments shall be submitted to the electors of the state at any one election. The legislature shall provide the method for selecting which amendments shall be submitted at a particular election. The effective date of this Paragraph shall be January 1, 1978."

Point of Order

MR. TOCA

Mr. Chairman, Mr. Jack's got one for six, maybe he'll drop one down for four, two, and then we'll go down to one and this thing could go on forever.

MR. HENRY

Sir? Will you repeat that, Mr. Toca?

MR. TOCA

I said, Mr. Jack started with one for ten; then, he went up to fifteen; now, he's got one for six. Well, if he gets defeated maybe he'll come back with one for four, three, two, one and we could be here forever.

MR. HENRY

Yes, sir, we could, Mr. Toca. Would you like to do something? Do you have an amendment for maybe thirteen?

MR. TOCA

No. I would like to put it for one.

[Motion to table the Amendment. Motion for a record vote.]

MR. HENRY

Therefore, when....The gentleman requests a record vote. Will twenty-six delegates join him? A record vote is not obvious. There are not twenty-six hands up, Mr. Jack.

Mr. Champagne, why do you rise, sir?

Point of Order

MR. CHAMPAGNE

I just want to ask you, is this a move to just abolish debate in this convention? If it is, then, I feel we need a record vote for those people who want to muffle people who want to get up and say....

MR. HENRY

Now, you're debating this....Mr. Champagne, if twenty-six people rise, we can have a record vote.

MR. CHAMPAGNE

Can I make a motion that it is a record vote, sir, or is that out of order?

MR. HENRY

Someone has already requested a record vote and we are trying to find whether there are twenty-six people who want one, Mr. Champagne.

[Record vote ordered. Motion withdrawn.]

Explanation

MR. JACK

Mr. Chairman and members, I think some of this that just went on was pretty shoddy. These amendments were on your desk before we started this particular proposal, then new ones to make it come on page one. Now, everybody gets to vote like they want to, that was a silly statement, if you know me, to say I would have another amendment here for one amendment, two amendments, three amendments, four, and five. I don't play that way. This is not for me, so you understand that. This is for the people. We had three of them, six, ten and fifteen. As far as I'm concerned, this is the last one. I did not understand the people, a lot of them wanted six after defeating ten and fifteen. But, I've had a number of people ask me to go with this. I keep my word. I don't know how everybody does. You just do what you want. I told the people, and I know the people want a limitation, over fifteen is not a limitation. This is not an invitation to hand them fifteen even each time. Now, you vote what you want to. I do thank you for giving me this opportunity. As far as I'm concerned, Mr. Speaker, you can use that rotten machine up there, roll call or however you want to do it. This is all I can do. But, I am going to ask because I don't believe that machine is working, I'm going to ask for a roll call by voice.

Questions

MR. STAGG

I want to ask Mr. Jack if he wants to remove his name as the coauthor on one that has just been put on our desk that there be no more than twenty amendments, his name is the lead author on it, twenty limitations?

MR. JACK

That is one that was drawn...who all's on that, Mr. Stagg, I haven't seen it?

MR. STAGG

Mr. Jack, Mr. Smith, Mr. Fulco, Shannon, Asseff, and Velazquez.

MR. JACK

All right. That was drawn, and I understood I was to give the word after the other, and I forgot to give it. But, I do not see that this twenty will do any good. But, let me ask this: Do you think it will, Mr. Stagg? Does anybody think it will? Well, I'd be a damn idiot and I ain't an idiot. Now, you do what you want on this. I think after all consideration I would be using up the time. I think the majority is wrong in this instance because the majority is not representing the people. Be that as it may, that's what we're governed by. I promised I would submit this amendment. I keep my promises. But, I do ask for a mouth vote on it because I don't believe that machine.

Further Discussion

MR. PEREZ

Mr. Chairman, ladies and gentlemen of the convention, I rise not so much to speak in opposition to this particular amendment but, hopefully, to admonish the delegates of this convention possibly a little bit, and also to call to your attention the fact that we are fast running out of time. We have approximately thirteen more days to go if we work straight through. As a member of Style and Drafting, I know the tremendous job which lays ahead of us in straightening out so many provisions which will have to come back to you. So, I really would like to urge all of you, please, let's get about our business as quickly as we possibly can. I don't mean my remarks to be intended to limit anybody to offer any amendment he wishes to offer. But, I do seriously urge all of you, "Please, let's get about our business. Let's see if we can't move along because if we don't we're going to be working virtually twenty-four hours a day and we are going to make many mistakes." So, I, therefore, move the previous question.

[Previous Question ordered.]

Closing

MR. JACK

...I want a record vote by voice.

[Record voice vote ordered.]

Point of Order

MR. NUNEZ

Point of order, Mr. Chairman. Have we ever determined that the machine is not working? Mr. Jack has made a...well, I'm not going to argue, I would just like to know if the machine is working.

MR. HENRY

The gentleman can request a voice vote if he desires, Senator Nunez.

[Amendment rejected: 36-77. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next amendment is sent up by Mr. Jenkins and Mr. Abraham. Amendment No. 1. On page 1, line 15, after the words "at any" and before the word "session" insert the word "regular". Amendment No. 2. On page 1, line 19, after the word and punctuation "session." and before the word "if" insert the following: "An amendment to this constitution may be proposed at any extraordinary session of the legislature if it is within the call of the session and is introduced in the first five calendar days thereof."

Explanation

MR. JENKINS

Mr. Chairman, this is our attempt to resolve that problem we discussed earlier, to make clear that an amendment to the constitution, general in nature, would have to be introduced only in regular sessions and that also there would be no pre-filing requirement for special sessions, but that you would have to file during the first five calendar days and that such a joint resolution would have to be within the call of the session. That's the essence of it, and I would be glad to try to answer any questions.

Questions

MR. CASEY

Mr. Jenkins, I agree with what you are trying to do. I'm just concerned about the use of that wording "if it's contained within the call of the convention". Does the subject matter only have to be contained in the call or does the fact that a joint resolution, an announcement of the fact that a joint resolution will be introduced to do such and such? Does not that, therefore, eliminate the possibility of you as an individual delegate not being able to introduce your own joint resolution on the same subject matter? Doesn't that give then the governor the exclusive right to do something within that particular call and only the right...the only one who would have a right to introduce a joint resolution on that subject matter; is that not correct?

MR. JENKINS

No, Tom, because when the governor issues a call he issues it by subject matter. He says, for instance, (1)---to legislate with regard to property taxes or (2)---to legislate with regard to the Bill of Rights, for example. So long as a joint resolution would be within that subject matter, it would be covered. The call does not say to consider the adoption of a certain bill by number.

MR. CASEY

But, that's the way it reads, that's what I'm worried about. If you read your amendment, does not your amendment read that way that an announcement of the fact that a joint resolution will be introduced to do such and such? Can it not be interpreted to that effect?

MR. JENKINS

You know, perhaps it could be interpreted that way; that's not the intent because it...the intent is to show that the subject matter of the joint resolution is within the call. I think it's clear, but...Mr. Poynter suggests that we might say after the words "within the" and before the word "call" we might insert the words "objects of the" so that it says "if it is within the objects of the call of the session." Do you think that would solve your problem?

[Amendment withdrawn.]

Amendment

MR. POYNTER

O.K. On the third line he would add these words "within the" and add the words--this is the language in the Legislative Article--"objects of the call of the session and is introduced" add the wording after "within the" and before the word "call", "objects of the". "An amendment to this constitution may be proposed at any extraordinary session of the legislature if it is within the objects of the call of the session and is introduced in the first five calendar days thereof."

MR. JENKINS

I would like to move the adoption.

Questions

MR. RAYBURN

Woody, in your opinion, how broad would the object of the call be? I mean, I'm just curious as to know how broad that language would be.

MR. JENKINS

Well, as I understand it that language "objects of the call" is the same language contained in the Legislative Article for bills, so I think it would be the same standard, whatever that standard might be.

MR. HAYES

Mr. Jenkins, are they prohibited now without this amendment? Would they be prohibited?

MR. JENKINS

Well, without this amendment you would have to prefile all

joint resolutions ten days before the session, even in the case of a special session, and because the governor can call a special session on five day's notice that would give the governor sort of an unfair advantage because he could have his legislation prefiled and no one else would even know that you were going to have a special session, so that's what this is an attempt to correct.

MR. GOLDMAN
Delegate Jenkins, would you say or would the call in a special session by just stating "that" amendments to the constitution may be proposed at this session"? Would that satisfy the object of the call without any subject matter being in it?

MR. JENKINS
No, I don't think a call that vague and broad would meet the requirements of the Legislative Article because it says that the governor has to state the specific purposes for the call; I don't think that would be specific enough.

[Previous Question ordered. Amendment adopted: viva voce.]

Amendment

MR. POYNTER
Mr. Shannon sends up the following amendment:
Amendment No. 1. On page 1, line 23, immediately after the word "in" and before the word "the" insert the words "at least eight point type in".

Explanation

MR. SHANNON
Mr. Chairman, ladies and gentlemen of the convention, since we are going to publish notice of this, I believe that we should have a notice that we can read. At the present time it takes a microscope to read the advertisement. . . the legal advertisement section of a paper. I apparently . . . I was going to offer this up above on you, but this was the proper place in this because this would be advertised in different journals in every parish of the state. I realize that this is going to cost some . . . a little additional money to do this because it's going to take more space. . . more lines and you are charged by the line on it, but I believe that this would give every person then an opportunity to read and more readily digest what they are supposed to know about this constitutional amendment at that time. I'm not going to take up any more of your time, but this is simply what it is in order that the people can read it. It would be more readable because I've seen these advertisements when I have to use glasses to read, and I have to get something more powerful than my glasses to read it at times. So, I would ask your favorable consideration of this. If there's no questions, I move the previous question, Mr. Chairman.

Questions

MR. NEWTON
Mr. Shannon, couldn't this be handled by the legislature just as easily?

MR. SHANNON
Yes, but a lot of things we have in here could have been handled by the legislature just as easily too, Mr. Newton.

MR. HENRY
Would you yield to a question from Mr. Fulco?

MR. FULCO
Mr. Shannon, what size type is used now?

MR. SHANNON
I don't know; it must be about four and a half or four and a half by five is what I've been advised; I really don't know. I was just going by the type that I've tried to read in the past.

MR. FULCO
Mr. Shannon, the eight point type is the type that's used in the body of articles now in the newspapers. Do you think that's very much larger than perhaps a six point type that's used? Wouldn't you still have difficulty in reading eight point type?

MR. SHANNON
Well, I don't have any difficulty in reading the newspaper, so this is the same type I understand that the newspaper uses.

Vice Chairman Casey in the Chair

MR. BLAIR
Mr. Shannon, what about the cost; have you run any analysis on the cost?

MR. SHANNON
No, I have not, Senator. I would say that perhaps it would cost about a third more.

MR. GUARISCO
Mr. Shannon, would you be amenable to placing the brand of the teletype that might do this or maybe suggest as an alternative to use disappearing ink?

MR. SHANNON
If we're going to use the same type they are using now, they may have well used disappearing ink.

MR. LANIER
Mr. Shannon, don't you believe that the legislature, unless it's prohibited, could prescribe by statute the type of type that this can be run in?

MR. SHANNON
Oh, yes. Yes, they could, but would they? Since we are dealing with this and we specify that it should be advertised, I think we should specify how it's advertised and the type to be used. They could specify the whole thing and we can do away with this whole thing.

MR. LANIER
Would I be correct then in saying that your position is that you think this is the type of detail that should be in our new constitution?

MR. SHANNON
I'm not going to say that, but I don't think it's any more superfluous than a lot of things we have in the constitution.

MR. CASEY
Mr. Derbes is recognized for a question.

MR. DERBES
Mr. Shannon, I'd just like to know if you're really serious about this amendment?

MR. SHANNON
Yes, I am serious about it, and I do not own any interest in any printing company either.

[Previous Question ordered. Amendment rejected: viva voce. Motion to reconsider tabled.]

Personal Privilege

MRS. WARREN
Mr. Chairman and fellow delegates, I didn't feel really strong one way or the other about the amendment; however, I did say "aye". But, we're going to have some other amendments coming up and I don't know whether I'm going to be for them or against them, but if you have the "aye's" before you have the "no's" those persons are going to hear the "aye's" first and you can bet your bottom dollar they're going to sing louder in order to get it over with. So, if this is the way we're going to do it, I think we'd better get rid of the "aye's" and "no's" and let's vote it down. This is all I'm saying, not for me personally, but in fairness to everything that's coming up in the convention. Thank you.

Point of Information

MR. BURNS
Is there actually anything wrong with that machine that we can't use it from now on that we've finished with Mr. Jack's amendment?

MR. POYNTER
It really did, Mr. Burns, when we took the Jack amendment. The machine for some reason totalled about five fewer nays than it should have totalled. It voted everyone correctly, but as far as . . . and this machine perforates rather than printing, but it perforated each person's machine correctly, but the counter on the "nay's" was incorrectly not voting, and the "yea's" tabulated correctly. It's

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got a reset button on it, but I've exhausted of my knowledge of why it didn't count correctly, so I personally feel a little safer in not using it.

Personal Privilege

MR. MUNSON

I was going to suggest, Mr. Chairman that we try it one more time to see if it will work, just to try to save some time . . . see if it's working correctly.

MR. CASEY

Mr. Munson, the only problem is we would have to try the machine and then try also a roll call vote to see how the vote compares against the machine.

MR. POYNTER

No. . . that really we could just open the machine if you want to, Mr. Vice-Chairman; it will work because I know it's perforating right and I can just count the nays and see if it's counting correctly, but I feel pretty confident it's not working really. Well, if it did once and there's not something been fixed, if it does it right the next time I'm still not going to trust it the third time; fifty-fifty is not too good of odds when you're counting someone's vote.

Amendment

MR. POYNTER

Mr. Jenkins and Mr. Gravel at this time together send up amendments.

Amendment No. 1. On page 1, at the end of line 26, after the word and punctuation "electorate." delete Floor Amendment No. 1 proposed by Delegates Pugh and Casey and adopted by the convention on January 5, 1974, and insert in lieu thereof the following:

"Each joint resolution shall specify the statewide election at which the proposed amendment shall be submitted. Special elections for submitting proposed amendments may be authorized by law."

Would anyone like for me to read the Pugh amendment or do you still have that in front of you that you adopted on yesterday? The Pugh amendment that you adopted on yesterday then reads as follows:

"The election shall be statewide and the resolution shall provide for the date on which such election shall be held," and that was the Pugh-Casey amendment adopted yesterday. Mr. Jenkins proposes to delete that language and insert what's before you in lieu thereof.

Explanation

MR. JENKINS

Mr. Chairman, the purpose of this amendment really is to clarify Mr. Pugh's amendment and to make some . . . a technical change in it I think. Mr. Casey who is a coauthor with Mr. Pugh yesterday has agreed to it and he thinks it's all right. The problem with Mr. Pugh's amendment was it says that "the resolution shall provide for the date on which such election shall be held." Now, the intent was to allow that special elections be held for amendments. However, what this does is it allows a joint resolution to call a special election, and that really doesn't make too much sense for several reasons. For one thing, a joint resolution is not law and a special election can be called only as provided by law. The difference is this, you might have in your election code a means for calling special elections and anything adopted in the election code can be vetoed by the governor. A joint resolution cannot be vetoed by the governor and that's the main distinction. If you allow the joint resolution not only to say at which election the amendment would be voted on, but to set a date for an election you're doing something that is not vetoable, and that's contrary to the concept on which we've had elections before. So, what this amendment that I'm offering does it says that you can have special elections, but those special elections will be as provided by law, not as established in some joint resolution. You have many things that have to be done every time you have a special election; for one thing, money has to be appropriated. Any time you have an appropriation for money that certainly would be vetoable by the governor, so you wouldn't want a situation whereby a mere resolution coming out you could have a special election called. So, that's a hiatus that this amendment is trying to correct, and I'd like to urge adoption of it.

[Previous Question ordered. Amendment adopted: 89-1. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Alphonse Jackson sends up amendments at this time. A single amendment which reads as follows:

Amendment No. 1. On page 1, line 27, after the word "voting" delete the words "for or against" and insert in lieu thereof the word "on".

Explanation

MR. JACKSON, A.

Mr. Vice Chairman, this is just a technical amendment to straighten out the language so that we can be sure that the sentence says what we want it to say, and less confusing the way it was cast in the committee's report, and we wanted to straighten out the language. It's a technical amendment; I move adoption.

[Amendment reread and adopted without objection.]

Amendment

MR. POYNTER

Yea. Mr. Perez at this time sends up amendments. Mr. Perez sends up amendments which will read as follows: Amendment No. 1. On page 1, line 31, after the words and punctuation "otherwise provided." delete the remainder of line 31 and delete all of line 32 and on page 2, delete all of lines 1 through 4 both inclusive, in their entirety and insert in lieu thereof the following:

"However, no proposed amendment affecting five or fewer parishes or areas within five or fewer parishes shall become part of this constitution unless approved by a majority of the electors voting thereon in the state and also a majority of the electors voting thereon in each such parish."

Explanation

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, first of all I understand that the committee has no objection to the adoption of the amendment that I have proposed. One of the problems with the provision as it appears on line 31, 32, and on the next page is it would require a majority of the electors of the entire parish not of just those voting on the proposition. In addition to that, we have the confusion--if you'll look at line 3, on page 2-- it says of the "affected areas," and we don't know whether an area is a parish, a municipality or part of a district, etc. I've discussed this matter with the secretary of state's office; there is a similar provision in the present constitution which is also very confusing and they have never been able to really determine what it means because of the fact that we don't sufficiently pin down the areas in which you would have to have a majority vote. Therefore, in the amendment which I have proposed it would require that if there are five or fewer parishes or areas within five or fewer parishes which the proposed constitution amendment would affect, then it would have to have a favorable vote of the majority of those voting in the election in each of those parishes or parts. . . in each of the parishes in which there may . . . it would affect. In other words, it would have to have the vote . . . a favorable vote of the entire parish not just a part of a parish so that we would know when the votes were tabulated definitely as to whether or not the constitutional provision had passed because it gets very confusing. If you say in a political subdivision or the area because we . . . there's no way, really, to understand and know whether or not the amendment has really passed because you don't know exactly who it's affected, because it affects a municipality, it affects a parish, it affects the particular district involved, etc. So, I would, therefore, move the adoption of the amendment if there are no objections.

Questions

MR. DE BLIEUX

Mr. Perez, I notice the way the amendment is drawn you say "a majority of the electors voting therein in each such parish." Now, suppose you had an amendment that affected five parishes and it passes in four of those parishes and did not pass in the fifth parish; you mean the amendment would be defeated?

MR. PEREZ

Yea sir, and that's because of the fact that the very purpose of this provision is to give protection to the areas involved and we could, of course, have no provision, and if it passed within the state, then it would pass. But, the whole theory of this particular proposal and that which was in the committee proposal was to assure that it also had to pass in those local areas as well as statewide.

MR. DE BLIEUX

In other words, if you had . . . such of a district that would be composed of five parishes and four of those parishes approved

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the vote for setting up the district and the fifth parish didn't; it would not be a valid constitutional amendment?

MR. PEREZ

That's correct. Again the theory being that if you're going to have something that affects a limited local area it should have the approval of those . . . each of those particular areas.

MR. KELLY

Mr. De Blieux asked the thing I was concerned about. It looks like to me that you could have the entire state saying yes, we want this, you could have four out of five parishes saying you want this and then one parish says no, and it's dead. Is that correct?

MR. PEREZ

That's correct. Again, I can tell you why. For instance, we have this problem of metropolitan government and you could have the larger parishes decide they want to gobble up the little fellow, and they could have a constitutional amendment passed where the people in that local area were totally against it and yet, we would have the larger parish taking over the smaller parish.

MR. KELLY

Well, let me ask one further question: do you foresee this as being an encouragement to go back to having constitutional amendments on local matters?

MR. PEREZ

I would think it would be possibly more of a discouragement than encouragement, but I don't think that it will really affect it one way or the other because of the fact that we don't have all of those detailed provisions in the constitution now under local governmental matters.

MR. DENNERY

Mr. Perez, if you left in the aggregate of the electors in the affected parishes, wouldn't that cover the situation? That's the way the law is now in effect as I understand it. If you had say three, four or five parishes and the majority vote of those five parishes were in favor of the amendment, it would be adopted, is that correct?

MR. PEREZ

No. Well, that's the very purpose of this amendment and the very theory of having the local people approve it, is to see to it that the local people in each particular area approve it and not overall because we could say if we're talking about five parishes, why not all sixty-four parishes of the state, the main theory of having the local areas affected approve it is to see that each one of them approve it, not that the total vote of all would approve it.

MR. DENNERY

Thank you.

MR. STAGG

Chalin, I think Senator De Blieux came close also to asking my question, but let's be specific because one of your answers, I think, came close to satisfying what my curiosity was. If there was an amendment affecting river parishes, let's take Orleans, St. Charles, Jefferson, Plaquemines and St. Bernard, and these five parishes were the only parishes affected by that particular amendment. If it did not pass in Plaquemines Parish though it might have gotten half a million votes elsewhere, it would not become a part of the constitution for that reason would it?

MR. PEREZ

Well, I think that the problem involved is more just the other way around, and I do know that there are many of us who are concerned about the larger area having the large number of votes taking over the smaller area and we have a real problem with metropolitan government. We have determined earlier in this convention that we would have cooperation between parishes voluntarily, but it would require the two-thirds vote of each parish affected in order to be able to consolidate parishes. Well, if we leave this provision as it is, it could circumvent and get around that through a constitutional amendment and just a majority of those voting within the entire area, which is a very dangerous concept.

MS. ZERVIGON

Mr. Perez, you've made another change besides leaving the words "in the aggregate." The committee proposal says political subdivisions which would be any special district or school boards or things like that, and you could also have used the phrase --if you didn't want to say "parishes"-- you could have used the phrase "local governmental subdivisions" which would have meant municipalities and

parishes. You haven't given this protection to municipalities and I wanted to know if the legislative intent is Orleans a parish or a municipality under your amendment?

MR. PEREZ

Well, of course, Orleans is both a parish and a municipality, so you would come in with respect to the parish. But, the problem is this, the reason that I put "parish" alone and not the affected political subdivision is that we have a single provision in the present constitution and it is virtually impossible to determine the question is who has approved something. For instance, if you have a municipality within a parish and that municipality votes in favor and the parish so does not vote in favor, do you count the votes of the municipality in the parish and also count the votes for the municipality within the municipality to determine whether or not the amendment has passed. It poses such a tremendous number of questions that I tried to get this down to an area which was totally understandable, possibly not totally acceptable, but at least when the votes were canvassed they would know that it had to have the majority of the votes in the parish so that you're reducing a statewide approval situation to a statewide and a local. Now, it may not be as totally local as we'd like to see it, but it was the only solution that I could find to the problem of being able to definitely determine whether or not it had actually been adopted.

MS. ZERVIGON

So, what you're saying is if the amendment were cast in the language "cities over four hundred thousand" we would have no protection, but if it were cast on the language "parishes over four hundred thousand," we would?

MR. PEREZ

No, I think, that because of the fact you say "cities over four hundred thousand" and only one will be affected within that parish, if it carried in the Parish of Orleans you're taken care of. I see no problem . . . because of the fact that the city of New Orleans is coextensive with the Parish of Orleans.

MS. ZERVIGON

Well, let me ask you one more question: if it said cities over a hundred thousand or something like that and it affected only five or fewer cities, would it not be understandable that you counted the votes within those cities to see whether or not the affected areas had approved? Couldn't you have cast your amendment to say local governmental subdivision and approved by each local governmental subdivision; would not that have been clear?

MR. PEREZ

No, if it has not, because that's the same problem that's come up before because of the fact that when you say local governmental subdivision you include cities and parishes. . . . what you're doing is you've got to count both the cities and the parishes, and it gets very, very complicated.

MR. ARNETTE

Anyway, Chalin, as I see it, what the problem you're pointing out to us is, say, over in my area, if Calcasieu Parish would want to take over Cameron Parish, for example, under this present provision they could. . . under the present provision they could do so if they only had a majority vote out of both parishes combined, even if Cameron Parish didn't want it and you wanted to prevent this?

MR. PEREZ

That's correct. The purpose of this, each particular parish affected vote in favor.

MR. CANNON

Mr. Perez, somewhat in the . . . to follow Mr. De Blieux's comments a little further and I think you know I favor this, if these four. . . if four out of these five parishes wanted to collectively do some particular thing in the local and parochial section, could they not do this by local referendum?

MR. PEREZ

They can get together with any governmental cooperation and there are many other ways that they can accomplish it under the present constitution. But, keep in mind what we're talking about here is the process by which we amend the constitution and through this method we could virtually destroy many of the local government provisions by having. . . which protects one smaller area against a larger area we could virtually destroy it if we adopt the provision as the committee has it proposed.

MR. CANNON

Don't you see that this. . . the local referendum method is a way to prevent amendments to the constitution?

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MR. PEREZ

There's no question, we have adequate provisions in Local Government Article IX for any governmental cooperation in so many other ways where they can accomplish the same objective without having to have a constitutional amendment.

MR. D'GEROLAMO

Mr. Perez, in Local and Parochial Government Articles that we've passed did not we put in there a safeguard by which smaller parishes who are bidding larger parishes are protected from being engulfed and taken over by the larger parishes?

MR. PEREZ

That's correct. But, the problem we have involved here is that that could be taken out of the constitution if the committee proposal as it stands or rather remain because you could then take out of the constitution, particularly with regard to special situations, that provision. So that, in effect, by majority vote you could change parish boundaries by having a majority of those in the area...in a total area affected instead of having...by amending the constitution sort of having two-thirds as is required in our Local Government Article.

MR. D'GEROLAMO

That was my second question and because of this we should vote for this amendment here to keep the protections that are voted...that are protected in Municipal...Parochial Government.

MR. PEREZ

This is consistent with what we have adopted in our Local Government Article.

MR. D'GEROLAMO

Thank you, sir.

MR. NUNEZ

Mr. Perez, that was one of my questions Mr. D'Gerolamo just asked. But, isn't there a provision now that when an amendment affects one or more parishes and less than five that there is a question whether that amendment, if it affects that parish, that it should also pass in that particular parish? That is not clear in this article nor is it clear in the present constitution; is that not correct?

MR. PEREZ

That's a problem. The present constitutional provision is not totally clear; it does use the words "in the aggregate" but it also says "in the affected political subdivision or subdivisions." So, that you don't really know even in the present constitution whether it requires that in each or in all in the aggregate because of the confusion in the language and there was confusion in this language as well. So, therefore, I thought this was the best solution to the problem and one which would protect local determination.

MR. KEAN

Mr. Perez, my problem is with your reference to areas within five or fewer parishes. What do you mean by areas?

MR. PEREZ

Well, I picked up that language out of what was in the particular... in the article, but as long as it's within the particular parish, I don't think it gives us too much trouble. One of the problems you have is it may be a municipality; it may be, for instance, a part of a levee district; it may be some sort of a park commission, so it was difficult to...in one word or in a very few words to try to be all inclusive so that's why I used the word "areas." But, as long as that area is within the parish it has to have the vote of the parish. I don't think you have a problem.

MR. KEAN

That was my other question. In other words, if the area is affected and the entire parish would not be affected even if the people in that area, for example, voted a hundred percent against it; if the majority of the electors in the parish you vote voted in favor of it, it would none the less apply to that area?

MR. PEREZ

Yes, sir, that's one of the problems involved with the amendment but what is the alternative? That was the problem that I faced when I prepared this amendment because the present constitutional provision is so confused and there is no way in general terms to try to define every situation that you are talking about. I felt we would be a lot better off in reducing that approved vote to the parishes so that we would have something new from the con-

stitution as opposed to having something which really means nothing now and we really don't understand what it means.

MR. DE BLIEUX

Mr. Perez, I would like to, you might say, ask to reverse the question I originally asked a few minutes ago. I can envision a situation where you might have, say like, a parish of Orleans, and Jefferson, and St. John, and St. Charles in a particular area, it may be for a regional airport authority or something of that sort. Now, here you might have an overwhelming vote in Orleans Parish, and in Jefferson Parish, and in St. Charles Parish but St. John Parish, being a very small parish, might vote against it and ruin the whole business because, as I take it, there has to be a vote of each parish, not the total effect of. Do I interpret your amendment correct in that regard?

MR. PEREZ

It would be my suggestion that they would have left that smaller parish out to begin with, but don't force that smaller parish into something that they don't want.

MR. DE BLIEUX

Well, now, I'm just asking that question. If it's not going to be the aggregate vote of the whole situation, that's what I'm... the whole area, that's what I'm speaking about.

MR. PEREZ

Well, again, we have in our Local Government Article all kinds of provisions for intergovernmental cooperations voluntarily. I just don't see where this is any real problem from the standpoint of trying to actively accomplish something because of the provisions which we do have in our Local Government Article which allows parishes to get together and perform all of these governmental functions so cooperatively. So, I see no problem in that.

MR. DE BLIEUX

But, I do interpret your amendment correctly by...to the effect that a small parish could defeat the whole purpose of an amendment.

MR. PEREZ

Yes, and I think rightfully so because I don't believe that you ought to force anybody into anything unless they feel that the people of that area feel that they should have it. Again, if the people are proposing something and are intelligent in their approach, they'll just leave those small fellows out to begin with.

MR. FLORY

Mr. Perez, I can appreciate the problem that you're trying to solve here. But, let's for sake of argument take the example where you have a levee district, for example, covers four parishes and one small ward in another parish and for the preservation of human life it dictates that you either build the levees higher, or bigger, or longer and you have to have additional constitutional authority for taxes, etc. in order to do that before the major parishes vote heavily in favor of doing it and maybe the small ward or the very small parish would reject it. Don't you think, then, that you are really defeating the purpose which you are trying to accomplish?

MR. PEREZ

Well, the specific example you used, I don't believe it will ever arise because of the fact that that levee district has the right to increase taxes by a vote of the people within the district. So, I can't conceive of how that situation would ever arise because we have given authority, for instance, to the levee districts to increase their millage rates for any of their authorized purposes and to bond and to fund the proceeds into the bonds so that such subject matters now coming up. I just think that we are putting up some scarecrows that don't exist.

Mr. Perez, I only used that as a hypothetical case, and I don't know what the future holds. I just say that in the event that you needed some additional constitutional authority to solve a problem of that type whether it be taxes or whatever it may be, wouldn't the situation which I gave you the very minute minority of a group to kill something that might save human lives in that situation?

Well, again, I can't conceive of this human lives problem. But, again, I say to you that if we are going to have a provision in the constitution which returns terms aside of a home rule situation where the local area has to approve it; then, I think it's proper that we say each parish affected should approve it or else not say it at all and just say you can pass a statewide provision and the local lawyers rather have no say-so over it. I don't know how you are going to solve the problem otherwise and I just....

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MR. ROEMER

Chalin, I either failed to hear or you didn't say about where this figure five comes from; is that in the law now?

MR. PEREZ

It's in the present constitution and was picked up in the present provision submitted by the....

MR. LANIER

Mr. Perez, all of these special districts and things, we took all of that out in Local Government didn't we?

MR. PEREZ

That's right. That's why I can't conceive of how this has any real....opposes any real problem such as was asked just a moment ago because we have taken away the necessity for constitutional amendments and provisions with respect to all of these various things. The only purpose of this amendment that I can conceive of, really, would be in areas where you would want to amend the constitution to take away from local government authorities. I just think we ought to protect those local governments involved.

MR. LANIER

Well, it would also apply wouldn't it, Mr. Perez, if somebody started trying to put all this junk back in?

MR. PEREZ

That's correct, it certainly would.

Further Discussion

MRS. ZERVIGON

Mr. Acting Chairman and delegates, I want to make it clear to you that we are voting on two things right now. One is the question of whether parishes in the aggregate should agree to something or whether one may be able to veto it. The other is the question of whether this should apply only to parishes. It's not clear at all to me and I've talked to Mr. Kean, he feels the same way, that municipalities are covered at all. So, I beg of you to defeat this until we can come up with an amendment that separates these two issues. I really don't see the problem Mr. Perez raises about metropolitan government and big fish gobbling up little fish and all of that kind of stuff because all the anti-goblin measures we put in this new constitution we put in general terms and it would more or less have to be amended in general terms. Believe me, we've got enough troubles in New Orleans, we don't want to expand and take over anybody else's troubles; that's not the problem. But, this was put in the old constitution to protect areas from unfriendly governors. I want to make sure that the areas that were protected under the old constitution are protected under the new constitution. We've had a couple of good governors recently, but I'll tell you I don't feel that we should relax and remove this protection from anybody. If what Mr. Perez is really trying to do is to expand protection, I would like to make his amendment as clearly worded as he would like it to be so that everybody is certain that they are protected in the same way that he would be protected. There are no municipalities in his area, I'm sure it wasn't with malice of forethought, I would just like to be certain that municipalities are covered in this protection whether it's extended to those parishes voting in the aggregate or not.

Questions

MR. ABRAHAM

Mary, in the Perez amendment when you say any area within a parish, won't that cover any municipality within the parish?

MRS. ZERVIGON

Well, I know it doesn't cover mine because mine's not in a area within the parishes or parish sort of, but Mr. Kean is also not clear that it covers Baton Rouge and I don't like the word municipality mentioned.

MR. ABRAHAM

But, the city of New Orleans is in a parish, is it not?

MRS. ZERVIGON

No, it's not; it is a parish, sort of. The purpose of the cigarette tax is the parish, but the purpose of the alimony tax.... I mean, it's the city...for the purpose of the alimony tax it's a parish. What it would mean is that if there were an unfriendly governor that wanted to affect one area and most of the amendments that affect fewer than five areas affect only one. If there were an unfriendly governor, if he could stop us from

amending the amendment on the floor to cause it to be a parish instead of city, it isn't at all clear to me that we would be protected. Thank you very much.

MR. JENKINS

Mary, you said that Orleans is not interested in gobbling up surrounding parishes and I think you're right. But, one thing that many city officials in Orleans are interested in is a metropolitan's earnings tax, an income tax. But, we have prohibited in the Revenue and Finance Article the cities from levying income taxes. So, if the city of Orleans wanted to levy a metropolitan's earnings tax, it would have to do so by constitutional amendment and it would in all likelihood affect five or fewer parishes. But, unless we adopt Mr. Perez's amendment, isn't it true that the voters in the city of Orleans could vote for such an amendment and the people in the surrounding parishes could vote against it? But, because of the large population of Orleans it could be passed so that Orleans could impose an income tax on people in the surrounding parishes; isn't that correct?

MRS. ZERVIGON

Woody, that's not all clear to me because the surrounding parishes are going like crazy to drainage techniques being what they are. But, you're not really addressing my concern. My concern is not that I don't want Mr. Perez to have his protection, that's fine, that deal where you take out "in the aggregate" is fine with me; it gives Orleans even more protection and in the past this sort of technique has not been used against any parish other than Orleans that I know of. All I want to make sure is that New Orleans is as protected as Plaquemines, that's what I want to make sure of and on reading his amendment it is not at all clear to me. Just to find out how paranoid I am, I went and checked it with Mr. Kean, who agreed, it is not at all clear to me that I'm protected. You want to take out that phrase "in the aggregate" that's beautiful, that does good for us; it doesn't bother me at all. That's a philosophical problem, you have to decide whether we are all in this thing together or are we not. But, what I want to say is that this is not at all clear that it extends the same protection to us. If we are going to protect, let's protect across the board.

Further Discussion

MR. D'GEROLAMO

Mr. Acting Chairman and fellow delegates, I rise in support of Mr. Perez's amendment because in this amendment I believe this is the only way that the smaller parishes that are abutting or close to larger parishes are protected. In the Revenue and Finance proposals, in Local Government proposal we have made provisions to protect the local parishes, the smaller parishes from being engulfed, from being overtaxed and giving them their own home rule. The aggregate that is in the present proposal will allow larger parishes and state government to come into a parish and take over what the local governing authority and the people of that parish may not want. I'll give you some for instances: (1) in the parish of Jefferson we have an airport, however good, however bad an airport may be. I have a former mayor of the city of Kenner where the airport is located, had many problems with the airport being there. It's expansion right now may bring some problems to the local community of the city of Kenner. Now, certainly, the airport has done some good for the city of Kenner. But, certainly, the people of Jefferson Parish, the people of Kenner should have some say—so should a constitutional amendment be brought up by the legislature and voted on by the people whether they want to expand this airport to make a metropolitan airport out of it, to engulf the whole parish of Jefferson. Don't you think we in Jefferson Parish, where this would affect mostly, should have some say—in it? Certainly, the people from the other parishes, Orleans and the other parishes may not feel, they do not have the problems that we have. I give you another for instance, as Mr. Jenkins just brought up, the metropolitan earnings tax. What is going to happen if the State of Louisiana and the city of New Orleans vote for the metropolitan earnings tax? What happens to the parishes of Jefferson, St. Bernard, Plaquemines, St. Tammany surrounding them? We're engulfed, we have nothing to say about it. One of the other speakers, I forgot his name, came up and said, "What happens if you're going to get one parish to hold back a proposition where the four parishes may think it's good?" This may be fine but suppose you wind up with one larger parish saying it's good and the four smaller parishes, saying we don't want it, those four smaller parishes must take it whether they like it or not. Now, certainly, provisions have been made and protections have been brought out on proposals that we have already passed by this constitutional convention. Certainly, I do not believe that we would want to go back and take away safeguards that we've already given to people—the Revenue and Finance proposal as it was said, about the metropolitan earnings tax. These things are serious. It's

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not only serious to we in Jefferson and to surrounding parishes of Orleans, but you of the smaller parishes throughout the state, the smaller communities throughout the state who are around large communities, large parishes, be careful of what you are doing. You are already protected in the constitution now. Don't let it be taken away by this proposal....the Proposal No. 36. I urge you to adopt the amendment by Mr. Perez.

Questions

MR. LANIER

Mr. D'Gerolamo, since we've taken all of the special districts out of the constitution, really, this provision would apply if they tried to put things back in, such as the metropolitan district for taxation or something like that; isn't that correct?

MR. D'GEROLAMO

That is correct, Mr. Lanier.

MR. LANIER

And, this would affect and protect the parishes where they would have a right to vote for or against it. Unless, if they did not choose to go that route, then the only way it could be done would be through intergovernmental cooperation as we provide for which is on a voluntary basis; isn't that correct?

MR. D'GEROLAMO

That is correct, Mr. Lanier.

MR. LANIER

Now, would you agree with me and I'm trying to think of what our provisions are, the only special parish that I can think of would be Jackson Parish where we have to provide for a five mill alimony tax where everybody else has four mills; isn't that correct?

MR. D'GEROLAMO

That is correct.

MR. LANIER

But, if somebody tried to take away Jackson's fifth mill, they would be protected by it with a provision such as this; wouldn't that be correct?

MR. D'GEROLAMO

That is correct. Suppose there was a provision to take away that extra mill from Jackson Parish; Jackson Parish would have no say-so. Thank you.

Further Discussion

MR. HAYES

Mr. Chairman, ladies and gentlemen of the convention, I don't live in a city and I don't represent a parish. I don't know where the word parish came from. I imagine you know, it probably came from the church or somewhere. You people are talking about parishes, you represent people, just think about that and you are representing a district with about thirty-five thousand people in it. Now, you cannot protect your parish line when you come to the legislature, no way if you try because they are going to forget about a parish line. If you don't have enough people, you go out and get enough people in order to get here. If you want to run for Congress, you're going to take a district—and I'm telling you—I looked at the Eighth District the other day and it went from New Orleans all the way it looked like to Shreveport. That's what it took because they looked at people, they didn't look at parish line. Now, you're going to tell me that we're going to take five parishes and they are going to have more power than all of the rest of the people in the State of Louisiana, that's what you're saying. Now, it's even less than that. Let's take...some of your parishes don't have but about eight thousand people. Now, take one of those parishes with eight thousand people and move it in with the five, four thousand, five hundred of those people can stop an amendment in the State of Louisiana and that's what you're asking me to vote for here—four thousand, five hundred people can stop the entire state. Now, I tell you again, you keep hollering at. I don't live in a city, you understand. I only represent a portion of the parish, not a whole parish. Some of the people represent two or three parishes here and don't have enough people hardly to get down here. You're saying let's have five parishes come down and have the people in one of these small parishes stop an amendment from the entire state. We don't know what we are going to run into in this state or in these United States with all the problems we have, say, with energy, etc. etc.

Questions

MR. J. JACKSON

Mr. Hayes, isn't it possible that there could be a statewide amendment that affects everybody?

MR. HAYES

Correct.

MR. J. JACKSON

But, maybe to a larger degree it may affect a little bit more some other parishes but everybody benefits from it and that it could be so construed that this is specifically aimed at five parishes? Could not what you say...could not what you have pointed out to us have in effect that statewide amendment, could very well be stopped? Now, only by, let's say five parishes but let's say one.

MR. HAYES

As I can appreciate it, Mr. Jackson, a little over half of the people in the smallest parishes could stop it. Take one of those parishes like Greensburg over there somewhere, over there in St. Helena, half of the people over there could stop it.

MR. ARNETTE

Mr. Hayes, do you realize that this problem doesn't come up unless it's a local amendment and only affects a small number of parishes? It doesn't affect the whole state, it only affects these five, or four, or three parishes?

MR. HAYES

As I can appreciate this, we are talking about amending the constitution of the State of Louisiana. As I can appreciate it, it affects the entire state; it's going to amend the constitution of the State of Louisiana and all the people will have to vote on it; am I correct?

MR. ARNETTE

It is an amendment to our constitution but it only affects a certain locality, that's why this provision is in there, only if it is an amendment that affects a certain locality is it going to be voted on in this manner.

MR. HAYES

Again, we are amending the constitution of the State of Louisiana and if all the people are going to have to vote on it, I would like to have their vote count.

MR. NUNEZ

Mr. Hayes, If I recall in the article on the judiciary, there was a provision whereby if you wanted to divide a judicial district so to speak—for instance, say there were two parishes involved and those two parishes want to divide that district and make two districts out of it—you would negate what we've already done because it would only take...the larger parish could vote to divide and the smaller parish could vote not to divide, and by the combined aggregate of vote in those two parishes, you'd be dividing the parish or dividing the district even though the smaller parish or parishes, by the way, would not want to divide the district if we do not adopt this amendment; don't you agree to that?

MR. HAYES

No, you see, again, you have have your judicial districts....small parishes...some parishes are really too small to have...

MR. NUNEZ

That's beside the point.

MR. HAYES

Some of the parishes are too small, Mr. Nunez, to have a judicial district, if I understand your question. When you leave this up to them to decide, the issue that—if I understand what you're saying—I don't think this would be in the first place.

MR. ROEMER

Fellow delegate, do you believe that it would be right or fair, or something we ought to do to in the future when we have a constitutional amendment, let's say proposed, that affects just the parish of Orleans, and the citizens of every other parish in the state and the overwhelming majority of the citizens of the state support that amendment, under this proposal if every parish accepted it and the majority of the citizens of the state accepted

it but the parish of Orleans didn't accept it, then we couldn't put that in the constitution; could we?

MR. HAYES

I guess that would be true.

[Previous Question ordered.]

Chairman Henry in the Chair

[Record vote ordered. Amendment adopted:
71-31. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mrs. Zervigon sends up amendments. The copies of these are being distributed at the present time.

Amendment No. 1. On page 1, line 31, in Floor Amendment No. 1 proposed by Delegate Perez and just adopted by the convention, on line 6 of the language added by the amendment after the word and punctuation "parish." add the following: "No proposed amendment affecting five or fewer municipalities shall become part of this constitution unless approved by a majority of the electors voting thereon in the state and also a majority of the electors voting thereon in each such municipality."

Explanation

MRS. ZERVIGON

Mr. Chairman and delegates, I don't think this takes much explanation because the word in Mr. Perez's amendment, "areas" is unclear to me, especially as it applies to my parish, whether my parish is a municipality or a parish. I'm just asking you to extend this to municipalities to make certain that municipalities are covered as well as parishes. In fact, it's really more often that municipalities are affected by amendments of this sort, municipalities over so much population and that sort of thing. It very seldom applies only to one parish. It's more often municipalities. It more or less tracks the language of the Perez amendment, and I ask you to extend the coverage to everyone. I think Mr. Perez intended to do that. This just makes it perfectly clear.

Questions

MR. BOLLINGER

Mary, maybe I misunderstand this, but would this mean that if you had an amendment which affected five parishes, Lafourche being one, and that in the small town of Lockport the electors in that town did not vote a majority in favor of the proposal, that it would not be adopted, or would not be added to the constitution?

MRS. ZERVIGON

No, how many municipalities have you got in your parish?

MR. BOLLINGER

Three.

MRS. ZERVIGON

So, it would affect municipalities in other parishes as well, but no, I didn't mean it that way. I meant one that cast directly to municipalities affecting five or fewer municipalities, and municipalities would have the say-so. One cast directly to parishes on the parish government police jury level would have to be okayed by the parishes. I don't intend to give... it was not my intention in the wording of this to give the people of Lockport the veto power over the state. I must say I only read it through quickly once. I felt I had to come up with it pretty quickly so as not to slow the wheels. But, I think the intention has been clearly expressed, and I'll look over Style and Drafting's shoulder, let them make it clear to put an "or" in there if they like, but that wasn't my intention.

MR. ALEXANDER

Mrs. Zervigon, suppose there was a proposal and the parishes of metropolitan New Orleans involved, you know, New Orleans, Jefferson, St. Tammany, Plaquemine, etc. A municipality in Jefferson, for example, votes against the proposition that all the parishes and all the other municipalities want; does it mean a majority of the electors, say, in Grand Isle, could defeat all the rest of the parishes combined and municipalities?

MRS. ZERVIGON

No, Reverend, because of my clearly expressed intention to Mr. Bollinger in the first place. In the second place, there are five municipalities in Jefferson. I know there are a bunch in St. Tammany as well. New Orleans would count as a municipality. So, either way you reason it, that wouldn't be true. This is just a red herring that's being flown. My clear intention is to say, the same protection that is being extended to parishes is being extended to municipalities when five or fewer municipalities are affected, directly affected. That's my intention. I had to write it up quickly. They can change it in Style and Drafting to reflect the intention as they have done on other things to reflect the legislative intent on the floor. But, the intention is to extend to municipalities the same protection that parishes have because I believe that the word "areas" in Mr. Perez's amendment is unclear. On the other hand, your same problem that you raised, and Mr. Bollinger raised, applies at the same time to Mr. Perez's amendment. For example, could a ward of a parish or a group of wards of a parish defeat an amendment that had been passed statewide, because wards are areas after all, you see? So, if it's affecting the river areas of one parish and there are four wards along that river and it failed in one ward, would that defeat the whole amendment? No, I don't think so, and that wasn't Mr. Perez's intention. We all know what he intended to do. I'm intending to extend the same protection to municipalities. It's as simple as that.

MR. ARNETTE

The way I read Mr. Perez's amendment was that it said "parishes"; it didn't say "areas," and that's the thing that he wanted to clear up. Is that the way you understood his amendment?

MRS. ZERVIGON

Greg, I'm up here because I didn't think the amendment was clearly worded.

MR. ARNETTE

O.K. Well, my question is, suppose an amendment affects, say Jefferson Parish, and it only affects Jefferson Parish, and they have five municipalities in there. So, it affects five or fewer municipalities. Could, say, Grand Isle defeat the entire amendment because it only affects five municipalities?

MRS. ZERVIGON

That's not my intention. It depends on why the amendment is cast. If it said, "All municipalities in Jefferson Parish shall," then Grand Isle could defeat it. If it said "Jefferson Parish shall," then it has to be voted on by the voters-at-large.

MR. ARNETTE

But, that isn't what your amendment says, though. You ought to say something to the effect of, "affecting only municipalities."

MRS. ZERVIGON

Greg, the Style and Drafting Committee has cleared up legislative intent at other times. My legislative intent is clearly expressed. So far, no one has objected to offering to municipalities the same protection that we are offering to parishes in these questions. They are just bringing up questions about what the intent is. I'm telling you what the intent is.

MR. ARNETTE

Well, I'll agree with you, and I don't oppose giving the same protection to municipalities either.

MRS. ZERVIGON

Well, I ask your support of my amendment in that case.

MR. ARNETTE

Well, my only question is that your language doesn't say what you intend it to say, and that was my objection to your amendment.

MRS. ZERVIGON

Well, next time I'll ask for a fifteen minute recess so I can draw it a little bit more carefully. What I was trying to do was expedite the proceedings.

Further Discussion

MR. DENNIS

Mr. Chairman, fellow delegates, I wanted to ask Mrs. Zervigon a question, but she would not yield to further questions. I must rise in opposition to this amendment because it will have, I'm afraid, a debilitating effect upon a parish like Ouachita, my parish, which contains three municipalities. This would mean

that if we proposed a constitutional amendment affecting-- attempting to implement a program for the entirety of Ouachita Parish, that this could be vetoed by the smallest municipality in the parish. This would mean that less than twenty thousand people could deny to a parish which approximates a hundred and fifty thousand, close to two hundred thousand now, could deny these people the right to enact a program, or to take something out of the constitution, or to...I'm particularly concerned about if we ever wanted to consolidate the two school boards there that you've heard so much about. Would this mean that any municipality affected within one of these school districts could veto such a plan? I think Mrs. Zervigon is just thinking about New Orleans and New Orleans alone, and she is not realizing the damage she may do to some other parishes in our state. So, I ask you to vote this amendment down.

Questions

MR. DENNERY

Judge Dennis, as I read Mrs. Zervigon's amendment, there may be a little confusion, but if you go back now and read the committee report and the Perez amendment, it says, "If an amendment affects five parishes, then it must be passed by every one of the parishes affected." Now, if you have an amendment which affects the state at large, it certainly would affect five parishes. Therefore, by your reasoning, any parish in the state can defeat any constitutional amendment. Now, I certainly don't think that was the legislative intent, nor do I think it was Mrs. Zervigon's intent to do what you suggest. I ask you, sir, to please give the answer to both questions at the same time. If it affects one, in other words, in Mrs. Warren's words, "What's sauce for the goose, I assume, is sauce for the gander."

MR. DENNIS

I'm perhaps as confused as you were when Mrs. Warren asked you her question, but what I'm talking about, Moise, if we propose a constitutional amendment affecting Ouachita Parish alone, and because it contains three municipalities, they are in turn affected by the amendment; as I read Mrs. Zervigon's amendment, one of those municipalities, the smallest one, if it did not pass in that particular municipality, it would veto the entire plan.

MR. DENNERY

Well, now, Judge Dennis, doesn't the same thing hold true in the Perez amendment and the original committee proposal? If any one parish in the State of Louisiana, because it is one of at least one parish affected, one parish could defeat any constitutional amendment. I think that we are both under...

MR. DENNIS

Well, that's true.

MR. DENNERY

Well, certainly, that's not the intention of that, is it?

MR. DENNIS

I think that it is the intention of Mr. Perez's amendment...

MR. DENNERY

That a statewide proposal could be defeated by any parish?

MR. DENNIS

No, no.

MR. DENNERY

But, it says that, though, if you read it. It says "five parishes."

MR. DENNIS

We may be arguing, but it's my appreciation that what the Perez amendment does, it says if you've got a constitutional amendment that affects five or fewer parishes...

MR. DENNERY

Well, doesn't any constitutional amendment affect five parishes?

MR. DENNIS

Well, if it's effect is restricted to five...

MR. DENNERY

It doesn't say that, Judge. That's my whole point.

MR. DENNIS

Well, maybe that needs to be cleared up. But, Mrs. Zervigon's

amendment doesn't just do that. Her amendment makes it impossible for us to have a one parish amendment affecting Ouachita Parish, without standing in jeopardy of being vetoed by the smallest municipality in the parish.

MR. DENNERY

Well, Judge Dennis, I suggest to you, sir, and I ask you if I'm not correct in this suggestion, that if Style and Drafting can clear up the error in the first amendment, could it not clear up the error, since Mrs. Zervigon clearly said that was not her intention?

MR. DENNIS

Mr. Dennery, I don't think that it can clear...

MR. HENRY

Mr. Dennery's exhausted your time, Judge.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I rise in opposition to this amendment, and I want to apologize to Mrs. Zervigon. It's not just because it's her amendment. I didn't really get to thinking about this thing until after Mr. Perez's amendment passed. But, it seems to me--now, I'm not arguing against the concept; I'm not arguing against the concept that they are espousing--but, it seems to me that if we're going to have a provision such as this in this proposed constitution that we're going to have to do a little bit more than what is done here. The reason that I say that is, it appears to me that virtually no constitutional amendment can be passed that's not going to result in a lawsuit if this provision, or Mr. Perez's provision, or even the committee proposal as it's written is retained. Now, I would refer you to the language of the present constitution which says in the first place that any such amendment which directly affects any five or fewer parishes, municipalities or special district. Now, there's a difference between "affect" and "directly affect." Then, it also says that the legislature--that this affecting must be as a result of enumeration, designation or population classification, so it's in a limited area that it must directly affect. It further provides, and this is the biggest hangup I have about it is that the legislature is the one that shall make the classification, and when they make it and say that it does directly affect five or fewer parishes or municipalities or special districts, that they're not as final. Now, there are some provisions in the present constitution which I don't think we need, and that is that if the legislature doesn't so designate and you look at the Journal and you conclude that they didn't even think about it, but then the secretary of state has to make the designation, and then his determination is not final. Anybody can go to court and so on. But, it seems to me, and I respectfully submit that if you don't put back this language about this affecting five or fewer parishes being based upon either designation, enumeration or population classification. If you don't put the provisions in here that the legislature is the one that is going to make the determination when they propose the constitutional amendment as to whether it must be approved in these areas, that then you're going to be in serious trouble. Then, another reason that I think that you're going to be in serious trouble has already been brought out. The present constitution requires that if it affects five or fewer areas that it must pass, not in each and every one of those single areas, but it must carry by a majority vote in the aggregate of those areas that are affected. So, for that reason, I would ask that you reject this amendment, and there will be another amendment which will put back in part, except for the business about the secretary of state, the present provisions of the constitution which say that it must directly affect five or fewer parishes, municipalities or political subdivisions by reason of enumeration, population, classification, or by designation on the part of the legislature, and that the legislature is the one that makes that decision and that their determination is final. Otherwise, I respectfully submit that at least fifty percent of the constitutional amendments that are passed in this state are going to result in a lawsuit because of these particular provisions that you are being asked to put in the constitution.

Question

MR. RAYBURN

Mr. Avant, if you have a given area where you have, say, five municipalities and you want to create a family court--I'll just use that for an example--one of those municipalities have a hundred and ten votes, like I have one in my area, and one has four thousand votes. If the one with the lesser amount of votes voted no, then would that proposal be good?

MR. AVANT

No, it would not, even though it passed in all of the other four municipalities. I say it would be dead, deader than a doornail, because under these amendments it'd have to carry in each one of those affected areas, not in the aggregate of all of them as under the present constitution.

Further Discussion

MR. PEREZ

Mr. Chairman, ladies and gentlemen of the convention, I would like very much to have been able to support this proposition, but the problem we've run into, and I don't believe that this amendment adequately takes care of, is that anything that generally affects a parish also affects the municipalities within that parish. The problem we run into that if we adopt this amendment, I think we would be creating the same confusion which now exists in the present constitutional provision. I would be glad to support an amendment which would make it perfectly clear that if the particular constitutional provision affects a municipality or five or fewer municipalities, and only municipalities, and not parishes and so forth, then it would have to carry only within that municipality. I'd be glad to support such an amendment, but I don't believe that we should support this one. I think we would be further confusing the situation which now exists. I think that the amendment that we've already adopted is relatively clear if there are some amendments to it which can clarify it, it's fine, but I just don't believe that this amendment does what the author had hoped for it to do. Therefore, unfortunately, I must oppose the amendment.

[Amendment withdrawn.]

Amendment

MR. POYNTER

Delegate Gravel sends up amendment. There is a word change in it, so you may want to try to follow it. The amendment reads: "Amendment No. 1. On page 2, line 12, immediately after the word and punctuation "reference." and before the word "The" insert the following: "However, the legislature may"--and this word changes--not "prepare" but "propose"; "the legislature may propose, as one amendment, a revision of an entire article of this constitution, which revision may contain multiple objects or changes."

Explanation

MR. GRAVEL

Mr. Chairman and ladies and gentlemen of the convention, the committee proposal sets forth that a proposed amendment to the constitution shall be confined to only one object. Now, if that and that alone stays in the proposal, then there would be no possibility of revising the constitution by full revision of an article of a constitution that embraces perhaps more than one object. I think that the committee proposal is too limiting in the authority for the amending process. The amendment which I propose would say that "the legislature may propose as one amendment, a revision of an entire article of the constitution, and even though that revision may contain multiple objects or changes." I just don't think that we want to do away with the opportunity to revise the constitution by full article revision, and if we do retain that right which is of course in existence in the present constitution, we need to make sure that the one object provision doesn't limit the right that we're trying to express. I'll try to answer any questions with respect to the proposed amendment.

Questions

MR. ABRAHAM

Camille, when I read the original language in the proposal where it said "the proposed amendment shall be confined to one object" and they set forth the entire article, or articles to be revised, I interpreted that to mean that the one object could be the entire article. I'm not disagreeing with what you're trying to do; I agree with you there. But, that was my automatic interpretation of that.

MR. GRAVEL

Well, I'm in favor of it, but I don't think that the object of the proposed amendment is to revise the article. I think

the object would be the purpose of the provision. If I was sure that that was correct, I'd have no trouble, but I'm not. Generally speaking, when we talk of legislation having one object, it's a pretty specific piece of legislation, and you can't treat two different purposes in that piece of legislation. I think that we need this protection here for that reason.

MR. JENKINS

Mr. Gravel, did you know that the purpose of the language "one object" was to conform to the same requirement that we have for bills--that a bill must be confined to one object--and that whatever that standard is we would apply here.

MR. GRAVEL

I think that's all right except that I don't think that you could possibly treat only one object if you are revising an entire article of the constitution. For example, suppose that there was submitted at the polls to revise the article on the Bill of Rights, Mr. Jenkins, that would embrace and encompass many different objects under the jurisprudence that, as interpreted, what constitutes one object with respect to legislation. This gives me serious concern; I don't think you can do it.

MR. JENKINS

Did you know our intent, of course, was to, in effect, say that when you revise an entire article, you are confined to one object. You are fulfilling that scope of authority. The fear that I have with regard to yours is that you might be able to revise an entire article but, because you've mentioned multiple objects, you might be able to put into that article things that would otherwise not be germane to it. For example, wouldn't this allow you to have a legislative article revised, but to put in there things about the executive and things about the judiciary, rather than just legislative matters under your amendment?

MR. GRAVEL

It's entirely possible that something like that could be done, but if it does, I think it's going to be so ridiculous on its face it's not going to pass. The bigger problem--the much bigger problem--is, for example, if you were going to revise the Bill of Rights, as I mentioned a moment ago, you're treating just a number of objects when you're talking about due process of law, when you're speaking of expropriation proceedings, and many of the other objects that were dealt with in the Bill of Rights.

MR. JENKINS

But haven't we obviated that argument by specifically setting forth that an entire article may be revised on line 8 of page 2?

MR. GRAVEL

That's the problem...I'm not taking that out; I'm making a clear differentiation between a proposed amendment that does "rifle shot", so to speak, with respect to a single object and the revision of an article where, in my judgment, you're treating of different objects when you revise fully that particular article. I think it presents a very serious problem if we don't have this provision.

MR. TATE

Mr. Gravel, could you refresh us briefly the problem that the Sam Jones administration had in '40 when it had a constitutional amendment invalidated?

MR. GRAVEL

That was the Graham vs. Jones case.

MR. TATE

Because it was supposed to refer to more than something in the constitution. As a result of which, in 1963 and 1964, they adopted a provision similar to that you have here to permit article by article revision which may not be necessary thereunder.

MR. GRAVEL

That's correct. I think that the court held that the so-called Griffin-Hagen plan-----I believe the case was Graham vs. Jones--embraced more than one object and that there was no provision that would permit such an amendment to the constitution; therefore, the courts struck down that particular plan as being unconstitutional. As a consequence of that, we do have a provision in the present constitution that authorizes revision of the existing constitution by articles,

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but it doesn't have any such limitation as is contained here in the proposal by the committee. All I want to be sure of is that when the legislature does submit a proposal to the people with respect to the revision of an entire article, that a full revision, of course, can be prepared and submitted. Gentlemen and ladies, there's just no question in my mind that the revision of any article of this constitution, with rare exception, constitutes addressing ourselves to more than one object.

MR. LANIER

In other words, Mr. Gravel, if we wish to have a Constitutional Revision Commission to report to the legislature about revising an article should it become necessary, we would have this tool available to us--and clearly and definitely so--as a result of your amendment?

MR. GRAVEL

That's correct.

MRS. WARREN

Mr. Gravel, this morning we defeated the idea of having a limited amount of amendments on the ballot. Now, where you say "one amendment may contain multiple objects or changes", in this you would have to list on the ballot a, b, c, d, e, f, g, whatever changes were coming, you would have to separate them; am I right?

MR. GRAVEL

Well, it would depend upon what the amendment or the revision said; it would depend upon the article. Now, you don't list on the ballot, Mrs. Warren, as far as I know in proposed constitutional amendments, the full detail of the proposed amendment or the proposed article. The proposition would be whether you would be for or against the proposed revision--let us say--to Article IV of the constitution which already, of course, would have been published in every journal according to the other proposals to this particular....

MRS. WARREN

Well, all the publishing in the journal would have to be a, b, c, d, e, f, or whatever it would take to make people understand what these multiple changes were going to be.

MR. GRAVEL

You would publish the entire proposed new article in the official journal of each parish.

Further Discussion

MR. JENKINS

Mr. Chairman, delegates, we've already provided in the

legislative article that a bill must be confined to one object. A joint resolution is a bill. There are two types of bills: acts and joint resolutions. We've already provided that it must be confined to one object. Now, in the language we've included here we've provided that you can revise more than one article with a single constitutional amendment, if it is confined to one object. Now, that allows the Constitutional Revision Commission or anyone else to come along and take different sections out of existing articles and change them, if they're confined to one object.

In addition, I think it's clear from the language in the proposal that a revision of an entire article can constitute one object. Now, that's assuming, of course, that it's not the extraneous matter not related to the article in general isn't included. The problem with Mr. Gravel's language is when he says that an entire article can be changed and it can have more than one object--it can have multiple objects--that seems to imply that you could have a revision of an article which was really not confined to that article, that you might be allowed to revise the legislative article, then make in effect changes that resulted in executive article changes or judiciary article changes or otherwise. The basic requirement that a bill should be confined to one object includes that acts and joint resolutions should be confined to one object. That is traditional; it is sensible; it has been interpreted by the courts, and we ought to continue that same philosophy. Otherwise, I think we're going to have constitutional amendments coming along that attempt to change many different things in the constitution that are not related to one another.

[Previous Question ordered. Amendment adopted: 49-36. Motion to reconsider tabled. Motion to take up other orders adopted without objection.]

Announcements
[II Journal 1114]

[Motion to revert to Reading of the Journal adopted without objection.]

READING AND ADOPTION OF THE JOURNAL

[Adjournment to 1:30 o'clock p.m., Monday, January 7, 1974.]

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Monday, January 7, 1974

ROLL CALL

[88 delegates present and a quorum.]

PRAYER

MRS. WARREN

Let us all bow our heads and let us pray each in his own way. Heavenly Father, as we come this day, we thank Thee for the many blessings that Thou hast bestowed upon us. We ask You to forgive us for our sins, omissions and the sins of commission. We ask that You will guide us and keep us and in these last days help us to make the decisions that will be beneficial to everyone in the State of Louisiana. These and many other blessings, we ask in the name of Jesus and for His sake. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

MR. POYNTER

Committee Proposal No. 36 introduced by Delegate Alphonse Jackson, Chairman on behalf of the Committee of Bill of Rights and Elections. Proposal is a substitute for Committee Proposal No. 24 by the same gentleman on behalf of the committee.

A proposal relative to constitutional revision.

Status of the proposal--there are four sections to it-- the Convention still has under its consideration, Section 1 of the proposal dealing with amendments to the proposal, amendments to the constitution.

I think, Mr. Chairman, there are about still three pending amendments at the desk to the proposed Section 1.

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Amendment

MR. POYNTER

Delegates Perez, Zervigon and Gravel send up amendments.

Amendment reads as follows:

Amendment No. 1. On page 1, line 31, after the words and punctuation "otherwise provided," delete the remainder of line 31 and delete all of line 32 and on page 2, delete all of lines 1 through 4, both inclusive, in their entirety and delete Floor Amendment No. 1 proposed by Delegate Perez and adopted by the convention on January 6th, insert in lieu thereof the following:

"A proposed amendment directly affecting not more than five parishes or areas within not more than five parishes shall become part of this constitution only when approved by a majority of the electors voting thereon in the state and also a majority of the electors voting thereon in each affected parish. However, a proposed amendment directly affecting not more than five municipalities, and only such municipalities, shall become part of this constitution only when approved by a majority of the electors voting thereon in the state and also a majority of the electors voting thereon in each such municipality."

Explanation

MR. PEREZ

Mr. Chairman, ladies and gentlemen of the convention, as a result of some of the objections which were raised yesterday, I have attempted to work out the problems and have also worked with others interested, to work the problems out, and I believe that we now have an amendment which should be acceptable virtually to all the delegates. First we, . . . in order to meet one objection that the . . . it's a question of whether affected or directly affected, we inserted the word in each case both when dealing with parish, municipality, it would have to directly affect the parish. In addition to that, in order to satisfy the problem with municipalities yesterday, we have added the second sentence "However, a proposed amendment directly affecting not more than five municipalities, and only such municipalities, shall become part of this constitution only when approved by a majority of the electors," etc. So, I believe that we have straightened out all the major problems involved in the proposal. I would, therefore, suggest to you we should adopt this amendment.

Questions

MR. ALEXANDER

Mr. Perez, would you explain to the convention, please, what you mean by "areas," parishes or "areas"?

MR. PEREZ

The word "areas" was used in the proposal which was the committee proposal when used in a context where it is not limited to an area. . . it is not limited to a certain geographical area within the parish; I would think it would be indefinite. But, the problem we have is that we may have amendments dealing with levee districts or parts of levee districts. We may have amendments which might deal with park commissions, we may have them dealing with many other subdivisions of government, sewerage districts, water districts, and so, therefore, in order to try to encompass all of those various type of possibilities, we have used the word "areas," which is the same wording that was used by the committee in that proposal.

MR. ALEXANDER

Could it be construed to mean "wards" . . . I mean "municipal districts"? For example, consummative districts?

MR. PEREZ

If it affects only the municipality, the second sentence would take effect. That is, the second sentence of the amendment deals with where there are only municipalities involved. The first sentence would take care of all other situations.

MR. ALEXANDER

Then I'm correct also in assuming in the last line that any one of the parishes or a majority of electors in any one of the parishes could defeat any proposition, is that correct?

MR. PEREZ

That's correct, but as we've explained before there should be very little need for amendments with respect to municipalities or parishes to give them any additional authority because of the fact that we have a real strong home rule charter provision, and we also have the provisions for intergovernmental cooperation where elections are not even necessary. So that the primary purpose for this amendment is mostly to protect parishes against the people -- taking something away from them rather than giving them something. Generally speaking, I would say would be the purpose of this. That's why the strong feeling that each area should have to approve it.

MR. TOOMY

Mr. Perez, for a point of clarification. Suppose a constitutional amendment affected for instance, just Jefferson Parish. It would require a majority vote of Jefferson Parish according to the first sentence. But, Jefferson Parish has five municipalities within it, by the second sentence it would require a majority vote also of each of the five municipalities.

MR. PEREZ

No, because if you'd look you'd see, "However, a proposed amendment directly affecting not more than five municipalities, and only such municipalities," so that if it affected the parish and the municipalities, then it would have to carry in the parish. . . the first sentence would apply.

MR. TOOMY

Could you not also read this to read that if it affects Jefferson Parish, it only affects the five municipalities in Jefferson Parish; you see what I mean?

MR. PEREZ

No, because you have other areas in Jefferson which are not in municipalities, so it would affect not only the municipalities, but it would also affect other unincorporated areas of Jefferson, so that the first sentence would apply if it were something which had parishwide affect. If it were something which applied only to the municipalities and municipalities . . . and only municipalities then the second sentence would apply.

MR. TOOMY

Only if it applies to the incorporated areas. . . the second sentence.

MR. PEREZ

That's correct. If it applies only to municipalities and only municipalities. Does that sufficiently answer the question?

MR. TOOMY

I just. . . I don't see it that clearly worded in the amendment.

MR. PEREZ

Well, if you read it says, "However, a proposed amendment directly affecting not more than five municipalities, and only such municipalities, shall become part of this constitution only when approved," etc. So, I'm satisfied that it's sufficiently clear.

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MR. BURNS

Mr. Perez, in St. Tammany Parish, I think they have about eight municipalities, they have five pretty good size ones and then they have two or three with about four or five hundred inhabitants in each one of those. Does that mean say Folsom with about four hundred inhabitants could block something for Covington and Slidell and Mandeville and Madisonville?

MR. PEREZ

Mr. Burns, it would depend upon the amendment; remember we're talking here about an amendment to the constitution, and it would depend upon the proposal involved. Ordinarily, I don't think that you would have a provision saying "all municipalities in the Parish of St. Tammany" may do this or may do that, but we've already given those municipalities such home rule provisions--again, I don't believe that that situation is ever going to arise where you're going to be concerned with being afraid of not being able to do something. It's the main purpose of this provision is to see to it that they don't take it away.

MR. BURNS

One more question: there's nothing in here that would make it possible for one town in a parish to interfere with parishwide propositions, would it?

MR. PEREZ

No, sir because if you read the amendment, the first sentence says if it affects the parish or any areas of the parish it must pass parishwide. But, if it affects municipalities only, then it has to pass in those affected municipalities and they have to be five or fewer of them. Ordinarily, there would be a provision saying municipalities over a hundred thousand or municipalities between fifty and a hundred thousand, and probably might have one in maybe in St. Tammany and another one in Shreveport, another one in Caddo or other parishes throughout the state.

MR. AERTKER

Chalio, will the amendment itself actually list the municipality or the parish that's going to be directly affected-- I mean is it going to state that that amendment will directly affect it?

MR. PEREZ

In the provision the way it's set up here does not require in the amendment . . . the proposed constitutional amendment, but ordinarily the way we'd do it, we'd say municipalities over one hundred thousand or parishes with a population of between so many parishes and so many parishes. In those cases, of course, then it would be matter of fact as to which they were.

MR. AERTKER

Well, then, of course, if it's that general then it would be . . . or that broad then it would in most instances include many more than just five.

MR. PEREZ

Well, of course, if it did, then this provision would not apply. The only purpose of this provision is to give back to the local people some protection against having a state telling a local area what it must do, and to take away the authority that we're given in this constitution from a local area without their permission or consent. It's a protection primarily for the local area.

MR. TOOMY

Mr. Perez, as I recall when this problem came up Ms. Zervigon had a lot of difficulty as to whether New Orleans was covered in your amendment which applied just to approving the parish. I don't particularly see how this amendment clarifies her problem.

MR. PEREZ

I don't think Ms. Zervigon ever had a problem to begin with because the city of New Orleans is coextensive of the parish of Orleans, and if the parish voted in favor of it, the city was voting in favor of it. It really doesn't affect and take care of Ms. Zervigon's problem; it would take care of the problem like the city of Baton Rouge which is a part of the Parish of East Baton Rouge or the city of Kenner which is a part of the Parish of Jefferson. In those cases if the situation applied only to the city of Kenner and two or three other cities of that size then it would only have to carry in the city of Kenner rather than have to carry in the whole Parish of Jefferson.

MR. LANDRY, E. J.

Mr. Perez, I sit here wondering why someone doesn't object to the fact that this amendment gives a small unit tremendous power over other larger units. I can appreciate . . .

. . . I can appreciate the protection, that's clear to me-- the protection is clear, but I can't for the life of me understand why one small unit would be given so much power over a larger area.

MR. PEREZ

I don't think it's a question of one area being given the power over another area because as I've explained before, it is difficult to conceive how there will be an amendment to the constitution necessary to give additional authority to local governments because of the strong local government article we have. We have intergovernmental cooperation. We have full authority for home rule charters. We've given the parishes all authority not prohibited by state law, so that we have given to those local areas virtually very extended authority. Again, this provision primarily would come into play, as I would envision it, when they're out to take something away from somebody. I'd say before we take anything away from anybody whether it's a little parish or a big parish we ought to have the vote of the people of that particular parish.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Mr. Flory sends up amendments which read as follows:
Amendment No. 1. On page 2, line 8, after the words "object and" delete the remainder of the line and insert in lieu thereof the following: "shall set forth the entire section or article".
Amendment No. 2. On page 2, line 9, at the beginning of the line, delete the words "or articles".

Explanation

MR. FLORY

Mr. Chairman and delegates, what the amendment does is to try to put back into the framework of this proposal the present provisions of the constitution whereby you can amend only one article in one amendment. If you notice the committee's language starting on line 7, it says "a proposed amendment shall be confined to one object," and may set forth the entire article or article to be revised or only the sections," etc. My amendment would make it read that they shall set forth the changes and that it shall be in the entire section or the entire article and it deletes the word on line 9 "or articles" to where you can only amend one article of the constitution in one amendment. This has been . . . if you'll recall, this subject came up a number of years ago when the Law Institute was doing a study on constitutional revision and they approached the legislature at that time and if you'll recall, the way that the constitution was constructed. . . or is constructed presently you have varied subject matters spread throughout the various articles of the constitution. This convention has seen fit and I think wisely so, to confine the subject matter to one particular article, generally speaking with the exception of the general government provisions, so that there would really be no necessity in the future for amending more than one article in the same constitutional amendment. But, when the '21 Constitution was being discussed in the terms of revision by the Law Institute and the Constitutional Revision Commission, they approached the legislature and the legislature agreed to change it from the provision at that time where you could only amend one section at a time to a single constitutional amendment to allow them to rewrite an entire article in a single constitutional amendment. If you'll recall Mr. Gravel's amendment yesterday we accomplished that purpose in allowing the total revision of a single article by one constitutional amendment, irrespective of the number of objects it may have. This would mean then that you could only by a single object amend one particular article in the same amendment. I think it's a good amendment and I've discussed this with a number of the members of the committee also members of the convention, and I ask for the adoption of the amendment.

Questions

MS. ZERVIGON

Mr. Flory, I'm just trying to understand exactly what you're doing, you're saying that the concurrent resolution has to set forth the article that's being amended; you're not saying the article has to appear on the ballot?

MR. FLORY

No, just in the . . . if you notice "a proposed amendment shall be confined to one object: and it says "may set forth". I think we ought to make it mandatory that they set forth either the entire section or article being amended. If you look down there where it says "or only the sections or other subdivisions," so that it fits a subdivision of a section or a subsection that's only being amended then they shall set that forth with the incorporated change. But, I don't think we ought to leave it permissive as to whether they can or cannot set it forth. That's the only reason for putting the word "shall" instead of "may". I don't think we ought to leave it permissive as to whether or not they set it forth.

MS. ZERVIGON

Well, now you're saying they may do it with incorporated changes. That would be the article as amended, not the article to be amended or to be revised as in line 9. Isn't that so? I'm just trying to visualize what it is each legislator will receive--the way I read your language unless I'm mistaken, and that sometimes happens--each legislator will get two rather lengthy documents, one the old article and one the article as revised because he has to receive the article to be revised. . . the entire article to be revised should constitutional revisions by article take place. Is that your intention?

MR. FLORY

No. I didn't change the committee's language where they used the words "to be revised," and I didn't change that. When you introduce a constitutional amendment before the legislature you incorporate the changes to be made and that is the revision that is submitted. It's never to my knowledge where it appears on the ballot or in any constitutional amendment where you submit the old language and the new being amended, so that what I believe is intended here, and I didn't change it, is that the revised language is submitted.

MS. ZERVIGON

Well, Mr. Flory, I don't believe that's what it says. When you say "shall set forth the entire article to be revised" that just sounds like a hell of a lot of words to me. It doesn't say with incorporated changes or anything like that, so it seems to me you'd have to submit both.

MR. FLORY

You have to carry it on forward in the complete sentence, Ms. Zervigon. Where it says "or only the sections or other subdivisions which are to be added on which the change is to be made." So that you have either or, but you make it mandatory that they set one or the other forth; that's the only thing. One or the other, it's not both.

MS. ZERVIGON

Thank you.

MR. DE BLIEUX

Mr. Flory, in reading the proposal and your amendment, I know what you intend, but I just don't get that out of the proposal as presently written. The particular portion which you're amending, if I read it correctly, is a proposed amendment--that is, a joint resolution or bill as it's drawn--shall either have the entire article incorporated within that joint resolution, or it can have the particular section, whichever is desirable.

MR. FLORY

Yes.

MR. DE BLIEUX

As your amendments....I don't see how your amendment changes that.

MR. FLORY

All it changes, Senator, is that it makes it mandatory that they set forth the revision, mandatory that they set it forth one way or the other--either the total article or the section or the subsection, whichever the case may be. What I am deleting is, on line 9, the two words "or articles" where they cannot amend more than one article in the same constitutional amendment. That's the real basic change by the amendment.

MR. DE BLIEUX

Well, now, if you follow your conclusion along that, wouldn't we get back into what we've been trying to avoid? Isn't that something that has required numerous amendments in the event that we have attempted to amend the constitution in one particular subject matter? You may say that where that subject matter is somewhat covered by two or three different articles?

MR. FLORY

Well, Senator, I said that earlier that, if you recall when the law institute came to the legislature a number of years ago--and you were there--and wanted to change or revise the constitution, and they suggested to the legislature that, at that time, it would be wise to change the constitution by way of constitutional amendment and amending more than one article in the same amendment, the legislature emphatically said, "No, you can only amend one article in the same amendment." They then went and changed the constitution to allow them to rewrite the constitution by articles. Now, when this convention began, it undertook--and, I think, has accomplished--the fact that they have confined the subject matter--like in the Bill of Rights, all in the Bill of Rights; the executive functions in the Executive Article, etc., on through--so that you won't have the flow

of subject matter from one article to the other, as you have had in the 1921 Constitution, so that you really....that argument is not necessary anymore. What this amendment proposes to do--and I think is necessary--that you ought not be able to submit a totally new constitution in one constitutional amendment in the future. It could be done if you construe the language on line 9 "or articles" where you could submit, by one amendment, amendments to more than one article, without limitation, in the same constitutional amendment.

MR. DE BLIEUX

But, by the same token, under your proposal, if we wanted to transfer some particular section of the constitution--an article or repeal--it would require two constitutional amendments rather than just one.

MR. FLORY

There's no question about that, Senator; but, at least, the people would know what they're voting on. No question about that. That's the intent of the amendment.

MR. DE BLIEUX

Isn't it hard for them to know what they're voting upon if they're separated into different articles like that? Isn't that part of the confusion that we've got ourselves into?

MR. FLORY

No, sir, I don't believe so at all. I keep saying to you that, when the constitution....this convention has rewritten the constitution by subject matter in the various articles, I think we've eliminated the problem, really, of changing more than one article in the same constitutional amendment. I don't think you're going to face that problem in the future.

MR. SINGLETARY

Mr. Flory, I believe you're just more or less putting the constitution back like it was; isn't that correct?

MR. FLORY

Yea, sir. Yea, sir.

MR. SINGLETARY

With regard to Mr. Gravel's amendment, if the legislature was to propose a revision of an article, they would have to set forth the entire article on the ballot? Is that correct?

MR. FLORY

No, sir. I don't have his amendment before me, but his amendment allowed a maximum, in one amendment, of the total article to be revised. It could, if it so desired; but, if you'll look on line 9, it says "to be revised or only the sections or other subdivisions which are to be added," so that you could amend much less than a whole article--you could amend just a subsection of a section of an article--and that would be all that would have to be set forth in the amendment.

MR. SINGLETARY

I see; but, whatever the proposed provision was, the entire proposed provision would have to be on the ballot. Is that correct?

MR. FLORY

Not on the ballot, but in the resolution itself.

MR. LANIER

Mr. Flory, in looking how your Amendment No. 1 fits into this proposal, as I read it--if your language is put in--is that all that would have to be put on the ballot is the article or section which is going to be revised? Would you agree with that--i.e., the revision would not be put on the ballot, but only the article or section which would be revised? Now, quite frankly, I think the problem is with the committee language and not with yours.

MR. FLORY

That's correct. I didn't change the committee's language in that sense, Mr. Lanier. I tried to, really--with the language that they had proposed--tried to put it back like the constitution is today in that regard. I'm of the opinion, as to what they intended--just from discussions with some of them--that what they were talking about was the same thing you and I are talking about: the language that they intend to be the revision of that section, subsection, or article would be in the new resolution, and then you put on the ballot the for and against in the language as it's presently done, and that also is incorporated in the constitutional amendments as they are proposed. You never....If you're going to amend a particular article, you don't put the whole article on the ballot; it's worded in the amendment itself as to what shall appear on the ballot.

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MR. LANIER

Well, the point I'm getting at: I think a literal reading of this would be that all that would be on the ballot is that which is to be changed, but not the change--with the language as written. Would you agree with that?

MR. FLORY

I would agree with that--that the change would appear on the ballot. Yes. I think that the change does appear. I think that's the situation today. I don't ever recall seeing the old language submitted in the amendment and the new language submitted in the amendment.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, I somewhat question this amendment, and let me give you the reasons. At the present time, as you well know, we have in the proposal under the executive department, the department of the attorney general. There's a feeling among some that the attorney general should be under the judiciary department. Now, suppose an amendment was submitted putting the attorney general's office with the judiciary department. You'd need two constitutional amendments under Mr. Flory's proposal: one repealing that particular portion of the constitution of the executive department and another placing the attorney general under the judiciary department. You can see what a paradox we'd be in, having to submit two amendments, if one of those failed. We could end up with the attorney general's office being in both the executive department and the judiciary department, or, the other way around, we might not have an attorney general's department because they might pass the one repealing the provision of the executive department and not pass the other. This is one of those very close issues. Now, certainly, it would be a whole lot more feasible to have the repeal of the article in the same constitutional amendment as you're submitting, and that's the reason this language was stated that way--is to take care of situations like that. I certainly think that you might be getting ourselves into a very serious proposition if we go and tamper with the language as we presently have it written. I just throw it out to you for what it's worth and ask you... I think that we'd be doing a better job if we rejected Mr. Flory's amendment rather than passing it. I understand what he's talking about--that we certainly should try to confine a matter to one particular amendment; but I can certainly see the time when it would be needed the other way, and I think the legislature in its wisdom would certainly correct those situations. I don't think they'd be trying to write a whole new constitution by one constitutional amendment. That's a really farfetched in that regard, but there may be occasions--which I recited to you--because I can name a number of other instances in this constitution when that same situation might arise. So, let's let the language stay like it is and let it be left to the legislature as to how the amendments will be submitted if they become necessary. I ask you to reject the amendment.

[Previous Question ordered.]

Closing

MR. FLORY

Mr. Chairman and delegates, I submit to you that this is almost mandatory that we make this change to where you can amend the constitution only by one article at a time. I think that's only being fair with the public. This convention has spent a year in rewriting the constitution, and you know the work that's been put into the development of a new constitution here. We've had the benefit of a year's press coverage. The people are cognizant of what's going on, and they will be intelligent enough to vote on the entire document, I think, when it's submitted to them in the election this year. What we're talking about here is the possibility--and I say, only, the possibility--of the legislature, by one constitutional amendment--in a sixty-day session or, perhaps, in an extraordinary session--rewriting the entire constitution and submitting it to the people in one constitutional amendment. I think that's the need for the change. That's what makes it necessary, and all this does is puts it back like the present constitution is, where you can amend only one article in one amendment. I ask for the adoption of the amendment.

Questions

MR. JENKINS

Don't you feel as though your amendment might lead to a multitude of constitutional amendments that we would not have if we didn't adopt your amendment? For example, suppose we wanted to affect the elected status of the superintendent of education. We

would have to amend at least two articles, maybe three. Yet, this would require--under your amendment--it would require two or three separate constitutional amendments, rather than one, to fulfill that one object. Isn't that correct?

MR. FLORY

I can't visualize changing the position of superintendent of education because--by constitutional right--because we've given that authority to the legislature, for example, after 1980, by a two-thirds vote, to make that change. I answered Senator De Blieux: It would be possible, in the future, that maybe those situations where more than one article would have to be amended, pertaining to the same subject--maybe have to amend them. But, I think it's only fair to the public that you submit it in that form in order that they know exactly what the legislature might be proposing as a way of change in the new constitution. I think that's only being fair with the public. It may require them to vote twice instead of once, but I think the people have adopted that philosophy by constitutional amendment just recently, in the last six or eight years-- I can't recall the exact year. As you recall, prior to that time, you could only amend one section in one amendment, so I don't think that this is any unnecessary burden upon the people.

MR. JENKINS

But, don't you have a hiatus there? If you have two amendments to two different articles, which have the end in view of accomplishing one change, you have a problem because, if one passes and one fails, you have an unclear situation in the law; don't you?

MR. FLORY

Well, I've never seen that happen where one passed and one failed....

MR. JENKINS

Well, let me give you an example. Remember the property tax amendments on the ballot last time? There were five amendments. Now, they were able to stand by themselves, but the situation might well have arisen that they were not. Three passed; two failed. If they had not been able to stand alone like that, we would have had a difficult situation legally, wouldn't we?

MR. FLORY

Perhaps, but I don't think that risk is near as great, Mr. Jenkins, as it would be if the legislature would propose to the people, by one constitutional amendment, a total rewrite of the entire document, which is allowed under this committee's language. That's the only purpose, really, of my amendment.

[Amendment adopted: 74-23. Motion to reconsider tabled.]

MR. HENRY

Please take your seats, ladies and gentlemen. If you will, let the Clerk go ahead and read this; and we'll ask Ms. Zervigon, if she will, to begin explaining it. Give the Clerk your attention.

Amendment

MR. POYNTER

Amendment reads as follows:

Amendment No. 1. On page 2, line 8, after the word "and" delete the remainder of the line, lines 9 and 10, and at the beginning of line 11, delete the word and punctuation "made;" and delete Amendment No. 1 proposed by Delegate Flory and just adopted and insert in lieu thereof the following: "shall set forth the entire article, sections, or other subdivisions thereof as revised or only the article, sections, or other subdivisions which are to be added;"

Explanation

MS. ZERVIGON

Mr. Chairman and delegates, first I want to apologize for holding up the wheels of progress and say that I wouldn't be up here before you except that Walter Lanier finked out and didn't submit this amendment the way he was supposed to. But, if you'll look at your yellow copy, even with the Flory amendment added, what it says is that the proposed amendment "shall set forth the entire section or article to be revised." In my mind, that's the old language--the old constitution--not the revision. It seems to me we ought to tell the people what we've done to them, not what they used to have. The old constitution has this language that I used in the amendment: "the article or section as revised." It just makes it clearer that it's the new language that people are being informed of, not the old language. I ask your adoption of the amendment.

Questions

MR. CHATELAIN

Just what does your amendment do, Mary? I'm trying to understand it, but would you go a little bit more in detail on it, please, while you're waiting?

MS. ZERVIGON

Well, the main thing it does, Mr. Chatelain, is to change the tense of the verbs in there so that it says....instead of saying the proposed amendment shall "set forth the article to be revised" or the section or a subdivision thereof--which is like a paragraph, you know--"to be revised," it sets them forth "as revised." It wouldn't do the voter any good to know what the old language of--- say you were revising the Legislative Article, which I doubt, but suppose that was the deal---it wouldn't do the voter any good to know what the old language was in the present constitution, unless he also knew what the proposed language was. When you set forth the language "to be revised," in my mind, that's the old language. Now, the old constitution uses the phrase "sets forth the section or article as revised." That's the new language, and that's what we really want to inform people of. Now, Mr. Flory has no objection to this. His amendment didn't act on the verbs at all, although he agrees with me that it could be construed that way and that, perhaps, this is a change that needs to be made. It just carries forward the intention of the committee. I'm certain it was never the committee's intention that the voters would be informed only of the old constitution and not of the proposed changes to it, when a constitutional amendment is proposed.

MR. SINGLETARY

Mary, Paragraph (C) talks about submitting amendments. What that's referring to is when amendments are submitted in the House or in the Senate; is that correct?

MS. ZERVIGON

Well, to tell you the truth, I've got reservations about what that means as well--about whether you have to print the entire article on the ballot--but, since I took this language from the old constitution and the entire article has never been required to be printed on the ballot under the old constitution, I feel sure that our later reference to a summary appearing on the ballot, in lines 12 and 13, is sufficient and that that second sentence will be interpreted to apply to the concurrent resolution--what passes the House and the Senate. Does that answer your question? I have the same reservations myself, but I believe that lines 12 and 13 make it clear.

MR. CHAMPAGNE

Is that the only change--what you told? In other words, instead of saying "as revised"? In other words: as it was--what we propose? Is that the only change in your amendment? I haven't gotten it yet either, so I was wondering if that's it.

MS. ZERVIGON

Well, I hope you won't be asked to vote until you get it, Mr. Champagne. Any other change is unintentional. What we did was to rearrange the language a little, in a way that Mr. Flory has no objection to, so it carries forward his intention. We took out, for example, the phrase "or in which a change is to be made," referring back to a section, because you have a reference to a section already, earlier in my amendment. So, it seems to me that what this does is to require that any old section be submitted as revised--or any additional section be submitted as well--to the voters, or to the members of the legislature, depending on how you read that. Not the old language--that was the main change I wanted to make was that they not tie it into receiving only the old language. Everything else is up to the discretion of the author of the resolution.

MR. FLORY

Ms. Zervigon, actually, what you've done is take--instead of the words "to be" as the committee has used it--you replaced that with the present language in the constitution: "as revised."

MS. ZERVIGON

That's correct, Mr. Flory. That change, apparently, was made by the committee, unintentionally. I asked them if they had changed that on purpose, and they hadn't.

MR. FLORY

Secondly, what we're talking about here really has nothing specific to do with how it appears on the ballot; that is contained in the resolution itself--is it not?--as to how it appears on the ballot.

MS. ZERVIGON

That's right, and that particular thing is covered in lines 12 and 13 of that same paragraph--"a summary shall appear..."--that part.

MR. GOLDMAN

Ms. Zervigon, doesn't that sentence in 12 and 13--"The proposed amendment shall have a title containing a brief summary of the changes proposed"--doesn't that refer to that back there, and wouldn't that take care of it?

MS. ZERVIGON

Refer to what back where?

MR. GOLDMAN

Well, back there where you want to change "to be" to "as." Wouldn't that sentence on 12 and 13 take care of that up there? That's a still part of it. "The proposed amendment shall have a title containing a brief summary of the changes proposed."

MS. ZERVIGON

Well, Mr. Goldman, if I were a legislator, I would rather see the whole thing instead of somebody's summary. Sometimes, what someone else thinks is the highlights, I consider the details; and what they consider details not worthy of telling me, I'm very interested in. So, I think I'd rather see the full deal, as was required under the '21 Constitution.

MR. HENRY

I believe they're passing out the copies now; so, if you all will wait just a minute to look at your copies, we'll see what we're going to do from here.

I believe the amendments are passed out.

Point of Information

MR. DENNIS

Could the Clerk read this paragraph as it would stand with this amendment? I'm not sure whether the semicolon is the end of it or what.

[Paragraph reread with proposed Amendment.]

Questions

MR. DENNIS

Ms. Zervigon, would this require that each proposed constitutional amendment set forth the entire article? I notice you've changed the word "may" to "shall."

MS. ZERVIGON

No, Mr. Flory's amendment did that, Judge Dennis. Mr. Flory's amendment changed the "may" to "shall." It wasn't my intention to change Mr. Flory's amendment.

MR. DENNIS

I see. So, the effect of your amendment, or Mr. Flory's, would be to require that the setting forth the entire article each time an amendment was proposed.

MS. ZERVIGON

That's the effect of Mr. Flory's amendment is to change the "may" to the "shall." That was not my amendment. Since it had passed overwhelmingly, I incorporated it with the change I wanted to make, which was to change the "to be" to "as revised."

MR. DENNIS

But, you agree that you do repeat the effect of that in your amendment; is that right?

MS. ZERVIGON

Well, Judge Dennis, if I gather what you're talking about, what you're talking about is printing the entire revised article on the voting machine. All I can say to you is that I took this language from the present constitution. It reads, more or less, this way in the present constitution. There's no reference to how it's going to go on the machine in the present constitution, and the present constitution has never been interpreted to mean that; so what I'm trying to do is to put us back to the present constitution. You know, that's the intent--if this passes--that's the intent of this body, if you understand what I mean in that regard.

MR. ARNETTE

Well, Mary, of course, this isn't your amendment or anything--the first part that Mr. Flory put in--but, in his language, it says the "article, sections, or other subdivisions." So, if an entire article wasn't changed, you wouldn't need to print it on there, would you?

MS. ZERVIGON

That's correct.

MR. ABRAHAM

Mary, do you agree with me that the language as proposed by both you and Mr. Flory does not specify that the entire article does have to be printed? because it says "the entire article, sections, or other subdivisions as revised," so you would print only what is necessary there; and if there were enough entailed, you could print the entire article, could you not?

MS. ZERVIGON

Just enough to make it comprehensible, it seems to me. That's one of the reasons we stuck the word "subdivisions" later on in that paragraph, if you see what I mean.

MR. ABRAHAM

All right. Would not the last sentence, then, take care of a summary of the changes to be put on the ballot? There's nothing in here that requires the entire article be placed on the ballot?

MS. ZERVIGON

That's as I understand it, and that's the way the....the present constitutional language that reads this way has never been challenged to mean anything else.

[Amendment adopted without objection.
Previous Question ordered on the
Section. Section passed: 87-12.
Motion to reconsider tabled.]

Reading of the Section

MR. POYNTER

"Section 2. Convention Called by Legislature
Section 2. Whenever two-thirds of the members elected to each house consider it desirable to revise, alter, or amend this constitution, they may recommend to the electors at the next election for representatives to the legislature or Congress to vote for or against a convention for that purpose. If a majority of the electors voting on the proposition approve it, the legislature shall provide at its next session for calling such a convention. At a special election called for that purpose, the proposed constitution and any alternative propositions agreed upon by the convention shall be submitted to the people for their ratification or rejection. If the proposal is approved by a majority of the electors voting thereon, the governor shall proclaim it to be the Constitution of the State of Louisiana."

Explanation

MR. JENKINS

Mr. Chairman, delegates, the purpose of Section 2 is to provide a rational, workable means for initiating constitutional conventions. In the past, there has been no law on the subject, and it has created an unclear legal situation. There has been, in the 1921 Constitution and in at least the two previous constitutions, one means for altering the constitution; and that was by the amendment process. Nevertheless, the legislature has, on several occasions, under the last

two or three constitutions called constitutional conventions. The procedures and the limitations under which a legislature might call such a convention have never been spelled out, never been established. So, the purpose of this section is to establish those limitations. We provided, for example, that it would take a two-thirds vote of the legislature to call a constitutional convention. It's possible, under court decisions at present, that a mere majority vote of the legislature could call such a convention now; but, since it takes a two-thirds vote to initiate a constitutional amendment, certainly it should take at least a two-thirds vote to initiate a constitutional convention which constitutes a much more serious change. Also, we require here that the voters approve the proposition on the ballot for calling and initiating a convention. We also provide that, once a convention has come up with a proposed constitution, that that constitution and any alternatives that the convention comes up with have to be submitted to the people again for their approval. This would prohibit the so-called sovereign convention, in which a convention can meet and draft a constitution and then have it adopted as the constitution of the state without ever submitting it to the people. That's the essence of the proposal. I'm sure it would need some amendments, and I think we have some amendments that'll probably be offered that, in my personal view, would probably improve it. One of the criticisms directed at the proposal was that, the way we have it drafted--the committee proposal--the legislature is not required to place on the ballot what the nature of the conventions would be when it asked the people whether or not to adopt or reject a call. Certainly, under the language in the committee proposal, the legislature could put the limitations on the ballot, and I think we'd be bound by those limitations, but it is not required to do so. The convention may want to consider that point. So, with that brief explanation, I'd like to try to answer any questions.

Questions

MR. BOLLINGER

Woody, what vote did it take to adopt Act 2, 1972?

MR. JENKINS

Well, there's no requirement now. It's unclear what it took. In fact, it had more than ninety votes, so there was no legal question that could be raised. But, there's no constitutional requirement one way or the other.

MR. BOLLINGER

What, in your opinion, is the advantage to lock in the composition of the convention, or of a future convention?

MR. JENKINS

Now, we have not, in Section 2, locked in the composition of such a convention--the composition, rather, of such a convention. That would be left to the legislature.

MR. TOBIAS

Mr. Jenkins, is there any prohibition in the committee proposal prohibiting the legislature from calling a constitutional convention by a simple majority vote?

MR. JENKINS

There is no direct prohibition that you could point to, but it is the purpose and the intent of the committee proposal to provide that this is the exclusive means by which the legislature could initiate a constitutional convention. Certainly, we'd, I think, be glad to have some language, if you'd like, to specifically spell that out.

MR. TOBIAS

O. K. But, as it presently stands and under the theory that we've been operating under for this entire convention, it would be possible for the legislature under your committee proposal, since there is no prohibition, to by a simple majority act call a constitutional convention such as the constitutional convention which we now are sitting in?

MR. JENKINS

No, I don't think that under standard legal rules for interpreting statutes and constitutions that would be correct, because I think, by enumerating the ways that we have for calling conventions, that that enumeration would be considered exclusive. If we didn't have an enumeration, certainly the courts could say the legislature had complete discretion in the matter. But, as I say, I don't think we'd object to putting language in here that would, say, limit it and make it absolutely clear.

MR. TOBIAS

My next question is: You are attempting, I believe, to guarantee that there is no constitutional convention that would be a sovereign

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convention--that is, that you are requiring absolutely that they submit the proposed constitution which they have drafted to the people for their vote--is that correct?

MR. JENKINS
That's correct.

MR. TOBIAS
Well, under Section 1, is it not true that the legislature could propose a constitutional amendment calling a constitutional convention which would, in effect, require a two-thirds vote and a simple majority and then say that that constitution would not have to be submitted to the voters?

MR. JENKINS
Under Section 1?

MR. TOBIAS
Under Section 1.

MR. JENKINS
No, because, under Mr. Flory's amendment, only one article at a time can be affected in the constitution.

MR. PUGH
Mr. Jenkins, did you intend that this election by the people would be held at a time when there was a statewide election for representatives?

MR. JENKINS
Now, which election are you talking about?

MR. PUGH
Well, you say that they will recommend to the electors at the next election for representatives. If a representative dies, wouldn't there be a special election for that representative? Could it be at that time?

MR. JENKINS
Well, that would be a special election. We're here not talking about the unusual or extraordinary case, but the--certainly--the statewide election.

MR. PUGH
Well, it doesn't say "statewide" is the reason I was asking.

MR. JENKINS
Well, that's the obvious intent, yes, sir; but we'd be glad to put in "statewide," I think, if you want to insert that.

MR. PUGH
Now, this--in the event there's an amendment--under the terms of Section 2, wouldn't that preclude a special election for that amendment?

MR. JENKINS
Say that again? We're not talking about amendment. What is your.....

MR. PUGH
"Whenever two-thirds of the members elected to each house consider it desirable to amend this constitution" is what it says.

MR. JENKINS
Right. To amend or to revise.

MR. PUGH
That's right; so, if you're going to have an amendment under the terms of this section, it may only be recommended to the electors at their next regular election--if you mean regular or statewide--and couldn't be at a special election, could it?

MR. JENKINS
The intent is to have it at the next regular election; that's correct.

MR. PUGH
So, you can't have a special election for an amendment to this constitution.

MR. JENKINS
No, that's not correct. This is to submit to the electors the question of whether or not they will vote for or against a convention for the purpose of revising, altering, or amending. In other words, when we say amending, we're talking there about a

limited convention--a convention of limited authority, unlike this convention which is unlimited in nature. So, we're talking about whether....Your question, I think, pertains to whether or not you could have a special election for the purpose of putting to the people the proposition of whether or not to hold a constitutional convention, limited or unlimited. The answer--the intent--is no. The intent is to provide that it would be at the next election for state representatives or for congressmen.

MR. PUGH
No, the point I'm trying to make is nothing in the first sentence refers to your identification of it being a convention call. It talks about a two-thirds vote of the members to amend the constitution. There's no reference in that section. You see, there's no reference in the first sentence that what you're talking about to be for a convention call.

MR. JENKINS
Well, obviously, if we're talking about constitutional amendments, Section 1 is the section that governs. What we're talking about here is if the legislature wants to call a convention for the purpose of amending the constitution or for revising it or for altering it, then they submit that question to the people. If you look at the title of the section, I think that that clearly indicates that--that we're talking there about conventions, not the general amending process.

MR. ABRAHAM
Woody, could you tell us what the thinking of the committee was where we do not specify the composition of the convention in Section 2, but we did specify it in Section 3? Why is it specified in one section and not the other?

MR. JENKINS
I believe you asked that before, Mack. The reason was that we felt that the legislature ought to have the discretion, in the case of Section 2, whereas the purpose of Section 3 is entirely different. The purpose of Section 3 is to provide an outlet, or means, whereby the people can control their own destiny, even though the legislature has not acted on the question of constitutional reform. Let me say, too, in reference to Section 3, because the committee is going to offer a committee amendment--and you might want to gear your thinking to this--to change the dates in Section 3 so that the first election would be 1994, twenty years from this year, and that the elections would be held every twentieth year, rather than every tenth year. So, you might gear your thinking to that. That's going to be a committee amendment when we get to Section 3.

MR. O'NEILL
Woody, some people have questioned why this section is needed at all and have said that, of course, it is up to the legislature. Back in 1972, didn't many of the legislators feel there was a big void in this area and wished they had had some guidelines to go by?

MR. JENKINS
I think there was some discussion of it. It wasn't really a major topic of discussion, but, if you go back....anyone who has looked at the court decisions in this area realizes the tremendous problem we have, because the Constitution of '21 only specifies one means for altering that constitution; yet, here we are at a convention which, perhaps, could have been called by less than a two-thirds vote of the legislature, even though an amendment would have taken two-thirds. It's just a question that's up in the air. We want, in the future, there to be no question that the legislature does have authority to call conventions, what the vote is, when they have to submit it, etc.

MR. O'NEILL
There are many other states who are rewriting their constitutions or putting provisions such as this in their constitutions; and, of course, many of them have had it from a long time back. Correct?

MR. JENKINS
I think most states definitely have a method for calling a constitutional convention in their constitution. I think the Section 3 about the automatic call is the new thing that more and more states are including.

MR. O'NEILL
So, the question here should be how to make this section as good as possible and, of course, not whether it should be in here or not because it is definitely needed.

MR. JENKINS
Well, that's my view, certainly.

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MR. BOLLINGER

Woody, why did the committee feel it was necessary that anytime the legislature, by a two-thirds vote, thought it was necessary for a convention that it would have to submit the question to the people. In other words, the title of Section 2 is "Convention Called by Legislature"; and, in effect, you're having a convention only approved by the legislature and called by the people. Why did the committee think that it was necessary only in the event the people, with a majority vote, allowed the legislature to call it? Would this be the only possible way it could be called?

MR. JENKINS

Well, when we say "called by the legislature," what we're really talking about is "initiated"; and, in this case, the convention would be initiated, first, by the legislature and then go to the people. The reason was that we felt that it strengthens the hand of a convention. I think today, if we were sitting in this convention, having had a vote of the people for us to be here--indicating a desire by the public to see us here--I think that the public, first of all, would be a lot more interested in what we're doing, that they would be more in support of what we're doing, etc. We thought that, by requiring a vote of the people first, that you make it a stronger convention--a convention that's in session because the people want it. I think, also, you can see in states where conventions are initiated by a vote of the people that the constitutions in question almost always pass, and you don't have these futile efforts where the legislature initiates something and then the people really, maybe, are somewhat less than enthusiastic and then vote it down. So, that's the reason--that we shouldn't spend all this money and go into all this time unless the people have said....

MR. HENRY

Mr. Jenkins, sort of answer a little faster.

MR. DUVAL

Woody, I was wondering, sort of in line with Mr. Bollinger's question: --I'm sure the committee studied other states--does any other state have a constitutional provision where you have to have a two-thirds vote of the legislature, a vote of the people, then your convention, then another vote of the people? Does any other state have that provision?

MR. JENKINS

Yes, I understand they do. I can't give you the statistics right off, because they have different requirements; but I don't think, as I recall it, that would be an unusual requirement.

MR. DUVAL

You don't know what the percentages would be?

MR. JENKINS

I just don't know....

MR. DUVAL

Don't you think that would be a bit superfluous for the people to vote after a two-thirds vote of the legislature, and then to have the people vote to call a convention when they're going to have to ultimately vote to ratify it? You don't think that's a little superfluous?

MR. JENKINS

No. In fact, you take your case of 1956. In 1956, you remember, Governor Long had on the ballot the proposition of whether to call a convention and, also, delegates were elected at the same time; and the people voted against the call. Well, suppose the convention....they hadn't had the opportunity to vote on the call and the convention had been held and then it went up to a public vote. Well, the people were against having it to start with, you see. The chances are--ten to one, I suppose--that the convention as a whole--the constitution--would have been rejected. It just doesn't put a convention in a good position, I don't think--a strong position--when it has not been initiated by a vote of the people. If you have a vote of the people, on the contrary, I think you have a public mandate to act and function.

MR. KEAN

Mr. Jenkins, your reference to how it worked once before, with Governor Long, gets to the question I had in mind. As I read this proposal, you'd have to have an election to decide whether or not you were going to have a convention; and then the legislature, at the next session, would provide for the call of that election. As I read that, you would then have an election to decide whether you were going to have a convention; the legislature at the next session would then provide for the call;

and, if they decided to elect representatives or delegates to that convention, you'd then have to have an election for the delegates; and, then, if the delegates finally completed their work, they'd then have to have a third election to see whether or not the public would accept it. Now, is that the intention of the committee?

MR. JENKINS

That is the intention, yes; and I think that the intention was to make it a very deliberate process that the public would understand and follow through step by step. Now, Mr. Avant has an amendment coming--I believe his would be the second amendment--that would change that a little bit and, certainly, would allow the vote, as I read it, to vote delegates at the same time that the proposition is voted on. Now, perhaps, that's a better approach.

MR. KEAN

But, I am correct in my understanding of your proposal that it would take three elections in order to actually bring about a new constitution?

MR. JENKINS

That's correct.

Amendment

MR. POYNTER

Amendments sent up by Mr. Gauthier, Mr. Tobias, Dennery, and others:

Amendment No. 1. On page 2, delete lines 14 through 28, both inclusive in their entirety.

Explanation

MR. TOBIAS

Mr. Chairman, fellow delegates, if we adopt this amendment, I believe that we can save a lot of time; and I think that, after I explain it, you'll understand, by reading Sections 1 and 3, that Section 2 is not really needed. Section 1 of Committee Proposal No. 36 allows the legislature to amend the constitution. The procedure under Section 1 to amend the constitution is a two-thirds vote of the legislature plus a vote of the people. Under Section 2, as proposed by the Bill of Rights Committee, a constitutional convention could be called by a two-thirds vote of the legislature plus a vote of the people. So, the system or method of amending the constitution and the system and method of calling a constitution are identical. Accordingly, you are, in effect, when you call a constitutional convention, authorizing an amendment to the constitution. Section 2 states that the proposed constitution would have to be submitted to the voters. Now, Section 1 permits the legislature--and does not prohibit the legislature--from calling a constitutional convention by amending the constitution--by an amendment saying that, by a two-thirds vote, you can have a consti....the system between Section 1 and 2 is identical in that respect, and they could get around the provisions in Section 2, which state that the document presented by the constitutional convention would require a vote of the people, by simply offering an amendment as proposed by Section 1. As regards the Flory amendment which reads "However, the legislature may propose as one amendment a revision of an entire article of this constitution, which revision may contain multiple objects of changes," does not prohibit, as Mr. Jenkins explained in his opening statement, the legislature from calling a constitutional convention pursuant to Section 1. I disagree with Mr. Jenkins's interpretation that Committee Proposal No. 36 prohibits the legislature, by a simple majority act, from calling a constitutional convention. There is not one prohibition in Committee Proposal No. 36 against the type of constitutional convention which we are now sitting in--not one. I would urge that you carefully consider this. Our constitution has a lot of surplus verbiage, and I think that this is one place where we can cut a whole paragraph and save extending the length of this constitution any longer than it has to be. I yield to any questions.

Questions

MR. AVANT

Max, if Section 2 was deleted in its entirety, then I think you are probably right. If that were the case, then the legislature could submit a constitutional amendment that there's going to be a constitutional convention without any detail or specification as to how that convention would be constituted or when it would meet or how long it would meet, or any limitation that might

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be on its authority in that amendment. In other words, they could submit to the people, so to speak, a kind of a pig in a poke, could they not?

MR. TOBIAS
I agree.

MR. AVANT

But, if you had a Section 2 which said that when the legislature issues any such call, or proposition, that the proposition has got to specify the composition of the convention, the duration time, and place it is to be held, and any limitations on constitutional change, then the legislature couldn't, under Section 1, call a constitutional convention that would be a pig in a poke, could they?

MR. TOBIAS

I disagree completely because, under Section 1, the legislature is not restricted. It can authorize a constitutional convention by a simple amendment which would have the effect of amending the whole article. There still--whether you have Section 2 or not--there's still no prohibition in Section 1 to prohibit the legislature from calling a convention with all of these proposals and giving to the people, so to speak--using your terms--a pig in a poke.

MR. AVANT

You don't think that a specific provision in another section as to how they shall proceed amounts to a prohibition--from proceeding in an orderly fashion?

MR. TOBIAS

No, I do not because the legislature could amend it any way they want, and there's still no prohibition for a simple majority from calling a constitutional convention similar to the one we presently have. Now, if the convention wanted to take that route and say "these methods and these methods only are the way in which the constitution can be amended," that is a step that they'll have to take. But, as presently constituted and as it comes from the Bill of Rights Committee, there's no reason for Section 2.

MR. AVANT

Well, Max, when you set out two specific ways to have a constitutional convention, in the constitution, don't you think that that means that that's the only two ways?

MR. TOBIAS

No, it does not because the legislature can still amend the constitution under Section 1 and call a constitutional convention.

MR. AVANT

They would have to amend one or the other of those two sections, wouldn't they?

MR. TOBIAS

No, they would not. All they'd have to do is call, by a two-thirds vote...the procedures under Section 1 and Section 2--the procedures are identical. They call for two-thirds vote of the legislature and a majority vote of the people. It's absolutely identical.

MR. JENKINS

Max, as I understand what you're trying to say, you're saying that the legislature, by a two-thirds vote under Section 1, could propose an amendment to the constitution which would say that the legislature has the authority to call a convention and then, if the people vote for that, the legislature could call a convention.

MR. TOBIAS
Correct.

MR. JENKINS

And, you're saying, then, that it would not have to be resubmitted to the people?

MR. TOBIAS

I'm saying they could get around it if they said that, in that call for the convention, for example, that that constitution as adopted by the convention would not have to be submitted to the people. There's no prohibition against it.

MR. JENKINS

Well, what you're saying is correct. But, aren't you raising two different things, because submitting to the people a constitutional amendment giving the legislature the right to call a sovereign convention is quite a different question than the vote

by which the people will vote, in a particular instance, to call a constitutional convention under Section 2, which they in turn will be allowed to vote on after the convention comes up with its work. Isn't that quite a different question? Just because the people might vote for the second one doesn't mean they would vote for the first one, does it?

MR. TOBIAS

Not necessarily, but the point is that the legislature could have proposed that this constitutional convention be approved by the people before holding the convention. In other words, they could have proceeded by the route of a constitutional amendment, if they had so chosen. In other words, Act 2 of 1972 could have been a constitutional amendment. Instead, they chose to choose the legislative act method.

MR. JENKINS

I mean what you're saying is true, Max, but the people may or may not have voted for Act 2. Then, it's a different question from whether or not they would always give the legislature the authority to call sovereign conventions. They might well vote for a particular convention without giving that blanket authority, mightn't they?

MR. TOBIAS

The legislature could always, by a constitutional amendment in the actual amendment, call the constitutional convention into session. There is no prohibition against that. Now, whether you wanted to offer an amendment that would prohibit those types of things, I personally have no opinion; but I think that there is some clarification needed on that point.

MR. LANDRUM

Max, I believe what you're really saying is that the people would have a chance to decide whether or not they would like to have another convention without having to wonder whether or not another governor or another legislative body would permit it to be. Am I right?

MR. TOBIAS

Correct. In other words, the legislature...the people under all circumstances would, whether we have Section 2 or not, be required by vote...they would have to tell the people--the rest of the people of this state--this is the new constitution we want. No matter what system we choose, the people are going to have to vote on it; so the protection that Section 2 attempts to give is, in my opinion, a false protection. It doesn't say anything; it's just surplusage because it repeats, in effect, Section 1.

MR. LANDRUM

And, I agree with that, all but the years--the every ten years thereafter--because that comes up...I mean you're doing

MR. TOBIAS

Section 3 is, in my opinion, absolutely necessary; but I think the flexibility is needed under Section 1. Some flexibility is under Section 1 to get around the provisions of Section 2. There's no exclusive means under Section 2; it's not exclusive, in my opinion.

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, I rise in opposition to this amendment because of the fact that I consider it absolutely necessary that we have in the constitution some means by which a new constitutional convention can be called. I might call to your attention the fact that the earlier constitution had a provision similar to the present constitution of 1921 which we have, concerning the method of amendment to the constitution. There are many lawyers who believe that the writing of a new constitution is no more and no less than an amendment or several series of amendments of the existing constitution. So, that when we provide in our constitution for the method by which we may amend the constitution it may, in fact, be the only and exclusive method by which a constitution may be amended. Now, that issue was tried with respect to the '21 Constitution. The question was raised because there was a vote to call the convention prior to the holding of the convention but no vote after the convention had completed its work. In a criminal case, someone who was being tried for murder made some technical pleading with respect to the legality of the '21 Constitution and the court upheld the method by which the '21 Constitution was adopted. But, I might say that this was in a criminal case, one in which the subject matter was not thoroughly considered and gone into. In my humble opinion,

as a lawyer who has studied this matter rather closely because when this particular constitutional convention--as we call ourselves--was called, I made a rather thorough study of the subject matter. I am satisfied that there is good reason to argue that if we put in the constitution a method by which the constitution can be amended, we must put something in by which a new constitutional convention can be called or, otherwise, there is a possibility that the courts might hold--in spite of these other decisions we have had--that the courts might hold that this is the exclusive and only method whereby a new constitution might be adopted. I would, therefore, strongly urge you to reject this amendment. Then, let's proceed to polish up this section and get a section which would be acceptable to the majority of the delegates so that we can have some clearly established and set forth procedure whereby a new constitutional convention can be called when it's needed, hopefully, many, many years from now. I'll yield to questions.

Vice Chairman Casey in the Chair

Questions

MR. TOBIAS

Mr. Perez, do you agree that under the committee proposal that the legislature still could call a...by majority vote, a constitutional convention?

MR. PEREZ

Do I? No, I don't. I believe that this would be exclusive, also.

MR. TOBIAS

You agree with Mr. Jenkins on that?

MR. PEREZ

I would say that if a procedure is set out for calling a new convention, that is the only method whereby it could be called.

MR. TOBIAS

Do you mean to say, also, that in effect that the present constitutional convention which we sit in, is unconstitutional?

MR. PEREZ

As far as I'm concerned, I feel that we are sitting here now as a large committee of the legislature, and that we have no authority whatsoever from the people to be here. The only method set forth in the constitution at this time, with respect to amending the constitution, is the procedure set forth with two-thirds of both Houses and submission to the people. So, until and unless this is adopted by the people, then, I don't believe that we have any real standing at all, frankly. But, I would even have reservations with respect to the work that we are doing and I always have had; yes, I have had because I've made a rather thorough study of the matter--but I believe the courts would eventually hold that once the people had voted on it, that it becomes a new constitution. That doesn't give us the excuse not to do our job properly.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I just want to add a little bit to what Mr. Perez has said. I, too, oppose this amendment. I had occasion to conduct an inquiry into this general subject matter. It was my opinion after reading much on the subject that the legislature has the power--in the absence of any specific provision in the constitution--the legislature has the power to initiate a call for a constitutional convention and that only one of two things must happen before that document can become a new constitution; either the call must be approved by the people or the document must be approved by the people. In other words, the people have to get in and give their assent to the document at one stage or the other. The reason that I oppose this amendment is because I am afraid that if you do not establish a procedure, and the procedure by which the legislature can call a constitutional convention, that then they can do as was done in this particular case. They can call a convention by a simple legislative act and that then they will have the complete authority to spell out how that convention is going to operate. Of course, ultimately, I think the document would have to be approved by the people. But, I just don't think it is wise to call a constitutional convention without the people having given their approval to the manner in which that convention is going to operate and how it shall be constituted. That's why I feel that we need this provision with some amendments in the constitution to establish precisely and in what manner the legislature will be permitted to call a constitutional convention.

Questions

MR. O'NEILL

Jack, Mr. Tobias has suggested that this constitutional amendment--say that we deleted this section----this constitutional amendment would come up in the future when a new constitutional convention was needed; at that time, the procedure would be brought up. Now, that's a separate and distinct question. What you are saying is that's a separate and distinct question from whether or not the people want a procedure for it or they want a convention itself?

MR. AVANT

Well, I think that the legislature could submit a constitutional amendment to provide a method for calling a constitutional convention and amend the constitution, and provide the method. Then, come back and, in accordance with that method, call a convention. But, I don't think you could do it just by a constitutional amendment which relates to the amending process, when you have a procedure for calling a convention. What I'm afraid would be the situation that if you just deleted Section 2 in its entirety and left Section 3 and didn't do anything more, then I think the only way that you could have a constitutional convention, under the constitution, would be in the manner provided in Section 3, and that the only way you would get any other method would be first, to amend the constitution to provide the method and then come back and have the convention in accordance with what you had provided, which is going to take a long period of time.

MR. O'NEILL

So, by putting the process in here right now, we are going to save a lot of trouble in the future, for one thing.

MR. AVANT

And, you are going to make it clear as to what must be done and not leave it hanging up in the air and have everybody guessing and having people as astute as Mr. Perez entertaining doubts as to the legality of what we may be doing, and I say that in all due respect, Mr. Perez; I concur with you.

MR. DE BLIEUX

Under this procedure, Jack, how long do you think it would take for the revision of the constitution, under this procedure as you outlined here?

MR. AVANT

In Section 2?

MR. DE BLIEUX

Yes.

MR. AVANT

How long would it take?

MR. DE BLIEUX

Without a special election.

MR. AVANT

Well, I'll try to sit down and figure it out, Senator De Blieux. But, I don't think it would take any longer than it's taken under the procedure that we are operating on. We started out with an act that became effective in July, 1972, as I recall. If we wind up with a new constitution, we probably are not going to have it until about the first of the year of 1975, before it will actually be in effect. I don't think that this process is going to take any longer.

MR. JENKINS

Jack, some of us have been working on this question raised earlier by Mr. Tobias about whether or not this article would be the exclusive means for revising or altering the constitution. Let me ask you, do you think this language would do it if we said in a new section, "This constitution may not be revised, altered, or amended, nor may a new constitution be adopted except in accordance with the provisions of this article"?

MR. AVANT

Well, I think that would nail it down and take care of any doubts that Mr. Tobias may have. But, I personally believe that if you have a procedure for amending the constitution and then you have two procedures for having a constitutional convention, that then you can't have a constitutional convention via the amending process without first amending one of those other two procedures or adding a new procedure. In other words, I don't think that when you spell out how you are going to have a convention that you can get around that, so to speak, through the amending process.

MR. LANDRUM

Fellow delegates, I rise in support of Mr. Tobias' amendment. I believe we went fifty years without having a new document due to the fact that previous governors and legislators failed to bring it to the people. Now, following this convention, I would think it would be even more difficult to have a convention, even though it may be necessary. But, putting aside these present differences, I still believe that another generation should be able to decide their destiny. We should leave it to them as to what they want in their constitution since they have to live with it. I think it would be wrong for this body to tell another generation what to do and how to do. Some of our ideas may be antiquated, may not be suitable for the day. So, it would be necessary for another generation to make decisions for themselves. I ask that you support Mr. Tobias' amendment.

[Previous Question ordered.]

Closing

MR. TOBIAS

Four brief points. First of all, any constitutional convention, unless a sovereign constitutional convention called pursuant to Section 1 of this proposal, would have to be voted upon by the people. Second of all, I disagree with Mr. Avant. I disagree when he says that the legislature could amend the constitution, providing for a different method of calling a constitutional convention. That is, in my opinion, incorrect. As a fact, the legislature could have put Act 2 of 1972 as a constitutional amendment, setting forth all of the provisions thereof. As a matter of fact, the 1921 Constitutional Convention was called pursuant to the 1898 Constitutional Convention by this same method, by amending the 1898 Constitutional Convention because the people voted upon calling the 1921 Constitutional Convention. Third, Section 2 as drafted by the committee does not provide for the election of delegates; it does not say anything about delegates, one of its flaws. What would happen? I assume that the legislature would provide for this, which I am not saying is bad or good; I think it's probably very good. Fourth of all, I believe that we should let's try to save some time; this is surplus language. I think we ought to try to save some time by deleting this section which I regard as definitely surplus language.

Questions

MR. STAGG

Max, I think you are entirely correct that Section 2 does not stipulate how delegates are to be chosen. I disagree that you think the legislature can do it better. But, my problem resides over here in Section 3 because you're saying we are saving time. In Section 3 that sets up the constitutional convention call by the people, it says "according"—in line 5—"according to the same procedures outlined in the previous section." If we eliminate Section 2, that if we do not perfect Section 2, then the same amount of time is going to be spent in amending Section 3 because it has nothing to hang on.

MR. TOBIAS

I disagree; there is some merit to what you say, I agree. But, I think that that particular procedure as set forth there should be left to the legislature.

[Amendment rejected: 14-64. Motion to reconsider tabled.]

Chairman Henry in the Chair

Amendment

MR. POYNTER

Mr. Avant sends up amendments reading as follows:

Amendment No. 1. On page 2, delete lines 15 through 22, both inclusive in their entirety and on line 23 delete "pose, the" and insert in lieu thereof the following:

"Section 2. The legislature, by a two-thirds favorable vote of the elected members of each house, may submit to the electors a proposition to call a constitutional convention. The proposition shall specify the composition of the convention, the duration, time, and place it is to be held, and any limitations on constitutional change to be placed upon the convention. If the proposition is approved by a majority of the electors voting thereon, the convention shall be held in accordance with the call. The"

MR. AVANT

Mr. Chairman and fellow delegates, I don't think the amendment requires a whole lot of explanation. First, I would like to point out—and this is just what I believe, you may believe differently; if you do I'm not going to argue with you about it—but, I believe that the redrafting of a new constitution or an entire document is a greatly different matter than a simple, single-shot amendment to the constitution. I think that the holding of a constitutional convention in which the entire basic charter of the people of the state is going to be rewritten is a very substantial, and significant, and far-reaching operation. For that reason, I believe and feel that while it is necessary that we provide some mechanism whereby the legislature may initiate such a convention, that there must be certain specific guidelines and certain specific information that must be submitted to the people and that the people themselves should have the right, (1) to make the final decision whether or not there will be any such convention and secondly, after the convention has finished its work if the people want it, to be given the opportunity to approve or disapprove the product because, as I say, you are dealing with the entire basic, fundamental charter or contract under which all of the people of the state must live. For that reason, I thought that the committee proposal, as it was originally submitted in Section 2, was deficient in that it did not provide that the call for a convention must specify how that convention would be constituted, neither was there any requirement that it specify how long the convention would last, or where it would meet, or what, if any, limitations were placed upon it. Most significantly, as I read the committee proposal....well, I've already said that. So, I think that these are things which are vital, are important, are of a very fundamental nature that the people are entitled to know before they are asked to vote on the question of whether or not they are going to have a convention; I think they should vote on that proposition. So, without outdoing my welcome I think I've made a sufficient explanation of what I am trying to accomplish—or I'm asking you to help me to accomplish. I would be happy to answer any questions if anybody has any questions.

Questions

MR. STAGG

Mr. Avant, it is not your intention in this kind of proposal to be brought forth from the legislature that there be any limitation on the kinds or qualities of the delegates that would be in the call and the people if they didn't like the way the legislature suggested it....105 elected and 27 appointed, if they thought that was too many they could say, "Hell, no, we won't play."

MR. AVANT

That's right.

MR. LEBLEU

My question was basically the same. I just wondered whether your objections was to the way that the convention delegates are selected.

MR. AVANT

For this convention?

MR. LEBLEU

Yea.

MR. AVANT

Mr. LeBleu....

MR. LEBLEU

...and whether any objections you heard were, you know, to the way that they were selected or whether you thought that the people should say which way they would be selected.

MR. AVANT

Mr. LeBleu, as you know, I ran for this job; I didn't get elected; I was subsequently appointed. There have been a lot of remarks made about the appointment of delegates. I, personally, think that certain delegates should be appointed. But, I think that's something for the people to decide. If they don't want any appointed delegates and the call provides for them, then they can vote against it. I personally think that many of the appointed delegates in this convention have done an outstanding job, and I'm not speaking of myself either.

MR. LEBLEU

Well, I'm in complete agreement with you. But, I think if you submitted it to the people as a choice of whether you want to select your delegates in a specific manner or do you not want

to select any...or you don't want a convention at all, that's the only choice that the public would have.

MR. AVANT

Well, no. The way that this article is written, Mr. LeBleu, the legislature would issue the call, they say, "Do you want to have a convention?" The people would say, "Yes, we want a convention." Then, it's completely up to the legislature after that. They can say, "Well, O.K., we are going to have a convention and it's going to be us," or, it could be all appointed delegates, or, they could say, "Well, the convention will consist of the governor, and the lieutenant governor, and all of the statewide elected officers." There is nothing that said how the convention will be constituted. I think that it is a matter of a very serious nature, as I've said before. I think that the people should have the right to make that decision. They should have the right in considering whether or not they want to have a convention, to look at how it is going to be constituted. "Is it going to be all elected? Is it going to be partially elected, partially appointed? What are we getting into?" I think the people have that right. I think we've got to guarantee that they have that right.

MR. BURNS

Mr. Avant, that question about the appointment of delegates-- that's provided for in Section 3.

MR. AVANT

Well now, no, sir. That is on that automatic thing that comes up every ten years, you see; this is when the legislature calls it. The other thing is, every ten years the people are going to vote, "Do you want to have a convention?" Then, if they want to have a convention, there will be a hundred and five elected delegates. Then, the legislature may provide for twenty-seven appointed delegates. But, I'm not talking about that right now. I'm talking about when the legislature calls one, just like they called this one.

MR. LANIER

Mr. Avant, am I correct in that the procedure that you are setting up means that you have to submit to the people whether or not they want to call a convention? Then, you would elect the delegates, if it's set up to have elected delegates. Then, after they do all of their work you give it back to the people to see whether or not they approve what the delegates came up with.

MR. AVANT

They get two shots at it--are we going to have it; then, after you have it, they get a chance to look at the finished product. As far as the election of the delegates, I think under the amendment that I have, if that's the way the call is going to be, you could elect those delegates at the same time you're voting on the proposition, are you going to have the call. I see no prohibition against that.

MR. LANIER

Well, the point I wanted to get to is why do you feel that the people need two shots at it instead of one shot?

MR. AVANT

Because it's their constitution and they are the ones who's going to have to live under it.

MR. DUVAL

Mr. Avant, I understand your concept, but I'm wondering would it discourage somebody to spend the money to run when they might not have an office to run for?

MR. AVANT

Well, I understand they did that once before but they don't have to do it that way, Mr. Duval. They can do it in three stages. They can say, "Are we going to have it?" If there are going to be elected delegates, then they can come back and elect the delegates and have the convention and then vote on it again, or they can do it the other way. But, I do understand that in 1956, I think it was, that they put the proposition on the ballot "Will we have a convention" which was going to have so many elected delegates and so many appointed delegates. Then, the elected delegates ran at the same time they voted on whether they were going to have the convention but the people voted it down; they said, "Well, no, we're not going to have it." Now, I've heard people say that the reason that was, was because they had provided for twenty appointed delegates. Now, I frankly don't remember; twenty years ago, you know, is a long time. I can't even remember what happened yesterday.

[Previous Question ordered. Amendment adopted: 54-22. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Mr. Casey sends up amendments. Amendment No. 1. On page 2, delete lines 15 through 22, both inclusive in their entirety-- and we need to add, Mr. Casey, or we can go on a little bit further-- and on line 23 delete the partial word and punctuation "pose," and strike out convention Floor Amendment No. 1 proposed by Mr. Avant and just adopted in its entirety and insert in lieu thereof the following: (there is a change in the text)

"Section 2. The legislature, (here's the change) by a two-thirds vote of the elected membership of each house, may provide by law for the calling of a constitutional convention. The convention may be called whenever the legislature considers it desirable to revise or to propose a new constitution. The convention or".

Explanation

MR. CASEY

Mr. Chairman and delegates, I'm advancing this particular amendment which differs greatly, I believe, from the concept advanced in the Avant amendment, and which I believe is contained in the committee proposal, that concept to being in the committee proposal in the Avant amendment that you must have a vote of the people before you can even hold a constitutional convention. My concept that I'm advancing is that it would permit the legislature by law to establish the method for merely calling the convention. If the convention . . . if the legislature rather wishes to submit it to the people for determination as to whether you're going to have a vote of the people to hold a constitutional convention, the legislature could do it. If the legislature wishes by law to establish a convention just as it did in Act 2 of 1972, then they could use that method. But, they would have quite a bit of flexibility and latitude to call a convention to establish the method of calling to determine the time of calling and the place, etc. I readily admit it differs greatly from the concept of the Avant amendment and the committee proposal, and I merely wish to advance the thought that we ought to remain flexible, that ten years from now it may be appropriate to permit the legislature to call a convention rather than submitting same to a vote of the people. That's merely what my amendment does, I believe, and I hope have not oversimplified my explanation.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I rise in opposition to the Casey amendment and I do it primarily because in his amendment he deletes the Avant amendment, and the reason for the Avant amendment over the committee's proposal was that you require that when you have-- proposed to have the convention, the public is notified as to the way in which the delegates are to be selected, the scope and powers of the convention, where it is to be held, etc. Under Mr. Casey's amendment this is not necessary. The two-thirds vote of the legislature could call a convention in any manner in which they saw fit and not submit it to the people in the form in which it's to be held, the powers of that convention as to whether or not they had any limitations, etc. So, I think, we had better look at this thing very carefully in comparison to what has already been adopted because what we adopted before is a format for the calling of conventions and mandating to the legislature the way in which they have to propose it to the public. I think it's a much better approach in the Avant amendment than it is by the Casey amendment. I don't want to mean that I don't trust the legislature, I don't mean that, but I do say to you that when we have it in the constitution then everybody knows exactly what the procedure is to be for the calling of a new constitutional convention. I think that the public's entitled to know that in advance. I ask you to reject the Casey amendment.

Questions

MR. LANIER

Mr. Flory, with all of the procedures that we've set forth in the Legislative Article, wouldn't the public know about what the limitations and the composition of the constitutional convention would be when a bill calling such would be run through the legislature?

MR. FLORY

Not necessarily because there's no advertisement here required or there's no prefilling required. It can be introduced on midnight of the fifteenth day of a session. It can be acted on within five days and passed and the convention can be called under this amendment with no prior notice.

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Further Discussion

MR. KEAN

Mr. Chairman and fellow delegates, we started this discussion with the suggestion that it was necessary to put some provision in this new constitution which would avoid any uncertainty that the manner in which this convention was called was not illegal. Now, we've gone far from that in the proposal that's here before us. I think we need to understand what the options are in connection with the Avant amendment and the proposal now advanced by Mr. Casey. The question is whether or not we're going to make the calling of a constitutional convention more restrictive. In my opinion, as suggested by Mr. Casey, and I support his amendment; we should have flexibility with respect to the calling of a constitutional convention. We had it in 1972, and I see no reason to take it away from the legislature in future years. It seems to me that if the public, the people of this state have to vote on and approve the constitution that's offered by any convention that is called, then that should give the safeguard enough. What we're doing here ought to be to simply say this is the manner in which you can call this and elect a convention if it's desirable to do so and then leave it to the people to approve or disapprove the work of that convention. I think to go as far as Mr. Avant has gone in his amendment simply makes it that much more restrictive and makes it that much more difficult to call a constitutional convention even though there might be desirable reasons for doing so. I can see the issue becoming a political issue having to get out and have a fight in the state with various interests and elements that are taking part in that to determine whether or not you needed to have a constitutional convention when in fact, there is great need for that convention. I suggest to you that Mr. Casey's proposal, it does provide the flexibility, it continues to safeguard a revolt on the document that that convention might bring forth. I urge your support of Mr. Casey's amendment in order to retain the flexibility I think we need in dealing with future constitutional change.

Question

MR. AVANT

Gordon, it has been said by some people -- I don't necessarily agree with them-- but it has been said by some people that the people of the state maybe were offended by the fact that there was some appointed delegates to this convention, and that that kind of put the bad mouth on it, etc. Now, wouldn't it be nice really to know that in advance because if those people are right--and I don't think they are-- but if they are, and this convention . . . the work of this convention was to be defeated because of that fact then we would have had a monumental waste of time and money, would we not?

MR. KEAN

Mr. Avant, if the work of this convention is defeated, I don't think it will be because we had appointed delegates. It will be because the people feel that the product we give to them does not justify their support of it. I can't see any basis for saying that we ought to have an election to determine whether or not the people are in favor of appointed delegates in order to have a constitutional convention. I think that's a waste of time. I think in the final analysis the product at that convention whether it's this one constituted as it is or whether it's the legislature sitting as a constitutional convention or however you want to do it is going to determine whether or not you, the people, are going to adopt that particular document.

Further Discussion

MR. BOLLINGER

Mr. Chairman and fellow delegates, in the first amendment or the Tobias amendment everyone spoke about the need for establishing a legal process for calling a convention that would not have to go to courts for interpretation. I think the Casey amendment fulfills that need. I think we have to look at what the people are going to have to decide. Under the Avant amendment you're going to have to have the legislature by a two-thirds vote decide on if they would like to have a convention. If they decide this, then you give it to the people, have the people decide if they want the convention and if so,

it comes back to the legislature, they establish a procedure, the convention is held, the document is written, then it goes back to the people to ask them again if they are satisfied with the work that the convention has done. Think about what the legislature can do now with a two-thirds vote without the approval of the people. They can tax individuals practically out of existence. However, you won't allow them to call a constitutional convention. With a majority vote they can enact criminal laws that can make life terrifically difficult, but yet you won't by a two-thirds vote allow them to call a constitutional convention. I think we have to analyze just how far we can go with presenting things to the people. I imagine if you would take a poll. . . if you would have taken a poll in 1972 and found out how many people knew what a constitutional convention was over fifty percent of this

state's population wouldn't have known. Yet, you want to propose to them, "Do you want a convention?" Now, when it comes down to changing the law and you say, "Well, do you want the new constitution?" I think it's a different matter. I think they can examine the difference and see the difference between a proposed constitution and an existing constitution. I think to be more flexible to allow the legislature the flexibility it needs as far as the constitutional convention would go that we ought to adopt the Casey amendment in lieu of the Avant amendment and not force the people to vote on every time the legislature would desire or see the need to rewrite the constitution. I yield to any questions.

Questions

MR. FLORY

Mr. Bollinger, isn't it true that if the people have the option of deciding whether or not they want a constitutional convention, and if they vote no, then they've saved the state three million dollars or four million from having the convention rather than saying just you're going to have the convention then let the people decide whether they adopt it after the three or four million is spent, isn't that true?

MR. BOLLINGER

That is true, but it's also possible that the people might decide to have. . . might decide not to have a convention and had they had a convention, the law would have been revamped and updated as it would have been necessary. I think this is what we have to look at in examining what's before the convention now, not the possibility of saving the state three million dollars, but will the people allow a convention to be called or should the convention be called, and let the people decide on whether they will accept the work that the convention produces.

MR. FLORY

Secondly, don't you believe that a governor just elected for his first term at the height of his popularity could get two-thirds vote of the legislature to have any kind of convention he wanted to under this amendment?

MR. BOLLINGER

I don't think so.

MS. ZERVIGON

Mr. Bollinger, you were talking about holding the two elections and possibly a third if you decided not to elect delegates at the same time when you put the call on the ballot because of Mr. Duval's reservation about trying to get good people to run for a convention, they weren't sure whether or not it was going to be held. The time lapse could be considerable, couldn't it?

MR. BOLLINGER

Very possibly so. In fact, it would seem to me before the legislature could even call a convention it would probably take two years.

MS. ZERVIGON

So that the other problem would be that one of the things we've tried to avoid in this convention is asking the people to buy a pig in a poke. But, if you had to ratify the call you would be asked by several groups who may have something in the constitution that they don't particularly want to lose to reject that same pig in the poke still not being able to peek in at the pig, right?

MR. BOLLINGER

That is correct.

MS. ZERVIGON

Better though perhaps that they should vote in the end when they can see the full pig.

MR. NEWTON

Mr. Bollinger, don't you think that having a two-thirds vote in the legislature for calling of a convention might result in the kind of political horse trading you know that would severely limit a constitutional convention either by who was going to be delegates or what subjects could be taken up by that convention?

MR. BOLLINGER

Well, I think you could apply that to almost anything that requires a two-thirds vote at this time. I think that two-thirds vote is an adequate safeguard, and I think it would . . .

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Further Discussion

MR. ABRAHAM

Mr. Chairman, ladies and gentlemen, I rise in support of this amendment because I don't think it's necessary to go through the two steps. In Section 2 we're going to provide for the legislature to call a convention, but it still has to go to the people. . . a vote of the people as whether we have a convention or not. Then we come right back around in Section 3 and provide an automatic process by which the people can decide whether they want a constitutional convention or not. If the intent of Section 2 is to allow the legislature some flexibility or some leeway in this then we've taken all the leeway away from them right again by having them submit this thing to the people. The people have their say so. In Section 3; it's automatic they get it every ten years if this proposal stands as it does. I think the legislature does need some leeway in this thing and I just can't see the advantage or the necessity of submitting this thing to the people twice. You submit the call to them first and then you submit the constitution to them. Now, I voted for the Avant amendment because I think that it was better written than the proposal as it now stands, but I think the Casey amendment is even better. If our intent is to provide two methods by which a convention can be called either through a legislature or through the people then let's treat them as two separate issues as we have had here in Sections 2 and 3. Section 2 should empower the legislature the call of a convention. Section 3 should empower the people to do so. I urge the adoption of the Casey amendment.

Questions

MR. DREW

Mack, if we don't adopt this amendment and delete the Avant amendment, aren't we in effect giving all groups that may have a particular provision that's sacred to them a double shot at defeating any possibility of improving the constitution?

MR. ABRAHAM

That's exactly correct. Not only that, Homer, but many people would vote against the convention if they didn't like the makeup or the composition or the duration of time of it. I mean they would vote against calling the convention.

MR. O'NEILL

Well, Mack, are you saying they shouldn't have a chance to vote on the composition or makeup and what have you if they don't like it and it should be held anyway?

MR. ABRAHAM

What I'm saying, Gary, is that they're going to have a chance to vote on calling a convention in Section 3. If our intent here is to give a legislature some flexibility here in Section 2 then I think we need to let them have a flexibility to call the convention. The same way as this convention here was called.

MR. O'NEILL

Well, Mack, I have no assurances voting in this section that Section 3 is going to stay exactly like it is. As a matter of fact, I doubt that it will. So, you're saying in effect you're going to be able to have the legislature determine the composition, the makeup, what scope the convention will have and just every other facet of it, and the only time the people will have a chance to vote on the convention is on its final passage.

MR. ABRAHAM

Of course, you're basing this on the assumption that Section 3 may not pass, Gary, and I think it's good that the people should have an opportunity to decide for themselves whether to call a convention or not. I think Section 3 provides this. I think the intent of Section 2 . . .

MR. O'NEILL

Well, Mack, I'm working on the assumption that Section 2 is what we're talking about right now and Section 3 doesn't have anything to do with it.

MR. ABRAHAM

Well, I think we ought to approach the problem as what we're trying to get out of this article here. It's my understanding that the intent of Section 2 is to give the legislature the flexibility or the leeway of calling a convention, and I think that's what we should try to do. Then you take care of Section 3 when we get to it.

MR. O'NEILL

Well, you're saying now you want to give the legislature flexibility, but then I saw an amendment here that had your name on it that you were going to put the complete makeup on it, so you know, you're confusing me; I don't know what you want to do.

MR. ABRAHAM

Well, my amendment. . . since this one is going to . . . since the Avant amendment passed which is going to provide . . . the convention, mine is no longer necessary.

MR. LANIER

Mr. Abraham, as I look at Section 2 here it says, "a convention called by the legislature," and as I look at Section 3 it's entitled, "a convention called by the people," is that right?

MR. ABRAHAM

That's right.

MR. LANIER

But, what Mr. Avant has done is put the people in Number 2 also as a condition precedent for the legislature calling a convention, is that correct?

MR. ABRAHAM

That's correct. I think we're defeating our purpose here.

Further Discussion

MR. JENKINS

Mr. Chairman, delegates, the Bill of Rights Committee supports the Avant amendment as it was adopted. I think that the committee's position is to oppose this amendment. Most of the objections that have been raised to Mr. Avant's amendment I don't think are well-taken, or well-founded. The problem that this convention seems to suffer from is a lack of public interest. If last year, the people of this state had had on the ballot a proposition, "shall a convention be called pursuant to Act 2 of 1972," I don't have any doubt that it would have passed. Unlike what Mr. Bollinger said when he said that last year the people knew nothing about the convention, unlike that situation, we would have had a situation then where the people would have fully discussed it, would have understood the impact of what a convention could do, and why we need it. They would have either at that election or at a subsequent election elected the delegates to that convention. I think at this stage in our deliberations we would have more public support and public interest and that our work would have a much higher chance of passing than it has now. The way Mr. Casey's amendment is worded you could have on the last day for filing bills in the session of the legislature you could have a bill introduced, it would be simply a law, require two-thirds vote. It could be passed right away without any public discussion of it and then you'd have again perhaps a year long series of deliberations by a constitutional convention spending millions of dollars for something that the people really may not particularly be enthused about or want. As far as the time delays are concerned, let me give you an example, even if you had three elections-- and Mr. Avant's amendment allows you to do it with two elections-- one amendment . . . or one election would be that when the proposition would be on the ballot and you could also elect delegates at that time, second one would be the vote on the final document, or his amendment also allows you to have three votes. First, on the proposition to call a convention, second, the election for delegates, and third, on the new constitution. Let's suppose that the legislature chose the three elections; take the general election in February, 1976, that's the general election for governor, that proposition could be on the ballot. In the general election of November, 1976, the presidential election, the election of delegates could be held. Two years later, the vote on the constitution could take place at the general election of November, '78. That's without any special elections being called and special elections could be called under this. So, under a system like that it could be just a little more than two years. I think we tend to think that a constitutional convention and the whole process needs to act very rapidly and probably in our own case it does because we've waited so long to improve the situation. But, constitutional reform should be a very deliberate, well thought-out process, should not be an overnight thing or even a thing accomplished in one year. I think one of the reasons that we're able to do what we're doing in one year is because we had a Constitutional Revision Commission working for a couple of years before we ever started. I think much of the information we've worked on has been based on that prior research and the information and knowledge gained by the people who participated there. But, I think, it's certainly preferable to have the people vote on whether a convention is going to be called before you begin a year or two year long undertaking of revising the constitution because that way the new document come up with by the constitution is going to have a much better chance of passage. So, I urge you to vote against these amendments.

Questions

MR. DUVAL

Woody, don't you think . . . although I understand your purpose and Mr. Avant's purpose is to give the people's voice. Don't you think though that it really won't help the people because you're

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going to have a great big fight by the vested interests not to have a constitutional convention and the people will never get to look at new proposed constitution in the first place. Don't you think that's possible?

MR. JENKINS

Well, you're always going to have established interest trying to fight a constitution whether it's a call for a convention or whether it's the finished document. But, I really think that if the people of the state want us to have a constitutional convention, that they'll vote to do it, particularly when they know the terms of it. That's the important thing. If the people don't want a constitutional convention to meet, why in the world should you have one?

MR. DUVAL

They have elected representatives to make that type of decision, and they would have the alternate decision whether the finished document they want or not.

MR. JENKINS

Well, it's like Mr. Bollinger said, he was saying the legislature can do many things by a two-thirds vote, tax people out of existence. False. The legislature can't by a two-thirds vote tax people out of existence because of the limitations in this constitution. He said, also by a two-thirds vote the legislature can take away our basic rights. False, because the constitution we have has prohibited that. That's what the constitution is for and it's the most important document.

[Previous Question ordered.]

Closing

MR. CASEY

Mr. Chairman and delegates, I think we have a very important decision to make right now. A very important question to decide, and that is, the future calling of a constitutional question when it is deemed necessary because a change in law is actually necessary. Now, if we're going to as delegates, and if we're going to . . . those of us who are legislators-- as legislators leave everything for a decision of the people, we're not going to accomplish anything. You don't run government that way as far as I'm concerned. I'm a strong believer in representative government; that's why people get elected. That's why they're screened by the electorate; that's why they make speeches when they run for office. That's why they appear before groups. That's why their qualifications are carefully perused, carefully looked at before they're actually elected to office. That's the purpose of representative government. If we're going to submit everything to the people for a decision, you may as well close your legislature down. To me, that's the crux of the problem here, how far do we have to go-- how far do we have to go in letting people vote on everything. Now, this is ridiculous as far as I'm concerned to require a vote of the people to determine whether you're going to have a constitutional amendment. To enunciate in that call the scope of the call and obviously it's a constitutional convention, to enunciate where it's going to be held, to enunciate many of the other details--that to me and that's my opinion, my humble opinion -- it's absolutely unnecessary. I think it was well done in this particular case in Act 2 of 1972, everybody knew about it, there was no secret about it and let's face it, the real issue was also submitted to the people in the form of the election of one hundred and five delegates. Everybody knew about it, everybody went to the polls, they knew it was coming. There was no secret about it because one hundred and five people and many others in addition to those one hundred five campaigned; they went to the people. The people knew that a convention was coming and they voted for their delegates. They knew what was going on and let's face it, in ten years from now when the legislature, if you give them that opportunity, if the legislature decides that we need a convention, the people are going to know about it. It's going to be no secret, nobody is going to go behind closed doors. There'll be no devious means of calling a convention because the end result is, and you know that --as Mr. Willis always says, "we the people" -- we the people are going to decide on the end product anyway, and why waste a lot of valuable time and state money to hold a convention when all that's necessary is for the legislature to call a convention, and if they wish to do it in the manner that we were called into session, that's all that's necessary, but let the legislature decide it. Mr. Jenkins indicates that we suffer from a lack of public interest, that's our main problem, and implies that because we didn't have an election for the convention itself that that's our problem. We suffer, ladies and gentlemen, not from a lack of interest or public interest because the people knew about it. I don't condone that lack of interest; I think it's absolutely pathetic, and I've always said that, for lack of interest that people generally have in our government. But, I think the decision we have to make now, and I think the thing we suffer from now is a lack of confidence in the legislature. That's what you're voting on right now. So, please whatever you do, allow the flexibility in the future that's necessary to convene a constitutional convention. If a few years

from now it becomes necessary, if we've made a lot of mistakes or if revision is necessary, if we have a lot of changes to make, allow the legislature to call another constitutional convention and don't saddle them with something like we have in the proposal as it exists right now. I can't urge you strong enough to adopt this amendment, and permit two-thirds of the elected membership of each house to determine whether you're going to hold a convention, and to determine the method of holding that convention. I urge adoption of this amendment.

[Record vote ordered. Amendment adopted: 57-41. Motion to reconsider tabled.]

Personal Privilege

MR. OURSO

Regardless of how this convention comes out or how it goes, is there any way that we can fix it where Delegate Willis and Bollinger can not run for election again if it's ten years from now or so because of them coming through my parish? I'm so tired of pulling them out of canals and fixing tickets for them. I was just wondering if we could do something about it.

MR. HENRY

Sheriff Ourso, from what I understand the voters in both their districts are suffering from illness and fatigue. They're sick and tired of both of them so I don't think you have any thing to worry about.

[Previous Question ordered on the Section. Section passed: 88-6. Motion to reconsider tabled.]

Personal Privilege

MR. LEBLEU

Mr. Chairman and fellow members, I don't know how many of you received this letter in the mail that was just placed on my desk a short time ago. The envelope is marked LSU-NO, but it was postmarked Baton Rouge. Did any of you receive this thing in the mail today? Let me read it to you. Items of this sort have been circulated in the legislature in the past, but I don't know what the attempt of this letter is. But, let me read it to you and then you can just judge for yourself. They didn't spell my name right. It's a mimeographed form and my name is handwritten and it's signed by A.C. Charles.

"Mr. LeBleu, I want to take this opportunity to thank you for the help you have given us. As you know, if we succeed in getting the LSU Board of Supervisors abolished and then gain control of the Superboard, we will be able to change our name from LSU-NO to the University of Louisiana. In effect we will have moved the state university from Baton Rouge to New Orleans. This will allow Louisians to have a true state university which is urban oriented. After all we in New Orleans have one-third of the state's population, and we are entitled to be the University of Louisiana. We can turn LSU-Baton Rouge into just another little cow college. I don't know how things are going to turn out, but I did want to express appreciation for your support."

In every vote that was taken in the convention, I've supported Mr. Leithman's concept of a one board for education, but I hesitate to think of why they singled me and Mr. Bollinger out, rather than the other folks who supported Mr. Leithman's concept. But, when you consider the character of people who send missives like this in the mail, I just wonder whether the money that we appropriate for as to LSU-NO or LSU-Baton Rouge--I question whether it's well spent.

Personal Privilege

MR. J. JACKSON

Mr. Chairman, particularly Mr. LeBleu and Mr. Bollinger, I think that the letters that you received--I'm not in any position up here to say that I'm defending LSU-NO--but I would seriously... I think somebody was playing a joke, Mr. Bollinger and Mr. LeBleu. I would ask the delegates, no matter what your position on Education Article, that I cannot conceive of the people who I've met representing LSU-NO would very well send a letter out like that. I think that's somebody else other than representatives of the LSU-

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NO people as indicated by the postmark that you said yourself. I just would like you to keep that in mind.

[Motion to waive reading of Section 3 adopted without objection.]

Explanation

MR. JENKINS

Mr. Chairman and delegates, the purpose of this section is to give the people of the state a way to alter their basic law and a way to control their destiny if the legislature is not responsive to their needs. I'll give you one example of why that is so important. As late as 1960, the parish of East Baton Rouge had only two representatives sitting in this hall. We had a situation where we had a population imbalance with regard to voting in the legislature. Until the one man-one vote decision of the Supreme Court which caused reapportionment, we had malapportionment of legislatures and heavily populated areas did not have their proportionate strength in the legislature. There needs to be some way whereby from time to time the people can control their destiny even though the legislature does not agree with that idea. So the purpose of this section is to provide that periodically the question would appear on the ballot as to whether or not a constitutional convention will be held. Earlier in the discussion of this article, some delegates raised objections to the particular dates and time limits in this section. They said first that they thought that 1986 was too soon to have on the ballot the question of whether or not to hold a convention. Second, they felt that every tenth year was too often to have the proposition on the ballot, and so in a few moments on behalf of the committee I want to offer an amendment to change those dates so that the first date would be 1994, that in the year 1994, twenty years from this year, the question would appear on the ballot as to whether or not the people wanted to hold a constitutional convention. Then every twenty years thereafter, the same proposition would appear. That would give to each generation an opportunity to decide whether or not they were satisfied with the constitution they had or whether they wanted to hold a convention to offer another one. Naturally, if the legislature were to hold a convention under Section 2 between now and 1994, then that new convention would probably change those dates and alter the time limits and things like that. So, this Section 3 would not come into play then. If I may, I'd like to offer that amendment, Mr. Chairman.

Amendment

MR. POYNTER

The amendment was passed out with Mrs. Zervigon's name on it. She does not wish to go with it, but Delegate Perez and Reverend Stovall do. So, it will be the Pe...Willis and Stovall...

Amendment No. 1. On page 2, delete lines 29 through 32 both inclusive in their entirety, and on page 3 delete lines 1 through 10 both inclusive in their entirety.

Point of Information

MR. GOLDMAN

The only amendment to delete that I have on my desk is one by Avant. I don't have any by any of these other folks.

MR. HENRY

A deletion is a deletion is a deletion, so it doesn't make a whole lot of difference.

Proceed, Mrs. Zervigon.

MR. DUVAL

Thank you, Mr. Chairman.

MR. HENRY

Well, what a deep voice you have.

MR. DUVAL

This is quite an honor.

MR. HENRY

Wait just a moment.

Point of Information

MR. WILLIS

Mr. Chairman, I heard my name mentioned, I think, on one

of these amendments. I'm not on any amendment. I heard the Clerk name Willis. I'm the only one Willis here.

MR. HENRY

Well, Mr. Willis, you know we're just trying to help the amendment along a little bit and give it a little color, I guess. I don't know; I haven't seen the amendment. Rest easy.

MR. POYNTER

It's going to be Mr. Duval instead of you.

Explanation

MR. DUVAL

Mr. Chairman, fellow delegates, this amendment deletes this provision, Section 3, for the following reasons: the legislature under Section 2 could, of course, do this if it so wished. But, I think Section 3 is totally arbitrary. It takes away the analytical process completely. It uses 1986. We in this convention are now determining it every ten years whether the people want it or not. They're going to have to vote on whether there's going to be a constitutional convention. You may have five percent of the electorate who vote and vote to have one when nobody really wants one, or vice versa. I think it's an arbitrary provision to have every ten years. I think your legislators who have the feel of the pulse of the public are responsive enough to do this when the time comes, but this doesn't give the people any initiative because they can't initiate it on its own when it's necessary. It's just every ten years. It may be a very untimely political atmosphere and very few people might vote for or against it. I think it's totally unnecessary, and certainly should be deleted as it's arbitrary and has absolutely no analytical merit at all.

Questions

MR. ANZALONE

Ma'am, a portion of what is contained in this amendment has already been taken care of by the Avant amendment; isn't that right Ma'am?

MR. DUVAL

The Avant amendment has not been introduced, but that's correct.

MR. JENKINS

Stan, you said that the legislature will do this if the people want it; is that correct?

MR. DUVAL

I said they can do this if the people want it, and I think that they probably would.

MR. JENKINS

What if for some reason the legislature is no longer representative of the people? For example: from the years 1921 until just a couple of years ago the legislature of Louisiana did not meet its constitutional obligation of reapportionment and there was a tremendous malapportionment whereby a very populous parish like East Baton Rouge had only one out of thirty-nine Senators and two out of a hundred and five Representatives. Now, isn't it proper that because things like that do occur and can occur and probably, for some reason or another, will occur in the future that we have some safeguard and check to make sure that the people do have basic control of their government?

MR. DUVAL

Woody, I understand your question, but I don't regard this proposed constitution as a cure-all for all of our problems. We can't solve every instance that's occurred in the history of Louisiana. Taking the proposal on its own merit, it seems arbitrary and it can have consequences and ramifications that I do not think make it a worthwhile constitutional provision.

MR. JENKINS

Well, isn't it true that any time you talk about constitutional revision virtually all of the things that we put in here are arbitrary--the two-thirds vote, for example? There's many, many arbitrary things we put in here simply because, while they are arbitrary, they are also safeguards for the people of the state; isn't that true?

MR. DUVAL

It's a matter of opinion. In my opinion it shouldn't be in here; in your opinion it should. My reasons are that it comes up every ten years without the pulse of the people being taken and

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some...it could be passed. We could have a constitutional convention when only a very small percentage of the people vote on it. I don't think it's a good idea.

MR. JENKINS

Also, isn't it true that under the present provision one-third of the legislature can stop a constitutional convention for years and years and years? For example, just fourteen members of the Senate, if a special interest group could control them or have influence with them under both Sections 1 and 2, that a constitutional convention and constitutional amendments could be stopped for many, many years.

MR. DUVAL

That's very true. I think you were for the two-thirds concept as I recall.

MR. JENKINS

Yes, I was for it, but I was also for it--do you know--because we also had Section 3, whereby periodically the people can have a constitutional convention?

MR. DUVAL

I'm aware that one-third of the legislature could; yes.

MRS. WARREN

Mr. Duval, as you notice, I sat here, and when the roll was called, I abstained from voting because I felt that this was going to happen. I noticed that in talking, Mr. Casey mentioned that the legislature, this was a convention to be called by the legislature in leaving flexibility and then they mentioned "convention called by the people" and it was said that at this time, people would have a chance to speak or have a part in it. Of course, I got a little bit confused. Now, where does the people stand?

MR. DUVAL

Well, the people stand this way: 1. They elect the representatives, two-thirds of which have to call the convention. 2. They vote on the document, whether they want it or not. This is when the people can see the facts, when the document is actually completed, and the people can look at it. Then their voice really means something when they can vote yes, or nay for the new proposed document. That's a plenty big voice.

Further Discussion

MRS. ZERVIGON

Mr. Chairman and delegates, I think the idea of automatically submitting to the people every ten years the question of whether or not a new constitution is needed is a good one, whether it's ten years or twenty years is not as important as the concept that the people are asked to consider what's in their constitution and whether or not it needs revision every so often is a concept within the constitutions of other states, and I think it's a good one. I had originally drawn an amendment to delete this section only because I had combined the two concepts, two and three, in one amendment as an amendment to Section 2, which I withdrew in favor of Mr. Avant's amendment. I think we ought to think long and hard before deleting this because we don't like some of the details. For example, I don't like the specificity of a hundred and five elected and twenty-seven appointed. I think that's rather silly. I believe that we could rephrase that so that the question on the ballot would say what the makeup of the convention would be, and the time and place, and what would be in the call and that sort of thing. We could phrase it as a mandate to the legislature. But, I think one of the problems we've had in Louisiana is that people don't think about the constitution as much as they should, what ought to be in it, what it ought to do, what it can't do, and that sort of thing. Just to put the question before the people every so often, I believe, is a good idea. It's no trouble; it's no expense; it's just a good mechanism for allowing the people to exercise their citizenship, and should one-third plus one of the senators, for example, form a block against constitutional revision and determine when constitutional revision is badly needed, the people would have a right to express their desires in this, and we could call a convention. So, I urge you, let's clean up this section, but let's not delete it.

Question

MR. BERGERON

Mary, during our deliberations in the Constitutional Convention, we've done a lot of remodeling, I guess you might say; for instance, we've deleted the comptroller as an elected official

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and who might be appointed. We're also affecting other officers which may be elected or appointed after a certain date. If we do not have a provision such as this in the constitution, and as you stated, it's no real trouble to put it on the ballot every ten years, do you feel that in the next twenty or thirty years even if the people want a constitutional convention, that, maybe the legislators would be hesitant to call a constitutional convention, and feel that it may hurt some of the people who are affected, or who have their offices spelled out in the constitution? Don't you feel that there'd be pressure from both sides, trying to stop the calling of the constitutional convention?

MRS. ZERVIGON

Well, I think you make a point. In addition to that, I don't think the legislators within the next twenty years would feel really easy about saying, "Well, we're going to spend another four million dollars and revise it again." But, if they knew the people wanted it, they wouldn't feel badly about doing it. So, this just puts it automatically to the people, lets the people express their will. If the people say no, that's fine. You wait another twenty years before you ask them again.

Further Discussion

MR. JENKINS

Mr. Chairman, delegates, you will recall that it took fifty-two years from the time of the last constitutional convention and the time this Constitutional Convention was begun--fifty-two years. Throughout that fifty-two years, Louisiana needed a better constitution, but no convention was held. When it appeared on the ballot, the people voted it down because they thought the governor in 1956 was going to attempt to control the new convention, and write the new constitution to his liking. That certainly would be a defect and sometimes as we would have done under Section 2, having the people always vote on the call because when a governor initiated it, certainly, the argument could be made that he was trying to take control. But, when the proposition is automatically on the ballot, that argument cannot be there because it would have been set long before by the drafters of this constitution. The committee, if this amendment does not pass, will offer an amendment to change the date from 1986 to 1994, so that twenty years from now when a new generation of Louisianians populate this state, there will be a vote on whether to call a convention, regardless of whether the legislature has acted, regardless of whether the high hopes of an independent and responsible legislature have come true, the next generation will have a chance in 1994 and every twenty years thereafter, not ten. Now, I don't understand why that troubles people, that twenty years from now the proposition would be on the ballot. Who can that harm? What damage can that do? I want to know that regardless of whether we have fine people populating the legislature and in the governor's mansion, that the citizens of this state can ultimately control their own destiny. That's why twenty years from now the people ought to have a chance to do just that so that it won't be another fifty-two years that we live under this document, if this is not a good document, that if the people see that it's time to have a new one, that they can call one. You know, you may have a majority of the people wanting something, and yet, two-thirds of the legislature won't vote for it. Two-thirds and a majority are different. I think the two-thirds requirement in Section 2 is good. I was for it. But, ultimately, if a majority wants to change, it ought to be able to do it at some point in history. Let's give them a chance in 1994, twenty years from now to review our work and what's happened to this constitution, even if the legislature hasn't acted. That's not much to ask. It won't be onerous on anyone; it won't be a burden; it won't cost anyone anything because it will be on the ballot at the time that people vote for congressmen. What's wrong with that? I think it's reasonable, and I urge you to reject this amendment.

Questions

MR. BURNS

Mr. Jenkins, do you think I should refrain from voting on this amendment on the grounds that I have no personal interest in 1994?

MR. JENKINS

Mr. Burns, I think you'll be going as strong then as you are now.

MR. DE BLIEUX

Mr. Jenkins, what's the rationale of having the first election twenty years from now and then one every ten years?

MR. JENKINS

No, no. the amendment that I have--and it's on your desk if you look at it--there are two amendments; one to say, "starting in 1994" and the second one to say, "every twenty years thereafter." So, it'd be twenty years from now, and every twenty years thereafter, the idea being that that is about a generation, and I think the ten-year period is too often, and that's why the committee has agreed to take down the ten-year period and go with twenty.

Further Discussion

MR. STOVALL

Mr. Chairman, fellow delegates, I rise in support of the amendment to delete this section. Mr. Jenkins seems to assume that if we had had the Constitutional Convention ten, fifteen, twenty-five years ago here in Louisiana, that all of our problems and ills would have been solved. I think this is too simple a conclusion. I think what we need is a responsible citizenry who will elect the right kind of officials to give to us competent leadership. If we build this kind of provision into the constitution, it might be that the citizenry of our state and the legislature would use this as a scapegoat to giving serious consideration to the problems and needs of our state. But, I think of greater significance is the fact that our elected representatives are responsive to the needs of the people. It's true that they sometimes are slow in expressing this responsibility, but I think that we can trust the future legislatures to be responsive to the needs of our people. A constitution should protect the people against the abuse of power, and certainly in this constitution we are protected against the arbitrary misuse of power. But, at the same time, there comes a point where we must trust the democratic procedure. To eliminate this section is an element of trust in our future. We need not feel that we can sit here today and control the future. We cannot. I think we need to protect against arbitrary misuse of power and then we need to trust our legislature to take care of this in the future. As a very practical matter, may I suggest to you that if you'll look right here for just a moment what I have here in my hand are some eight or ten amendments to this section. Now, if this section were of great import, I would say we should take the time to work through these amendments. But, because it is not of that kind of importance and significance, it seems to me that we should delete this section and proceed with other work. Thank you.

Further Discussion

MR. STAGG

Mr. Chairman and fellow delegates, I would like only in less than one minute to urge you to defeat the deletion amendment and to keep Section 3 except for that part of it that begins in line 6 on page 3. There is one of the pending amendments by Mrs. Zervigon that eliminates the specificity of the constituting of a convention, and I think that ought to be left as unsaid in this new constitution. I don't want to pick a quarrel with anybody here who was appointed or anybody here who's elected. But, I think that a convention that might occur that far distant in the future ought not to be specified that there'll be so many delegates of this kind or that kind. I would rise to urge your defeat of the pending amendment, and your support of Mrs. Zervigon's amendment to delete only the last five lines of Section 3.

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, I've become more discouraged by the hour. I'm not at all sure that anything will do any good. We seem to forget that this is the fundamental law. We should make provision for calling conventions and for consulting the people. This is one thing we should include in our basic law. It is their government and it is their constitution. It's extremely difficult for me to understand how anyone can vote to delete the entire thing and leave it to the legislature. If that's going to be so, then let's strike the whole thing. If we delete this section, I suggest we delete two-thirds of the proposed constitution because there's no need for it. I urge you to reject the amendment.

[Previous Question ordered.]

Closing

MR. DUVAL

Mr. Chairman, fellow delegates, just a few points. Some of the opponents to this amendment have said we should keep this section except for my amendment or except for this amendment or that amendment. I'm wondering if we take all those amendments, what are we going to have left? I think this is one of the problems with it. Everybody's for it as they want their amendments to occur. I think you ought to...I understand Dr. Asseff's point and Mr. Stagg. They want to look at it and see what it really does. Arbitrarily, ten years from now--this is what this section does--there's going to be an automatic call for a convention without any thought, without any deliberative process at all. I just think it's a poor way to run government. It's a taking it out of the analytical process completely. I think we ought to delete it. We've gone two hundred years without it, and we've now improved the constitution because we've provided for the legislature a means to call the constitution, which I think will be quite easy and a lot easier than some of these people wanted to have it done. It'll be a lot easier now to have a constitutional convention than some of the proponents of another amendment which would have acquired a two-thirds vote and then a vote of the people and the people would have had to vote after a great deal of fight before you even had a document. The people have the ultimate say-so when they vote on the document itself. I think that you will find that the legislature is going to be more responsive and if there is a need for a constitutional convention, I think you'll have it. I would think to arbitrarily require every ten years to vote on something whether it's needed or not can cause dire consequences.

Questions

MR. J. JACKSON

Mr. Duval, don't you believe if we delete, as you propose, then all the options twenty years from now and twenty years henceforth, that there really won't be number one option, and that option must be initiated within these legislative chambers? I have no problems with the legislature as regards to this, but what we're in effect saying and what I read the committee proposal saying is that we're providing two options, one option for the legislature to initiate it and one option for the people.

MR. DUVAL

The people don't initiate it, Mr. Jackson, that's the point. You do not have a provision in here for an initiative done by the people. It's an arbitrary thing that may come along at a time when very few people are interested in constitutional revision and two percent of the people could vote to have a constitutional convention, would be a total waste of time and money. If you want a viable provision then you could have an initiative provision by the people, but this is not an initiative at all. It's an arbitrary thing every ten years. It has nothing to do with the will of the people, in my opinion.

MR. J. JACKSON

But, that rationale about two percent, that rationale applies to one election of the representatives, election of the senators, every constitutional amendment or law that the people must vote on, so that the theory of a minority of people voting for something can apply to whatever we submit to the voters, right?

MR. DUVAL

I'm merely saying that it could be particularly applicable here in the event you had absolutely no interest by anyone in a constitutional convention, one way or the other, who, people were not informed on it one way or the other, yet it arbitrarily appeared on the ballot.

MR. BOLLINGER

Mr. "Wood", if your amendment would pass and Section 3 was deleted, would there be anything in the proposed constitution prohibiting the legislature from allowing the people to decide if they wanted a convention or not before it was called?

MR. DUVAL

No, sir. Under the Casey amendment we have enough flexibility to accomplish this without tying this into every ten years.

MR. STOVALL

Mr. Duval, is there a provision in the United State Constitution whereby the people of the nation are asked every ten years if they want to have a constitutional convention?

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MR. DUVAL
No, sir.

MR. STOVALL
The constitution has served us pretty well in spite of that; hasn't it?

MR. DUVAL
I think so, yes, sir.

[Record vote ordered. Amendment adopted:
54-43. Motion to reconsider tabled.]

Amendment

MR. POYNTER
Mr. Jenkins offers it.
Amendment No. 1. On page 2, delete lines 30 through 32, both inclusive, and on page 3, delete lines 1 through 10, both inclusive, in their entirety and insert in lieu thereof the following: --We need to add something back in here because a whole section has been taken out. We need to add--
Section 3. Convention Called by People (Then pick up.)
Section 3. At the election for representatives to Congress to be held in the year one thousand nine hundred ninety-four and every twentieth year thereafter, the question "Shall there be a convention to revise the Constitution of the State of Louisiana?" shall be submitted to the electors of the state. If a majority of the electors who vote on the question favor it, the legislature shall at its next session provide for calling a convention. The call of the convention shall specify the duration, time, and place it is to be held. The convention shall consist of delegates elected from the same districts and having the same qualifications as state representatives. The legislature may also provide for not more than twenty-seven delegates to be appointed by the governor. The proposed constitution and any alternative propositions agreed upon by the convention shall be submitted to the people for their ratification or rejection. If the proposal is approved by a majority of the electors voting thereon, the governor shall proclaim it to be the Constitution of the State of Louisiana.

Explanation

MR. JENKINS
This amendment, I think, takes Section 3 and makes it truly workable, much more workable than the original committee proposal. It provides that, beginning in the year 1994--twenty years from now--we will have this vote that we've been talking about and, twenty years thereafter and every other twenty years, we will also have the question of whether or not to call a convention on the ballot. We've tightened up some of the details that were a little vague in the committee proposal and, I think, spelled it out more clearly. The thing that I think we ought to think about, and the reason I bring it back to you, is because the way we have this constitutional revision article right now, in Section 1 and Section 2, we provided that one-third of the elected representatives in the legislature of this state can, from now on, prevent constitutional change and constitutional revision. Now, let's assume that the legislature of the state is perfectly representative of the people of the state--perfectly representative. Still, if one-third of the people don't want any amendment to pass and one-third of the people don't ever want to see constitutional revision, then it can never come about--never, ever. There needs to be some means, somewhere along the way, that a majority of the people can assert themselves and say that they want constitutional revision. Now, let's suppose that the problem with the legislature were malapportionment and that some areas of the state were being over represented. It would only take a few seats in the Senate to get that fourteen votes to stop constitutional revision. Now, I think a two-thirds vote is a good protection most of the time, and we can go on for years and years without constitutional revision; but, once in every generation, shouldn't we have a chance for the majority of the people to say, regardless of the legislature: We want constitutional reform? This principle is being included in virtually every new constitution submitted to the people in the various states across this nation. I think it's a good principle; it's a sound principle. You know, the worst argument we've had against it? "It's arbitrary." Everything in this article is arbitrary. I haven't heard one argument against it that made any sense. We should not allow one-third of the people to perpetually halt constitutional revision. Why? Because constitutions are the basis of their government. It's the basis of their rights--legal rights, anyway--the basis of the tax law, the basis of the

structure of government; and a majority ultimately should rule, not one-third. So, I hope you'll give consideration to this proposal. I think it's in better condition than Section 3 was, as originally submitted. I urge the adoption of it.

Questions

MR. LANIER
Mr. Jenkins, I'm trying to analyze what we've been doing here this afternoon. As I understand it, with the Avant amendment we voted to put the people in the legislative call for a convention. Is that correct?

MR. JENKINS
That's correct.

MR. LANIER
Then, when we came back with the Casey amendment, we took the people out and let the legislature call the convention on the legislatively-called convention. Is that correct?

MR. JENKINS
That's correct.

MR. LANIER
Now, we've come back, and we've taken the people out of the people-called convention. Would you analyze it that way?

MR. JENKINS
Yes, sir, I would.

MR. LANIER
And, your amendment would allow the people to have a right to say-so in calling a convention.

MR. JENKINS
That's right. I think a lot of people, too, voted to delete Section 3, a while ago, because of the ten-year provision. In fact, several people told me that if I would offer this twenty-year thing they would go with it because they thought that was more reasonable. So, maybe there's some people who voted to delete it a while ago that could take this as a more reasonable approach.

MR. STAGG
I didn't vote to delete, but I sure do wish you'd ask leave of the convention to withdraw your amendment and to delete from your amendment part of line 13, 14, and 15, where you give the maximum of twenty-seven appointed delegates to any future governor, and then I would most happily vote for your amendment. Otherwise, I shall vote against it. Would you agree to do that?

MR. JENKINS
Well, let me offer you an alternative proposition, Mr. Stagg. If you will go ahead and help us with this, I'll certainly be for deleting it. The reason that I'm including it in this amendment is because that was the way the committee proposal was, and I'm trying to limit the substantive change in this amendment--between this and the committee proposal--to the twenty-year period. In the committee, I tried to delete all appointed delegates because I think when you talk about an automatically called convention, called by the people, it ought to be by elected representatives. I will certainly support you in that effort, but in order to keep this a little bit pure and straightforward question, I'd like to ask that I be allowed to keep it in for the purpose of this vote.

MR. WILLIS
Woody, don't you think that the passage you seek to insert in our document would be an indictment of our document and, predicting that we cannot predict or foresee beyond twenty years, that it is not flexible enough to endure more than that?

MR. JENKINS
Well, what you say, basically, is true. I wouldn't say it that way. It's not an indictment; it is an admission that we are not perfect. We all know that; we know we've made mistakes; we know there will be future constitutions in this state. We've had what--thirteen before? Certainly, we're not smart enough and we're not bright enough to write a constitution for all time. I wish we were, but all of us have made mistakes. I think we've done a good job and it'll last a long time. But, I think the next generation ought to have the right--a majority of the people--ought to have the right to have a new constitution if they want it. A majority--even if one-third of the people don't want them to.

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MR. WILLIS

You'd measure a generation by twenty years?

MR. JENKINS

Well, I think fifteen or twenty years would be a generation.

MR. WILLIS

Well, let us go to more lofty realm. You know that, in Section 4 of Article IV of the main body of the federal constitution, that we are guaranteed a republican form of government and that part and parcel of that government is elected representatives who are the guardian angels of our government. Don't you think that we will detract from the flexibility of that body, in which you belong, to be circumspectful about whether or not we should have a new document and use the vehicle provided for them with very good precision, notably the Casey amendment, to achieve this--instead of proposing it on a ballot ever so often, which is another way of proposing an amendment, which the people don't like?

MR. JENKINS

No, sir, I don't think that we would detract from the legislature. The purpose of this document--its only purpose for being in existence is to set a limitation on the lawmaking authority of the state. That's why we have a constitution. The legislature is not all-powerful; it's not omnipotent. The reason we have a constitution is to limit it, and we know that it's not perfect if it's made up of human beings; and any group made up of human beings make mistakes. All the authority in this constitution virtually, though, is granted to the legislature. This is just saying that, once another generation--if the legislature has not been responsive--a majority of the people ought to have the opportunity to change their constitution. And, you'll have to admit that one-third of the people--even if the legislature were infinitely responsible--one-third of the people could prevent constitutional revision, under Sections 1 and 2.

Vice Chairman Casey in the Chair

MR. NUNEZ

Representative Jenkins, evidently the only difference between your amendment and your new Section 3 and the committee Section 3 is that you say it shall be submitted to the people in ninety-four, rather than eighty-six, and shall be submitted every twentieth year thereafter, rather than every tenth year.

MR. JENKINS

Well, in addition to that, there are some technical, I think, improvements: one specifying what the call of the convention has to say and, also, making it clear that the proposed constitution and alternates have to be submitted to the people for their ratification.

MR. NUNEZ

But, principally, the difference is you've made a time change, and the principle is still the same.

MR. JENKINS

That's right.

MR. NUNEZ

And, also, you keep inferring that one-third of the legislators can stop any constitutional revision or change. Well, in that line of thinking, one-third of the legislators, under the present proposition that we have adopted as to constitutional amendments, one-third can also stop any of those, couldn't they?

MR. JENKINS

Well, yes, and I don't object to that. I think that's good. But, I think there needs to be some exception somewhere along the way. Remember this: This constitutional convention could have been called by a majority vote of the legislature. Everything that passes here is by a majority vote, and then it's going to pass before the people if it gets a majority vote. But, now, we're setting a new principle because of Section 2. We've said there that constitutional conventions can only be called by a two-thirds vote, and I think that was good. But, it's good only because we had Section 3 in there--that a majority of the people ultimately can determine, at some point in history, whether or not they want a new constitution.

MR. CHAMPAGNE

Mr. Jenkins, would you agree that, probably, many of us--including myself--may have voted for the previous section authorizing greater power to the legislature, simply because, as some people said, the next section allows a vote of the people?

MR. JENKINS

I certainly think that's true, Mr. Champagne.

MR. CHAMPAGNE

And, do you agree that the proponent of the last motion to delete it emphasized, repeatedly, ten years--ten years--so that maybe the ten years did stick in some people's mind?

MR. JENKINS

That's correct, and then he voted to delete it, Mr. Champagne.

MR. ABRAHAM

Woody, in answer to the question posed by Mr. Stagg, while ago, do you know that I have an amendment coming to your amendment which will delete the provisions for the appointed delegates?

MR. JENKINS

I would support that, Mr. Abraham. I don't know whether it would pass or not.

MR. ARNETTE

Woody, my only problem with this entire section is that I think it would prevent constitutional revision, rather than encourage it, for the simple reason: say, thirty-five years from now we really need a constitutional revision, and the legislature is going to say, "Well, look, the people are going to have to vote on it in five more years, so we'll wait and see what they have to say." Then, nobody's going to vote for a constitutional convention if the people turn it down for the next five or ten years for sure, so you've got fifteen years, probably, there that the legislature isn't going to act because they know the people didn't want it.

MR. JENKINS

Well, basically, I don't think there's going to be an urgent need in, say, a five-year period, for example, for a new constitution. The need comes when you go for decades without constitutional reform like we've done in this state. I think, if we'd had a vote after twenty years--say, in 1941 and then in 1961 and then in 1981--I think somewhere along the way the people would have voted for that, and we would have had a constitutional convention before now. Now, maybe, as Mr. Stovall said, that wouldn't have solved the problems, but I don't think it would have made anything any worse than the 1921 Constitution is now.

MR. ARNETTE

You don't think that, say, if the people vote against constitutional revision in 1994, that the legislature--say it's needed in another ten years--they'll say, "Well, you know, they voted against it last time; then, maybe another vote's coming up in five years; let's let them decide." And, then, they'd vote no again. Well, the legislature would be crazy to go against the wishes of the people, even though it's sorely needed.

MR. JENKINS

Well, no, I think there'll be a certain time lag, sure. I think maybe for five years, or something like that, the legislature wouldn't. But, remember this: In 1956 the people voted against it, yet we're meeting in constitutional convention now. I think, frankly, if, say, Governor McKeithen had wanted to call a constitutional convention and had pushed that, I think the legislature would have gone along with him. That's just the nature of things.

Further Discussion

MR. SMITH

Mr. Chairman, I think we're debating the same thing we defeated a while ago, and I think people know how they're going to vote. Unless there's any more on the list, I move the previous question--if they will waive. If they won't, I... but I'd like to see us go ahead and vote. We're just wasting a lot of time, I think.

Further Discussion

MR. SUTHERLAND

Mr. Acting Chairman, fellow delegates, I think that this is a very important issue to come before this convention. We have allowed the legislature, by the previous section, to determine whether constitutional revision was necessary or not. Mr. Arnette raised a question to Mr. Jenkins whether or not the legislature would have an opportunity here to pass the buck to the people. I am really confused in this convention because, on the one hand, we talk about

responsible legislation; we talk about trusting the legislature; we talk about having a responsible legislature; and then we turn around, in the next breath, and say, "Well, now, this legislature is really not going to act the way they're supposed to act; and, if this constitutional revision is necessary, they're not going to pass it because, maybe, five years or ten years from now," the people will have an opportunity to say whether they want it. I think if we're going to talk about having a responsible legislature, we ought to act as though they're going to be responsible and that they're going to do their job. But, in the event, in the event they do not do their job, then it seems to me the people ought to have an opportunity to do the job for them. I just believe—I honestly believe—that this is a constitution for the people. I know that people have asked me, "Will we have an opportunity—initiative, referendum, or some other type of thing—to say when we will have an opportunity to do the job?" If the legislature does the job that they're supposed to do, then there's no need to worry about this provision because it won't be necessary to have a convention call. It's only in the event that they do not do the job. For that reason, I would urge your support of this amendment.

Questions

MR. NUNEZ

Mr. Sutherland, you and several of the speakers have made the comment that Section 2 gives additional authority to the legislature. In my opinion, Section 2 takes away the authority that the legislature had. We're in this convention today because the legislature passed an act, by a simple majority, calling the convention. If, in fact, we have to do another one—or call another one—you can't do it by a simple majority, according to Section 2. It's going to take a two-thirds vote. So, I submit to you, you're taking away some of the authority of the legislature, not giving them additional authority.

MR. SUTHERLAND

Well, Mr. Nunez, if that was a question, I answer it this way: that if we've taken away the authority of the legislature by the two-thirds vote which this convention has passed, then it seems to me there's all the more reason to worry about whether the people are going to have an opportunity to call it.

MR. BERGERON

Matt...Matthew, this amendment that Mr. Jenkins is proposing does not say that there will be a constitutional convention every twenty years. Maybe, in twenty years from now, there won't be—maybe in forty years—but, if a constitutional convention is needed, this just provides that the people will have a say, a voice in the government. Am I correct?

MR. SUTHERLAND

That's exactly right. This does not provide for an automatic call of a convention; it merely says that the people will have an opportunity to say whether they want a convention or not.

MR. DUVAL

Matt, under this provision, isn't it so—I'm wondering exactly what we're giving the people here—isn't it so the legislature prepares the call and can make it for any duration and for the time and the place? Isn't that right?

MR. SUTHERLAND

That's correct. Again, this is that responsible legislature you're talking about.

MR. DUVAL

Well, I'm saying if it's responsible, you don't need this provision anyhow. If it's not responsible, they're not getting anything anyhow.

MR. SUTHERLAND

Well, I don't agree with you, Stan. I think they are getting something—very definitely.

MR. DUVAL

I understand that. That's all the questions I have.

Further Discussion

MR. GOLDMAN

My dear friends and fellow delegates, I've wasted very little time up here, since I've been here in August, and I'm going to waste very little right now. All this rhetoric I've been hearing is just that—rhetoric. Now, what this amendment does is give the

citizens—the voters of the State of Louisiana—every twenty years a chance to express themselves. That's all, and simply all, it does. Is that too much to ask of them? You know I'm in favor of this amendment.

[Previous Question ordered.]

Closing

MR. JENKINS

Just one final point I want to make: The issue here is not whether we're going to have a responsible legislature or not. The issue is whether or not a majority of the people will be allowed to control their destiny or one-third. We have a system, under Sections 1 and 2, whereby one-third of the legislators, assuming they are completely representative of the people, can forever stop any constitutional reform. We ought to have a system whereby, at some point along the way, a majority of the people can assert themselves if one-third has been blocking constitutional reform for a long period of time. This would happen very seldom; we're talking about five times every one hundred years. It won't cost anybody anything. It's a good outlet to keep our government representative of the people. I urge its adoption.

Questions

MR. SHANNON

Woody, do you recall when the federal constitution was ratified?

MR. JENKINS

Well, yes, sir. They met, I think, in 1787 to 1788, and it was ratified over a period of about three or four years.

MR. SHANNON

How many amendments have we had to the United States Constitution?

MR. JENKINS

Oh, I think twenty-six, twenty-seven, something like that.

MR. SHANNON

How many have we had to the 1921 Constitution?

MR. JENKINS

Well, we've had about five hundred and some-odd.

MR. SHANNON

Well, as vague as the federal constitution is, don't you think that this clearly shows that we need something for the people to voice their opinion on?

MR. JENKINS

I think we do. I think we need an outlet. I don't think it ought to be such a regular thing. That's why I think the ten-year thing was kind of bad, but I think every twenty years is a pretty good, reasonable outlet for them.

MR. SHANNON

But, do you not think that we should have had more than twenty-five amendments to the federal constitution, perhaps?

MR. JENKINS

I think we should have. Of course, it's extremely difficult to amend it with three-fourths of the states necessary for ratification, etc.

MR. SHANNON

So, you don't think we need this—we need the people here to be able to say every twenty years—and that's all they would be doing. Like you said, it will not cost anyone anything for them to voice their opinion of whether or not we need a convention; right?

MR. JENKINS

That's correct, sir.

MR. SHANNON

Thank you.

Point of Information

MR. FLORY

Point of information, Mr. Chairman. Could you tell me how many votes this would take to adopt this amendment?

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MR. CASEY

It's an automatic record vote. It's adding a new section. It takes sixty-seven votes, Mr. Flory.

[Amendment rejected: 51-46.]

Motion

MR. JENKINS

Mr. Chairman, I move to reconsider the vote on the next legislative day.

MR. CASEY

Mr. Jenkins now moves to reconsider the vote by which that amendment failed to pass on the next convention day.

Now, Mr. Jenkins, I would have to say your motion is not in order because we are not certain whether this proposal will be considered tomorrow. It is possible that the convention will vote on the same today; however, if the proposal is pending tomorrow, it is my understanding that you may resubmit that amendment. Is that correct, Mr....?

MR. POYNTER

Well, under our rules, a motion to reconsider can be initiated on the same or the next convention day--in which case, if the proposal is still open tomorrow, Mr. Jenkins would have an equal right tomorrow to ask that it be reconsidered. Or, if the gentleman wished for some reason, he could insist on a motion to reconsider at the present time.

Point of Order

MR. RAYBURN

Mr. Vice-Chairman, if the motion is in order, I'd like to ask for a substitute motion. If it's not in order, I'd like to be recognized for the purpose of making a motion.

MR. CASEY

I've already ruled his motion out of order, and you are in order for a motion, Senator.

Motion

MR. RAYBURN

I'd like to move to reconsider the vote by which the proposal failed to pass, and lay that motion on the table.

[Motion to table reconsideration adopted: 53-42.]

Amendment

MR. POYNTER

Mr. Jenkins offers the amendment, Mr. Vice-Chairman. Amendment No. 1. On page 3 between lines 10 and 11, add a new section as follows: "Section 3.1. Limitation on Constitutional Change Section 3.1. This constitution may not be revised, altered, or amended nor may a new constitution be adopted, except in accordance with the provisions of this Article."

Explanation

MR. JENKINS

No, I think in view of the last vote, I'm going to withdraw that amendment.

[Amendment withdrawn.]

Reading of the Section

MR. POYNTER

The next section is Section 4. "Section 4. Laws Effectuating Amendments Section 4. Whenever the legislature shall submit amendments to this constitution, it may at the same session enact laws to carry them into effect, to become operative when the proposed amendments have been ratified."

Explanation

MR. STINSON

Fellow delegates, this is similar to the present provision of the constitution. If you want to keep the constitution short, you'll have to vote for this. This provides for an enabling

act which will allow it in detail to go into the constitution, but the act of the legislature only to be effective if the constitutional amendment is adopted. I don't think there should certainly be any objection to this.

Any questions?

Question

MR. NEWTON

Mr. Stinson, I'm sure your committee considered it. Without this provision in here, couldn't the legislature do that anyway? Is it necessary to have this provision?

MR. STINSON

It's questionable; that's the reason we put it in and the reason it's in the other one because if you don't provide for this, I think there would be a possibility of whether it would be constitutional or not.

[Previous Question ordered on the Section. Section passed: 99-0. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 74-24. Motion to reconsider.]

Chairman Henry in the Chair

[Motion to advance to Proposals on Third Reading and Final Passage adopted without objection. Motion to call Delegate Proposal No. 18 from its regular order adopted without objection.]

Reading of the Proposal

MR. POYNTER

The proposal is Delegate Proposal No. 18 introduced by Delegates Casey, Alario, Dennery, and Gravel-- you'll find it in your book, it's in kind of a gold color, it's not the reengrossed form, it's sort of a gold looking color and now under delegate proposals.

Delegate Proposal No. 18

A proposal providing for a meeting of the legislature for the next three years following the adoption of this constitution.

Now, Mr. Casey, since it's one section, do you want me to just go ahead and read that one section?

Reading of the Section

MR. POYNTER

Okay.

"Section 1. Legislative Sessions

Section 1. The legislature, during the first two regular annual sessions following the effective date of this constitution, shall provide, by rule or otherwise, for a recess of at least eight calendar days after the first fifteen calendar days of the session."

Explanation

MR. CASEY

As you may recall, right after July 5th, when we first started consideration of a legislative proposal, the big conflict that arose in discussing the length, the number of days of the session was, should the legislature go into session, introduce its bill and then stand in recess for a certain period of time and then go back into session and finally consider the bills and resolutions that were submitted at that particular session of the legislature. As you may recall, Mr. Riecke was the champion of that particular thinking which required that the legislature go into session, go into recess, rather, after the opening of a legislative session and certain legislators at the time that we adopted that particular section on length of legislative sessions, certain legislators-- myself included-- made a moral commitment to this convention that as legislators we would support in the legislature itself, after the adoption of this constitution, at least an attempt for a year or two to just try the concept of a recess. The concept to being that after the introduction of all the bills during the first fifteen days of a session there would be, for instance, a week recess to allow the public generally to examine all of the proposals introduced at that session. So, I'm living up to my moral commitment that at least for a two year period, and I assume it would be for the last regular legislative session of this administration and for the first regular legislative session of the next four year term that the

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legislature would be required after the first fifteen days, after all bills are introduced, to take an eight day recess. The committees could meet, they could hold hearings, but no decisions could be made. The public generally could look at everything that was introduced and then the legislature would then go back into session. That's the idea of this, we're living up to our moral commitment that I felt that I personally gave to this convention. Now, I have an amendment coming to correct line 5. There's an error on line 5, the word "three" is in there; it should be just two years because this is just a two year attempt. It also adds Mr. Riecke as coauthor and rewords the wording of Section 1 just for better clarity, and that's all that it does. I thought I might explain that it was coming though. I'll yield to any questions, Mr. Chairman.

Questions

MR. CHATELAIN

Mr. Casey, do you know that I was one of those also that asked you. . . it is of record that if you would do this and you agreed that you would, and I think you have a very good amendment.

MR. CASEY

Thank you, Mr. Chatelain.

MS. ZERVIGON

Mr. Casey, your amendment is not introduced yet, is it? The proposal . . .

MR. CASEY

As far as I know, it's been introduced, but we're not considering my amendment yet.

MS. ZERVIGON

Well, the question I want to ask has to do with the amendment. I was wondering if you would be willing to withdraw it and put in there a word that would make it clear that you mean directly after the first fifteen days this eight day recess would take place. If you say after the first fifteen days, it could do also after the first thirty days or after the first forty days in order to make it clear.

MR. O'NEILL

Tom, I'm in favor of what you're doing and I plan to vote for it. I just want to make sure that these transitional measures are going to have the effect of law; can you comment on that?

MR. CASEY

Well, I would assume that it would be a requirement and is mandatory by virtue of a fact that it's part of a document that the people are voting on, they're telling the legislature, "You have to do this." I don't think there's much choice about it, and I would imagine it's subject to court review if we don't do it.

MR. JENKINS

Tom, I'm concerned about the election date for this new constitution. If the governor were to call the election say in March or early April and the results were promulgated twenty days thereafter the constitution went into effect, unless we had some transitional measure dealing with this legislative session then the Legislative Article would apply to this legislative session.

MR. CASEY

I assume you mean the one coming this year?

MR. JENKINS

The May, 1974.

MR. CASEY

I don't know why, but I thought there was something some place that we would consider stating specifically the effective date of this constitution. I had always thought it was going to be January 1, 1975; now I may be completely off base there.

MR. JENKINS

The act says "twenty days after the governor promulgates the returns of the election," I believe.

MR. HENRY

We're going to look at the act.
Read it, Mr. Clerk.

MR. POYNTER

The Constitution, if ratified, etc., shall become effective at twelve o'clock midnight on the thirtieth day after the date on which the secretary of state promulgates the results of the election.

MR. HENRY

Somebody's tampered with that act; that wasn't the way it used to read.

Let's resolve this, Mr. Pugh, we'll get you, then, Mr. Champagne.

Ask your question again, Mr. Jenkins.

MR. JENKINS

Well, I'm wondering about, you know, whether it's going to apply. . . no, what I'm saying is that the date of the election is going to determine whether or not the Legislative Article is effective for the May session of the legislature unless we, in this schedule, provide when the Legislative Article will be effective. Isn't that correct?

MR. CASEY

Mr. Jenkins, I envision this difficulty first of all, and we can talk around this problem; I'm not sure what the solution is, but the new constitution is going to say that the legislature will go into session either the third or fourth Monday of April. It's no longer the second Monday of May as it is under the present constitution. It is my understanding that it is possible that the election, and I thought it was going to be some time in April, if the election is going to be then and then the returns will be promulgated thirty days after that, it will be too late for the legislature to meet in session on the third or fourth Monday of April of this year. So, that may be one answer to your problem.

MR. JENKINS

But, if the constitution would go into effect during the session of the legislature we'd have a lot of difficulties with regard, say, to the length of the session. Am I not correct in saying that we don't want the Legislative Article with regard to the length of the session to go into effect during the May session of the legislature? Am I correct in that? It wouldn't be reasonable for the Legislative Article to go into effect during the May session?

MR. CASEY

I would say that's correct. I think the true idea is that it's intended to cover the 1975 session and the 1976 session.

MR. JENKINS

Well, then shouldn't we have some language somewhere either in this section or in some other part of the schedule that will so provide, because otherwise we might have . . .

MR. CASEY

I think in view of this development, it probably would be well to clarify that.

MR. PUGH

No, I was just going to point out that once the constitution is adopted by the people it doesn't make any difference what's in Act 2 of 1974.

MR. CHAMPAGNE

Yes sir.

Am I correct, Mr. Casey, since this says "scheduled", that five or six years after the adoption of the constitution, this would not be part of the constitution anymore?

MR. CASEY

That's absolutely correct. It's not intended to be and all this does is force the legislature to try the concept of a recess, that's all.

MR. NUNEZ

Representative Casey, I'm trying to understand the logic behind what you're trying to do. If I recall, we spent several days, I believe it was weeks, on this particular article and the resolve, what we adopted, was an eighty-five day session with various other stipulations. Now, what you want to do is force the legislature to try a split session. Let's go one step further and say it works, what is the next step? Do we have to adopt a constitutional amendment to continue it?

MR. CASEY

No, it's entirely up to the legislature after the first two years, Mr. Nunez. I would say there's no great difficulty in

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the legislature trying it because, as you well know, the first fifteen days under this constitution will be for the introduction of bills. Then, the next eight days will give people an opportunity to see what has been introduced, you can hold committee hearings and things of that type. You have to have your committee hearings anyway in order to consider the bills and resolutions that have been introduced.

MR. DREW

Tom, with fifteen days in which to file the bills, do you think we would even have time to read them, much less explain to our constituents during that eight days what was filed. Doesn't the whole thing work against itself?

MR. CASEY

Mr. Drew, I'm not one of the geniuses that would be in a position to explain every piece of legislation that has been introduced. But I think it's intended merely to allow to the public generally and those who are interested in legislation to at least review from the publication of the list of bills that has been introduced the opportunity to at least examine that legislation which may affect a particular area of activity. That's really the only purpose of it as I understand from the proponents of that concept during the argument on this concept.

MR. HENRY

All right. Read the Casey amendment, Mr. Clerk.

Amendment

MR. POYNTER

Gentleman has changed Amendment No. 3.

Amendment No. 1. On page 1 --add a number of coauthors,

Mr. Sutherland, Chatelain, and Mr. Riecke.

Amendment No. 1. On page 1, line 3, add Delegate--

we already have that one to the list of authors--

Amendment No. 2. On page 1, at the end of line 5, delete the word "three" and insert in lieu thereof the word "two".

Amendment No. 3. On page 1, delete lines 11 through 15, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 1. The legislature shall provide, by rule or otherwise, for a recess during the -- here's the change-- 1975 and 1976 regular annual sessions--delete the remainder of that "after the effective date of this constitution"-- during the 1975 and 1976 regular annual sessions, which shall be for at least eight calendar days immediately after the first fifteen calendar days of the session."

Explanation

MR. CASEY

Mr. Chairman and delegates, I believe that amendment may take care of, first of all, of the problem that Mr. Jenkins brought up that that would apply to the 1975 and '76 sessions and the remaining purpose of that amendment is merely to clarify the language in Section 1, and request adoption of the amendment.

Questions

MR. SHANNON

Mr. Casey, I think, if I read this right, if we would have the effective date of this constitution coming after the session had started then it wouldn't pertain to that section, would it?

MR. CASEY

Mr. Shannon, the whole purpose. . . part of the purpose of the amendment now is to clarify the fact that it has no application whatsoever to the 1974 problem as to whether we're going to operate under the . . . legislatively under the new constitution or the old constitution. It applies only to the 1975 session and 1976 session. I'm not sure if I'm answering your question, but I'm attempting to.

MR. SHANNON

Well, you did not put that it . . . those dates aren't mentioned in your amendment.

MR. CASEY

No. The Clerk has just added them in view of the question that Mr. Jenkins brought up.

MR. FLORY

Mr. Casey, you stated in your earlier explanation that during the eight day recess you could have committee hearings. But, as I recall a discussion during the consideration of the

Legislative Article Mr. Riecke, Mr. Sutherland and many others presented a question of split sessions for the purpose of having the recess to let the public, the legislators and those people interested to find out what had been introduced before you started your committee hearings and the official action on legislation.

MR. CASEY

Mr. Flory, all I can say is that the main fear that people had during the discussion on split sessions was theoretically you could run a bill through in five days, which you can really do as you well know, and the purpose of standing in recess was to avoid that possibility of bills being jammed through in the early part of the session. We would hope that this would help to resolve the problem.

[Amendment adopted without objection. Motion to suspend the rules to vote on the entire subject matter adopted without objection. Section, Article, and Proposal passed: 85-6. Motion to reconsider tabled on Section and Article. Motion to reconsider pending on the Proposal. Motion to call Delegate Proposal No. 28 from its regular order adopted without objection. Motion to waive reading of Delegate Proposal No. 28 adopted without objection.]

Explanation

MR. DENNERY

Mr. Chairman, the first section of this amendment. . . of this proposal was drawn to carry forward into the constitution the changes in the Civil Service Commission which were contained in the original amendment which was proposed by me. We have five members of the State Commission at the present time. The amendment as adopted, provides for seven members. Therefore, it was necessary to provide for the appointment of the two additional members. Now, the original proposal calls for the presidents of Dominican and Xavier, each to submit three names. However, you will recall that my amendment was amended in turn to provide for the election by the classified employees of the state from their number of one member of the commission in place of the nominations by Dominican. Therefore, the amendments which are being circulated at the present time take care of that problem and amendments No. 1 and 2. The present members of the commission serve until their terms expire and when a member nominated by the president of L.S.U. has his term expire then the president of Dillard submits three names to the governor for replacement. This is purely a transitional measure and is necessary in order to carry into effect the Civil Service Article as adopted. Mr. Chairman, that's my explanation, I'll be pleased to answer any questions.

MR. HENRY

Are there any questions?

All right. Mr. Dennery, you have amendments?

MR. DENNERY

Yes, sir. There are two there. . . four amendments, two of which apply to Section 1, Mr. Chairman. Would you prefer me to explain Section (B) of Section 1, as well, because those lines are included in the amendments. So, shall I . . .

MR. HENRY

Would you read the amendments?

MR. DENNERY

Shall I explain Section (B) as well as Section 1. . . Paragraph (B) of Section 1?

MR. HENRY

Yes, explain all of it.

Explanation

MR. DENNERY

All right sir. Paragraph (B) provides for the same transitional measures with regard to the City Commission in the city of New Orleans, and it takes care of the same thing, an increase from three to five in that commission. The amendment to the amendment provided for five instead of three. At the present time two members are named from nominees presented by Tulane and Loyola, the third is named by the city council. So, the original proposal calls for that third member when his term expires then the president

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of Dillard submits three names. An amendment has been introduced which calls for the presidents of Dominican and Xavier to submit three names to add the five members to the commission. That's my explanation, Mr. Chairman.

Questions

MR. FLORY

Mr. Dennery, just for the record, nothing contained in this Transitional Article is intended in any way to prohibit a person whose promotion may be in process at the time of adoption of this constitution from him receiving that promotion that's in progress at that time, is it?

MR. DENNERY

No, I think Section 2 takes care of that.

MR. FLORY

I just want that clarified though for the record. You don't intend to do that.

MR. DENNERY

There's no intention to change the situation of anyone.

MR. J. JACKSON

Just for the record, also, Mr. Dennery, as I understand it in the civil service proposal we did have five schools nominating... I mean, four schools plus the city council nominating one... to do the composition for the city civil service, that hasn't changed?

MR. DENNERY

No, no, no, wait just a minute, Mr. Jackson, it was changed. The present commission is two names from presidents of universities and one by the city council. The new one is all five named by presidents of universities; there is none named by the city council.

MR. J. JACKSON

Right, and you're not affecting that in any manner, are you?

MR. DENNERY

No, the one who is presently there, he will serve his term out. When his term of office expires, the president of Dillard will submit names.

Amendments

MR. POYNTER

The gentleman sends up a set of four amendments which read as follows:

Amendment No. 1. On page 1, delete line 5 in its entirety and insert in lieu thereof the words "the president of Xavier" and on line 16 after the word "Louisiana" and before the word "shall" delete the word "each".

Point of Information

MR. AVANT

I just want to ask a question. Mr. Poynter read "on page 1, delete line 5", I believe, and the amendment I'm looking at says "line 15."

MR. POYNTER

It's "15"; if I said "5" I was wrong, Mr. Avant.

[Motion to waive reading of the Amendments adopted without objection.]

Explanation

MR. DENNERY

Well, the explanation I think I gave in explaining the proposal itself. The amendments take care of the changes that were made by the convention in the original amendments to the civil service proposal which were submitted. It takes care of the one elected classified employee and the two other colleges which were added. The amendments also take care of the three new colleges added as far as New Orleans is concerned. I would be happy to answer any questions, Mr. Chairman.

[Previous Question ordered. Amendment adopted without objection. Motion to temporarily pass over Section 1 adopted without objection.]

Reading of the Section

MR. POYNTER

"Section 2. Transition; Civil Service Officers; Employees; State; Cities

Section 2. Upon the effective date of this constitution, all officers and employees of the state and of the cities covered hereunder who have status in the classified service of the state shall retain said status in the position, class, and rank that they have on such date and shall thereafter be subject to and governed by the provisions of this constitution and the rules and regulations adopted under the authority hereof."

Explanation

MR. DENNERY

This is the transitional measure with regard to all civil service officers and employees of both the state and the city which states that "Upon the effective date of this constitution," everyone who's covered under the proposal in the constitution who has status in the classified service, either in the city or the state, retains that status as of that date and thereafter will be subject to the provisions of this constitution. It will not have any affect...in other words, no member of the classified service of the state service or of the service in the city of New Orleans will be affected at all by virtue of the adoption of the constitution. They would just continue in office and in the positions of employment they hold. As Mr. Flory asked, if someone is in the process of being promoted, it will have no affect on that.

Questions

MR. DE BLIEUX

Mr. Dennery, I'm just wondering the way that this is worded that maybe you might have left out a word or two here if there's no amendment to this particular section. I notice you say "employees of the state and of the cities covered hereunder who have status", then you say "retain said status in the position, rank they have on such"....

MR. DENNERY

Yes, I think you are right, Senator De Blieux, it should say "of the state or cities."

MR. DE BLIEUX

Yes, that's the point I want to make.

Amendment

MR. POYNTER

Amendment No. 1. On page 2, at the end of line 9, strike out the words "of the" and at the beginning of line 10, strike out the word "state".

Explanation

MR. DENNERY

On page 2, in order to take care of the problem raised by Mr. De Blieux, we've just deleted the words at the end of line 9 and the beginning of line 10 "of the state", so that it says "employees of the state and of the cities who have status in the classified service;" that takes care, I think, of the problem. I ask the adoption.

[Amendment adopted without objection. Motion to suspend the rules to vote on the entire subject matter. Sections 1 and 2, Proposal, and Article passed: 86-0. Motion to reconsider Sections 1 and 2 tabled. Motion to reconsider the entire Proposal pending.]

Personal Privilege

MR. RIECKE

Mr. Chairman and delegates, I want to thank you from the very bottom of my heart for that vote you just made on Mr. Casey's delegate proposal. I want to thank, too, those legislators who made the commitment to me and to those of us who proposed this split section at the beginning of this section. I want to thank them for honoring their commitment; I'm very grateful to you.

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

REPORTS OF COMMITTEES
[II Journal 1122-1123]

Announcements
[II Journal 1123]

[Adjournment to 9:00 o'clock a.m., Tuesday, January 8, 1974.]

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ROLL CALL

[67 delegates present and a quorum.]

PRAYER

MR. HEINE

Our dear heavenly Father, we thank Thee for this day and for the many blessings that Thou has given us. Be with us, dear Lord, as we enter the last days of the writing of this constitution. Give us the wisdom and the guidance to do the very best that we can for the people of this state. Lead, guide, and direct us now, and be with us in everything that we do. Forgive us of our many sins, for Christ's sake. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

REPORTS OF COMMITTEES LYING OVER

[11 Journal 1124-1125]

* * *

MR. POYNTER

Morning Hour No. 11.

Delegate Proposal No. 34, introduced by Delegate Dennis.

A proposal providing for the financing of the state judicial system. Comes from the Committee on Revenue, Finance and Taxation. Reported without action.

MR. HENRY

The gentleman now moves it be withdrawn from the files of the convention.

Without...Judge Dennis.

Substitute Motion

MR. DENNIS

Mr. Chairman, I'd like to offer a substitute motion to engross this and pass it to the third reading.

Reading of the Proposal

MR. POYNTER

Delegate Proposal No. 34. You'll find a copy of it in your books.

It's a proposal providing for the financing of the state judicial system. "Total cost of the state judicial system shall be paid by the state from the general fund. The legislature may require reimbursement from the state by political subdivisions of appropriate portions of the cost. The provision shall not cause the reduction in salary of any public official."

Explanation

MR. DENNIS

Mr. Chairman, fellow delegates, this is a subject matter that has not been considered by the convention during our deliberations. This deals with the financing of the state judicial system. This delegate proposal is designed to do away with what I consider to be the greatest evil in our judicial system. The thing that does more to embroil judges in politics than anything else is the fact that we are paid--a substantial portion of our pay comes from local level. This money is made up of fines and forfeitures coming from the violations of state laws, mostly. It goes into a criminal court fund in each parish. The judges and the D.A.'s authorize expenditures out of these fines and forfeitures to finance the operation of the criminal courts. Then, the judges are supplemented in their salaries anywhere from zero to over fifteen thousand dollars, in some cases, out of this criminal court fund. But, in order to get the approval, in order to get that money to supplement their salaries, they must go lobby their police jurors in each parish before they get a supplement to their pay. Now, there are many, many evils in this. One of them is that this has created a disparity in the payment of judges throughout the state, ranging from twenty-two thousand five hundred up to thirty-five thousand dollars. District judges doing the same work with the same authority are paid this much difference in pay. It all really boils down to how much fines and forfeitures the police jury's

got in the kitty. Now, that, really, is not what I'm trying to do away with, disparity in pay. But, there're so many things wrong with this, I know we don't have time to go into all of it, but the big thing that's wrong with it is that anytime a judge or group of judges in a judicial district, asks for a pay increase, they must go lobby the police jury. Of course, they must be sure they're on good terms with the D.A. In other words, they must politick everybody who's got anything to do with the criminal court fund. Now, this is not right. This makes for something less than a state judicial system. It makes for, really, a group of little local court systems. In the interest of justice and in the interest of having good justice, the same quality of justice throughout the state, I think it is much desirable that judges in the state judicial system be financed at the state level, and that is what this delegate proposal seeks to do. It also would allow the legislature to take these fines and forfeitures or a portion of them, and put them in the general fund and finance the state judicial system. So, it shouldn't cost the state any more money. It will simply transfer the payment and the financing of the judicial system from partially at the local level to totally at the state level. Now, there are several other variations on this same theme that we could enact, and I am willing to accept any reasonable amendment that will allow us to finance the judicial system at the state level. I can't offer any amendments at this time, or accept them, because we're simply deciding now whether this should be passed to its third reading. But, I ask you to please let this go to the third reading because this might very well be the most progressive step we could make in improving our judicial system. We have not considered this before. This is not a rerun of something that you have considered before like a lot of the other delegate proposals. This is a new proposal. It is designed to improve the judicial system, and I ask you to please allow me the opportunity to present it and accept reasonable amendments to it, if you have any, on the third reading.

Questions

MR. KEAN

It's not your intention, is it, Judge, that if this was adopted as the method of payment for the judiciary that the legislature couldn't...whoever would have the authority couldn't establish varying pay ranges for district or other judges, depending on case load and other factors of that kind?

MR. DENNIS

No, sir. It would allow the legislature to continue the same salaries that are in effect now. It would simply... the big thing it would alleviate is the judge having to go to the police jury and politick them in order to get the money for his salary. Also, it would take the judge out of direct administration of these fines. Frankly, ladies and gentlemen, I think the present system we have in Louisiana may be unconstitutional because the U.S. Supreme Court has already ruled that a mayor sitting as a judge in a mayor's court who fines people, and then turns around and administers the funds that he gets from those fines for the city, is acting unconstitutional. This is very close to what we're doing now in Louisiana in the district courts. We are fining people every day, and then we're turning around, and we're getting together with the D.A. and deciding how that money's to be spent in the criminal courts, and also paying ourselves salaries out of it. I think if this money were transferred to the state level, we would not be in as direct contact with it, and we would not be in as much danger of having our financial system declared unconstitutional. But, to come back to your question, Mr. Kean, it would not require any change whatsoever in the amount paid a judge. It would leave this up to the legislature at the state level.

MR. A. LANDRY

Judge Dennis, have you made a survey to find out how much this would cost the State of Louisiana?

MR. DENNIS

Mr. Landry, I just said it would not necessarily cost anything because the legislature would not have to change the pay of anybody.

MR. A. LANDRY

Would you get your revenues then from the court costs that are now being collected by the various courts throughout the state, and then turn it in to the state? Is that the idea?

MR. DENNIS

Mr. Landry, as I just explained, the state legislature could take the same salary supplement that is being paid each

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district judge out of these criminal court funds and transfer those funds to the state level. Now, it would not have to transfer all of them. It would not have to use all of them. It could use whatever is necessary, and it would not cost any local government any added cost. It would not cost the state any added cost.

MR. A. LANDRY

Would that lead to maybe a cash register justice, where the state would say, now, you're going to put on a fine for a speeder; he's going to pay so much fine, and the judge would have no discretion to take into consideration the facts of the case... the judge would have to...

MR. DENNIS

Mr. Landry, I'm surprised at your asking that question because you know good and well this doesn't require anything like that.

MR. A. LANDRY

Well, I don't know. It's happened in Iowa, and it could happen in Louisiana.

MR. DENNIS

Well, I don't believe it happened in Iowa, and I don't believe it would happen here. I don't believe the legislature's going to take any more money from these local governments than is absolutely necessary to finance the state judicial system, and it doesn't have to take any money that isn't being spent already on the courts. The big thing it would do is it would circulate the money through the state at the state level instead of the judges having to go engage in local politics to get their pay.

MR. KILBOURNE

Judge, I got here late. I might be repetitious here in asking this, but this is looking to what we had a lot of talk about on the Judiciary Committee about a unified court system; is it not?

MR. DENNIS

No, sir. A unified court system is where you don't really have judicial districts. We've got judicial districts in our article. This simply says that instead of the judges being paid one-third or one-fourth of their pay out of these criminal court funds, that they will be paid at the state level, and the legislature may take that money up to the state level and disburse it at the state level instead of letting the judges go lobby the police jurors to get it out of the criminal court funds. That's all it would do.

Further Discussion

MR. NUNEZ

Mr. Chairman and ladies and gentlemen of the convention, Judge Dennis came before the... I don't see any of our leaders in here on Revenue, Finance, and Taxation, so I'll take it upon myself to tell you what I think of this proposal, and what happened in committee. Judge Dennis came at the last meeting of the committee which was about a week ago or two weeks ago and presented two proposals on restructuring or refinancing the entire judicial system in the State of Louisiana. We asked for facts and figures etc. to help us make a determination, and he had none. I specifically asked why didn't he bring the proposal before his own committee, the Judiciary Committee, of which he was the chairman, and he said he was told that Revenue, Finance, and Taxation would best handle it. Well, maybe we could have best handled it and maybe we could have done a good job, and maybe this is the best proposal to come before this committee, to come before this convention since January 1, 1973. But, I just don't believe on the last week of the convention with all the work we have to do that we should pass this on to third reading and have it come before the full convention. I don't think we have the figures. I don't think we have the facts. I think we're dealing in the area of financing the entire judicial system in the state of Louisiana. I don't think that this convention has the time to take up this particular proposal. The committee out of courtesy to Judge Dennis, and I say again, it might be the best proposal to come before us. He had two proposals and one of them I think he withdrew, and the other one, the committee failed to act the way they should have acted, and he could have done the same thing, that is move it on to its third reading and then on to final passage. We deferred action on it. Without action, I think it's reported, which means it looks like the committee didn't take any definitive action which they did not. But, I would ask you not to move this on. I just don't think we have the time, and I think we'd be running into a real

serious problem if we deliberated this thing before the full convention. We don't know what the financial outcome of this proposal will do to the state. As you know, I believe that the legislature can handle this as such if we allowed them to, or maybe in the schedule or something. Judge Dennis could give some direction as to what he would like. But, to consider this as a proposal of this convention or a delegate proposal, I think we would be doing wrong. So, I would ask you, and I hate to do it, not to move this delegate proposal on to its third reading and then on to final passage. I'll try to answer any questions that you would have.

Questions

MR. BURNS

Senator, you asked Judge Dennis why he didn't take this up before the Judiciary Committee, of which he was Chairman. He did bring it up before the committee and the committee voted it down.

MR. NUNEZ

Well, I didn't know that, Mr. Burns, but it certainly adds some light to it. It still could be a good proposal even though the Judiciary voted it down, and I'm sure that's why he brought it to the Revenue, Taxation and Finance Committee. But, we didn't have the time to go into it fully. Maybe it should be explored, but I just don't think in the last ten days of this convention that we should explore the possibilities of refinancing the whole judicial system in this state.

MR. DENNIS

Sammy, did you know that I did bring this up before the Judiciary Committee in the last days when we were working on our proposal, and that one of the reasons I believe that it was not incorporated in the Judicial Article is because some of the members thought it might have an effect upon the state financially. Did you know that I sought to send this delegate proposal back to the Judiciary Committee, but the Chairman referred it to the Revenue and Taxation Committee? I first offered a substitute motion to go back to Judiciary. Senator Rayburn objected, and rather than create a lot of debate on the floor, I allowed it to go to Revenue, Finance, and Taxation because it does have something to do with the financing of the third branch of the government. I don't think it's going to cost the state any great amount of money, but it does touch upon finance. Did you know that?

MR. NUNEZ

I certainly do, Judge, and I disagree with you in that it will not cost the state any money.

Further Discussion

MR. SCHMITT

I'm also a member of the Revenue, Finance, and Taxation Committee, and I believe that Judge Dennis had attempted to bring up his particular proposal before, but it was a delegate proposal, and as you all know, we had been involved in a property tax question for a long time. Therefore, we had put off the evaluation of all delegate proposals till very late in the game. Judge Dennis attempted to bring up his particular proposal on one day, and after a certain period of time passed, we didn't have the opportunity to hear him, and therefore, it was passed over until the next day. The next day he came back and gave his little talk and we took action with reference to that particular proposal. I think it's a very good proposal, and it will help lead to justice for all the court systems throughout the State of Louisiana. One of the points which the Judge had brought out is that many of the parishes in the state are not along into state highways, and therefore do not get the benefits of these funds from tickets from the interstate highways throughout the State of Louisiana, and this leads to inadequate funding in those particular areas. It also sets up a very unfair situation where the money which is being levied in fines goes to the remuneration of the judges and also towards the capital expenditures with reference to repairs of different offices throughout the State of Louisiana. I don't think that's a fair system. I believe that presently the district attorneys and the judges decide how the money is spent from these different judicial funds, and this--although the probability's there I doubt if there's ever any improprieties--one of the canons of ethics in the State of Louisiana require that judges, district attorneys and all attorneys attempt in every way to prevent any question of impropriety to be involved in any type of situation. I would feel that this passage of this proposal would allow the individual before the court to feel that he's getting a fair shake, and to give him his chance for fair treatment before any particular judge. Thank you.

Questions

MR. NUNEZ

Mr. Schmitt, you and both Judge Dennis said it won't cost the state any money, and it's a very good proposal.

MR. SCHMITT

I never said it wouldn't cost the state any money.

MR. NUNEZ

You said it's a very good proposal, and it says "the total cost of the state judicial system shall be paid by the state from the general fund." That's the gist of the whole thing as far as I'm concerned. Then it says "the legislature may require reimbursement to the state by a political subdivision for appropriate portions of such cost." On one hand it says "it shall pay" for the entire system and "the legislature may," may, may require a substantial portion from local government. Now, would you tell me what's so good about...

MR. SCHMITT

The state is already paying a portion of the cost at the present time.

MR. NUNEZ

What would it cost the state to do this? Do you have any idea?

MR. SCHMITT

I don't have any exact figures, but whatever amount of money it would cost the state, it would be well worthwhile to provide some justice and equity and prevent any type of question of impropriety upon the part of judges in our judicial system in this state.

MR. NUNEZ

You're saying that justice depends on financing.

MR. SCHMITT

I'm not saying that justice depends upon financing, but what I am saying is that the canon of ethics requires that judges and district attorneys and so forth prevent any types of questions of impropriety, and at best the system which we've had in the past is a questionable system as far as constitutional questions are involved.

MR. LANIER

Mr. Schmitt, when the statement was made that the... a portion of the salary of the judges and the district attorneys comes out of the criminal court fund, that's not accurate, is it?

MR. SCHMITT

I never said a portion of the salary of the district attorneys. However, a portion of the salary of the judges does come from this fund, and the district attorneys and the judges, in my appreciation, both have to co-sign the draft or the check in order for an appropriation to be made from this fund. Is that not correct?

MR. LANIER

Don't the salaries of the D.A.'s...

MR. SCHMITT

Is that correct, or is that not correct?

MR. LANIER

...And the judges come out of the general fund and only the expenses of their offices or a portion thereof come out of the criminal courts fund on the joint signature of the judges and the D.A?

MR. SCHMITT

No.

[Motion to limit debate on the Proposal to ten minutes adopted without objection.]

Further Discussion

MR. STOVALL

I felt that we were going to get into extensive discussion here on the question of referral. My point is that I think we should go ahead and give approval to Judge Dennis' substitute motion, and if the convention has time, to consider it later on the basis of its merits. It may be that Senator Nunez is correct when he says that we will not have time. But rather than our discussing this

issue at this time, it would seem better to give approval to Judge Dennis' referral, and if we have time later, we will discuss it on the basis of its merits and spend our time on the issue itself rather than on the referral. Because of that, I would move the previous question if Mr. Fontenot would permit--if he would waive. He waives.

Further Discussion

MR. FONTENOT

Mr. Chairman and fellow delegates, I'll try to be brief. As you know, we only have eleven days left. If we pass this on the third reading, then it's going to come back to the floor of this convention. This is a very complicated matter. As far as I'm concerned, when it came to the committee--like it was stated previously--as a courtesy to Judge Dennis yesterday, we reported it out without action. I would have voted it unfavorable, but the result would have probably been the same. He could have still passed it on to third reading with his motion. But, as far as I'm concerned, this is a legislative matter. The total cost of the state judicial system, as far as I'm concerned, is handled by the legislature at the present time in the sense that they said that the state--whatever the state pays the judges and D. A.'s. Now, this is very all encompassing; it encompasses both judges and district attorneys. Without any information as to the cost, I feel that we're trying to handle something that we don't have facts and figures. I think passing it to third reading and within eleven days having to vote on this again, I think it's going to be a big mistake. I think it's a legislative matter; I think it ought to be handled by the legislature. Therefore, I would urge you to defeat Judge Dennis' substitute motion and let's end this matter right now. As far as I'm concerned, it can be handled by the legislature if they wanted to handle it. There's no reason that this convention should take it upon ourselves to handle it when it's a legislative matter. I'll yield to questions.

Questions

MRS. WARREN

Mr. Fontenot, is your only reason for not wanting to hear this proposal or have it brought to the floor is because of the time element?

MR. FONTENOT

No, the time element is not important. Well, it's one of the important elements; it's a factor that I have considered. But, then there's also the elements of the facts and figures concerning the total cost of the judicial system. We had it in committee for some time, and Judge Dennis never could come up with facts and figures we were looking for. That's one of them; the time figure is another one, and then the repercussions of this. We don't know exactly what... the total cost of the state judicial system shall be paid by the state from the general fund. Does that mean that all the judges and all the D.A.'s are going to get the same pay throughout the state? We just don't know what it means.

MRS. WARREN

Is the cost factor the thing that disturbs you or is it justice?

MR. FONTENOT

No, it's a combination of the three that bothers me. We just don't have the time, and we don't have the figures to make these type of decisions. That's why I'm saying...and the fact that it's a legislative matter. That's the three things that I think made up my mind, and it shouldn't be considered here.

MRS. WARREN

Well, since you've made up your mind, then you feel that the other people should not have a chance to hear whether it would be good for the state or whether it's not?

MR. FONTENOT

No, I'm just telling you my reasons for urging you to defeat his motion.

MR. HENRY

Will you yield to a question from Senator Nunez?

MR. NUNEZ

Mr. Fontenot, evidently some people feel like they don't want the group who's against moving on only want to give a hearing. Evidently, this was heard in Judge Dennis' committee which he is the chairman of, I understand, the Judiciary. It was heard in

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Revenue, Taxation, Finance, and it was voted without action. Now, it's here in another maneuver to get it passed on to the third reading; wouldn't you say that that's ample hearing? It's had three hearings already, and now it's up for another hearing.

MR. FONTENOT

Right. I agree with you. If it had been worthy of hearing, I think one committee would have reported it favorably. That's the way I feel about it.

Further Discussion

MRS. MILLER

Mr. Chairman, ladies and gentlemen of the convention, as adverse as I am to agreeing with a Judge and disagreeing with a Senator, I must say I have to give absolute a hundred percent approval to what Judge Dennis is trying to do. I just cannot agree with Senator Nunez that this would cost the state any amount of money because what you are taking from the state to finance the judiciary, you are also taking back in the way of the criminal court fund itself. This is something the legislature should have done long ago, but this strikes at the very heart of the integrity of the judiciary. When you have a judge and a district attorney who can play ball with a police jury and get what they want--as they do with this criminal court fund--you are going to have carpets in some judges' offices. You are going to have some judges that play ball the right way and use this criminal court fund as it perhaps should not be used, who get all expense trips to conventions, seminars, and conferences. I don't think this is right. I say that I have had twenty years as the wife of a district judge looking at the misuse of criminal court funds throughout this state. Ladies and gentlemen, I cannot urge you enough to go on and pass this through. The excuse now that we are running out of time just does not hold. That's just another excuse to bypass it, and to try not to take a realistic look at this. I do urge you to pass this bill on and support Judge Dennis. Thank you.

Questions

MRS. WARREN

Mrs. Miller, would you say that the borrower is a servant to the lender?

MRS. MILLER

I think so, Mrs. Warren.

MR. NUNEZ

Mrs. Miller, my interpretation of the financing of the judiciary: the state pays a basic salary for judges and for district attorneys and assistant district attorneys. Then, there is a supplemental pay by various parishes, as you refer to, throughout the state from various sources...

MRS. MILLER

Based on what they get in this criminal court fund.

MR. NUNEZ

That is correct, based on the case load, etc.--now, also secretarial help and other things that go with running the judiciary now, and you're telling us that that is not substantial, that that cost is not substantial, would not be substantial to the state. You're telling us that you and Mr. Dennis know all of the ramifications at this time as to what it would cause in the system of justice as we've known it in this state.

MRS. MILLER

Mr. Nunez, as we know, it's not obligatory on the part of the state to pay supplemental salaries to a few judges. A few judges get their salaries supplemented. This is something that one of the inequities at which we've been looking; this is something the legislature, possibly, should never have permitted to start happening. Some, one of these days when all these retirements begin to hit, these police juries and all, they're going to be sorry they ever supplemented these pays. They did that back in the days when the district judge got twelve thousand dollars a year or fourteen thousand, but now that you've raised the pay scale I think the time has come to put a stop to the supplemental pay. I don't think it's going to take more than ten more years for these police juries to rue the day that they began to enhance those salaries because they're going to have to pay their part of that out of some moneys to widows and to the retired judges.

I just think it's been a very bad thing for a few judges and district attorneys to get supplemental pay and play...

MR. HENRY

You have exceeded your time.

Closing

MR. DENNIS

Mr. Chairman and fellow delegates, I will be brief and just remind you that this is not final passage. I'm simply asking that you pass this to third reading so that it can be considered. I'd like to remind you that this is something that you have not considered before. This is a new matter for the convention; it is not a rerun of something else. It is not fair to say that it received a full-scale hearing in the Revenue Committee because it was taken up in the last days, as Mr. Smith said, after they had finished their committee proposals. I'm afraid that if we don't do something to build a state judicial system in this state, that the legislature will be unable to overcome the inertia it's had in this area in the past. It boils down to whether or not you have a state judicial system financed at the state level or whether or not you want to continue to have a whole lot of little local court systems, which some are financed extremely well, some are inadequately financed. As Mr. Smith said, it really boils down to how much traffic you have going through the courts and how much fines and forfeitures you get in these criminal court funds from the violation of state laws. There's no reason why this money shouldn't be used by the state; it is state money. The legislature has simply seen fit to dedicate it to local governments in the past. It would not cost these local governments, necessarily, any additional money to transfer the same money you are now paying judges and D.A.'s and the expenses of the criminal court fund, to transfer the same, exact amount of money to the state level and to pay it from there. The only thing it would mean would be something good. That would mean that the judges and the D.A.'s and the police jurors would not have to huddle and politick each other in order to continue to run the criminal courts. So, I ask you to please pass this and consider it. Thank you.

Questions

MR. ALEXANDER

Judge Dennis, under your proposal, would not this system work in the same way that the educational system works in the state, and the state hospitals where fees, fines, etc., where the colleges... where tuitions are turned back to the state fund without any portion of it being used by the institution, and the state makes the proper appropriations for the institution; isn't that correct?

MR. DENNIS

Reverend, it would not...this proposal would not require that, but the legislature could do that under this proposal.

MR. ALEXANDER

But the fact is that it would not cost the state any additional money. The same money that's collected now would be turned back to the state general fund.

MR. DENNIS

That's correct; it could be done that way, yes.

MR. ALEXANDER

Under the present system now, does not it lend itself, possibly-- I didn't say this happened--but it may be possible that a judge just may impose a fine where otherwise he may not. That could be possible, is it not, to enhance his local fund?

MR. DENNIS

I would hope that has never happened and would never happen, but you are correct; it is possible.

MR. ALEXANDER

I would hope so, too, Judge.

MR. JACKSON

Judge, as I understand it, what you're doing is asking this convention to pass on the delegate proposal to third reading so that at some point in the very near future that we can discuss it, vote on it, debate it, argue it, and such; is that my understanding?

MR. DENNIS

That's correct, but this is different from your delegate proposal because it has not been considered by the convention before. Yours has been considered twice so far.

MR. J. JACKSON

No, Judge. I just wanted to find out did it have a fair hearing in committee? That's what I want to know.

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[Substitute motion to engross the Proposal and pass to its third reading rejected: 34-50. Motion to withdraw the Proposal adopted without objection.]

* * *

MR. POYNTER

Delegate Proposal No. 91, introduced by Delegate Zervigon. A proposal making provisions for property taxation. Comes from the Committee on Revenue, Finance and Taxation. Reported without action.

MR. HENRY

Senator Nunez now moves that it be withdrawn from the files of the convention.
Mrs. Zervigon.

Substitute Motion

MRS. ZERVIGON

Mr. Chairman, as a substitute, I move that it be recommitted to the Committee on Revenue, Finance and Taxation.

Explanation

MRS. ZERVIGON

Mr. Chairman and delegates, there are people in this state--the governor being one, my mayor being another--who are not entirely satisfied with the property tax proposal that we have passed. Should a suitable, workable, acceptable compromise be worked out that would be agreeable to all parties, I think the best thing to do would be to start on a new proposal, amend that in the Committee on Revenue, Finance and Taxation, report it out, work on it on the floor, and then the delegates could compare Committee Proposal No. 26 with the new proposal, whatever it would be. I think it would be impossible to reopen Committee Proposal No. 26 because I think we would all die of shell shock if that were even suggested. I have spoken to members of the Committee on Revenue, Finance and Taxation several weeks ago and asked them just to let this lie in their committee. I pointed out to them that I wasn't going to press it, but if the time came when the governor came up with a property tax compromise, it would be there as a vehicle so that we would know exactly what we were dealing with before we acted on Committee Proposal No. 26 at all. They were agreeable to that and they left it in that committee at that time. I didn't know that it was coming up for consideration again in that committee. All I want to do is to leave it in committee. I'm not going to press to have it reported out favorably. You'll notice I'm not asking you to pass it on to its third reading. I just want to leave it in the Committee on Revenue, Finance and Taxation as a vehicle in case a compromise can be reached. If the convention ends with that proposal in committee, it's just as dead as if you'd withdrawn it from the files. It doesn't stay alive after the end of the convention anyway, but it would leave us a vehicle in case we find a suitable compromise. Now, remember we've invited the governor to come and speak to us. One of his subjects, as he himself has said on the news several times, is going to be property tax. I for one don't have any idea what he's going to say, but if it's something that could be an acceptable compromise, we would then have a way of working on it without reopening Committee Proposal No. 26.

So I urge you to recommit this to the Committee on Revenue, Finance and Taxation. It does no harm.

[Previous Question ordered. Motion to recommit the Proposal to the Committee on Revenue and Taxation adopted without objection. Motion to advance to Proposals on Third Reading and Final Passage adopted without objection.]

PROPOSALS ON THIRD READING AND FINAL PASSAGE
[II Journal 1125-1126]

* * *

[Motion to call Delegate Proposal No. 22 from the calendar adopted without objection.]

Reading of the Proposal

MR. POYNTER

Delegate Proposal No. 22 introduced by Delegate Conroy and Delegate Newton.
A proposal to provide for the prohibition of certain

enumerated local and special laws. Then, provides with respect to proposed Section 12 of Article III in a single section.

"Section 12. Local and Special Laws; Prohibition Against Enactment

Section 12. Except as otherwise provided in this constitution the legislature shall not pass any local or special law:

(1) For the holding and conducting of elections, or fixing or changing the place of voting.

(2) Changing the names of persons; authorizing the adoption or legitimation of children or the emancipation of minors; affecting the estates of minors or persons under disabilities; granting divorces;..."

[Motion to waive reading of the Proposal adopted without objection.]

Explanation

MR. CONROY

You may recall that way back when the convention first started in July, we had before us the article on the legislative powers. We arrived at Section 12 of that proposal which dealt with the way in which we would handle the prohibitions against local or special laws. It was a subject of rather lengthy debate in the convention at that time and essentially, the proposal as it's before you now, was adopted at one point as an amendment to the committee proposal and was adopted by the convention. Later, at the suggestion of the committee, the section was deleted and referred back to the committee for further consideration of the problem. The delegate proposal, which is before you, is a vehicle that was used to get the matter back before the committee for its consideration. The Legislative Powers Committee eventually approved this delegate proposal, in effect, making it the Section 12 of the legislative powers original proposal. So, while this is a delegate proposal, I think in some fashion it is also a committee proposal or the present thinking of the committee as the best way in which to handle this difficult problem. I think at the time that we first considered it, the major objection to this approach was the long listing of prohibitions that it involved and the desire, at that time, to keep a very brief constitution. I think we've seen in the past few months that that has been impossible in a number of areas; I think it's equally impossible here to make it any shorter. In order to understand the provisions which we have here, I think you have to go back and look at your copy of the 1921 Constitution, Article IV, Section 4. You will see there a long list of prohibitions of what... the types of local and special laws cannot be passed by the legislature. There are only a few differences between the Article IV, Section 4 as in the present constitution and Delegate Proposal No. 22 as before you; I'll point those out briefly. If you have in front of you page 36 of your compilation of the present constitution, at the bottom you will see a prohibition against creating corporations or amending, renewing, extending, or explaining the charters thereof provided that this shall not apply to municipal corporations having a population of not less than twenty-five hundred inhabitants. That was changed simply to prohibit the creation of private corporations so that it would not interfere with the local government problems. On page 37 in the second paragraph there is a prohibition against extending the time for the assessment or collection of taxes which further prohibited any ordinance to be passed by any local, political corporation of the state. Since this was not in local government, it was thought inappropriate to include it here in the Legislative Powers Article. Also--and I think that this is a point that Mr. Drew may particularly wish to address himself to--when the matter was before the convention the prior time, the contents of Section 5 of Article IV were made the subject of a floor amendment. The contents of Section 5 of Article IV are not included in this delegate proposal. It may be that Mr. Drew would again wish to make that the subject of a floor amendment. That Section 5 says that "the legislature cannot indirectly enact a special law by the partial repeal of a general law." I wasn't entirely sure that that was necessary, but I would certainly have no objection if Mr. Drew still feels that that is necessary. I gather from his nodding that he does feel it's necessary and will probably propose a floor amendment to that effect, to which I would have no objection. I think that...as I said before, the desire of everybody was to try to make this a briefer constitution. But, I don't think anybody was able to come up with language that would accomplish what we wanted to do and at the same time carry forward the types of prohibitions that the state has had and which I think have operated successfully in the state. I'll yield to any question.

Questions

MR. DUVAL

David, I certainly think your proposal is needed. I wanted to ask you one question. The '21 Constitution doesn't have "except as otherwise provided in this constitution," and you

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have it in your proposal. I was just wondering, was there any specific reason for doing this or did you do it merely as a catch-all?

MR. CONROY

Well, I'm embarrassed to say, Mr. Duval, that I wasn't even aware that that was in there. I had asked the staff to prepare this and they probably had something specific in mind and I'll try to find out the answer to your question, but I really don't know.

MR. DUVAL

All right.

MR. ARNETTE

Mr. Conroy, I definitely think these prohibitions are needed, also. The only question that I have regards Paragraph 8 when you say "the building or repairing of schoolhouses and the raising of money for such purposes." Under my understanding, all the colleges and universities around the state are funded by special appropriation, by special laws, say like for building a law school at Southern or something like this. It seems like this particular provision would prevent that and the building of any other...anything on a university campus by special law.

MR. CONROY

Mr. Arnette, the only answer I can give you is that if we picked up the language from the '21 Constitution, if it hasn't given them any problem so far, I don't see how it could create any problem in the future. But, again, I think that each one of these things can be considered and if there are any specific objections, consider them. But, I....that's in the present constitution.

MR. ARNETTE

Perhaps we better clarify that and maybe put "except on education" or something to this effect.

MR. CONROY

I might add, and Mr. Duval asked the question along the.... Mr. Arnette, Mr. Duval, follow this carefully because I think it's important. Mr. Duval had asked about there wasn't any provision in the '21 Constitution about "except as otherwise provided in this constitution." I do notice that the particular paragraph in the '21 Constitution on the public schools situation does specifically have the exception that Mr. Duval referred to. So, I assume that the staff decided that that was a better order to take that exception out of that one particular clause and put it up at the front rather than just leave it to one particular clause. But, that one does have a specific exception which I assume indicates that under the Education Article that there may be some exceptions to the education....

MR. ARNETTE

Well, I think under the '21 Constitution they did have such a provision about the special appropriations for colleges and universities, but we do not have one; it's my understanding. So, maybe we need to put "this only applies to primary and secondary schools" or something of this nature.

MR. CONROY

Mr. Arnette, that may well be because this proposal was drafted, as I mentioned, back in July, long before we knew what we would be running into as we went along.

MR. WILLIS

Mr. Conroy, my question is now just about moot because you've exhausted yourself on the explanation of an exception clause; that's what worried me and I'm not going to quibble and question you about it any further. But, let me have your assurance--and this is for the record--that you contain in your proposal everything that is in the counterpart to our Section 12 of the Legislative Article except the two items which you mentioned?

MR. CONROY

Yes.

MR. LANIER

Mr. Conroy, this exception clause that you have at the beginning would put this provision in line with the provision of the Local Government Article that authorizes the legislature to classify legislation along the lines of population or any other reasonable classification, wouldn't it?

MR. CONROY

Yes.

MR. LANIER

...in other such type exceptions that may be found throughout the document that we have prepared.

MR. CONROY

Yes. Mr. Lanier, as I indicated, this was drafted a long time ago. I'm sure the staff, I think quite properly, realized that other areas that we might specifically deal with might create exceptions to this.

Amendment

MR. POYNTER

I haven't had distribution copies of this...I had this prepared in Mr. Conroy's name...it's just a technical amendment to make the lines 8 and 9 conform to the appropriate way that we've been trying to make these articles consist and it would strike out lines 8 and 9 and insert in lieu thereof:

"ARTICLE III. LEGISLATIVE BRANCH

* * *

Section 12. Prohibited Local and Special Laws"

It's a technical amendment to try to keep the proposals in a uniform style.

[Amendment adopted without objection.]

Amendments

MR. POYNTER

We don't have the distribution copies.

Mr. Drew has sent up an amendment. We don't have the distribution copies as yet.

He has two amendments; the first one is technical.

On page 1, line 10, after "Section 12" and before the word "Except" insert "(A)"

Amendment No. 2. On page 2, between lines 19 and 20, add the following:

"(B) The legislature shall not indirectly enact special or local laws by the partial repeal or suspension of a general law."

Explanation

MR. DREW

Mr. Chairman, ladies and gentlemen, when this section was previously considered by this convention, this amendment was adopted at that time. However, as Mr. Conroy has pointed out, it is not included in this delegate proposal. What this does is close the back door on the legislature where they cannot do by a repeal or suspension what they cannot do directly. It has been adopted by the constitution. I think it's necessary that it be contained; it's in the present constitution. I move for the adoption of the amendment.

[Amendments adopted without objection.]

Further Discussion

MR. O'NEILL

Ladies and gentlemen of the convention, I just want to make sure that you all understand that this is something that we've gone over before and that this is a very necessary thing to have and that we're going to need the required sixty-seven votes to pass this thing. The Committee on Legislative Powers and Functions wrestled with this problem and we never found an adequate solution. But, I think this is the solution to simply put back in almost verbatim what was in the old constitution because we know how it's been interpreted. So, I would like to ask that you please help give the required sixty-seven votes.

MR. HENRY

I'll ask that the Clerk read the Arnette amendment. The

Amendments

MR. POYNTER

The amendment fits on page 2 and relates to Subparagraph or item, if you will, No. 8.

Item No. 8, on page 2, on line 14, immediately after the word "of" and before the word "public" insert the words "parish or city".

The same amendment on line 15, after the word "of" and before the word "schoolhouses" insert "parish or city".

So, it would read: "Regulating the management of parish or city public schools, the building or repair of parish or city schoolhouses and the raising of money for such purposes."

Explanation

MR. ARNETTE

Well, I'm sorry for taking so long but I thought the amendment was necessary, primarily because if this proposal were allowed to stand the way it is right now it would prevent any special appropriation for building, say, a school for the deaf, or addition to any university, or anything like this. I think we want to allow the legislature to have special appropriations for, say, putting a law school at Southern, or adding buildings to any universities, or vocational-technical school, or something like this. I don't think there is any problem; it's in the nature of a technical amendment. I've talked to Mr. Conroy about it and he agrees that it should be put in. Are there any questions?

[Amendments adopted without objection.]

Amendment

MR. POYNTER

All right. This would have the effect of adding a new item. I'm going to have to change the instructions there, Mr. Avant, a little bit; it says on line 20 and we've already gotten something between 19 and 20. So, we're going to have to say:

On page 2, between lines 19 and 20 and before Amendment No. 2 proposed by Mr. Drew and just adopted, add the following paragraph: It would insert a new ten--"(10) Defining any crime."

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, I'm going to be very brief. If you will recall when this matter came up before, this amendment was added. Now, the reason for that--the legislature had seen fit to pass laws defining the crime of criminal trespass in various ways in various parishes. So that if you go from parish to parish you don't know what the state law is in that particular parish because it's not uniform all over the state. What may constitute the crime of criminal trespass in Union Parish is different from what it is in Concordia Parish and different from what it is in East Baton Rouge Parish and so forth. Now, I have no objection to the law of what constitutes criminal trespass being different in all sixty-four parishes. Don't get me wrong. I just say that if it is a matter which is going to be a state crime and a crime under the criminal code of this state, that then it ought to be uniform throughout the state. If they can't make it uniform throughout the state, then the legislature should not attempt to legislate in that particular area but do a very simply thing, which they have the power to do, so that local governing authorities have the right to define a particular crime and provide a penalty therefore, and that the penalty shall not exceed so much. I wouldn't have any objection to that, but the point is this--that the Supreme Court has held that the legislature does have the right to enact a general state law, supposedly, which will define a crime in different manners, depending upon where you are in the state. The thing that disturbs me about that is, if they can define the crime of criminal trespass in different ways in different parishes, then they can define any other crime in different ways and in different parishes. They could say that the crime of burglary in the parish of East Baton Rouge will consist of certain things, but in the parish of Orleans it will consist of something else, and in Shreveport it'll be something else. Now, you say, "Well, they haven't done that." Well, twenty years ago they hadn't defined the crime of criminal trespass in different fashions throughout the State of Louisiana. Now, there is one other question that I know is going to be asked, and I'm going to answer it because I was asked before. They say, "Oh, that's going to invalidate all the game laws in the state because you can kill a doe here in certain parishes in certain times of the year and you can't kill one in another parish, etc. etc." That is simply not correct because the crime is not the killing of the female deer, per se, the crime is taking game in violation of the rules and regulations that have been promulgated by the Louisiana Department of Wildlife and Fisheries. You have many, many administrative regulations of various regulatory agencies which after they are adopted and promulgated, then, if you violate those regulations you have committed the crime, a misdemeanor in practically all cases--I don't know of any felonies that you can commit in that fashion. But, the crime is not...the crime is violating the rules and regulations which do not necessarily in these administrative areas have to be the same throughout the state, just like the speed limit on a certain type of road would not necessarily be the same throughout the state. But, what I'm talking about is more serious crimes which should have a statewide, uniform application. If there is any good and sufficient reason as to why that particular crime cannot be defined uniformly throughout the state, then the legislature should

not attempt to regulate that particular conduct but should get out of the area and leave it up to local government, which they have a perfect right to do under this constitution. So, that's all I have to say on it. I know you're tired. I know we've got a lot of work to do. This amendment was adopted earlier and then it was sent back to the committee. The committee has seen fit to take that amendment off, and I simply ask you to put it back on.

Questions

MR. LANIER

Mr. Avant, do I understand your amendment correct that it's adding a Section (10) that says "defining a crime"?

MR. AVANT

That's right. If you go back to the beginning, "Except as otherwise provided in this constitution, the legislature shall not pass any local or special law, (1), (2), (3), (4), (5), right on down to (10)--defining any crime."

MR. LANIER

Any crime?

MR. AVANT

Any crime.

MR. LANIER

Right. Now, wouldn't this invalidate the gill net law that we have enforced in the Tenth Ward of Lafourche Parish?

MR. AVANT

No, sir, it would not, Mr. Lanier. I just got through answering that, telling you that that is a matter which relates to the taking of wild game and which can be done by the rules and regulations of the Wildlife and Fisheries Commission. If they feel that in that particular area it is good sound conservation practice to outlaw taking game in that particular fashion, then they can do it.

MR. LANIER

Well, Mr. Avant, please explain to me how that law would not be either a local or a special law in the contemplation of this proposal.

MR. AVANT

I'm just saying that you can do it in another fashion, Mr. Lanier. You can accomplish the same and identical thing without leaving the constitution wide open for the legislature to pass any kind of criminal statute they want and make it on a local or special basis.

MR. LANIER

Now, Mr. Avant, would this proposal of yours invalidate the slaptrap law in Assumption Parish?

MR. AVANT

The same thing, Mr. Lanier; I mean, you're accumulating your questions. You did this before and we went through this little deal before and it will not; it will simply have to be done by reason of administrative regulation under the Department of Wildlife and Fisheries which don't have to be uniform all over the state.

MR. BROWN

Mr. Avant, following up Mr. Lanier's question, I had a bunch of game fishermen come to me and I read a statute--if I had a couple of minutes I'd get it and show it to you--that says you can only catch a fish a certain length up in, say, the parish of Concordia, whereas down in Plaquemines the length is longer because of the content of the water, and the amount of water available; it's a very complicated biological determination. By statute, those amounts are set; I've read the statutes.

MR. AVANT

But, they can be set by rule of the Department of Wildlife and Fisheries, and I think you know that, Senator Brown.

MR. BROWN

Well, they could be if you wanted to give the Wildlife and Fisheries Commission a power to...in other words, I can see some instances where that would be a pretty wide rule-making power just to say they can pretty much set everything we do, you know. It might be a question as to whether we want to give the Wildlife and Fisheries Commission that kind of authority and power.

MR. AVANT

Well, you're getting into another subject, but I'll answer you this way. I happen to feel that the Department of Wildlife and Fisheries with trained biologists and people who are trained

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in that particular area should be the persons who provide the rules and regulations for the taking of game and it should not necessarily be a political football kicked around in the legislature.

MRS. ZERVIGON

Mr. Avant, I think you've got a good idea. I believe I voted with you before, but I wanted to ask you this one question. We have elsewhere in this new constitution a section that says, "The legislature may classify cities and parishes on the basis of population or on any other reasonable basis related to the purposes of the act." How exactly does this fit with that?

MR. AVANT

I don't think that has anything to do with this question, Mrs. Zervigon. That relates to legislation which affects the powers and duties and responsibilities and so forth of local governmental units.

MRS. ZERVIGON

No, sir, I don't believe it does; it's a separate section; it just says that "the legislature may."

MR. AVANT

May classify and may legislate?

MRS. ZERVIGON

Well, could the legislature classify under these game laws in such a way that it was reasonably related to the purposes of the act and either obviate some of what you are trying to do or get around some of the objections that Senator Brown and Mr. Lanier have?

MR. AVANT

I don't follow you. My amendment is limited strictly to the definition of what is a crime under the criminal code of the state and for which you can be fined and sent to jail. I say that if the legislature is going to say that certain conduct is criminal, then it should be uniformly applicable all over the state. If for some reason they can't make it uniformly applicable all over the state, so that there would be no uniform state law, then it's obviously a matter which should be left up to local government.

MRS. ZERVIGON

Then, what you're saying is that these two sections have no relation to one another?

MR. AVANT

I don't feel that they do, Mrs. Zervigon.

MR. WILLIS

Mr. Avant, to please those people who have hilly country in North Louisiana and marshlands in South Louisiana and all kinds of other lands or topography with respect to trespassing, isn't it simply for the legislature to define what is marshlands; what is swamp land; what is highland; what is rock land? Then, after they have made that delineation by definition they can say what is a crime in those areas and still achieve, but it would still be uniform all over Louisiana. In other words, what you are trying to do is to have special laws for one parish where when you cross the boundary and you don't know where it is, you don't know whether you are committing a crime or not.

MR. AVANT

That's right. The approach that you've taken is another solution to the problem that was raised by Mr. Lanier.

MR. WILLIS

And, it would be a conviction of our legislature of inability to define topography and the compaction level and fertility in terms of soil and so forth, and if they can't do that, they can't define a crime; isn't that right?

MR. AVANT

That's correct.

Vice Chairman Casey in the Chair

MR. STINSON

Jack, don't you know for years in the legislature we couldn't come up with a uniform one? Firstly, in the way, I believe it was Jefferson Davis Parish, and then I had one from Bossier and other parishes. Because of the different problems in different parts of the state, every time we tried to have--don't you know--every time we tried to have a uniform South Louisiana one because of the marshlands and all, well they would vote down anything we wanted. So, then, about ten different parishes, at least, passed their own and provided

that the police juries could change it, at their option. Don't you think that's a form of home rule? Why should you from Baton Rouge be concerned about what we have in Bossier unless you're going to go up there and try to criminally trespass on our lands?

MR. AVANT

Mr. Stinson, I don't think you were listening. I said that I didn't care. If the legislature wants to pass an act saying that all local governing authorities in this state are given the authority to define the crime of criminal trespass within their respective jurisdictions and to provide penalties therefor up to which would be misdemeanor, I wouldn't kick about that at all. What I'm saying is that I don't want the legislature saying that the crime for criminal trespass shall constitute this in one parish and that in something else because of this reason--not that I'm so upset about trespass: If they can define one crime by a local and special law, then they can define any crime by a local and special law. They can say that the crime of armed robbery will consist of thus and such in the parish of Caddo and thus and such in the parish of East Baton Rouge, and that is what I'm trying to head off.

MR. STINSON

Don't you know that argument wouldn't hold water at all, Jack; they couldn't do it on something like that?

MR. AVANT

Well, they most certainly can because they have defined a crime and made it a state crime, a violation of the State Criminal Code to wit: the crime of criminal trespass, and it is not the same crime in all of the parishes of the state; it varies from place to place as you travel around the state.

MR. STINSON

Well, don't you think a solution would be that they can for criminal trespass, but no other crime then?

MR. AVANT

Well, if you want to add that amendment after my amendment is put on, I wouldn't holler about that, if you want to limit it that way. I think it would be kind of foolish because I think the thing to do, if the legislature can't decide what criminal trespass ought to constitute throughout the State of Louisiana, they ought to quit fooling with it and let local government decide.

MR. BROWN

Mr. Avant, one more question. You said you don't want the legislature determining that, in other words, only so long a fish should be caught in one area; that all that should be administrative rules. Aren't, in effect, what you are doing is allowing the commissioner to, in effect, write criminal laws saying that, "Look, if you are involved in hunting or fishing with this type of game, you're in violation of our rules"? Aren't you, in effect, writing criminal law and charging that man through an administrative procedure which is--in effect, we are kind of doing that right now, now that you mentioned it, and I think the whole concept is unconstitutional; wouldn't you agree?

MR. AVANT

Well, I don't think it's unconstitutional at all. I think you do it in many, many areas; the civil service can adopt rules which have the effect of law. Now, I don't know any of them that have criminal penalties...

MR. BROWN

That's civil, that's not criminal though. You are talking about criminal areas....

MR. AVANT

There are other areas.

MR. BROWN

Aren't you talking about criminal penalties when you....

MR. AVANT

The Department of Public Safety and various and sundry other departments of the state after a hearing and notice and all that, can adopt rules and violation of those rules; once they are adopted in accordance with due process of law, can be a misdemeanor.

MR. BROWN

In accordance with due process of law, but what you're....

MR. AVANT

Which involves notice, and hearing, and giving people an opportunity to be heard and express their views.

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MR. ARNETTE

Mr. Avant, you mentioned the Department of Public Safety; don't they set the speed limits on highways around the state?

MR. AVANT

Yes, they do.

MR. ARNETTE

And, a violation of that regulation as set by them is a crime?

MR. AVANT

In certain instances they may, yes.

MR. HERNANDEZ

Mr. Avant, let me admit to start off with, I didn't get interested in your amendment, it got here too late; I'm asking for information now; I'm not needing. Is it true that you are attempting to give the legislature the power to let the local government determine certain local issues, for instance, trespassing?

MR. AVANT

They already have that power. They can...if you'll go back over the Local Government Article and the Legislative Article you will conclude that the legislature can give to local government certain authority. They can give them the right to pass ordinances, the violation of which would constitute a misdemeanor. Defining crime, they have that authority now....

MR. HERNANDEZ

You do not propose to take any of that away from the local government?

MR. AVANT

No, I'm not trying to take that away from local government. The only thing I'm trying to do is to say that if the state legislature over here in the State Capitol passes a state law defining a crime which will be in the Criminal Code of this state, then that, that law has got to be of uniform application all over the state. The crime will not consist of one thing in one parish and something else in another parish. The reason that I want to do that is not because I'm concerned necessarily about them passing laws regulating the taking of game or them passing laws on criminal trespass, but if they can define one crime throughout the state in different manners, then they can define any crime. There is nothing in this constitution that says you can define these crimes in different fashions throughout the state but no others.

[Motion to limit debate to ten minutes adopted without objection.]

Further Discussion

MR. CONROY

I oppose Mr. Avant's amendment because it really subverts the intent of the proposal as is before you. The intention of the proposal was to carry forward the restraints that had existed in the past, ones that had been tried, tested, we knew what they meant. We felt these were appropriate restraints to continue. However, Mr. Avant's proposal gets us into an entirely new area that we don't really know the effect of Mr. Avant's amendment. I don't think any of us in this room fully could tell you exactly what crimes that the legislature has to date defaced might be made unconstitutional by virtue of Mr. Avant's amendment. If any of us could, I would be happy to hear it. But, I don't think we know what laws Mr. Avant's amendment might render unconstitutional that are presently on the books. I think that in our Bill of Rights section we have given ample protection to the individual who is charged with a crime under the equal protection clause and other provisions in there as far as the individual criminal defendant is concerned. I do not think it appropriate to get into an area where we don't know exactly what we are doing and erase possibly a lot of legislation presently on the books that may be fully justified and desirable. Therefore, I urge you to defeat this amendment.

[Previous Question ordered.]

Closing

MR. AVANT

I just want to clear up what I may have said that may have confused some people; I didn't intend to say or imply that any administrative agency could adopt a rule or regulation and say that if you violate this rule or regulation that there will be a criminal penalty and that they would be in a position to enforce the criminal penalty. Let's go back and . . . the legislature may give to an administrative

agency the right to make rules and regulations. Then after those regulations have been promulgated in accordance with the procedures established by the legislature and which must meet the constitutional requirements of due process, the legislature could say all right, if you violate these rules and regulations which we have authorized this administrative agency to make that you will be guilty of a crime and provide a penalty for that. After which, if you are charged with violation of that statute of the legislature, you would have to be tried and convicted in a court of law. No administrative agency could put you in jail, you would be entitled to all of the protection of the criminal laws in that event. As I said before, the important thing is this, that if the legislature is not prohibited from enacting local and special laws defining crimes--which they are not prohibited from doing up to this point because the amendment that I had offered before was taken off--then there is nothing that will prevent the legislature from passing laws, as they have in the case of criminal trespass, and saying that the illegal use of marijuana shall consist of thus and such in the Parish of Orleans, but in the Parish of East Baton Rouge you can have more marijuana than you can in New Orleans; or saying that houses of prostitution will be illegal in the Parish of Caddo, but they will not be illegal in the Parish of St. Landry, etc., etc. Or if you really want to go further, they could define any crime--I don't care what it is-- in different manners throughout the state. That's bad, and that is what we need to prohibit.

Questions

MR. VICK

Jack, I want to take you over this for the last time so the record will reflect your intention without any qualification or equivocation. Under the administrative procedure act the legislature can empower an administrative agency to find various acts in violation of the regulations they promulgate, that's a number 1.

MR. AVANT

That's correct.

MR. VICK

Number 2, they can attach a criminal liability to those acts, but. . .

MR. AVANT

The legislature can attach criminal liability, not the administrative agency.

MR. VICK

The legislature, right, that's number 2. Number 3, in order to find a citizen guilty of a criminal act the attorney for the agency has to go . . . or an agent empowered to make an arrest, for example, has to go to the district attorney in the parish involved and file charges and go through the regular criminal routine as set forth in the Code of Criminal Procedure, etc.

MR. AVANT

That's right. Mr. Vick, the classic example of that, or a classic example is the law that we've had on the books for years relating to the pollution of streams that it is administered by the Stream Control Commission; they make certain rules and regulations as to what you can dump into a stream. Now, if you violate those rules and regulations they can-- one, they can sue for an injunction, or they can file a criminal charge against you, but they are the ones who have been empowered by the legislature to make a determination as to what constitutes pollution and what you can do and what you can't do. But, they don't have the right to put you in jail. The legislature simply has said, if you violate the rules and regulations that they promulgate then we say that you should be subject to a criminal penalty. But, still you have your day in court, you have the benefit of all of the criminal laws and if you say, "I'm not guilty," they have to prove you guilty beyond a reasonable doubt in accordance with all of the procedures that protect the rights of the person accused of crime.

MR. WILLIS

Mr. Avant, you have preempted my question when your words say, "defining any crime," you were restricting it in your opening argument to your . . . and focusing upon trespass, but you developed that it applies to all crimes. Isn't it a fact, that if we allow your amendment not to pass, that you could define that in the city of New Orleans you cannot disturb the peace unless you have a loaded gun in your pocket, all other--you can use loud and abusive language, etc. Isn't that correct?

MR. AVANT

That is exactly correct.

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MR. WILLIS

You could angle out --and you brought this up, but I bring it again for emphasis-- that you could have houses inhabited by women of the oldest profession in only one parish in the State of Louisiana, and could not my parish.

MR. AVANT

That is exactly correct. As you know the law which defines the crime of burglary says that if you break into an automobile or you break into a water-craft, it constitutes a burglary. Well, the legislature could pass a law saying that in the coastal parishes if you break into somebody's boat, it constitutes burglary, but if you happen to have a boat on Toledo Bend and somebody breaks into it, it don't constitute burglary. That's the whole objection in why we need this prohibition.

[Record vote ordered. Amendment adopted:
65-30. Motion to reconsider tabled.]

Personal Privilege

MR. PUGH

Last Saturday, I suggested to you the feasibility and the advisability of our having struck a coin commemorative of the creation of this constitution by this delegative body. I ask that you give it consideration and let me know what your thoughts are. I tell you that those who have discussed it with me are all in favor of such a plan. In that connection, I make these observations and suggestions for your consideration, that there be such a medal struck, that the medal be restricted in its distribution in the following manner: that one--and one only-- may be acquired at their sole cost and expense by a delegate to the convention; that in addition to that number, that there be one presented on behalf of the convention to Mrs. Duncan and to David; that there also be one presented to the governor of this state, and with your permission in 1975 when the Republic of France honors the Louisiana Bar Association on the hundred and fiftieth anniversary of the Civil Code of 1825, I would like to present one to the President of France. Now, the last one, I suggest to you should be placed within and on a plaque to be put in the lobby of the Capitol that we provide for such a plaque in the Transitional Measures so that it will have constitutional endowment, and that the names of all of the delegates to this convention be inscribed upon that plaque. My first, and last, and final thought in this connection is to ask the governor if he will issue a proclamation that this medal may be worn by the recipients thereof at any state occasion, whether the thing be the inauguration of a future governor, the installation of a Justice to the Supreme Court, or the initial session of the legislature, or at the official bicentennial functions in the State of Louisiana. I shall ask you now by a show of hands those of you who are interested in the medal in the fashion in which I have outlined, are you in favor of such a proposition; if you are, raise your right hand. Thank you.

Questions

MR. SHANNON

Bob, what is the approximate cost of this?

MR. PUGH

I was trying to determine by hand number how many were interested in it and I'll go call Franklin Mint at my own expense and make that determination. I would assume that in silver it would be in the neighborhood of \$25.00--outside figure-- that at sterling silver. If, however, you want it in gold or you want any of the presentation pieces in gold, I'll try to arrange for an act of congress, and they'll probably run in the neighborhood of \$250.00 to \$300.00.

MR. LANDRUM

I was wondering would you consider including the coordinators, and also members of the press who have been here everyday we've been here?

MR. PUGH

Of course, whatever the constitutional convention wants to do would be my pleasure. I am not trying to get anybody to do anything; these are merely thoughts. Incidentally, what I had in mind is something similar to this. If you'll take a look at this this is the type of medal that I had in mind that on one side might have a reference to this constitutional convention and the outside days on which it sat and on the reverse side would be the seal of the great State of Louisiana.

MR. BURNS

Mr. Pugh, I assume that all of this would only go into

effect in the event the constitution was approved by the people, right?

MR. PUGH

That is correct.

MR. BURNS

I can imagine how embarrassing it would be if we go through all of this and then the constitution was defeated.

MR. PUGH

Well, the only thing I could say is insofar as the plaque is concerned, I have no objections to going ahead and arranging for the medal at this nominal cost regardless, but that's your pleasure.

MR. GOLDMAN

Delegate Pugh, in the several complementary medals in your suggestion with which I am in complete favor, when you find the cost, could you get the cost so that the cost to each of us who buy our medal will be incorporated, that portion of the cost of those complementary medals that you're going to give.

MR. PUGH

It has been my thought that we would bear the cost of those three or four complementary medals.

MR. GOLDMAN

Within our individual cost, so that we won't have to go around and make a collection for those or something.

MR. PUGH

That is correct.

MR. CHATELAIN

Mr. Pugh, I think you have an excellent idea, sir, and I certainly voted for it, but I would ask you to please, please, limit the numbers that would be made to the numbers you mentioned; let's not spread it out any further. I think you would lose the effectiveness of it if you went beyond the number that you mentioned and I think that you ought to stand fast on that, sir.

MR. PUGH

All right.

MR. BROWN

Mr. Pugh, is the medal going to be made fairly soon?

MR. PUGH

Well, that is in connection with this question over here. If it falls through are we going to do it? I think we ought to go and do it regardless and then, of course, . . . the constitution is going to pass-- I mean there's no problem about that. I'm satisfied it's going to pass and well then, we'll use the medals.

MR. BROWN

Well, in case it fails, you might want to consider maybe making it in the shape of a purple heart or something like that.

MR. PUGH

I'll ask my wife to bury me with mine.

MR. CASEY

Thank you, Mr. Pugh.

MR. PUGH

I move the adoption of this plan as outlined today.

MR. CASEY

Mr. Pugh, I think it . . . I'm not sure if it's appropriate right now that the convention adopt it. We're on another proposal and I think it may be well if necessary, to find out how many people are interested and also, it may be a subject matter that the Executive Committee ought to take up also.

MR. PUGH

All right. Whoever asked me to move. I'm sorry. Thank you.

Amendment

MR. POYNTER

The amendment would read as follows: It's sent up by Delegates Pugh and Vick.

Amendment No. 1. On page 2, between lines 19 and 2D, in

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the amendment proposed by Delegate Avant, just adopted, at the end of the text of the amendment, after the word and period "crime." add the following:

"Nothing herein, however, shall be construed as authorizing the delegation by the legislature to any board, commission, department, or agency the power to define a crime."

MR. PUGH

Mr. Chairman and fellow delegates, they can look at this as somewhat of a caveat. The only concern that I had expressed walking around the floor about the last amendment related to the possibility of some construction relating to why these administrative boards or bodies defining a crime. I believe this amendment would take care of that problem, and for that reason, Mr. Vick and I ask your favorable consideration. Thank you.

Point of Information

MR. DE BLIEUX

Mr. Chairman, in the second line of their proposed amendment shouldn't the word "legislation" be "legislature," rather than "legislation"?

MR. CASEY

I believe it should be, Senator De Blieux.
Is that right, Mr. Clerk?

MR. POYNTER

It appears that way to me. Don't you think so, Mr. Pugh?

MR. CASEY

Then, Mr. Pugh withdraws his amendment for corrections, and resubmits same after changing the word "legislation" to "legislature."

Questions

MR. LANIER

Mr. Pugh, does this mean that the legislature cannot delegate to a board, commission, department, or agency the power to define a crime?

MR. PUGH

That's its intention, yes. I don't think constitutionally they can anyway, but go ahead.

MR. LANIER

Well, let me ask you this: if the legislature passes a law saying that the violation of a wildlife and fisheries regulation is a crime, and then leaves it up to the wildlife and fisheries to prescribe the regulations, would that not be the wildlife and fisheries defining what the crime is?

MR. PUGH

Not in my opinion. That's why I'm saying that the wildlife and fisheries determines when the hunting season is. The legislature can define a crime for killing wildlife outside of a hunting season. But, the hunting season itself is defined, you know, the limits of it, are set forth by the wildlife and fisheries. That has nothing to do with the definition of crime.

MR. LANIER

But, in effect, wouldn't the wildlife and fisheries be prescribing the circumstances under which the crime would be committed? Is that not correct, Mr. Pugh?

MR. PUGH

By rules and regulations, if the legislature said that they may define under rules and regulations what a crime is, then I agree with you; or if the legislation says that any violation of any of the rules and regulations of one of these departmental commissions is a crime, then I don't believe such legislation would be constitutional, and it particularly wouldn't be in the light of this.

MR. LANIER

Well, let me ask you this, Mr. Pugh: Would you not agree with me that under the present laws dealing with the wildlife and fisheries, that certain sections have particular penal provisions attached to the sections, but that there is a general penal clause pertaining to any violation of any wildlife and fisheries regulation?

MR. PUGH

Yes, I'm familiar with that. I know it doesn't satisfy this constitution, but I'm familiar with it.

MR. LANIER

Well, has it ever been declared unconstitutional?

MR. PUGH

No, not to my knowledge.

MR. LANIER

If this is correct, if this is the way our present wildlife and fisheries law is written, would your amendment invalidate the general penal provision of our present wildlife and fisheries law?

MR. PUGH

Well, I think there's no question but the legislature among its other functions is going to have to straighten out any legislation, including that to comply with this constitution.

MR. DUVAL

Mr. Pugh, in your opinion, under the Avant amendment and if your amendment is passed, will it require entire rewriting of all the wildlife laws of Louisiana? Would the Transitional Committee have to do that?

MR. PUGH

All the wildlife laws? No. We're talking about the regulations that they may have. If there's a wildlife law, then it's been passed by the legislature and you don't have to worry about it.

MR. DUVAL

Well, you don't think it'll be in conflict with this constitution?

MR. PUGH

No.

MR. DUVAL

Why not?

MR. PUGH

Not unless that law confers upon this administrative body the right to define a crime.

MR. DUVAL

You do agree, though, that part of the laws would have to be rewritten under this provision?

MR. PUGH

Well, ...

MR. DUVAL

What about the part of the wildlife law which says that the violation of a regulation is a crime. That would have to be rewritten, wouldn't it?

MR. PUGH

Yes, it sure would, and I think it should be.

MR. DUVAL

Now, what about the wildlife laws that only apply to a specific local area? Will those have to be rewritten?

MR. PUGH

That's Mr. Avant's amendment.

MR. DUVAL

Yes. Will those have to be rewritten?

MR. PUGH

Yes.

MR. DUVAL

They would have to be rewritten, won't they?

MR. PUGH

Yes, if you're going to try to say that if you violate the rules and regulations in this little book published by an administrative body, you have committed a crime, then, yes; they'd have to be rewritten.

MR. DUVAL

Do you think we've studied this sufficiently to know what affect it's going to have on the various revised statutes affecting the wildlife, for an example?

MR. PUGH

Well, if you are asking me that in the last twenty minutes have I read all these wildlife laws, I haven't.

MR. BURNS

Mr. Pugh, this worries me. I mean, I don't quite understand it. Say, the legislature passes a law, it's a present law, defining the killing of a doe as a crime.

MR. PUGH

Killing of what?

MR. BURNS

A doe, deer...female deer.

MR. PUGH

Oh, I thought you said a toad.

MR. BURNS

But, under our present law, as I understand it, the Wildlife and Fisheries Commission or Department in certain areas where they have an overproduction of doe, female deer, they can declare an open season on it although there's a state law declaring that the killing of a doe deer is a crime.

MR. PUGH

If you're asking me whether an administrative body ought to be able, by its rules and regulations, to change the laws of the State of Louisiana, as enunciated by the legislature, then I'll tell you that they ought not be able to.

MR. BURNS

The only reason I cited that because that's the situation now.

MR. PUGH

Well, see, going back to my earlier illustration, there's one thing to say that the killing of a deer out of season is a crime. There's another thing to say that the administrative body can determine the limits of the season. Those are two entirely different things.

MRS. ZERVIGON

Mr. Pugh, the way your amendment is phrased, it says, "nothing herein shall be construed as authorizing." As I read this delegate proposal, it's a limitation, not an authorization of anything.

MR. PUGH

That's correct.

MRS. ZERVIGON

So, how could anything be construed as authorizing? How could anything in Delegate Conroy's proposal be construed as an authorization when all the language of it is cast as a limitation?

MR. PUGH

I asked Mr. Vick the same question. He said we'll let Style and Drafting take care of that.

MRS. ZERVIGON

Isn't it also correct that the legislature may do anything not denied it, and that this is cast in...the delegate proposal is cast in the language of a long denial of things to the legislature?

MR. PUGH

Yes. It can do anything it's not denied. However, I think it ought to be denied the right to delegate the power to define crimes. There isn't any question about that. I think you ought to be able to look to the statutes of Louisiana to tell what a crime is.

MRS. ZERVIGON

One more question: Wouldn't that be unconstitutional delegation of authority in any case?

MR. PUGH

...Well, I think it is, frankly. That was my answer over here. I think it's always been unconstitutional when they did it.

[Previous Question ordered. Amendment rejected: 47-48. Motion to reconsider tabled. Previous Question ordered on the entire subject matter.]

Point of Information

MR. TOBIAS

Mr. Chairman, did that motion include the voting since

there is..this would require a record vote, passage of the section and proposal. In other words, would a motion be in order at this time to move for a suspension of the rules so that we can act upon Section 1 and the proposal simultaneously?

MR. CASEY

I see. Mr. Tobias, I made an error. I should have just indicated your intention was to call the question on Section 12, but you're talking about something completely different, right? When we vote, we're going to vote on Section 12 and the entire delegate proposal, and that is your motion?

MR. TOBIAS

That would be my motion.

[Motion to suspend the rules to vote simultaneously on Section 12 and Delegate Proposal No. 22 adopted: 74-20. Motion to reconsider the Section tabled. Motion to reconsider the Proposal pending.]

Recess

Chairman Henry in the Chair

[Quorum present. Delegate Proposal No. 65 called from the calendar and withdrawn. Motion to call Delegate Proposal No. 42 from the calendar adopted without objection.]

Reading of the Proposal

MR. POYNTER

Delegate Proposal No. 42, introduced by Delegate Dennery and Delegate Stovall: A proposal providing for the lieutenant governor as ombudsman.

"Article IV, Section _____.

Section _____. The lieutenant governor shall be the ombudsman for the people of the state. He shall receive and investigate complaints made against the state, its officials, employees, agencies, boards, or commissions. The legislature shall prescribe procedures and remedies necessary to effectuate this provision."

Explanation

MR. DENNERY

Mr. Chairman and delegates to the convention, this delegate proposal, which was introduced by Reverend Stovall and me, is for the purpose of giving duties to the one statewide elected official for which we have provided no specific duties: namely, the lieutenant governor. We are suggesting that the lieutenant governor shall receive and investigate complaints made by the citizens of this state, whether they be in the state employ or not in the state employ, "against the state, its officials, employees, agencies, boards, or commissions." Now, the idea of the ombudsman started some, oh, a number of years ago, officially, out in the Scandinaavian countries. But, even before then, way back in the primitive legal order--in the Germanic tribes and, later on, in England--there was a method by which a citizen could complain to the head of a state; and the head of the state, normally, appointed someone to receive these complaints. For instance, in England the chancellor was the keeper of the king's conscience. The position, normally, is of a neutral individual, and the word "ombudsman" derives from the man who collected a fine which was imposed in ancient law and carried the fine to its destination. Now, the purpose of this is to permit the individual concerned to give voice to the collective conscience and the spirit of the people. He attempts to resolve grievances at an early level so that you don't have to go to court. He attempts to improve the administration of the government, and he attempts to aid legislative oversight of administration. There are numerous states already which have adopted similar articles. Hawaii has it in the revised statutes; other states have it in the constitution or in the statutes. There are numerous articles which have been written on the subject, recommending--although some of them do not recommend--that the lieutenant governor hold this position. Now, we are submitting, along with this delegate proposal, two amendments, the first of which will remove the word "ombudsman"--which, in the first place, is difficult to pronounce and difficult to understand by those who have never heard the word before. So, the first amendment will merely remove, from line 9, reference to the ombudsman and will make the sentence read: "The lieutenant governor shall receive and investigate complaints," etc. In addition to this, we thought we should

allow the convention the opportunity to give one or more other duties to the office of the lieutenant governor. The second amendment, which will be passed around to you, provides that he shall be in charge of the commerce and industry affairs of the state, of the public parks and recreation of the state, and of tourism in the state. It seemed to both Mr. Stovall and to me that it was difficult to have a statewide elective official without giving that official some duties. We have removed, as you will recall, the only serious duties that the lieutenant governor presently has. We have removed him from his office as presiding officer of the Senate; he will no longer preside at Senate meetings; he will no longer have the right to appoint committees in the Senate. Therefore, we have left him kind of out in left field with no duties, and it is our sincere belief that we should give some duties to the office of the lieutenant governor. I'll be pleased to answer any questions, Mr. Chairman.

Questions

MR. HERNANDEZ

Mr. Dennery, there's one question I'd like to ask: Are all these duties acceptable to the lieutenant governor, or how does he feel about this?

MR. DENNERY

Well, the present lieutenant governor has indicated that he, for all practical purposes, is doing the work of an ombudsman right now without any official designation. He does receive complaints, and he tries to help citizens of the state in this regard. He is very interested in the other three duties which we are adding by way of...want to present to the convention by means of an amendment. He feels very strongly that the office of lieutenant governor should have a particular one or more duties so that the lieutenant governor will have something to do other than wait in the wings until something happens to the governor.

MR. HERNANDEZ

I'm sure, then, the last one--the commerce and industry, tourism, parks and recreation--I would feel that he might not have objection to that, but that first amendment you have, you do think that will be acceptable to him?

MR. DENNERY

Yes, I discussed it with him, Mr. Hernandez--and I think Reverend Stovall has also--and he indicated that that would be satisfactory to him. He thought he was doing it anyway, so he might as well have the official designation to do it.

MR. HERNANDEZ

Well, thank you, sir.

MS. ZERVIGON

Mr. Dennery, regardless of how you phrase it, one of the aspects of the concept of ombudsman is independent funding so that you could really be an advocate of the people; and, even if you made some folks mad, you'd still be able to keep on with the job. There's nothing in this proposal that protects any kind of independent funding for the office, is there?

MR. DENNERY

Well, I think no more than protects the independent funding by the legislature of any other office. I would assume, Ms. Zervigon, that if the convention adopts a proposal of this nature, that the lieutenant governor's office will seek and receive the necessary or requisite appropriation.

MS. ZERVIGON

One of the things that's always been in civil service is that the legislature shall provide adequate money to perform this function, and then it preserves the independence of civil service. You didn't consider putting such a phrase in with regard to the lieutenant governor, did you?

MR. DENNERY

No, but I would certainly have no objection, nor do I believe would Reverend Stovall have any objection to an amendment which required funding.

MS. ZERVIGON

Thank you.

MR. LANDRUM

Moise, I was wondering: Do you think this would be an encroachment on the attorney general--on the duties of the attorney general?

MR. DENNERY

No, I don't think it would encroach upon the duties of the attorney general because this is...the purpose of this office would be to try to get these things settled before you had to go to court. In other words, he would act--somewhat, if you will--as an arbitrator, but not officially as an arbitrator. He would receive complaints. He could screen out those complaints which obviously were unnecessary, and those which had some basis, he would be able to try to get the department of the individual concerned to see the light, as it were.

MR. LANDRUM

But, don't the attorney general also act in the capacity of an investigator?

MR. DENNERY

Yes, but I don't think this is the same thing, Reverend. The normal functions of the attorney general, from an investigative point of view, are more related to the criminal things than to... in other words, this would be a situation of a complainant. You weren't getting the type of service you thought you were entitled to from this state.

MR. GIARRUSSO

Moise, I'm for giving the lieutenant governor some responsibilities; however, do you think that there could possibly be some friction between his office and, perhaps, the governor's office and other investigatory bodies that are going to handle complaints? Just suppose, for example, is that the lieutenant governor has an ambition to be governor. Is that--you know, his handling of complaints, perhaps, could create an unfavorable situation?

MR. DENNERY

It conceivably could, Mr. Giarrusso. I don't believe it would, but it conceivable could. I think that the normal, average run of lieutenant governors probably has an ambition to become governor, whether he is in charge of one department or another. If you prefer to limit his duties, say, to tourism or commerce and industry or parks and recreation, I personally would have no objection. The reason this was put in originally, in the form in which it was put, was just so that we would have something----it was put in--as you notice, it's 42; so it's rather late--we had to get something in if we wanted to give him any duties.

MR. GIARRUSSO

Well, another question is that don't you think this would be a duplication effort by agencies that are charged or given the responsibility of investigating complaints---- that there'd have to be another staff under the lieutenant governor specifically to do this?

MR. DENNERY

I think it probably would require some staff, Mr. Giarrusso. I don't think he could personally do this, no.

MR. GIARRUSSO

Of course, I knew that, but I just don't see, you know, the need for this type of responsibility--something else, yes; but that particular one, I would say no.

MR. SUTHERLAND

Moise, I'm a little confused. I think you explained this, but I didn't hear the explanation. I've got two amendments here. One of them says you're going along with what you have in the proposal, and adding Section (B) for lieutenant governor. The other one deletes....

MR. DENNERY

Just deletes the word "ombudsman." That's all it does. It says, if you would read the proposal with that amendment....

MR. SUTHERLAND

Well, I've read it, and I don't follow it, Moise. Maybe it's clear, but I read those instructions, and I can't follow it on the proposal.

MR. DENNERY

I don't have it in front of me, Matt. What are the instructions?

MR. SUTHERLAND

It says: "On page 1, line 9, immediately after the word 'shall' delete the remainder of the line and on line 10, before the word 'receive' delete the following: 'man for the people of the state. Each shall'."

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MR. DENNERY

Right. So that it would then read: "The lieutenant governor shall receive and investigate complaints made against the state, its officials," etc. Just removes the title of "ombudsman."

Excuse me, Mr. Chairman. I see the amendment uses the word "each." It should say "he." That was a typographical error.

MR. HENRY

Mr. E. J. Landry has a question.

MR. E. J. LANDRY

Mr. Dennery, do you really feel that we should assign duties to the second in command of the State of Louisiana--the man who represents the governor? Do you not see opportunity for conflicts in your amendment?

MR. DENNERY

No sir, I don't, Mr. Landry. I think that the amendment... Well, the proposal itself does not conflict with the... you see, we have provided in the executive department that he shall have such other duties and powers as may be given to him, either by, as I recall, the governor or the legislature. Now, what we're doing now is saying that one of these powers shall be this: namely, the ombudsman concept.

MR. RAYBURN

Moise, I'm going to be friendly, too, but I'm just trying to really find out: If I understand your proposal correctly, the lieutenant governor, if this is passed, would be able to investigate all officials, all departments, all state agencies, and then further investigate any complaint that anyone might call into his office; is that correct?

MR. DENNERY

No, it's limited just to the complaint, Senator.

MR. RAYBURN

Well, the original proposal says he shall investigate.

MR. DENNERY

No, it says he shall "receive" and investigate complaints.

MR. RAYBURN

Complaints against all officials, all agencies, boards, and commissions.

MR. DENNERY

Yes, that's correct, sir.

MR. RAYBURN

Now, then it further says that he shall "direct the offices of commerce and industry, tourism, and parks and recreation."

MR. DENNERY

Well, now, that, of course, is the ... that's the amendment.

MR. RAYBURN

That is the amendment. And, the amendment has not been adopted at this time?

MR. DENNERY

No, we haven't even gotten to the amendment yet.

MR. RAYBURN

Now, under our present setup, the attorney general of the state is supposed to investigate all complaints, and we have the Consumers' Protection Commission, which is now in effect--it has a statewide telephone number--that investigates all complaints that come before them. Would this be a duplication of duties? Would the lieutenant governor need a staff of lawyers and research people and detectives to go out and make all these investigations that had been requested of him? I'm just trying to find out, really, what are we trying to set up here?

MR. DENNERY

I would not think so. It would seem to me that, in the reorganization of the executive branch--which the legislature is supposed to do under this constitution--it could very well place this office of consumer protection under this phase of the lieutenant governor's duties, if it so chose, and it

would be the logical place to put it; so he would have an organization ready-made for him at that point. Now, as far as complaints are concerned, it is possible that we might better restrict it so that he would not be investigating the criminal phases of anything. That was not the intention of it at all. The intention of it was to...if you act as an ombudsman, you would not be investigating criminal complaints at all; you would merely be investigating, for instance, Senator, if the highways in your particular parish were not properly fixed, instead of bothering you, they would then bother the ombudsman.

MR. RAYBURN

Do you believe they'll do that?

MR. DENNERY

Well, if you give them a free telephone number, they might--instead of having to wake up early in the morning to catch you.

MR. RAYBURN

Now, let me further ask you this: What would be your definition of investigating officials? I read that.

MR. DENNERY

It's only complaints made against them.

MR. RAYBURN

Well, the complaints that I was doing something wrong in my area--he's going to come investigate me? Then, if I'm lieutenant governor and want to run for governor, I'll investigate the present governor four years to make sure that...

MR. DENNERY

That's within the realms of possibility, yes, sir.

MR. RAYBURN

...make sure that I build me up enough publicity to get me into the ring.

MR. DENNERY

That's quite possible, yes, sir.

MR. LEBLEU

Mr. Dennery, my question was going to be similar to what you answered Senator Rayburn, and I ask you to put yourself in the role of legislator--or any other public official, as far as that is concerned. If you were a legislator, would you prefer one of your constituents to call the lieutenant governor about a bad road in your district, or would you rather have him call you and see if you could help him?

MR. DENNERY

Well, Mr. LeBleu, I've never been a legislator. I would imagine that the average legislator would just as soon be able to wear the white hat and say, "I got the road fixed." It might make it easier for the legislator.

Amendments

MR. POYNTER

Mr. Chairman, the first set of amendments--had prepared for Mr. Dennery and Delegate Stovall--are the same technical amendments just to correct, or keep in the consistent form, the title on lines 7 and 8. Delete those lines and insert in lieu thereof:

"ARTICLE IV. EXECUTIVE BRANCH
* * *

Section"--number this 24; there are twenty-three present sections in the Executive Article--"Lieutenant Governor is Ombudsman"
Amendment No. 2. On page 1, line 9, at the beginning of the line, strike out "Section _____" and insert in lieu thereof "Section 24."

[Amendments adopted without objection.]

Amendments

MR. POYNTER

Amendments sent up by Delegates Dennery and Stovall. Read as follows:

Amendment No. 1. On page 1, delete line 4 in its entirety

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and insert in lieu thereof the following: "Providing for the duties of the lieutenant governor."

Amendment No. 2. On page 1, line 9, immediately after the word "shall" delete the remainder of the line and on line 10, before the word "receive" delete the following: "man for the people of the state." That word "Each" should be "He"--"He shall".

Explanation

MR. DENNERY

This, also, Mr. Chairman, is a technical amendment in that it removes from the language the word "ombudsman" from the delegate proposal completely. Otherwise, it remains the same. In other words, it would read that "the lieutenant governor shall receive and investigate," etc., and it removes the language terming him the "ombudsman" for the people of the state.

[Amendments adopted without objection.]

Amendment

MR. POYNTER

Delegates Dennery and Stovall send up the following amendment: Amendment No. 1. On page 1, line 13, immediately after the word "procedures" insert a comma "," and delete the remainder of the line and insert in lieu thereof the following: "remedies and appropriate the funds necessary to".

Explanation

MR. DENNERY

The purpose of this amendment is to take care of the problem raised by Ms. Zervigon during the question period. It provides that the legislature shall not only prescribe procedures and remedies, but, also, shall appropriate the funds necessary to effectuate the provision.

Questions

MR. SHANNON

Mr. Dennery, doesn't the legislature have this authority, without all of this, already?

MR. DENNERY

You mean the authority to appropriate the funds?

MR. SHANNON

To do any of this.

MR. DENNERY

Oh, questionably they do. I think the legislature unquestionably has the power to set up this type of office. Whether they have the right to give that duty, specifically--or those duties, specifically--to the lieutenant governor, I'm not certain of, Mr. Shannon. They probably do have that right.

MR. SHANNON

By putting all this in the constitution now, why, you're going to set up another budget--compulsory budget.

MR. DENNERY

Of course, the lieutenant governor's office gets a budget anyway. The purpose of the whole proposal is to give certain duties--specific duties--to a statewide elected official who, at present, under the way the article on the executive department reads, he has no duties.

MR. SHANNON

But, could not all this be done, even without this article?

MR. DENNERY

But, the same thing could have been done in agriculture, Mr. Shannon, and we chose to put it in the constitution. The same thing could be done with attorney general; the same thing could be done with all the other statewide offices.

MR. JONES

Mr. Dennery, I think you have an excellent amendment, and I'd like to ask that you and Reverend Stovall permit me to coauthor that amendment and the delegate proposal with you, if you will.

MR. DENNERY

Be delighted to have you, sir.

MR. HAYES

Mr. Dennery, I wonder if the lieutenant governor would be available after he gets all these duties to perform, in the event the governor is absent.

MR. DENNERY

Oh, yes, he'll still be available. There won't be any problem there. This is his office anyway.

MR. HAYES

After you put all of this in the constitution for him to do, you think he would still be available to act as the governor?

MR. DENNERY

I don't think there'd be any question because the legislature and the governor can give him other duties anyway.

[Previous Question ordered. Amendment rejected: 37-54. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Mr. Dennery sends up a further amendment. Amendment No. 1. On page 1, line 24, immediately after ... Amendment No. 1. On page 1, line 9, immediately after "Section 24." and before the word "The" insert "(A)". Amendment No. 2. On page 1, line 15, add the following: "(B) The lieutenant governor shall direct the offices of commerce and industry, tourism, and parks and recreation."

Explanation

MR. DENNERY

The purpose of this amendment is to add these other three duties to those of the lieutenant governor. In other words, the lieutenant governor would "direct the offices of commerce and industry, tourism, and parks and recreation." I suggest to the delegates that, if this amendment is adopted and you do not agree with the first section in connection with the ombudsman concept, that it would be far better to adopt the second--the (B) section--and then come back with an amendment, if you choose to, to remove the first section and make (B) really Section (A). This would avoid any possibility of conflict in the question raised by Senator Rayburn, for instance, and would give specific duties to the lieutenant governor on commerce and industry, tourism, and parks and recreation. I urge its adoption. I'll be pleased to answer any questions.

Questions

MR. DUVAL

I'm just trying to figure out how this fits into the scheme of the executive department proposal. I'm wondering: Would the lieutenant governor be the head of a department under this, or would he be one of the twenty departments, or how would it work?

MR. DENNERY

It could very well work that way. I think the legislature could very well create a department which would contain commerce, industry, tourism, parks, and recreation, and any others they choose and put that under the aegis of the lieutenant governor.

MR. DUVAL

But, if it were part of another department, you could have an appointed head being over a department which is headed up by one of you elected statewide officials. I was just wondering how we could cure that problem.

MR. DENNERY

Well, I think the problem would have to be cured by the reorganization by the legislature. It's the only way I know to cure it--unless you wanted to create a specific department, and I see no reason to do that.

MR. DUVAL

But, this would have to go under one of the twenty departments, would it not?

MR. DENNERY

Oh, yes. I don't think there's any question about that.

MR. RAYBURN

Mr. Dennery, I believe I understood you to say that the lieutenant governor would direct these particular agencies that you've outlined in this amendment.

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MR. DENNERY
Yes, sir.

MR. RAYBURN
Under the present law, unless we would change the structure, the governor would appoint all the members of the Parks and Recreation, all the members of Commerce and Industry, and then the lieutenant governor would have full responsibility of carrying out the duties of those various offices and would have nothing to do with who got appointed to those positions?

MR. DENNERY
I think that's correct, Senator Rayburn, unless the laws were changed. But, nevertheless, it would give these various departments--or rather these various offices--it would group them under one general department, and the head of that department would be the lieutenant governor.

MR. RAYBURN
Well, as today, Mr. Dennery, I believe he's an ex officio member of Commerce and Industry; is that not correct?

MR. DENNERY
I don't recall, Senator. He may well be.

MR. RAYBURN
I'm sure he is, Mr. Dennery; he already serves on the Commerce and Industry.

MR. DENNERY
He may well do that. I don't think that would make any difference, though, because he would just be in charge of the office.

MR. ABRAHAM
Moise, don't you feel that by having this language in the constitution that we probably could restrict the reorganization of the executive branch within twenty departments, in that we're saying maybe Commerce and Industry could best fit in--the office could best fit in with several other offices in a particular department, and then we're pulling this one office out of there? Or, for instance, suppose that the Parks and Recreation Division or office were in the Department of Natural Resources or Conservation, don't you think we'd be creating some problems here? I'm not disagreeing with what you're attempting to do, but I think if we put it in the constitution, I'm afraid of what it might do to the reorganization plan.

MR. DENNERY
Well, my answer to that, Mack, is that if you're going to give the lieutenant governor any duties, you're going to have to state what those duties are. Somewhere along the line you may run into some conflicts with some theoretical plan of reorganization, but I think those can all be worked out as a practical matter.

MR. ABRAHAM
But, would it not be better, though, to leave it flexible so that in the reorganizational plan it may be that one or two or three of these departments would report to the lieutenant governor?

MR. DENNERY
Well, I think you have to choose between the lesser of two evils there. You either want to give the lieutenant governor certain duties or you don't. Now, my conception is that we ought to give every statewide elected official specific duties.

MR. ALEXANDER
Mr. Dennery, I think there's been some discussion about the possibility of conflict between the governor and the lieutenant governor. You may not be old enough, but you recall the incident between Governor Huey P. Long and Lieutenant Governor Cyr?

MR. DENNERY
Unfortunately, I'm old enough; yes, sir.

MR. ALEXANDER
Where the lieutenant governor physically attempted to seize the position of governor. Now, I'm wondering, if we can have two governors, that we should not make it possible that the governor must accede him some way to the appointment or the designation of the lieutenant governor to these positions, and would you oppose an amendment to do just that?

MR. DENNERY
I don't quite follow you, Reverend. You're talking now

specifically about this amendment--Commerce and Industry, tourism, and parks.

MR. ALEXANDER
Yes.

MR. DENNERY
I don't quite follow how you would do that.

MR. ALEXANDER
Well, by amendment simply state that the lieutenant governor shall...may hold these positions by the designation of the governor.

MR. DENNERY
Well, I don't think you need that, then, Reverend Alexander. I think that the present state of our document is that the governor can give those duties if he wants to, right now.

MR. ALEXANDER
He can give them now, but if we designate them in the constitution, then he may not take them away.

MR. DENNERY
That's correct, sir. That was the theory behind this was to give each statewide elected official certain duties. Now, it may be that some of these duties would better not be in here. I'm not in a position to state that.

[Previous Question ordered. Amendments rejected: 37-53. Motion to reconsider tabled. Previous Question ordered on the Section.]

Closing

MR. STOVALL
Mr. Chairman, ladies and gentlemen of the convention, what we are struggling with here is constitutional duties for an office that has been established already in this constitution. Mr. Dennery and I have been on the Committee for the Executive Branch. We have talked with the lieutenant governor. We felt that these duties which we suggested here were appropriate to his office. I would remind you, and especially in response to Mr. Shannon over here, that we're not setting up an additional budget, but rather we are trying to give definite functions to a constitutional office which we have already established. Now, the idea of the lieutenant governor investigating complaints and receiving these complaints is an effort to make government more responsive to the people. I think also we need to remind ourselves that if there are constitutional duties for the office of lieutenant governor, that this gives greater dignity to the office, and it will tend to encourage qualified people to run for this office. So, on the basis of these and the considerations suggested by Mr. Dennery, we encourage your affirmative support.
Thank you.

[Reading of the Section as Amended. Section failed to pass: 37-58. Motion to withdraw the Proposal adopted without objection. Motion to call Delegate Proposal No. 49 from the calendar adopted without objection.]

Reading of the Proposal

MR. POYNTER
Delegate Proposal No. 49 by Delegate Brien.
A proposal providing with respect to consumer education and information councils.

"Be it adopted by the Constitutional Convention of 1973:
Article ____, Section 1. Consumer Education and Information Councils

Section 1. The legislature shall create consumer education and information councils, which may provide consumer representation for the interest of consumers throughout the state in hearings before any board, commission, department, or agency of the state or any political subdivision thereof and which shall exercise such other powers and duties as are fixed by law."

Explanation

MRS. BRIEN
You know all I want is to give consumer education a firm stand

in this constitution, so it progresses throughout the state. Louisiana consumers want a constitution that protects the consumers, the average man or woman whose role in the market place as a buyer and also the seller or producer of goods and services. So often it is forgotten that people are consumers of government service, too. Consumers are voters. Everyone agrees that Louisiana's old constitution is a bad bargain, and this body right now has a great opportunity to give consumers their money's worth in the new constitution. On your desks you see a provision from Montana's recently adopted constitution. Now, if you read this, this is really much stronger than what my proposal is. I say in my proposal "hearings before any board, commission, department," etc. Yes, I think we need the voice of the consumer representatives on all these boards. Also, regulatory agencies such as insurance, pharmacy, radio and TV repair, etc., are generally controlled by those within the profession--being regulated. Of course, experts in each field still are needed, but so are consumers. As one example of what our present lack of consumer representation can mean to consumers, consider the recent action of the Louisiana Milk Commission. So, I say again: I want to give every individual the right that he deserves, and that's what I mean when I talk about consumer protection. So, I ask you for your favorable adoption of this proposal.

Questions

MR. JENKINS

Mrs. Brien, the legislature could provide this by statute, could it not?

MRS. BRIEN

Yes, it could provide it, but it never did provide it. What we have right now is a statute that isn't worth the paper it's written on.

MR. JENKINS

I wonder, when we already do have a Consumer Protection Agency, I believe, don't we?

MRS. BRIEN

Yes, we have, but what I want is that it goes throughout the state, that everybody is protected--especially represent the consumers, so any council can represent the consumers and every board, agency, and department.

MR. JENKINS

When it says that "consumer representation may be provided for", does that mean the state would be hiring lawyers that would go in and sue some of our businesses in the state, use tax funds? What would that mean?

MRS. BRIEN

No, what it really is, only to represent the consumers, to be there when, let's say like when it was going on with the Milk Commission. Consumer representation was not even there. There are so many things that are done and the consumer doesn't even know about it.

MR. JENKINS

In other words, you mean like a private business might be represented by its attorneys on the one hand, and then against it would be the state attorneys representing consumers. Is that how it would work?

MRS. BRIEN

Well, it's really up to the legislature. I said councils, but I did leave it up to the legislature.

MR. JENKINS

On this last part where it says it shall "exercise other powers and duties" provided by law, what sort of duties would those be, do you think? What sort of powers might these councils have?

MRS. BRIEN

Well, the duty is really only to represent the consumers, and yes, if it is wrongdoing against the consumer, they should have some power to do something about it, and that is again left up to the legislature as to how far they can go.

Amendments

MR. POYNTER

We have the same usual technical amendments, Mr. Chairman, to come in and correct the title on lines 8 and 9--"Article XII. General Provisions *** Section 12. Consumer Education and Information

Councils." In addition we have in those lines 8, 9 and also on line 10 made this as Section 12 of the General Provisions Article.

[Amendments adopted without objection. Previous Question ordered on the Section. Section failed to pass: 48-45. Motion to table reconsideration adopted: 55-35. Motion to withdraw Delegate Proposal No. 49 adopted without objection. Motion to call Delegate Proposal No. 43 from the calendar adopted without objection.]

MR. POYNTER

On line 11...the proposal was amended in committee and on line 11 the words should be "which may provide consumer representation"--and it goes on to line 12--"representation for the interest of consumers." That word is "may". The first time it was printed it, inadvertently by the printer on line 11, the word was "shall". It correctly should be "may", and it's possible that...I know a number of delegates have old copies of the reprinted proposal in there, which is incorrect, so the sentence should read "the legislature shall create consumer education and information councils, which may provide consumer representation," etc.

Reading of the Proposal

MR. POYNTER

Delegate Proposal No. 43 introduced by Delegates Johnny Jackson, Gauthier, Gravel, Alphonse Jackson, et al.

A proposal providing for juvenile courts having exclusive original jurisdiction with the exception for offenses of murder, aggravated kidnapping, armed robbery, or aggravated rape.

The section reads as follows:

"Section ____ Juvenile courts including district courts and parish and city courts when sitting as ex officio juvenile courts, shall have exclusive original jurisdiction of all offenses committed by persons under the age of seventeen, except that the criminal district courts in the parish of Orleans and the several district courts in the other parishes of the state shall have exclusive original jurisdiction of persons who at the time of the commission of the offense are over the age of fifteen years and who have been indicted by a grand jury for the offenses of murder, aggravated kidnapping, armed robbery, or aggravated rape committed within their respective jurisdictions."

Explanation

MR. J. JACKSON

Mr. Chairman, ladies and gentlemen of the convention, in order to conserve some time of this convention--and particularly in order to allow adequate discussion, debate, and hopefully a well thought out decision on the part of this convention--I want to suggest to you that the committee proposal that is before you is the proposal that went before the committee and did not have the opportunity to be amended. So, I would ask that you disregard the committee proposal as it appears in your book because the substance of the proposal is an amendment that I have sent up. If you recall on yesterday, I did announce that we would be debating and discussing that amendment because in effect that was my Delegate Proposal No. 43. So, Mr. Chairman, I would ask that you allow the amendment to this proposal to be introduced so we can discuss fully what I consider the most crucial issue--one of the most crucial issues in this convention.

Amendment

MR. POYNTER

Amendment No. 1. On page 1, delete lines 12 through 23, both inclusive, in their entirety and insert in lieu thereof the following:

"Section ____ There shall be a juvenile court for each parish. It shall have jurisdiction of cases of the State of Louisiana in the interest of children under seventeen years of age who are brought before it as delinquent or neglected children, as may be defined by law, except for capital crimes or crimes defining attempted rape, which are committed by children fifteen years of age or older. It also shall have jurisdiction over cases involving persons charged with the violation of any law for the protection of the physical, moral, or mental well-being of children under seventeen years of age not punishable by death or hard labor. It also shall have jurisdiction of cases of desertion or non-support of children by either parent, or non-support of a wife by her husband and also of the adoption of children under seventeen years of age. Courts serving as ex officio juvenile courts on the effective

date of this constitution shall continue to serve in that capacity until such time as their jurisdiction is changed as provided herein.

Notwithstanding the provisions of Section 15 of Article V of this constitution to the contrary, the legislature may provide by law upon a favorable vote of at least two-thirds of the members elected to each house: (1) for the merger of juvenile courts with other courts; (2) for the abolition of juvenile courts; (3) for additional jurisdiction of juvenile courts; and (4) that a juvenile court may waive its jurisdiction over children fifteen years of age or older at the time of the commission of any offense, who may then be tried as adults."

Explanation

MR. J. JACKSON

Mr. Chairman, ladies and gentlemen of the convention, as most of you know that I have personally, along with Mr. Pugh and other delegates here, have been concerned about the present provision as it exists in the Judiciary Article. I've heard constantly over the last three months, particularly, about some concerns that individual delegates here had about the original proposal. The only thing that I ask you in listening to this amendment is to recognize (1) if I have made the necessary compromises, (2) if the amendment as I present to you indeed is worth every positive and affirmative vote on your part. In explaining the amendment let me say that (1) if you look at the first paragraph, it says, "there shall be a juvenile court for each parish", rather than "in each parish." This was done to allow parishes that may now or in the future cannot financially afford or geographically maintain a separate juvenile court to join with other parishes in the support of such a juvenile court. In addition, what that does is to allow that those parishes that presently have district courts serving as ex officio courts to be retained. That is significant because one of the arguments was that you're mandating that each parish have a juvenile court, and I'm suggesting there's a difference between the language, "there shall be a juvenile court in each parish" and "a juvenile court for each parish." So, it allows flexibility on the part of the governing authority of the parishes. (2) The first paragraph maintains the present provisions regarding juveniles or youngsters fifteen years or older who commit vicious or heinous crimes and allow that these persons be tried in the district court as the present 1921 Constitution provides for and which has not--and I repeat--it has not been changed. Now, this was done--and I attempted to address my concern to those delegates who cried very loudly and who I disagreed with to some extent about those youngsters who commit vicious crimes. I am saying that if they're fifteen years or older and they commit a vicious crime, that my provision provides, as in the 1921 Constitution, provides that they can be tried as an adult so that we ought not be smoke screen about...around that issue of whether vicious...youngsters who commit vicious crimes can be allowed to escape trial by jury or trial by the courts. Thirdly, what I have done, I have retained the provision--in the first paragraph now--particularly as it relates to the Orleans courts having jurisdiction over desertion and nonsupport and adoption. Delegate Vesich, in my discussion with him, was concerned that my original amendment did not provide for the adoptions and desertion; so I provided that to address myself to that problem.

If we look at Paragraph 2--and particularly I want those parishes that have district courts serving as ex officio juvenile courts to understand what the second paragraph does. The second paragraph provides that courts that are functioning ex officio juvenile courts shall be continued as provided in Paragraph 3, which requires a two-thirds vote of the legislature to change. So, that means that if you presently now have a district court--and in Paragraph 1 I have not mandated each parish--but if you presently have a district court serving as ex officio juvenile court, then you are allowed to maintain that without being required to go to a separate specific court within your particular parish.

Paragraph 3 is, in my estimation, full of compromises because (1) we give the legislature the flexibility to merge it, to abolish it, or to grant additional authority by two-thirds vote. Now, this was done because there are three factions in this convention here that have some strong feelings about merging. One faction wants to merge it; one faction says we ought to abolish them. The other faction says--and like we particularly in the city of New Orleans--we want to move from a juvenile court to a family court, so we have allowed a mechanism by two-thirds vote to allow that no one faction in my opinion would have to just get a majority vote to sway whatever direction that they want to go.

Secondly, in Paragraph 3--and I will answer questions--second in Paragraph 3 we provide that the juvenile court judge may waive...the juvenile court may waive its jurisdiction over those youngsters fifteen years or older for any offense. Now, this was done because a lot of the delegates say, "Well, look,

Johnny, we've got some juveniles that don't commit major offenses, but they're constant repeaters. As long as you do not allow some flexibility where these constant repeaters can be tried in a court because they are incorrigible, then I'm afraid I can't go with your amendment." So, what this specifically addresses itself to is to allow repeaters, particularly on the determination of the judge of the juvenile court, to allow this youngster to be transferred. Now, basically those are the significant changes that I've made. Again, I repeat, if for somehow you believe that these are compromises and these are points of merit, then I ask your favorable vote.

I'd like to point out--Mr. Chairman, if I have time--I'd like to stress certain points to you. One point is that I want to point this out: Under the judiciary--under the provisions of the Judiciary Article...

Mr. Chairman, could I get a little attention, please?

I'd like to point out that under Judiciary Articles, district courts have exclusive jurisdiction over all felonies, and I question seriously if this could be interpreted if a youngster and his bike could be charged with assault and battery; that 2, that a youngster could be tried on a state charge for maybe stealing hubcaps, or 3, that youngsters now can be exposed to the full effect of the law. Now, I'm not talking about those youngsters that commit vicious crimes because they can go to the district court. But, I'm just talking about those youngsters who may go to a party after a prom, get some alcohol in them, take somebody's hubcaps, and they could very well be charged with a state charge, and if you know--he doesn't have to be convicted--but, if you know what that means in terms of an arrest record following him through the rest of his life, no matter what kind of influence he was under, then I suggest to you that that is very dangerous. Second point of stress--and I hope you're making notations of it--that the only...you hear the argument about the three tiered court, and I've talked to some people about that. The only justification for a three tiered court that I've heard is that they want to cut down on the amount of clerks, the amounts of sheriffs and the amount of people issuing subpoenas. My only suggestion to the gentlemen is that you can do that administratively and you can do that cooperatively, but do not, in my estimation, do not jeopardize the future of young people in this state just because somebody's concerned about a duplication of the serving of writs. I think that can be done by the Judicial Administration and cooperation between the various courts. Thirdly, while talk about this whole three tier level court, you're going to get some amendments up here about reducing the terms of the judge. I want to say very emphatically, please, gentlemen, do not put the future of juveniles in jeopardy because there's some problem between certain judges in this state. If you've got a problem, you work your problem out within your judicial administration or within courts. But, it seems to me very clearly that that ought not be the issue. The future and the treatment of juveniles who are not vicious, not the one who commit heinous crimes, ought to be the prime consideration. Thirdly, I'd like to point out that in recent reports--and I have them here if you want to read them--by PAR to a recent special legislative committee chaired by Kenny Leithman, it was pointed out that there are fifty-three thousand, four hundred and thirty-eight children in need of special services in this state and that twenty-seven thousand of them have been evaluated, but, do you know what? The state does not have the resources or the facilities to serve those youngsters. Now, it seems to me that we're running a very dangerous risk exposing those twenty-seven thousand when we don't even have service for to the full effect and force of the law. Another report by the American Businessmen Research Foundation points out--and I had that here--points out that the newest problem drinker causing concern among the nation's directors and mental health workers is not a pressured executive; it's not a bored housewife; it's not a skidrow bum, but really children. They're saying, in effect, now, that we've got the problem of alcoholism among youngsters. Now, you take that in relationship to the problems that we're having with juveniles across the state. A third report by the State Department of Education.

In a report by the State Department of Education on suspensions that was done by, in particular, Rep. Alphonse Jackson and the committee and by Dean Stone, that in this state--and Alphonse, you correct me if I'm wrong--that just on suspension alone, that in the year 1972 that there were around thirty-three thousand, if I'm correct, youngsters who were suspended out of school. Now, how many of those youngsters are going to be exposed to the full effect of the law because now they can't get in school; they have been suspended. You take that in relationship to the juvenile problem. The fourth one, I'd like to point out that on the Subcommittee on Drug Abuse, which I had said before we got into

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standing committees, it was pointed out by the state commander of the Narcotics Union that if you go...you can go to every parish within this state. If they've just got a gas station and a grocery store in it, that you'll find the presence of marijuana and some other soft drugs. Now, what relationship does the drug problem have to the increase in juvenile crime problem and how we treat juveniles? Are we prepared to say that if somebody gives our youngster--just on one occasion, maybe at a party--give him a stick of marijuana and he smokes it, and he goes out...and something to do with that, he ought to be exposed to the full effect and force of the law? I've talked to one delegate this morning from a rural parish, and I suggested to him, I seriously think that once the drug problem be crystallized and some people stop hiding it in these rural parishes, you're going to really find out to the extent that youngsters nowadays are involved in a drug culture. In the New Orleans area where the clamor has originated, I would like to quote a portion of a report of the New Orleans Chamber of Commerce in their report on runaway crime. It says, in effect, that they are glad that we are now in the legislature is now beginning to do something about the crime problem. But, it cautions the legislature and persons who are concerned that we ought to not act in haste and we ought to not act in a fit of emotionalism and particularly in a fit of political expediency. I'd like to say that I've read this book here by the National Commission on Juvenile Delinquency, and that nowhere in this report does it say that we ought to abolish specialized courts. Finally, gentlemen, just let me say in closing my presentation that those who sincerely want to address themselves about the rising juvenile problem, I suggest as one delegate that we ought to be not confusing juvenile court with: 1, coordination of police department, our schools, our mental health centers, our parents, our corrections, and our hospitals; and that we ought to be about the business of establishing shelter houses, centers, family counseling centers. We are aiming at so-called criminally inclined youngsters, or the bad guys. All I have to say, gentlemen, at this point is what about the thousands of youngsters that are going to be exposed to what I consider a very political and emotional body; but those who come up with the argument about leave it to the legislature, if this matter had not been in legislature then I would be all wet in saying to you that I did not trust the legislature. I do trust it, but I'm saying that we've got a track record, and if that track record is going to be indicative of the kind of future legislation that youngsters are going to be exposed to, then I'm saying it is not worth it. It is not worth it. I, in my amendment, allows some flexibility to the legislature, but I'm suggesting to you that we ought not, as I've stated, we ought not use a shotgun approach because while we're aiming at the youngster who threw the brick with a shotgun, we can sure shoot down a whole lot of youngsters who just happen to be in the crowd.

Questions

MR. HAYES

Mr. Jackson, I don't know. You probably answered this question, but I want to get clear on it. "There shall be a juvenile court for each parish" does not mean one in each parish. Is that correct?

MR. J. JACKSON

That's right.

MR. HAYES

But, it would be mandatory that they would have access to one. It would take, say, East and West Feliciana, maybe, and St. Helena would probably have to get together and come up with a juvenile court.

MR. J. JACKSON

Mr. Hayes, presently under the present constitution, it says that there shall be a juvenile court in each parish. To me that was more restrictive and that it did bind some parishes, possibly having this one specific court. What this allows really is more flexibility because it allows like the parish of West Feliciana and maybe East Feliciana, if they don't want to use the district court as ex officio, and I think that's what they're doing now, that they could combine whatever resources they could necessarily...

MR. HAYES

Would this in any way affect the family court system in this parish?

MR. J. JACKSON

No, it does not.

MR. ALEXANDER

Rep. Jackson, on line 6, I think you, do you not want to correct that? You mean "except for capital crime or crimes defined as attempted aggravated rape." Isn't that what you mean to write there? That's on line 6.

MR. J. JACKSON

I'm sorry, Reverend, "except for crime..."

MR. ALEXANDER

"Except for crime or crimes defined," rather than "defining as attempted rape," you mean "defined."

MR. J. JACKSON

If you considered that a technical amendment, I'd checked with the staff on it and...

MR. ALEXANDER

O.K.

MR. J. JACKSON

...and they told me that in their opinion that what it meant to say that, you know, the crime was to be defined by the legislature, by law.

MR. ALEXANDER

All right. Now, this is the other question: there are some thirty or forty district courts in Louisiana which means that you just could be creating an additional thirty or forty juvenile courts. Now, most district courts, that is...it may be a court in a small parish and there may be two or three parishes that make up that district. Now, the judges, the number of judges in that district, of course, depend on the case load. Now, here you would separate all the juvenile cases, take all the juvenile cases away from that district court.

MR. J. JACKSON

No, Rev. Alexander. If you would look at the second paragraph, it states very clearly for those parishes that have district courts...

MR. ALEXANDER

No, that isn't what I'm saying. The only thing I'm saying is that you would not remove the district court, but you would take all the juvenile cases away from the district court.

MR. J. JACKSON

No, not district courts that presently serve as ex officio. If a district court is serving as ex officio juvenile court, then it's still retained. I'm not taking anything away from them.

MR. ALEXANDER

Well, in almost all the parishes, of course, where they have no family court or juvenile court...

MR. J. JACKSON

They have district courts.

MR. ALEXANDER

That's right, and they're serving as everything, aren't they?

MR. J. JACKSON

Yes, but they...right, and I'm not taking nothing away from them.

MR. ALEXANDER

Well, then, where will your jurisdiction come from?

MR. J. JACKSON

Rev., if you understand the process, there are district courts that sit ex officio and juvenile court and then they operate under the jurisdiction as provided in the constitution. All I'm saying is that I maintain the present provision as it relates to this. So, I don't affect them one way or another.

MR. ALEXANDER

But, they would not sit as juvenile courts any longer; is that right?

MR. J. JACKSON

Yes, they would, Rev.

MR. HENRY

Would you yield to a question to Mr. Fontenot? You're next, Ms. Maybuce; then you, Mr. Tobias, Mr. Giarrusso, Mr. Arnette, Burns, De Blieux, and Nunez.

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MR. FONTENOT

Mr. Jackson, at the present time, a case where, say, a husband without any children is not supporting his wife. What court has that jurisdiction? Where she files charges for nonsupport? Does the juvenile court have jurisdiction over that, or does the district court have jurisdiction?

MR. J. JACKSON

It presently, if the husband is not supporting his wife, the juvenile court, does.

MR. FONTENOT

At the present time?

MR. J. JACKSON

Yes.

MR. FONTENOT

There's no kids involved at all, the juvenile court still has jurisdiction? I mean doesn't that depend on what parish it's in, or something like that?

MR. J. JACKSON

Well, in the parish of Orleans it is that way.

MR. FONTENOT

So, under this amendment, say, in Evangeline Parish, where, possibly the city court has jurisdiction over juvenile matters, at the present time and district court has jurisdiction over nonsupport of a wife, then you're changing that law in the sense that you're going to make that husband and wife go to city court, you're changing the jurisdiction of some of these courts, aren't you?

MR. J. JACKSON

Not really, Mr. Fontenot. Now, if you consider that a major problem, I would...I've talked with Mr. Pugh, and it's not our impression that it does. In addition, in the fact that we have basically followed the present provisions of the constitution, that what this does, this does not, in effect, does what you say.

MR. FONTENOT

Well, I may agree that maybe a husband who doesn't support his wife is acting juvenile, but I don't think it ought to be in juvenile court.

MS. MAYBUCE

Johnny, I can certainly agree with you that we need to do something about our juveniles and how they're treated in the court. We certainly need to get rid of the concentration camp up on Scenic Highway. I agree with you, and this will help do this. Yet, on the other hand, I think Mr. Hayes and Mr. Fontenot had touched on what I'm going to ask you. We here in East Baton Rouge Parish have a well-oiled, I believe, family court. When Dewey asked you the question, how would it affect our family court, you said it would not. But, I feel that the cases of nonsupport which go through our family courts, those of adoption, those of taking care of our mentally ill children, we want them left in our family court. But, you didn't answer him that way. Would that...would you take that out and say "except East Baton Rouge Parish"?

MR. J. JACKSON

I wouldn't mind doing that, but let me suggest to you, Mrs. Maybuce, that does not do that to East Baton Rouge Parish. Secondly, if you look under the Judiciary Article right now, all it says is that the Family Court of East Baton Rouge Parish could be as determined by the legislature, the jurisdiction, which means that by a simple majority everything that you have now could be wiped out. So, I'm just saying to you that in my discussion in putting together this amendment, it does not affect the Family Court of Baton Rouge.

MS. MAYBUCE

O.K. because we don't want it tampered with.

MR. J. JACKSON

I'll say that for the record.

MR. TOBIAS

Mr. Jackson, what is the present term of a juvenile court judge?

MR. J. JACKSON

Mr. Tobias, I think it's eight years. I'm not really...

MR. TOBIAS

It is in Orleans Parish. In the rest of the state it's six years. My next question is this: When you state in your amendment that the jurisdiction of the juvenile court is such and such--in other words, you spell it out--I would like to know how that protects the juvenile. All that does is state that the court has jurisdiction of it. It does not say that it protects the juvenile. In other words, do you not agree that the legislature could still, in spite of your amendment, allow juveniles to be sent to the penitentiary?

MR. J. JACKSON

Mr. Tobias, my amendment provides that if they commit vicious crimes that they can be tried in the district courts. Now, I told you earlier, I'm going to make it very plain, I do not want to--and I'll say it very seriously--the issues of the judges' salaries is a different thing. We're talking about the merits of constitutional jurisdiction for a juvenile court. I suggest to you very seriously, do not confuse the issue. I'm not going to get into that fight between the judges. I'm not going to allow juveniles because it seems to me that when we first introduced this amendment, we're talking about juvenile court jurisdiction. Now, we're talking about another problem that's come up about the judges' term. Now, if you want to deal with that in appropriate, let's reopen the Judiciary Article where it ought to be; and I will support you. But, don't try to do it on this amendment.

MR. GIARRUSSO

Delegate Jackson, where it says, "there shall be a juvenile court for each parish," do you think that this is imposing an added expense and burden on each parish where a juvenile court is not necessary, where the juvenile problem is not really predominant that would require a full-time judge?

MR. J. JACKSON

Well, Chief, no, not really because if you look at the present constitution, each parish is...it's stated very clearly that there shall be a juvenile court in each parish, and that did not mandate them. What this does is the opposite of what you say. It allows for a flexibility. It allows if they want to use the district court which most of them presently have now, serving in ex officio, that they could still retain that. But, this does not in any way mandate them that they have to...each individual parish has to mandate, have a specialized, separate, distinct, juvenile court.

MR. GIARRUSSO

O.K., John, let me ask you about number four where it says that...

MR. J. JACKSON

I just want to know if that point is...if I answered that clearly for you.

MR. GIARRUSSO

You know, it says, "shall be" and of course, it's my appreciation if it says that there shall be...

MR. J. JACKSON

The '21 Constitution says "there shall be a juvenile court in each parish." I say "for each parish" to allow the kinds of flexibility. Now, I'm just saying to you, Chief, that the questions that are raised concerning mandating added costs not really in my estimation in talking to experts and even people who are concerned, does not violate what parishes already have. If a parish has a district court saying that they're going to sit ex officio and they've been doing it for the years, then that's the juvenile court for that parish.

MR. GIARRUSSO

Well, I just simply thought that there could be better qualifying language rather than "shall be" but so be it. Let me just ask you another question, John, please. It says that a juvenile court may waive its jurisdiction over children fifteen years of age; does this mean that it may not waive its jurisdiction over juveniles, say, for example, if a capital crime is committed, and that the court decides, one, that they will hear the case, and if they do hear the case, is that he's then sentenced to the juvenile court? It doesn't come under the criminal statutes of the state and that he will be out when he's twenty-one years of age rather than to be tried as a criminal?

MR. J. JACKSON

Chief, if you--and I'm being very honest--I say it very

clearly and the amendment says very clearly that if any youngsters commit a capital crime, whether it goes to the district court, he goes to the full effect of the law; if convicted, he can be sent to the state penitentiary or some other intermediate facility because the amendment says very clearly, "a capital crime." I'm saying that, and this was to address itself to the concerns of some delegates who said, well, we've got some kids who don't commit capital crimes, but they are incorrigible, and I don't have the resources in the juvenile court to deal with, and I think that they ought to be the district court. Then, I'll leave that determination up to the juvenile judge; and I say not only for capital crimes; I say it for any offense. So, it doesn't have to be a capital crime.

MR. GIARRUSSO

Under the present law, aren't all other crimes, other than capital crimes, assigned to the juvenile court, then tried in juvenile court?

MR. J. JACKSON

Right.

MR. GIARRUSSO

They're not tried for a crime, but they're tried as a delinquent. But, here you give the option to the judges that in the event that they choose it's a discretionary thing with them that in the event that they want to send the case to the criminal district court, that they can?

MR. J. JACKSON

Yes, Chief, you're right. You're exactly right, and you're right because it has been spoken by a large segment of these delegates that if we're going to talk about some flexibility that you're going to put it in the constitution, then there ought to be some flexibility. I'm just saying that if it's in the opinion of the juvenile judge that a youngster has committed twenty crimes within his discretion and I think that juvenile court judges and resources supportive of their court can make that determination and they feel that the youngster is incorrigible and ought not really be treated as a juvenile, then I'm allowing the mechanism for that judge to transfer it. I think that was done to address itself to those delegates who are really concerned about repeaters, who did not commit necessarily, capital crimes.

MR. GUARRUSSO

John, the only thing I say is that "jurisdiction" should be defined and should not be discretionary.

MR. J. JACKSON

Well, Chief, the only problem that we have in doing that is that if it's defined, it may leave out that provision, and I think I've defined it in giving the flexibility. Now, if a judge feels as though they ought not be, I would think that he would. But, under the 1921 Constitution, as I recall debating the practice that I was one of the criers, too, that the 1921 Constitution didn't allow for any mechanism for these youngsters to be transferred to district court if they were constant repeaters.

MR. ARNETTE

Johnny, my questions are more of a technical nature. I was just wondering, when you said "capital crimes," how do you define a capital crime?

MR. J. JACKSON

They are crimes presently provided by statute which are capital crimes.

MR. ARNETTE

Which involve a death penalty; is that the crimes you're talking about?

MR. J. JACKSON

...or about six months of hard labor.

MR. ARNETTE

Now, wait. What's your answer?

MR. J. JACKSON

Capital crimes, in talking with particularly, well, I'd say Mr. Gauthier now, but I did talk with him and I talked with Mr. Pugh. Capital crimes are those crimes, those felonies, those felonies that were punishable by a certain sentence, by hard labor six months or more.

MR. ARNETTE

I think the usual meaning is "punishable by death." I'd like

to get this very, very clear. Do you intend to include life in prison, or perhaps a crime that involves ninety-nine years at hard labor, or something like this?

MR. J. JACKSON

Well, my intentions were--and I apologize to the group because I'm kind of weary up here, arguing this thing again, but I apologize to the group, and I don't want my ignorance to spout that large. I do recognize that capital crimes are punishable by death. But, it was the intention that this could apply to crimes punishable by death, or crimes that would have a determining amount of sentence, too.

MR. ARNETTE

Well, perhaps, if that was your intent, we ought to put it in here, that it was punishable by a certain amount or something else because I was greatly concerned when I read that you have attempted aggravated rape but not second degree murder which is an intentional crime, that you intend to actually murder somebody. You plan it ahead of time, and that was not included, and also the crime of armed robbery which involves a ninety-nine year sentence. That also concerns me.

MR. J. JACKSON

Mr. Arnette, what I will do is withdraw the amendment temporarily to add that technical amendment because that was my intention.

MR. ARNETTE

Well, I think we ought to make it clear because, you know, somebody's life may depend on it.

MR. J. JACKSON

Yes, I agree.

Vice Chairman Casey in the Chair

[Amendment withdrawn and resubmitted with correction.]

Further Discussion

MR. J. JACKSON

Mr. Chairman, delegates to the convention, in talking with the coauthors of this amendment, we are come to a consensus that once you start enumerating one crime, you've got to enumerate all of them. That is, in effect, statutory material. We believe very strongly that we do provide the mechanism, Mr. Arnette, within this amendment as to allow for youngsters who commit second degree murder, armed robbery as such, particularly if you look at paragraph 3 with the waive of the jurisdiction for him to be tried in district court. In one final comment, let me just say that I personally believe living with this amendment and living with this proposal, not only on paper, but just in terms of actual life, that we ought to weigh very seriously the merits of leaving in it, "providing constitutional jurisdiction for the court" as opposed to leaving it entirely in the hands of the legislature. I suggest to you very seriously that I don't want to leave a cat out on the fence because just as I mentioned before when our state takes some strong positions on drug laws that we are now, because it's coming close to home, have reviewed our penalties as it relates to marijuana. I suggest to you gentlemen that there are too many things out in this world that can subject a youngster on a one time occasion whereby if he falls into a trap of being influenced, that he could very well under--and I'm not talking about something that I think the legislature will do, something that I know and participated in as to what they have done that would drastically have an effect on them that will carry with them the rest of their life. If folks are contented enough to allow that to happen, then I suggest to you, so be it. But, I caution you very seriously that be not deceived by the smoke screen. If you believe this amendment has the kinds of flexibility, if you believe that this amendment compromises significantly my views and the opponents' views as it relates to the protection of juvenile courts...I mean constitutional protection for the jurisdiction of juvenile courts, then I suggest that you ought to favorably vote for it, and I'll abide by the will of this convention.

MR. CASEY

Mr. Jackson, you had really exceeded your time before, and we granted you this additional time just to make your remarks as to why you didn't amend it.

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[Motion to limit debate on the Amendment to thirty minutes rejected: 33-42.]

Further Discussion

MR. DENNIS

Mr. Chairman and fellow delegates, on behalf of a substantial majority of the Judiciary Committee, I rise in opposition to this amendment and this delegate proposal for the reason that, everything that Mr. Jackson wants to do can now be done under the Judiciary Article as it presently stands, and for the additional reason, that you have already considered twice before today his argument that we should spell out all of this in the constitution and you have decisively rejected it both times. Today is the third time that it is being considered. The first time was when the Judiciary Article came before you, he and others made several attempts to place into that article amendments just like this, or almost like this. Again, when he asked that this delegate proposal be passed to its third reading, we debated it then. We are now going to debate it for several hours today and even if he prevails, it will not end the debate on this issue because then there will be a conflict between the delegate proposal and the Judiciary Article and we will have to come back and probably take another day to resolve that conflict. Now, I think that you have already acted wisely in adopting what we have in the Judiciary Article and rejecting this detailed spelling-out of juvenile court provisions. The Judiciary Article now provides that the juvenile and family courts shall have such jurisdiction as the legislature shall provide by law. The reason you adopted that, I think, is that you recognized that this is an area of the law in which we must have some flexibility. As you already heard today, there are several different viewpoints about how . . . what we should do to handle our juvenile crime problem. Some people think that everyone under eighteen ought to be treated as a juvenile, other people think that juveniles as young as sixteen years old should be transferred to adult courts, if they commit certain types of crime. This is an area in our society which is changing rapidly; we must not freeze in the law because we need to have the flexibility to deal with today's problems, and remember we're writing a constitution. We may have an entirely different set of problems with our juveniles five or ten years from now. In addition to that, I think that the way Mr. Jackson has drafted his amendment raises even more problems; even if you buy his concept of spelling all of this out, I ask you to look carefully at this amendment because in all due respect to him I strongly disagree. I do not think it is clear that he is doing what he says he is doing. He starts off by saying that "there shall be a juvenile court for each parish." Now, to me, that means that there shall be a separate juvenile court for each parish; that means that we are creating sixty-four separate juvenile courts. Now, he says that the other language in here qualifies that, but I don't think it's clear and I don't many of you think it's clear. Also, I'm afraid when he says, "there shall be a juvenile court in each parish," that might mean that there's only going to be one juvenile court in each parish. That would be devastating because in parishes like mine where we have a district court sitting ex officio as a juvenile court and two city courts sitting ex officio as juvenile courts, we have in effect, three juvenile courts. Now, if this is going to say that there can only be one juvenile court in each parish this is going to make a drastic change in the way we handle juvenile cases in my parish and in many of your parishes. Also, I think that it is clear that he is giving jurisdiction to juvenile courts which are city courts in a lot of your parishes to handle adoption cases and criminal nonsupport cases. Now, heretofore, we have always considered these cases to be so serious that they should be handled by district courts. Now, in New Orleans they don't do that; they handle them in the juvenile court, I understand, but in other parishes we have felt that city courts ought not be handling these kind of cases. Thirdly, you will notice in the last paragraph, he has made it much more difficult for the legislature to ever make any changes in the juvenile courts; he has required two-thirds vote. You will recall in the Judiciary Article we did not establish any courts as constitutional courts below the district court level. The whole theory, the whole theme of the Judiciary Article is flexibility in the legislature below the district court level because times change and courts need to change with them. If you adopt this, this will cut across and remove the effect of what, I think, is the basic reform we have made in the Judiciary Article which is, to establish in the constitution only the top three courts and the rest of it can be changed and modernized by the legislature. Again, I say that everything. . . all of the problems that you have brought out, the questions, the things that have been said that need to be done with regard to juveniles can be done under the Judiciary Article, and what's more important, it can be changed in the future if there needs to be a change. I think this is an area in which we have got to trust the legislature to do what is right. We've got to trust the legislature to be able to deal with the problems as they change. So, I ask you to please, vote down this amendment and also the delegate proposal because

it is a basic departure from what you have already decided on two other occasions.

Questions

MR. JACKSON, J.

Judge Dennis, is it, in fact, true, that this convention decisively by a super majority or a significant percentage on the first time defeated this amendment? Do you know what the vote was? It was by six votes; you call that decisive?

MR. DENNIS

I think it was decisive because this concept that you're trying to get across was tried not only once or twice by you, but by several other people, I believe, Mr. Gravel . . . would you let me answer the question, please. Several times it was tried and on each occasion it was defeated. I think that is a decisive decision.

MR. JACKSON, J.

Do you call from three to six votes decisive? Your answer is yes. Secondly, did you hear it in your committee. . . did your committee hear it?

MR. DENNIS

Yes, sir, we considered this problem for several days.

MR. JACKSON, J.

No. Did you hear my delegate proposal in your committee?

MR. DENNIS

Your delegate proposal? No. At your request, Mr. Jackson, because we had trouble. . .

MR. JACKSON, J.

Didn't have time, right.

MR. DENNIS

. . . because we had trouble getting a quorum, I asked the committee to report it out without action to give you a chance to run with it, and we did not consider it, and in my opinion if we had considered it, we would have reported it unfavorably. But, at the courtesy of the committee, we reported it out without action.

MR. JACKSON, J.

Judge, the point I'm really trying to make and I can understand your position, but the point I'm really trying to make that it is not entirely true when we say that this convention has decisively voted when one, the first vote was about from three to six votes. Second is that the committee reported it without action. Thirdly, when we're talking about moving it on to the final passage, I was not the one debating the merits for it, it was the opposition; all I asked was that it be moved down. Is that not true?

MR. DENNIS

. . . you're making an argument, but let me just repeat what I said earlier. I think when you defeat four or five amendments all along the same line attempting to change a committee proposal, that it has been decided decisively that the committee proposal is what the convention wants.

MRS. WARREN

Judge Dennis, I noticed or I believe you said, that you had three courts in your city. . . juvenile courts that handle juvenile cases?

MR. DENNIS

Well, in my parish.

MRS. WARREN

In your parish.

MR. DENNIS

In one of my parishes, I have three juvenile courts and in the other parish in my judicial district we have two. We have one city court, and a district court in one parish and another parish we have two city courts and one district court.

MRS. WARREN

But, in each . . . each parish then has a juvenile or family court?

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MR. DENNIS

Each parish has more than one court. . .

MRS. WARREN

See, you're covering more than one parish, and I wasn't really thinking on that then, I was thinking about one particular city or municipality having three separate courts for juveniles.

MR. DENNIS

Well, in Monroe, we have one city court. In West Monroe we have a city court and we have a district court that covers that parish, so we have three courts acting as juvenile courts in Ouachita parish.

MRS. WARREN

So, each one. . . in Monroe they go to the Monroe courts.

MR. DENNIS

We all. . . of course, the city courts don't have jurisdiction outside of the city. The district court has jurisdiction over the whole parish. But, by agreement we allow the city court judges to handle juveniles who live within the city. We could reach out and take jurisdiction of all of them, but we. . . they help us-- I mean the case load is enough; we've got enough to do just handling the juveniles outside the city.

I just wanted to point out that Mr. Landry had just handed me the Journal and if I'm reading it correctly here, Mr. Jackson's amendment was defeated by a vote of 74 to 34, so I think that is a decisive. . . well, one of the amendments dealing with the juvenile courts.

Further Discussion

MR. DERBES

Ladies and gentlemen, I'd like to take this opportunity to support the Jackson amendment and explain to you my reasons for doing so. It is true that we have considered this matter on several previous occasions. On every previous occasion I have been opposed to amendments and to provisions which would constitutionalize the jurisdiction of juvenile court. On this particular occasion I find that this amendment provides sufficient flexibility and sufficient recognition of a basic principle that I can indeed support it. That principle is essentially that the jurisdiction of juvenile court should be set forth in this Louisiana Constitution and if it were not set forth in this constitution, the legislature may on impulse change that jurisdiction by a majority vote. What enables me to support the Jackson amendment is the waiver provision. That is something which would be new to our law, but which has been tried successfully in many other jurisdictions throughout this United States. In this particular instance, the exact jurisdiction currently maintaining in the state would continue; that is, everyone under the age of seventeen would be tried in juvenile court except those people charged with capital crimes or crimes defining attempt aggravated rape. If they are over fifteen, they would be tried in a district court. Furthermore, the amendment as it is presently cast, would permit in instances where a child is fifteen years of age or older, the legislature may provide a waiver system whereby the juvenile court would decide whether or not it would try the child and if it decided in the negative, the appropriate district court would try the child in accordance with presently established or legislatively established adult procedures. I'd like to answer some of the charges advanced against this amendment. First, that it would create a conflict which would have to be resolved in Style and Drafting. I think that is indeed a weak argument to advance against something which is so important. I suggest to you that we have decided and provided elsewhere in other provisions of this document that notwithstanding certain things we have done in other sections, particular principles should apply. That is all that we have done here. I do not see a serious conflict, a conflict which would require a great deal of time to resolve. Secondly, I take issue with the opponents of the amendment who suggest to you that it would disrupt ordinary and existing juvenile court activity in respective parishes. It would seem to me that the second paragraph of this amendment very clearly provides that those juvenile courts in existence at the time of this constitution will continue. I do have some minor criticisms of the amendment, but I have prepared an amendment which is not before you to cure what I regard as two minor defects. I will submit that amendment and have it distributed in the event that this amendment passes. I have also prepared an amendment which will accomplish essentially the same purpose in different language in the event that this amendment passes; that amendment has been distributed to you. I do not imply by the distribution of that amendment that I oppose the one that is currently before you; in fact, I support it. The problem of dealing with children who are accused of crimes in this state is a very serious one. It deserves great consideration and, in my opinion, it deserves the constitutionalization of juvenile court jurisdiction

provided that there is built in sufficient flexibility that the legislature can handle the problem by a change in procedures. But, I do think that it is absolutely necessary for us to set forth basic age limitations in the constitution and this amendment does so. I urge its adoption.

Questions

MR. BURNS

Mr. Derbes, down there in the last sentence under Number 4, where it would waive jurisdiction of children fifteen years of age or older at the time the commission of the offense who may then be tried as adults. Unless the law has changed, they used to try juveniles in juvenile court on the basis of affidavits only, right?

MR. DERBES

That's correct.

MR. BURNS

Well, what would you do if you transferred that juvenile over into the district court as an. . . and try him as an adult, you couldn't try him in district court except under an indictment of bill of information?

MR. DERBES

Well, the jurisdiction would be waived. In other words, the legislature would put together a package, Mr. Burns, a package of legislation which would be passed by a super majority of the legislature and that package would say, first, that based on certain criteria, on recidivism, on seriousness of the crime, on the circumstances of the crime, that the juvenile court's jurisdiction could then be waived--you want to listen, Mr. Burns-- if you want the answer, I'll be glad to give it to you.

MR. BURNS

I believe, so far, your answer doesn't answer the question I had.

MR. DERBES

Well, maybe I'm on the road to it, Mr. Burns, if you'd just wait one second. Then the legislature could also provide that once the jurisdiction of the juvenile court is waived by the juvenile judge based on certain criteria, that then the district attorney could indict the person by virtue of a bill of information or a grand jury indictment. It seems to me to be a procedure that is eminently feasible.

MR. DUVAL

Jim, for the record I just want to get something clear. Now, the way this reads, is it possible that it would call for the creation of a different juvenile court in each parish. . . a separate and distinct juvenile court in each parish?

MR. DERBES

I think not, Mr. Duval, and I. . . I don't believe that's Mr. Jackson's intention. I'd like to point out to you that all the language in the first paragraph, as sloppy as it may be, is the language of the existing constitution. That's why Mr. Jackson chose it and it's the language under which we've been operating for some time now.

MR. DUVAL

But, whatever happens it's your impression that it's certainly not the intent. . . to create a separate and distinct juvenile court.

MR. DERBES

As a supporter of the amendment, and as an attorney, I believe that under the language of the amendment taken as a whole it would not require the creation of a separate juvenile court in each parish. It would preserve the existing separate juvenile courts and would permit existing other courts who operate ex officio juvenile to continue to do so.

Further Discussion

MR. PUGH

Mr. Chairman, fellow delegates, I rise in favor of this amendment, both as a coauthor thereof and with what I believe to be some knowledge about the field and the subject to which this amendment has been addressed. First off, for the purpose of setting at rest any misunderstanding that may have been created as a result of the suggestion from this podium that the use of the language

"there shall be a juvenile court for each parish," necessarily means that there is being created by this amendment a brand new set of courts throughout the State of Louisiana, that language is, and has been, in our constitution since 1936, without question, without qualification, word for word, has been there since 1936. This state has had the pleasure of having juvenile courts since 1906. The first one of which was created for the benefit of Orleans Parish. There are three specialized juvenile courts in the State of Louisiana today. Except for those, district judges sit ex officio as juvenile judges. The present constitution does state that those judges who shall sit ex officio as juvenile judges. The failure to recite that language here has no bearing on whether or not new courts are being created. In a nutshell, the proposition before you is one: shall we continue in existence, with constitutional, jurisdictional status, the juvenile courts as we know them today? Tell me what thing has occurred since this convention was called to suggest that a system known to this law since 1906 no longer has any usefulness in our system. Now, as I told you once before, for some strange reason, we left the district courts in the constitution. We left their jurisdictional status in the constitution and spelled it out ad infinitum. We did the same thing for the courts of appeal. We did the same thing for the supreme court. So, what we're doing here, let's not kid ourselves, you throw this to the legislature and it's all over with by a majority vote. It was attempted in the last session of the legislature and the only reason they weren't successful is because the governor had the foresight to realize that there was a constitutional, jurisdictional requirement and that that jurisdiction could not be shifted or banded about by the legislature. It's cut and dried, that's it. We either want juvenile courts or we don't want juvenile courts and we'll probably make a decision within the next half an hour of whether or not we want juvenile courts. I say there's a place and there's a need for them. But, in all of our wisdom, if we make a mistake--look what Johnny Jackson has provided--if it's so bad, he says, "Okay, let the legislature by a two-thirds vote take them away." Let this onus be on the legislature. Let this cup pass to another. We came here at a time that our constitution spelled out jurisdictional status for the courts and there's absolutely no reason why the constitution shouldn't have it. You take away jurisdiction from a court, you take away its blood. That's like a haberdasher selling a hat and keeping the hat and giving you the hatband; they've got nothing--they've got nothing under the Judicial Article as it stands today.

Motion

MR. JACKSON, A.

Mr. Vice-Chairman, this is such a serious problem affecting the lives of children generations yet unborn, I would suggest that we have an absence of a quorum.

[Quorum Call: 81 delegates present and a quorum.]

Further Discussion

MR. JACKSON, A.

Mr. Vice-Chairman, ladies and gentlemen, this is a serious problem that we consider this day, and I would ask for about five minutes of your attention because I believe that what we do in the next few minutes will seriously affect the lives of young people in the State of Louisiana. Now, I know that you have heard arguments here about why we ought not to constitutionalize the jurisdiction of the juvenile court. But, I tell you that I serve in the distinguished House of Representatives of this state and I'm honored to be there, but I tell you that that is a political body as it should be and it makes political decisions. If you do not constitutionalize authority for juvenile courts, you're going to have the legislature of this state reacting and over-reacting to emotional situations and making laws that all of us will live to regret. Now, let me point out to you that the original package of legislation that was introduced in the last session. . . last regular session of the state legislature. As the bills were originally introduced would have placed a youngster for stealing a watermelon out of a country patch in Angola. I dare say that many of you would have found yourself there had not we had some authority for juvenile courts. I point this out because I do not fault the legislature for making a political decision because we had had an emotional situation in New Orleans, but I tell you that generations unborn were saved because the authority was constitutionalized. Now, the distinguished delegate said that we ought not to do this because we would have conflict with a past article already passed. Are we to the point in this country that we disregard the whole future of youngsters? Are we going to assign youngsters to long records and have it follow them the rest of their lives simply because we don't want to take time to give full consideration to an important

matter? Now, we have problems emanating from youthful offenders that we have never had before, and so it makes no sense at all for us to say that we do not have to have a specialized court to deal with them. Mr. Jackson pointed out to you the increased numbers of youngsters that are now suspended and expelled from school. His information was not as current as the facts are. In 1972, we suspended over a hundred thousand youngsters from the schools of this state. On the figures. . . preliminary figures for 1973 would suggest that the figure is going to be higher. I would suggest to you that that in itself would suggest to us that we have rather serious problems that ought to suggest to us that we must be creative in terms of dealing with this situation. Now, I'm a politician, and I'm not about to stand here and tell you that we don't have a problem, but we do have a problem, but we've all got to solve the problem by dating the method that we deal with youthful offenders in this state by a hundred years. This is what you are about to do when you destroy specialized courts and specialized consideration for youthful offenders; you're about to date this thing about a hundred years and I speak to you as an individual who for twenty years studied the problems of youthful offenders. I would suggest to you that this proposal allows for flexibility. It allows for us to be creative. It allows for us to deal with the growing problems that we have in the area of youthful offenders. I would suggest to you that I don't believe any of you want your son or your daughter or the son or daughter of one of your friends, assigned to a life that would suggest that he was a habitual criminal or that he was engaged in crime simply because he went astray on one occasion. I don't believe any of us would, by way of our action in this convention, suggest that we don't want to find a way to rehabilitate youngsters, and we don't want to find a way to be understanding. We don't find a way to say to youngsters that we care. When we destroy the specialized courts in this country and in this state we turn our back on a serious problem that cannot be solved by way of the existing district and criminal courts that we have in this state. So, I would ask that you would vote for this amendment.

Further Discussion

MR. LANDRUM

Mr. Chairman and fellow delegates, I was somewhat reluctant to come up here because I think we have heard some very fine reasons why we should support this amendment. I was just thinking a few years back when my little boy was about five years of age and my daughter was about nine. A man that owns a tobacco factory was running behind an eleven year old boy that stole a twenty dollar radio out of his car, grabbed my son and daughter and some other little kids in front of the church with a pistol in his hand. Now, when he caught the boy, some blocks away, he walked back with the boy to his place of business and called for the police. Now, my children was all upset--the children at my church. When I went around there, there's a guy walking around; he has done something real proud, big. I asked the officer in charge. . . I wanted the man to know--now, maybe Chief Giarrusso might remember this, because they had to call his office on it--I wanted that man to know if someone would steal his store, never to point a pistol in my child's face. Not only my child, but nobody's child. The policeman was very, very angry about it--very angry about it. He brought. . . he put the man in jail too. But, I am the one that went to the judge and asked the judge--when I went to court that morning, that man and his wife sat in the court afraid, just as a child would be afraid, because he didn't know what was going to happen to him--but I asked the judge not to put the man in jail. All I wanted him to let him know he has no right to do this sort of thing. I had attorneys trying to get me to sue the man. I got a great case. But, I wasn't interested in suing the man, either. Somewhere in life we have to show some mercy towards one another. If we cannot do it for young people, then America is already lost. I don't believe that we just want to put young people in a position, a crime is committed at an early age of life, nowhere in life can that child be forgiven for the crime. I think we need to go to our juvenile courts. We really need to do. . . to go to juvenile courts. I'm so sorry that this convention did not visit Pineville and Angola and all the other institutions. Then, we could have come here and tried to do some things that are right for people, whether we be elected again to office or not. But, I keep telling you, please God first of all--please God.

I think the Jackson amendment and those who are coauthors with him is a very good amendment. I think it's watered down too much, but I'm going to support it as it is. Thank you.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, I want you to very carefully consider this amendment, because I'm afraid of the effect it will have upon our courts here in East

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Baton Rouge Parish. We have a peculiar situation here in East Baton Rouge Parish. I think it's the only court in the state like that. But, our court is strictly a family court. It handles anything pertaining to family relations, domestic relations, which naturally includes juvenile matters. It includes divorce cases; it includes support cases; boards neglected children, the crimes of juveniles, or whatever they may be. I just have the feeling that when this particular amendment was drafted, they did not take that into consideration. I have. . . I can't help but feel like that it will have a very detrimental effect upon the already established court which has been operating since 1954.

For that particular reason, I must oppose this amendment and ask you to do likewise, because I think you don't want to upset what is already being done. I recognize they've got a problem, but certainly the amendment should have been drawn with consideration of all the courts, the way they are operated now, in mind at the time it was prepared. Until they can prepare an amendment which will not have an adverse effect upon the Family Court of East Baton Rouge Parish, I have no alternative except to oppose the amendment. I ask you to please do likewise.

Questions

MRS. WARREN

Yes, Senator De Blieux. I'm picking up bits and pieces, and I remember one of the other delegates mentioned that this is the same thing that was in the old constitution. I'm almost sure your courts in Baton Rouge were set up under this old constitution. Now, what is going to keep it from staying as it is, if this is the same thing that we've had? Just for the information, not whether you're against it or for it, but if you. . . if this is the same thing that we have had in the constitution, your courts are set up under it, so how is this going to affect it? Is it going to make them illegal, because you set them up under it?

MR. DE BLIEUX

Well, I do not think that, as I read the amendment, Mrs. Warren, it does not make enough separation between the existing courts. Now, you take in practically every court where you don't. . . every judicial district where you don't have a juveniles established court, the local district judge acts as the local juvenile judge, or the city court judge, as it may be. Now, that is not the case in East Baton Rouge Parish; I don't think it's the case in Orleans Parish because you have an established juvenile court there. It's not the situation in Caddo Parish. But, in other parishes where you don't have a regular established juvenile court, then the district judge acts as the juvenile court. Now, this particular amendment, as I see it, will say that those courts will continue acting as juvenile courts. I just think that it's going to have too great an effect upon our court in order to make it advisable that I support it. I have to oppose it for that reason.

MR. PUGH

Mr. De Blieux, you do recognize the fact that this amendment relates to juvenile courts, do you not?

MR. DE BLIEUX

That's right.

MR. PUGH

You do recognize that you don't have a juvenile court in East Baton Rouge Parish?

MR. DE BLIEUX

Well, we have in this respect: that it handles all juvenile matters.

MR. PUGH

It's called a family court, and it's under an entirely different section and article in both the old constitution and in the committee's treatment of the present constitution.

MR. DE BLIEUX

But, it makes the. . . the amendment makes no reference to the preservation of present juvenile courts.

MR. PUGH

But, that's not a juvenile court, just like the amendment makes no reference to the Supreme Court or to the city court, or the district court, or to the courts of appeal. The Baton Rouge court is a family court and is in an entirely different section and article in both the old constitution and their treatment under the new constitution.

MR. DE BLIEUX

I'm just afraid the way the amendment is read, here. I've spoken to other attorneys on the same matter, and they have also had that same fear.

MR. J. JACKSON

Senator, since we're talking an amendment--we're not calling for the sixty-seven vote, we're just talking about an amendment--couldn't it be very well that if you are that concerned that this does not include the language, that you could just offer a very simple amendment?

MR. DE BLIEUX

I'm not getting your question right. Would you state. . . restate. . .

MR. J. JACKSON

My question is that this is an amendment that we're discussing at this point--an amendment. Now, Mr. Pugh has given you his interpretation not only as a lawyer, but an authority who has wrote several books on juvenile courts and jurisprudence as such. Wouldn't it be very simple, Senator--and I would have no objections; I want to let you know I would have no objection--if you want to put a simple amendment that says that the Family Court of East Baton Rouge--if you need further clarification--that the Family Court of East Baton Rouge is hereby, as constituted, retained. That's just a very simple amendment, if you feel that you need that. I would, and I think the cosauthors and the proponents of this, if you think you need that additional clarification, we'll do that. But, I don't want you to feel as though that that amendment is aimed at denying the Family Courts of Baton Rouge its protection, because under the present provisions in the Judiciary Article, a majority vote of the legislature could change that just like that; did you know?

MR. DE BLIEUX

Well, Mr. Jackson, if you would incorporate that into your amendment, then I would have no objection to it. But, until that is incorporated, actually incorporated, I really wouldn't want to take the chance.

Further Discussion

MR. TOBIAS

Mr. Chairman, fellow delegates, I hesitate to rise in opposition to this amendment. I was a member of the Committee on Judiciary of this convention, and for two solid days we debated the question of how to handle the juvenile court issue. After much debate, we finally decided that there was no satisfactory way to treat it in a constitution. This type of decision over jurisdiction has to be left to the legislature. It is indeed unfortunate. This provision does not protect the juvenile. It does not prohibit the legislature at all from saying that juveniles, for violation of crimes, can be sent to the Louisiana State Penitentiary. All this amendment does is protect the court--just the court. We are not here to protect courts, we are here to protect the people.

Read Section 15 of the Judiciary Article that we've adopted. It continues juvenile courts. Read the fourth line in the final paragraph of the Jackson amendment. Think about this: what criteria is set by this amendment with respect to waiving jurisdiction? I don't see any criteria. You're leaving it arbitrary to the judge. The flexibility must be kept in the system. I urge you, stick with what we've done. We've passed on this issue over and over again. The Judiciary Committee found no satisfactory way to handle it. I urge you to defeat this amendment.

Questions

MR. PUGH

Mr. Tobias, how is it that you all found no difficulty in establishing the jurisdiction for the district court, for the court of appeal and the Supreme Court, but even guided by the present constitution that we've had almost for forty years on this subject you found so much difficulty in laying out the juvenile court jurisdiction?

MR. TOBIAS

Mr. Pugh, the problem with laying it out is the present constitution does not allow a judge of a juvenile court to waive jurisdiction over people over the age of fifteen. We didn't want to freeze into the constitution the age of fifteen. It's arbitrary. The judge of juvenile courts ought to have the right to waive it at fourteen, or thirteen, or twelve. But, we don't want to freeze it here and now. The time has. . . the flexibility has got to remain in the constitution--it's got to remain.

MR. PUGH

Don't you think that it's not frozen if under Jackson's amendment it provides that the legislature can change it by a two-thirds vote? Does that sound to you like it's frozen?

MR. TOBIAS

You're spelling out something that I think has got to be left

to the legislature. The flexibility has got to remain. It doesn't protect the juvenile. All it does is protect the court. There's a no. . . Do you see, Mr. Pugh, anything in this proposal, in this section, that would say that juveniles can't be sent to the penitentiary? This only says the court has jurisdiction over the matter.

MRS. WARREN

Mr. Tobias, you mentioned the fact that it wasn't any protection for those juveniles. I'm wondering if you want protection for the juveniles.

MR. TOBIAS

I. . .

MRS. WARREN

My next question is: you said it was unfortunate. Now, what is unfortunate about this situation? Unfortunate for who?

MR. TOBIAS

It's protecting the courts, and I'm not here to protect courts. I'm here to protect people.

MRS. WARREN

So, in order to keep a court from being protected, it should not be in the constitution? So, in other words, no courts should be in the constitution. It should all be left to the legislature.

MR. TOBIAS

If it had been left to me, I moved for that in the . . . on the committee. That was my concept.

MRS. WARREN

But, in essence of that, since you were one, and the others thought that these should be protected, don't you think they should think, under the same grounds, that this one should too?

MR. GAUTHIER

Max, can the legislature abolish a district court at any time?

MR. TOBIAS

No.

MR. GAUTHIER

Under this amendment, can the legislature abolish a juvenile court?

MR. TOBIAS

Under the proposal that the committee came up with and adopted on the floor, the juvenile court, the city courts, all of the courts except district courts, courts of appeal, etc., can be abolished.

MR. GAUTHIER

No, I'm not talking about. . . I'm talking about this amendment, because you indicated, if I'm not mistaken, that we were protecting the court far beyond what we should. Yet, I see a difference in that under this proposal juvenile courts can actually be abolished, whereas there is no way to do that to a district court.

MR. TOBIAS

Let me ask you this: why do you believe, though?

MR. GAUTHIER

No, it's my turn to ask the question.

[Previous Question ordered. Quorum
Call: 81 delegates present and a
quorum.]

Closing

MR. J. JACKSON

Mr. Chairman, ladies and gentlemen of the convention, first of all, it's very obvious now that some of the issues have changed from some of the people. . .

It's very obvious and it's very apparent to me, at this point, that those who raised issues back in September and November concerning the original amendment have come up to date with some new concerns. I don't. . . I guess this can go on and on and on. I'll candidly say to you that look, the amendment does not do what people have said it would do. So, my position is very. . . and I suggest to you, you know, if you are against allowing providing for the jurisdiction of juvenile court in the constitution, just say you're against it. Don't hide it in some other sort of smoke screen. If you say. . . if you are against providing

that juvenile courts--and I take strong opposition to Mr. Tobias when he says that we got the interest of the court at heart. There's nowhere in the world can we list all the procedures that the legislature can do in terms of proceedings and matters of the juvenile court. That should not be in the constitution. He alone should know that. I suggest to you gentlemen, very strongly, we have provided--and I question very seriously, if we provide for the Supreme Court, the court of appeal to the district court, and particularly since there is a rising adult problem, how in the world can we say that we can justify for district courts but we can't say it for juvenile courts? My understanding is that there are more adult criminals and there's more of a serious problem among adults than there are among juveniles.

Now, I suggest to you that most of the issues--and I respect some of the opposition because I think there was some real concern, but I want to say it very clearly: who are we writing this constitution for--who are we writing it for? Are we writing it for this present generation alone, or for future generations? Are we that so much concerned about incidents that we are ready to expose not only those juveniles that commit vicious crimes to adult records and the full effect of the law, but everybody? Do we not recognize the impact of drugs among youngsters? Do we not recognize the fact of emotionally disturbed among youngsters? Do we not recognize, very seriously, the kinds of problems that we're having now as a result of suspensions? I say this committee made it up in its mind that they wanted three courts, and that was it. No consideration whatsoever about trying to work out something within the constitution to allow for constitutional jurisdiction for juvenile courts.

Again, Judge, and folks, I will not. . . and I say that it's unfortunately. . . that the problem was created in New Orleans. But, however, the judges from New Orleans have said, "Yes, you're right. The problem did crystallize in New Orleans. But look here, even us, we have sent you a communication saying that there ought to be constitutional jurisdiction." There have been problems in Jefferson, but even the judge of Jefferson has written a letter saying that to maintain semblance of jurisdiction. That judge said at the time he wrote the letter that I wouldn't yield under sixteen. But, yet and still, I have yielded since then. Now, I have tried very seriously, gentlemen, to address myself to each and every concern of each of the delegates in opposition to this amendment. I should say very seriously that there were certain delegates that wouldn't even sit across the table and talk to me about their reservations. I had to get it from notes that they had made in terms of drawing up a platform of opposition. Now, I say to you, this is very dangerous--it is very dangerous. I'm confident, very confident, that those of us who have supported some constitutional status for juvenile court feel that we have fought a good fight, and we're going to continue to fight. But, I'm saying to you that it's very risky, and that for every concern--and I think the utmost concern is about juveniles not getting in the way with vicious crime--you show me in that amendment where they can go before a district court--show me where they can go. Show me where I abolish your district courts that are serving as ex officio courts. Even Mr. Tobias said in this remark: that the present constitution didn't allow for waiver of jurisdiction. I allowed for it. You read 15 (A), you go back and read 15 (A). They say very clearly that the district court shall have exclusive original jurisdiction over all felony cases. Can the legislature pass a statute concerning juveniles? I wonder can you do it. Now, they don't want to open up the Judiciary Article, and I can understand why, 'cause they don't want somebody to touch some of the sacred things. But, I suggest that is not a reform. I suggest, as Representative Alphonse Jackson say, that is a move back into history, a move back into the past. You explain it very seriously when one of your sons or one of your kids get arrested, and somebody want to force him and force the equal application under the law to him. That's his first time, because he went to a party; somebody gave him something to drink; he did something foolish. But, yet and still, you know, the legislature provides that on certain offenses that this person must be tried. If he's not convicted--and I say it again--how many applications do you know of inquire about arrest records? How far can an arrest record, not necessarily a conviction record, how far can an arrest record go in destroying somebody's life? I suggest to you that it's going to come home to roost. I suggest to you that you not be committed just because somebody won three tiers. If three tiers is so good, now why was there never a move in the legislature to introduce a constitutional amendment to do it? It's a smoke screen. I ask the favorable adoption of the amendment.

Chairman Henry in the Chair

Questions

MR. DENNIS

Johnny, a couple of speakers said that this is the same language as in the present constitution. I'm sure they did not mean that it's the same exact language. I know you've tried to present the same meaning. But you do agree it is not the same exact language; don't you?

MR. J. JACKSON

Judge, if you'll look at the first section of the constitution except for the words "for", that is basically the same wording.

MR. DENNIS

Would you have....I'd like to read you the first two sentences of the Section 52, "There shall be a juvenile court for every parish of the state except as otherwise provided for the parishes of Orleans and Caddo, the judges of the district courts shall be ex officio judges of the juvenile court for the parish or parishes within the district in all cases where the legislature has not established separate juvenile courts." Then, that section goes on for two more pages. I think that additional two pages plus the difference in language that I've just read to you makes much more clear what is intended than what is in your amendment. Don't you agree that this is...that you have not really given the same exact language, I know you are trying to?

MR. J. JACKSON

I disagree, Judge, on the basis that when you talk about the other course with the exception of Orleans and Jefferson, if you look at the second paragraph it says that courts who presently serve ex officio juvenile court, Judge, are hereby retained. If you look at that, Judge, that is basically the same thing you are saying.

[Record vote ordered. Quorum Call:-
97 delegates present and a quorum.
Amendment rejected: 38-62. Motion
to reconsider tabled.]

Amendments

MR. POYNTER

Mr. Derbes sends up amendments at the present time.

Amendment No. 1. On page 1, delete lines 12 through 23, both inclusive, in their entirety and insert in lieu thereof the following:

"Section _____. Juvenile Courts

Section _____. (A) Jurisdiction. The juvenile courts shall have jurisdiction, except for capital crimes and crimes defined by any law defining attempted aggravated rape if committed by children fifteen years of age or older, of cases of the State of Louisiana in the interest of children under seventeen years of age, brought before said courts as delinquent or neglected children. However, by law enacted by a vote of two-thirds of the elected members of each house, a procedure may be established whereby the juvenile court may waive its jurisdiction over children fifteen years of age or older at the time of the commission of any offense so that they may be tried as adults in the district court. They shall also have such other jurisdiction as is now or may hereafter be granted to them by law."

Amendment No. 2. On page 1, below the language of Floor Amendment No. 1 above, add the following:

"(B) Merger and Abolition. Notwithstanding the provisions of Section 15 of this Article, the legislature may by law merge juvenile courts into district or family courts; and may, by law enacted by vote of two-thirds of the elected members of each house, abolish juvenile courts."

Explanation

MR. DERBES

Ladies and gentlemen, this is a slightly different and, I hope, acceptable approach to the problem. This says nothing about adoption; says nothing about non-support; says nothing about criminal neglected family; it leaves all of that up to the legislature. It does, however--and, Mr. Landry, I would like to point out to you that it will not disturb in anyway the jurisdiction over your local city courts over adoption or any present jurisdiction that any courts have--this does, however, constitutionalize the principle that children shall be tried in the juvenile courts and it includes in addition thereto flexibility whereby the legislature may establish a system of waiver. Now, waiver is a new concept to our state and I do not intend to effectuate the waiver by this provision. I merely give the legislature the latitude to do so. Presently, the juvenile courts in this state cannot waive their jurisdiction in favor of any other court. Under the committee proposal as we've adopted it, the legislature may do anything that they please with juvenile court, they are not limited in any way. This would say

that if a child is fifteen years of age or younger he must be tried in juvenile court regardless of the offense. If a child is over fifteen and under seventeen, he must be tried in adult court if he has committed a capital crime or attempt aggravated rape, that's the present law. Furthermore, it says that the legislature may establish a system, a procedural system, which implicitly would be based on objective criteria to be implemented by the judge whereby the jurisdiction of juvenile court in the instances of children over the age of fifteen would be waived in favor of the adult court. This would take care of, in my opinion, of recidivists of habitual offenders, of children who have committed serious crimes which are not necessarily capital in nature, but it would nevertheless give the juvenile courts those sitting ex officio and those sitting independently some basic constitutional grant of jurisdiction which would not be subject to impulsive derogation on the part of the legislature. I point out further that the second amendment that's before you now is considerably less restrictive than Mr. Jackson's amendment. My Amendment No. 2 on the page in front of you says that by a majority vote the legislature may merge juvenile courts into district courts or family courts, they don't need a super majority. So, this would essentially agree with what the committee proposed and also agree with what we've done so far with the exception of the fact that juvenile courts could not be merged into city courts or other courts than district or family courts. Finally, it requires that only by a two-thirds vote of the legislature may juvenile courts be abolished. So, what would happen if both of these amendments passed? You would have a constitutionalization of the age limitation and jurisdiction with flexibility to deal with the habitual offenders and with the requirement that only by a two-thirds vote of the legislature may juvenile courts be abolished and by a majority vote of the legislature juvenile courts may be merged into family or district courts. I see no substantial objection....I can contemplate no substantial objection to either of these amendments. I point out to you that the amendments are divisible. So, if you agree with the principle that the age limitation of juvenile court should be constitutionalized, as I do, you should vote for Amendment No. 1. If you have problems with the abolition of juvenile court and you want to make it easier for the legislature to implement a three-tier system, then you may have some objections to Amendment No. 2. But, nevertheless, Amendment No. 2 does give the legislature the opportunity to abolish by a two-thirds vote and to merge by a majority vote. I thank you for your consideration late in the day on a matter that's been before you for some time. I think it is important. I do not believe and do not anticipate that there would be serious objection to these particular amendments. I certainly urge your support of Amendment No. 1 and further of Amendment No. 2. I'll yield to any questions.

Further Discussion

MR. PUGH

Fellow delegates, I rise in support of the amendment. I do so and take your time because I feel so strongly for the need that we specify in this constitution some jurisdiction for juvenile courts; it's an important matter; it has been with us, as I pointed out earlier, since 1906. I suggest to you that it's important enough to now give it some seventeen lines in the constitution. Think back over the last four or five months as to many, many items that got page after page after page in the constitution without any serious dispute or difficulty. Is not the matter relating to juveniles not worth at least seventeen lines? I would like to speak no longer because I would like to have the opportunity of answering any questions from anyone who may raise them. I will suggest to those of you who are from East Baton Rouge Parish--East Baton Rouge Parish has a family court, it has an entirely different and separate jurisdiction from either a district court or a juvenile court. This in no manner addresses itself to the problem or problems in the East Baton Rouge Parish courts. If those from East Baton Rouge Parish wish to give the dignity to their court that has been attempted to do here for the juvenile court, I, for one, will speak for it and will certainly vote for it. Are there any questions?

Further Discussion

MR. DENNIS

Mr. Chairman and fellow delegates, again on behalf of the Judiciary Committee and the majority of its members I must rise in opposition to these amendments. These amendments are the same thing basically in substance as was presented in Johnny Jackson's amendment. Mr. Derbes has, I admit, cleared up many of the smaller problems that were contained by the drafting in Mr. Jackson's amendment but still it is a reversal, a flip-flop away from the basic decision that you made when we considered the Judiciary Article, that we debated so long and hard on. You decided that because of the need of flexibility in this area that you would not tie the hands of the legislature, that you would not distrust the legislature to deal with the area of juvenile law. I submit to

you that there have been no new arguments, no new information presented to you since we made that decision which would justify such a drastic reversal. I submit to you that if one is counter to the basic theory of the Judiciary Article that we adopted. Also, I want to remind you in these closing days of the convention when our time is running short that we should strive not to create any more conflicts than necessary in what we have already done because each one of those conflicts will have to be dealt with again. If we pass this amendment or this delegate proposal, it will definitely create a conflict with the Judicial Article that has already been adopted. We will have to come back and probably spend another day on this issue again. I don't think you need to do that because I think you considered all of these arguments, all of this information back when we adopted the Judiciary Article. I think you made a wise decision. So, I'll ask you to stick with it and vote this amendment down and also the delegate proposal.

Questions

MR. PUGH

Judge Dennis, you indicate that this amendment reflects some disgust of the legislature. Was there any reason that the district court jurisdiction was put into the constitution? Couldn't we have left it out or did we distrust....the legislature when it related to the district court jurisdiction?

MR. DENNIS

Well, we have vested a lot of power in the legislature to affect district court jurisdiction. Our whole idea--I realize you disagree with me, you keep saying this over and over--but I'll just have to say to you that we felt that the top three courts should be established in the constitution. Personally, Mr. Pugh, I would have been willing to leave the structure of the district courts and the courts of appeal up to the legislature the way the U. S. Constitution leaves those kinds of courts up to the Congress; but, I was in the minority on that. The committee after hearing hundreds of people speak to us, from within this state and without, opted for a basic constitutional court system of three courts plus other courts to be set up by legislative act or changed by legislative law in order to keep up with the times. This juvenile court is one of those courts. You might have people who think that city court jurisdiction, or family court jurisdiction, or any number of these special courts should be in the constitution but the committee and I think this convention has come to an agreement on one occasion that we should constitutionalize the top three courts and leave the others to be changed by the legislature.

MR. PUGH

I noticed you're talking about the top three courts twice, you're talking about the district court being of greater import than the juvenile court and then the courts of appeal and the Supreme Court; is that what you are doing?

MR. DENNIS

Yes. These are our basic courts, the other courts are specialized courts.

MR. ABRAHAM

Jim, one short question. You said there would be a conflict with the Judiciary Article. Could you explain to me, I can't see any room for conflict or for any violence being done to the Judiciary Article because Section 15 says that "The family and juvenile courts existing at the time of the adoption of this constitution are retained and that the legislature may abolish the trial courts by a majority vote." The only thing I see different here is that it would take a two-thirds vote to abolish the juvenile courts. I'm confused on this, could you explain it to me?

MR. DENNIS

Flip over and read Section, I believe, it's 18 where it says that "The legislature shall establish the jurisdiction for family and juvenile courts." This amendment and delegate proposal takes away from the legislature the power to change juvenile court jurisdiction by the route of ordinary legislation; it puts protections on it and writes age limits in there that are not written in Section 18.

MR. J. JACKSON

Judge, trying to pursue Mr. Pugh's question, on what basis, seriously, on what basis does the district court have more import than that of the juvenile court when particularly almost half of the population of this state are juveniles. Now, other than that reason, what greater import does it have?

MR. DENNIS

It has no greater import; it is a basic part of structure.

The way we have written the Judiciary Article you can take any function that is now being served by a specialized court and handle it as a division of the district court. Now, the Judiciary Article doesn't require that but modern thinking is that this gives you better service and a better form of justice. We have allowed the legislature this option to go in this direction rather than stop it.

MR. J. JACKSON

Judge, if that's the case....

MR. DENNIS

But, maybe I should say this further, it's very difficult to say that handling juveniles is more or less important than trying adults for murder or handling adoptions, they are all important. That is the basic idea of having a unified court system is that all of these things are just as important as others and they ought to be handled by a judge having the same rank and dispensing the same quality of justice.

MR. J. JACKSON

So, in other words, Judge, what you are saying is that was an arbitrary decision based upon whether the committee wanted to cut it off at and that a court, which is America's only contribution to the judiciary system is not worth the constitution and jurisdiction?

MR. DENNIS

No, Mr. Jackson, we merely presented a view to this convention. Our view was that part-time judges such as some of our city judges maybe we should think about not letting them handle juvenile cases in the future because they are....

[Previous Question ordered.]

Closing

MR. DERBES

Ladies and gentlemen, I respect the pride of authorship which the Committee on the Judiciary expresses here when they oppose this particular amendment. I suggest to you that the three tiers of which they speak could more appropriately be three tiers shared in the interest of juveniles of this state rather than the three-tier court system we've been hearing so much about. Now, I think that this constitution is an adequate and a good place to set forth the jurisdiction, the basic jurisdiction over the children of this state. I submit to you that this is a problem with which we should all have due concern and consideration. It is likely that the children of some of us will indeed for one reason or another have reason to go to juvenile court, whether it's for a trial on delinquency or for a minor traffic offense, it's something that we can all be concerned about and something which affects a great deal of the citizens of this state. There is nothing in this amendment to in anyway confuse the issue of adoption or nonsupport or a criminal neglected family. There is nothing in this amendment which prevents the kind of merger that the committee on the Judiciary encouraged and supported and set forth in their committee proposal. The only basic two premises in this particular amendment are: (1) an age limitation with sufficient flexibility for waiver and (2) a provision that requires a two-thirds vote of the legislature for the abolition of the courts. It would seem to me that this is the least that this convention can do in order to clearly set forth the jurisdiction of the courts in which the children of this state should be handled, that is all that the amendment asks. Judge Dennis apparently referred to various conflicts which the amendment would create. I suggest to you that his answer to Mr. Abraham's question illustrates that the conflicts are minimal. I further suggest to you that the propositions involved in this amendment are simple and with which we can all agree. I urge your favorable consideration.

Questions

MR. JACKSON

Jim, don't you feel that it's somewhat ironic that in the city of New Orleans when a problem was crystallized and even the judges of those courts who recognized the problem as suggested jurisdiction that at present right now for those parishes who feel that my amendment drastically affected their situation that what you do right now by not adopting your amendment is to jeopardize the juvenile court situation that has particularly been indicated by some of the questions raised here in the city of New Orleans?

MR. DERBES

Yes.

MR. GIARRUSSO

Jim, do you think that the present laws give the judges the

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necessary flexibility that they need to handle juveniles for rehabilitation, for proper sentences and everything?

MR. DERBES

Joe, we've got to distinguish between the present laws that are on the books and the books that we are working on here. The present laws, which are on the books, in my opinion having worked in juvenile court for more than four years now do not give the judges sufficient flexibility. The committee proposal that we have passed which would leave all of the juvenile courts jurisdiction to the legislature would give the judges sufficient flexibility provided that the legislature saw fit to do so; it's a matter of trusting the legislature to provide the juvenile court with the sufficient tools and techniques. This amendment tries to do so with flexibility but with specific limitations.

*[Division of the Question ordered.
Record vote ordered on each Amendment.
Amendment No. 1 rejected: 48-55.
Motion to reconsider tabled. Rules
Suspended and Amendment No. 2 with-
drawn.]*

Amendment

MR. POYNTER

Mrs. Warren sends up amendments at this time.

Amendment No. 1. On page 1. . . The copies are not out yet. They will be distributed here in just a moment.

On page 1, delete lines 12 through 23, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 38. Jurisdiction of juvenile and family courts shall be as provided in Sections 52 and 53 of Article VII of the Constitution of 1921, as existing on the effective date of this constitution."

Explanation

MRS. WARREN

Mr. Chairman and delegates to this convention, in January of last year we started a long journey, and now we are coming to the closing of this journey. We have come to a dangerous intersection. I'm going to try to do something now that I have not ever tried to do before. I'm going to try to please everybody in this convention, even though I am reminded of a story of a man and a little boy who started out on a donkey many years ago. The man started out and he put his little boy on the donkey. As they reached the first town, they ran into a group of people who began to laugh and say how stupid it was for an old man to be walking and a little boy riding. So, the old man got down off the donkey. . . the little boy got down off the donkey and the old man got on. They journeyed on. When they got to the next town, a laugh came again that an old man was riding while a little boy was walking. So, the old man decided that they both would get on the donkey. They both got on the donkey and they began to ride. When they got to the next town, the laugh came again. How sad it was for the two to be riding a poor old donkey. So, the old man said, "We'll both get down." They got a stick and they tied the legs of the donkey, and they began to carry the donkey. So, when they got to the next town, they got another laugh; how stupid it was for these two people to be carrying a donkey. So, the old man got down and he cut the strings and he let the donkey loose. He put the little boy back on top of the donkey, as he had started out in the beginning. He said to himself, "he who tries to please everybody, pleases nobody."

But, I am going to try to please all of you. I heard Senator De Blieux said that this amendment would affect the courts in Baton Rouge. I heard Judge Dennis said how it was going to affect his area. Many are wondering how this thing is going to affect them. So, I say to you, let's keep it like we've got it, and let's make everybody happy. You have what you want and I have what I want.

I'll yield to any questions.

Point of Information

MR. DUVAL

Mr. Chairman, I just want to understand the status of the convention. After a delegate proposal is defeated--and this is certainly no reflection on Mrs. Warren's amendment, but I want to understand how this whole convention is going to operate--does that mean that amendments which are not delegate proposals can be introduced ad infinitum, or what is our parliamentary status?

MR. HENRY

Well, what Mrs. Warren has done. . . the delegate proposal has never been defeated, it's never been voted on, Mr. Duval. There have been two sets of amendments to amend this section of this proposal, both of which have been defeated. As I appreciate what Mrs. Warren is doing, now, she's coming in with another amendment to this section.

MR. DUVAL

I see. So, we could just offer amendments to the delegate proposal. . .

MR. HENRY

Just like you all have always done during this convention, Mr. Duval.

Questions

MR. DENNIS

Mrs. Warren, you are, as I understand it, you're attempting to make sure that the juvenile and family courts we have now are continued.

MRS. WARREN

Right. And to make you happy and all of the rest of you. You seem to be happy with what you've got. It seems to be good and working in your area. I'd like to see you keep it.

MR. DENNIS

Well, I. . . we share that concern on the Judiciary Committee. Did you know that Section 15 of the Judiciary Article that we passed says that "the district, parish, magistrate, city, family and juvenile courts existing at the time of the adoption of this constitution are retained"? Did you know that?

MRS. WARREN

I didn't keep up that much with it, Judge Dennis, but I tell you the truth, as I stand here and I heard one debate behind the other, and I decided once I wasn't going to get up because juveniles and their problems--just the very word "juvenile" says to me this: that this person is not mature. When it comes to crime or delinquency, it means that person needs some help and needs some specialized help. I didn't want any way that they would delete the juvenile courts from our constitution.

*[Motion for the Previous Question on
the entire subject matter rejected:
5-52.]*

Further Discussion

MR. DENNIS

Mr. Chairman, I do hate to take the time, but I think. . . I just want to make it clear that the Judiciary Committee feels, and still does feel, that we have done everything Mrs. Warren is seeking to do in Section 15 by saying that all of these courts are retained.

Question

MR. JENKINS

Judge Dennis, just for clarity purposes, thus we should not agree to this because this is really different from what the committee has approved inasmuch as this would continue the jurisdiction in constitutional form, whereas the jurisdiction is continued in statutory form under the judiciary proposal. Is that correct?

MR. DENNIS

Yes, you are correct. I should have pointed that out, also.

[Previous Question ordered.]

Closing

MRS. WARREN

Mr. Chairman and fellow delegates, Judge Dennis pointed out exactly what I was thinking: that it wasn't in the constitution and he didn't want it in here. Other. . . but, he wanted his other courts in here. So, our juveniles are not important enough to be in the constitution. So, this is why I came back with the amendment. I wanted to convince myself and convince you that the issue is not that we've got it, we want to keep it. I'm asking you for a favorable vote on this amendment.

*[Amendment rejected: 24-64. Motion
to reconsider tabled.]*

MR. POYNTER

Judge Dennis, you want to go with yours, or you just want to . . .

MR. HENRY
Read them.

Amendment

MR. POYNTER
Amendment No. 1. On page 1, delete lines 5 through 23, both inclusive, in their entirety.

Explanation

MR. DENNIS
Mr. Chairman and fellow delegates, I did not offer this amendment to delete the delegate. . .the substance of the delegate proposal earlier, because out of courtesy to Mr. Jackson, I wanted him to have the opportunity to present his amendment and debate it, with it before you. But, I think if I'm right--I may be wrong--but I think I sense that you agree with what we have in the Judiciary Article already. So, I'd like to give you this opportunity to terminate this debate and settle this issue so that we can move on to something else. So, I ask you to adopt this amendment which would delete the substance of the delegate proposal and will, in effect, defeat it.

Further Discussion

MR. J. JACKSON
Mr. Chairman and ladies and gentlemen, I rise in opposition to the amendment to delete. Let me just say very seriously that it's inconceivable to me, very seriously, sitting here as a delegate, that in the expediency of time that we are willing to risk the future of our generation. Let me also say that I recognize the business of this convention is important. Lord behold, let me be the one to stymie that progress. But, I suggest that we're making a very serious mistake. I think it's going to be very difficult--very difficult--behind some other things that we have done to say to somebody, very serious, that we are writing a constitution that is futuristic in nature, that's rewriting a constitution that's supposed to provide for the adequate judicial administration of our court. That somehow or another, the question is posed to you, very seriously, "Well, how can, with the increasing adult problem, you provide for constitutional jurisdiction of district courts and not give some semblance of constitutionality to juvenile courts?" You may try to technically talk about my amendment; you may try to technically bring out the defects in the Derbes amendment. But, see, there's one thing that you won't be able to correct. You're not going to be able to correct, very seriously in my estimation, the kind of long-range adverse effect it's going to have, not on the intentional offender, but seriously, on youngsters who are victims or the prey of the kind of society that we live in. If you say or tell me that there's not going to be the opportunity where one youngster is going to fall victim to what we've done in the judiciary, if you can assure me of that, then I'll say we ought not continue to try to resolve this problem.

I suggest to you that the amendment to delete is not an amendment to give me full consideration on this issue. You know, that's just like me telling my neighbor, "You vote for it and I'll vote against it or I'll vote for it and you vote against it." Ladies and gentlemen, I thank and I'd like to compliment all the delegates who have wearily struggled on with this important question. I suggest to you very seriously that it's a question of the magnitude that even I don't understand the depths of. It was so important that even some of the authors of the legislation that was introduced took their name off because they began to see what were the possibilities. Just let some youngster get. . . Well, I don't want to keep giving you examples. But, I say to you that it's hard, it's very hard. I don't mind losing, but it's very hard and it's unconceivable in any stretch of the imagination when we can provide for constitutional protection for retirement systems and some of the things that we've done for special interest groups, that we can't even provide the semblance of it for half of the population that must live, in the future, under this constitution. I just can't. . .nobody can explain it to me. It's not that my mind is closed, but I just can't do it in comparison with some of the other vested interests that we've got embedded in this constitution, even to the extent that we've embedded it to allow a two-thirds vote of the legislature making it, as someone said, difficult to remove. I just can't understand it.

I ask you to reject this amendment and I'll return it to the calendar. If such time that this convention's got some laxity to talk about this issue again, I don't want to see it die of the kind of death the Judge is proposing by this amendment. I suggest that we defeat the amendment and then return it to the calendar.

Question

MR. LANDRUM
Mr. Jackson, don't you think that at this time that we should adjourn until tomorrow, and probably with better minds maybe we could work something out overnight to present to this body that would be acceptable to the delegates?

MR. J. JACKSON
Rev., I would say to all the delegates who are about that kind of business that I'll be willing to do that. But, you're going to hear the argument that that's just going to delay us, and I would hope that we could do it. I'm saying to you that I have sincerely, conscientiously, even to the point of reaching some delegates by the arm and saying, "What's the problem? Tell me." I just. . .I don't know. I think that it's so embedded at this point, that some folks have just got their mind that a reform is a reform. That what we're trying to do is not of importance to constitutionality and the constitution.

Point of Order

MR. TOBIAS
There's nothing left of the proposal. It's deleted the enacting clause; it's deleted everything providing; there's no committee for it to go to. It has nothing.

[Motion to return Delegate Proposal No. 43 to the calendar adopted: 46-40.
Motion to call Delegate Proposal No. 17 from the calendar adopted without objection.]

Reading of the Proposal

MR. POYNTER
Delegate Proposal No. 17, introduced by Delegate Planchard: A proposal making provisions prohibiting lotteries. "Section 14 of Article 11. Neither the state nor any of its political subdivisions shall conduct a lottery."

Explanation

MR. PLANCHARD
Mr. Chairman, fellow delegates, I reluctantly bring up my proposal right now because it seems to be a dark Tuesday for delegate proposals. But, my proposal, if you've read it, is a very simple proposal, but one which I feel is very important to put into this constitution. It's very few words, but this is the one area which I was approached about on many, many occasions. I must admit at the outset that where I first observed this was in the general provisions of the present constitution referring to gambling. There is a phrase in the present constitution strictly pertaining to lotteries. It goes a bit farther than my proposal, itself. In the present language, it says, "lotteries and the sale of lottery tickets are prohibited in this state." That means all lotteries. Now, I felt that it's very important to state in very plain language that the State of Louisiana nor any of its subdivisions should ever conduct a lottery. First, because I feel that this is not the proper way to finance state government. The governor thought of the idea some time ago, before the last special session. He mentioned the lottery because he felt that this was maybe a new way to get revenue for the state. I think you all know the opposition that he had. He appointed a commission to look into it for him, and they reported back--they reported back to him unfavorably. I think the reason is very good because in the first place you're talking about the means of supplying new sources to the state for about twenty million dollars, maybe twenty-three million. No one knows how much it would cost--and they've had many, many estimates--how much it would cost for the administration of a lottery in Louisiana. Another thing about relying upon this type of financing is the fact that you cannot really rely upon it. There is no way that you can actually state how much money that you will obtain from a lottery each year. It's not the same thing as a tax. A tax, you can predict. The taxing methods, revenue bonds or bond producing funds is the proper way to go about financing state government. Last but not least, the opposition to the lottery is on a moral ground. Now, if you want to cause political suicide, you propose a lottery in this state, because they are afraid of the infiltration from people without the state and the unscrupulous individuals that it may bring in. The people who have to suffer when you have a lottery is not the big boy, the one that you usually try to go after, because he's got the income. You tax him. . .

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What I was about to say is the lottery only takes from those who cannot afford it, or that can afford it least. It's that little man that really can't afford even the two dollars that he would usually put on a lottery ticket. Now, I know already as soon as I yield this floor that there are amendments coming forth. I know that I have probably opened the door to a lot of amendments concerning gambling in the State of Louisiana. I know for the next hour and a half that we'll probably discuss gambling. It is not my intention, with this amendment, to affect the gambling section. All I can say is, folks, for the next hour and a half, just hang on. But, I would appreciate your consideration on this proposal as I have written it. I ask for its favorable vote.

Vice Chairman Casey in the Chair

Questions

MR. ABRAHAM

A. J., what do you think would be the end result if assuming you did have a lottery and you raised twenty million dollars and this money went for a teacher pay raise, let's say, and then three years from now you only raise ten million dollars by a lottery? Wouldn't that mean an automatic increase in taxes before it was over with?

MR. PLANCHARD

It seems to me it would have to. Yes.

MR. FAYARD

Mr. Planchard, assuming that this proposal fails, does this mean that the State of Louisiana will be under a lottery system or a lottery will be conducted in Louisiana?

MR. PLANCHARD

It means that they can.

MR. FAYARD

Means how can it?

MR. PLANCHARD

Because there's no mention. . . there's no mention of the lottery in Louisiana.

MR. FAYARD

But, what would it take?

MR. PLANCHARD

Or prohibition against.

MR. FAYARD

What would it take to be able to conduct a lottery in Louisiana if this would fail?

MR. PLANCHARD

Well, the legislature would have to pass an act . . .

MR. FAYARD

In other words, this proposal would place a limitation on the legislature, is that correct?

MR. PLANCHARD

Yes, it would.

MR. FAYARD

Now, what would happen if a political subdivision would conduct a lottery under this proposal? What does this proposal do to that political subdivision?

MR. PLANCHARD

I have not gone that far as far as trying to set out the legislation on it, or the penalty for such, that I leave to the legislature, but I think it important for us to express to the legislature that this is one of the things that we are going to prohibit.

MR. FAYARD

What I'm trying to get at is just exactly what does this do besides put a limitation on the legislature as far as the state is concerned? It provides no penalty does it?

MR. PLANCHARD

No, it does not. That's what I'm saying again.

MR. FAYARD

Well, are you putting it forth as a political move and an

effort to pacify certain people who are against lotteries in an effort to sell the constitution?

MR. PLANCHARD

No, I am not.

MR. FAYARD

Are you in favor of also an amendment to this to prohibit gambling or the other vices that are enumerated under the present section of the constitution, or are you going to stick with this proposal?

MR. PLANCHARD

Oh, I'm going to stick with my proposal, if anyone else wants to amend it, they may.

MR. AVANT

Mr. Planchard, if this provision was in the constitution and a local governmental subdivision got the bright idea that they were going to sell lottery tickets and conduct a lottery, don't you think that a taxpayer could bring a suit to enjoin any such operation?

MR. PLANCHARD

Yes, sir, sure do.
I yield to Mr. Goldman.

MR. GOLDMAN

Mr. Planchard, is there any provision for defining what a lottery is? What is a lottery?

MR. PLANCHARD

I wish I knew, Mr. Goldman. I wish I knew.
All I can say it's a form of gambling.

MR. DUVAL

Mr. Planchard, does this mean that a political subdivision could have a poker tournament, but it just couldn't have a lottery?

MR. PLANCHARD

I'm sorry. I didn't get that.

MR. DUVAL

I said, could a political subdivision have a big poker tournament, but it just can't have a lottery? Is that what it means?

MR. PLANCHARD

That means they. . . if you don't say anything to prohibit that poker tournament they certainly could have one.

MR. DUVAL

What makes a lottery more insidious than a poker tournament, or off-track betting or any other type of gambling . . .

MR. PLANCHARD

I think you'll find that off-track betting is a form of lottery that you sell the lottery tickets for it.

MR. DUVAL

Is bingo a lottery?

MR. PLANCHARD

No.

MR. DUVAL

You're sure? You draw lots, don't you, you draw numbers. I mean I'm just wondering what this means.

MR. JENKINS

Mr. Planchard, this provision would not prohibit the state from legalizing private lotteries and then taxing them, would it?

MR. PLANCHARD

No, it would not.

MS. ZERVIGON

Mr. Planchard, what would be the case. . . how would your provision apply in the case where a private corporation was in a lottery and donated the proceeds to the government?

MR. PLANCHARD

Ms. Zervigon, in answer to your question, my provision as written, I'm not referring to that. I'm referring only to the states and subdivisions.

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MS. ZERVIGON

Well, what about the case in which the state would contract with a private company to run a lottery, but the company would really run the lottery?

MR. PLANCHARD

I think that you'd have to say if the state allows them to do it that's the same thing as doing it themselves. I think that would be prohibited by this constitution.

MR. FAYARD

Mr. Planchard, in response to a question asked by Delegate Jenkins, you replied that this would not prohibit the state from authorizing a private individual to conduct lotteries. Is that correct? Is that true? I want to make sure I understood that.

MR. PLANCHARD

That's correct. If you notice that my proposal is a delegate proposal which is presented to the finance section, and in discussing finances in the State of Louisiana is why I put in this proposal in this form. This is not a general provision. It's not the general provision that you find in the gambling section or article as in the present constitution.

MR. FAYARD

Well, by this, do you mean that it is all right for the legislature by a majority vote to authorize a private company to engage in lottery, so long as the state taxes it, but the state itself cannot enter into a lottery under its own auspices. . . . under their own control or the state government itself or a political subdivision under a governmental control.

MR. PLANCHARD

What we're doing is . . .

MR. FAYARD

It appears to me that you'd open the door to private lotteries, but prohibiting political weight entering it.

MR. PLANCHARD

There's nothing in this proposal which does prohibit a private lottery, but I know that there's an amendment coming forth to do that.

Personal Privilege

MR. GOLDMAN

Mr. Acting Chairman and ladies and gentlemen of this convention, I ask for this point of personal privilege and I hope you don't think I'm being facetious or silly, but I'd like to point out to you that there is a federal definition of a lottery. Under the federal law --public law-- a lottery is prohibited by the federal government and the definition of a lottery under federal law is "anything that has the following three elements is a lottery, consideration, prize and chance." I submit that we're pretty silly in talking about lotteries unless we really define it in the most specific sort of way because when a man runs for public office in this state according to the definition-- a federal definition of a lottery, a lottery is being conducted, first of all . . .

MR. CASEY

Now, Mr. Goldman, I recognized you on personal privilege, I'm not sure that it's appropriate for you to be arguing the merits of the proposal right now. If you wish to submit an amendment I think you're entitled to do so. If you wish to argue the merits of the proposal, you're entitled to do so.

MR. GOLDMAN

I'm not doing that, I'm just explaining what a lottery is according to public law. If I'm out of order, I'll step down.

MR. CASEY

I think so, Mr. Goldman.

Amendments

MR. POYNTER

Mr. Burns, Smith and others send up amendments at the present time.

Amendment No. 1. On page 1, line 4, at the end of the line, delete the period "." insert the following: "and gambling."

Amendment No. 2. On page 1, line 7, at the end of the line, add the following: "; Gambling".

Amendment No. 3. On page 1, delete lines 8 and 9, in their entirety and insert in lieu thereof the following:

"Section 14. Gambling is a vice and the legislature shall pass laws to suppress it."

Amendment No. 4. On page 1, line 10, add the following: "Lotteries and the sale of lottery tickets are prohibited in this state."

Point of Order

MR. O'NEILL

Mr. Chairman, I rise on a point of order. My point of order is that these amendments are not germane to the proposal as it is presented before us. My second point of order is that this delegate proposal, the amendments as they are written, have been presented to a committee that is, my Committee on Legislative Powers and Functions, and there they were deferred. Now, I'd like you to rule on whether or not these amendments are germane to this provision because I think that gambling is a totally different thing prohibiting gambling than is prohibiting a lottery.

Ruling of the Chair

MR. CASEY

Mr. O'Neill, the Chair rules that the amendments are germane, and I think it's appropriate that they be submitted at this time.

Explanation

MR. BURNS

Mr. Chairman and ladies and gentlemen of the convention, Mr. Planchard as I understand it rather introduced his proposal back several months ago when a trial balloon had been sent up with reference to a suggestion that perhaps the state might consider going into the lottery business to raise money for the school-teachers, which has since been accomplished by the raise in gas and oil taxes. Subsequent to that, knowing the wishes or feeling that I know the wishes of a vast segment of the people of Louisiana, I prepared the present amendment. Now, what I would like to say at the very beginning of my remarks that this is not anything new, this is not anything that I thought up or conceived or prepared. The wording of this amendment in Section 3 and in Section 4 is the exact language that's in the present constitution. Would you believe that there has been a lottery section in the Constitution of the State of Louisiana since 1845 with a short interval and a very sad and tragic interval I might say in the history of Louisiana because back in the middle part of the last century the legislature . . . the constitution of the state that was held at that time voted to legalize lottery on the grounds that it would benefit. The proceeds would go to Charity Hospital and that was done. Lo and behold the first year that the lottery was in operation the first full year that the Charity Hospital got the magnificent sum of twelve thousand dollars and I don't believe it ever increased as long as the lotteries remained legal. In 1879, the people of the State of Louisiana became so aroused over the fraud and scandal, and shakedowns and payoffs, that they called a constitutional convention to rescind the lottery amendment section of the constitution. In that election, the lottery interest only got two thousand votes in the entire State of Louisiana and the lottery was put to an end once and for all. That's the way it's been up to this very moment. So, that is why I say ladies and gentlemen that this amendment is not anything new, this has been in the constitution of the State of Louisiana for over a hundred years. Now, I want to say this statement and I wish you would listen to this because I know this is the basis for perhaps some opposition. This is not going to affect in any way racehorse track, or pari-mutuel racehorse betting in the State of Louisiana, that has been taken care of by an act of the legislature, I have it here some place--and as you know, the state . . . the tracks are operating throughout the entire State of Louisiana with legal sanction. That's the way the law is now and this amendment is not going to change that in any way. I would like for you to call your attention to the fact that this amendment is not going to in any way affect bingo games that are being operated by churches at church fairs, American Legion, Veterans of Foreign Wars, Volunteer Fire Department, this is the law on the books today, and those bingo games and other games of chance are being operated openly and without any interference, and that's the way it will continue. Here just recently, it was suggested that the state go in the lottery business --and I'm not going to read all this-- but the governor's . . . here's a report, a recommendation on the governor's council of economic advisors, recommended very strongly that the State of Louisiana give up any idea of engaging in the lottery business and this is some of the excerpts in that report. "In view of the public opposition to the measure which has already been expressed, a lottery hardly seems worth the political effort and sacrifice involved in its establishment. Report, then cite the corruption infested Louisiana Lottery Company of the late 1800's as a reason the game appears too politically sensitive to be worth the effort." Now, ladies and gentlemen, I don't know whether you know it or not, I tried to show it, it's not going to hurt anything

because it's not going to change any of the laws that are not in existence today. But, I don't know whether you know it or not, but to a large segment of the citizens of the State of Louisiana the very word, "lottery" is repulsive. I have here in my hand a copy of an article that went to I don't know how many hundred thousand church people throughout the State of Louisiana, and the headline is "Flash, Urgent" with reference to the various amendments that we're discussing here this afternoon. Now, I don't think where an amendment is not going to change anything, it's not going to add anything on to the present law, it's not going to put any further restrictions over and above what we already have and as I say we're people that like horse racing, they're enjoying horse racing, they're enjoying pari-mutuel betting. The people that like bingo games are enjoying them, so why by the actions of this committee, or this convention, especially with reference to the lottery article; why do we want to go out of our way and invite the open and active opposition of that large percentage of the citizens of this state who are absolutely, definitely opposed to lottery, that just as sure as we do it, we're going to get that opposition and I'm not saying that as a threat because they have documents here to show their sentiment? So, I ask you, ladies and gentlemen how can we go to the people when we finish this document. . . this constitution and present it to them without the present lottery article in it, because if we do, they have no other way to construe our actions. But, by our eliminating it from the present constitution or the new constitution, we are thereby -- and I agree with them-- we are thereby putting our stamp of approval on lotteries, and they're not going to accept it. So, I ask you,--and this is the strongest argument I know--if this is going to change the law, if this is going to put some . . .

But, all I'm asking is that we retain the law just . . .

Chairman Henry in the Chair

MR. HENRY

All right. You have a question, Mr. Avant?

Questions

MR. AVANT

Mr. Burns, you've explained to the convention that your amendment restores to the constitution, or the proposed constitution the exact language of Article XIX, Section 8 of the Constitution of 1921, except with respect . . . except one sentence dealing with agricultural futures.

MR. BURNS

That's right, and that was done. . . left out, Mr. Avant, because of the soybean interest in the state. It was thought that they would be affected by that, so we left that out.

MR. AVANT

Now, isn't it a fact that anybody who is afraid that this is going to keep them from having a private poker game in their home, or have a crap game at a fish fry or something like that don't have anything to worry about because the Supreme Court has said, that since there is no definition of gambling in the constitution, it's up to the legislature to define it, and that they have the right to define it? The only way they have defined it is when it is conducted as a business; isn't that right?

MR. BURNS

That's right.

MR. AVANT

Isn't it a fact that if you take this out of the constitution, it can be construed in no other way than that this convention is inviting the legislature to open up gambling as a commercial business operation in this state?

MR. BURNS

That's right-- and I repeat once more-- in answer to your question, this is not going to change one thing that we don't have at the present time except that it will keep it in the constitution and satisfy the voters when they go to the polls to vote on this constitution.

Further Discussion

MR. SMITH

Mr. Chairman, fellow delegates, I know all of you are tired, been here all day, I've been here to, but I feel like this is a very important amendment. I'm much in favor of it. I coauthored it. I want to see it passed, and I feel as strong about this amendment and this legislation as anything in the legislature. I feel that the language should be put back in the constitution

like it was in 1921. I see no reason to take it out unless you want to legalize gambling, that's just that simple. If we leave this out, the legislature in the future can legalize gambling and we don't want that in the state. I've had more letters and more people to talk to me on this, that they want this in the constitution. You say, well, it doesn't belong in there; neither did the three dollar car license some of us thought, but we put that in there. Gentlemen, I think, if you put this in the constitution, you're going a long ways towards helping pass it, and I certainly want to see it passed. I know a lot of you are against this amendment, but you want to see the constitution passed. Please, gentlemen, let's go ahead and put this back in the constitution. It's not putting it back. You took it out. I was on the committee. This came up before Revenue, Finance and Taxation. It was voted down. It went through the Legislative Committee, was voted down. So, the only way we could come in on this was on this lottery amendment here. I feel like the people of our state, gentlemen, feel like we must have this. We're not doing anything like Mr. Burns says, we're not putting some in there. It's already in there. You're taking it out. I feel like if it's not passed, that we're going to have a hard time. Like he says, this doesn't change anything. This doesn't prohibit pari-mutuel betting on the track nor does it prohibit bingo, but it's a statement in our constitution that tells people that we. . . that gambling is a vice and the legislature should pass laws to suppress it. I don't see how any of you can vote against it.

Questions

MR. FONTENOT

Mr. Smith, what is your definition of gambling?

MR. SMITH

Well, I can tell you a definition of lottery. I think that's what you. . . it's where it's defined as somewhere you have a prize and a chance and a price. It's gambling.

MR. FONTENOT

Do you have a definition of gambling?

MR. SMITH

No, sir. I couldn't . . . definition just exact definition, but you know what it is as well as I do. You can define it.

MR. FONTENOT

Okay. I mean for the record, I'm just trying to distinguish what is some gambling . . . something that you do is gambling or not, like a bingo game at a church, is that . . . do you consider that gambling?

MR. SMITH

No, sir.

MR. FONTENOT

Do you consider a private poker game at my house gambling?

MR. SMITH

No, sir, unless it's a house game.

MR. FONTENOT

Do you consider a poker game at a bar or a lounge in the backroom gambling?

MR. SMITH

Well, I'm not going to start answering all these questions. I think you're doing it . . . I think you're doubtful about voting for this.

MR. FONTENOT

No, it was for the record. I just wanted to distinguish what are some gambling vices and what are not, Mr. Smith. I'm just trying to get something in the record to show what we intend as gambling and what is not.

MR. SMITH

Well, I'm not an expert on the definition of gambling, but I know that we should put this in -- whether you're from North Louisiana, or South Louisiana-- our people feel very strongly about this up in our area and this is one of the things they want in there. So, gentlemen, I feel like we're going to hurt ourselves if we don't put this in our constitution. Leave it like it is. Just don't take it out.

MR. LANIER

Mr. Smith, the thing that concerns me about this. Isn't gambling presently prohibited in our Criminal Code?

MR. SMITH

Yes, sir, I think so.

MR. LANIER

Now, murder also is prohibited in our Criminal Code, isn't it?

MR. SMITH

That's right.

MR. LANIER

Do you think that by not including this in the new constitution it would be encouraging the legislature to repeal the gambling law any more than it would be to encourage them to repeal the murder law because murder is not included in this amendment?

MR. SMITH

Well, I think, it would encourage them on the gambling law. Yes, sir. Of course, murder is something else, there are people who don't like that, but they like gambling.

MR. NUNEZ

Mr. Smith, up in your area recently, or for the past four or five years, I don't know whether you consider track, off-track on track betting gambling or not, and a lot of people don't, pari-mutuel winners are not considered gambling, but I heard for years that they . . . your area, up there in the Bossier area, they did not want a racetrack, there was bitterness on both sides. So they finally decided the best they could do-- isn't this the truth-- that the best thing to do is be submitted to the people and it passed overwhelmingly, and you now have a track up there, don't you?

MR. SMITH

Well, that's not in Caddo, that's in Bossier Parish.

MR. NUNEZ

Well, I'm saying up in that, in that area, in that corner of the country.

MR. SMITH

I don't think it was overwhelming. I think it was very. . . but that has nothing to do with the gambling.

MR. NUNEZ

Well, I think, it's significant that the people when they finally got a chance to vote and other people talking for them they voted to put a track. . . years I've heard that you couldn't, it was impossible to get consent to put a track up in that area.

MR. SMITH

No, Senator, they just like to see horses race.

MR. NUNEZ

Well, you don't consider -- one more question-- you don't consider horse racing gambling evidently.

MR. SMITH

Well, it's . . . I mean it's not defined as gambling. No, I think it is. Yes.

MR. NUNEZ

Well, it's legalized gambling.

MR. SMITH

I think so, yes, sir.

MR. RAYBURN

Mr. Smith, I just wanted to set the records straight, if I understood you correctly, you made a statement that Revenue, Finance and Taxation Committee had killed this proposal. That is not true, they did not. This delegate proposal that's before us now was reported out of that committee, Mr. Smith.

MR. SMITH

Well, I remember it coming up and I made a motion, Senator, I don't remember how it came up and it was . . . I believe it was recommitted to another committee.

[Motion to limit debate on the Amendments to twenty minutes adopted: 40-39.]

Further Discussion

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, I'll only take a few minutes of your time. But in answer to some of the questions that have been asked here, I think if those who had asked the questions had listened to Mr. Burns' explanation of this amendment and to the answers to the questions that Mr. Avant propounded to Mr. Burns would have seen what he was talking about. I want to remind you that this is not something that you can take lightly because it is very important to this proposal, I mean, and to the entire constitution. You can go around it in a half a dozen different ways by avoiding the issue. But, if you come head-on with the issue, this is something that we have been living with; it does not upset the status quo; it does not close pari-mutuel tracks. In answer to Mr. Fontenot's questions, our courts have held time and time again--I don't recall whether it's legislation or jurisprudence-- that unless it is operated as a business it is not prohibited gambling in this state, which allows your country club poker games, your other type games, friendly poker games, or whatever you want to do individually, as long as it's not operated as a business. I think that is the correct law in this state. It's very important that we adopt this amendment that Mr. Burns has offered, that I have coauthored. I sincerely hope you won't take it lightly because it can really mean a lot to the constitution. It will not harm anybody; it will not upset the status quo. I urge your support.

Questions

MR. AVANT

Mr. Drew, if this prohibition is not put back in the constitution, could not the legislature legalize gambling in this state a la the State of Nevada?

MR. DREW

There is no reason they couldn't, Mr. Avant.

MR. AVANT

Do you think that if the people of the State of Louisiana realize that, they are going to accept this constitution?

MR. DREW

Not from the correspondence I've had, Mr. Avant, they're not.

MR. STINSON

Mr. Drew, can't you foresee in the future sessions of the legislature every time that this is not in the constitution that the gambling element, from not nationwide but worldwide, is going to be here lobbying trying to pass every gambling law possible?

MR. DREW

I can see that, Mr. Stinson. I think you should take into consideration what the legislature did in 19__ --I don't recall whether it's '72 or '73-- in outlawing pinball machines in this state it was something the public demanded and it was something that the legislature did. The only people that came before the legislature opposing it were those who were actually operating the pinballs; I think that gave the pulse of the people there.

MR. STINSON

Do you believe that a state government should be financed on taxes on gambling?

MR. DREW

There is no way, Mr. Stinson, when half of our revenue is coming from the federal government and one major industry. I don't see how we can add something as uncertain as gambling to that revenue.

Further Discussion

MR. LANDRUM

Mr. Chairman and fellow delegates, I rise in support of this amendment. I would have you to know in committee I was one that advocated removing it from the constitution, that the constitution would be silent on this subject because I believe, even until this day, that the church should not impose its will on the people. I believe that we should try to tell people what thus sayeth the Lord, but not to put restriction that they cannot do a thing; that's my personal feeling. But, I have received letters, phone calls, telegrams over the past five or six months from clergymen of various different denominations throughout this state asking that this prohibition be placed back into the constitution. There were times when I mean I've had directive discussions with different

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clergymen about....I even brought it up in the barber shop or different places where a few people would be together and would try to get the feeling of the people just what do they think about it. Surprisingly, people want that prohibition in there because they are afraid of some organized type of gambling coming into the community. I did not come here to impose my will. I'm here to do the will of what I believe the people would want me to do and for that reason, I join in with this group to place this prohibition back into the constitution. I think if you would support this amendment you would be surprised to know that many people would be mighty, mighty happy. Thank you. God bless you.

Further Discussion

MR. FAYARD

Mr. Chairman, ladies and gentlemen of the convention, my committee was mentioned on this, so I feel obligated to get up here and speak to you concerning this amendment. First of all, I would like to see what this amendment does; it says, "Gambling is a vice and the legislature shall pass laws to suppress it." We've heard speakers get up and admit that gambling is defined by the legislature and it has been defined so as to eliminate horse racing, bingo, other items of local poker playing, crap shooting and what have you, in your home. So, exactly what does it do? What is gambling? Does it mean that it's alright to play bingo and go bet on horses, but then you can't do certain other items? What other items cannot you do? I believe these are items that are certainly defined in the criminal statutes of this state. I believe, also as Mr. Goldman pointed out, that the U. S. Federal Government has a statute that prohibits lotteries, but it's not in the constitution of the United States of America. Of course, we are here to write a new constitution. I think we should delete unneeded material. My committee considered this carefully. We decided it was not necessary; it was handled by statute and actually it did nothing. Now, on the second portion of this amendment it says that "Lotteries and the sale of lottery tickets are prohibited in this state." This varies greatly from the Delegate Proposal No. 17 in which it says that "Neither the state nor any of its political subdivisions shall conduct a lottery." If you adopt Amendment No. 4, this means that not even a private company could engage in lotteries if the legislature in its wisdom some years from now decided that it was necessary for the state to do so in order to survive financially. There have been several states in the nation, I believe, that have conducted lotteries successfully and without the bitter experience that has been related by some of the delegates that Louisiana suffered a number of years ago. But, again, I have to rise in opposition to this amendment because of those reasons, but not only because of that reason. I am content to sit in my chair and vote no on these amendments until certain delegates get up and say, "A vote against this amendment is a vote to legalize gambling." I cannot stand for that. I can't believe that somebody can say that. That doesn't express my feelings at all. My feelings on this is that it should be up to the legislature. We don't say that murder is a crime and the legislature shall pass laws to suppress it. We don't say rape and prostitution are crimes and the legislature shall pass laws to suppress them. Why is gambling and lottery such an issue? I think we should trust our legislature and give them the authority that they need in this area and it would take a legislative act. I believe that the people would have to mandate the legislature before the legislature would ever legalize gambling in this state. I'm against legalized gambling, myself personally. But, I do not believe that you can sit there and listen to a comment that a vote in favor, or at least against, this amendment is a vote in favor of legalizing gambling and lottery; I can't see that. Now, again, please consider this carefully. What are you doing? If you think that it's politically expedient and it's necessary to adopt this to pass this constitution, I can see the reason why you would vote this way. But, don't get up here and say that it does anything; it does nothing with the exception of Amendment No. 4. Amendment No. 4 would actually prohibit the sale of lottery tickets in this state for any reason or any method. So, I ask you to defeat this amendment; it is not necessary. I'll yield to questions.

Questions

MR. JENKINS

Calvin, would you agree that Amendment No. 3 has no legal effect but is simply moralist preaching?

MR. FAYARD

Woody, I believe that the authors of this amendment agreed to that in their explanation of the amendment and in their support of the amendment, by admitting that the legislature itself defines what gambling means.

MR. JENKINS

Wouldn't it be hypocritical for the State of Louisiana on the one hand to say in its constitution that gambling is a vice and ought to be suppressed and on the other hand be getting a rake-off from the race tracks in the state? Wouldn't it be hypocritical for us to say that in our constitution?

MR. FAYARD

Woody, as you and I well know, certain state agencies are run by rake-offs from the race tracks....
I certainly believe that's a form of gambling.

Further Discussion

MR. STINSON

Fellow delegates, I would like to urge you to support this amendment. It's always being said, "Well, we don't need it." I don't think that, in answer to that, it is not in any way increasing the size of the constitution. You might say we don't need the preamble of the constitution that we have, "We the people of Louisiana are grateful to almighty God." There are a lot of people of Louisiana that are not grateful to God for anything, but we are forcing that element in the preamble because we think that the majority of the people believe in what's right, and are Christians. I'm not going into a count as to who are Christians and not, because when the final count as to how many are going to be in hell and how many are going to be in heaven, I expect we are going to be surprised. But, really, this is just a few words; it has been in the constitution. If you want to use the term, "the people can live with it", and it's not hurting anybody and it's helping a lot of people even if they are wrong in their thoughts and their beliefs but they want it in the constitution and it's not hurting anyone. They have gone into detail as to whether it'd apply to racing or whether it'd apply to bingo or different other church games and that has been answered. There is no one, I bet you, no one has asked you to take it out. But, plenty of people have asked us to leave it in there. So, let's do it; there is no movement that I know by any group putting pressure on to take this out of the constitution and let's don't be picayunish and say, "Well, we don't need it in there." If that little bit were helping to pacify a lot of good Christian people, I think we should leave it in there, put it in there; it's been in there for all these years.

Questions

MR. JENKINS

Mr. Ford, isn't it true you just told me right before you left here that everything you were for and liked was either illegal, immoral, or bad for your health?

MR. STINSON

Mr. Jenkins, the only thing I told you that I hope you live for a long time because some of the things you think about I was afraid you were going to hell; that's the only thing I said.

MR. FONTENOT

Mr. Stinson, do you think the legislature would legalize gambling if we didn't put this in the constitution?

MR. STINSON

Yes, sir, it would only take a majority vote, and I can foresee where it would; yes, sir.

MR. FONTENOT

Do you think the legislature took a gamble whenever it proposed these constitutional amendments for the superdome? Do you think the people took a gamble on this superdome when they voted for it? Don't you also think that everybody lost?

MR. STINSON

They thought it was assured and thought it was tied down, but they were misled.

MR. O'NEILL

Well, Ford, you're from Bossier Parish; right?

MR. STINSON

Yes, sir.

MR. O'NEILL

Isn't that where one of the race tracks is?

MR. STINSON

That's what I understand.

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MR. O'NEILL
And, doesn't the state get money from that race track?

MR. STINSON
What's that?

MR. O'NEILL
Doesn't the state receive money from the taxing of those... that money from the race track?

MR. STINSON
It hasn't been completed; I don't know.

MR. O'NEILL
Well, didn't the people there vote to have that race track?

MR. STINSON
Yes, because it's legal and it would be legal under this, too.

MR. O'NEILL
Well, did you vote to have that race track?

MR. STINSON
Did I vote....I voted.....

MR. HENRY
That has nothing to do with what we are talking about.
Mr. Tobias, you have time for one quick question.

MR. STINSON
But, the majority of people voted for it and they ruled and it's going to be legal....

MR. TOBIAS
Mr. Stinson, you said good Christian people; what about good Jewish people?

MR. STINSON
Well, I couldn't get technical; I've lumped them all together--all good people.

Further Discussion

MR. DUVAL
Mr. Chairman, fellow delegates, at the outset let me say that I think, of course, this provision keeps exactly the present law. It's my feeling, of course, that the provision is not necessary. I think it's a moralistic issue which shouldn't be in the constitution. But, I think if we were pragmatists about the three dollar license plate we should probably be pragmatists here because as a practical matter this doesn't really mean anything because we still have, under this constitutional provision, horse racing, bingo and other various and sundry type procedures and you have criminal laws on gambling. So, I don't think it will have any material effect on the operation of the state. I think it's a purely pragmatic matter; it may facilitate the passage of this document which I would hope is paramount in all of our minds. Therefore, for a purely pragmatic reason, because it does not change the law at all, because we will operate as we always have been operating, I urge that we adopt the amendment.

Questions

MR. J. JACKSON
Believe me, Mr. Duval, I really don't want to be sarcastic. If I am, I'll apologize to you and this convention. But, isn't it odd, in your estimation, that we are willing to trust the legislature as it relates to future generations; when it comes down to gambling, we don't want to gamble with the legislature on that?

MR. DUVAL
I understand your question. I understand the oddity of it all, but the legislature has rights anyhow because they have already passed laws for horse racing and other things, so I...
I don't want to intellectually defend this thing now; it's purely politically.

MR. VICK
How do you spell pragmatic, Mr. Duval?

MR. DUVAL
I don't know how you spell it.

MR. VICK
Doesn't it come out hypocritical?

MR. DUVAL
Well, Mr. Vick, let me just say for that question--as much as your questions are considerate to the convention, I think that question is hypocritical. Now, if you want to play that game, we can play it.

Closing

MR. BURNS
You don't have to worry, fellow delegates, I'm not going to say I'm not going to take long and then just take the full five minutes. But, I do...I just want to call this to your attention one more time. I'm very, very serious about this and there is no use in us trying to fool each other here getting up and arguing whether it's necessary or whether it's a legislative matter; that isn't what I'm talking about. I'm talking about what is the reaction of the voters of the state going to be. Now, you watch, I could be wrong about everything but see if I'm wrong about this. You watch what the headlines in the newspaper tomorrow morning is going to be. It's going to be to the effect that the Constitutional Convention put its stamp of approval on lottery. If it's not in the exact words, it's going to be the equivalent of. All I'm saying is it's not going to cost us anything. If you don't understand now that we are operating under the same law that my amendment covers and nobody is being hurt, and no church fair, and no bingo game is being interfered with. The racehorse interest is being taken care of. So, all in the world I'm asking is that they just retain it in the constitution because I actually am convinced--I could be wrong--but, I just think we are taking the wrong attitude about this and laughing it off and saying it's a legislative matter. But, the people are not going to understand it's a legislative matter. I make this final suggestion. I've been in politics and fooled with the public a long time and these things I never take personally, so whatever you do, that's your business and the vote will be recorded.

I do ask in all sincerity to give this your serious consideration with reference to overall effect it's going to have. Now, there has been a division of the question raised and some of you are so concerned about the gambling. If you are too overconcerned about that [Amendment] No. 4, which will be voted on separately, you still have that, so I'll leave it with you.

[Division of the Question ordered.
Record vote ordered. Quorum Call:
97 delegates present and a quorum.
Amendments Nos. 1, 2 and 3 adopted:
56-42. Motion to reconsider tabled.
Amendment No. 4 adopted: 55-42.
Motion to reconsider tabled. Motion
to take up other orders rejected:
20-60.]

Amendment

MR. POYNTER
Amendment No. 1. On page 1, line 8, in Floor Amendment No. 3 proposed by Delegate Burns and just adopted, at the end of line 2 of the text of the amendment, after the word "it" change the period "," to a comma "," and add the following: "but if it does exist, it shall be taxed."
There is a second amendment that says the same thing at the end of line 2 of the text of the second amendment: "but if they do exist, they shall be taxed."

Explanation

MR. VELAZQUEZ
Mr. Chairman, fellow delegates, I'm very serious about this amendment. This is a "have your cake and eat it too" amendment. If this convention wants to outlaw gambling, that doesn't bother me much one way or another. But, it hurts me to think that somebody out there somewhere is robbing this state of badly needed money. It was once said that the sun never sets on the British empire. But, I'm willing to tell you that every moment the sun shines or the moon shines somewhere here in Louisiana, somebody here is gambling illegally or somebody here is playing the lottery. Now, if these men are arrested I'm tired of them putting their money in the bank, going to Angola for two years, coming out and being the richest men in town. I think that if gambling does exist then we have a right and we have an obligation to tax it. If there are those who think that this sounds a little strange, I point out to you the law they have in Mississippi about illegal liquor and the fact that making and selling bootleg is illegal. But, if you're making it, and you're selling it, they expect you to remit

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the sales tax. I think that if anybody out here is doing illegal gambling, I think the people of Louisiana have a right to get a percentage of that money. If he's gambling, then it ought to be taxed, since this is a very straightforward issue. Now, if you want to pretend there is no gambling going on, that's up to you. But, I firmly believe that if it is going on and the guy gets arrested, I don't want him to be able to bank his money, go spend a couple years in Angola, come on back and spend the rest of his life in Cadillacs. If he's doing it, it ought to be taxed. I urge your support for the amendment.

Questions

MR. LEBLEU

Mr. Velazquez, would you suggest that Mr. Trsigle go around and take the house cut?

MR. VELAZQUEZ

Well, I don't want to tell him how to do it, the legislature... you're an expert on these house cuts, Mr. LeBieu, not me; you're a member of the legislature. You all provide how you want it done; I'm not trying to hamstring you that way. I think our wonderful legislature has enough experience with gambling and gambling people and know how this thing should be done. All I ever did was play a little bingo.

MR. KILBOURNE

Mr. Velazquez, isn't it a fact that for many years the federal government has collected...made people that gambled in this state to pay a gambling license or buy a gambling stamp or something of that kind?

MR. VELAZQUEZ

I want the state to get the money out of it, Mr. Kilbourne. The State of Louisiana is the one who is being more directly hurt than the federal government. The federals are taking care of themselves. It's up to us to take care of this state.

MR. KILBOURNE

But, your idea is nothing extraordinary. That's what I was trying to point out.

MR. VELAZQUEZ

You're correct, sir. I apologize for speaking to you in that manner. You are perfectly correct. You are perfectly correct, sir. We will do nothing out of the ordinary. We are merely trying to mirror one of the better things that the federal government has done which was to get every nickel that they are due. We want to get every nickel that we're due.

Further Discussion

MR. J. JACKSON

Mr. Chairman, at the risk of irritating certain delegates to the convention, I rise in support of Mr. Velazquez's amendment. I agree like a whole lot of other people agree. You know it's according to whose politics is being affected. That's all we're really talking about--whose politics is being affected. If you're really talking about...if you look at the Revenue and Taxation Article, and particularly you look at the damage that's done to a large extent, to the city of New Orleans, and if the fact that you can provide some of these organizations with tax exemptions, is that going to extend to things like bingo and all of that? I think that if we provide sufficient amount of tax exemptions, on the other hand, whenever some tax is being generated...there is gambling going on in the state, that we ought to be able to tax that to recoup some of the revenues that some of these local governments and school boards are going to need to operate as a result of what we've done in revenue and taxation. So, I ask you to support the amendment.

Questions

MR. LANIER

Mr. Jackson, if there's going to be horse racing, and I understand there's a substantial tax on that form of gambling, don't you think that if the people who are illegally gambling certainly ought to be able to pay a tax?

MR. J. JACKSON

I think very seriously that we all understand the rationale and I think that very seriously, and I wasn't being sarcastic when I raised the question to Mr. Duval, I think gambling in any form ought not be guised on "good gambling" and "bad gambling." Gambling is gambling is gambling is gambling.

MR. LANIER

In fact, it'd be pretty hard to understand how somebody could be against taxing illegal gambling.

MR. J. JACKSON

Right.

MR. MIRE

Mr. Jackson, you made reference to the money local government was going to lose because of the Revenue, Finance and Taxation Article; can you tell me where they're going to lose money?

MR. J. JACKSON

I'd cite in the city of New Orleans whereby we had by the Revenue and Taxation Article where we have included everybody under the sun, in my estimation--I'm giving you my personal opinion--where we have provided extensive exemptions, particularly to some of these organizations and institutions who are providing moralistic gambling under the distinction of a certain thing, then, I seriously think that well, this is one way for us to recoup some of the money. That's my opinion, Mr. Mire, and you and I may disagree on ...

MR. MIRE

Then, you'll agree with me that you don't understand our millage rollback or rollup.

MR. J. JACKSON

I understand rollback millages. I understand the time limits involved. I understand revaluations and all of that. What I'm saying is to you, that if we look, particularly, in the city of New Orleans, that we feel as though that by an inclusion of and expanding homestead exemptions and all the exemptions that we have granted, that if any of these institutions provide any form of gambling, that they ought to...that gambling ought to be taxed, and we ought to recognize, Mr. Mire, regardless of whether I'm wrong or not that gambling is gambling is gambling is gambling.

MR. MIRE

My question is not about gambling or taxes. My question is that, did you know that I can prove to you that New Orleans will not lose any money under Revenue, Finance and Taxation?

MR. J. JACKSON

Well, Mr. Mire, I'll come right over there and ask you to do that for me. But, regardless of that, Mr. Mire, we've spread into area of taxation, the area of exemptions, and some of the organizations do in some manner, provide for some forms of gambling. Now, the question is truthfully, not only is it part of this convention, but it's part of the people. Are we prepared to say that gambling is gambling is gambling? If you're not, then you vote against it. If you are, then, you vote for it. That seems to be the issue.

Further Discussion

MR. CHAMPAGNE

Fellow delegates, I supported the last amendment, not because I think it particularly did anything, but because, like the three-dollar license, I think a lot of people feel that it should be in the constitution. But, I object to this amendment because what we're saying is, we prohibit this, and you shall pass laws to do it, but when you say that if we do, then, we're going to tax them, what you are really saying is, "we didn't mean what we said in the first place," and I think that's wrong. If we're going to tax gambling, then we should say that all gambling in this state when authorized shall be taxed. I just disagree with ...I think what we're saying here is we said it, but we really wasn't too strong in it, and if there's some money in it, well, then, we want to get it. I'm not in agreement with that philosophy. Thank you.

MRS. WARREN

Mr. Champagne, do you know that I got a different understanding from you....

Because what?

Do you know that what I get from this is, if they make money gambling, you pay the tax on it, and then you pay the penalty, too?

MR. CHAMPAGNE

I see. Well, I don't gather the same thing. I say here that we prohibited, but if you do it, well, then, you get to

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be taxed for it. I think the legislature shall provide and prohibit it, and the legislature could well say that they shall tax anybody or just put them in jail and make them pay a big fine.

[Previous Question ordered.]

Closing

MR. VELAZQUEZ

I just want to say that how can you tell the children of Louisiana to do right when they see the gamblers riding around in Cadillacs? That's all I've got to say. The gamblers are riding around in Cadillacs; the honest folks are driving Fords. So, let's put a tax on the gamblers so when they get out of Angola they won't be as rich as they were when they went in.

Question

MR. GAUTHIER

Tom, the only thing that concerns me is for instance, a lot of churches have this Las Vegas night and what have you. Would they now be taxed on it?

MR. VELAZQUEZ

That is not gambling. The legislature's already taken

care of that. This pertains to the guy who's out there running a lottery or running the wheel, just plain old-fashioned, no good, rotten, illegal gambling. You ever heard of a gambler having to get a free lawyer, you know, having to go ask for a free lawyer? Gamblers always have the best lawyers. That's our money they spend for those good lawyers.

[Amendment adopted: 59-29. Motion to reconsider tabled. Motion to revert to other orders adopted: 48-46.]

REPORTS OF COMMITTEES
[II Journal 1134-1140]

Report of the Secretary
[II Journal 1140-1141]

Announcements
[II Journal 1141]

[Adjournment to 9:00 o'clock a.m.,
Wednesday, January 9, 1974.]

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Wednesday, January 9, 1974

ROLL CALL

[96 delegates present and a quorum.]

PRAYER

MR. ABRAHAM

Our Father, we ask that you watch over us on this day. Guide us in our deliberations and, in the closing days of this convention, may we all remember the work that we have come here to do, the work we have done, and we will be able to finish this document and present to the people of Louisiana the document that they should have. We ask that you bless all of these delegates that are here and all the work they have done. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

MR. POYNTER

On unfinished business is Delegate Proposal No. 17, introduced by Delegate Planchard.

A proposal making provisions prohibiting lotteries and, as amended, making provisions prohibiting lotteries and gambling.

The section has been, so far, substantially amended.

Amendment

MR. POYNTER

Mr. Guarisco, Mr. Fayard, Mr. Nunez send up amendments at this time.

Amendment No. 1. On page 1, delete lines 7 through 10 in their entirety and delete all floor amendments adopted thereto and insert in lieu thereof the following:

"ARTICLE XII. GENERAL PROVISIONS

* * *

"Section 12. Gambling Prohibited

Section 12. All forms of gambling, including without limitation, lotteries, pari-mutuel betting, pinball machines, football cards, printing of point spreads, bingo, dice, card games and other games of chance shall be prohibited in this state. The legislature shall define the crime of gambling and provide criminal penalties therefor."

Explanation

MR. GUARISCO

Yesterday, as you know, we included in the 1973 proposed constitution a prohibition against lotteries, a prohibition against gambling, insofar, that it tracks the 1921 Constitution that gambling is a vice and the legislature shall pass laws to suppress it." Now, what does that mean? I don't think under the language it means a darn thing because as you know, throughout the years the legislature has made exceptions. Although the constitutional mandate against gambling is ever present, the legislature takes this position: The following things are gambling except this-- and they have accepted pari-mutuel betting, that is, at the race track; they have accepted bingo games. Now, let it be understood that I have no objection to gambling whatsoever insofar as the prohibition in the constitution. I have no objection to pari-mutuel betting except that people have come time after time before this podium and argued morality. Now, if you want official morality, I don't think we should couple it with official hypocrisy, that is, the morality is only limited to who gets the cut. When you go to the track, the state gets a cut of the pari-mutuel window, therefore, that's moral. If somebody gambles in a back room some where or he gambles in private and somebody cuts the pot or takes a cut, then that's immoral. If some individual does it that doesn't go to some i.e. worthy cause, then that's immoral. Now, that's hypocrisy any way you look at it. Now, if we are going to be against gambling, if we are going to prohibit gambling, if we are going to prohibit these evil vices, then let's do it across the board. Let's don't have pari-mutuel betting. Let's don't have horse racing. Let's don't have dice games, skin games, rake-offs, cutbacks, what have you. The very people who will stand up here...the church people will come up here and say they don't want gambling and they got the biggest game in town at the bingo game. So, I think we ought to not be hypocritical. I'll yield to any questions.

Questions

MR. ALEXANDER

Mr. Guarisco, am I correct in assuming that pari-mutuel betting at race tracks which would mean the end of racing in the state is intended here, huh?

MR. GUARISCO

That would be my purpose; yes, sir.

MR. ALEXANDER

Then, what would happen to the race track?

MR. GUARISCO

I don't know what they would do with it; maybe make a football field out of it, Reverend Alexander. I don't know.

MR. ALEXANDER

Now, you named bingo. You mean the church bingo would be outlawed?

MR. GUARISCO

Yes, sir, any form of gambling that's listed in this; there would be no exceptions. I don't have anything against church bingo. But, if we are going to be selective, let's don't be selective, let's go across the board and allow no gambling.

MR. ALEXANDER

How about the social card game?

MR. GUARISCO

Social card game probably under the law would not be exempt... would not be against the law. The law is now that someone has to get a cut, that is, a house or some third party should get a cut. But, as far as I'm concerned, if this amendment goes through, that would be outlawed too.

MR. ALEXANDER

Then, the golfer who bets two bits on a hole...per hole, he could be jailed; is that right?

MR. GUARISCO

No, sir. I don't think that would be the intention of this; no.

MR. BURNS

Mr. Guarisco, how did you vote on the lottery and gambling amendment yesterday?

MR. GUARISCO

Well, it's a very obvious how I voted. I voted to put no prohibitions or that the constitution should remain solid insofar as so-called what you call a vice. But, if we are going to have a prohibition, then I think we ought to list those things that we are going to prohibit and let's take them all out. Let's don't be selective and let's don't be hypocritical.

MR. BURNS

Didn't you vote against the lottery and the gambling amendment yesterday evening?

MR. GUARISCO

Of course, I did.

MR. BURNS

Now, isn't horse racing and pari-mutuel betting legal in Louisiana at the present time?

MR. GUARISCO

Yes. I think it's hypocritical and I want to make it illegal.

MR. BURNS

I see. Now, I want to ask you one more question and this is the most important one. Isn't this just an effort to defeat the amendment that was passed yesterday evening by bringing up bingo, and legal horse racing, and interests that you know the people in this convention and the people of the State of Louisiana are interested in?

MR. GUARISCO

No, not necessarily. I think if we are going to do it, let's do it all the way.

MR. DREW

Mr. Guarisco, if the legislature under your amendment, I mean this is a pure prohibition you say, if the legislature adopted the jurisprudence of this state that gambling was a game of chance operated as a business, other than by a religious or a social organization, we would have the same status we have right now and that is a possibility under yours.

MR. GUARISCO

That is a possibility; yes, sir.

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MR. DREW

If the legislature enacted the jurisprudence of the state into law, then....

MR. GUARISCO

No, sir. They can't enact the jurisprudence of the state into law insofar as these items are concerned because there would be constitutional prohibitions against this specific activity. I don't say that the legislature might find a way to even get around this and find a roulette table or something else that might be a likely exception.

MR. DREW

Let me call your attention to the last sentence: "The legislature shall define the crime of gambling." Now that gives them the absolute authority to say what is and is not gambling; doesn't it? So, your pure and holy amendment is nothing more than what we have right now, then, isn't it?

MR. GUARISCO

No, sir. I think it goes further because it actually prohibits certain things and one of them is pari-mutuel betting, and the state gets its cut and that's moral. These fellows all come up here and talk about the morality, yet gambling is allowed in this state. I can't reconcile the two in any way, form or fashion.

MR. SMITH

Mr. Guarisco, isn't all you are doing with this amendment is ridiculing the amendment we passed yesterday, Mr. Burns and others of us?

MR. GUARISCO

Yes, sir. I'm trying to perfect it. If anybody has any other vices that they would like to add to the list, I would be willing to accept those amendments, also.

MR. SMITH

No. I mean you are ridiculing...what we used to say in the legislature, loading it down with jokes so that people won't vote for it; isn't that what you are trying to do?

MR. GUARISCO

No, sir. I'm not particularly trying to load it down. I think that these things are hypocritical and they ought to be listed.

MR. SMITH

Are you really conscientious in this amendment?

MR. GUARISCO

I'm against the prohibition, as I've already stated. But, if we are going to have a prohibition, I don't want official hypocrisy; it's as simple as that.

MR. SMITH

If your amendment is passed, you would vote for the whole proposal, then?

MR. GUARISCO

Sir?

MR. SMITH

If your amendment is passed, you would vote for the proposal?

MR. GUARISCO

I don't understand; if my amendment is adopted?

MR. SMITH

Yes, sir. Would you then vote for the proposal?

MR. GUARISCO

Yes, I will.

MR. SMITH

But, I say...this just your idea of being ridiculous, just a joke?

MR. GUARISCO

No, sir. I don't think it's a joke at all.

MR. JENKINS

In other words what you're saying, Mr. Guarisco, the latest expression by this convention is the provision from the present constitution, "Gambling is a vice and the legislature shall enact laws to suppress it"? If we believe that, if we believe it's a vice, if we believe it ought to be suppressed, then this is exactly how the legislature would do it anyway, so we might as well do it; is that correct?

MR. GUARISCO

Absolutely, that's right, that's right. I'm trying to get them all, but I might not have everything. If anybody has any other vices they want to add to the list, like I said, I'll be willing to accept them.

Further Discussion

MR. DREW

Mr. Chairman, ladies and gentleman of the convention, I'll be very brief. It's quite apparent what this amendment is attempting to do, but through the way it's drawn it is not even accomplishing the force it was attempting to accomplish because under this amendment, which is very poorly worded--if Mr. Guarisco means what he says he means, the legislature could define gambling--in fact, it is mandated to define gambling--and you would have the same situation that you have today. The only thing you would have would be a force in the constitution the way this particular amendment is. I urge you to defeat this amendment and stand with the Burns' amendment.

Further Discussion

MR. BURNS

Mr. Chairman and ladies and gentlemen of the convention, I'm going to be very brief and not hopefully take up any more time. I just want to ask all of those who voted for the amendment yesterday evening, of which I was one of the authors, I would ask you to please vote against this amendment. It's so obvious that it's just a back door effort to kill the amendment that we adopted yesterday evening. I made it very, very plain. I've had at least three delegates come to me this morning and tell me they didn't understand it yesterday evening. That the amendment is exactly the same wording that's in the 1921 Constitution and has been in there off and on since 1845. We haven't added anything to it; it's the law we have been living under all of these years; it's the law that the church bingo, the American Legion bingo, the Veterans of Foreign War bingo, all those different civic and charitable and church organizations have been operating; it won't change it in one iota. So, I ask you to defeat this amendment and any other amendment that....of a like nature. There is going to be an amendment coming up in a few minutes to delete the Velazquez amendment. Let's stick with the original amendment that we adopted yesterday evening and get on with the other work of the convention. Thank you.

[Previous Question ordered. Record vote ordered. Amendment rejected: 15-63. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Mr. Chatelain sends up amendments as follows:

On page 1, line 8, in Floor Amendment No. 3 proposed by Delegate Burns and adopted by the convention on the 8th, delete Floor Amendment No. 1 proposed by Delegate Velazquez and adopted on yesterday, and at the end of line 2 at the end of the text of the Burns amendment after the word "it" delete the period "." and add the following: "and the legislature shall provide penalties for the violation thereof."

Amendment No. 2--a similar amendment--deleting Floor Amendment No. 2 by Mr. Velazquez, and at the end of the second Burns amendment after the word "state" delete the period "." and add the following: "and the legislature shall provide penalties for the violation thereof."

Explanation

MR. CHATELAIN

Mr. Chairman and fellow delegates, I think that most of us are serious in this business of going on with the convention, and I think that this will bring us right back to where we presently are in Louisiana. We are speaking more than about a three dollar license plate or the way the educational system shall be in Louisiana. We are speaking about the very way of life in Louisiana. All of us know you have problems in Louisiana in many, many areas so far as the way of life as it relates to gambling, and to horse racing, and to so-called lotteries, and other things. I think this is one way we can resolve this thing this morning and go about our business. I would certainly appreciate it if you would listen and try to ask the questions you think are necessary. At this time, I would like to yield the rest of this time to a coauthor, Mr. Drew.

Further Discussion

MR. DREW

Mr. Chairman, ladies and gentlemen, let me see if I can put this thing in proper perspective. What we are attempting to do by this amendment is to more or less put the law exactly, as nearly as we

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can. Now, we are bound procedurally is the reason we have inserted this clause in there. But, I think that the Velazquez amendment is something that would certainly detract from the thing to say "if it does exist, you are going to tax an illegal operation if it is illegal." But, now, under the present law there is the only question that seems to be of any major importance is the use of the word "lotteries" because lotteries--bingo games, have been determined to be lotteries. There will be an amendment right behind this one that will say the sale of lottery tickets shall be prohibited. Therefore, that protects your bingo games that so many people are interested in. No one is getting hurt under the present constitution. We are not trying to hurt anybody. We are not trying to change the status quo. We are trying to leave it as nearly as we can as it is now. As was mentioned yesterday, I don't believe that there have been over one or two people that have approached any member of this delegation that see any necessity for a change. I mean, we have different areas in this state. Up in the northern end of the state they are extremely interested in having some expression in this document about gambling. Now, when you say gambling, you have to go to the jurisprudence of this state which defines gambling as being a game of chance, operated as a business, and that has not applied to religious and civic organizations; it has not been made applicable to them. You are not hurting your churches. You are not hurting your Legion and V.F.W. posts and your other civic clubs. If we take the word "lotteries" out and leave it "sale of lottery tickets" then, we have left the bingo games to where there would be no question there. We are not trying to upset the jurisprudence. We are not trying to upset anything. What we are trying to do is put an expression in this constitution that could mean many hundreds of thousand votes for or against. Like I say, I don't see how anyone could object to this amendment. It's nothing that couldn't be done under the present 1921 Constitution. It's just that we had to do it. I'm going to be frank with you. I understood that an amendment just to delete would have been out of order and possibly that would have been just as well. But, we couldn't do it procedurally and, therefore, we have put this in there which is in there without being said. Please, consider this amendment seriously. Delete the Velazquez amendment. Let's delete the word "lotteries" if you are concerned about bingo games. Then, you have everything in its status quo and I don't think there has been any serious objection to the present situation. I will yield to questions.

Questions

MR. BURNS

Mr. Drew, you know I have no objection to your amendment. Further, I have no objection to the amendment that you said was coming up and eliminate the word "lottery" and substitute "the sale of lottery tickets" because as I tried to make very clear, I wasn't doing anything to try to hurt bingo games for charitable or civic purposes. I think that will take care of the last objection.

MR. DREW

Thank you, Mr. Burns. This is a serious question and I hope you will go along with us and adopt this amendment. Thank you.

MR. LANIER

Mr. Drew, you were one of the coauthors of the original amendment, yesterday, weren't you?

MR. DREW

Burns. . . Yes, sir.

MR. LANIER

At the present time, we have a law on the books that authorizes local governmental subdivisions to prohibit bingo and keno under certain restrictions. Would it be correct to say, for the record, that your original amendment that you cosponsored with Mr. Burns and this amendment in no way will affect the existing legislation in this field dealing with nonprofit charitable type bingo and keno?

MR. DREW

I don't think it makes any change, Mr. Lanier. I think that the status quo would remain.

MR. LANIER

So, therefore, as there are many communities, for example, in south Louisiana that have community bingos or fire company bingos or V.F.W. bingos. If we ultimately adopt the Burns amendment and this amendment, those games that are sponsored by these charitable and nonprofit organizations like Jaycees, etc., would not be affected in any way. This is intended to maintain the status quo.

MR. DREW

Mr. Lanier, with this amendment to delete the word "lotteries" and limit it to "sale of lottery tickets," I think it has accomplished

exactly what you said.

I move the adoption of the amendment.

Further Discussion

MR. VELAZQUEZ

Mr. Chairman, fellow delegates, I hate to have to rise in opposition to Mr. Chatelain, Mr. Drew, and Mr. Conino, but I think that we have to put some realism in the things that we're doing here. We've had laws on the books in Louisiana since 1921 saying that gambling is illegal, it's immoral, it's a vice and laws shall be passed to prohibit it. Today, as we all sit here, as I stand here, they got people out here making a fortune on lottery and on illegal gambling in this state. For us to sit here and refuse to believe that this is going on is ludicrous. Last night when I went home, I spoke to a number of people. One gentleman phoned me, told me he had won a thousand dollars betting on the lottery in New Orleans, and the gamblers don't want to pay him. He wanted to know could I get a law passed up here in the convention that if you win any money gambling, they've got to pay you. I said, "Look, why don't you just go to the police and have him arrested?" He said, "Look, I don't want to have him arrested, I just want my thousand dollars. Besides, where else am I going to play? I always play with this company. I've been playing with them for thirty years." The fact is that illegal gambling is going on. It's going on everywhere, and it's making people rich. It's taking money out of the State of Louisiana. Now, there've been very few efforts made to try to get any of that money back. It seems to me that we just can't let people. . . if we can't stop them, if we can't prevent it, then the only thing that's left to us to do if we're going to remain a responsible group is to tax it. If we go back

with a federal example, we all know--everybody in America knows--that Al Capone had thousands of people. . . had dozens of people killed, that he ran all sorts of illegal enterprises, all sorts of vicious immoral enterprises, that he engaged in large-scale bootlegging, that he smuggled alcohol from Canada to the United States and across the Gulf coast. Yet, when he was finally caught, he wasn't caught with machine guns like you see in Elliot Ness. He was caught with adding machines. They sat down--the federal authorities did--and they added up every nickel he had spent for five years. They added up the value of everything that he owned--his automobiles and his clothes. They arrested him and said, "Mr. Capone, we want you to explain to us how come you own this much and you claim your income was only so many thousands of dollars." This is the way they caught Al Capone and put him in the federal installation. When the federal government got through wringing him--and according to a policeman I spoke to last night--they wrung him for everything they could get out of him. They took his Cadillac; they took what money they could find. I've even been told they took some of his suits. Here in Louisiana, a man's a big-time gambler and he gets arrested. . . .

he goes and spends a little bit of time in Angola. When he gets back, his Cadillac is still waiting, and his customers are probably lined up waiting for him, too. So, it seems to me that if we know that we can't completely knock this thing out, we're going to have to control it. The only mechanism I can see for us to control it is to tax it.

Questions

MR. SHANNON

Tom, are you saying because the law enforcements in your city will not enforce the law, that you want to relax it and have it as it is?

MR. VELAZQUEZ

That's not what I said. That's not what I said. I said it appears to be continuing despite vigilant and persistent efforts by the law enforcement authorities in the city of New Orleans to stop it. Many people seem to want it.

MR. DREW

Mr. Velazquez, speaking of Mr. Capone, do you realize that earnings, whether legal or illegal, are also taxable in this state as income, already?

MR. VELAZQUEZ

Are we getting it? I only. . . I wish we were getting it. If I thought we were getting this money, then my amendment would be unnecessary. But, I don't think we're getting this money.

MR. DREW

If we are not getting it by income tax, then how do you see that we could get it by some other type tax? What is your reasoning?

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MR. VELAZQUEZ

It seems to me if we arrest. . .if a big-time gambler is arrested, then we should get that money. . .

Further Discussion

MRS. WARREN

Mr. Chairman and delegates, as I sat and I listened, I began to think. I voted for Mr. Giarrusso's. . .Guarisco's amendment purely out of principle. I say to you, had it been left to me, I wouldn't have said anything; I wouldn't have even had Mr. Burns's amendment. One of the deacons in my church mentioned when they were talking about gambling for the state and paying teacher's salaries, he said, "Oh, Mrs. Warren, I sure hope they won't let this happen." I said to him, "As I'm going to say to you and especially to the ministers in this church, if you want to stop gambling, you do it. It is your job as Christian people and as your churches to see that the principles of life are instilled in the children that come to your churches." I have been wondering how you would explain to a young child that it is all right to gamble for a profit for a church, and it's not all right for him to gamble for a profit for himself when he needs it. I say to you, if it's this way, and I'm not arguing one way or the other, that the young people are going to find a way of chartering organizations, and they are going to have many, many enterprises which are going to be doing the same thing that you're doing. I repeat to you, "What is good for the goose is good for the gander."

As far as Mr. Velazquez's amendment is concerned, I say yes, because if we file income tax we are supposed to list all the money that we have made in the year, regardless of how it comes in. So, if a person knows he's going to have the penalty for paying taxes on money that he got illegal, plus a fine, he is not going to be as likely to go into it again. I say to you, vote your conscience and let God be your judge. Thank you.

[Previous Question ordered.]

Closing

MR. CHATELAIN

Mr. Chairman and fellow delegates, I'm not going to take any of your time. I think your mind is made up. I think you can see the whole picture.

I urge your support of this amendment.

Questions

MR. LANDRUM

Mr. Chatelain, do you believe that in passing the Burns amendment yesterday and then come behind with the amendment of Mr. Velazquez you are stating in one. . .prohibit in one and then find in another should you decide to do so, well, then we are going to tax you? Now, it's a conflict somewhere there, don't you think? In the Drew amendment. . .in your amendment, I believe that it kind of clears up. . .it. . .we do what we are supposed to do--write the law, leaving it to the legislature to provide the penalty. From that point, local officials to enforce the law. It's not our place, here, to enforce it. Am I right?

MR. CHATELAIN

You are right, sir. Right, sir. You are right. I appreciate your observation. Thank you. I urge your support of the amendment.

MR. VELAZQUEZ

Do you believe that crime doesn't pay?

MR. CHATELAIN

I don't believe that crime pays; no.

MR. VELAZQUEZ

Then how come the gamblers are driving Cadillacs?

MR. CHATELAIN

I'll yield to anyone else, sir.

MR. LANIER

Mr. Chatelain, for the sake of the record, what you and your fellow coauthors are intending to do here is to maintain the status quo with reference to this problem in the State of Louisiana; is that correct?

MR. CHATELAIN

Right, sir.

MR. LANIER

For example, in south Louisiana like in Lafayette where you live or Thibodaux where I live, we have very many nonprofit organizations that sponsor bingo games. What you're suggesting and proposing here would not make those types of events illegal; is that correct?

MR. CHATELAIN

Absolutely.

MR. LANIER

The main thing we're going after is the organized gambling that is done on a. . .as a business. Is that correct?

MR. CHATELAIN

Right, sir; absolutely. Thank you very much.

MRS. ZERVIGON

I'd like to follow up a little on what Mr. Lanier was asking you. We haven't put a definition of "gambling" in the constitution in any place, have we?

MR. CHATELAIN

Not to my knowledge.

MRS. ZERVIGON

So, the legislature would still continue its job of defining "gambling," wouldn't it?

MR. CHATELAIN

I would guess so.

MRS. ZERVIGON

So, that leaves open the possibility that church bingo games could be declared gambling because they are games of chance. Isn't that correct?

MR. CHATELAIN

Well, I would think you're right, but I think the legislature, in their wisdom, has handled it properly.

MRS. ZERVIGON

It also leaves open the possibility that horse race gambling that pays for the Legislative Council could be declared illegal at some point, because gambling on horses is, per se, a gamble, isn't it?

MR. CHATELAIN

I would think so; yes.

MRS. ZERVIGON

So, I don't know that we can feel so comfortable that we know the definition of "gambling." It seems to me that it could be changed at any time by statute. Isn't that correct?

MR. CHATELAIN

Well, Mary, as you know, we are trying and attempting in the best way we know how to write a constitution that would satisfy the majority of the people in this state. I think that. . .as far as I'm concerned, the people feel that the status quo is all right in that area. So, I can't answer anything beyond that. I'm not. . .

MRS. ZERVIGON

Well, we haven't necessarily assured the status quo, have we, because we've left. . .

[Record vote ordered. Amendments adopted: 69-17. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Drew sends up amendments joined with several coauthors. Reads as follows:

Amendment No. 1. On page 1, line 10, in Floor Amendment No. 4 proposed by Delegate Burns, et al, and adopted by the convention on January 8, at the beginning of line 1 of the text of the amendment, delete the words "Lotteries and the" and insert in lieu thereof the word "The". (Need to make an addition). And after the word "tickets" on said line strike out the word "are" and insert in lieu thereof "is".

Now, I'm sure that's not making a lot of sense right now. The Burns amendment as presently amended, the second part of it would read:

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"Lotteries and the sale of lottery tickets are prohibited in this state, and the legislature shall provide penalties for the violation thereof."

Mr. Drew would propose to amend that line so it would read, simply:

"The sale of lottery tickets is prohibited in this state, and the legislature shall provide penalties for the violation thereof."

Explanation

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, this is the amendment I mentioned to you awhile ago which deletes "lotteries" and prohibits the sale of lottery tickets and leaves everything else just as it is.

I ask for the adoption of the amendment.

Questions

MR. O'NEILL

Mr. Drew, what exactly does the constitution say now about lotteries?

MR. DREW

I don't have it in front of me, the exact words, Gary.

MR. O'NEILL

Well, doesn't it just prohibit lotteries?

MR. DREW

I believe it does, as my recollection.

MR. O'NEILL

Well, I'm a little worried that maybe you're making a real change in the law and that by having the sale of lottery tickets different from lotteries, you're going to prohibit car raffles by Jaycee organizations and some things like that.

MR. DREW

Mr. O'Neill, what you're not taking into consideration and which I think has been overlooked so bad is that the jurisprudence of this state says that--and it would apply to lotteries as well as gambling--unless it's operated as a business for profit other than by religious or civic organizations, it's not prohibited.

MR. O'NEILL

Well, isn't that jurisprudence founded under the old constitution, though?

MR. DREW

Yes, but I mean, if the sale of the tickets. . .you can't have a lottery without sale of tickets, so it's the same.

MR. O'NEILL

Oh. . .Mr. Drew, I'm just not anxious to fool around with the law. You're saying on one hand you want to keep things like they are, but then you're making a change. So, you know, I'm getting a little confused as to what you want to do.

MR. DREW

Well, since the '21 Constitution, and I'm not too familiar with it, Mr. O'Neill, "bingo" has been defined as a lottery. That's the purpose of this amendment.

MR. STINSON

Mr. Drew, but you're tying it down to tickets. Now, I don't. . .they may call it something besides tickets. In other words, there may be some other way they could operate a lottery. You know, it's getting so computers can do everything. They might even computerize lotteries, and you wouldn't have any sale of the tickets. So, you just have it tied to a ticket. Don't you think there's a danger, maybe, you could get around it?

MR. DREW

Mr. Stinson, I guess there's some way to get around every prohibition in the statutes, if you want to.

MR. STINSON

Well, don't you think it would be better just to leave it as lotteries instead of lottery tickets?

MR. DREW

I think this would be acceptable to the people, Mr. Stinson.

MR. COMAR

Mr. Drew, I don't really understand the distinction between the two. Why would you change it to the sale of lottery tickets? It seems to me like we're flying into the teeth of the question that was just raised with regard to. . .

MR. DREW

The main reason, Emile, is because of bingo games, and I don't think you could say there's any sale of tickets to play bingo.

MR. COMAR

Well, I know in my section of the country every kind of church and charity and civic organization in the world that wants to raise money raffles off a car or raffles off a T.V. set or something of value. I'm just afraid if we tamper with that language, we are going to endanger those in the future.

MR. DREW

But, Mr. Comar, I don't think our jurisprudence is ever going to say that a civic or religious organization raising money is operating as a business. That has been the criteria.

MR. GIARRUSSO

Harmon, I'm not against your amendment, I'm just trying to get some information to see if it accomplishes what you have in mind. Isn't lottery just one form of gambling?

MR. DREW

No. Well, when you say form, do you mean as a business, 'or

MR. GIARRUSSO

No, I don't mean as a business. Is that. . .what I'm saying is that there are several forms of gambling that cannot be classified as lottery or gambling per se--card games, for example, football cards, bingo, horse racing.

MR. DREW

Well, we have statutes that define the different types of gambling, which I think we would still have that same authority.

MR. GIARRUSSO

Okay, that brings us to the next point, is that would it be possible that the legislature, if this constitution were adopted, would be able to enact legislation that would make off-track betting legal?

MR. DREW

We already have as far as pari-mutuel; yes.

MR. GIARRUSSO

No, you don't. You don't have off-track betting in. . .it's not legal in the state now for off-track betting.

MR. DREW

I didn't say off-track; I didn't mean to. I think pari-mutuel is what I said.

MR. GIARRUSSO

You do have. . .well, this is enacted by statute, and it is legal, provided it's within the confines of a racetrack. My question to you is, is that you know, are you accomplishing what you want? Could we have. . .could the legislature enact laws that would have off-track betting similar as they have in New York State?

MR. DREW

We. . .I think we could do it under the '21. I don't see any prohibition there. This is a. . .

MR. GIARRUSSO

I respectfully disagree with you. I'm just simply saying to you that I don't believe you're accomplishing, you know, really what you're trying; is that there are just other forms and aspects of gambling that are not included, and you're just taking lottery and you're making. . .

MR. DREW

No, no, Joe. You misunderstand. This does not delete the gambling provision of the Burns amendment. All this did was amend the lottery provision. The gambling provision is still in there.

MR. GIARRUSSO

No, I'm trying to make a distinction between a constitutional prohibition and something that the legislature can do. If it's doing what you want it to do, well, it's okay. I'm just merely pointing that out to you. That's all.

MR. DREW

I move adoption of the amendment.

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MR. BERGERON

Mr. Drew, I just want to clarify something that . . . you had answered Mr. O'Neill a little while ago, and it caused a little confusion. The amendment essentially says that "the sale of lottery tickets shall be prohibited." Am I correct?

MR. DREW

That's right.

MR. BERGERON

Did you say that you classified bingo as a lottery--the sale of bingo tickets as a lottery?

MR. DREW

You don't sell tickets.

MR. BERGERON

You do sell tickets to bingo games. Would that be classified as a . . . I'm just trying to figure out in my mind whether this would prohibit or stop in any way bingo tickets from being sold.

MR. DREW

Well, Philip, personally, I liked it as it was without this amendment. Several people were concerned about bingo and thought this may take care of it. That's the only reason I offered the amendment. I liked it like it originally was.

Further Discussion

MR. PUGH

Fellow delegates, fellow delegates, I rise in support of this amendment for these reasons: yesterday, when the original Burns, et al, amendments were presented for your consideration, 1, 2, and 3 were grouped together for voting purposes, and 4 was voted on alone. I voted against 1, 2, and 3, and I did so and explained my vote because I thought they were legislative in nature. Your wisdom dictated that they should be passed, yesterday. After 4 was passed--which I voted for--it became obvious that additional amendments would be submitted to this, the result of which, in my personal opinion, without . . . and would do deference to everyone, many of which would be extremely detrimental to not only the passage, but the constitution itself. This morning, I suggested to the individuals who were interested in the question that if we eliminated the word "lotteries," then we would protect the right of these organizations to have their keno and their bingo. I believe you can effectively curtail and prohibit lotteries that we are really talking about by prohibiting the sale of tickets therefor. Now, in answer to inquiries made relative to the sale of tickets for an automobile, there ain't no doubt in my mind the sale of a ticket on an automobile is a lottery. What's happened that . . . enforcement officers have ignored it. There's no doubt in my mind that bingo is a lottery, and the federal courts have so held. But, again, in deference to the wishes of the people by their continued use of the system, the fact that the law is violated has been ignored. I say that we can resolve this entire problem by voting for Mr. Drew's amendment, by eliminating the word "lottery," by leaving the phrase "prohibiting the sale of tickets," and we can move on to other worthwhile and important provisions.

I yield to any questions.

Questions

MR. TOCA

Mr. Pugh, you know in some clubs when we raffle off automobiles, etc., when we make up these tickets, we put "Donation, \$1." Now, what would you consider this?

MR. PUGH

Sir, I think that's a lottery. I don't care whether you call it a donation, how you cut the mustard, it's a lottery. Any way you handle it, it's a lottery. Whether or not it goes to the benefit of a public or a private organization or a charitable organization, in my opinion, has nothing to do with the main thrust of the question: whether or not it is or is not a lottery.

MR. TOCA

Why do you think we put "Donation" on this ticket?

MR. PUGH

Because you think somebody might charge off the dollar and try to win the automobile at the same time.

MR. BERGERON

Mr. Pugh, in taking up in Mr. Toca's questioning, this would prohibit raffling off an automobile, etc.?

MR. PUGH

I suggest to you, sir, that it has been in the constitution of Louisiana since 1913; prohibiting the sale of lottery tickets has been in the Louisiana Constitution since 1913.

MR. BERGERON

I'm just trying to clear this up in my mind. Is this language that this amendment would inject into the constitution, is it in our present constitution?

MR. PUGH

Yes, sir; it is in our present constitution. Our present constitution, I quote and read: "Lotteries and the sale of lottery tickets are prohibited in this state." I assure you it's been there. . . it's been there since 1845.

Further Discussion

MR. JENKINS

Mr. Chairman, I'd like to suggest the reason we're having so much difficulty with this section. The reason is that we're dealing with words that attempt to express concepts, which concepts are not clear, and which concepts could not possibly be included in a constitution by any constitutional standard. Take the first sentence: "Gambling is a vice, and the legislature shall suppress it." Consider that language. What does that accomplish? What does that do? Does it circumscribe any sort of action whatsoever?--No. Is it enforceable in any way at all? Can the legislature be mandated to suppress anything? -- No. Now, look at the first clause: "Gambling is a vice." Now is that true? Is it true that gambling is a vice? Earlier, when someone passed a football board around this convention, was that wrong? Was that a vice? Was that immoral? If someone goes to the racetracks in New Orleans and places a bet, is that a vice? By what standard? By whose judgment?--By some people's standards, by some people's concepts of morality, by the overwhelming judgment of the people of this state; they don't consider those things wrong. If my experience and my limited knowledge of human reasoning is any standard at all, they don't consider those things wrong. They consider gambling a vice only under certain circumstances--only, usually, when carried to extremes. But, then we know that anything when carried to extremes is a vice. Eating is a vice if carried to extremes. Perhaps, we should say that eating is a vice, if carried to extremes. What does it do when we say "gambling is a vice, and the legislature shall enact laws to suppress it." As a convention, we're not being particularly hypocritical because we didn't say that horse racing will be made legal and that the state will get a rake off the top of it. We didn't do that. But for the State of Louisiana in its constitution to say that "gambling is a vice, and the legislature shall enact laws to suppress it," the State of Louisiana is being hypocritical because the State of Louisiana is profiting from gambling; the State of Louisiana permits gambling. Now, look at the second concept in there: the idea that lotteries are prohibited or the sale of lottery tickets or whatever are prohibited. Now, what does that do? Do you really think anyone can be convicted and sent to jail if he runs a lottery under that? Well, you better read the United States Constitution and the other aspects of this constitution because a law must be definite in order to be enforceable, and in order to put somebody in jail you have to have a penalty. This doesn't do that. If the legislature did not enact a penalty for the conducting of lotteries or for the sale of lottery tickets, this would be meaningless. It is meaningless. About the only thing, probably, the courts would hold that this does is prohibit the state from conducting a lottery itself. Probably, you could get that out of it. Now, that's why the thing we started with, Mr. Planchard's original proposal, is the only reasonable thing I've seen put forth. It says "neither the state nor any political subdivision shall conduct a lottery." Now, that's constitutional material. It circumscribes state action; it limits state authority. A constitution, by its nature, does not limit personal actions. We don't have in here "murder is a vice, and the legislature shall prohibit," and we shouldn't do it in this instance either.

Further Discussion

MR. LANIER

Mr. Chairman and fellow delegates, I believe that the problem that we're grappling with here is one of trying to fashion the law to fit an existing situation. As a matter of fact, under the present law, local governmental subdivisions are authorized to permit keno and bingo within their jurisdictions. In many places in South Louisiana we have volunteer fire companies, civic organizations, and religious organizations that use this as a means of financial support. Now, I certainly don't think that we want

to prohibit this type of conduct when it's done for this type of a purpose. So, I think we have to be very careful how we fashion something here to fit this type of a situation. To ignore the problem, or to create a constitutional provision that we know is going to be observed in the breach, to me is not the proper way to draft a new constitution for the State of Louisiana. Now, I can understand the concern of our delegates from North Louisiana and the concern that they have for the feelings of their constituents about the prohibition of gambling as a business. I certainly think, as we have done in many other matters, that we should work together to accommodate this feeling. But I think we also have to recognize here that in South Louisiana we have many religious and civic nonprofit organizations that do use keno and bingo and raffles as means of raising money to support their operations. Now, quite frankly, I'm going to probably vote for Mr. Drew's amendment because it is removing part of the problem as I see it with reference to the nonprofit religious and civic organizations. But, I think really what we are getting to here and what we're going to ultimately have to face is that by making a blanket prohibition against this type of conduct is not going to solve the problem. If it is our intention that nonprofit religious and civic and public service organizations should be allowed to have raffles and keno and bingo, well then let's just say so. In that way it will be clear. In that way we will not have to require these people who are doing these types of things to operate in violation of our constitution and in violation of the law. I don't think that's our purpose here, and I don't think that we should fashion our constitution so that in the future we have existing or similar type situation that we have today. Now, like I say, with reference to the keno and the bingo, this is presently covered by existing law, but with reference to other things that you and I know go on, if this is what the people want--and as long as it's not done by organized crime, or it's not done for a business--if it's done for a good religious purpose or a civic purpose, this is something I don't believe anybody in this room is opposed to. If this is what we want to say, then let's say it. Thank you, Mr. Chairman.

[Previous Question ordered. Amendment reread. Amendment adopted: 63-23. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Velazquez's amendment reads as follows: Amendment No. 1. On page 1, line 8, in Floor Amendment No. 1 proposed by Delegate Chatelain, and adopted by the convention on today, on line 1 of the text of the amendment, after the word "penalties" and before the word "for" insert the words "and special taxation".

Mr. Velazquez, as I appreciate it, the effect of this amendment would be as follows: the first sentence of this section as presently amended reads: "Gambling is a vice, and the legislature shall pass laws to suppress it, and the legislature shall provide for penalties for the violation thereof." As Mr. Velazquez would amend that first sentence, it would read: "Gambling is a vice, and the legislature shall pass laws to suppress it, and the legislature shall provide penalties and special taxation for the violation thereof."

Point of Order

MR. SMITH

Didn't we consider almost this same thing in the Velazquez amendment we defeated awhile ago? I'd like a ruling on that, Mr....

Ruling of the Chair

MR. HENRY

It's not indetically the same; no, sir, Mr. Smith.

Explanation

MR. VELAZQUEZ

Mr. Chairman, fellow delegates, I don't intend to belabor this point much longer, but it seems to me that taxation is the only method to control illegal gambling. It seems to me that we have had criminal penalties for years, and as yet, gambling continues to flourish. It seems to me if we add the concept of special taxes, we may have found the technique we need. I don't see how any delegate in this convention could go back home and tell the people that illegal gambling should not be subject to special taxation by the state. Whenever the federal government gets their hands on a gambler, they extract every nickel they can get out of him before they send him to the

federal penitentiary. In Louisiana we don't quite seem to have reached this level yet. Gamblers tend to be incorrigible. They go to the local state penitentiary for a short period of time, and they come back, and they go right back into their old business. It seems to me that if gamblers know we will not allow them to retain the fruits of their endeavors, they may decrease the level of their endeavors. Special taxation seems to be only fair because gamblers cost the people of Louisiana extra money in policing and in court costs. Special taxation merely allows the state to get back some of the money that the state must spend to undo their efforts. This amendment deletes nothing of anyone else's amendment. It merely includes special taxation in addition to the penalties. You hit the man in his pockets...hit the gamblers in their pockets; this is the way you're going to hurt them. It doesn't really seem to have done that much good to have been sending him to the penitentiary all these years, though I'm not in favor of stopping that practice. I urge your favorable adoption of the amendment.

Questions

MR. CHAMPAGNE

Don't you think the legislature, if they have a notion to, could extract all kinds of money from them if they wanted to by simply providing high penalties or going back with additional taxes? They can pass that in the legislature if they wanted to; don't you think now?

MR. VELAZQUEZ

My only reply is that they also could give penalties so there was no need to put that there. The legislature didn't need any special authorization here to put penalties on people for illegal gambling, but this convention chose to include that line. If they choose to include that line, how is it so much more illogical to also include the concept of special taxation? If it's necessary to add a superfluous line about penalties, I see no logical reason not to include an additional line--additional three words--to say "and special taxation," unless of course you don't believe that the gamblers...you believe the gamblers should be allowed to retain whatever they have that they have gotten illegally. I mean, if this is your belief, I can see a logic behind your position, but I don't feel that that's your position.

MR. CHAMPAGNE

Do you understand what I'm trying to say...

MR. VELAZQUEZ

Yes, sir. I understand exactly what you're trying to say.

MR. CHAMPAGNE

No, no. If that the legislature does not want to do this, they could provide a special taxation--for every million, we get a dollar; you see.

MR. VELAZQUEZ

And my answer must be that this convention just adopted words telling the legislature that they can do something that they could already do, but they've only allowed us a one shot at the problem. I'm trying to give the legislature two shots at the problem.

Further Discussion

MR. LANDRUM

Mr. Chairman and fellow delegates, I rise in opposition to Mr. Velazquez's amendment. This convention is really getting to be something. All year Velazquez and I have been voting together; Harmon Drew and I have been opposing each other. But all yesterday evening and all this morning, Drew and I have been voting together so that may be a good sign. I believe that you cannot impose a tax on a gambler for a penalty. If you can do that for a gambler, then every crime committed, then there should be some form of taxation as a penalty. Now, maybe if we would do that for all crimes, maybe our prisons wouldn't be as crowded as they are. But, I don't see how we can afford to say to poor people you've committed a crime, and no amount of money will get you out of it. To those who have money, who are able to pay a tax when they are caught, well then, all you do is pay a tax. I don't think we should do it that way. I believe that, whatever the penalties are, that function should be left to the legislature to decide what the penalties will be. I don't think this body should set a penalty in the form of taxation. Certainly we could use the money, but I'm inclined to believe that anybody... any corporation of gamblers would love nothing better than to be able to pay a tax for a penalty. Now, either we are going to have it in the constitution prohibiting gambling, or we are not going to have it one way or the other. I voted yesterday

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to prohibit gambling. I'm going along with that today, and I would hope that we would continue in that vein. Thank you.

[Previous question ordered.]

Closing

MR. VELAZQUEZ

Mr. Chairman, fellow delegates, I just want to clear up a misapprehension that some delegates seem to have. I am not getting rid of criminal penalties. All I'm saying is that if a man robs a bank, we don't just send him to jail. We take the money he stole from the bank and give it back to the bank. If a man has been gambling and has been using this as a way of getting rich, we shouldn't just send him to jail; we should take back some of that money he got gambling. Now, as far as this being against poor people, there are very few poor gamblers. If he's a poor gambler, he gets out of that business and he robs banks; I guess. But, it seems to me that you allow a man to retain the fruits of evil, in effect, you are encouraging evil. If you take away the fruits of evil, then you decrease the evil. The criminal penalties will continue; we're going to continue to send them to Angola, but before we send them, we're going to skin them. That's all this amendment says.

[Amendment rejected: 23-66. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Gravel, Mr. Lanier, Mr. Arnette send up amendments at this time.

Amendment No. 1. On page 1, delete lines 8 through 10, both inclusive in their entirety and delete all floor amendments adopted thereto and insert in lieu thereof the following:

"Section 14. Neither the state nor any of its political subdivisions shall conduct a lottery. Commercial gambling shall be defined by and prohibited by the legislature."

Explanation

MR. GRAVEL

Mr. Chairman and ladies and gentlemen of the convention, this amendment is very simple and it, of course, does adopt the Delegate Proposal of Mr. Planchard in its first sentence. Now, frankly, I think that to be honest and fair with the people of Louisiana we ought to put something in this constitution that is meaningful and honest. What we really all are talking about, and what we really are concerned with, is a prohibition against commercial gambling. Now, I don't think that we can or should try to define what constitutes commercial gambling in this constitution. But, I do think it's proper and appropriate for us to mandate the legislature to define commercial gambling and to prohibit it. I believe that's all that we can reasonably accomplish in the constitution. I don't believe that there's any effort on the part of this convention to try to put language in here that can...that fairly interpreted would prevent the church bingo game or some of the other forms of gambling-amusement that people engage in on a private basis--playing cards for money or things of that nature. Some people think that's wrong and some people think it isn't, but I honestly do believe that if we pass this proposal, as I have before you, that we will be presenting to the people of Louisiana in the proposed new constitution a fair and honest proposal that has meaning and that will accomplish the principal purposes that those people have who are against the state being engaged in gambling in the form of government-sponsored operated lotteries.

I yield to any questions, Mr. Chairman.

Vice Chairman Casey in the Chair

Questions

MR. NUNEZ

Mr. Gravel, it's my understanding that---maybe I shouldn't say who because I really don't know who---but there was a survey recently--and I think the governor made an announcement on it--on a lottery in this state. He thought enough of it to conduct a survey, not only from a standpoint of the popularity of it, but the standpoint of the finances of it--who would accept it; how would it be financed; how would it be run? I think the results of that survey--you probably have... will you tell the convention some of the results of that survey? I think it's important to what...

MR. GRAVEL

Well, the results of the survey was that a significant minority of the people in the State of Louisiana would vote against the

constitution that didn't prohibit lottery. The majority of the people polled seemed to favor a lottery for certain purposes. On the other side of the coin, a significant minority of the people would be opposed to lottery in any form, and I think those people would tend to vote against the constitution if we didn't have this kind of a prohibition in the document. Senator.

MR. NUNEZ

Evidently, the people who had the survey run and thought enough of the method of raising revenue to look into it a little further than it had been in the past; that was my point. I don't think the constitution was in question at that time, 'cause if I remember my chronological sequence of time events right, it was something like six or eight months ago.

MR. GRAVEL

That's correct.

MR. NUNEZ

Or maybe longer.

MR. GRAVEL

That's correct.

MR. CHATELAIN

Delegate Gravel, of course, I have a very serious question that I think...the way I interpret this; you said "neither the state nor any of its political subdivisions shall conduct a lottery." That means the state can't have a lottery; the parish police jury can't have a lottery; no political subdivision can have a lottery; is that correct, sir?

MR. GRAVEL

Correct, yes, sir.

MR. CHATELAIN

But what would preclude me, as an individual, from entering into a contract with the state or a political subdivision and have a lottery that would then give it part of the proceeds of the profits of that lottery back to this political subdivision? That's the question I'm concerned about.

MR. GRAVEL

I don't think there's any question but that this language would prohibit that. I think it's...

MR. CHATELAIN

Well, that's not what it says, Mr. Gravel. Please elaborate on that.

MR. GRAVEL

I don't think there's any question. I'll answer it to you this way, Mr. Chatelain, but that the state can't do indirectly what it is prohibited from doing directly. I don't think that the state could enter into any such contract and not violate the provisions of this first sentence. You can't do indirectly what you can't do directly.

MR. KEAN

Mr. Gravel, my question is related to the last part of your proposal. I ask you: what do you mean by "commercial gambling?"

MR. GRAVEL

I don't mean anything by it other than to say that "commercial gambling" subject to such definition as the legislature may provide with respect to that term "shall be prohibited."

MR. KEAN

Does that mean that the legislature couldn't define gambling?

MR. GRAVEL

Sir?

MR. KEAN

Would that mean that the legislature could not define gambling?

MR. GRAVEL

No, sir. This provision, Mr. Kean--and I wish you'd read it very carefully--is a mandate that the legislature must define commercial gambling and must prohibit it. Now, now wait a minute. It does not say that the legislature cannot act otherwise in the field with respect to gambling, but this...as you know, Article 90 of the Criminal Code defines commercial gambling at this time.

MR. KEAN

Well, that's my point. Article 90 defines gambling, which is prohibited at the present time, as gambling for a business. But, there are other statutes which permit a definition of gambling

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without reference to whether it is being conducted as a business. It seems to me that this would lend to the suggestion that the legislature could not define any other gambling other than commercial gambling.

MR. GRAVEL

Mr. Kean, you're a better lawyer than that. This does not prohibit the legislature from doing what it has already done--and I think this is very important--right now there's a law on the statute books that authorizes municipalities to define gambling in a manner different from the manner that it's defined in Article 90 of the Criminal Code. This could not in any way adversely affect that right of the legislature.

MR. KEAN

Well, if that's the case, would you have any objection to deleting the word "commercial", and simply make it read "gambling shall be defined and prohibited by the legislature"?

MR. GRAVEL

Well, what I'm doing here, Mr. Kean, is making it mandatory for the legislature to define "commercial gambling." Whether the legislature may want to define other forms of gambling is permissive and within the authority that they may have. Here we are directing the legislature to act. Now, if you want to later on add another sentence, all right; but I sure don't think it's necessary. This is a mandate to the legislature.

MR. ABRAHAM

Mr. Gravel, is there any really need for this right here from the standpoint that in the Burns' amendment where it says "the legislature shall enact laws," won't they have to define gambling and define lotteries when they enact the laws?

MR. GRAVEL

Mr. Abraham, that language absolutely means nothing. It's just fooling the people of Louisiana. We had on the statute books, as you've been told, the provision that gambling is a vice, and the legislature shall pass laws to suppress it. In the Gandolfo Case the Louisiana Supreme Court held that commercial gambling operate..the operation of a racetrack, did not violate that provision. This is meaningful; that language--in my judgment, in view of the jurisprudence--is not.

MISS WISHAM

Mr. Gravel, I have the same concern as Mr. Kean's. I was concerned about commercial gambling. I also readily feel that since you are a legislator, you should be able to give us some meanings of commercial gambling?

MR. GRAVEL

Well, I'll have to answer you the same way I answered Mr. Kean. If you have the same problem, my answer to you is the same as the answer I gave to him that this sentence mandates the legislature to define and prohibit commercial gambling. It does not prohibit the legislature from defining gambling otherwise, or from authorizing local government authorities to define gambling on a different basis which they presently do.

MISS WISHAM

You wouldn't be willing to delete this statement--the last line--would you be willing to delete it?

MR. GRAVEL

I'm perfectly willing to delete the whole section, but I'm talking about trying to put something honest in the constitution that's meaningful and that will respond to what I think are the wishes of a substantial segment of the voters of Louisiana.

MR. BURNS

Mr. Gravel, did the wording of your amendment satisfy all these gentlemen who are concerned about church and fire department bingo games?

MR. GRAVEL

I don't think there's any question but that unless the legislature was to define as commercial gambling, those kinds of operations that are traditionally engaged in by churches and fire departments, etc., in the way of raffles and bingo games, that this would not in any way adversely affect them.

MR. BURNS

Did they also define different forms of lotteries for commercial purposes?

MR. GRAVEL

I think so. Absolutely.

MR. STINSON

Mr. Gravel, my question is along the lines of the others. But, would you be in favor of deleting commercial and just say, "Gambling shall be defined by and prohibited by the legislature?"

MR. GRAVEL

Well, I think mainly this means more to put it this way. I wouldn't have a particular problem about that because I think that the legislature could, you know, make such distinctions as it wanted to...as it already has done, permitting, you know, local option, for example, in bingo games. But, if that would help to pass this, and, frankly, I think we need to pass something in this regard, I would have no serious objection to it.

MR. STINSON

Now, commercial...do you think that's easily definable by the legislature or anyone? Commercial...someone said well, that means for profit.

MR. GRAVEL

Well, the reason I say that, I think it is very significant to put in here "commercial gambling" because, since 1942, we have had a state law prohibiting commercial gambling. There's a body of jurisprudence that's been built up under Article 90 of the code. I think that we would have some value there.

MR. STINSON

They use the word "commercial" not just for profit or gain?

MR. GRAVEL

As a business....the words "as a business" are involved in there. It's been....it is commercial gambling.

MR. STINSON

Well, isn't it a fact, then, that someone could incorporate a non-profit corporation and could carry on gambling and that would not be commercial?...and pay it all in salaries to the officials and it'd be non-profit, and it would not, therefore, be commercial?

MR. GRAVEL

No, sir. That's not the judicial interpretation of it. No, sir.

MR. TOBIAS

Mr. Gravel, why did you choose the word "prohibited" rather than "suppressed" as the present constitution uses?

MR. GRAVEL

Because...of the Gandolfo case. The word "suppressed" apparently had no meaning to the Supreme Court of Louisiana when they said that you could have commercial gambling in the form of pari-mutuel betting and it didn't violate that provision of the constitution.

MR. JENKINS

Mr. Gravel, I want to ask you a little bit about the section as it now stands without your amendment.

The first thing, "gambling is a vice. The legislature shall pass laws to suppress it. They can enact penalties with regard to it. Sale of lottery tickets is prohibited, etc."

Does that in any way prevent the State of Louisiana from ever allowing a Nevada-type, completely open gambling situation? Does the present section in any way prohibit that?

MR. GRAVEL

Under the Gandolfo case, I don't think it would.

MR. JENKINS

In other words, so long as the legislature has not enacted specific criminal penalties for specific offenses, then really, slot machines, dice games, keno...anything is completely legal...or it could be made completely legal so long as there are no criminal penalties specifically enacted by the legislature.

MR. GRAVEL

If we didn't have Article 90 of the Criminal Code, if we didn't have the statute prohibiting it, the constitution would not prohibit it under the Gandolfo case. That's correct.

MR. JENKINS

Wouldn't the only way that we could really prohibit the Nevada-type situation in Louisiana, would be to enact a detailed criminal provision that we made self-executing and put it in this constitution?

MR. GRAVEL

That's correct. Or, by statute.

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MR. JENKINS

No. But, the only way we could do it as a convention would be to do that.

MR. GRAVEL

Oh, I agree with you....

MR. JENKINS

So, really, the difference primarily between your amendment and the section as it stands now, is that yours is in constitutional terms, prohibiting and limiting certain state action with regard to a lottery, and then giving a.....somewhat of a mandate to the legislature with regard to commercial gambling. But, the legal effect is about the same. Isn't it?

MR. GRAVEL

Now, keep this in mind, though, Mr. Jenkins. I don't think there's any problem with the first sentence; "Neither the state nor any of its political subdivisions shall conduct a lottery." The Gandolfo case recognized that there was a positive prohibition against lotteries, even under the existing constitution. This just makes sure we are talking about a prohibition against governmental lotteries which is, I think, what we're really talking about.

MR. JENKINS

But, even under the present constitution, the prohibition against lotteries in general, and meaning, I guess, private lotteries, unless there is a criminal law making it a specific offense, specifically defining it, and putting a specific penalty in the statutes for the conducting of a lottery, this really is meaningless, too, isn't it?

MR. GRAVEL

No, sir....

MR. JENKINS

Well, how is it meaningful?

MR. GRAVEL

Because the provision with respect to lotteries in the present constitution could form the basis for injunctive relief....

MR. JENKINS

But not criminal.

MR. GRAVEL

...even if the legislature did not. Correct. Because it's a clear-cut prohibition. But, the provision says that gambling is a vice, and the legislature shall pass laws to suppress it. We can sum up that pretty quickly by saying that's been judicially declared to be meaningless. So, why perpetrate that kind of situation in a new constitution where we are supposed to reform and correct the errors of the past.

Thank you, Mr. Chairman.

Further Discussion

MR. CHATELAIN

Mr. Chairman and fellow delegates, I rise in opposition to this amendment. I don't want to argue a great deal with what we've already done. I'm not hung up with that. I certainly want to do this thing right. I'm sure that you do. But, let's just read together this amendment. It's very plain English. I'm not an attorney. It's been said here many times before. But I can certainly reason.

Now, it says in the first sentence, "Neither the state nor any of its political subdivisions shall conduct a lottery." Now, we all agree to that. Certainly the state shouldn't conduct a lottery. But, that's the hooker I don't like in this first sentence....the word "conduct." If you remember in history, the previous lotteries that we have was not a state operated lottery. It was a privately operated lottery that some of the proceeds was given to the state. Do we, in fact, eliminate this possibility in the future? I ask you this question. Do we, in fact, eliminate that possibility in the future?

Let's read the second paragraph....the second sentence. "Commercial gambling shall be defined by...and prohibited by the legislature." We've gone on for two days, now. What is commercial gambling? Where would the legislature be in the future as compared to today? Exactly where it is today. The legislature has a right to define commercial gambling today. I think they have in many cases. They said that you could have public horse races, or you could have pari-mutuel betting, and on and on. But, we're not doing anything here except shirking our duty. But, I ask you. Please, let's not leave the doors

wide open. Let's try to maintain status quo as near as we can. I still think that for the moment, that the Burns amendment, as presently amended, does what most of us really want. So please, give some serious thinking to this before you vote for this amendment.

Thank you.

Questions

MR. O'NEILL

E. J., now let's go over exactly what you are saying. You say you want to keep Mr. Burns's amendment as it presently is. Well, let's explore a little bit what that means.

"Gambling is a vice, and the legislature shall pass laws to suppress it." Now, under the current legal jurisprudence, did you know that that has no legal effect....the word "suppress?" Would you agree with that?

MR. CHATELAIN

Well, if that's your argument, I accept your argument. I don't have time to research it.

MR. O'NEILL

Well, now, with the amendment that Mr. Drew put on, he prohibits the sale of lottery tickets. The current constitution prohibits lotteries and the sale of lottery tickets. Now, you're a smart man. Don't you think you could figure out a way to have a lottery without selling tickets?

MR. CHATELAIN

Absolutely.

MR. O'NEILL

Well, O.K., if you can figure that out, you know that the amendment as it currently stands before us means absolutely nothing. This one does mean something. Under "Commercial Gambling" private lotteries could be defined by the legislature and prohibited. So, this one actually does mean something, doesn't it?

MR. CHATELAIN

Well, that's again your argument, Mr. O'Neill. I'm not going to debate that.

Thank you. I urge your defeat.

Motion

MR. GRAVEL

Mr. Chairman, I would like, for the purpose of deleting the word "commercial" in the second sentence, permission to withdraw this amendment and then resubmit it with that word deleted, and of course, the word "gambling" beginning the sentence, and with a capital "G".

[Motion adopted without objection.
Amendment resubmitted with correction.
Motion to limit debate to ten minutes
adopted without objection.]

Further Discussion

MR. SMITH

Mr. Chairman, fellow delegates, I wish to say first I'm opposed to this amendment as I feel that it is rather meaningless. We passed a good amendment yesterday. We ask that the same language that is now in the 1921 Constitution be put back. "Gambling is a vice; the legislature should pass laws to suppress it". The people want it in there. I see nothing wrong with it. Like I told you yesterday, you said we need things to pass the constitution. This three dollar car license was put in there. I wasn't for that but it was to help pass it. I feel like we are compromising something here that I don't think is right. Talking about the legislature's going to pass it. It may, and it may not. I don't know. It says "shall pass it." But, they say that we may not get sixty-seven votes if we don't go ahead and pass this particular amendment. Well, we may not get sixty-seven votes, gentlemen, but I'm going along. I voted what I thought right yesterday. I still think it's right to leave the same language in the constitution....quit trying to play around....ridicule this. But, go ahead and vote like it is now. Leave it alone. Vote this amendment down. Let's go on with the work of the convention and put this back in the constitution. I am not going to compromise, and I hope that you all won't either. It said, rather being meaningless, "Let the legislature define gambling." I'd rather let it stay like it is. That's my feelings on it.

Further Discussion

MR. STOVALL

Mr. Chairman, ladies and gentlemen of the convention, we are here to provide responsible government for the State of Louisiana for the years to come. We are here to provide the basic structure of government that will contribute to the well-being of the citizens of our state. At this moment, I deeply appreciate the great concern that I think all of you have shown as we have tried to deal with this very difficult issue. It is true that some have referred to it as being simply a moralistic issue. May I suggest that this issue is as moral as any issue, and all of the issues that we have been dealing with, are moral issues because they have to do with the future and the well-being of our people. I feel that this amendment which has been presented here really strengthens our prohibition against commercial gambling in this state, and I think that it will satisfy all groups of our people. People all over our state want an atmosphere in which our children and young people can grow and develop in a healthy, moral atmosphere. I think that this amendment will serve that purpose. I encourage your support of it. I've had the privilege of living in every section of this state. There is no people throughout the state who want organized crime, or extensive commercial gambling. I think that this provision which has been presented here really strengthens our law. I encourage your support.

Thank you.

Further Discussion

MR. DE BLIEUX

Mr. Chairman, and ladies and gentlemen of the convention, I rise in support of this amendment because I think this is all we need in the constitution. It contains the fact that the state, or none of its subdivisions, shall engage in any lottery operation. It also mandates the legislature to define and prohibit gambling. I think it's about as meaningful guidelines as you could possibly get into the constitution. Just because something was in the 1921 Constitution doesn't mean that it was good. It doesn't mean that it was bad, but it certainly doesn't mean it's good. If we were going to adopt the 1921 Constitution, there's no need for any of us to be here. So, I think that this sets forth the necessary guidelines...all that's necessary, for the definition of gambling--which the legislature should do from time to time when it finds something that it gets out of line, and out of practice, so that we can keep up with the mores, and the desires of people during the time. Yet, it sets the guideline that we shall not engage, as a state, or any of its political subdivisions, in any lottery operations. So, therefore, I rise in support of that and hope that you will do likewise so that we can put an end to this particular proposal and go ahead to something else.

Questions

MR. STINSON

Mr. De Blieux, as I see it, the only difference in the two is that the one that we've already adopted, it says "all lotteries," and this says "state or political subdivision." Now, don't you think that sort of leaves the gate open to...you and I could go in the lottery business and it wouldn't be prohibited?

MR. DE BLIEUX

Mr. Stinson, I think the second paragraph adequately takes care of that because it says "gambling shall be defined by and prohibited by the legislature." I think that would take care of any private lotteries you may speak about.

MR. STINSON

So, you don't need any reference to lobbyists at all, then, do you?

MR. DE BLIEUX

Well, you...the first part of it could be sure that the state and any of its political subdivisions ought to engage in any of the practice.

In the second paragraph, it says the legislature could prohibit any private individuals from engaging in any lottery practice.

MR. STINSON

But, I want to ask you this. Mr. Gravel, when he was first presenting this, said the only reason he was introducing it because he had to use the word "commercial." Now, he agrees to take "commercial" out, so I'm wondering about that.

MR. DE BLIEUX

Well, I didn't see the need of "commercial" either because

that was one of my objections to the original amendment as he proposed it, because then, it meant that...it was engaged in as a business. Now this way, with the taking the word "commercial" out of it, would allow the state to even define and prohibit private gambling, if we wanted to go that far.

[Previous Question ordered. Quorum
Call: 97 delegates present and a
quorum.]

Point of Information

MR. KEAN

I just want to make certain, Mr. Chairman, the amendment we are now voting on has the word "commercial" deleted from it.

MR. CASEY

Mr. Clerk, you will verify that on your official copy?

MR. POYNTER

That's correct.

It reads, "Neither the state nor any of its political subdivisions shall conduct a lottery. Gambling shall be defined by and prohibited by the legislature."

[Section reread with proposed Amendment.
Record vote ordered. Amendment adopted:
77-26. Motion to reconsider tabled.
Motion for the Previous Question on the
entire subject matter. Motion with-
drawn.]

Amendment

MR. POYNTER

Mr. Planchard has a technical amendment. This is a typical amendment that we've done before to correct a title:

On line 7, delete all floor amendments thereto in their entirety, and insert in lieu thereof the following:

"Article XII. General Provisions
* * *

Section 12. Lotteries; Gambling"

(Incidentally, by Judge Tate's amendment to the prior article, we made General Governmental Provisions Article XII, and, I believe, reserved Article II to Separation of Powers. So, that's the reason from going to...from Article II to Article XII.)

Amendment No. 2...it has to be changed, now.

On page 1, in Convention Floor Amendment No. 1 proposed by Delegate Gravel and just adopted, at the beginning of line 1 of the text, strike out "Section 14," and insert in lieu thereof "Section 12," which the staff advises me is the appropriate section under Article XII. General Provisions.

Explanation

MR. PLANCHARD

It's self-explanatory. It's very technical and very passive.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

All right. This is the Nunez amendment, Comar, Alario, and others. It would have to be...the instructions change somewhat. The text would stay the same.

On page 1, immediately after the text of the Gravel amendment just adopted, add the following paragraph:

"Nothing in this Section shall be construed to prohibit any such activity, when engaged in by a charitable, benevolent, civic or religious organization."

Explanation

MR. NUNEZ

Mr. Acting Chairman and fellow delegates, ladies and gentlemen of the convention, all this amendment would do would be to...would do what many of us feel, in the southern part of this state, especially, is probably an absolute mandate from the people. There's been...it had been prohibited over a number of years. We talk about the 1921 Constitution, and we talk about gambling as a vice and shall be...legislation shall be forth as such. But, it's been there since 1921. If you will remember, in 1952 we had a State Police superintendent that did extensive raiding in this state and closed down all gambling. I think since that time, we haven't had...we haven't had it as we have known it in the past. But, evidently, the proponents of the amendment which we just adopted feel like

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the constitutional provisions that we've had since 1921 is sufficient to prohibit what has been prohibited.

Well, as you know, about four or five years ago, or six years ago, the legislature authorized by local option bingo, etc., to charitable, civic, and religious organizations. I can tell you unhesitatingly without a doubt, that in many of our communities, that the practice of bingo is extensive; that the churches participate in it; that charitable organizations participate in it; that civic organizations participate in it; and benevolent organizations participate in it. I can tell you without a doubt that it's doing good for those people who are conducting it. I've never participated in it myself. But I just pass around these halls, and the elderly people who enjoy it... I think it's a form of recreation for them. I'd hate to see it stopped. I'm not sure... what we have adopted would curtail or prohibit that particular activity. Then, I'm not sure, also, that it wouldn't allow the legislature to go ahead and start to pass laws to prohibit it. Then we'd find raids on our churches and our civic and our religious groups, and our charitable groups, and our benevolent groups, etc. I think... I don't think that the people who are proposing... this amendment want to prohibit this particular amendment that I've got here. I don't believe they do. Maybe some people do, but I don't think the majority of you do. I've said from the beginning, and I sort of believe maybe none of it should be in the constitution, we ought not authorize it by not putting it in there. But, I believe if we don't put this in here, ladies and gentlemen, just like many of you said, and I'm sure you said it rightfully; I think I understand your problem, that you'll have a lot of people against this constitution. I believe if you don't allow those activities that are now being participated in by the religious, civic, and charitable organizations, if we stop those activities, I would say to you... that they would have a lot of people on the other side of the fence that would be against this constitution. I hate to use those kind of words. But, it seems like every time somebody does something, this is what they use.

So, I would ask you in all sincerity to go along with this amendment. I think it just does up real clear what this constitution, what this convention wants to do. On the one hand you've prohibited it. You've said the legislature shall enact laws as such.

On the other hand, if we come back and say that nothing in this section shall be construed to prohibit the activities when engaged in by charitable, benevolent, civic, and religious organizations, I think it's a reasonable compromise. I think it will be satisfying all groups that are concerned with the bingo game, etc., or what they do participate in. Maybe it's wrong. Maybe the churches shouldn't have bingo. Maybe the firemen's association shouldn't have bingo. But the fact of life is, they have them. The fact of life is that many of their financial arrangements are based on this type of activity. The fact of life is if you curtail them or cut them out, Mr. Burns, I think you'd bankrupt a lot of them. I'm sure the church can find additional revenues. They have in the past, and have survived for over two thousand years. But, at this particular point, at this particular time in our history, a great amount of these organizations are deriving their revenues from this type of activity. Believe it or not, but it's a fact. The facts of it is that they fought so hard in the legislature to get it in, to be allowed to do it. The fact of the matter is that they've got so many of the local governing authorities in the area to go ahead and allow them to do it. So, what will we be doing if we prohibited them from engaging in the activities that they are now engaging to? Number 1, I really believe you'd make some people angry. In return, I think those people would take their hostilities out on the support of this constitution.

I think that we have already, as someone said, we shouldn't, by putting in all these amendments, we are spotlighting a situation that we should have left alone. Well, I possibly agree with that statement. But... the fact of life is that it's in. Someone prohibited gambling, and lottering, etc. There's an amendment in. It's already passed. It's here. Now, how far does it go? I don't know, and I don't think you know, either. How far do you want it to go? How far do you want it to go? Do you want to really prohibit the bingos that the churches conduct, and the civic and charitable, and religious organizations conduct? Do you want to do that? Then, vote against my amendment... then vote against the amendment. But, if you think that a lot of people are, in good faith, are conducting their business and their activities in this state, then I would say you ought to pass my amendment, and I don't think it would interfere in anything you have done because we have already... we have already brought it to the attention of the public of this state. When we adopted the anti-lottery amendment, and we added on the Burns amendment, I think we focused, we polarized. We had no need to polarize the people in this convention, and the people in this state; the people who think that gambling is not a vice, or the state should be allowed to engage in lottery--there's about fourteen states, I understand,

that are doing it. There are a number of them that are looking towards doing it. But, we have absolutely done it. We're here at this point in time where we either have to go ahead all the way with it, and prohibit it--just strike it all down the line, or, just allow the latitude that we've been allowing in the past. We have allowed some latitude. I think you will agree to that. I don't agree with the philosophy that what's in there now is innocuous. If it is, I think it shouldn't be. I think we should have gone all the way if we are going to go at all. But, since you have adopted that, I would ask you all, in all sincerity, to adopt this amendment. I think it tells those people--those people who now conduct those activities which you are trying to make vices and illegal--it allows them to keep doing it. It allows them to run their businesses as such. I'm just talking about if you read it carefully. I know there'll be some questions about churches going into full-scale gambling. I don't think you believe that that's the intentions of this amendment. But, they are doing it. They are conducting it on a very... you know... I'd say a substantial scale. If you go to any of our church fairs, I think you're going to find what I'm saying is an absolute truth. I don't think you can go to a church fair and turn to any corner or any booth, or come to anybody that don't give you a lottery ticket. Now, are you prohibiting that? I think you are. I think you are. I don't think they don't raffle television sets, or automobiles, or cash, or what have you. Why when I looked in the Times Picayune. There's a lottery going on the States Item, I see... I don't know if it's a lottery, but it's similar to a lottery. Are you prohibiting that? I think you are. I think you are.

I will ask you to seriously think about this amendment. It deals with charitable, benevolent, civic, or religious organizations. Now, if you think some gambling syndicate from Las Vegas can come in here and form a charitable, or religious, or civic organization, then possibly you'd better vote against it. I don't believe they can. I don't believe they can.

So, Mr. Chairman, I'll answer any questions that anybody wants to ask. But, if there's no questions, I would certainly appreciate that you vote for...

MR. CASEY

Senator Nunez, let me just remind a few people--everybody is pointing to their clocks--first of all, anybody who introduces an amendment has ten minutes to introduce it and five minutes to answer questions, a total of fifteen minutes.

Questions

MR. BURNS

Senator, I saw you and Camille Gravel over there in a huddle for about fifteen minutes, and then he came out with his amendment in which he stated that would take care of this situation. On that basis, I went along with it. Now, you're up here with this amendment in effect saying that the Gravel amendment doesn't take care of your problems, here. I've said from the very start, if you recall, that I'm in favor of churches and fire departments and different civic organizations operating bingos. But, do you think this is necessary? That's the point I make.

MR. NUNEZ

Mr. Burns, I absolutely believe it's necessary or I wouldn't have it up here. The fact that you saw me talking to Mr. Gravel, I guess you could say you see me speaking to just about anybody in this convention. If I can work out a problem, I will try to. I believe if you want to do what you just said you want to do--and I think you want to do that--you'd vote for my amendment. I made no commitment; I don't think I did. I didn't. . . I don't think I spoke to you or anybody in this convention and said, if you vote for Gravel's amendment that my amendment wasn't necessary or that I would retract it. I don't think I said that to anyone here. In fact, I had a serious. . .

MR. BURNS

Well, you answered my question.

MR. NUNEZ

I had serious reservations in my mind whether I was going to vote for Mr. Gravel's amendment or not. But, I thought it was the lesser of two evils saying the amendments that have been previous passed and his amendment. But, I still think there's a reservation in my mind and many other people's mind that this amendment will do exactly what the. . . almost the majority of this convention wants to do.

MR. BURNS

Number two--this is a short question--your amendment, in my mind, is so broad that, for instance, the legislature could pass a law prohibiting the operation of slot machines. But, under

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your amendment, a church, we'll say, could operate slot machines. Is that right?

MR. NUNEZ

Mr. Burns, I don't read that into it. If you think the church is going into the slot machine business, I think you'd be entitled to your opinion. I would. . .

MR. BURNS

Well, what's in there to prevent it? Well, show me what's in your amendment that would prevent it.

It ssid that any law the legislature passes doesn't. . .

MR. NUNEZ

Prevent the church from operating slot machines? I think their morals. . .

MR. BURNS

Any law that the legislature passes defining gambling and prohibiting under the Gravel amendment, your amendment said it shouldn't apply, "engaged in by a charitable, benevolent, civic or religious organization."

MR. NUNEZ

That is correct, Mr. Burns. "Neither the state or any of its political subjects shall conduct a lottery." . . I'm in the wrong one.

My amendment simply says that this does not apply to a "charitable, civic, benevolent or religious organization."

MR. JENKINS

Senator Nunez, you know I'm sympathetic with what you're trying to do. The only thing your amendment seems to be based on an erroneous assumption. The assumption being that Section 14, as it stands now, prohibits gambling. It does not. It says, "Gambling shall be defined and prohibited by the legislature." It's going to be prohibited by the legislature. The only thing prohibited here, is it not, is state run lotteries. So, there's nothing in here that does prohibit gambling, and thus, your amendment seems irrelevant. Isn't it really?

MR. NUNEZ

Mr. Jenkins, I think if you want to say and tell the people of this state that there shall not be laws prohibiting the activities that we know as such that are going on in our charitable, religious and civic organizations, then you'd adopt this amendment even if it doesn't say that the legislature. . . if the legislature can do. . . the way I read the amendment, it shall define and prohibit it by the legislature." What do you mean by "prohibit it by the legislature?"

MR. JENKINS

Well, it's going to be the legislature, is it not, that does the prohibiting? This section does not prohibit it, does it?

MR. NUNEZ

Well, suppose the legislature doesn't prohibit it?

MR. JENKINS

Well, it's the same thing as under the old constitution where it says, "Gambling is a vice and the legislature shall enact laws to suppress it." That provision does not prohibit gambling. Is it not left to the legislature to suppress gambling under the 1921 Constitution, just as under the section as it stands now, by Mr. Gravel? Is that not correct?

MR. NUNEZ

I think you're correct to a certain extent, Mr. . .

MR. JENKINS

Wouldn't the appropriate time to make exceptions. . . Wouldn't the appropriate time for making exceptions for charitable organizations, etc., be at such time as the legislature may define and prohibit it in the statutes? In other words, isn't the statute on gambling both the place to define and prohibit it and make certain exceptions to it as your amendment would do?

MR. NUNEZ

Well, Mr. Jenkins, you can look at it that way. But, I think if we're going to go as far as to put the antigambling article in the constitution, that we should put the provision that would allow it. . . allow the organizations that are now doing it to do it. This state, for years, has adopted a dual role when it comes to gambling. I think you're well aware of that. But, as long as you take the proceeds from the racetrack and you allocate four or five million dollars to the various people that are allocated to, then it's not gambling. Well, that's a matter of opinion, I believe. Some people think racehorse betting is gambling. Because you take seventeen percent and give it to fifteen or twenty organiza-

tions, then certainly you're not gambling. Well, that's your opinion.

[Motion to suspend the rules to allow additional time. Rules Suspended: 74-9.]

MR. RAYBURN

Mr. . . Sammy, I realize what you're trying to do, but you don't think that the language in the Gravel amendment that was just adopted is clear enough on this particular subject matter?

MR. NUNEZ

Senator, I don't think it is. If I thought it was, I would not have introduced the amendment. I had. . . I spoke with Mr. Gravel; Mr. Burns is right. I told him that I thought that we should. . . if we're going to go ahead and prohibit the activities in the constitution that we should at least define the section that we are operating in today and allow it to operate.

MR. RAYBURN

Well, Sammy, do you share my views in reading this particular amendment that in the event it was adopted that the--I'll just use the Lions Club because that's a civic organization of which I used to be a member--the Lions Club, in my opinion, if this language is adopted, could conduct a statewide lottery throughout this state. Am I correct? Am I reading the language correct?

MR. NUNEZ

"Neither the state nor any of its political subdivisions shall conduct a lottery." I would say that very possibly, unless the legislature denied them the right to conduct that lottery, that they possibly could conduct that lottery; yes.

MR. RAYBURN

We couldn't do that, Senator, because you say "Nothing in this section shall be construed to prohibit any--to prohibit--any such activity." That would be in our constitution. Then, regardless of what the legislature wanted to do, they could not prohibit it. My interpretation of a civic organization are many organizations throughout this state, and they could conduct a statewide lottery and be within their constitutional rights. Now, if I'm wrong, I wish you'd tell me.

MR. NUNEZ

Senator Rayburn, you are partially right, you are partially wrong. But, I think that we should adopt the provision if we're going to have the other provision in there.

MR. CHATELAIN

Delegate Nunez, I have the same problem, except I'd like to go a little further. The Gravel amendment provides that "neither the state nor any of its political subdivisions shall conduct a lottery. Gambling shall be defined by and prohibited by the legislature." All right, you come back and say, then, that any civic organization, the legislature cannot prohibit any civic organization, church or other benevolent association the right to do this. In other words, in the State of Louisiana, there are hundreds of questionable religious sects, as far as I'm concerned, and there could be another sect that comes into the State of Louisiana and say, "Well, look, we want to open a church, and we want to go ahead and have a statewide lottery." Well, your amendment would permit them to do this, wouldn't it?

MR. NUNEZ

Absolutely.

MR. CHATELAIN

Wouldn't you consider withdrawing this amendment on this basis, Mr. Nunez?

MR. NUNEZ

No.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, I rise in opposition to this amendment. I think that insofar as allowing the purposes of which Mr. Nunez has intentions, I certainly think he has good intentions of that, and that can well be taken care of in the second sentence of the Gravel amendment. We don't need anything else in this particular proposal to allow that particular activity if we see fit. But, I can envision when even private, benevolent, charitable organizations may go too far, and we may need some legislation on it. If we put this kind of legislation. . . language into our constitution, it would open the door to them to do anything that they see fit. I just don't think

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that's what we intend, here. I certainly think that the provision as is presently worded is adequate to take care of what Mr. Nunez wants to do without letting it get out of hand by so-called benevolent and charitable organizations. As I see this particular provision and which has already been indicated by some of the questions that have been asked here, that we can have organizations that would be organized simply and purely upon the basis of conducting lotteries and things of that kind. They could do it under this particular provision. There's nothing in the world the legislature could do about it.

So, I'm going to ask you to oppose this amendment and vote it down. I think the proposal as we have it right now is good and sufficient and we should go with that and defeat all other amendments to it. I ask you to vote against the amendment.

Question

MR. ROLLINGER

Senator De Blieux, in the months of July and August, you were seen around the convention floor with a little book in your pocket. Would you explain to the delegates what was that book and what you were talking to the delegates about and giving them these little pieces of paper for?

MR. DE BLIEUX

Mr. Rollinger, I better not give away some of my secrets, here. You might think that I'm inconsistent. I don't want any opposition.

Further Discussion

MR. TAPPER

Mr. Acting Chairman, ladies and gentlemen of the convention, I know most of you have your minds made up, however, I rise in support of this amendment. I see some of the problems that this amendment could raise and some of the objections that some of you have raised to it are valid. However, I am not only in support of this amendment, and I think it should be adopted to show that this convention--although Mr. Gravel's amendment did, in some manner, make it more palatable--I think that this convention should not have anything in the constitution with reference to gambling. Now, I know that I will be chastised for saying this, but nevertheless I didn't come here to receive accolades. Let us discontinue putting our heads in the sand; let us discontinue being hypocrites in this state. We've attempted for years and years and years in this country and this world to legislate morals, and we have failed pitifully, we have failed pitifully, ladies and gentlemen. Putting a prohibition in the constitution against gambling is like saying, "I'm going to stop the sun from shining tomorrow." You're not going to do it. The only thing you're doing is telling the legislature that they're going to say what is gambling, what is not, who can, who cannot. Yes, possibly under this amendment you might have slot machines operated by these charitable organizations. One question was to the effect, is this thing necessary? I think Mr. Burns said it--is it necessary in view of the Gravel amendment. I say, possibly not. But, I ask the question: "Is this provision in the constitution necessary?" Further, if it is, what are we going to do about it after you put it in there? Do you think you're going to stop gambling? Do you think you're going to stop horse race booking when you say pari-mutuel betting is legal? The people in the state are tired of the hypocritical manner in which we have been treating gambling.

So, I urge you to adopt this and to defeat the proposal.

Question

MR. CONINO

In this amendment we state that civic organizations may be allowed these games of chance. Now, I'll ask you if the Chamber of Commerce and the Young Men's Business Club, the Pontchartrain Improvement Association and Ninth Ward Improvement Association, will they be allowed, under this amendment, to have these games of chance?

MR. TAPPER

It's my interpretation, Joe--and I don't profess to be the best constitutional lawyer nor a constitutional lawyer; I'm only a delegate, here-- but, the legislature, in my understanding, can and does now define charitable, benevolent, civic and religious organizations, and the legislature, after the adoption of this, will be able to continue doing this. If that presents a problem, the legislature can correct that problem.

Further Discussion

MR. ABRAHAM

Fellow delegates, it's now the ninth of January. We've got about ten days left, and we've got a lot of work to do. I would ask this convention to quit putting forth these amendments. If Mr. Tapper is correct that this is a facetious amendment and was intended to defeat the proposal, I think we've gone far enough.

It looks like the further we go, the worse it gets in trying to legislate material into this constitution. So, I think we need to look ahead. We've got just a short time to go and a lot of work to do. I would ask that we get on with our work and let's move these things along as fast as we can and try to get out of this thing.

If there are no other speakers, Mr. Chairman, I move the question on the amendment.

[Previous Question ordered. Record vote ordered. Amendment rejected: 39-60. Motion to reconsider tabled.]

Recess

Vice Chairman Roy in the Chair

[73 delegates present and a quorum.]

Amendment

MR. HARDIN

The next amendment is sent up by Delegate Casey. Amendment No. 1. On page 8, in Floor Amendment No. 1 proposed by Delegates Gravel, et al. and adopted by the convention on January 9, 1974, on line 3, after the word "and" delete the remainder of the line and insert in lieu thereof the word "suppressed" and on line 4, delete the partial word "hibition".

Explanation

MR. CASEY

Mr. Chairman and delegates, I understand, first of all, that as I understand the . . . Mr. Gravel--who offered the last amendment, which is really the body of the proposal that we're acting on right now--himself, has no opposition to this. This idea merely is to delete the word "prohibit" and substitute in lieu thereof the word that is now used in the constitution, and that is the word "suppressed." There may be a connotation that the word "prohibition" certainly may be much stricter and more prohibitive, and the word "suppressed" is something that we have jurisprudence on today, that has already been interpreted. Those in the New Orleans area have some fear that it may. . . there may be some prohibition against pari-mutuel betting, and we certainly do not wish to affect that.

I would ask adoption of this amendment.

Chairman Henry in the Chair

Question

MR. JENKINS

Mr. Casey, is it your view that this will maintain the present jurisprudence on this subject?

MR. CASEY

That is the real purpose of this amendment, Mr. Jenkins. I'm very fearful of the use of the word "prohibit" because that may be a mandatory obligation placed upon the legislature that they completely outlaw anything that could have a connotation of gambling, and certainly, pari-mutuel betting may. That's all I'm afraid of.

[Previous Question ordered. Amendment adopted: 68-9. Motion to reconsider tabled.]

Amendment

MR. HARDIN

Delegate Segura sends up the next amendment. Amendment No. 1. On page 1, delete lines 8 through 10, both inclusive, in their entirety and delete all floor amendments adopted thereto and insert in lieu thereof the following:

"Section 14. Neither the state nor any of its political subdivisions shall conduct a lottery; however, the legislature may authorize the conducting of a lottery subject to approval by a majority vote of the electors of the state in an election which shall be called and held in the manner provided by law. Gambling shall be defined by and prohibited by. . .

[Motion to waive reading of the Amendment adopted without objection.]

Explanation

MR. SEGURA

Fellow delegates, this simply takes the Gravel amendment, the Gravel-Lanier amendment that we adopted this morning and inserts some language in order to not have to come with a constitutional

amendment in the event that we ever want to . . .the people ever want to consider legalizing lotteries. I don't know that they should or they would or they ever want to, but we've tried to write this constitution to where the constitution would not . . .to where it would be flexible, and it wouldn't have to be amended. By doing this, the legislature--because you don't know what's going to happen. I mean, someday you may find it necessary to have a lottery, to want a lottery. Some states have a lottery. I'm not saying it's good; I'm not saying it's bad. What this whole section does--what this whole section does--is legalize. . . is trying to legislate against morals. So, I say, I don't think you can do that, in my opinion. I'm going to vote against the entire section. But, there may be some day where the people of this state want to consider this. If they want to consider it, then you shouldn't have to go through the motions of amending your constitution. This would give the legislature the authority to call an election. It would not legalize lotteries without the people of the state voting on it and approving it.

I'll yield to questions.

Questions

MR. CHATELAIN

Delegate Segura, did I hear you properly? You said you're going to vote against the section; is that right?

MR. SEGURA

Yes, sir.

MR. CHATELAIN

Regardless of whether this amendment passes or not?

MR. SEGURA

Yes, sir.

MR. CHATELAIN

My goodness, we're spending a lot of time, then for nothing, aren't we?

MR. SEGURA

That's correct. I don't feel this should be in the constitution.

MR. CHATELAIN

Second question, sir: could not under the existing Gravel amendment that we've adopted already, could the state not call... amend the constitution and do this very thing?

MR. SEGURA

That's what I said, and this is exactly why I put this in here. The state would have to amend. First, the legislature would take two-thirds vote. Then you'd have to amend the constitution if it ever became necessary to have a lottery, or if the people ever wanted a lottery; and it's the people themselves that are going to decide whether they want a lottery or not. If the people ever want a lottery, you don't have to take the time and go through the motions of amending your constitution.

MR. CHATELAIN

In other words, you want to make it easier to have a statewide lottery. Is that correct?

MR. SEGURA

No, sir. I want to make it easier for the people to decide. It's the people, not you and I that's going to decide.

MR. CHATELAIN

Well, I think a great deal of the people have already decided they don't want it, sir.

MR. SEGURA

I disagree with you.

MR. HENRY

Would you yield to a question to Mr. Tobias?

MR. TOBIAS

Mr. Segura, in light of the Casey amendment which we just adopted which changed the word "prohibited" to "suppressed" would you be willing to withdraw your amendment at this time, and change the word "prohibited" on the second to last line of your amendment, and change it to "suppressed"?

MR. SEGURA

Yes, sir, I would.
I so move, Mr. Chairman.

[Amendment withdrawn.]

Amendment

MR. HARDIN

On the next to the last line of the amendment, the word "prohibited" is deleted and the word "suppressed" is inserted.

MR. SEGURA

Any other questions?

MR. HENRY

Mr. Abraham, for a question.

Questions

MR. ABRAHAM

Perry, you made the statement twice that you didn't want to have to go through the motions of amending the constitution, but aren't you going through the very same motions here? A constitutional amendment would be submitted to the people, and this is going to be submitted to the people. I don't understand what you're accomplishing by this.

MR. SEGURA

You have to let the people vote on it, yes. But, to amend the constitution you have to get two-thirds vote of the legislature. This will not require two-thirds vote of the legislature. It'll require a majority vote, and then they call the election, which means that they could immediately call the election. You don't have to call the election to amend the constitution, and then call another election to do the lottery. Do you follow me?

MR. NUNEZ

Mr. Segura, if we would have had a prohibition in the constitution, as they have sought to put against race betting, race horse betting, pari-mutuel betting, we would probably never have had racetracks as we've known it in the state, and you know, evidently it's doing a lot of good. One question further, if it would have been in the constitution, the Downs up in North Louisiana--I don't know what they call it; I think it's the Louisiana Downs...

MR. HENRY

Bigby Downs.

MR. NUNEZ

Bigby Downs? Whatever you want to call it, Mr. Speaker. I know Mr. Bigby tried very hard to get the funds after it was had. I don't know if he was for it, but he tried to get the money that it's bringing in, to divide it equally. Those people never would have a chance to vote on the racetrack; isn't that true?

MR. SEGURA

As far as I know, Senator, that's right.

MR. HENRY

I think it's Stinson-Bigby, or Bigby-Stinson Downs. I'm not sure.

MR. HAYES

Mr. Segura, on the last sentence here, I was wondering, after the people would decide, then what would the . . .the legislature would provide a method, and the people would approve it. Wouldn't that be sufficient, and you wouldn't need this last sentence?

MR. SEGURA

The last sentence was in Mr. Gravel's amendment... Delegate Gravel's amendment, and that's why I didn't want to take it out.

MR. HAYES

But, you don't feel the need for it. You just left it there for that reason?

MR. SEGURA

Well, the delegates voted it here, and I felt that I didn't want to go against the wishes of the delegates.

MR. JENKINS

Is it your view with this amendment, Perry, to provide that before any lottery, private or state-operated could be initiated, that it would have to be put to a vote of the people; or that only a state lottery would have to be put to a vote of the people?

MR. SEGURA

Well, I don't understand about a private lottery. I thought we were only legislating against a state lottery, or a, you know,

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a lottery by a political subdivision. I think a private lottery, if a church wants to give a private lottery, well, that's not included in this.

Further Discussion

MR. PLANCHARD

Mr. Chairman, fellow delegates, I am apposed to this last amendment, and I'm opposed to all future amendments pertaining to this actual proposal. I think that we have finally come up with our last amendments with something that we can all live with. It still keeps in mind the original thought I had in mind, and that was pertaining to financing state government--the prohibition of the use of lotteries to do so. It goes farther to satisfy those who are concerned with having some mention of the prohibition or the suppression of gambling. Now, I do not want my proposal to be the sacrificial lamb. I would like very much to ask you at this time, let's preserve what we have. It's good to have in the constitution. Let's vote down all the other amendments, and move on in this convention. Thank you.

MR. STOVALL

Mr. Planchard, if this amendment were passed, might it not be a possibility that the legislature at some future time, rather than dealing realistically with taxes and the needs of the state, that they would turn to this as a kind of scapegoat as an easy way out of a difficult situation?

MR. PLANCHARD

I wouldn't accuse my legislators of anything like that, Rev. Stovall. I think they're all competent people.

MR. CHAMPAGNE

Mr. Planchard, wouldn't you agree that since the previous speaker was honest enough to tell us that he was against the section, there's no point in voting for this amendment because even if we voted for it, he'd vote against it anyhow?

MR. PLANCHARD

That's absolutely correct. Thank you.

[Previous Question ordered.]

Closing

MR. SECURA

Fellow delegates, I wish I could pass, but I can't because of the last statement that was made. I wish I were all-powerful that by my vote against this section, that it would fail. I don't know that it will fail. But, if the section passes, there may be some day when the state will have to be financed through such a system because just look at the severance tax that the legislature just passed. If anybody would have predicted that a year ago, that they would have more than doubled the severance tax, we'd all said they were crazy. You don't know what the future holds, and you're still not taking the power away from the people. So, I ask you to consider this favorably. Thank you.

[Amendment rejected: 20-66. Motion to reconsider tabled.]

Amendments

MR. HARDIN

Amendment sent up by Mr. Shannon:

Amendment No. 1. On page 1, delete line 4 in its entirety, including all amendments adopted thereto and insert in lieu thereof the following: "Making provisions relative to gambling and lotteries".

Amendment No. 2. On page 1, delete lines 7 through 10, both inclusive, in their entirety and delete all floor amendments adopted thereto and insert in lieu thereof the following:

"ARTICLE XII. GENERAL PROVISIONS

Section 12. Gambling and Lotteries

Section 12. Gambling is a vice and the legislature shall pass laws to suppress it. Lotteries and the sale of lottery tickets are prohibited in this state."

Point of Order

MR. JENKINS

Mr. Chairman, I suggest as a point of order that this amendment is out of order, that when we adopted Mr. Cravel's amendment, the essential question before the convention was

whether or not to continue with what was essentially this language or to go with Mr. Cravel's. That is once again the issue before the convention.

Ruling of the Chair

MR. HENRY

Let me look at it, Mr. Jenkins.

Mr. Jenkins, as much as I'd like to agree with you, Lord knows I would, I don't think the exact same circumstance have come before this convention yet, but I would be glad to...whose amendment?

No, now Mr. Burns had a series of amendments which were four in number, I believe. Well, it wasn't exactly the same amendment. I'm not arguing with you on the thing, Mr. Abraham, but technically speaking it was not identically the same.

[Motion to limit debate to ten minutes adopted without objection.]

Explanation

MR. SHANNON

Mr. Chairman, ladies and gentlemen, we have argued this back and forth, back and forth, and I don't know what the prior amendments would have made it now because we added to and deleted and so forth and so on, so for the sake of clarity, I am offering this amendment. This amendment which replaces all prior amendments, let's face it, up until now deletes all prior amendments, merely tracks the present constitution, merely tracks the present constitution. These are the exact words in the present constitution, and they have served through these many years, and we have gotten the gambling that most of you wanted, with that into effect, and it will not affect those type of gambling deals in the future. So, you cannot be disturbed by that. All of this argument back and forth, I just want you to make up your mind whether you do or whether you don't. It kind of reminds me of the tale of several children were out in the backyard, and out there there was a hole of water. They had a cat, and they were trying to immerse that cat under that water, and each time just before the cat went under, he came up clawing and scratching and meowing, and they tried that about three times, and one of the children said, "Oh, let's just sprinkle her and let her go to hell." So, you've made up your mind on this, and that's not in deference to anything or anybody, but let's make up our mind whether that's true or not; that's beside the point. We need to get along with this convention. We have other business. Now, there's been alluded to here what the governor has said. The governor spoke to the legislature and told the legislature that he would never recommend to the people of this state a lottery except they approve it, and that would be by constitutional amendment, which is permitted. I do not want it made where the legislature can just offer an amendment. I think that it should be that the people should be able to vote on this as a whole. This does not interfere with your bingo games; it does not interfere with your pari-mutuel betting. Let me tell you one thing. It was mentioned lightly up here, but there is close to one-half million Baptists in this state who want this left in. I repeat that: one-half million Baptists in this state that want this provision left in the constitution. So, I suggest to you that you pass this amendment. Thank you.

Questions

MR. FAYARD

According to your amendment, just reading it; it says, "gambling is a vice, and the legislature shall pass laws to suppress it." Now, I believe yesterday and some today, we have gone over exactly what is gambling, and we have determined, have we not, that it is not bingo and it's not horse racing, and it's not a poker game in your home. Don't you feel that this language sort of misleads the public of this state, and those Baptists that you were referring to? In reading this, don't you feel like they would get the idea that this is going to do away with horse racing when really it doesn't; does it?

MR. SHANNON

Mr. Fayard, they've been living with that since 1921, so I suggest that they continue to live with that.

MR. FAYARD

But, Mr. Shannon, you would have to agree, would you not that this really doesn't do what it says?

MR. SHANNON

It does what the present constitution says, and I'm only tracking the present constitution here, Mr. Fayard, for the benefit of those people who have had their fears.

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MR. FAYARD

Well, don't you think it would be a little more honest to go with Mr. Gravel's language, and tell the public exactly what it has to expect; that is, that the legislature, even under this language, can define gambling to mean whatever it wants it to mean?

MR. SHANNON

No, Mr. Fayard, because we can still have lotteries under Mr. Gravel's amendment. We can still have private lotteries; and that's one thing that I wanted to prohibit in the constitution--any type of lottery.

MR. LANIER

Mr. Shannon, if one of the fire companies in Lafourche Parish had a raffle for an automobile to get money to support the volunteer fire company, would that be prohibited by your prohibition against lotteries?

MR. SHANNON

Has it been prohibited in the past?

MR. LANIER

I'm not worried about the past, Mr. Shannon. I'm worrying about your language and what you intend it to mean. Now, is that what your language is intended to mean?

MR. SHANNON

I intend for this language to mean exactly what it meant in the present constitution....that it's not prohibited those things, that's what it means now.

MR. LANIER

Well, is it your position that when you say "lotteries and the sale of lottery tickets are prohibited in this state," that that means except for nonprofit organizations?

MR. SHANNON

I would suggest that that's the position that the legislature has taken on it up to this time, and I would think that they would continue to do so, yes. That's my intention.

MR. LANIER

Would you have any objection to an amendment that added that language?

MR. SHANNON

No, sir, I don't want any more amendments. Let's get this dog now and run him or let's kill him.

MR. LANIER

Well, now, if that's what you intend, don't you think it'll be a lot clearer if we put that language on?

MR. SHANNON

No, because I am merely tracking the present constitution.

MR. NUNEZ

Mr. Shannon, if the convention adopts this amendment, I would say there is a definite need for the amendment that I and seven or eight delegates presented earlier that you defeated. Would you in return allow us to put that amendment on, allowing the charitable, benevolent, civic, and religious organizations to have bingo games?

MR. SHANNON

Mr. Nunez, you've been living and doing these things since 1921. Why are you up in the air now?

MR. NUNEZ

We just want to make it legal, what we're doing. If it's illegal, we don't want to be illegal.

MR. SHANNON

Well, it must be legal.

MR. LANDRUM

Mr. Shannon, do you know that most of the communication, the letters, the phone calls, the telegrams that I have received from the clergy has been from, not just Baptists, but Methodists, Presbyterians, quite a few denominations? Do you know that?

MR. SHANNON

Yes, I realize that, Rev. Landrum, but I was speaking because I am a Baptist, and I am familiar with the Louisiana Baptist Convention and their resolutions, and I was only expressing that denomination. I do realize that there's other denominations that are for an article of this type.

Further Discussion

MR. JENKINS

Mr. Chairman, you know the thing that disturbs me about this discussion, it seems that nobody in here really believes that gambling is a vice under all circumstances. But, they believe apparently that it's going to lose us some votes in North Louisiana if we don't include the present constitutional language. In other words, the assumption seems to be that the people of the state are stupid, and that they can't understand the language in this constitution, that they can't understand that when you say gambling is a vice, and the legislature shall enact laws to prohibit it, that...or to suppress it, that you have done nothing. Well, they can understand that. They can understand that perfectly well. They know that there is gambling in this state right now, that there is legal gambling in this state. They realize that, and they know that if you say gambling is a vice and is going to be suppressed, that you're being hypocritical. They know that. What Mr. Gravel's amendment did, I think it's a workable compromise because on the one hand it prohibited a state-run or locally-run lottery, just as many people in this state would like to see us do. On the other hand, it also made a stand against gambling in general, but left the specifics of it up to the legislature. Now, we know that there's going to continue to be gambling in this state. We know that horse racing and betting on horse racing is going to continue. We know that bingo, and we know that football boards, and we know that a lot of other things are going to continue. Now, we have language in Mr. Gravel's amendment which would certainly be inoffensive to most people in this state. I think any reasonable person would find the Gravel language inoffensive because it continues the essence of the present law with regard to gambling. One thing Mr. Shannon said was that he wanted the old constitution's language as opposed to Mr. Gravel's because he wanted to make sure that private lotteries were prohibited. Private lotteries are not prohibited under the 1921 Constitution. It says "lotteries and the sale of lottery tickets are prohibited in this state," but unless the legislature enacts a criminal penalty to punish someone for selling lottery tickets, that is no effective prohibition or bar whatsoever. It depends on statute for its effectiveness. Without a statute, it is ineffective. So, the 1921 Constitution is no effective prohibition against private lotteries at all. It's unfortunate that most people don't have a copy of this report by the Governor's Council of Economic Advisors, which was made available to the legislature last month. The question that it discussed was "should Louisiana adopt a state lottery?" It's an in-depth study of this question, and it concludes that Louisiana should not adopt a state lottery for many reasons. I wholeheartedly agree with and subscribe to this report. It's excellent, and I wish that if you have a chance to read it, you would. What it says, though, is that it may be desirable at some time in the future to have privately run lotteries. Now, that's going to be true and that's going to be possible either under the old constitution's language, or the new constitution's language. There is nothing that makes it legally impossible, and it will be up to the legislature either way. The question is, whether or not we're going to put moralistic preaching, which is hypocritical in nature in the new constitution just as it is in the old one. Whether or not we're going to purport to proscribe private action when we are not in actuality doing so. I think the Gravel amendment is a reasonable compromise, and I think it's the only thing that can get sixty-seven votes. If we adopt Mr. Shannon's language, I really don't think that this convention's going to agree to anything on this question.

Motion

MR. SMITH

Mr. Chairman, I think this is a good amendment. I'm not coming down front. I'm not going to make any talk on it, but I feel like everybody's got their mind made up, and I now move the previous question.

MR. HENRY

We have one other speaker on the list.

MR. SMITH

Maybe he'll waive.

MR. HENRY

Mr. Tapper, do you pass? The gentleman refuses to waive. Do you insist on your motion, sir?

MR. SMITH

Yes, sir. I insist on it.

[Motion for the Previous Question
rejected: 20-60.]

Further Discussion

matter: 54-45. Section passed: 78-29.
Motion to reconsider tabled. Previous
Question ordered on the Proposal. Dele-
gate Proposal No. 17 passed: 78-28.
Motion to reconsider pending.]

MR. TAPPER

Mr. Chairman, and fellow delegates, first, thank you for allowing me to speak. I will not belabor the point. However, I feel that I should get up in opposition to this amendment. Since I said what I said earlier in the day, that I believe that we're wasting our time here in the convention with this type of amendment, or with this type of proposal. I've asked you to vote against the proposal before, and to reiterate what I said before; you know we've attempted to stop the gambling in this state for years and years, and haven't been able to do so. I don't think that we ever will be able to do so, and I'd like to ask each and every one of you who are delegates here--and I don't want to put you on the spot--but, I'd like to ask every one of you to examine your consciences and you within your own conscience make a determination as to whether or not you feel gambling is a vice. Now, I'm not saying that all of you gamble. But, I feel certain that quite a few of you do. As I said before, you know, we've been very hypocritical in this state, and I'm not calling you hypocrits because I've been a hypocrit, too. I've voted against it...against gambling in the legislature, and that was hypocritical on my part because I thought maybe that's what the people wanted us to do. But, I believe that we have to be realistic in a constitutional convention. You know, the last constitutional convention was in 1921. This...we started in 1973 and we thought we'd get finished, but we had to extend it because we couldn't. The year is '74 now. It could be that in the next fifty years or fifty-one years, we'd have another. But, then, again, it could be that it might take another hundred years before the people would allow an assembly like this to come back because we've heard the criticism of the people throughout this state as to what we are doing here. Now, I agree with most of the things that we've done here, but because of some things that I am not aware of, the general public believes today--and I believe today--that if this constitution, as we have it in its present form, were put to the people today, that it would fail miserably, miserably. I think you feel the same way. You don't agree with the fact that they believe that, or that they should do that, and I don't either. I think that the constitution that we have prepared here is far more superior than the one that was adopted in 1921. But, nevertheless, this is the way the people feel throughout this state. I hope that in the next few days before we've completed our deliberations that we can convince them otherwise. But, we're not going to do it if we attempt to continue to be hypocritical. The people throughout this state know. They know what's going on. They know what the people want, and they know that you're not going to prohibit gambling just because you say, "It shall not be done in this state, in this..." I urge the defeat of this amendment.

[Previous Question ordered.]

Closing

MR. SHANNON

Mr. Chairman, I'm going to waive closing, but I would like a record vote quorum call, and a record vote on the amendment.

Point of Information

MR. AVANT

Would you be so kind as to have the Clerk read the section as it now stands, as amended, without Mr. Shannon's amendment on it?

MR. HENRY

Read it as it now stands, Mr. Clerk, please.

[Section reread as amended. Record Quorum
Call: 102 delegates present and a
quorum. Amendments reread. Record vote
ordered. Amendments rejected: 34-68.
Motion to reconsider tabled. Previous
Question ordered on the entire subject

Recess

MR. HENRY

It would appear that we have completed--at least for the moment--most of or all of the committee and delegate proposals that we're going to take up for the moment. We're going to begin on the reports of the Style and Drafting Committee in just a few minutes. We've got about ten days left, and I would hope that we'll use it as wisely as possible. We're getting to the point now where we're talking about style and we're talking about drafting, and we're not talking about substance. We're beyond the point of the educational part of it. I would hope that you all would help us expedite the proceedings of the convention because we have a great deal of mechanical work yet to be done before a week from Saturday. The governor is going to come and address us in the morning at 10:00 o'clock--in the morning at 10:00 o'clock. I'd hoped that he would be able to come tomorrow afternoon but, because of a conflict in his schedule, it was impossible. So, I have extended the invitation to him, and he has accepted the invitation to address us at 10:00 o'clock in the morning.

[Quorum Call: 91 delegates present
and a quorum.]

Motion

MR. ARNETTE

Mr. Chairman, I rise to bring up a problem to the convention. When we passed the multi-parish banking prohibition, we made an exception for one of the banks that is now operating as a multi-parish bank--that being Calcasieu Marine National Bank over in Lake Charles. Now, when we drafted this language, we put the word "operating" in our proposal, and we made a slight mistake I guess in meanings of terms. But under the same statute that authorized them to operate in this multi-parish area--the four parishes being Cameron, Calcasieu, Allen, and Jeff Davis--all the other banks were given the equal rights of operating within this four-parish area. Now, what we've done by putting "operating" in, we have protected the big bank, who now has these branches, but we have hurt these small banks who had the right by statute before, and we've taken this right away from them. Now, I don't want to open up the entire thing and bring up everything for debate; all I want to do is rectify one inequity that we have, and that being to have this grandfather clause apply to all these banks equally that had the same rights before. Very simply... Mr. Chairman, are my amendments passed out?

MR. HENRY

No, sir; they haven't been. We'll have them passed out.

MR. ARNETTE

Pass out my amendment and the copy of the proposal as it was enrolled, please.

MR. KEAN

Mr. Chairman, just a point of order so that we understand how we're going to operate from here on in. It was my understanding that where a proposal had been adopted and referred to Style and Drafting that any proposed amendments to that particular proposal had to await its being referred back to the convention by Style and Drafting.

MR. HENRY

You're absolutely correct.

MR. KEAN

And if we're now going to begin to take up amendments prior to that, I've got a couple I want to get in the mill, too.

MR. ARNETTE

Well, Mr. Kean, I would seek the indulgence of the convention as a whole to allow a suspension of the rules for this very limited purpose, and for this sole purpose, and I will explain further if you'd allow me. As I told you, by putting in the word "operating" instead of "authorized", I think that the meaning of

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the convention was not exactly what we intended. I think our intent was to protect all these small banks as well as the large banks. I seek a suspension of the rules to rectify this inequity. There are several reasons why I think it should be without much opposition. First of all, I talked to many, many of the delegates here, and I have heard no one opposed to this. Secondly, it's purely of local interest to these four parishes, and no delegate in those four parishes that I have talked to has any objection to this. It will save a debate in Style and Drafting because this might require or might be construed to be a substantive change. Now, all I seek to change by this amendment is change the word "operating" to "authorized by the Revised Statute 6:55" which brings the constitution that we're proposing in direct, exact line with our statutes as we had before. Now, let me reiterate: all this does is gives these small banks the right that they had under the statutes and makes them equal to this big bank we gave a special treatment to. In other words, the grandfather clause, I hope, would apply to all equally. I've talked to all affected parties. Mr. Roy, the author of the original amendments on this, does not have any objection; the Calcasieu Bank who got the benefit of this grandfather clause has no objection. I've talked to one of their representatives, and it's purely a local problem and is completely all right with the affected parties. I hope we would save valuable time in Style and Drafting Committee and on this floor if we would solve this problem right now.

Therefore, I move to suspend the rules to allow us to report out Committee Proposal 35, out of the Style and Drafting Committee and to consider Section 9 for the limited and sole purpose of considering my amendments that you have on your desk now. Then, we can resubmit this back to Style and Drafting. It is merely to rectify this inequity. I ask your vote on this to help out the people affected.

Question

MR. ROY

Mr. Arnette, I think that you would also move that your amendment only and no other amendments be considered with respect to this section, and it would be opened up for the sole purpose of passing your amendment and no others; is that right?

MR. ARNETTE

That's exactly right. That's why I said the "sole and limited purpose" would be to consider my amendment and no other. That way we're not going to get embroiled in the whole question of multi-parish banks. All we're going to do is, I think, put the true meaning of what this constitutional convention wanted to do, but we just had a slightly poor choice of words.

Point of Order

MR. ROY

Mr. Chairman, my question is directed at you now, as a point of order. What Mr. Arnette has requested is, as I understand, permissible under the rules, and if the convention votes to suspend the rules for that purpose, then it would vote only to take up his amendment and no other amendment to that section; is that right?

MR. HENRY

Well, what he's doing is moving for just an almost blanket suspension of the rules, when he limits it for that purpose. Certainly that's what we're going to limit it to, but nothing would—in all honesty if the delegates decided to further suspend the rules, and it could keep going on. But, the limitation placed on his intentions by the nature of the motion that he makes would, unless the convention takes further action, prohibit him from offering anything else.

MR. ROY

Then, if the convention—I understand—if the convention voted to suspend the rules further, it would take another vote and another sixty-seven votes.

MR. HENRY

That's right. That's correct.

MR. ROY

All right.

MR. ARNETTE

So, in other words, if you vote for a suspension of the rules here, you are voting only to consider my amendment and rectify this situation and no other.

Point of Order

MR. CHAMPAGNE

Yes, sir. It's directed to you, Mr. Chairman.

Under the rules, there's something about a yellow amendment or something when there is a possibility of a question of a change, and that could be taken care of in that manner, I understand. Style and Drafting; I heard the Judge mention it.

MR. HENRY

No, sir. What's going to happen if the convention allows it will be that he will move to suspend the rules for the purpose of discharging the proposal from the committee. Then, if everything goes the way he plans, then what we'll do is once we get it here, we'll adopt his amendment, then readopt the section, and then the proposal, and then order it reengrossed and report it back to Style and Drafting. Now, the color of the amendment is confusing me. I'm not....

MR. CHAMPAGNE

I understand exactly what he's proposing. The only thing that I'm saying is through the setup procedure as now, it could have been taken care of very easily as one thing we did in Revenue and Taxation, too. In other words, there is a position to take care of it without suspending the rules. I have....

MR. HENRY

Yes, sir, you could do it in the normal course of events once it came out of Style and Drafting, but still it's going to take a suspension of the rules for the purpose of reopening that section. At some point in time, it's going to require a suspension of the rules.

MR. CHAMPAGNE

I have absolutely no objections.

MR. HENRY

Yes, I understand. This is a substantive change, though, as opposed to a style or drafting change.

Point of Order

MR. ROEMER

Mr. Chairman, is my logic straight or incorrect here? Even though we were to suspend the rules and reopen this matter for the express purpose of this particular amendment, the convention could still....then we have to revote on that whole proposal; don't we? So, we have the danger here, in my mind—am I true—of voting it down, even though we accepted his amendment, that we could vote the whole thing down.

MR. HENRY

You take that chance. There's no skirting it, but it would... You're right.

Question

MR. NUNEZ

Mr. Chairman, Mr. Arnette, I believe that the intentions of this convention when we passed that section was to do no violence to that situation that you have over in your area. That was the way I voted several times with Mr. Roy and Mr. Roemer's, I think, amendment—to do no violence to those banks that were now practicing multi-bank or branch banking concepts. I would recommend—and I don't know what procedure—it's been said before; but it seems like to me it was a controversial issue, and it still is controversial. I've heard things in this stand this morning that the big banks were trying to get the provision out. I would hate to see us open this up and get into a situation whereby we would become involved in the controversy again after we've passed it. Would you get with the chairman of Style and Drafting? I would be willing to vote—I don't know how you could do it—that the intentions of this convention, don't you agree, would be to do exactly what you're trying to do with your amendment, and do it by Style and Drafting rather than opening up the article.

MR. ARNETTE

Well, Mr. Nunez, the reason I choose to take this vehicle to do what I would like to do is because I don't think there is any opposition to my amendment at all, and I thought it would be very quickly passed by the convention. The only problem is I figure if I would bring it up this way, it would save us first of all time in Style and Drafting, presenting the case before them, having them introduce the caveat, have us vote on it again. We're going to have to vote on it again on the floor anyway.

MR. HENRY

Now, look, let's just make our answers and our questions as

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brief as possible. We've already spent about fifteen minutes on this.

MR. NUNEZ

Mr. Arnette, just for your information, there is opposition. I've just been told that there's opposition to it. I'm not opposed to it, but...

Point of Information

MR. AVANT

Mr. Chairman, point of information. As I understand it, if we do what Mr. Arnette is asking us to do and then the convention adopts his amendment, that then the section, as amended, will have to be readopted, and that will require sixty-seven votes.

MR. HENRY

Correct, sir.

MR. AVANT

And if it does not get sixty-seven votes, it's dead as a dodo; isn't it?

MR. HENRY

Well, it's not necessarily dead, but it's not real healthy is what it...it could get sixty-six.

MR. KEAN

Mr. Chairman, if we bring this back up now under suspension of the rules, do we then have an opportunity to debate the section all over again?

MR. ARNETTE

Mr. Chairman, in the interest of time, I didn't think it would be controversial, but since it seems like it might have some controversial aspects, we'll just go through Style and Drafting on it and get them to introduce the caveat to the convention.

MR. HENRY

I think you're making a wise decision, Mr. Arnette.

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING

[Motion to call Committee Proposal No. 21 from the calendar adopted without objection.]

Committee Proposal No. 21

MR. HARDIN

Committee Proposal No. 21 by Delegate Dennis, and many other delegates, members of the Committee on the Judiciary.

A proposal making provisions for the judiciary branch of government, and necessary provisions with respect thereto.

MR. HENRY

This is very tedious, and it's got to be done very meticulously. Our purposes will best be served if you will do your best to get in your seats and remain as quiet and as attentive as is possible. Proceed, Justice Tate.

Explanation

MR. TATE

Mr. Chairman, before bringing up the amendments, I would like to refresh your memory as to the procedure we will follow. All of you have been distributed a package of materials with a big "I" on the front, followed by a green package and a yellow package and a white package. Now, those who do not have the package and who want it, if they will raise their hands, the pages will bring you to them. If you're right next to a friend, just take one because we did just pass out a hundred and thirty before, and we lost some. If there's any shortages, pages, there's a few more over behind that counter not collected.

To refresh your memory, what we are doing, sometime ago--it passed the floor--was the first enrollment of the Judiciary Article, a white piece of paper, which I suggest to you you need not look at unless you are going to meticulously check the lines and page because on the green collection of papers on the left hand side is the same text that passed the floor. On the right hand side is the stylized version which puts into consistent language the same language, the same concepts, that were on the left hand side. To refresh your memory as to the procedure, this passed through a staff draft of our senior staff, then through the Style and Drafting Committee, then to the substantive committee headed by Judge Dennis, and then back to reconcile any views

that might have changed the sense or the substance, and then it is now to you. Now, these amendments will be called up section by section. They're on the third white sheet collection that says Amendment 1, Amendment 2. But, most of you probably will be like me who won't follow it. Someone who's got more sense than me is following this thing by line and page. Senator De Blieux will follow it, I know, and I'm glad he will. Mr. Dennery will, to keep us honest, and Mr. Perez has already double-checked it. Now, the speaker will call the amendments slowly, section by section. We'll just mention briefly--you'll see on the right hand side where changes are made in the inked in numbers. You will be able to see what they are. Before I report on these amendments, I would like Judge Dennis, the Chairman of the Judiciary Committee, to ask him if he would like to say a word.

Further Discussion

MR. DENNIS

Mr. Chairman, fellow delegates, the Judiciary Committee has reviewed all of the changes recommended by the Style and Drafting Committee and has approved of them. So, we join with the Style and Drafting Committee and ask that you adopt the changes in style and drafting recommended.

Amendment No. 1

MR. TATE

Thank you, Judge Dennis. On Article V, Section 1, as you see in the right hand side, there were two changes made. They changed the word "shall be" to "is", and they changed the word "constitution" to "article" because nowhere else in the constitution are courts authorized to be created except by this article.

[Previous Question ordered. Amendment adopted without objection.]

Amendment No. 2

MR. TATE

In Amendment 2, with regard to Section 2, you will see we added a comma to be consistent, and we added an "a" in front of court of appeal to be consistent with the styling.

[Amendment No. 2 adopted without objection.]

MR. TATE

In Section 3, a slight error was made when the floor said it was four ten-year terms instead of fourteen years, and...no, that's a joke, and the last time I made a joke up here I learned about that.

MR. HENRY

Let's keep bringing on the bacon, Judge.

Amendment No. 3

MR. TATE

That's a terrible meat, sir. You'll see we changed a phrase to make it in line with the general consistency to say that "the term of a Supreme Court judge shall be ten years," instead of the term "the judge of the Supreme Court." Saves a couple of words.

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TATE

All right. In Amendment No. 4 we made just stylistic changes of tense, and in line with the consistent philosophy throughout the constitutional provisions, when we spoke about the legislature, the general intent of the membership in every instance we could determine except once or twice was they meant "by law." They may pass a law, and when we say by two-thirds of the elected members, it was by law enacted by two-thirds of the members. So, in order to carry out that consistent intent throughout the constitution, we so recommended these changes.

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[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TATE

On Amendment 5, the changes were strictly to singularize where we used plurals, to make resentment structure without changing the sense, to do away with the possessive, and in general, all through this, unless you have any questions, they're just strictly stylistic changes in the interest of consistency.

Questions

MR. JENKINS

Sir, I have a question on lines 32 and 33. The original language said that the following cases shall be appealable: "a case in which a law or ordinance has been declared unconstitutional." Then the style and drafting changes say "a case shall be appealable to the Supreme Court if a law or ordinance has been declared unconstitutional." I'm wondering is your change, perhaps, ambiguous in that it might be argued that a case which comes about under a law which has previously been declared unconstitutional might be considered appealable under your style and drafting changes, whereas it clearly would not be under the original language?

MR. TATE

We thought, Mr. Jenkins--perhaps missed the full force of your question--we thought the appeals had to be always some cases because the appeals come from cases. We did not think it made any difference. Would you explain again, sir? I'm sorry if I...

MR. JENKINS

Well, under the original proposal, it was clear that a case is appealable if, in that case, the law or ordinance in question in the case was declared unconstitutional; whereas it appears in the style and drafting changes that the interpretation might be that a case is appealable if it involves a law which has been declared unconstitutional.

MR. TATE

No, sir. No, Mr. Jenkins, because it says "a case shall be appealable if a law or ordinance has been declared unconstitutional." I think within its context it means within that case, sir. I see what you mean, but I see no problem with this, if I may. But, I see your question, sir.

[Amendment No. 5 adopted without objection.]

Point of Information

MR. TAPPER

Point of information, Mr. Chairman. We're adopting amendments to these sections, and my question is: can we adopt these amendments to the section without a record vote and without having sixty-seven votes? I'd like to have a ruling on that because...

MR. HENRY

Under the rules, yes, sir, we can.

MR. TAPPER

But don't we readopt the section after... Shouldn't we have to do that?

MR. HENRY

No, sir, we are following the rules as set out, Mr. Tapper. I think you are confusing the rules relative to Style and Drafting with the rules of the adoption of sections. Don't let Senator Nunez lead you astray. Proceed, Judge.

Amendment No. 6

MR. TATE

Ladies, gentlemen, and Senator Nunez, now on Amendment 6, there was a simplification of language and a combination of two...the two sections. As originally drafted, you remember, we needed to say when a vacancy occurs, because at that time, as the committee drafted it, it would not necessarily have gone to the senior judge. The present chief justice is a very great chief justice, incidentally, and they wanted to be sure that he was not disrupted in service. Since we retained the present

system, that was no longer necessary, so it was possible to simplify the language as done.

I move the adoption, Mr. Chairman, unless there's some questions.

[Amendment No. 6 adopted without objection.]

Amendment No. 7

MR. TATE

Section 7 involves some standardization of language with ...when we say "has authority"...the standard language is may... it means may. We added a comma, I believe, in line with our general drafting.

[Amendment No. 7 adopted without objection.]

Amendment No. 8

MR. TATE

In Amendment 8, we used the...we simply clarified the language slightly by saying, "with one court of appeal in each," and saved a few words. Then, we standardized the use of the judgment to a judgment, a district court, etc., and we rearranged some of the clauses or phrases to put them closer to their modifiers, or something. I can't read your writing, Lee.... Any questions?

[Amendment No. 8 adopted without objection.]

Amendment No. 9

MR. TATE

Now, for Amendment 9 has to do with Section 9 as it passed the floor, you remember, with the Miller amendment. Later, in the yellow amendments, you later, this convention, with the concurrence of Mrs. Miller, adopted the Drew amendment which left out some of the language. But, on our first go 'round, we just approved...we just stylized the language as it originally passed the floor. When we get to the yellow amendments, we'll call your attention to the inconsistency between the two versions and ask for your...go faster?

[Amendment No. 9 adopted without objection.]

Amendment No. 10

MR. TATE

Section 10 again has to do with standardization of language omitting needless words, making a consistent sort of parallelism, and adding numbers for the sake of clarity.

If there are any questions, Mr. Chairman? Otherwise, I would move its adoption, sir.

[Amendment No. 10 adopted without objection.]

Amendment No. 11

MR. TATE

Section 11 again, in Amendment 11, Mr. Chairman, involves just using shorter words, and we think, little clearer language, omitting some words that seem to have no function. If there are no questions....

[Amendment No. 11 adopted without objection.]

Amendment No. 12

MR. TATE

Section 12 was, in effect, a simple incorporation language leaving out "there is" in line with the Style and Drafting Manual that we...usually, when you say "there is" you don't need it. You can just say whatever follows is.

[Amendment No. 12 adopted without objection.]

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Amendment No. 13

MR. TATE

Likewise in Section 13, we changed "has authority" to "may" in line with the general Style and Drafting Manual on that issue. Amendment 13, Mr. Chairman, if there are no objections.....

[Amendment No. 13 adopted without objection.]

Amendment No. 14

MR. TATE

Amendment 14....Section 14 we simply singularized the parishes in the district judge in line with the consistent usage throughout the Style and Drafting.

If there are no questions, Mr. Chairman....

[Amendment No. 14 adopted without objection.]

Amendment No. 15

MR. TATE

On Section 15, which is Amendment 15, we rearranged the courts in the proper hierarchy. We standardized the language. We rearranged the section number. Most of our other exceptions....stylistic changes, were simply to make standard language....use standard language, and to keep related words together, and substitute words for phrases. The one thing that we did do here is that Section 15.1, the Jack Avant-Hawk Daniel amendment, was added. It said, "a judge of a city court shall be elected to the same term as a district judge." Rather than having a separate Section 15.1....we just added "city judge" here when it says the term....formerly says "the term of a district or parish judge," it says, "the term of a district, parish, or city court judge shall be six years. Mr. Singletary....Mr. Chairman, are there any questions?"

Questions

MR. SINGLETARY

Judge Tate, what are the little brief, descriptive words following the section? Are they supposed to reflect the little title at the beginning after each number?

MR. TATE

Yes, sir....

MR. SINGLETARY

I see (D) says "number of judges," and it's not reflected up there in the descriptive....should that be up there?

MR. TATE

Oh. No, sir. I'm sorry. The....we took a judgment that the section title should not necessarily be a complete index to what everything in it....but this would be generally descriptive of what is concerned, because in some of the longer, later articles, it would have been an awfully long title. So, we thought that simply that if you generally suggested what was in the amendment....in the article, and then, I understand, the indexing will pick up the subtitles for easy reference.

[Amendment No. 15 adopted without objection.]

Amendment No. 16

MR. TATE

On Section 16 which was repeating most of the language from the prior constitution on the exclusive jurisdiction of the district courts, we tried to break down that sentence with....let's see. We tried to break down that first sentence into two sentences. Let's see. We tried to clarify the language in lines 10 and 11 of the old section to say the same thing more clearly in 9, 10, and 11, of what the jurisdiction is. There will be a caveat on this, will there not? Later on, we will bring to your attention a slight change that we were unwilling to make ourselves, although we figured that it was your intent, which is the traditional language as used here that the district court has exclusive jurisdiction when the state, or a political corporation or a succession as a defendant. Political corporation has been in the constitution a long time. It was defined at one time in the

projet, '54 Projet attempted to define it.

In the present constitution, we use "political subdivision" to refer to local entities, but that doesn't quite include these political corporations....the....perhaps it might include the domed stadium, but things like the R.F.C. and so, we will later in a....ask you to consider adding to that not only political corporation, but political subdivision to carry out your full intent. But, that's a later amendment. That is, otherwise....the changes submitted are to omit needless words, take out a useless colon, etc.

Mr. Chairman, if there any....I yield to any questions.

[Amendment No. 16 adopted without objection.]

Amendment No. 17

MR. TATE

Section 17....we....simply stylistic changes of changing a....using an indefinite article in the context and omitting needless words.

I'll yield to any questions, Mr. Chairman.

[Amendment No. 17 adopted without objection.]

Amendment No. 18

MR. TATE

All right. Section 18, one of the amendments requires a little explanation, but not much, I hope. The others, except for the addition of Section 16, there are stylistic changes only about voiding a needless word, etc. We....as it passed the floor, it said, "Notwithstanding any provision of this article to the contrary." In context, this was a Tate-Tobias amendment. We went out and got the floor debate, the transcript. Senator De Bieux said, "Well, what do you mean?" The debate plainly indicates that it was in deference to Mr. Jackson's worry that the definition of the district court's jurisdiction of felonies, of conduct and duty constituting felonies, would possibly take away from the juvenile courts their jurisdiction.

In order to avoid any possibility, we added "notwithstanding any provisions of this article," meaning only Section 16. The floor debate clearly illustrates that....all that was involved....in order to clarify the intent, we recommended the stylistic change to add Section 16.

Questions

MR. SINGLETARY

Judge Tate, you said that the indexing is going to be according to the titles....it's going to pick up the titles?

MR. TATE

The subtitles, yes, sir.

MR. SINGLETARY

The subtitles. Well, since this paragraph deals with both juvenile and family courts, shouldn't the description say juvenile and family courts?

MR. TATE

We...goofed, Mr. Singletary. We should have. It was a floor amendment. We didn't pass it in the title.

MR. SINGLETARY

I recommend that change.

MR. TATE

Well, the trouble....our trouble is at this point, we either can only take the Style and Drafting amendment, or take the floor amendment. So, I'm sorry. We tried to get a one hundred percent perfect job, but even a fellow who likes bacon makes mistakes from time to time.

Point of Information

MR. JENKINS

Why can't we just move for a suspension of the rules to allow him to make that slight change? I so move, if I may.

MR. HENRY

Well, no, now, we can either do that, but this is going to be resubmitted to Style and Drafting, I believe, Mr. Jenkins, where that could be taken care of. You can do what you want to

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on the thing. But, it's going back to Style and Drafting. So, it...when you suspend the rules, you know, you are going to open up that section again. So...

MR. TATE

Mr. Chairman, can I suggest this, maybe. If we will note this. It comes back to us for rearrangement. We will, at a certain point, there are maybe one or two other places, no more than I...I don't think we have any more in this section. But, last time when we opened it up, we inadvertently left out commas in that floor amendment...Mr. Chairman, I suggest, maybe, if we will note that this change will, at one time, when we get the final enrolled copy, we'll come and try to rearrange it as to permit....

[Amendment No. 18 adopted: 77-6.]

Amendment No. 19

MR. TATE

Section 19. The language was standardized. We standardized the language...oh! it's very good. This is the first time that it's come up in this article. It has come up in others. It says, "mayors' courts and justice of the peace courts existing at the time of the adoption of this constitution." The question then came whether they meant on the day the people voted on it, or the day it came into effect. Since in this instance it would take a constitutional amendment to, as far as the justice of the peace courts are concerned, we thought we would carry out the intent which was to continue the...those existing on the effective date of the constitution. We thought it made little difference, but it had to be clarified whether it was the day of the election, or the effective date. Generally speaking through the constitution, we have been using on the effective date, although we're trying in a given instance, when it doesn't mean on the effective date, but something else, to specify that date.

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, I do not rise at this time in opposition to the particular proposed amendment by Style and Drafting. But, I did want to very clearly set forth before the convention that we do have a problem as far as this convention is concerned as to the proper use of the words when we come around to the effective date of certain provisions because there are...we have in a number of different places used different terminology. In one case, we may have meant upon the effective date of the constitution. In other cases, we say "as now exist." I'm satisfied that the great majority of the delegates were thinking in terms of what they know exists today, not when it may exist upon the effective date of the constitution. I only wanted to make these brief remarks at this time so that the adoption of this particular amendment would not be construed as standardization of language to be used throughout, whenever we talk about when something becomes effective.

[Amendment No. 19 adopted without objection.]

Amendment No. 20

MR. TATE

Section 20, Amendment 20, is...oh! In amendment 20, we... in Section 34 as it passed the floor, it said, "No attorney general, judge, so and so...shall have a salary or retirement benefits diminished during his term of office." This Section 21 referred only to judges and said, "No term of office or compensation." Because the two sections didn't include totally similar things, we took the judge's reference out of the former Section 34, which is on page 45, and put it here as to retirement benefits. We left the... what was included, as with regard to the attorney general, district attorney, and so on, in former Section 34, now Section 32 on page 45.

[Amendment No. 20 adopted without objection.]

Amendment No. 21

MR. TATE

Now, we go to Amendment 21, Section 21, which, on your green

page is 27, and, I believe, 28.

The changes involved here were again strictly stylistic, using standard language, adding commas, putting phrases in a better place, using shorter words where meaning the same thing, trying to put in the same sentence the related ideas.

[Amendment No. 21 adopted without objection.]

Amendment No. 22

MR. TATE

All right.

Amendment 22, which is to Section 22, which is on page 29 of your green copies, again involves using standard language and consistent form with regard to where we place exceptions, the...excuse me...omission of needless words, and doing our best to use shorter..short sentences when a long sentence could be broken into two.

Vice Chairman Casey in the Chair

[Amendment No. 22 adopted without objection.]

Amendment No. 23

MR. TATE

Section 23, which is Amendment 23, that's on page 31; we later will have a caveat. I'll tell you about it at the time, which it strictly has to do with the standard time when you have the qualifications, either at election or time of qualification. As it passed the floor, it said, "Shall have practiced law in this state for at least five years prior to his election." This green...copy, we are just stylizing the language by omitting a needless word or two, and putting a separate thought in a separate sentence. But, we will come back with the second yellow amendment to use a standardized time of eligibility for office.

[Amendment No. 23 adopted without objection.]

Amendment No. 24

MR. TATE

Now, Section 24...Section 24 which is page 32 of the green copies, was a long section that was restyled. It looks longer, but it's because the margins are different, to use consistent language throughout, parallel uses, lower case titles, and enumeration in order...not to have one big long sentence about because, for instance.

[Amendment No. 24 adopted without objection.]

Amendment No. 25

MR. TATE

Section 25 deals with the attorney general, and is.....

Motion

MR. STAGG

Mr. Chairman, I'd like to move that we pass over Section 25 and Section 26 which deals with the attorney general, and take that up after the completion of the rest of the Styling and Drafting on the Judiciary Article.

MR. TATE

Mr. Stagg, I know we are going to bring to the floor with the executive department...a question of where this goes. We will... the floor will have a clear choice. But, I understand one of our problems, now, if you are wasting against the mechanical time of this passing the floor, and people typing things out in final enrolled copies. I think if it passes the floor in your form tomorrow, when we rearrange things, we will come back to take this out. But, I think, if you wouldn't mind, we could get rid of the stylizing now and leave the question of which article it goes under until later.

MR. STAGG

Well, Judge Tate, if we clearly understand, it's simply what we are approving today are the words on the page, and not

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necessarily that they belong in the Judiciary Article, then I will acquiesce.

MR. TATE

Thank you, Mr. Stagg. That's my clear understanding of how it's going to be handled, sir.

Amendment continued

MR. TATE

All right. Section 25 again just used the shorter sentences, and used the active voice, for instance, in the last sentence, instead of the passive, in line with our consistent usage.

Question

MR. JENKINS

Judge, you notice on line 12 there is a reference to the state general election. You know in the Bill of Rights and Elections Committee, we scrupulously avoided mentioning general elections. Every time it came up, we deleted it on the floor. I was wondering if the committee, since it will have another shot at this, could look at that and see if, perhaps, we wouldn't want to delete this in the interest of consistencies because of the possibility of over.....

MR. TATE

All right. O.K. Representative Jenkins, I think you are quite right. This is the floor language. But, what's going to happen on that is that in the Executive Department, let's say, should be elected at the time of the election of all statewide offices. So, I think we will be able, on the final consolidation of these articles, either in this...article, or in the Executive Branch, to take care of that. But, we are asking the staff to note it, if they will. You are quite right, Representative Jenkins, I'm sorry we...it's one of the early ones we styled.

[Amendment No. 25 adopted without objection.]

Amendment No. 26

MR. TATE

All right. Section 26 which is on page 36 of your green copies, again involves the use of standard punctuation, singularizing plurals, omitting needless words, and correcting... giving a preferred spelling of "supersede."

Question

MR. DENNERY

Just for the record, the same caveat that Mr. Stagg applied to Section 25 applies to 26?

MR. TATE

Yes. It's my clear understanding that, at this point, we are not making a final judgment where it should be placed, but simply approving the styling of the language.

[Amendment No. 26 adopted without objection.]

Amendment No. 27

MR. TATE

All right. Section 27 deals with district attorneys. You will...we will have a yellow amendment, again with regard to the time of qualification. It says "shall have resided in the district for the two years preceding election."

Don't worry about that. I'll come back with it in a minute. What we did in general, aside from standardizing the language, we took from Section 37 (B) the Perez amendment which was adopted when they were talking about grand juries, and talked about the duties of the district attorney. We took from a separate Section 29, the prohibition against district attorneys defending in criminal prosecutions and consolidated them into one....into one section. There was no change of substance.

[Amendment No. 27 adopted without objection.]

Amendment No. 28

MR. TATE

All right. Section 28, on page 41 of your green copies, Amendment 28, we simply, we standardized the little language at the bottom; we took out a comma; we clarified something; and when it said "and shall be a collector of state and such other taxes and licenses as provided by law." Technically, sheriffs, my good sheriff friends, the sheriff doesn't collect licenses. He collects license fees in order to be grammatically accurate; we said "shall collect license fees" in this case.

[Amendment No. 28 adopted without objection.]

Amendment No. 29

MR. TATE

All right. Section 29, Amendment 29, which is page 42 of your green copies, again involves strictly the use of consistent punctuation and consistent language, consistent parallel use of parallelism in the grammatical form. There is no change of substance.

Question

MR. DENNERY

Judge, isn't this another section in which the parish of Orleans should be excepted about recorder of conveyances and mortgages?

MR. TATE

I think that you are going to find that when we get to your section, they say "notwithstanding"....

MR. DENNERY

O.K. All right.

MR. TATE

The caveat to make this fellow appointed---it didn't quite pass, because we were all afraid Ambrose would unappoint us.

[Amendment No. 29 adopted without objection.]

Amendment No. 30

MR. TATE

All right. Section 30 dealing with coroners, on page 43, in Amendment 30, again it was using the consistent forms of grammatical tense, using shorter sentences, using the positive for statements instead of the negative, and omitting needless words, and using consistent punctuation.

[Amendment No. 30 adopted without objection.]

Amendment No. 31

MR. TATE

All right. Amendment 31 which is to Section 31, on page 44. We enumerated the offices involved for readability and otherwise used consistent...followed consistent usage in omitting surplus words that don't add to the meaning, and that's it. Any questions?

[Amendment No. 31 adopted without objection.]

Amendment No. 32

MR. TATE

All right. Amendment 32 to Section 32, on page 45, we stated in the positive...we rearranged...rearranged the structure to conform with Section 21 which talked about judges. We arranged the officers in the order in which the constitutional provision speaks of them, and...removed judges from this article as earlier you may have noted when we put them in 21.

We might note that Section 32, the fact that we refer to the attorney general in this article....

MR. STAGG

Mr. Chairman....I would like for the record to make the same reservation with respect to Section 32 as it refers to the attorney general.

Question

Point of Order

MR. DENNERY

Judge, this doesn't....it's not going to worry the constitution. But, aren't all the things you were just talking about in Section 20, and not in Section 21? I notice in Section 20 you say "removed from Section 34 to Section 21." But, I don't know why.

MR. TATE

You're right, when we renumbered it, we forgot....it's Section 20. It's the original 21. See, it's the original 21. That's why it says 21. But, it's a new 20. The note was originally prepared for Style and Drafting referring to the original 21.

MR. DENNERY

O.K.

[Amendment No. 32 adopted without objection.]

Amendment No. 33

MR. TATE

Amendment 32....33, referring to Section 33 on page 46, has to do with Orleans Parish which says "notwithstanding any other contrary provision, etc.," it real....it continues the parochial offices of Orleans Parish which are found nowhere in our statutes except in the constitution. It is my understanding, and the Judiciary recommended, that those provisions will be carried on in the Schedule of Statutes. The changes made were simply ordinary grammatical changes, adding a comma, using a semicolon instead of a comma in a certain place to break up a series that should be broken up, and adding commas in series, etc.

[Amendment No. 33 adopted without objection.]

Amendment No. 34

MR. TATE

All right, Amendment 34 has to do with jurors. Very slight changes were made like omitting needless words and keeping related words together.

[Amendment No. 34 adopted without objection.]

Amendment No. 35

MR. TATE

Section 35 dealing with the grand jury also had the amendment that added the duties of the district attorney. As previously noted, we had moved the district attorney....the district attorney's duties from Section 37, here, to Section 27 (B) as enrolled, for purposes of more logical organization, because the district attorney's duties should not be in a section about the grand jury.

Questions

MR. BURSON

Mr. Chairman, this is really a question for the chair, and for purposes of amplification. I'm sure everyone in here knows by now that I intend to try to change a portion of this section. However, as I understand it, no section, or no proposal is finalized, even though Style and Drafting has been approved, because we still have Section (L), or final enrollment to come. Not wishing to interrupt the Style and Drafting procedure which seems to be going well, I would simply like to make it clear at this time that I have not abandoned that attempt, but will simply make it at a later time.

MR. CASEY

You are reserving all rights; is that correct, Mr. Burson?

MR. BURSON

That's correct. I would assume that I am correct. That nothing is being laid on the table at this time.

MR. CASEY

That's correct. These are strictly stylistic corrections and amendments.

[3244]

MR. AVANT

Now although no proposal was laid on the table, many, many sections, well, all of them, in fact, were laid on the table. Now, I want to know, and would like to inquire, as to what the failure to lay a proposal on the table means. It seems to me that we have this question.

Does that mean that it was left open so that someone could come back and add something that may have been omitted, and should be added? Or, was it done to permit a vehicle by which someone could come back and reargue and rehash the provisions of a particular section with the view of amending that section and changing it to suit their own wishes, even though it had been laid on the table? In other words, what did the failure to lay the proposals on the table mean?

MR. CASEY

Well, first of all, under the parliamentary rules, Mr. Avant, as you know, to remove something from the table would require a two-thirds vote.

MR. AVANT

Question at this point, then?

MR. CASEY

Yes, sir.

MR. AVANT

To delete something from a section would require that it first be taken from the table, then?

MR. CASEY

Well, first of all the....let me answer your other question. The reason we did not table the proposals was primarily, and I have to say primarily, my understanding was that we could get back into the proposal primarily in order to make corrections or additions if some were necessary.

Also, individual delegate proposals, really, we knew would be passed, then would have to be added to these proposals. So, there were certainly many reasons primarily for purposes of good, clear procedure, and for making corrections that we did not lay the entire proposal on the table. That certainly does not prohibit going back into a proposal to do, for instance, what Mr. Burson, I think, has in mind--to make a substantive change as long as he can get the votes--

MR. AVANT

Two-thirds?

MR. CASEY

Right. As long as he can get whatever votes are necessary to remove a particular section from the table. He well knows that he must go through that parliamentary maneuver in order to accomplish that.

Senator De Blieux, why do you rise?

MR. DE BLIEUX

Mr. Chairman, in trying to explain to Mr. Avant, theoretically that means that that particular issue is laid to the end of all other business. If you take up and continue all other business until you have finished that--unless by that vote of two-thirds, you decide to take it up before the end of the business that you are sitting for.

MR. CASEY

Well, that certainly was in the prerogative of the convention, Senator De Blieux.

MR. TATE

Mr. Dennery is not satisfied, but he's a fine gentleman, and he says he withdraws his question.

It was on an earlier section which we passed over which says "the Supreme Court may do something, or something else." He wanted to be assured that it had to do something. I....after some discussion we thought that....

[Amendment No. 35 adopted without objection.]

MR. TATE

All right. Now, Mr. Chairman, if we could pass on to Amendment 36 which is your first yellow amendment.

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All right. Now, with regard to the same Committee Proposal No. 21, you have these yellow amendments. The first amendment is to Section 9 which is on page 11 of your materials. You may remember, during the floor debate, the Miller amendment was adopted providing that after January 1, 1975, no judge shall be elected at large from within the circuit.

The Drew delegate proposal went to the floor and deleted that particular provision in a rearrangement of Section 9. Mrs. Miller withdrew her objection to the language. It passed the floor here, I think, 98 to 3, and we are calling to your attention the later...language on the right hand side of the Delegate Proposal No. 32, and recommending that you adopt it in substitution for the Section 9 stylized version.

I yield to questions, Mr. Chairman.

Further Discussion

MRS. MILLER

Judge...excuse me...Judge Tate, since they seem to go back and play some tapes on these, I would like for it to be remembered that Mrs. Miller withdrew her objection on the sincere, bottom of the heart, deep-hearted promise of Representative Drew that this matter would be taken up in the Judiciary Committee of the legislature and something be done about it. I want to make sure that gets on the tape again.

MR. TATE

Yes, ma'am.

Now, what we are literally doing in the actual instructions of the amendment, which, if you'll read, Dr. Hardin, is taking this Section 9 on the right hand side of your yellow, and substituting it for the Section 9 on the right hand side of your green, as representing the later delegate proposal which replaced this.

Amendment No. 36

MR. HARDIN

The next four amendments are caveat alternative amendments presented by the committee for the consideration of the delegates, beginning with Amendment No. 36. The effect of Amendments No. 36, 37, 38, and 39, with my own caveat on 37, we had to change the instructions a little bit, is that if you adopt this, you are adopting it in place of an earlier amendment that you adopted today. So that what you will be adopting is what you read on Amendment No. 36, which is Section 9.

"Each circuit shall be divided into at least three districts, and at least one judge shall be elected from each. The circuits and districts and the number of judges as elected in each circuit on the effective date of this constitution are retained, subject to change by law enacted by two-thirds of the elected members of each house of the legislature."

Point of Order

MR. PEREZ

My question is directed to the chair. I think it's about the time that we have a determination from the chair, from the convention, as to where we go with the so-called yellow amendments, because, if, in fact, it is a suggested substantive change by the Style and Drafting Committee, then, under the rules, it would be necessary to suspend the rules and to get sixty-seven votes before we do it. If, in fact, it is not a substantive change, then, of course, it could be done by amendment.

Now, how do we straighten out that can of worms?

MR. TATE

Mr. Chairman, if I understand the situation, we'll wait until the Chair rules on it. Of course, this first amendment is not... is a change that the floor itself adopted as a later delegate proposal which is in conflict, and was intended to replace the green amendment.

But, as to the further ones, if I understand it, as to the further changes, if anyone thinks it's a real change of substance, and we'll get a ruling from the Chair, he shall raise that as a point of order, and which is why we have tried in every instance to go to the Substantive Committee. If it's a real change of substance, tried not to propose it. If it's an ambiguity, it is within this province. But, it will be up to the Chairman to rule.

Is the Chairman...?

MR. PEREZ

Again, the purpose of my question was to attempt to try to resolve this problem now because I know somewhere along the line, some delegate is going to say this is a substantive change, and it should require the sixty-seven votes. I'm trying to get our procedure established at this stage of the game, if possible.

MR. CASEY

I understand, Mr. Perez. Just a minute.

Mr. Perez, I would hope that we can clarify the problem. However, I'm not positive that we can. My understanding of the purpose of the caveat, first of all, is to clarify ambiguities, and possibly to, through the clarification in the ambiguity, for the convention to come back and express in clear terminology what it's intention was when it adopted, possibly, a certain section, or amendments to a certain section.

Now, you may disagree with that interpretation. But, that is my understanding of the purpose of a caveat. So, to again give back to the convention...rather to get from the convention a clear decision of what its intention was, you're on Style and Drafting. Is that...does that answer your question?

MR. PEREZ

Well, that, again, is the reason I asked the question because in my judgment, in a number of cases, there is a strong possibility that there are substantive changes. I just want to be in a position...I just wonder what rules we are playing by, because I want to play by the same rules with respect to the first and the last, and all the ones in between. If it's just going to take a majority of those voting to take anything that Style and Drafting suggests, then I want to know that at this stage of the game. That's the reason I asked for a ruling from the chair.

Ruling of the Chair

MR. CASEY

I would have to say we would not have to remove anything from the table at this point. Of course, I would prefer to say that maybe we should just judge each caveat, each individual amendment in a caveat as we get to it. If you feel, as an individual, that there is a substantive change, maybe we should handle the matter at that time.

MR. PEREZ

What you are saying, then, is in each individual case the Chair will rule if objection is made, as to whether it is or is not substantive. Then, the only recourse by a delegate would be to appeal the ruling of the chair?

MR. CASEY

Mr. Perez, I'm not always going to be in the Chair. As you know, I am rarely in the Chair. So, I don't know what is going to happen. But, my ruling would be that we would handle a caveat as it is without removing anything from the whole.

MR. PEREZ

Well, let me suggest that I don't believe we have any serious problems immediately, now, but I wanted...to point this out to the convention at this time, because I think it is going to come up. I wanted the Chair to be thinking about it so that we will know where we stand.

MR. CASEY

It's also my understanding that Style and Drafting was quite careful not to go into intentional substantive changes; that if they did, this will be pointed out.

Mr. Avant...I'm sorry. Senator De Blieux had a question; then Mr. Avant.

Further Discussion

MR. DE BLIEUX

Mr. Chairman, as I understood the rules, that Style and Drafting were given a lot of leeway in making suggested changes insofar as the style, the wording, or duplication. When they came to a caveat, so that the convention might clarify itself, and only for the purposes of ambiguity, or inconsistency in proposals that they could make those recommendations to the convention, and which could also be adopted only by a majority vote of the convention.

MR. CASEY

I think that was primarily the intention, Senator De Blieux.

Point of Information

MR. AVANT

Just to make sure of one thing, regardless of how all that business works out, in the final analysis, each proposal, or each article in this document, and then the final document itself in its entirety, is going to have to be adopted by sixty-seven votes and then laid on the table. Is it not, sir?

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MR. CASEY

Mr. Avant, it's my understanding that each proposal has already been adopted, and merely has not been laid on the table. Now, the parliamentarian is here, and I'd be subject to correction there. It is my understanding every proposal has been adopted. All we are doing is going through the stylistic changes. The final adoption has merely not been laid on the table.

MR. AVANT

Well, question then. The document itself, in its entirety, from the first word to the last word as a body, is going to have to be adopted by sixty-seven votes. Is it not, sir?

MR. CASEY

I'm sure that will have to happen at the end....whatever the last thing we do on the document, is to vote on the final document, Mr. Avant.

The Clerk indicated you might refer to Rule 47.

Further Discussion

MRS. MILLER

Mr. Chairman, I think we...the caveat of the committee is that the...if we had a delegate proposal that came in and changed something in the original proposal that had been adopted, that the delegate, or the later proposal would prevail as being the last expression of the will of the convention. Now, I want to point out that often when we took up these delegate proposals, we took them out of context, dealing with one specific little thing. This convention did not look at that delegate proposal, or that later committee proposal in the light of the whole context. For instance, now, right on this proposal we have before us. When we considered removing...when we considered Mr. Drew's provision that you could change...would retain the large judgeships for the court of appeal, it was not considered at all in the light that it took two-thirds majority of the House and Senate to change these judicial districts. That puts it all in a different light. If it was the original will of this convention to eliminate large judgeships, then to come back in and say you want to eliminate them now, but you'll let the legislature change it, but you make it so difficult to change, that you can have a handful of judges controlling, 'cause I think enough....I think you could control a third of the legislature pretty well...very easily, let's say. So, what we are doing is we are taking things out of context when we take them as delegate proposals, and let them be the latest expression of the will of this convention.

Further Discussion

MR. TATE

Mr. Chairman, if I might say, we will try...use some discrimination. If it's out of context, we will report it to the convention as an alternative, as we did here. We did not think we were doing anything, because the whole direction of the debate was exactly whether this should replace the former one. As I understand it, you had no objection to it upon Representative Drew's assurance that the future legislative attention would be given to your problem. But, we will not blindly say the later one, necessarily. We are calling it to your attention. We thought our remark was not a value judgment here in view of the debate. I'm sorry if I gave the impression that we were automatically going to say that the latest was always out of context. We just feel it our duty to call it to the attention of everybody that there is an inconsistency.

[Amendment No. 36 adopted without objection.]

Amendment No. 37

MR. HARDIN

The instructions on the amendment as you have it are incorrectly drawn. The instructions should read,

"On page 5, line 17, in Committee Amendment No. 16 proposed by the Committee on Style and Drafting and adopted by the convention on January 9, 1974, on line 10 of the text of the amendment, after the word and punctuation "corporation," and before the word "or" insert the words "or political subdivisions,"

Explanation

MR. TATE

Comma.

The amendment, as I previously explained, we had said that the ancient language was that when a political corporation is a party to the defendant, the district court has exclusive jurisdiction. This is a term that's not used in the present constitution except here and one or two other places. We thought of replacing it, but

it is a little broader than political subdivision. But, the clear intent is to include political subdivisions as they are defined in this constitution so that our suggestion to you was that you add "or political subdivision" to the enumeration of those cases when their party is a defendant, of which the district court has exclusive jurisdiction.

Questions

MR. DENNERY

Now, how come you didn't put numbers in this one?

MR. TATE

Well, the only change made in this one was....

MR. DENNERY

No, no. I mean in the...you say "in all cases"...you have to read it about three times to see...to make it make sense is what I mean, unless you put numbers in between those semicolons. I was just curious as to why the committee did not do that?

MR. TATE

All right. We played with numbers. But, here's your problem. There's not a complete parallelism. You see...you put a one in front of felony cases, and put a two in front of what? So, you'd have to put a two in front of 2 cases involving (A) title of....(B) the right to office. We played with it, but it actually didn't, because of the structure, and we played with the structure, we ended up thinking it would be better to keep the present language because, after all, it's fairly traditional in the second part of it.

MR. DENNERY

In other words, "of cases" is what's carried through here, rather than cases involving...is what is carried through. Is that correct?

MR. TATE

Right.

Yes, sir. We would have had to put "of cases...", see, you couldn't say "cases of felonies" because it might have changed the meaning a little bit, so we would have to put cases...felony cases....

MR. DENNERY

No, I was talking about after your felony.

MR. TATE

...down below that we would have had to put cases in front of every numeral to make it...in cases involving in front....It's a...we gave serious consideration, Mr. Dennery, but it was a tricky question.

[Amendment No. 37 adopted without objection.]

Amendment No. 38

MR. TATE

Amendment 38, which is going to be to Section 23 as you adopted it, on page 31, and it's going to be...if the Clerk reads it. But it's in the...it's going to say "must have practiced law in the state for at least five years prior to his election, and for at least two years preceding his election."

Now, in the legislative article, you adopted the consistent approach of prior...you have to have the requisite qualifications prior to the time of qualification. In an effort to be consistent throughout, in some of the other articles they say preceding his qualification and preceding his election. To be consistent with that, we thought since it had passed the floor once in the legislative article about preceding, you have to have the requisite time span preceding his qualification for office, or the requisite eligibility characteristics preceding his qualification for office. In order to be consistent with that sort of approach, we recommended that you substitute this language on the yellow amendment which, in each case says he has to practice law five years prior to his qualification, and be domiciled two years preceding his qualification instead of preceding the election.

Questions

MR. DENNERY

Judge, I can understand the change as far as domicile is concerned. But, why should you have it as far as the years of practice are concerned? It seems to me that what you are doing here is raising the age limit in each case, conceivably by the difference between the date of the election and the date of the qualification. I can understand how you would want someone domiciled in a particular area for a specific period prior to qualification. But, I do not understand the reason for making the change as far as years of practice, for instance, either in the judiciary or the district attorney, etc.

MR. TATE

All right. Mr. Dennery, the reason we...it's a valid question—a valid choice of value. As a matter of fact, however, the current case law has had...hasn't interpreted the party requirements that you have to have the qualifications at the time you qualify for office; for instance, in the case of city judge, it was three years. There's a case...Marvin...anyway, there's a couple of cases on it that said that in that practice, to say you have the time spent in practice at the time he qualifies for office. You have a valid objection. But, we had to choose between the two. This has been the consistent practice. It's more consistent with the way the constitution goes with the way the other portions of the constitution goes. So, we did do...for better, for worse, that's what we thought. It's an easy test, too, because you can...go ahead.

MR. DENNERY

I was going to say, you don't consider that to be a substantive change...the committee didn't?

MR. TATE

Because it could have been a substantive change is why it's here...why it's here. We doubt the floor thought about it at the time. Because it might be inconsistent with the general approach other places; that's why it's here. It's perfectly appropriate of the...for the committee...for the convention floor not to adopt it.

MR. KEAN

Judge Tate, let me elaborate on Mr. Dennery's questions, because I was not present at the Style and Drafting Committee at the time this was considered. I raised the same point when we were dealing with the attorney general.

As I appreciate this change, under the language as adopted by the convention, you merely had to have that qualification at the time of election. We are now providing that he has to have the qualification at the time he qualifies so that if the qualifying date is six months before the election, we've actually added six months to the requirement so that we're really talking about five and a half years at the time he takes his office. Is that right?

MR. TATE

It's perfectly true, Mr. Kean. On the other hand, in the legislative article, they adopted that clarification. That's why it's here. I doubt at the time...we voted on it, we seriously thought whether you had to be qualified at the time you qualified for a candidate, or whether you could qualify before you had enough practice to run for an office....

MR. KEAN

But, in the legislative article we were talking about the qualification by reason of domicile, were you not? Here, we are talking about a qualification that goes to your capacity for carrying out the job. It seems to me that as long as he's got that qualification at the time he was elected and takes office, that that ought to be sufficient. I don't see where there's any difference...any inconsistency between what we've done in the legislative article dealing with domicile, and what we've said here dealing with qualification for a judgeship.

MR. TATE

All right. I will say this. The present constitution uses this language; the case law has permitted the party requirement that he be qualified at the time he qualifies for office to prevail over that.

MR. KEAN

You mean the present jurisprudence is in line with what the convention adopted?

MR. TATE

The present jurisprudence has approved the general require-

ment of the political party so that at the time you qualify, you have enough time and practice to possess all the qualifications necessary to be elected. For what it's worth, that's what it does.

MR. LANIER

Ian't it true, Judge, that under the jurisprudence, there is a difference between the point in time that you qualify for office, and the time that you qualify as a candidate for the office, the difference being that at the time that you qualify for the office is when you are sworn into the office? Whereas, at the time that you qualify for the...as a candidate for the office, is when you put in your papers, and you're qualified to run in the election. So, actually, we are dealing with three points in time here that we could be talking about; one, the time that he qualifies as a candidate for the office; two, the date of the election for the office; and three, the date that he's actually sworn in. Is that correct?

MR. TATE

Yes, you see, it could be, you see, you have to clarify it one way or another. It could be that the date of election wouldn't be the determining thing because you...when you take the oath on January 1...you are elected in November, I guess you could argue that you are not elected to the office until that day. So, I fully realize everything you say, Mr. Kean. But, it is.... it is a choice.

MR. DENNERY

My question really was aimed at why you didn't submit this in the form of two amendments so that the floor could have the opportunity to choose between these two. My recollection is that in the arguing the debate on the floor when this came up there was strong argument for not having any years qualification as a requirement because it differed from the age qualification for instance, in the district attorney...in the attorney general's situation. So it seems to me we are making somewhat of a substantive change here. I quite agree with you on the date of qualification as far as domicile is concerned. I think that's a sound change and I don't think it's of a substantive nature because I think the convention recognized that there was confusion there, but when you get to the years of practice, it seems to me we're making a considerable change in what the convention adopted. Is it possible? As the amendment is worded, I'm sure there is no possibility of dividing the question; is there, Mr. Chairman? Is there a possibility of dividing the question as it's written?

MR. CASEY

No, sir, I'd have to say that it's one amendment and I don't see how we can divide it.

MR. TATE

If we'd been appraised of objections, we would have tried to divide it, Mr. Dennery; we thought it was the same question though actually...and I can see the argument to the contrary.

MR. PUGH

Judge, although conceivably it is a change other than in substance. In the final analysis, however, you really are providing that the judge would have more qualifications rather than less qualifications. So, if anything, if it's an error, it's on the error of what's good rather than what's bad; is that not correct?

MR. TATE

Well... it could be said that, yes, sir. Thank you.

MR. NEWTON

Judge, there may be an ambiguity here and there may not be an ambiguity, but you say in line 10, "qualification as a candidate," then down in line 15, you say "qualification." Now, is that intended to mean the same thing?

MR. TATE

Yes, it was. We thought that we didn't need to say again qualification of a candidate because when you said, "qualification" up ahead in the same sentence, it seems... it seemed to us that when you say "preceding qualification" it must mean the one up there-- two... three lines up.

MR. NEWTON

Don't you think that there is a possibility of ambiguity and maybe the committee ought to think about it a little more?

MR. TATE

I think there's a possibility, but you know ninety-nine point five, you know.

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MRS. MILLER

Judge Tate, you know we have a lame duck situation in the Court of Appeal judgeship where some judges have had to wait a year, eight months or so to take office after they've been elected. So, you can be too young for the job by six months at the time you'd have to qualify if you go it the way this committee is recommend. You'd be an old man by the time you got in office if you were elected. I really think you've made too substantive a change.

MR. TATE

Well, that's a valid argument Mrs. Miller. Incidentally, we did cure that hiatus about the Court of Appeal Judges where a fellow is elected and then for eighteen months he sat around while a lame duck exercised the functions until he could take office. You, in the convention, could cure that in your . . . one of the articles in this Judicial Article.

MRS. MILLER

Well, I do oppose the amendment as it's recommended.

MR. CASEY

Is that a question, Mrs. Miller, or . . .
Judge Tate, have you completed your remarks?

MR. TATE

Yes, Mr. Chairman.

Further Discussion

MR. DENNIS

Mr. Chairman and fellow delegates, as Chairman of the Judiciary Committee I would just like to inform you that we are supporting this change for consistency. We considered the Style and Drafting's Proposal as you know, and approved of it before it has been presented to you. It is my appreciation from the discussion in our committee that we never really had a clear intention as to whether or not the date would be from election or one of the other two dates that Judge Tate described that you could use. After discussing it, we felt that the value . . . the greatest value lay in making the qualification period date from the date of qualification, to be consistent with what was done in the Legislative Article. Also, I'd like to remind all of you that you have been receiving copies of what we've been doing in these committees and none of you has really objected to this change. I haven't heard any real substantive objection to it. The Judiciary Committee, after considering it again, after it had passed the floor and been through Style and Drafting, felt that this is the best way to draft it. So, we urge you to go along with the Committee on Style and Drafting and adopt this change purely for consistency and purely because we have to settle on a date clearly and firmly.

Questions

MR. ARNETTE

Judge Dennis, the only question I've got here is that when you change it from quali . . . I mean from election time . . . the election day to qualification day, then you're putting something that's kind of arbitrary when you say "qualification date" because the qualification dates are arbitrarily set. However, an election date . . . it will probably be handled in the future by election code that elections will be held on a definite date and, whereas, if somebody didn't want somebody to run, they'd make sure the qualification was cut off say a week early or something like that?

MR. DENNIS

Well, as Judge Tate pointed out, election . . . date of election might mean either the date upon which the election is held or the date upon which the candidate is elected or the date he's sworn in. I think that's another virtue for using the qualification date because even though the date might be different, it does establish a clear date.

MR. ARNETTE

My only objection is that the date of qualification though is thoroughly arbitrary and just set by some public official. If you don't . . . in other words, if you're not saying whatever qualification you have to have-- five years practicing law-- if you don't have it by that date then you're out. Whereas, you might be fully qualified by the time you'd take office or be elected.

MR. DENNIS

Well, Mr. Arnette, the date that a man . . . that a judge takes office is even more arbitrary because that's up to the judge.

MR. ARNETTE

Well, that's what I'm saying though, the date of elect. . .

MR. DENNIS

I chose to take office on January 10th, which is the day after my birthday because it was on a Monday and it was convenient to have the ceremony on that date, but I know a lot of other judges that chose some other date after the first of the year. So, I don't think it's arbitrary; I think . . .

MR. ARNETTE

Well, I realize the date you take office is arbitrary, but not your election day; that is not arbitrary, the date of election. But, what I'm getting at, suppose that I didn't want somebody to run against me for an office and maybe he wouldn't have the requisite qualifications until July 15th. I would set the last date for qualification at July 10th. That's where I see the problem; that date is very arbitrarily set.

MR. DENNIS

All I can say is, you've got problems with any one of these three dates, as Judge Tate explained. I think in the interest of consistency it's better to have everything date from date of qualification and this precedent was established in the Legislative Article.

Point of Order

MRS. MILLER

I object. I consider this a substantive change and I would like for the convention to express itself on it.

Ruling of the Chair

MR. CASEY

How about just letting the Chair express itself? The purpose of the caveat is that . . . the purpose of bringing it before the convention is to let the convention express its opinion. If the convention feels it does not want to do what the Judiciary Committee is recommending, then, it has the right to vote the amendment down and let the amendment rest on its own merit. You rise to a further question?

MRS. MILLER

Now, it takes sixty-seven votes to prove this if it's a substantive change?

MR. CASEY

Mrs. Miller, it does not take sixty-seven votes; it takes a simple majority of those present and voting, as long as we have sixty-seven people that we're operating with.

Point of Order

MR. PEREZ

This is the very question that I posed to the Chair a little bit earlier. When a delegate comes forward and suggests that this is a substantive change and not a Style and Drafting change, is the Chair going to rule that it is or is not substantive and then--or else submit it to the convention, because we need to get this procedure well established?

Ruling of the Chair

MR. CASEY

Okay. Mr. Perez, let's just try to settle this once and for all. The Chairman is here; maybe he can listen to this and if he's going to disagree with me at a later date he can say so. But, let's just get this straight right now. First of all, as I explained previously that the purpose of a caveat is to clear up any ambiguities, and we have to assume that that is the purpose that the Judiciary-- I'm sorry-- that Style and Drafting is setting forth in the caveat. I would have to rule that it does not take sixty-seven votes, that we do not have to remove a certain section from the table, and that all it takes is a vote of the . . . a simple majority of those present and voting, as long as we're operating with sixty-seven members of the convention, and that, we will just let the convention itself make the determination by its vote on the caveat as to what its wishes are, without determining that it's going to take sixty-seven votes to adopt or not adopt a section. It's merely . . . it's a proposal by the Style and Drafting Committee itself.

MR. POYNTER

I think we're all in agreement up here; we're just not saying it the same way. That's all presuming that no point of order is

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raised. Now, Mrs. Miller inquired and the Chair obviously would like to decline and just let the delegates decide it. If someone insists on a point of order, Mr. Perez, that the committee has exceeded its authority, I think the Chair could be put in the position of being forced to rule or, in the alternative, exercising its prerogative of allowing the convention to determine itself by putting the question to the convention. If the Chair or the delegates would determine by whatever procedure that the amendment was out of order as exceeding the authority of the committee, then, in that case I think it would be necessary to call the motion to reconsider from the table --of course, under a rule suspension and do it that way.

MR. PEREZ
That was my point. . .

MR. POYNTER
Yes, sir. To date, Mrs. Miller has not raised a point of order, she's kind of had an inquiry and I know the Chair would like to avoid those situations if it possibly can.

MR. PEREZ
Well, again that was the next point of information because if in fact, the question is raised as to whether or not the committee exceeded its authority, it would seem to me then it's time for the Chair to rule or else to turn it back to the convention for it to rule.

Chairman Henry in the Chair

Further Discussion

MR. KEAN
Mr. Chairman, fellow delegates, I would appreciate it if you would give me your attention just a moment, because I think we're dealing here with a substantive change from the content of the section as adopted by this convention on the floor. I don't take issue with the Style and Drafting Committee for having raised the point and having called our attention to it, but I want to point out to you that if we're talking about consistency, there are more instances where we provided in the case of these qualifications that they had to be applicable at the time of election rather than qualification, than there is otherwise. When you vote on the approval of this amendment, if you accept the amendment offered by the Style and Drafting Committee, you must understand that you ought to be prepared to accept a similar amendment, not only on the judges, but on the district attorneys and on the attorney general, because in all three of those instances the convention in its wisdom put into the sections as a basis of qualification, five years of experience prior to election. Now, we are now coming along and we're going to change that and make it prior to qualification. Now, I don't know that five years is any criteria in the practice of law as to your capacity to be a judge or a district attorney or to be an attorney general, but I say to you when we change it. . . change that qualification from the date of election to the date of qualification, we've added on to the experience that we're going to require of these candidates to these offices. I think that is a substantive change that this convention ought to give its attention to and it ought not to be considered merely as a Style and Drafting change in the interest of consistency. Now, how you vote on it, I'll leave it to you, but I simply want you to understand that we're dealing with a rather substantive change in the amendment that is proposed here and if you adopt this amendment you must be prepared to make a similar change when we get to the sections dealing with district attorneys and with the attorney general. I simply want you to have that information and you can decide on it either way you want to go. I'm going to vote against the amendment because I see no reason to extend the time that's required in order to be eligible for service in one of these positions.

Point of Order

MR. NEWTON
Whether the amendment proposed by the Style and Drafting Committee constitutes a substantive change?

MR. HENRY
I think the Chair is going to let the delegates to the convention decide whether or not it is, in effect, a change in substance as opposed to a stylistic change.

[Chair declined to rule. Question put to the Convention.]

Questions

MR. DENNERY
Mr. Kean, isn't it correct that the date of an election is a fixed and positive date?

MR. KEAN
It's always been my understanding, Mr. Dennery.

MR. DENNERY
Now, isn't it a fact that the date of qualification varies with the party or whether or not the candidate is an independent?

MR. KEAN
I would think there would be more variation and it would be more difficult to determine what the date of qualification would be than it would be to determine the date of the election.

MR. DENNERY
So that conceivably the consistency should have been the other way around; is that correct?

MR. KEAN
If you were going to try to get as many things consistent with each other, we've got three instances where we said that it was five years prior to the date of election. We had one instance where we said it was five...whatever number of years it was prior to the date of qualification, so if you're going to measure it by the number of times you say it, we should have changed the thing in the Legislative Section and not in these.

MR. DENNERY
Thank you, sir.

MR. STINSON
Now, Gordon, isn't it a fact that suppose a person was running as a democratic candidate, now the qualifying date would be when he qualifies for the first primary, wouldn't it?

MR. KEAN
Right.

MR. STINSON
Now, if a person was running as an independent it wouldn't be until he qualifies some months later for the general election, so it would give someone advantage, writing it that way, wouldn't it?

MR. KEAN
That's correct; you'd have two different rules or two different dates of determining eligibility under those circumstances.

MR. HENRY
All right now, gentlemen, before we go any further, Mr. Newton has raised a point of order which I think we need to go ahead and dispose of, that being whether or not the amendment to Section 23 is in order.

Further Discussion

MR. ASSEFF
Mr. Chairman, delegates, I am a member of the Committee on Style and Drafting. We just considered the same point relative to the Executive Article and it was my understanding, as we discussed it, that the committee agreed that it is a substantive change, and that we would . . . though I agree to the change that we would submit it to this convention for its approval or rejection. In my opinion it is substantive. It would be extremely dangerous to do it by majority vote. We would subject every other article, every other section, to the same thing. I urge you to, please, consider this a substantive change. I shall vote to approve the change, but it is still substantive, and I feel that it should require the regular vote to reopen the section and to approve it. Thank you, Mr. Chairman.

Questions

MR. STINSON
Dr. Asseff, being as you were speaking on the change, why do you think it's a good change?

MR. ASSEFF
I did not say it was good, Mr. Stinson. . .

MR. STINSON
You said you're going to vote for it.

MR. ASSEFF
. . . I simply. . . well, I simply said that I am disagreeing-- that it is substantive. I'm simply giving my opinion that I will vote for it. You may vote as you please, but I feel that we should follow the regular procedure and that we should require the sixty-seven votes to reopen and change.

MR. STINSON
But, isn't it a fact though, that the change would give an independent candidate, as far as yours is concerned, over a Republican or a Democratic candidate if you had . . .

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MR. ASSEFF

I have no objections. I am arguing that it's substantive, Mr. Stinson. I simply said that as . . . I should have just kept my mouth shut. It's really substantive is all that I am arguing. Thank you.

MR. ARNETTE

Doc, the only question I have is that we've talked about qualification date being more definite and Mr. Stinson already brought out that it would be a different qualification date for Democrats, Republicans and independents, depending on what their central committee decided, and also, that this date can be changed quite a bit by that committee; can't they do that?

MR. ASSEFF

Mr. Arnette, I am not arguing that. I am simply stating that when the Committee on Style and Drafting considered this, as well as the Executive Department, we felt it was substantive in nature, but we were recommending it to the convention for the purposes of consistency. I am only urging that we follow the usual procedure for reopening a section and approving it; relative to whether you approve the change, that's immaterial to me. Thank you.

[Record vote ordered. Convention declared Amendment out of order.]

Motion

MR. TATE

Mr. Chairman and fellow delegates, I rise both on a point of personal privilege and then to make a motion. First, I want to say that we, of course, have no objection to . . . it's fine what you all decided, but we have an obligation to Style and Drafting to call your attention to things that may be inconsistent with the general scheme, whether or not they're substantive. We did our best. We don't care what you do on that and we're happy with your decision. I do suggest to you that perhaps the better approach would be for us to let . . . move to suspend the rules to let you consider this amendment now as if it were substantive, realizing it takes sixty-seven votes, so at least there will be an opportunity to have a consistent framework throughout the constitution. The point is, if you have to be . . . have that amount of time in residence, preceding your qualification, which is . . . was the concept, you should have the . . . it's not so inconsistent to say you have to have the other qualifications preceding your qualification for election. It doesn't make us any difference, but it leaves us with a difficult thing to relieve those inconsistencies throughout the constitution, or should we call it to your attention. We don't care; it's less work for us. But, I therefore move, as an effort to get an expression on the merits to the floor, to suspend the rules to consider as a substantive change that amendment. . . yellow amendment there.

MRS. MILLER

I object.

Point of Information

MR. NUNEZ

Mr. Chairman, we are leaving this order of business. . . suspending the rules to leave this order of business and going back to an order of business dealing with the adoption or rejection of that section. Is that my understanding?

MR. HENRY

It would just be a suspension, by and large, of all the rules for the purpose of dealing with this right now, Senator, like we did on the Legislative proposal.

[Motion to suspend the rules to reconsider Section 23 rejected: 53-35.]

Motion

MR. TATE

Mr. Chairman, I then move to withdraw that amendment and there's only one more amendment on Proposal. . .

MR. HENRY

We don't have an amendment there.

MR. TATE

What? With the amendment pending. . . Oh, then I then move to withdraw the final amendment on that. . . which is. . .

MR. POYNTER

Final amendment No. 39, relative to Section 27, is that right? District Attorneys, is that the one. . .

MR. TATE

District Attorneys, is that the final amendment? I think there's one more.

MR. POYNTER

No, sir.

MR. TATE

Well, that's the final amendment. Then, Mr. Chairman, that completes our work on Style and Drafting with regard to the Judicial Branch Article.

[Motion to withdraw Amendments No. 38 and No. 39 adopted without objection. Motion to take up other orders adopted without objection. Adjournment to 9:00 o'clock a.m., Thursday, January 10, 1974.]

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Thursday, January 10, 1974

ROLL CALL

[87 delegates present and a quorum.]

PRAYER

MR. ASSEFF

I shall read a brief quote from each of the six major religions of the world: each has a message. Hinduism: "As one may ascend to the housetop by ladder, rope, or bamboo, so there are many ways to reach God." Buddhism: "Hatred does not cease by hatred but only by love." Confucianism: "To be in ones own heart in kindly sympathy with all things, this is the nature of righteousness." Judaism: "That doeth the Lord require of thee but to do justly and love mercy, and walk humbly with thy God." Christianity: "All things whatsoever ye would that men should do unto to you, do you even so unto them." And last, Mohammedism: "Wherever you go, wherever you rest, may the peace of good Allah keep you blest." Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING

[Motion to call Committee Proposal No. 25 from the calendar adopted without objection.]

Committee Proposal No. 25

MR. HARDIN

Committee Proposal No. 25, introduced by Delegate Jackson, Chairman of the Committee on Bill of Rights, on behalf of that committee.

A proposal to provide a preamble and a declaration of rights to the constitution.

Explanation

MR. TATE

All right, Mr. Chairman, fellow delegates, you should have on your desk before you a packet of papers with a large Roman II. In the front part of it will be the Committee Proposal No. 25 on green, in the same format as yesterday's, followed by the white amendment; following that will be Committee Proposal No. 33 on Elections in the same format. Before we report the Style and Drafting amendments, we would like Representative Jackson to make a brief comment, Chairman of the Bill of Rights and Elections.

Further Discussion

MR. A. JACKSON

Mr. Chairman, ladies and gentlemen of this convention, Judge Tate, we have examined carefully the amendments proposed by the Committee on Style and Drafting. We find no basic differences with these recommendations, and we would recommend that you would adopt the amendments as proposed by the Committee on Style and Drafting.

MR. TATE

Thank you, Representative Jackson. Mr. Chairman.

MR. HENRY

Yes, sir, Justice Tate.

Amendment No. 1

MR. TATE

With regard to the preamble we had no change...stylistic change recommended. With regard to Section 1, we have...Amendment No. 1 which is simply to delete...which was to combine the two objects of the same infinitive...we took out a comma ",".

Mr. Chairman, are there any questions?

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. HARDIN

Amendment No. 2 is the only amendment to Section 1. On page 1, at the end of line 35, delete the comma ",".

Explanation

MR. TATE

Any discussion?

Well, you don't need a comma when there are two objects of the same preposition; it's just a stylistic change, in line with the ordinary rules of the punctuation.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. HARDIN

Amendment No. 3 is the only amendment to Section 2. On page 2, line 5, after the word "liberty" and before the word "or" insert a comma ",".

Explanation

MR. TATE

The reason, of course, under the rule we have been following is that when there's a series you have a comma after every one, including the one before the "and" or "or", the conjunction.

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. HARDIN

Amendment No. 4. On page 2, delete lines 8 through 15, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 3. No person shall be denied the equal protection of the laws. No law shall discriminate against a person because of race or religious ideas, beliefs, or affiliations. No law shall arbitrarily, capriciously, or unreasonably discriminate against a person because of birth, age, sex, culture, physical condition, or political ideas or affiliations. Slavery and involuntary servitude are prohibited, except in the latter case as punishment for crime."

Explanation

MR. TATE

All right. We standardized the language when it says you can't discriminate in one part "on account of" and another "by reason of"...to say "because of" in each instance, we omitted needless repetition like "religious ideas, religious beliefs, religious affiliations" and said "religious ideas, beliefs, or affiliations," and similarly with political ideas and political affiliation. In general, those are the stylistic sort of changes we made.

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[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. HARDIN

Amendment No. 5. On page 2, delete lines 17 through 35, both inclusive in their entirety and on page 3, delete lines 1 and 2 in their entirety and insert in lieu thereof the following:

"Section 4. Every person has the right to acquire, own, control, use, enjoy, protect, and dispose of private property. This right is subject to reasonable statutory restrictions and the reasonable exercise of the police power.

Property shall not be taken or damaged by the state or its political subdivisions except for public purposes and with just compensation paid to the owner or into court for his benefit. Property shall not be taken or damaged by any private entity authorized by law to expropriate, except for a public and necessary purpose and with just compensation paid to the owner. In such proceedings, whether the purpose is public and necessary shall be a judicial question.

[Motion to waive reading of the Amendments to Committee Proposal No. 25 adopted without objection.]

Explanation

MR. TATE

All right. The Amendment No. 5 which is to Section 4 which rewrites Section 4 on pages 5 and 6 of your green material--in the main paragraphs, an awful long one paragraph sentence into three paragraphs, I mean, awful long one paragraph into three paragraphs and slightly rearranges the order of the ideas in order to connect logical ideas together, omits a few needless repetitions, singularizes in accord with the conventional practice and tries to separate some of the ideas into separate....separate ideas into separate sentences.

[Amendment No. 5 adopted without objection.]

Amendment No. 6

MR. TATE

The Amendment No. 6 which is to Section 5 on page 7 of your material makes three very minor changes like when they say "any court of law"; we said "any court" and when to raise the legality...it's legality" instead of repeating "of the search and seizure." We slightly changed the punctuation and added an "and" in order to clarify what the reference was to the particular description required before a warrant or affidavit.

Question

MR. STAGG

In the Supreme Court decision, the U. S. Supreme Court decision, handed down earlier this week on the use of illegally seized search and seizure material, Judge, you think that has any affect on this section?

MR. TATE

No, Mr. Stagg, for about five hundred years they required warrants to be described with particularity; what happened since '61 is that they said if something is illegally seized, you can't use it in evidence. But, the traditional safeguard of the home is supposed to be a private....supposed to be that no officer can break into somebody's home unless a court has told them just how and which one.

[Amendment No. 6 adopted without objection.]

Amendment No. 7

MR. TATE

All right. Section 6, of course, we had no comment on or no proposed amendment. On Amendment No. 7, which is to Section 7, on page 9, if you will see what we did, we just broke it into two

sentences, used standard usage about "any" and "every", and punctuated it in accordance with the consistent standards followed throughout the manual on Style and Drafting for our constitution. We put unrelated ideas in separate sentences. Mr. Chairman...

Question

MR. GOLDMAN

Judge Tate, for the record, when you refer to "freedom of speech or of the press" do you intend that to include radio and television broadcasting?

MR. TATE

Yes, Mr. Goldman. I think the sense of the convention was that it had the traditional safeguards of the United States Constitution, which is to every form of expression, including radio and television.

MR. GOLDMAN

Thank you.

[Amendment No. 7 adopted without objection.]

Amendment No. 8

MR. TATE

All right. Amendment No. 8 is to Section 11....Oh, Mr. Chairman.. Mr. Chairman, the last amendment we are going to have is going to rearrange these in a logical.....order, so I'll have to.... Amendment No. 8 which is to....is now numbered...which is to Section 11 which is on page 10 which will become 9 if you approve the reordering later on...the reordering; it's simply to clarify that "No law shall impair the right of any person to assemble". We've changed the title.

[Amendment No. 8 adopted without objection.]

Amendment No. 9

MR. TATE

All right. Now, Amendment No. 9 which is to Section 19 in the original proposal, which is on your left hand side and will become Section 10 on your right hand side if you approve the reordering; it was....used...simply repunctuated, we used commas to set up parenthetical questions and added a verb to make sure that there's a perfect parallelism in the use of...the expression of parallel ideas. I'll yield to questions.

[Amendment No. 9 adopted without objection.]

Amendment No. 10

MR. TATE

All right. Section 11....Amendment No. 10 is to the old Section 26 which is on your left hand side and it...in order to, we thought, to be clear, we omitted needless words and said.... as it passed the floor it said "In access to public areas, accommodations, and facilities, every person shall have the right to be free from discrimination based on race, religion, or national ancestry from arbitrary, capricious, or unreasonable discrimination." Now, we added a comma "," after "facilities" and when it said "shall have the right" we said "shall be free"; we thought that meant the same thing.

[Amendment No. 10 adopted without objection.]

Amendment No. 11

MR. TATE

Amendment No. 11 which is to the old Section 12 on the left hand side of page 14, generally speaking, involved minor changes

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of tense and singularization and in the interest of consistent grammatical usage.

I'll yield to any questions, Mr. Chairman.

[Amendment No. 11 adopted without objection.]

Amendment No. 12

MR. TATE

Well, in Amendment No. 12 which is to the old Section 27, which is on page 16 on the left hand side, we rearranged a sentence, we thought, making it a little clearer.

I'll yield to any questions, Mr. Chairman.

[Amendment No. 12 adopted without objection.]

Amendment No. 13

MR. TATE

All right. In Amendment No. 13, which is to the old Section 13 on the left hand side of page 17, we thought what we simply did there was omit needless words, standardize the language, singularize the use of the language so we wouldn't use plurals, and make consistent parallelisms.

I'll yield to any questions.

[Amendment No. 13 adopted without objection.]

Amendment No. 14

MR. TATE

All right. In Amendment No. 14, Mr. Chairman, which is to the old Section 15 on the right...left hand side of page 18, we again... all we did was change tenses and the moods of verbs in order to be consistent with our usage throughout the constitution and we omitted an unnecessary comma.

[Amendment No. 14 adopted without objection.]

Amendment No. 15

MR. TATE

All right. In Amendment No. 15, which is to the old Section 16 on the left hand side of page 19, again we simply singularized where the plural words were used, in line with our usage. We broke it into short sentences. We attempted to rearrange the placement a little bit in line with the...we attempted to change the sentence placement to be more logical, in line with the sense of the meaning. We've made...we're convinced there is no substantive change.

I'll yield to questions, Mr. Chairman.

[Amendment No. 15 adopted without objection.]

Amendment No. 16

MR. TATE

Amendment No. 16, which is to the old Section 17 on the left hand side of page 21, again involves simply standardized singularism of use of verbs, of words, of nouns, using a word for a phrase when it would work...when it says the same thing or combining a sentence in one instance in order to clarify the intent and in our judgment, of course, amounted to simply a stylistic rewriting of the article without much change in words even.

Mr. Chairman, I'll yield to any questions.

[Amendment No. 16 adopted without objection.]

Amendment No. 17

MR. TATE

All right. Now, Amendment No. 17, which is to the old Section 18 on the left hand side of page 24, involved two minor changes to make the parallel complete; we put "to", "to", "to" in front of each of the separate ideas in order to clarify the parallel separate ideas and we singularized "punishments" in line with our context...in line with our standard procedure, I mean.

Mr. Chairman, I'll yield to any questions.

[Amendment No. 17 adopted without objection.]

Amendment No. 18

MR. TATE

All right. In Amendment No. 18 on page 26 to the old Section 22 we inserted a comma "," in order to clarify the sense of the sentence and in line with our usual usage.

I'll yield to any questions, Mr. Chairman.

[Amendment No. 18 adopted without objection.]

Amendment No. 19

MR. TATE

All right. Amendment No. 19, which is to the old Section 25, with regard to Section 24 of unenumerated rights, we had said as the floor language passed "the enumeration in this constitution of certain rights shall not be construed to deny or disparage any right." It was the sense of the committee that this meant "shall not deny or disparage other right" because who determines it except through a court and if this doesn't deny it, then it can't be construed to deny it.

I'll yield to any questions, Mr. Chairman.

[Amendment No. 19 adopted without objection.]

Amendment No. 20

MR. TATE

Now, Mr. Chairman, the final amendment is in the nature of a technical amendment rearranging on your yellow sheet...on your white sheet you will see it rearranges the section numbers and the sections, in line with what both committees agreed on was a more logical organization; for instance, putting at the end all of the criminal procedure sections and trying to put the fundamental rights protected...group them in some sort of a logical basis. Reasonable minds could differ, you could leave it like it was but both committees thought that rearranging them as we are...recommend here on Amendment No. 20, which was...for instance, by which Section 9 would become Section 7, Section 10, Section 8, and so on. We thought it would be a more logical organization, both committees have...there's a little disagreement, we talked back and forth and reached what both of us thought would be a more logical organization.

[Amendment No. 20 adopted without objection.]

Motion

MR. TATE

Mr. Chairman, if it's in order, I move to take Committee Proposal...that finishes Committee Proposal No. 25, Mr. Chairman, and if it's in order, I would like to call from the calendar a very short committee proposal from...on Elections, Committee Proposal No. 33.

[Motion adopted without objection.]

Explanation and Amendment No. 1

MR. TATE

All right, those are the...
...that's at the bottom, that's the bottom two groups of paper, the green paper and the white paper in the bottom of that

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packet with a Roman II on it; it's a Committee Proposal No. 33 on Election. I recommended restyling as you can see; it shortens the language considerably; we think keeps the consistent language throughout the constitution and goes along with the general rules of punctuation followed by the convention. Mr. Chairman, with regard to Amendment No. 1, I move its adoption, which rewrites Section 1, the Election Code, and shortens it somewhat. It eliminates the guarantee of the right to vote because that's already in Section 7 of the Bill of Rights which we just had adopted.

Question

MR. STINSON

I don't have the folder. What was Section 1 about, you take Section 2 and make it Section 1, well.....

MR. TATE

Section 1 was eliminated on the floor, Mr. Stinson, and no one tried to renumber them....that no one tried to renumber them because they were relying on this convention to do it, I mean, at this time.

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. TATE

All right. Again, it made shorter sentences, made the verbs consistently in the present tense, tried to omit needless words that were repetitious, or used a word instead of a phrase and in line with better usage, eliminated...better for constitutions, not for legal writing...eliminated an italics of Mr. Duval's viva voce. You are supposed to say viva voce--when you put a foreign language in normal writing, you often underline it but on a constitution it just doesn't look good to have italics or footnotes.

Questions

MR. STINSON

Judge, I'm wondering when it came up in committee I was wondering, but we did pass it, it says "Ballots shall be counted publicly", of course, we don't vote by ballots except in tax elections. Don't you think the wording should be changed instead of "Ballots shall be counted publicly"?

You couldn't say "Votes shall be counted publicly or votes cast"?

MR. TATE

Well, Mr. Stinson, I guess we should have perhaps caught it except this is the language that passed before in view of....this is the language that passed the floor; it's given us no trouble. I'm not sure that you wouldn't have the same problem if you said "Votes shall be counted publicly as well as "ballots." Ballots are a term of art, I'm informed by Professor Landry, and the ballot could be, I guess when you take that thing off the voting machine and it says "Stinson, nine hundred and forty; Tate, twenty-two or something like that," that could be the ballot maybe.

MR. STINSON

I could see where it would be "tallies" but not "ballots" and, of course, you said the court has passed on it, but I understand we got a court there now that's sort of changing a lot of things; do you think they will change this?

MR. TATE

I laugh even though it hurts.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TATE

Amendment No. 3 on the new Section 3 simply to make it parallel adds a "while" to it, because that was a parallel idea that was introduced. The other parallel part was introduced

with a "while." They added a "while," here, to emphasize the parallelism.

Is there any. . .I'd yield to any questions, Mr. Chairman.

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TATE

All right. Section 4, Mr. Chairman, just involves using the standard "a" that we've been using throughout when we refer to "any"--"a" for "any." "A" means "any" except. . .and we omitted a "however" because it's implicitly that it was "however," and it was a needless word involved. We omitted a "the" because it was unnecessary.

I'd yield to any questions, Mr. Chairman. I'll yield to any questions, Mr. Chairman, and if there are none, I'll move the adoption of the amendment.

[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TATE

Section 5, again, involves simply the. . .Oh, it said, here, "subject to and not inconsistent with the provisions of this constitution." There were no provisions adopted that were inconsistent with this, unlike in Local Government, Mr. Avant, where there is a reason for the phrase. There was no reason found for it here, and it was then thought to be just a simply use. . . a simple use of surplus of words. Otherwise, otherwise, there are just stylistic changes.

I'll yield to questions, Mr. Chairman.

[Amendment No. 5 adopted without objection.]

Recess

[Quorum Call: 116 delegates present and a quorum.]

Motion

MRS. MILLER

Mr. Chairman, I move that the convention go into a Committee of the Whole for two hours for the purpose of hearing the governor of Louisiana speak to us.

[Motion adopted without objection.]

Committee of the Whole

GOVERNOR EDWARDS

Somehow I'm not quite as tall as I was.

Thank you very much for this opportunity. It hardly seems possible that it was a year ago that we met at the L.S.U. Center, and I had the opportunity then of talking to you--fresh from the victory of your election; anxious to get on with the job at hand; convinced that you had been charged with the holy and great opportunity to render public service; I'm certain, totally unaware of how agonizing the decisions would be from that day until this one; and as you find yourselves in the last days of your convention.

I come before you as a citizen of this state; as one who proudly accepts the credit and the responsibility--and, yes, even the criticism--for this convention; as one who says again, as I have said for many years, that the single greatest legacy we could leave our children, the people of the state when we have finished our terms and have served out our capacity, is to provide Louisiana with a good, basic constitutional document.

I need to say some things to you this morning which will smack somewhat of braggadocio, will rob me of my traditional cloak of humility, possibly make you feel that I'm really not all that sharp; and you may wonder sometimes whether I've taken leave of my senses. But, so that you will understand my heart and understand my sincerity and will feed that into your own thinking in the last

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few days of this convention, please know that however wrong you may think I may be about anything that I say, there is no doubt whatsoever in my mind about the correctness of everything that I will say to you. Necessarily, I will express opinions and, necessarily, I will be saying to you things that I cannot prove; but I simply want you to know that I honestly, sincerely state to you what I, today, feel is the political atmosphere and climate in Louisiana. These are situations and facts, attitudes that you must deal with and take into consideration in preparing a document to be submitted for approval to the people, because no matter what you do--how great and wonderful and perfect the document may be--it is meaningless and worth nothing and is a total effort in futility, if it isn't adopted and put to use. Hence, we approach the problem between two extremes: on the one hand, my own preconceived, firm convictions of what a constitution is and should be; and, on the other, my own awareness, as a practical person in public life, that it is indeed difficult to draft such a document and even more difficult to get its acceptance by a population of almost four million people with various degrees of desires and attitudes, feelings, sensitivities. Hence, between these two extremes, we must come together on what we believe will be a consensus sufficient to address itself to the public good and sufficient to allow for public acceptance.

Necessity, this morning, compels me to speak to you in what I believe to be true statements, rather than pleasing ones. I would like to please you, but I prefer to save you--whatever your attitude may be towards me after I have finished--because, in saving you, I save myself and, in saving you and saving myself and saving this constitution, we save the people; and what higher calling could we respond to?

I will have to philosophize a little bit before getting into the meat of my appearance here--again, hopefully, to translate to you why I am taking some of the positions that I will take in the last moments of my appearance before you. Walter Lippmann, after nearly a half century of observing public figures and observing voters--the electorate--made a rather caustic and harsh judgment, both of us as politicians and of the people as voters, which I'd like to read to you. "With rare exceptions, public officials are regarded as miracles of nature. Successful democratic politicians are insecure and intimidated men. They advance politically only as they placate, appease, seduce, bamboozle, or otherwise manage to manipulate the demanding, threatening elements of their constituencies. The decisive consideration is not whether the proposition is good, but whether it is popular; not whether it will work well and prove itself, but whether the active, talking constituents like it immediately." How harsh that is, but how well it applies to the efforts of certain special interest people to get in or out of this document--not what they or you consider to be in the public interest, but what they happen to consider, immediately, to be in their own interest. Now, I must suggest to you, in defense of myself and trying to soften the harshness of my furies, that what criticisms I have of the document, and what problems have arisen in the feel and the hustlings and bustlings of our state, arise, very candidly, from your failure to recognize that you were here to write a constitution, rather than to serve as legislators.

Had you stopped your work after completion of the Bill of Rights and the three Articles on the Executive, the Legislature, and the Judiciary, a beautiful, fantastically well-engineered and prepared document would have been your work product. Practical aspects of your job, however, required you to go further; and it is when you got into those provisions which are really legislative, and not constitutional matters, that the problems began to develop, and the most serious objections began to be heard on the streets and were reflected in the reports of your work. Everyone of the items that I will comment, later on, upon are matters which do not belong in the constitution at all. It matters not what side of the argument you are on, whether you are for or against the proposal, there would be legitimate, beautiful things to argue about--as members of the legislature, or as a police juror, or as a person in some legislative capacity--but, ladies and gentlemen, have no business at all in a constitution. I'm going to say that repeatedly during the time that I will be before you, but I want you to know that it applies generally to every item of concern that I and people in the state are expressing concern about.

I want to also paraphrase from the remarks made by a senator in the United States Senate one hundred and fifty years ago, because I want you to know that I feel for you; and, in the months that you have been here, I know, as a person who has been in public life for twenty years, the pressures you have been subjected to. I come today not just simply to criticize, but to tell you that I sympathize with you and I understand the problems that you have had. I know how it is for ten or twelve people who have a special interest to harass you and to insist upon having their way and to corner you and to pick you in an effort to get from you a commitment. I know how disconcerting and discouraging it is that that vast group of people out there we call the public never takes time to listen, to

study, to express an opinion, or to ask for assistance, but rather is content to wait until after you have done your best and then begin to criticize. But, it's part of the system; and if I had been able to leave one message with you, when I spoke to you a year ago, it would simply have been that remember that each of you represents, basically, fifty thousand people. Two or three or four or five hundred, or one thousand, descending upon you at one time, on a certain issue, cannot by any stretch of the imagination be construed to represent the will of the fifty thousand. They only represent the will of a vocal group, interested in a particular aspect, without regard to the total effect of the document.

I come to you today, not speaking for the farm bureau or organized labor or the lawyers or the judges or the bankers. Do they need one such as I to be their spokesman? Have they not exhibited to you, far better than I in my poor way, their ability to promote their own interests--as indeed they should, and I criticize them not for it. But, today I don't speak for them. Today I speak for the people. And, in a larger, broader sense, is that not in effect also speaking for them? because are they not also members of the public-at-large? What have you done for the bankers? Or the lawyers? Or organized labor? Or for the Chamber of Commerce? Or for any one group? If you make it possible for them to succeed and be successful and to have what they want--and do so at the cost of jeopardizing the opportunity of other people, in some other phase of life, to have an equal opportunity to succeed--how have we served any group if we don't make it possible for all groups to live and to progress and to succeed? Are bankers going to be happy if they have everything they want, yet we so jeopardize the possibility of other people to succeed that they will not be able to support the bankers by the deposit of their funds? Are lawyers served if we give them what they want, yet the public is so dissatisfied and unhappy that revolution reigns in the streets and people just will not accept the peaceful workings of democratic process? Have we served organized labor if we kill business that provides them with jobs? and have we served business if we make it impossible for the laborers to work for them? and have we served the farmers if the consumers cannot buy their products? and have we served ourselves if the people cannot tolerate what we have imposed upon them and they will not accept our judgment?

The senator said "a man becomes a public official, not able to dream in advance the ordeals to which he will be exposed. He has no way of knowing the courage that he must possess to resist the temptations that daily beset him. He knows not the shrinking of duty from undeserved censure that he will have to learn to control. He knows not, in advance, the ever-recurring contest between the natural desire for public approbation and a sense of public duty. How can he know in advance the load of injustice he must be content to bear, even from those who should be his friends? How can he know in advance the imputations of his motives, the sneers and sarcasms of the ignorant and the malicious? How can he know in advance all of the manifold injustices which partisan and private malignancies will heap upon his unprotected head, as he seeks to do what he thinks to be his sworn duty? If we are to retain our integrity--those of us in public life--we must learn to bear, unmoved, and walk steadily onward in a path of duty, sustained only by the reflection that time may do us justice---cr, if not, then after all of our individual hopes and aspirations, and even our name among men, they should be of little account to those of us who serve in this life, when weighed in the balance against the welfare of the people for whose destiny you are the constituted guardian and defender." I pass that on to you because you cannot expect instant popularity or instant approbation for what you do. Hopefully, if we succeed in what we're doing, years from now people will look back upon us and say: In a day and age when it was hard and difficult to do, and the cynics said it was impossible, these whose names are emblazoned on this document were willing to stand the test; they did for us what others said could not be done, and we are the happy legatees of their work product.

I ask you then, this morning, to recognize that courage is not alone the absolute dedication to one unflinching principle. Courage sometimes requires compromise, and sometimes it is more courageous to compromise if the end result is in the public interest. So, I come to you this morning as one willing to compromise.

I needn't tell you again that, in eighteen months of a long, tough, and expensive campaign, I talked till I was blue in the face about not electing large numbers of statewide elected officials. And fusing into the constitution a cabinet system of government--how dear to my heart and thinking that concept is. I don't insist upon it before you, as I didn't during the year that you deliberated. You know why? Because, although I am positive that that is where the best interest of our state lies, I don't think I represent or reflect the prevailing opinion of the people of this state. I'm going to continue that dialogue in an effort to someday--hopefully, before my time comes--to convince people that that is the best way to run government, because I'm absolutely satisfied that that kind of a change is in the public interest. But, I will not, at the

risk of jeopardizing this document or doing violence to you, come to you this morning and say, unless you impose into this document that form of government which I know is the best, that I will not support it—even though I strongly feel that way—because I don't think, in that regard, that I speak for the majority of the people of this state.

What I am going to talk to you about as necessary changes to the document not only represent my own views but, I know, represent the majority view of the people of Louisiana. Let's be well aware of something that I also know. I know that you have already adopted these provisions and, therefore, they represent the majority opinion of this body. Hence, I am asking a majority of you to change your minds, but I do so in the assurance that the document will be better, in the belief that it is necessary to make these changes to get it ratified, and in the certainty that it is a better way to approach the problems and address ourselves to the issues. Before I go into those items, I want to say again: None of these should be in the constitution, no matter which side of it you're on. A constitution is simply a basic document which guarantees people, in an organized society, certain rights and privileges and liberties, and then provides a system of government—nothing more. We would be better off if we didn't have any of this that I now talk about in the constitution, but I also recognize from a practical standpoint that out there we must satisfy, to the extent that we can without doing violence to our obligations, the public because we have to get their support.

I therefore make these suggestions. Before I do them, I want you to know that I'm fixing to not offend, but prick, the conscience and probably create the friendly or unfriendly criticism of many people, sitting in the convention, whom I consider to be political and personal friends. I know my good friend, Lawrence Chehardy, in spite of his weight, is going to break one of those light bulbs when he jumps out of his seat. I hope Vic Bussie isn't in the audience. My friend Ed Steimel is probably somewhere already deciding how he's going to react. The Farm Bureau, my friends at L.S.U., the bankers, the lawyers, the district attorneys. How much I wish this cup were passed from my lips. I don't need, at this stage in my political career, to take upon myself this burden. I could lead a long, happy life without saying the things I'm now going to say to you.

I looked at a poll, day before yesterday, which indicated that eighty-four percent of the people so polled believed that I was doing a good job as governor. There's little likelihood that I could increase that percentage. There's every likelihood it will go down after today. But, that's temporary, and the overriding, serious, most important question is a new constitution. So, I come today not to please you and not to please people whom I consider personal and political friends, and I hope they will understand the spirit in which I make these recommendations. You will know that—because many of you have tried to talk to me in the last ten days, and many of these people have tried to talk to me in the last ten days when they found out that I was to address the convention, each, I'm certain, anxious to convince me of the validity of their position and the wisdom of their ways—I have refused to talk to them and to you because, very candidly, I didn't want to be swayed. I wanted to get it over with and do what I thought was in the public interest. So, here I give it to you.

Tax exemptions relating to [...] institutions, educational institutions, or what industrial institutions, do not belong in a constitution and should have been stripped. The legislature on a continuing basis, as circumstances dictate, should make those decisions. You have chosen, however, to leave in the constitution all exemptions except the industrial exemption. I, therefore, recommend to you that you either strip the constitution completely of such exemptions, or if you are going to leave them, then, as a compromise, I would suggest that you also include the industrial exemptions and that you do so without the efforts of some to give local government veto power on the granting of the exemptions. Now, I can say to you as one who knows something about industrial expansion that more than ever we are going to have to emphasize and increase our industrial expansion. The great oil and gas reserves, that for so many decades attracted industry to Louisiana as magnets, are depletable and exhaustible resources. We must emphasize, as I have, the importation of people-oriented industries. Every effort that we can make to make that possible should be done, and, therefore, if you're going to leave exemptions in the constitution, you should leave that one, without political interference on a local level. Now, you say, well, why not give the local people—the local police jury, school board, the city council—the right to veto it. Simply speaking, because those who are interested in industry do not want to be imposed upon in some isolated areas—and there will be some—by local officials who want to be responsible for finding the land, or selling the insurance, or furnishing the employees, or building the building. They want to be able to

move in devoid of having to address themselves to the whims and caprice of local officials. No police jury is ever going to refuse a legitimate industry in its parish, and if they did, I'm certain that the adjoining parish would be very glad to have it. The local objection feature, which some have sought to infuse into these exemptions, are just not necessary and would give us one more obstacle to the importation of industry, and I urge you to leave that out. I don't think that you're being unfair to local government. I don't think you're going to find that any industry is going to want to go to a parish where those in charge of the power structure of the parish indicate publicly or privately they do not want the industry. Hence, it only serves as a red flag and brings no good purpose.

You should delete—and I repeat again; I may say this too many times, but all of this should be left out of the constitution completely—all of these items, but since you're going to—I think, and I have to be practical—recognize if you're going to want to say something about it in the constitution—I suggest that you delete from the provisions of the constitution that provision relating to automatic rate increases for public service applications. Even with bond and assurances, it doesn't belong in the constitution and should be handled on a legislative basis. I'm going to be frank enough to say that I don't join the hue and cry of some who are concerned about the effect of that provision. As a matter of fact, I would be perfectly content, and if it isn't put in the constitution—I would be perfectly content—to suggest to the legislature in May that a companion piece of legislation be adopted by the legislature in May because there's a great deal of merit for the passage of that kind of provision, but it doesn't belong in the constitution, and I ask you to take it out.

The constitution must give the attorney general of our state, subject to court approval, the independent right to institute and prosecute criminal proceedings. District attorneys who are violently opposed to this provision, in my judgment, have no real basis for opposing it. They do; I understand that; I do not challenge their position. I merely say that I think in the interest of what is good for government that the attorney general of our state should have that authority.

The constitution should not, as you have provided, provide that all witnesses who appear before grand juries should have the right of counsel. That is a legislative matter which should be left to the legislature to be handled on a continuing basis. I must agree with district attorneys that in instances that would impede the orderly prosecution of criminals and those suspected of violations of the laws, I do not believe it to be in the public interest, although I recognize that in some instances, grand juries do take advantage of witnesses, and I recognize that in some instances some witnesses will suffer because they do not have an attorney. I just think that it is a price that we have to pay, living in a society such as ours. I suggest that you strip that from your document.

There are serious questions which have now been raised as to whether or not the language in the proposed article on revenue and finance impairs the authority of the Superport, HEAL, and some other state agencies to issue revenue bonds. On the advice of bond attorneys, whose opinions I respect, and in the knowledge that we may some day want to issue revenue bonds, I suggest that you clarify that language, and we will submit for your consideration a document for that purpose.

Other areas: multi-banking, a classic example of things that do not belong in a constitution. Now, I have said publicly, and I'll say it again, that as a governor of a state or as a legislator, I would never support multi-banking unless and until the banking association of this state, whose interests are concerned, supported it. Today, they do not; although it's about sixty-forty. But, I'm going to tell you right now—you can mark it down—before my term as governor ends, if I happen to get reelected, these same people who asked you to put this provision in this constitution are going to flood the legislature begging for a multi-banking provision in the statutes. They will do so because the national government is beginning to authorize multi-banking by national banks, and the fifty-four federal banks in this state will be in that business before long, and as a matter of self survival the state banks are going to require it. But, it doesn't matter whether they never require it. The Bankers' Association has enough strength and muscle with the legislature on a continuing basis to protect its interest. We don't want to put something in a constitution which may ultimately require us to go back to the people to have it amended in order to get something done that we do not now, maybe today, believe is going to come about, but five, six, or ten years from now, may be an absolute necessity. I predict—and I'll put my political career on the line—that before the

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next six years, the bankers of Louisiana are going to beg for a multi-banking statute. So, I suggest to you that this is not the proper place to consider that. The concept of multi-banking statutes is so complex and so difficult to understand that I really don't believe any of you, with the exception of those of you who sit on bank boards or who are attorneys interested in the problem, really know what it is all about. It's nothing but absolute, pure legislation, and I suggest to you that we remove it from this document with the assurance, that I now give you and the bankers, that no one is going to make any effort to provide for it until the bankers themselves want it.

Income tax schedules and the federal income tax deductions: In one afternoon this gracious, generous body delivered to the people of the state a hundred million dollars worth of benefits. You doubled the royalty provisions to certain parishes, and you constitutionalized the federal income tax deduction as an exemption on state income tax. That's great! I'm for that. I was the governor who provided the money from other sources to restore the federal income tax deduction. But, ladies and gentlemen, I don't know what the situation of this state is going to be eight years from now. The taxation and the revenue measures needed to fund the functions of government is a function of the legislature. Whether or not the people are going to want federal income tax deductions, or higher than a six percent rate on income taxes in lieu of sales taxes, or property taxes, or some other taxes, is a legislative matter. I ask you not to bind the hands of future administrations of this state by putting a ceiling on the income taxes and constitutionalizing exemptions on income taxes and giving to people now what we can afford to give them because of the work that the legislature has done but which we may not be able to do in the years ahead. Now, let me say this. I am satisfied, based on projected revenues and expenditures, that during the term that I'm going to be governor, we don't need to raise taxes. I'm not asking for anything for Edwin Edwards and sure it would be very popular for me to say, "Oh, you're right, man, put it in the constitution, man, we are going to give the people all these things." But, I have to concern myself with the problems and agonies of future legislatures and future governors who have to respond to public demand for public functions and public services. It is wrong for this constitution to bind their hands to where they are limited in what they can do. Let the legislature make the decision at the appropriate time and determine what is the best way on a year-to-year basis to raise revenue. I suggest you remove that from this document. O.K.?

The two tough ones, education and property taxes. A constitution by anybody's definition should do nothing more than commit a government to providing an education for all people, at all levels in the highest way possible. How you do that is not a constitutional matter. I am appalled at the arguments made by my friends from L.S.U., and I'm an alumnus of L.S.U., about how we are going to erode the greatness of L.S.U. if we don't have a separate board for L.S.U. That is not right. It is wrong for county agents and people in the agricultural extension service to tell you that if we don't have a separate board for L.S.U. that we are going to lose the extension service and the experiment station. It is wrong for L.S.U. to say that we are doing violence to L.S.U. if we don't have a single agency. It is wrong for L.S.U. to say that if we don't have in the constitution a Board of Supervisors for L.S.U. that there will be scandals at L.S.U. as there were in the 30's. Words, and papers, and constitutions, and statutes don't create fraud and do violence to obligations. It is people. Whether you have five, or four, or one, or three, or two boards, crooked people on five boards or crooked people on one board will do crooked things. You're talking about a system of government here, not what individuals will do yet unnamed in the next thirty years. How do they know that that is necessary? How will we know ten years from now what is the best way to administer education in Louisiana? Concepts of today in less than five years are archaic, laughed upon, spit upon as new concepts become viable and people recognize there's a better way to do things. If we are to bottom all of this in our constitution, you are stamping it with a self-destruct stamp because every time we want to rise above the old way to do something new, we have to amend the constitution, and that is what has got us in the situation that we are in now--the amendment of the constitution, seven hundred and thirty times in less than fifty years. Five hundred amendments were passed to the constitution; it is what has caused the problem. Why stigmatize the constitution? Why stigmatize education with a constitutionally provided system by which it will be run? Even if you are positive today that that is the way it should be done, how do you know how it needs to be done ten years from now? If we are to make a change, are we going to be archaically imposing upon the people of this state the need to digest and consider complicated amendments and give it to them in

disgusting amounts saying "amend, amend, amend, change, change, change, change, change, change" because back in 1974 we didn't have enough confidence in the future leaders and people of this state to give them the elasticity, and ability, the leeway to deal with problems as they arose. You don't need anything more in a constitution than a constitutional commitment of government to furnish a good education at every level. "O.K., Edwin, that might be right." But, I'll admit to you that I don't think this is what the people want.

I really believe that that's the best way to handle the problem; it's in their interest. But, I'll admit to you now that as strongly as I feel that way and as much as I think I know it's in the public interest, I don't think in making that statement I represent the majority interest or majority view. I hate to say it, but I think people want you to put in this constitution how the colleges and universities will be managed--not good constitutional provisions, not necessarily in the public interest, but I think reflects public opinion. They are scared; they want to know exactly what it is.

The other things that I have talked about I think are right, and I think they represent the public view; in this instance I think I'm out of step with the public. But, I publicly say that that's the best way to do it. I wish that's what you did because I think we could sell the concept in the next four, or five, or six months to people by showing them how we can make it work and how other states have done it and how we need to retain the right on a decade to decade basis without having to go back to the people in constitutional amendment form to handle our educational institutions. How beautiful it would be if we could express here in written words our own faith in the ability of people to govern themselves and to change as the years change and as the mind of man engineers better ways of doing things. Okay? You don't think you can go that far, and you think I'm a little too radical, and, I know, a little bit far out, so you have to have something in the constitution. For goodness sakes, nothing more or less than one board for the colleges and institutions. I don't care how you provide for its membership. I think you ought to have some of them appointed so that we can always have a balance and make sure that educators get on it because it's a sad commentary on our system that very few educators want to get in the political processes. Then, you should have another board for elementary and secondary education if you can't have one giant superboard for all education which would plan the education from the kindergarten to the doctor's degree, which if I were in the legislature, I would be arguing for that. Before the convention, I argued for nothing except a commitment to education, but if you're going to legislate on the subject--and that's what you'd be doing--my first thought, my first proposal suggestion, and the one that I think... Now, I don't think the public joins with me on the "no" provision, but I suggest to you in spite of the lobbying by my effective and good friends--and I know what you've been through because I've heard from them, too, you know. "How can you, a graduate of LSU, do this to our university? But, I suggest to you, if you're going to legislate, that one board for all education from the time a child starts kindergarten until he gets his doctor's degree--which would coordinate it and plan it, take care of the vo-tech schools, the private schools to the extent that state government may be involved in books or in curriculum--all of that one gamut should be in the hands of one group of people. In that group some of them should be appointed by a governor charged with the responsibility to select people whose educational experience, expertise, and dedication is in the field of education. If you can't go that far with me, then I suggest that you have two, then: one for colleges and universities and one for the rest of the educational system. I implore you to do that. The five board system you have is not as bad as I thought it was when I heard about it, but it doesn't respond; it isn't good; people don't understand it. They are opposed to it; it isn't popular; and it's going to defeat the constitution. I will not support it, and I don't think the people will either. I beg you to reconsider that, because past the Bill of Rights and these three articles on the government, this is, in my judgment, the most important thing that the people are looking at.

Property taxes: Oh, how happy I am to publicly state my position on property taxes. How popular it is going to make me with everybody. How anxious I was to get here and let you know what I think should be done about property taxes. How much I wish you had done it, and I could say, "well, those fellows did a good job; that's enough." Okay, I believe you did a good job. I really do. I think to the extent that you can write--and again I want to say that it doesn't belong in the constitution. There should be nothing in this constitution except the right of state to levy taxes, the right of local government to levy taxes. How they do that should be done by the legislature and by police juries and school boards and city governments. I really mean that. There's no need to put in this constitution how taxes are to be raised or levied, but

I know that people out there want it. I recognize that, and to that extent, I am again willing to compromise. I think that if you need to write something, that what you have written responds as well as one can engineer, or think out in advance, a provision for that. But, it won't sell; it won't sell. You can't fight PAR. It has too much the attention of the business community, the good government people, and the majority of the people who are really going to take an interest in this document and who will decide to support or denounce it. It won't sell to the editorial media. Now, look, with the exception of one of the papers in New Orleans, I've been fairly treated by the editorial media, and the one paper in New Orleans hasn't hurt me at all. You can't do better than eighty-four percent in a poll. But, on an issue such as this, personalities are not concerned. People are not going to sit down and digest it for themselves. They're going to pick up an editorial, and in two minutes time, jump to a conclusion that you've agonized over for a year. One person sitting in an ivory tower somewhere, who won't sign an editorial, won't identify himself, who poses as an expert on everything from tourism to high finance in the stock market, is going to write an editorial, and in five or six devastating lines--maybe unfair, maybe untrue, maybe inaccurate--is going to point out how this provision is going to drive industry from Louisiana, and PAR is going to attack it. When the editorial writers and the policymakers get through with you, you're going to jeopardize the passage of this document.

Now, consider the alternatives, for those of you who are as concerned about it--and Mr. Chehardy, I speak especially to you because I know of your concern for the property tax situation. Consider the alternatives. What happens if we don't get a new constitution adopted? What happens if we don't put a provision in the constitution which protects property owners? Is that not your main concern--to protect them? How have you protected them if you write the most beautiful property tax provision in the world for their benefit, and we can't get it passed? We've done nothing for them. Is it not better to consider a compromise which doesn't do violence to them, which may be acceptable, and which we can get passed, to give us a new beginning to work towards the ultimate good and total aims that we're trying to do for property owners. Unlike some of the other people who have criticized us on this regard, I'm proud of the fact that property owners in Louisiana pay a smaller property tax than in any other state in the nation. I don't think that's anything to be ashamed of. I'm not gleeful when people say that it's necessary to raise property taxes. I don't buy the argument that some people say that if people don't pay taxes, they don't support government, and they don't relate to it, and don't want to be a part of it. I don't buy that at all. I think people expect us to run government, to provide them with the services they want provided in as efficient a way as possible. I think people are willing to pay for that, but at the same time, if we can pass the burden somewhere else, I don't think anybody is going to object about that. I tell you what, I've had very few people tell me they thought it was wrong that we're making those people in Tennessee, and Pennsylvania, and New York pay for the taxes they used to pay on food and drugs, and giving them back their federal income tax deduction. You don't hear very much of that. I only heard it from one person, and that's a guy who had a girlfriend here. He lived in Tennessee.

Now, get to this: I don't care whether you are a public official now, you're never going to run again, you've never run for anything, or whether you plan to run for the legislature or something in two years, there is no compromise that you can make. There is no compromise that you can make on this or any other provision of this document which will help pass it which is as important to you, means more to you, than on this area because there is where the meat of the coconut is. But, at the same time, nothing you do here is going to hurt you as much as being a signatory to a document that goes down in dismal defeat. It is going to haunt you for the rest of your political life if you have been party to a three million dollar venture looking for the golden fleece and, after you have spent a year of your time and three million dollars of the taxpayers' money, it gets badly defeated at the polls. I don't care how strong you feel about anything I've talked about; I don't care how strong you feel about anything. As far as you are personally concerned, no vote you can make in the next ten days, to compromise and to adjust and to mold this document into an acceptable document, is going to mean as much to you as what's going to happen if you don't provide a document that we can sell and get the public to accept. You remember that. You're interested in your career, and you're fighting for your people, you think, and you've got to have it your way because you think that that's what you're running on, or that's what

you stand for, or that's what people identify you with. All that's very important. I tell you right now, it's not going to do you nearly as much good as being one of the authors of an acceptable constitution.

To get this document passed, I suggest we're going to have to make a change. Now, you can put it down; there's nobody who has been bombarded about this as much as I have since it came out. I have vacillated from one extreme to the other, and I am willing, in an effort to get those people--I'm talking about the editorial writers and the PAR and others who are legitimately concerned about it. I don't agree with their conclusions. I want you to understand that. I don't think we're doing violence to industry; I don't think we're running industry out of the state, and I don't think we're being unfair to anybody, and I think we are doing something good for property owners. But, after all I can be wrong, and they may be right. They've studied it. I'm anxious--I say that publicly--I'm anxious to get their concurrence in this document. Hence, I am willing to go a step further. I suggest that you do two things. One: recognize that if we don't do something and get it passed, we're leaving the people of this state burdened with court imposed obligations on the part of assessors to do what assessors have resisted doing for fifty years, and that is: to reassess everybody's property on an equal and uniform basis at actual cash value. Now, you can make all kind of arguments about that's not the law, and that's not going to be required, and that ain't going to happen, and you can make all kind of arguments about yes, well if they do, then the police juries and the city councils can reduce the rate of tax, and that's true. They can do that, but they don't have to. That is not the law. You are leaving property owners exposed. I'll be the first to admit I don't think the danger is real, but it is certain that they are exposed to some very damaging possibilities. I think it important that we try now, since we're going to get into this business, to tie it down to where we protect them as much as possible, consistent with our obligations to leave local government the opportunity to raise necessary revenues from property taxes. Bear in mind that I'm not concerned about this as a governor because we have no state property taxes. I was successful in getting the legislature to remove them. I am talking now for local government and for property owners. I don't want to. If we don't pass a constitution, we're going to have to pass fifty statutes--listen to this--fifty statutes and seven constitutional amendments to straighten out the property tax mess. You hear that? Fifty statutes and seven constitutional amendments are going to have to be submitted to the people in order to straighten out the property tax mess and keep us from having a revolution from the property owners. Hence, it is important that we pass a document, and that we have some provision in here which clarifies the property tax problem. Now, what I am going to propose is not going to satisfy anybody. But, I think it can be sold to the public, and I think it will be in the public interest. I think it is going to give us a new base, hopefully, to work from. You should have some specific, harsh, definite provisions penalizing assessors who do not do their duty in accordance with whatever is decided. That's very important. We have to have an automatic triggering device which will require the compliance with whatever decisions are made on assessment practices. We can no longer tolerate the situation which has existed for fifty years, where there's no certainty, and where property owners are left to the whim of the assessors. You know I don't have a better group of friends than the assessors. But, that's not good government. I must say to the credit of the assessors that they are willing to accept such a provision because they want to do their duty. But you cannot expect an assessor elected in 1974 to undo a fifty-year pattern of his predecessors in property tax assessments unless we give him the basis to do it and the mandate to do it. I, therefore, suggest that when you finish your provisions, you put it in there in such a way--and we'll suggest the language--that those assessors who do not comply with the law are subject to harsh penalties, suspension of salaries, the possibility of being addressed out of office because we need to assure them and the public and the courts that we are serious about the change.

I am content with the three thousand dollar level of home-
stead exemption. Sure, we'd all like it to be more. How sweet it is to tell people that you've raised the assessment, but we, at the three thousand dollar level, I think have hit the vast majority of homes that really need the protection. That narrow group from three to five or three to six that would be hit by an assessment practice will be only subject to a very small amount of taxes. I think it's a fair compromise, and I suggest that you stay with it. To get away from the most serious argument made by those who opposed the provision, that is the disparity between the assessment ratio for residences and land

and commercial establishments, I suggest that we fuse the two, and instead of having ten percent in one and fifteen on the other, that we make it twelve and a half percent across the board. No one can then say that we've been unfair to business, or we're taxing business more than home, or that we're jeopardizing anybody's right to own and hold a piece of property or to own and hold a home. I think it is a provision that people will be willing to accept. I think it would be a response to the problem, and I think with the constitutional mandate that assessors be required to follow it that we can get it sold. In my judgment if you do not make these changes, all of us together, with the tongues of ten thousand angels, cannot sell this document and get it adopted. I believe with these changes, and with these changes I would be willing to spend my money and my time in the public interest, in concert with you on an individual basis and as a group to try as much as possible to educate people on what we have done, to tell them that, for all of its imperfections and for all that it may not have and for all that it does have, it will be by far a much, much, much better document than the one we now have. I think you would be able to say to yourselves and to those you represent that with tough, difficult, hard decisions to make, you, in the long run, did respond to the public interest.

I speak to you as governor and as a citizen, and I'll close by saying that I'm going to treat you just as I treated the legislature. Not one of you can say that at any time I have called or talked to you, and said, "You'd better do this or you will lose my friendship or my support." I don't do that today, and I'm not going to discuss this with any of you again. I'm sincere in what I say, but the judgment must be made by you. I'm not a delegate; I don't vote here. But, I express my opinion, and I reflect what I believe to be the opinion of the people of the State of Louisiana. I don't think I would have served in public life for twenty years if I didn't have some ability to judge public opinion. I ask you to set aside your own allegiances and your own obligations; I ask you to set aside what commitments you may have made to some people who, I think, will understand in the long run that commitments made are always subject to the requirement to reevaluating. Whatever commitments you made to those people to do something for them isn't going to be well served if the document isn't passed. It doesn't matter how strong or how hard you've argued for and put into the document something they wanted you to put; if they don't get it passed, you haven't done anything for them. I'm going to tell you right now we're not going to pass the document as it is, but we can pass it with these effective changes. I implore you to consider that this will be the last time, either as a group or individually, I will talk to any of you about it. The Chairman, Mr. Gravel, Mr. Graham, and Mr. Pugh between now and Monday will file in appropriate form amendments, documents, or what have you, to implement the changes which I have suggested. I recommend them to you because I think that it's in the public interest.

I appreciate your attentiveness and I appreciate your courtesy. I hope that no matter how offended you may be by what I have said, or how much you disagree with me, you will at least recognize that I'm here today not because I thought I was going to promote myself, or because I thought that you depended upon or needed my sage advice to tell you what to do, and not because I really thought any of you were going to jump up and clap and say, "Well, if the governor said do it, that's what I'm going to do," because I'll tell you what, I've found out differently in the year you've been here. I like it that way. If it's no good, I can say it's your document. If it's good, you can say it's your document, and I'll say I helped. But, in any event, I'm here today because I feel I have an obligation to the people, just as any other citizen whom you've listened to attentively and patiently during the past year, simply to express to you my feelings.

I value solid popularity, and I value the esteem of good men for good action. I would not be a public figure if I didn't subscribe to that sentiment. I have no desire for and no basis for wanting the bubble popularity that comes temporarily and that is won without merit or because people believe you have done something for them that, in fact, you have not, or because people believe that something has occurred, or because you are able with a slick or glib tongue to convince them that you have worked in their interest when, in fact, you've not. I despise that kind of popularity because, I'm going to tell you something: I know it doesn't last long. It's a bubble popularity and ultimately will pop. I intend to be here for yet a few more decades, and I am as concerned about what people will say about and think about me thirty years from now as I am the reaction that's going to be in the streets when the news media report my suggestions this afternoon. I've been in public life for twenty years, and I've sometimes had to act against preconceived opinions and first

impressions of my constituents---those of you who come from the district I served in Congress know what I'm talking about---but I've always done so with a full reliance; and I leave you with this thought: upon the intelligence of people to understand me, and to do equity and to do me justice--I'm going to tell you something--I've never been disappointed because in the long run I find that the people are just as smart as I am. Ultimately, they see as well as I do, and the same clarity, same reasoning that I use, people ultimately get around to using it when they begin to think. When the decision time comes, those who for the past year have insulated themselves from you and have not come to you and offered you advice and counsel, they're going to begin to think. They'll think as we stimulate their minds and as we help them to make their opinions. I'm convinced that we together can convince the people of this state that we will have done a good job for them, and, consistent with all the conflicting philosophies and obligations and rules and thoughts and partisans and personalities, that we have conferred for them the best kind of document the minds of men can confer in the political climate which now exists. I could write a better constitution; I have one written. But, I couldn't get it passed. You could write a better constitution, but you couldn't get it passed because there are certain accommodations that have to be made, and I recognize that. It's part of the courage of compromise. I only ask that you consider it. I do so because I'm concerned, because I want a new constitution, and because I want you to succeed. Thank you.

[Motion to rise adopted without objection. Motion to insert Governor Edwards remarks into the Official Journal adopted without objection.]

Announcements
[II Journal 1162]

[Rules Suspended to allow Committee on Style and Drafting to meet without giving the required 24 hour notice.]

Recess

[Quorum Call: 100 delegates present and a quorum. Motion to revert to other orders adopted without objection.]

REPORTS OF COMMITTEES
[II Journal 1163-1164]

[Motion to suspend the rules to consider the Amendments contained in the report at the time adopted without objection.]

PETITIONS, MEMORIALS, AND COMMUNICATIONS
[II Journal 1184]

PROPOSALS ON THE CALENDAR
FOR APPROVAL OF FINAL STYLING

Committee Proposal No. 12

Amendment No. 1

MR. POYNTER

Do you want to go in numerical order, Judge Tate?

The first one would be Committee Proposal No. 12, dealing with human resources.

Do you want me to read the proposed amendment to the proposed section, Judge?

All right. I'll read the amendment.

The proposed change to the section included in Committee Proposal No. 12, which does deal with human resources, reads as follows, as proposed amended...to be amended by Style and Drafting:
"State Penal Institutions; Reimbursement of Parish Expenses.

Section 1. The state shall reimburse a parish in which a state penal institution is located for expenses the parish incurs, arising from crime committed in the institution or by an inmate thereof."

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Explanation

[Amendment No. 1 adopted without objection.]

MR. TATE

Mr. Chairman and fellow delegates, as a word of explanation, all of these one-paragraph sections...some of them duplicate one another as section numbers. Eventually, you'll see when we come back with the final rearrangement, they will probably be consolidated either in a General Provisions Article or in a Human Resources Article, and at appropriate instances are in the Transitional Article. So, don't worry at present about the section numbering or lack of them.

Section 1 of State Penal Institutions is simply what was done since the rest of it was abolished like the Section (B) and all the rest. It was the just the language was simplified with the same meaning. Are there any questions?

Vice Chairman Casey in the Chair

[Amendment No. 1 adopted: 81-2.]

Committee Proposal No. 14

Amendment No. 1

MR. POYNTER

Next proposal is Committee Proposal No. 14, dealing with human resources, dealing with welfare, unemployment and compensation.

The proposed amendment would read as follows:

Amendment No. 1. On page 1, delete lines 19 through 23, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 2. Welfare, Unemployment Compensation, and Health."

Explanation

MR. TATE

We simply simplified the title and added a comma "," in the text in line with the usage prevailing through the other sections of the constitution.

[Amendment No. 1 adopted without objection.]

Committee Proposal No. 22

Amendment No. 1

MR. POYNTER

Next amendment deals with Committee Proposal No. 22, which is the Code, and in particular, in Section 1, dealing with the Code of Ethics.

You all want me to read it or dispense?

[Motion to waive reading of the Amendment adopted without objection.]

Explanation

MR. TATE

This, as you may remember, was what was left out of a longer proposal, substituted for a longer proposal on the Code of Ethics. In line with our thought that probably this is eventually going to be one section in a General Provisions Article, it was consolidated in and for purposes of clarity, consolidated into the one paragraph with the short sentences. The sense is exactly the same, just using simple language, for instance, not using the former language "by a board or boards." "One or more boards" is probably a little better English, a little more normal English than "board or boards."

Committee Proposal No. 23

Amendment Nos. 1 and 2

MR. POYNTER

Next proposal is Committee Proposal No. 23, section there dealing with dual employment and dual officeholding.

Two amendments to that, read as follows:

Amendment No. 1. On page 1, line 18, after "Section _____." and before the word "The" delete the letter and punctuation "(A)".

Amendment No. 2. On page 1, line 20, after the word "regulating" and before the word "and" insert a comma ",".

Explanation

MR. TATE

The amendments are self-explanatory. The (A) was omitted because there's no longer a (B), and a comma "," was added because of being in a series following our usage of having every word in the series followed by a comma, separating it from the next part of the series.

[Amendment Nos. 1 and 2 adopted without objection.]

Committee Proposal No. 31

Amendment Nos. 1 and 2

MR. POYNTER

Next proposal deals with Committee Proposal No. 31, a schedule provision dealing with mandatory reorganization of state government.

There are two proposed amendments from the Committee on Style and Drafting to that proposal deleting...

First Amendment. Page 1, line 19, deleting the "(A)".

Second Amendment. Page 1, line 23, after the word and punctuation "constitution." and before the word "allocation" delete the word "Such" and insert in lieu thereof the word "The"

Explanation

MR. TATE

The amendments are self-explanatory. "(A)" was deleted because there's no longer a "(B)". In line with the general attempt to use more normal English rather than the legalese English. "The" was used with the same meaning as "such."

[Amendment Nos. 1 and 2 adopted without objection.]

MR. POYNTER

That completes what we presently have from the Committee on Style and Drafting. It's my understanding that the staff is working, and perhaps later this afternoon we'll be ready on Executive Branch; is that correct, Judge?

MR. TATE

I understand they're xeroxing Executive Branch right now, and Revenue and Taxation, and Education are somewhere in the works.

[Motion to advance to other orders adopted without objection. Motion to call Delegate Proposal No. 16 from the calendar adopted without objection.]

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Reading of the Proposal

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MR. POYNTER

Delegate Proposal No. 16 you'll find in your books. The proposal would be on final passage. It has been amended. It appears, as engrossed delegate proposals do, on gold stock paper.

Delegate Proposal No. 16 introduced by Delegates Alario, Chehardy, Edwards, Mire and others.

A proposal making provisions for homestead exemptions. Now, this proposal has, I believe, four sections to it.

Explanation

MR. ALARIO

Mr. Vice-Chairman, members of the convention, Delegate Proposal No. 16 seeks to take in and rewrite partially Article XI of our present constitution. Article XI presently provides for the homestead exemption from the seizure and sale by any process whatsoever other than the seven exceptions that are listed in the proposal, and are presently listed in the current constitution. It prohibits the sale, if the return does not yield four thousand dollars for that homeowner. The proposal, as amended now, would increase that amount to fifteen thousand dollars. There are several exceptions to this exemption from seizure and sale. Among those are the purchase price of the property or any part of such, the purchase price, the labor, money and materials furnished for building that home or repairing the improvements thereof; liabilities incurred by any public officer, attorney at law, for money collected or received on deposits, the taxes or assessments, for rent which bears the privilege upon said property, and for amount due a homestead or building and loan associations. I have the same exact language as is in the present constitution with the exception of the fifteen thousand dollars. I also delete some language which, of course, is outdated and does not need to be in our constitution, which also provided that this exemption would apply if the homestead did not go up to four thousand dollars, would apply to "two work horses, one wagon or cart, one automobile-truck, a yoke of oxen, two cows and calves, twenty-five head of hogs, and one thousand pounds of bacon or its equivalent in pork," I just don't think today that that type of language is needed in our constitution. I ask that you would adopt it, and I would be glad to answer any questions that you might have.

Questions

MR. BURNS

Can you hear me now?

Can't you eliminate the bacon and the hogs and the chickens and substitute gasoline in there?

MR. ALARIO

That probably would be some help, Mr. Burns. You're absolutely correct.

MR. LANIER

John, in Section 4 you talk about the registration of homestead. What does that mean, and why do you require it in cities of over two hundred and fifty thousand, but don't require it in cities of less?

MR. ALARIO

Walter, I'm glad you brought that up. I forgot to mention it in my remarks. The present constitution calls for this registration, and I didn't want to change that language without some explanation, possibly from the people in the city of New Orleans as to why this would be in the constitution. If they wish to have it and have a legitimate reason for leaving it in, then I see no problem. However, I personally don't think the people of New Orleans ought to be treated any other differently, and particularly those homeowners, and other differently than people throughout the state. I don't think, for instance, the vast majority of the homeowners in the city of New Orleans realize that they have to go down and register for their homestead exemption from seizure and sale whereas the rest of the state just gets it automatically.

MR. KEAN

John, am I correct that this proposal is similar to what is now in the present constitution except that it increases the amount of the homestead exemption from four thousand to fifteen thousand?

MR. ALARIO

That's correct, Mr. Kean.

MR. KEAN

So, that if you owe someone an unsecured debt, and they've got a judgment against you for twenty-five thousand dollars, then under those circumstances, they couldn't seize your home, or at least the first fifteen thousand dollars of the home value would be not subject to that seizure.

MR. ALARIO

That's correct.

MR. THOMPSON

John, on 4 you have homestead exemptions must be registered only in cities having a population of two hundred and fifty thousand or more, and shall be recorded or provided by law. What you going to do on the towns smaller than this?

MR. ALARIO

In the towns smaller, it's automatic; it's just like--there'll be no problem. You'd have it. It's entitled to you, and whenever a person wants to file for bankruptcy or some other proceeding, then he's automatically entitled to this exemption.

MR. THOMPSON

Why wouldn't it already be recorded in these larger towns?

MR. ALARIO

The only town you're talking about here, Mr. Thompson, is the city of New Orleans, and in answering Mr. Lanier's question, I said, I don't know why it was in the present constitution. I just had the staff draft up that same language and if someone from the city of New Orleans, or other delegates want to delete that section, I have no objection, personally.

MR. SLAY

My question was on the same thing. Why do the people in the city of New Orleans have to have their homestead recorded before this can be effective down there?

MR. ALARIO

That's the way I read it, Mr. Slay.

MR. SLAY

You mean if I live there, I've got to go down and have it on record?

MR. ALARIO

That's correct. I would think, as I've mentioned, that most homeowners in the city of New Orleans are not aware of that fact, that they have to go down and register.

MR. SLAY

Well, now, as I appreciate this thing, it is only to protect me. Suppose I ran up a bill against you, and you were going to seize me. This is to protect my home against seizure. That's what the purpose of this is.

MR. ALARIO

That's correct.

MR. SLAY

I would wonder why a person in New Orleans would have to have that in there, if I don't have to have it up in Rapides.

MR. ALARIO

I wondered myself, Mr. Slay, and no one has come forward yet. I would certainly support and ask for an amendment to delete that section.

MR. CHAMPAGNE

The reason being here is mostly in...

MR. ALARIO

You talking about Section 4?

MR. CHAMPAGNE

Right.

...Well, no. Section 1, 2, 3, and not 4, but...the whole article is that mostly it's to protect the individual who might become liable to someone by, say, an accident, or something to that effect, is it not?

MR. ALARIO

That's correct, Mr. Champagne.

MR. CHAMPAGNE

In other words, really and truly, most people sign this waiver to get a loan anyhow. It wouldn't apply in that case.

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MR. ALARIO

Well, Section 3 provides for the waiver. If someone wanted to borrow twenty-five thousand dollars, as Mr. Kean mentioned, then it's easy enough if he wanted to sign that waiver. It mostly protects him in the event of a suit.

MR. ABRAHAM

John, maybe I missed it. Maybe you explained this in your remarks, but why wasn't this included as a part of the original article on Revenue and Taxation?

MR. ALARIO

I would...Mack, when we were discussing property taxes as such, no one brought it up that this was assigned to us as such, and by that time before anyone noticed, our article had already been drafted and gone. We were at one point, and it was suggested by the committee that we offer amendments on the floor, but we were jammed at the time, also. I would think if we don't include this here, then we have taken away a right that people presently enjoy, and are not including in back in this new constitution. It just was an oversight, whether by the staff, or us, or where, but it was left out.

MR. DENNERY

Mr. Alario, first let me ask you, isn't that a misprint in line 28? Shouldn't it be "as provided by law" rather than "or provided by law"? This is just as Style and Drafting can have the benefit of that.

MR. ALARIO

It appears to be, Mr. Dennery. I would hope someone would present an amendment to delete that section entirely unless you individually from the city of New Orleans can tell us why it should be in there.

MR. DENNERY

No, as a matter of fact, my second question was: Don't you think it might be invalid under our Bill of Rights provision because what this does is distinguish between husbands and wives, as far as the requirement that nothing...

MR. ALARIO

I would think this would help them to erase an injustice in the city of New Orleans at this time, Mr. Dennery, by eliminating this section altogether.

MR. DENNERY

Well, why wouldn't you do it the other way around, and say that "no wives have to sign homestead exemption"? Why require, if their husband is head and master of the community, why require the wives to come in everywhere else and waive that homestead? Why don't you let the husbands waive it for all community property? I was always curious as to why the wives had to sign in the country, not why they didn't have to sign in the city.

MR. ALARIO

I don't know the answer to that.

Reading of the Section

MR. HARDIN

"Section 1. Property Exempt; Valuation; Claim of Benefit.

Section 1. There shall be exempt from seizure and sale by any process whatever, except as hereinafter provided, the homestead, bona fide, owned by the debtor and occupied by him, consisting of lands, not exceeding one hundred and sixty acres, buildings and appurtenances, whether rural or urban, of every head of a family, or person having a mother or father or a person or persons dependent on him or her for support to the total value of not more than fifteen thousand dollars.

Provided, that in the case the homestead exceeds fifteen thousand dollars in value, the beneficiary shall be entitled to that amount in case of a sale of the homestead under legal process realizes more than that sum; if the sale does not realize more than that sum, over and above all costs and expenses, said sale shall be null and void.

The benefit of this exemption may be claimed by the surviving spouse, or minor child or children, of the deceased beneficiary."

Explanation

MR. ALARIO

Mr. Chairman, as I explained in the opening remarks, this simply increases the exemption to fifteen thousand dollars. The

present exemption of four thousand dollars was put in the constitution. This whole article, 1932 was the first time it was amended, and 1938 was the last time. I think this brings it a little more up-to-date. I ask for the adoption.

Amendment

MR. POYNTER

Mr. Newton sends up an amendment that reads as follows:

Amendment No. 1. Page 1, line 17, immediately after the word "than" and before the word "thousand" delete the word "fifteen" and insert in lieu thereof the word "ten" and in the same amendment on line 19, immediately after the word "exceeds" and before the partial word "thou-" delete the word "fifteen" and insert in lieu thereof the word "ten".

Explanation

MR. NEWTON

Maybe some of you all are not familiar with what this "homestead exemption" is all about. It's designed, frankly, to provide a grubstake for somebody that gets just completely busted out because they can take everything, you know...the creditors can seize everything except the homestead, and then they get everything in excess of four thousand dollars. Now, I think that four thousand dollars, when that was written, was fine. I think it's not enough now. I think fifteen thousand is too much when we're talking about a grubstake for somebody that's gone busted to start over on, and that's what we're talking about. Now, Mr. Dennery, do you have a question? I'll be glad to yield.

Questions

MR. DENNERY

Mr. Newton, the question I wanted to ask you was: since it has changed from four to ten and possibly may change again to where fifteen would be proper, don't you think this is one of the "constitutional" provisions which might well be left to the legislature?

MR. NEWTON

I agree with you wholeheartedly, Moise, but we've had a lot of things passed through this convention that were statutory matters. If we're going to have it, let's dress it up a little bit.

MR. DENNERY

That was before this morning, and I wonder if possibly an amendment to provide that the legislature shall provide for exemption procedures.

Explanation continued

MR. NEWTON

There was one point I wanted to make about this exemption is: if you get this exemption too high, you're not really protecting the "little people". You're really hurting them because the lending institutions are going to limit their credit to people that don't have holdings, or they'll raise their credit requirements because they know that the man's property is not going to stand good for his security unless he's got a specific mortgage on that property. In the country parishes, that's not such a big problem, but in the city--especially in New Orleans--when you're talking about putting a mortgage on a piece of property, you're talking about spending a couple of hundred dollars at least, and this certainly doesn't protect the little man. I, therefore, would urge you to... I would like to see this whole proposal in the statutes, but I would like to reduce this to ten thousand dollars to provide an adequate grubstake, but on the same time to protect the consumer because if you get it too high, you're going to hurt the consumer. I'll yield to any further questions.

Further Discussion

MR. ALARIO

Mr. Chairman, fellow delegates, I rise, of course, to oppose the Newton amendment which seeks to cut down this exemption now to ten thousand dollars. In our committee when I first introduced this proposal, we introduced it at a fifty thousand dollar range, and, of course, it was amended down to fifteen thousand dollars which is more realistic and practical. It is the average

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worth or cost of a home today in this state given to us by the figures that PAR gave us when they were trying to make us raise the property taxes as such, and we used those figures to come up with the fifteen thousand dollar range. In all the time that I had this proposal introduced--all the time--not one lending institution called or contacted me or anyone else that I know of on our committee and said that we would be hurting the little man from getting any loans as such because we were putting this provision in. I don't think the little man goes to the bank or any other institution and gets fifteen thousand dollars on his signature, that's not so. If he did need fifteen thousand dollars on his signature, he certainly wouldn't mind paying whatever legal costs are involved in recording that mortgage because that's exactly what he would be doing--putting a mortgage on his home for fifteen thousand dollars. I don't think Mr. Newton has given that much thought to it. He's just trying to lower it down. I ask that you would stick with the proposal as is, leave it at the fifteen thousand dollars which certainly would help to provide that a man once he got sick, couldn't meet certain obligations, would at least have time to get back on his feet before they take his home away from him, before his wife and children might be put out in the street or be looking for another place at a time when he doesn't even have money to pay rent someplace. It would help that little man that Mr. Newton says we're trying to hurt by not loaning him fifteen thousand dollars at the bank. Who ever heard of a little man going to the bank and borrowing that kind of money?

[Previous Question ordered. Record vote ordered. Amendment rejected: 36-60. Motion to reconsider tabled.]

[Quorum Call: 86 delegates present and a quorum.]

Amendment

MR. HARDIN

Amendment No. 1. On page 1, delete lines 9 through 27, both inclusive, in their entirety, and insert in lieu thereof the following: "Section 1. Exemptions from Seizure and Sale

Section 1. The legislature shall provide for exemptions" (then strike out "of homesteads") "from seizure and sale."

In the copies that are being passed out now, in the second line, strike out "of homesteads".

Explanation

MR. DENNERY

Provision is a perfect example of what was discussed this morning by the governor--namely, it's legislative material which we are putting into the constitution. It's true that homestead exemptions have been in our constitutions for a long time, back, I think, since 1879. But, exemptions from seizure for other purposes are all in the statutes. For instance, your insurance policies, your life insurance policies are exempt from seizure by statute. The tools of your trade are exempt from seizure by virtue of statute; your rights in pension are protected only by statute; the exemptions from garnishment of wages and salaries is contained only in the statutes. It seems to me that the legislature could very well provide for--and should provide--for all exemptions including homestead exemptions: that is, an exemption from seizure and sale of one's homestead. I think the very language that has been deleted in the delegate proposal from the present constitution indicates how quickly things change. Just since 1921 we had to take out oxen, bacon, etc. Maybe as someone suggested, we ought to put gasoline in there. Furthermore, the amount of the exemption is going to change currently. What...maybe fifteen thousand dollars is the correct amount today, but five years from now, fifteen thousand dollars may either be worth a lot more or a lot less than fifteen thousand dollars today. So, the purpose of the amendment is to place this duty in the hands of the legislature so that it will be made more flexible and permit the legislature to change the exemptions as time requires. Mind you, this does not remove the homestead exemption from seizure; it merely gives it to the legislature. I believe that Mrs. Zervigon's Committee on Transitional Measures should certainly be sure, if this amendment is adopted, that there is some transitional provision which would protect the homestead exemption until such time as the legislature enacted it. Otherwise, we might have a hiatus arise where a man might go

into a bankruptcy and once in bankruptcy without the exemption from seizure of one's homestead, that homestead would be seized and sold and all of the proceeds delivered to the creditors. I would also point out that the language in the delegate proposal protects only the heads of families. As I read it, it does not necessarily protect a single person, be it male or female, who might own his or her own home, and that home would not necessarily be protected from seizure. These are things that a legislature can correct a lot more easily than can be corrected by a constitutional amendment. I urge the adoption of this amendment. Of course, if it is adopted, we will have amendments to delete the other language in the delegate proposal.

Questions

MR. LANIER

Mr. Dennery, to follow up on your remarks about the transition of the present language, if we provide for a transitional provision, then the present language would be transposed into the statutes; is that correct?

MR. DENNERY

Well, either the present language or something similar to that, and then the legislature could then amend that statute.

MR. LANIER

Right. Then, at the next session of the legislature, in its wisdom, it can do a cleanup job such as this is attempting to do and put whatever ceiling it wished, which ceiling could then be modified from year to year at the annual session of the legislature as changing conditions and circumstances warrant.

MR. DENNERY

Or in addition to that, the legislature could add other items of exemption or delete other items exempted.

MR. SMITH

Mr. Dennery, doesn't your amendment take homestead exemptions out of the constitution? The way I read it, it does.

MR. DENNERY

Well, what it provides is that the legislature shall provide for exemptions from seizure and sale, which would include homestead exemptions and the other exemptions which they now provide. I would have no objection, Mr. Smith, if...as a matter of fact, Mr. Planchard I believe, if this amendment is adopted, will come back with an amendment which will put a minimal limit as indicated by the convention previously of "shall provide for exemptions of homesteads of not less than fifteen thousand dollars."

MR. SMITH

Don't you think, particularly, the homestead exemption should stay in the constitution?

MR. DENNERY

Now, we're talking purely of the homestead exemption--the exemption of the homestead from seizure and sale. Now, I don't think it's any more sacrosanct than life insurance policies which weren't that important in 1879, or pension rights, or garnishment rights, etc.

MR. SMITH

Don't you think man's home is his castle? I think at least that should stay in the constitution and have a set exemption. I feel like...

MR. DENNERY

Well, are you suggesting, Mr. Smith, that what we should do is put back what I deleted, and just say that the legislature shall provide for exemptions of homesteads, or are you suggesting that the entire provision remain?

MR. SMITH

Well, I don't have any fix on the...I think it ought to be a reasonable figure. But, I think the homestead exemptions ought to stay in the constitution.

MR. ABRAHAM

Moise, don't you think that the language as you have it actually would be better from the standpoint that the legislature could not only provide for the exemption from seizure of homesteads, but it might include other things because we have many people who don't own a homestead. The legislature in its wisdom may want to provide some grubstake for these renters,

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these people who are renters and who declare bankruptcy. So, they may want to exempt other items for those people. Don't you think as you have it would be a better way of handling it?

MR. DENNERY

Well, that's why I put it that way.

MR. PLANCHARD

Mr. Dennery, we discussed the problem of the transition from the four thousand dollars to a fifteen thousand dollar figure a moment ago. I wasn't able to hear what you had said about it. Did you mention it to them that we do have this problem?

MR. DENNERY

I think we do have such a problem, but I think if we placed in as a transitional measure the present provisions of the constitution, we would at least be protected until the next session of the legislature to the extent of the four thousand dollars. And as a matter of fact, I think the transitional measure could make it fifteen thousand.

MR. PLANCHARD

But, as it presently stands, it would have to stay at four thousand; is that correct?

MR. DENNERY

That's correct.

MR. STINSON

Mr. Dennery, along the lines of Delegate Smith, I know you're trying to keep this short, but don't you think...we could put this amount but that's not the tops. The legislature could add to it. If we put ten or fifteen or whatever it is, that's what we put, but the legislature could increase it, I would think, legislatively. But don't you think a person's home is too important and sacred to leave it up to the legislature? And one time we get up here and say, "Well, leave everything to the legislature." Then the next time we don't. Well, there are good legislatures and there's bad, and the bad ones would take away and the good ones would give, and the people can't depend on that. They should be secure in their homes; don't you think?

MR. DENNERY

Well, except that the language provides that they "shall" provide exemptions.

MR. STINSON

But there are a lot of things that it says that, and they don't do it. Suppose they don't do it?

MR. DENNERY

That's correct.

MR. STINSON

Then, a man doesn't have any exemption at all.

MR. DENNERY

That's correct.

MR. CHAMPAGNE

Mr. Dennery, I understand that the present law also says "the tools of trade" and such, and we don't have that in the proposal; is that right?

MR. DENNERY

That's in the statutes right now, Mr. Champagne.

MR. CHAMPAGNE

I see. So, but if we...I understand. So, actually, this would include that by just saying that they shall do it; right?

MR. DENNERY

Right.

Further Discussion

MR. ALARIO

Mr. Vice-Chairman, members of the convention, I ask that you would turn down the Dennery amendment which seeks to delete this proposal and leave it strictly up to the legislature. Now, I don't plan to stand up here and tell you that I should let you know whether this belongs in the constitution or the statutes. I didn't have a popularity poll made of myself to find out if I have eighty-four percent or sixty percent or forty percent of

the people who like me. I'm just trying to do what I think is right and just by the people that I represent. This homestead exemption has been in the constitution in this state since 1879--1879. Just think about that for awhile. That's a right the people of this state have been enjoying since that time, and it's been a protection for them by putting it in this constitution. Now, Mr. Dennery seeks to remove it. Those people back home can't afford to send lobbyists up here to wine and dine us to look after their interests. They expect you and I to do just that for them. That's what they elected us for. They can't do as you and I have been treated in the last few months to all the fancy salads, to the fancy hors d'oeuvres, to the fancy appetizers, to the big steaks, to all those flaming desserts, to cherries jubilee and baked Alaska.

I wouldn't be surprised at one point if some of those lobbyists wouldn't have brought the cook out on fire if it would have done them some good.

But the people back home can't afford to take you out and wine you and dine you like that. They expect you to do that job for them, and that's why I ask you to leave this provision in the constitution and provide for an increase, to make sure that they are well protected. I ask you to defeat the Dennery amendment.

[Previous Question ordered. Record vote ordered. Amendment rejected: 39-66. Motion to reconsider tabled.]

Amendments

MR. HARDIN

I have desk copies of an amendment by Delegates Alario, Planchard and Mauberret.

Amendment No. 1. On page 1, line 15, immediately after the word and punctuation "urban," delete the remainder of the line and delete line 16 in its entirety and at the beginning of line 17, delete the word "support" and insert in lieu thereof the following: "owned and occupied by any person"

Amendment No. 2. On page 1, delete lines 25, 26 and 27, in their entirety.

Explanation

MR. PLANCHARD

Mr. Chairman, fellow delegates, what we're attempting to do here is change the wording where it's much more easily understood; it's better worded. In wording it the way we have to just "owned and occupied by any person" it grants this exemption to every person who owns and occupies a home. They have also taken out lines 25, 26, and 27 that since we use this type of language "owned and occupied by any person", the other...this whole paragraph would be useless; so, we've just taken it out because, necessarily, if you are a surviving minor, or you are a surviving spouse, you're included in the "owned and occupied by any person" category. I ask for your favorable adoption.

Questions

MR. AVANT

A. J., I think I understand the amendment. I want to make sure. This would mean that a person who had no dependents, no wife, no child, and nobody dependent upon him for support, but who owned his home or her home and lived in it, that then the exemption would extend to such a person?

MR. PLANCHARD

Absolutely.

MR. AVANT

Where it does not extend to such a person as it is now written?

MR. PLANCHARD

That's correct.

Chairman Henry in the Chair

[Quorum Call: 90 delegates present and a quorum. Motion to return Delegate Proposal No. 16 to the calendar adopted without objection. Motion to alter the order of business adopted without objection.]

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Vice Chairman Casey in the Chair

REPORTS OF COMMITTEES
[II Journal 1166-1170]

MR. HARDIN

Delegate Tate, chairman on behalf of the Committee on Style and Drafting submitted the following report:
To the Chairman and delegates of the Constitutional Convention:
I am directed by your Committee on Style and Drafting to submit the following report:
Committee Proposal No. 4 reported with amendments.

[Motion to suspend the rules to consider the committee report at this time adopted without objection.]

PROPOSALS ON THE CALENDAR
FOR APPROVAL OF FINAL STYLING

Committee Proposal No. 4

Explanation

MR. TATE

Mr. Chairman, fellow delegates, in front of you you have in the same organization we had before, in green, the Executive Branch Proposal restyled with, as far as both committees could possibly ascertain, no subjective changes. The whites are the amendments amended by amendment. At the end, are the yellow amendments--the final ones--one of which, at least, will probably be controversial concerning whether the attorney general is in the Executive Branch or the Judicial Branch. However, on the first time around, as we go through it, we're just not worrying about placement, just worrying about language. Now, with the permission of the Chairman, I will discuss Amendment No. 1.

Amendment No. 1

MR. TATE

Amendment No. 1. The sole change there was that the word "composition" was added in front of (A) to give. . . in line with our styling that we'd have a subtitle in front of every subparagraph.

Questions

MR. PEREZ

I'm trying to find out where we stand. Again. . .

MR. TATE

Well, Mr. Perez, on the white sheet is the amendment. The only change there on (A) is we added a subtitle, "Composition." As you remember, on the left side is as it passed the floor. On the right side is the styling recommendation.

MR. PEREZ

I just want to get it clear, so when are we going to take this problem of the attorney general up. That's what I'm trying to get to.

MR. TATE

Yes, sir. As I mentioned in introduction, we will get to that at the very end. The first green amendments concern only language changes. The yellow amendments are what we have been calling caveat amendments which. . . in the effort to clarify ambiguities in the constitution as drafted or conflicts between the two sections or to find in case the legislative intent is ambiguous, to bring to your attention a possible clarification that we have been informed is what the meaning of the amendment was. But, they are to call. . . to alert you on the yellow amendments, that they are to alert you that there is something that we want you to study like you did yesterday. But, the green amendments--the green amendments--which I'll refer to them in order, we're first going through the green sheets. . . Perez's question, the alternative amendments which we'll reach at the very end are going to be in 46 and 47.

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. TATE

All right. Amendment No. 2 restyles Subparagraph 1 (B).

It follows the styling thing of placing the exception first. It omits "of state government" as unnecessary words since that's all we're talking about. It omits "respective," according to the usual idea that "respective" doesn't mean. . . is an unnecessary word, in context, here.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TATE

Amendment No. 3 is to Section 1 (C) on the green. On page 3, it adds a comma (,) following "executive branch" in order to set off the contrasting elements. It uses the. . . it puts "responsibilities" in place of "departments" because if you will notice (B), they were talked in that order: "functions, powers, duties and responsibilities." That is the obvious meaning of what they intended to say there. "And shall be as provided by statute," we shall use it in the standardized language throughout the constitution, "shall be as provided by law."

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TATE

Amendment No. 4, which is to Section 2 on page 4 of your green materials, it, first of all, it combines the attorney general's qualifications with the other qualifications of other statewide officers. Mr. Stagg, this is just a language change, and Mr. Perez, just a language change. Later, you're going to have a chance to vote on whether it should be here. It. . . as you will notice, it. . . as you will notice, it uses commas, it reconstructs the sentence so to allow the elimination of useless words later on. The duties of the attorney general were not repeated here because they were in Section 8, below, continued again--found again in Section 8.

[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TATE

Amendment No. 5 is to Section 3 (A), on page 6. What it does is it rearranges the offices in the same order they are found in 1 (A). It uses a comma when needed in the series in line with the usage. It omits the word "each" when it says "shall each be elected." It says "shall be elected." It deletes the comma (,) after "state," when it says, "electors of the state at the time and place of voting." The. . . if you'll go to page 7 where (B) is--the old (B) is--it was found. . . thought to be more logical to put that, the term of each elected official, in with that first paragraph, because they're talking about all of them, including the attorney general. Incidentally, in line with the usage throughout, instead of using the word. . . no, we use the word "official" throughout. Whenever we found "officer," we changed "officer" to "official."

It omits needless words like as "for the next succeeding term;" it says, "for the succeeding term." That can be the only one. As noted, there are only strictly grammatical sort of changes and eliminating language that's plainly surplusage.

Questions

MR. DENNERY

Judge, I'm looking at Section 3 on the righthand side of the page, line 17. "The term of each official shall begin at noon." Now, that was taken, as I gather it, from old (B) which is found on the next page.

MR. TATE

Right.

MR. DENNERY

Which says "the term of office of each elected official enumerated in this section." I only ask for the sake of the record, sir. When you have deleted all of these "such's" and each "elected official named herein, etc.," do you come out with the same result?

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MR. TATE

Yes. It obviously refers just to those elected officials in the first sentence of the paragraph.

[Amendment No. 5 adopted without objection.]

Amendment No. 6

MR. TATE

Amendment No. 6 is to Subparagraph 1 (C), on page 7. It just rearranges it, the language, to put the exceptions first, in line with the usual usage throughout the constitution.

[Amendment No. 6 adopted without objection.]

Amendment No. 7

MR. TATE

Section 4. . . amendment. . . Section 4, on page 8--Section 4 on page 8--which is Amendment No. 7, we. . ."except as otherwise provided in," we provided the standard language which is "except as otherwise provided by this constitution." "Shall be fixed by the legislature," the intent was "by law." We checked with the Executive Branch Committee which had drawn this, and we said, "Does this mean each elected official throughout the state or just each statewide official?" They said the intent was just to refer to the statewide elected officials who were previously enumerated. For that reason, for clarification, we had recommended putting "statewide" here, with the thought that there will be a general provision which will probably let us take this out of here, in general provisions, and say "of each official shall be fixed by law."

Questions

MR. DUVAL

Judge Tate, since this has been. . . I think you may have answered my question with your last statement, but since this has been clarified to only refer to statewide elected officials, is there any need for an exception clause, because is there anywhere else in the constitution where a statewide elected official's compensation could be fixed, other than by the legislature?

MR. TATE

I think you're right, Mr. Duval.

MR. DUVAL

But, you were saying that perhaps you're going to clear this up with a single amendment?

MR. TATE

You see, this was adopted way in the very beginning, and I guess that's why the exception was in there. I just don't know why we didn't. . . it didn't occur to us.

Maybe Mr. Conroy will whisper to you, and you can ask me in a question.

What we do hope, Mrs. Duncan, is that. . . Mrs. Duncan will nod. . . is that on the final go around, this provision may be taken out of here, and we will have a general provision, if we're certain it's true throughout the constitution, that the compensation of each elected official shall be provided by law. But, it probably may not be true. I'm not sure about that.

[Amendment No. 7 adopted without objection.]

Amendment No. 8

MR. TATE

Amendment No. 8, which is to Section 5 on the green page 9, simply broke into two sentences the long sentence found as 5 (A).

[Amendment No. 8 adopted without objection.]

Amendment No. 9

MR. TATE

Amendment No. 9, in the interest of. . . Amendment No. 9 slightly clarified the language by the use of additional commas "," and

omitted the unnecessary words "of each regular session of the legislature." It omitted "of the legislature," because it had to be "of each regular session." "Make reports and give information to the legislature," in other words, it. . . we slightly simplified the language. By setting off the time requirements in commas, we think we made it more readable, more understandable.

[Amendment No. 9 adopted without objection.]

Amendment No. 10

MR. TATE

Amendment No. 10 is to the Section 5 (C) which is found on page 11 of the green material. We. . . the phrase was placed at the beginning of the sentence to improve the flow of its lines in lines 4 to 6. The. . . we, for instance, the others are the usual standard sort of changes that we are making, with your approval, in the interest of readability like as in saying. . . instead of saying "such," in most instances saying "the" because it means the same thing in context.

[Amendment No. 10 adopted without objection.]

Amendment No. 11

MR. TATE

Amendment No. 11 is to Section 5 (E), on page 12. Incidentally, on both Section 5 (D) and 5 (E) are found both in the Executive Branch and with some slight addition, in the Revenue and Finance provisions. Sometime, hopefully, before we conclude, the convention will be asked to decide whether to keep the identical provisions in both, or to have them only in one. But, that's not before us now. The only change made was to add a comma (,) to 5 (E), and in order to carry out the parallelisms of "shall submit," added "shall request implementation" in order to kind of carry out the parallel ideas in, perhaps, a more easily readable form.

[Amendment No. 11 adopted without objection.]

Amendment No. 12

MR. TATE

Amendment No. 12 is to Section 5 (F) about pardon, commutation, etc. The. . . you'll see. . . it said, for instance, "The governor shall have the power." Well, in the standard usage, "shall have the power" means "may." Instead of "those," we used "persons." We used commas to set off the phrase, "upon recommendation of the Board of Pardons." We. . . in line with the idea of verb in the indicative mood is better than a long. . . we change "may grant commutation of sentence" to "may commute sentences," thinking it read a little stronger, without a change of meaning. The proviso clause in line with the Style and Drafting Manual is made a separate sentence preceded by "however." Following the standard usage, we used "a" instead of "each first," and so on.

Question

MR. DUVAL

Judge Tate, I may have. . . I notice you changed the word "automatically" in here in its position. Is the purpose of that, for the record, to make it clear that no other procedure has to be gone through, that it. . .

MR. TATE

Mr. Duval, that's one of the yellow amendments when we come back, because from the floor debate, it was apparent that they meant that automatically he was pardoned, not eligible for pardon because eligibility, in context, means you've got to apply to the governor. So, we'll come back, but we did not think it appropriate, here, to change it. But, we did have the adverb follow the verb. . . follow something, anyway.

[Amendment No. 12 adopted without objection.]

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Amendment No. 13

MR. TATE

Amendment No. 13 is to 5 (G), on page 15, and the consent. . . the sensus of the . . .the consensus of the Executive Branch Committee as well as of the . . .in response to our question was that it's clarified if we say the date and hour when a bill "finally passed"--add the word "finally"--"is delivered. . .shall be endorsed," because "passed by the legislatur'd" might mean passed by either house or something like that.

Question

MR. ABRAHAM

Judge Tate, I have a question with the language. I think the intent of the committee and of the convention was that the date that it was delivered to the governor "shall be endorsed thereon." The way I read the language as proposed, is it the date that it's delivered to the governor or the date that it's finally passed by the legislature that it's endorsed?

MR. TATE

No, the date. . .frankly, Mr. Abraham, Style and Drafting had recommended saying "the date of delivery". . ."the date and hour delivered to the governor." The Executive Branch Committee turned down our proposal and wanted to retain the original floor language which is, in my opinion, not quite as clear as Style and Drafting had recommended. But, we really don't want to get into controversy with the substantive committees that have strong views and joint membership with ourselves with strong views. We just gave into you all.

I agree with you, but it takes a little reading. But, it does say as the real test the date and hour when a bill is passed by the governor "is delivered." You see, "is delivered" is what it means. I do agree with you. Personally, I think it would have been clearer if our amendments had been accepted. But, I'm not much on sour grapes at this point.

[Amendment No. 13 adopted without objection.]

Amendment No. 14

MR. TATE

Amendment 14 is to Section 5 (H). At the time. . .the first exception, "Except as otherwise provided by this constitution" was added at the suggestion of the Executive Branch, because by that time, the governor. . .the civil service amendment had been passed and the governor was no longer able, under it, to item veto an appropriation to the Civil Service Branch. . .Department under certain. . .there are limitations that make this statement inaccurate. So, that was recommended that it was added; "any item" is used instead of "the items" in line with the rule of singularization. The other amendments were to leave out what were felt to be unneeded words, to improve the flow of the sentence and unnecessary commas.

[Amendment No. 14 adopted without objection.]

Amendment No. 15

MR. TATE

Amendment No. 15, on page 5 (I). . .Section 5 (I), pages 17 and 18, dealing with "Appointments." Incidentally, we have a yellow amendment coming back, Senator Brown, to. . .we'll have a yellow amendment that will raise your attention. . .that you probably meant. . .may wish to consider whether it shouldn't be "public confirmation," as it is by a later amendment, of first assistants--subordinate officials. But, you'll. . .that's a separate question. We're just looking at the styling of the language right here. The general changes had to do with singularizing language: using the standard language--like "by law" instead of "by statute", using the indicative mood of a verb--"if the legislature is not in session" instead of "should the legislature not be in session"--and stating it positively.

[Amendment No. 15 adopted without objection.]

Amendment No. 16

MR. TATE

Sixteen is to 5 (J) on your green page 19. We singularize. . . well, we singularize the "those" to "a person," saying "The governor may remove." We use the standard language "by law" instead of "by statute."

[Amendment No. 16 adopted without objection.]

Amendment No. 17

MR. TATE

Amendment No. 17, as it passed the floor, he said, "He may call out the armed forces of the state to preserve law and order." Right up in front of it, it said, "He's the commander-in-chief of the armed forces of the state, except when they're in the service." So, we thought if you said, "He may call out these forces," it says the same thing and doesn't repeat the same long-winded phrase.

[Amendment No. 17 adopted without objection.]

Amendment No. 18

MR. TATE

Amendment No. 18 is to Subsection 5 (L). It. . .in general, it had to do with eliminating the word "such" as unnecessary, when it says "have other powers and other duties authorized by this constitution or provided by law" means exactly the same thing. It said. . .we said, "provided by law" instead of "provided by statute" in line with the standard language being used in the constitution today.

[Amendment No. 18 adopted without objection.]

Amendment No. 19

MR. TATE

Amendment No. 19 is to Section 6, on page 21. The. . .as you see, it breaks the long sentence into two, and it follows the. . . as we have done in the other sections, the rules of omitting "such" when unnecessary, and changing "statute" to "law."

[Amendment No. 19 adopted without objection.]

Amendment No. 20

MR. TATE

Amendment No. 20 is to Section 7, on page 22 of your green. The. . .following the rule of capitalizing the entity the first time you refer to it and as referring to it as a particular entity, "Department of State" was capitalized. Following the parallel structures we follow in most of the succeeding sections about the other statewide offices, the next sentence was. . .we broke that first long sentence into two. In fact, we broke that long whole page sentence into at least three sentences--four sentences--without changing the language.

[Amendment No. 20 adopted without objection.]

Amendment No. 21

MR. TATE

Amendment No. 21--and this is going to be one that later you're going to discuss in the yellow amendments--is in line with the standard organization of the following sections as well as the preceding section. We broke it into two sentences and capitalized the department as an entity the first time it was referred to.

[Amendment No. 21 adopted without objection.]

Amendment No. 22

MR. TATE

Section . . .Amendment No. 22 is to Section 9. The . . .aside from the changes in line with what we did in the previous sections about the organization between department and the treasurer. We added a "to" to parallel it, and it was thought to be more . . . read a little better and say . . .instead of saying "in advance of the regular session," just "before each regular session." The remainders of it omitting "such" as we do very commonly when unnecessary.

Are there any questions?

[Amendment No. 22 adopted without objection.]

Amendment No. 23

MR. TATE

Section 10, the commissioner of sgriculture. The changes made are in line with those made in the other departments. Style and Drafting had had some reservations as to the last sentence, but we were assured by Executive Branch that's exactly what it meant. So, no change is made in it insofar as its structure. We did omit as unnecessary some adjectives. We recommend your omitting some "such's," and the Executive Branch concurred on that.

[Amendment No. 23 adopted without objection.]

Amendment No. 24

MR. TATE

Amendment No. 24 which is to Section 11 did its best just to simplify the language and shorten it a little bit. It provided the standard capitalization of the first time the department was referred to.

[Amendment No. 24 adopted without objection.]

Amendment No. 25

MR. TATE

Amendment No. 25 is to Section 12. It's the Department of Elections and Registration, and the commissioner of elections. The styling changes recommended are in accord with those you have just approved in the preceding four or five sections.

[Amendment No. 25 adopted without objection.]

Amendment No. 26

MR. TATE

Amendment 26 is to Section 13. The...you'll see,we think we simplified the language of the initial sentence. We think we made it a little clesrer at the end of the sentence, without changing the context, of course. We omitted"same"because it was unnecessary, and"as those"is unnecessary.

[Amendment No. 26 adopted without objection.]

Amendment No. 27

MR. TATE

Section 14...we thought that it might read a little better is to say "when a vacancy occurs in the office of governor," instead of how it reads, "the order of succession, the office of governor in the event of vacancy shall be." The other changes have to do with the standard....usage, or omitting unneeded, surplus words.

Any questions, Mr. Chairsmn?

[Amendment No. 27 adopted without objection.]

Amendment No. 28

MR. TATE

Amendment 28, to Section 15, is...whenever it was changed to "should," we were outruled by Dr. Asseff on our original proposal, and we accepted that as saying "if a vacancy occura it would be parallel with the one in front of it."

Question

MR. ABRAHAM

I didn't get the reason for changing the word "when" to "should." In the previous one, you said that you...when a vacancy occurs in these other offices.

MR. TATE

Mr. Abrsham, I couldn't agree with you more. We...but we were...we...for internal reasons, sa well ss the fact that your committee went along with our internal reason, we did it for variety, our internal reason man says--for variety. We did it there.

MR. ASSEFF

I take the blame. I inaiated on the "should" for variety. So, don't blisme Judge Tate.

[Amendment No. 28 adopted without objection.]

Amendment No. 29

MR. TATE

The next amendment, which is Amendment 29 to Section 16 involves,in general,the use of shorter words. The setting off of a phrase by commas....the omisson of needless words....an attempt to break down this long sentence into two sentences, anyway. Those are the general reasons.

[Amendment No. 29 adopted without objection.]

Amendment No. 30

MR. TATE

Amendment No. 30, which is to line 17 (A) and (B), and it's found on your green Section 17 (A) and (B), and it's found on your green pages on Section 33 and 35, in general made sensible changes in accord with what we have been doing in the preceding parts, of substituting a word for s phrase, using, deleting Hackney's reference words which were unnecessary, using the present tense, etc.

[Amendment No. 30 adopted without objection.]

Amendment No. 31

MR. TATE

Section 31 is to Section 18. It...this is as it was passed in the executive branch. It said,"A vacancy as used in this constitution shall occur in the event of death, resignation or removal, or failure to take office for any resson."

Since it was used only in reference to this article, we queried the Executive Branch Substantive Committee, if they did not mean this to be an article that would go...if we shouldn't bring it up to the floor for this to go into the general provisions. They informed us that the intent of the drafting of this was that it meant the vacancy of the offices in that article. To clarify that intent, we substituted...recommended substituting "article" for "constitution" and we, I understand, that for general provisions and transitory provisions at the end of the conatitution, thought would be given to having a similar definition that will apply to all of the provisions of the constitution; in which event,this would be deleted.

[Amendment No. 31 adopted without objection.]

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Amendment No. 32

MR. TATE

Amendment 32 which is to Section 19, on page 37 of your green material, you will see that we...made "statewide elected" instead of "elective" to conform to the usage through the article. We thought that by, you didn't have to say presiding officer twice in front of both Senate and House of Representatives, by saying "the presiding officer of both", and the other changes have to do with the consistent usage and deletion of unnecessary words that you have been approving up to now in the preceding parts of the article.

[Amendment No. 32 adopted without objection.]

Amendment No. 33

MR. TATE

All right.

Section 20, on page 38, the determination of the inability of statewide elected officials. The changes are petty....very nominal, like "whenever" was changed to "when." We said "a written declaration of this effect" instead of repeating a whole, the whole language over again. The...let's see...the...so far, and this is the change recommended; "so file a written declaration to this effect to the presiding officer of each House, and shall file a copy of the declaration with the offices of the secretary of state." This is the Executive Branch article. We've raised the question that if they had to file the same written declaration in all three places, and then intent was that the copy was to be filed in the office of the secretary of state. The rest of the changes involved have to do with putting in commas, changing...omitting a section; putting in instead of "the elected," changing a.... deleting "said office," and making it "that office," etc. The standard changes that we have been recommending to you in all the other provisions.

[Amendment No. 33 adopted without objection.]

Amendment No. 34

MR. TATE

Amendment 34 is to Section 20 (B) on your green pages on page 40. The language involved was simply...well, some of the changes made were vetoed. So, some of those changes like we'd originally recommended the removal of a hyphen, well, we put it back in. But, as you read it there, the main changes were omitting needless words and using standard language, keeping related words together.

[Amendment No. 34 adopted without objection.]

Amendment No. 35

MR. TATE

Amendment 35 to Section 20 (C), on page 41 of your green copy, using the standard language which, except in a couple of provisions we were unable to follow it; "two-thirds of each House." I'm using copy again....using a copy because that was the intent of it... a copy of the resolution to be sent to the Supreme Court.

[Amendment No. 35 adopted without objection.]

Amendment No. 36

MR. TATE

No. 36 makes a simple amendment. It adds "with;" "by preference and with priority," it gives "by preference and priority." It was a parallelism, but "with" is the proper preposition in front of it. It adds a phrase "with."

[Amendment No. 36 adopted without objection.]

Amendment No. 37

MR. TATE

All right. No. 37 is to Subsection 20 (E)...20(E) Subsection. The....standard language, and the changes comparable

to those minor technical changes that were made....recommended to you in line with what we've been doing up till now.

[Amendment No. 37 adopted without objection.]

Amendment No. 38

MR. TATE

No. 38...wait, wait...let me see.

No. 38 is to Section 21...and...as you will see, we simply, we thought shortened and made the language more readable. Instead of saying "in the event of a temporary absence of the governor of the state," we said, "when the governor is temporarily absent from the state."

[Amendment No. 38 adopted without objection.]

Amendment No. 39

MR. TATE

Amendment 39....Amendment 39....and I...Mr. Chairman, Amendment 39...but I'm trying to see....it's not on my copy right here. Amendment 39....deleted lines 31 through 35 on page 1...would someone give me...it was something, I think, we put up ahead....I just didn't see it. We....that was where Mr. Stagg informs me Section 22 is Reorganization of the Functions and Powers, etc., shall be as provided, except those functions and powers allocated by the constitution....

Here's what will happen, Mr. Perez. In Amendment 3, we added Section 1 (C) which was a former Section 22 of the first enrolled copy. To put it to where we thought it was more logically situated, you've already approved that without any objection at the time. But, of course, if there's an objection, we can do something about it. But....at this point, it's no longer necessary to have Section 22, the substance of which is now in 1 (C). Section 22 provided "reallocation of the functions, powers and duties of all departments, officers, agencies, and other instrumentalities of the Executive Branch, except those powers, functions, and duties in the departments allocated by this constitution, shall be as provided by law." You go up and look at Section 1 (C); we have already put it there. For that reason, Mr. Chairman, subject to further questioning, I move the approval of Amendment 39 to delete from the first enrolled copy the language which we've included up in 1 (C).

[Amendment No. 39 adopted without objection.]

Amendment No. 40

MR. TATE

Amendment No. 40 has to do with the appointment of officials, and the merger or consolidation, etc., of departments that's found on pages 45 and 46 of your green copy, of these changes made, technical changes about standardizing language, keeping related words together, using the right voice and mood of a verb, place.... in a deal with comma placing, and without change of substance. Subject to further questioning, Mr. Chairman....

[Amendment No. 40 adopted without objection.]

Amendment No. 41

MR. TATE

Now, Mr. Chairman, we go to the yellow amendments. In line with your decision yesterday that has to do with the fact that the...when we fight in the constitution...you have to have the qualifications, "at the date of his qualification," or "the qualifications on the date of his election," we will withdraw Amendment 45, even though in the same...section they use different dates at which to determine the qualification. But, I take it from your judgment yesterday, that you feel has to be a substantive change. Even though a substantive changes that are inconsistent are within the purview, your purview at that time. I take it that you don't want to mess with it. For those reasons, Mr. Chairman....

Questions

MR. DUVAL
Yes, sir.
Judge Tate, it would appear to me that qualification...
I see....

MR. TATE
You see, they use qualification up in the first part. But in the second part they use sense. I know nobody thought about it. But, you all determined yesterday that it's none of our business. I'm glad it's none of our business, gentlemen and ladies....

MR. DUVAL
Well, Judge Tate, did Style and Drafting feel it was a conflict in this specific article?

MR. TATE
Well, we thought that probably, if it looked...look, we lost yesterday. I don't care. But, we had...where's Mr. Duval? We had thought that as a matter of logic, you probably would have wanted to have all of the dirty qualifications, if you had to have some of the qualifications, the date of qualification, you ought to have the rest of them on that date of qualification. That's what we thought. You disagreed. We are happy that you... we have no objection, do we?

[Motion to withdraw Amendment No. 41
adopted without objection.]

Amendment No. 42

MR. TATE
Now, No. 42 deals with that matter of the Board of Pardons we were worried about a minute ago, which is an amendment to Committee Amendment 12, which, on your green copy is Section 5 (F), and (G), which is on page 13 on your green copy. Now, this has reference to Mr. Duval's question that the language that says "however, a first offender never previously convicted of a felony shall be eligible automatically for pardon upon completion of his sentence without recommendation of the board," did not, apparently, carry out the intent of the membership of this convention. We referred it to...the Executive Branch. They recommended either deleting the word "automatically" or else inserting instead of that, the language here on your second amendment....

Motion

MR. AVANT
Mr. Chairman, I don't mean to hurt anybody's feelings, but this particular thing that we are going into right now, and I don't care how it's resolved. But it is a matter of considerable consequence, and for that reason, I would like to ask for a quorum call. I would like to request the delegates to really pay attention because I think this is a matter of considerable importance, and I'm not all hung up about how it's resolved, but I do...would like to see it resolved by an intelligent vote.

[Quorum Call: 91 delegates present
and a quorum.]

Point of Order

MR. CONROY
I think that the procedure we had agreed upon was that if there was a question as to being a substantive question, that we would raise it as a point of order. I so raise.

MR. CASEY
That's correct, Mr. Conroy. Are you raising that point to Amendment No. 42?

MR. CONROY
Yes.

MR. CASEY
That Style and Drafting has exceeded its authority, that it is a substantive change?

MR. CONROY
Yes.

[Chair declined to rule.]

Point of Information

MR. AVANT
Is that point of order subject to debate or discussion?

MR. CASEY
When we put it to the convention, it is subject to debate, Mr. Avant. So, we'll put the question to the convention.

[Question put to the Convention.]

Explanation

MR. TATE
On page 13, green, Section 5 (F), there's a second sentence at line 18 through 24 of Paragraph...Subparagraph 5 (F), says, "however, a first offender, never previously convicted of a felony, shall be eligible automatically for pardon upon completion of the state...of his sentence, without recommendation from the board." Of course, the word "automatically" is not necessary if...is not necessary....

Then, on your yellow copies on page 2, on the 5 (F), the...recommended substitute language would, on pages 13 through 19 would add "and without action by the governor." On your white sheets...on your white sheets it's page 10, and Amendment 42. Now, in brief...I'm not going to...I'm not arguing the merits either way. We thought it was subject to construction....

All right. Subject to your views, we thought it was subject to construction when they added the word "automatically." The question was, "What was in the convention's mind?" From the floor debate, they have talked about once that first offender finishes five years, he didn't have to go to the governor. He didn't have to go to a lawyer. He didn't have to go to any... he's just automatically pardoned. So, we asked the Executive Branch Department if that was not the intent. They came back and recommended to you, language that carries out that idea in this yellow amendment. We realize it's a possibility that it's substantive, and that's why we put it on the yellow amendment, although we thought for that reason that it was appropriate for us to call it to your attention.

Further Discussion

MR. STAGG
Mr. Chairman and fellow delegates, I wish to begin by saying I think that the committee on Style and Drafting has done a yeoman job. They have, as they saw their duty, prepared on this yellow sheet under Section 5 (F) what they thought might be a substantive change.

When we were discussing in committee, and when we were discussing on the floor of the convention, we thought that the language that provided that a first offender, one never before convicted of a felony, when he completed the sentence assigned to him by the judge, that he was automatically to be pardoned--that he wasn't to go have to hire a lawyer; he wasn't to have to go over here to the pardon board and present a petition; he wasn't to have to do a darn thing. He was automatically to be pardoned. Well, the word that crept into our language was that "he shall be eligible automatically for a pardon." It is the word "eligible" that has caused Style and Drafting to scratch

its collective heads to determine that this was, indeed, perhaps, a substantive change. What the committee believed it was doing, and what I think the convention believed that it was doing, is reflected on the yellow sheet in the right hand side that upon the completion of that first offender's sentence, he didn't need a recommendation of the Pardon Board; he did not need the signature of the governor; this constitution gave to him automatically a pardon. That was what we thought the sense of the convention was. We would trust that this convention, in its wisdom, would take the yellow amendment and approve Section 5 (F) as it appears in the right hand side of this yellow sheet.

Thank you, Mr. Chairman.

Further Discussion

MR. JACK

Mr. Chairman and fellow delegates, please give me your attention a minute.

I was the author of the amendment that set up this five person Pardon Board. Now, on the automatic pardon for the first offender, we track the language that was amendment several years ago, to the present constitution. The Committee on Styling and Drafting, unknown to them, has exceeded their authority and completely changed what is an automatic pardon entirely. Now, here, the column to the left, follow that. "However, a first offender never previously convicted of a felony, shall be eligible automatically for pardon upon completion of his sentence without recommendation of the board."

Now, if you'll read up right at (F) you'll see, though, the governor is the one that grants reprieves to persons convicted of offenses against the state. Upon recommendation of the Board of Pardons, may commute sentences, pardon those convicted of offenses." The governor is the one that grants the pardon. Now, the only exception made about the Pardon Board is down there in two, when the...I mean under No. 1 down there where your first offender, never previously convicted of a felony, you are eligible for a pardon automatically--by automatically means without going to the Pardon Board. But, you still have to have the governor sign it. Now, that is what the present law is for first offenders. It's what we said in this to the left.

Now, over to the right where Styling and Drafting has handled it, they are saying "however, a first offender never previously convicted of a felony shall be pardoned automatically upon completion of his sentence without a recommendation of the board" correct so far. But, they are legislating when they say "and without action of the governor." That is not what the amendment and the thing that we passed. The governor is the one that grants the pardon. Now, I can see if you are going to say that the warden up there says this man leave, he's a first offender, and we are automatically handing him this pardon, then you're going to have some pretty rough people that are granted pardons. Purposely, I tracked the present law because under the present law, even a first offender has to get a pardon, he don't go to the Pardon Board. He goes direct to the governor. You go through the local office. You do not have to have a lawyer. But, let me tell you, if you are going to let the warden hand everybody...a first offender...a pardon when he walks out, you're going to turn loose the worse type of man that wouldn't behave there, but did just finally serve out his full sentence; got no good time under 1, 2, or No. 3 provisions for good time. Now, that is not the amendment that is in the present constitution... put in there during Governor McKeithen's either first or second term, about these automatic....

and if they are legislating, I hope the others have caught on better than you, Mr. Acting Chairman.

May I have one more minute, please, I ask the motion?

[Motion to suspend the rules to allow additional time adopted: 77-2.]

Further Discussion

MR. JACK

All right. I'm just saying this is a very serious thing and this is not what was passed. The governor should have to still sign those things. You can have a first offender down there, can be down there for attempted rape, manslaughter, and theft--all three--but still be a first offender because it all happened there for his first trip and you better not....and maybe he's been a terror down there. Now, you don't want just automatically give it, the governor ought to be able to consider that man but it don't need to go to the Pardon Board. I believe that if Styling and Drafting would think this over and they would see it. Unfortunately, very few lawyers as a whole know Pardon Board law. So, that's about all I can tell you; you're just changing the meaning entirely if you adopt this as amended by Styling and Drafting.

Point of Order

MR. DUVAL

What I'm wondering is, is the question before the convention whether this is in fact a substantive change or not and whether we want to hear it or not; which one is it?

MR. CASEY

The question is, Mr. Duval, is to whether it is a substantive change or not.

MR. DUVAL

And, what if it is?

MR. CASEY

...and, I believe that's the way it was put to the convention.

MR. DUVAL

What if it is a substantive change, but we do want to hear the matter?

MR. POYNTER

Well, the first thing to be determined, a point of order has been raised, is to whether it's in order or not. Mr. Conroy is suggesting it's out of order because it is a substantive change and, therefore, exceeds authority or the committee. So, if you want to stay real pure, I guess, and you think it's out of order because it is a substantive change, you could vote "no" declaring it out of order, that it's not in order. Then, I'm sure that some of the proponents will make a motion to suspend the rules to call from the table a motion to reconsider.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, at the risk of maybe making somebody mad or even being ruled out of order, it's something that I feel that I've got to say at this point on this subject. I don't... people get up here and they say, "Well, the Style and Drafting Committee is recommending this or recommending that in the area of these yellow amendments." I'm speaking just for myself, but I think I want to put it in the proper perspective as I understand it. I don't think the committee is recommending anything. We are simply saying that in certain areas you have adopted certain language but based upon all of the discussion, it's the sense of the committee that the language you adopted did not accurately express what you intended. Now, here is what you've said and here is what we think you meant, now you tell us what you meant; we're not recommending anything. So, I want to...as far as I'm concerned clarify that; it simply...that as we go through these things and because of different ways of expressing what appears to be the same concept in maybe more than one place or based upon what was said on the floor at the time a certain amendment was adopted, we are not sure or were not sure what the true intent of the convention was. We just feel that we are duty bound in those circumstances to point those things out and then it's up to you to say what you meant, not for us to say what you meant. But, I just had to get up here when people keep saying that the committee is recommending that you do this or that you do that when it comes to simply matters of style, that may be true but in this area I don't think it is true; and I wanted to clarify that point.

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen, I'm going to make this as short as possible. In deference to what Mr. Jack understood, my understanding is just the opposite from him and I think this...what the Committee on Style and Drafting stated in the yellow sheet is exactly what this convention adopted because I remember the specific question that Burt Willis asked me after I explained, I said it was against my interest really to argue for this provision as a lawyer because it meant that a first offender would get a pardon without having to hire a lawyer. Burt Willis got up and said, "What you're saying Mr. Roy, isn't it, that the constitution of this state in the future will grant a pardon to a first offender and not the governor and no person will have to be kowtowed to," and I said that's precisely what was said and that's precisely what we intended. I think we ought to get along with the program and get this passed as the committee has seen fit to put in the yellow sheet.

Further Discussion

MR. ABRAHAM

As a member of the Committee on the Executive Department, I

simply want to add my comments to Mr. Roy's and those others, this was the intent of this amendment. I feel that this particular recommendation of the Committee on Style and Drafting is not a substantive change, the intent of it was that the pardon would be automatic. So, I urge that we approve this and go along with our business.

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, I am a member of both of the Committee on Style and Drafting and the Committee on the Executive Department. I have talked to Mr. Stagg and we discussed this numerous times. It is the opinion of our committee--disregarding Mr. Abraham--that it is in fact a substantive change. We, therefore, urge you to so declare and when it is Mr. Stagg on behalf of the Committee of the Executive Department will recommend the change which comes unanimously from our committee. But, we do feel that it is substantive and, therefore, we should ask for a suspension of the rules; it is substantive, thank you.

Further Discussion

MR. BURNS

Mr. Chairman and fellow delegates, the only reason I'm getting up here for one minute, maybe a half a minute, is because I'm not a member of this committee or either one of the committees. I just think reading the two together we're making a mountain out of a molehill, there's no difference in them, they left out the word "eligible" which I think is a very good change. So, let's vote whatever is necessary to get rid of this and let's proceed along with the business.

[Previous Question ordered.]

MR. POYNTER

This committee has presented Amendment No. 42 before you. Mr. Conroy has risen to a point of order and sought a ruling of the Chair that the amendment is out of order as containing a substantive change and, therefore, beyond the authority of the Committee of Style and Drafting. The Chair under the rules has declined to rule on the point of order and has put the question to the convention. The vote will be put in the affirmative. Therefore, those of you who are in favor of declaring the amendment in order would vote no. In opposition, those who feel it is a substantive change beyond the authority of the committee and, therefore, the amendment is out of order would vote no. I'm sorry, I did it wrong myself. Those who are in favor of declaring the amendment in order as not constituting a substantive change would vote yes. In order as not constituting a substantive change would vote yes. Those in opposition who feel it is a substantive change, therefore, out of order would vote no. I apologize.

MR. ROY

Maybe Mr. Poynter will answer this one or, you, Mr. Chairman. If we vote yes, it means we finish with this and we go on and it's adopted like the committee recommended it in the yellow sheet or what?

MR. POYNTER

Well, you would have to vote on it, this is just a point of order, Mr. Roy, as to whether it's in order or not. If the convention determines that it is in order, you would then proceed to vote on the amendment and dispose of it.

MR. ROY

O.K. In other words, if we want to proceed to vote on it to vote what the committee has come up with we would vote yes, and then vote yes again?

MR. POYNTER

Well, yes, but...again there are people who perhaps like Mr. Duval expressed himself maybe in favor of the concept, yet feel it's out of order and should be handled through the other procedure, so that's kind of your conviction on that point. The question here....

MR. ROY

I've got my instructions, all right.

MR. POYNTER

All right.

MR. DE BLIEUX

Mr. Chairman, if I may ask the question: If you are with the committee proposal, you vote yes. If you are against the committee proposal, you vote no; that is, with the proposed amendment that the committee has proposed?

MR. POYNTER

Well, Senator De Blieux, you can certainly vote that way but there will be people who don't share the conviction that just because they are in favor of the concept that they want to declare the amendment in order, they would rather do it the other way. So, the question here is whether the amendment is in order because there is no substantive change contained in it or whether in the opposition, it is out of order in that it does constitute a substantive change, that's the sole question.

MR. STAGG

Mr. Chairman, would you inform me if I am correct? That if this convention finds that this is indeed a substantive change and, therefore, rules that it is out of order, then do we suspend the rules to call from the table the Section 5 in order that for the limited purpose of offering Amendment No. 42 for reconsideration, then to reconsider it and then to adopt it; is that not the proper procedure when Style and Drafting feels that it has gone beyond its purview?

MR. CASEY

That would be the procedure followed, Mr. Stagg, if somebody makes the motion, somebody would have to make the motion in order to do that.

MR. STAGG

If the point of order is upheld that it is out of order, then I intend to be recognized by the Chair to make that motion.

MR. CASEY

O.K. Now, let's take our vote.

Let's have the Clerk state the motion one last time and let's take the vote.

MR. POYNTER

Those who feel that the amendment is in order, as not constituting a substantive change, would vote yes. Those who feel the amendment is out of order because it does constitute a substantive change and beyond the committee's authority would vote no.

[Convention declared the Amendment in order: 57-39. Previous Question ordered. Amendment No. 42 adopted: 77-19.]

Amendment No. 43

MR. TATE

All right. Amendment No. 43, again we have the situation that we've called to your attention as something that you may consider beyond our jurisdiction. As Mr. Avant said, we are not trying to do anything but call your attention, in this case, a possible inconsistency which could be a substantive change but still was in the jurisdiction of our recommendation to you. If you think our recommendation is wrong, you can simply vote it down. It has to do, Amendment No. 43, which is an amendment to Section 5 (I) that's in Committee Amendment No. 15 on this sheet, it's on Section 5 (I) as on page 17 on your green sheets and it's on page 3 on your yellow sheets. The effect of it is if it passes the floor, "the governor shall appoint, subject to confirmation by the Senate the head of each department." The effect is to add "public confirmation by the Senate." The reasoning is that you may wish to look on this as an inconsistency is that in Section 13 where the first assistants to statewide elected officials are concerned...Senator Brown after debate secured an amendment to say that those appointments are subject to public confirmation. You may remember Senator Brown was absent when [Section] 5 (I) came up, he was having a baby, he does that every couple of years--that's a joke and I hope I'm not quoted as predicting.

Question

MR. JENKINS

You know, Judge Tate, I certainly think that all of these things ought to be public, but there was a distinction in this case. The distinction was that we were talking here about first assistants who were going to be moving up to the position of a statewide elected official; we provided in that case that there would be public confirmation. Now, in the case we are presently on with department

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heads, there's not nearly the arguments since these don't hold the equivalent of a statewide elected office. I don't understand how the Style and Drafting Committee can bring these things up when there is an obvious distinction in cases like that.

MR. TATE

Well, Representative Jenkins, you may well be right, some people thought there was not an obvious distinction, that's all, and they thought that it was a parallel idea. Mr. Chairman, I would prefer, for instance, that Senator Brown or someone spoke a little about it because it was brought to our attention as a discrepancy, had he been present he would have given this convention a chance to rule on it. As I understood what he said is that the public confirmation did not mean a public debate, but just...it could be an executive session on qualifications but a public confirmation by public vote. But, I mean I have no views on it, gentlemen, I'm just doing what I thought our duty might be.

Further Discussion

MR. DUVAL

Mr. Acting Chairman and fellow delegates, we are purely getting into substantive changes now. I think you can open a Pandora's box by doing this. Confirmation as to the department heads is certainly different than the confirmation to the first assistants as pointed out by Mr. Jenkins. Senator Brown's amendment applied to first assistants and although he may have introduced it as to all confirmations it did not occur that way. I can tell you as a member of the Executive Department Committee it was certainly my intent that confirmations of department heads would not be an open forum. Certainly the announcement would be open and public but not the actual process of confirmation because I think with department heads you can end up either destroying a man or not bringing out things which are important because of the public confirmation nature. But, despite the merits, it's purely substantive; it's quite substantive. I urge you to vote it out of order because it's really substantive and we can just reopen the whole door on this stuff if we keep doing this.

MR. CASEY

Now, just a minute, Mr. Duval, there's been no motion that it... no point of order except your mention right now that it was out of order; I just thought I would point that out to you.

Point of Order

MR. DUVAL

Well, I'll move that it's out of...to be declared out of order.
...in that it's substantive.

Point of Order

MR. DENNERY

I rise to the point of order, Mr. Chairman. I ask for a ruling from the Chair that this recommendation is out of order.

[Chair declined to rule. Question put to the Convention. Previous Question ordered. Amendment No. 43 declared out of order: 11-73. Motion to suspend the rules to reconsider Section 5 of Committee Proposal No. 4 rejected: 37-52. Motion to withdraw Amendment No. 43 adopted without objection.]

Amendment No. 44

MR. TATE

Amendment No. 44 which is to Section 5 (1) which is on page 17 of your materials...green materials and which is on page 4 of your yellow materials. I do not believe you will find this—but I may be mistaken--this one to be as controversial or as subject to the construction that it is substantive, although you may. As it passed the convention floor it says, "Should the legislature be in session, the governor shall submit for confirmation by the Senate the name of an appointee" and so...and so "failure shall constitute rejection." Then, it says, "If the legislature is not in session, the governor may make appointments, which shall expire at the end of the next session." Now, the present constitution would have said it expires at the end of the next regular session. The effect of what was believed to be an unintentional change by the convention floor would be that if there is a special session such as that last one we had, all of those interim appointments would just expire

automatically unless he remembered to put them in the call and special sessions normally don't have time to fool with that kind of stuff. So, it was believed that this will be a clarifying amendment to add "regular" in every place where you refer to "session." I'll yield. Again, I have no...I have no axe to grind. We don't care whether the amendments are rejected or accepted, but we are raising to your attention the possibility that there's an inadvertent change from the present constitutional provision which permitted interim appointees to serve until the next regular session, not for any little session that happened to be covered in the middle.

Questions

MR. NEWTON

Judge, I would like to get you to repeat. It's your opinion that if there were these interim appointments were not in the call, then they could not be considered by that session of the legislature and they would lapse automatically; is that right?

MR. TATE

That is what my understanding of the legislative...people that know something about legislatures, which I don't, except from what I've learned here, so to speak.

MR. DENNERY

Judge, I didn't quite understand the last answer you gave to the question. Did I understand you to say that a governor cannot submit to a special or extraordinary session...?

MR. TATE

I've just been informed that he could submit them, but if he forgot to submit them...if he forgot to submit them they'd all expire, although the...if this were adopted, if this were adopted unchanged, they'd all expire.

MR. DENNERY

I understand that. I just wanted to make sure that you didn't...it does not have to be included in the call of a special session.

MR. TATE

I have been corrected. That was a mistake on my part when I said that.

MR. JENKINS

So, what you're saying, then, is Judge, is first, this is a substantive change. Is that not correct?

MR. TATE

Mr. Jenkins, I'm leaving it to you if it's a substantive change. I think we thought, and I think the other committee agreed with us, that this was the intent--we thought this was the intent--to carry on the present provision when it was passed. They were not thinking of the fact that a special session could be called that would disrupt the tenure of the interim appointee.

I will leave it to you, Mr. Jenkins. I don't care. You know, I mean, I honestly don't care. I'm not an advocate for the thing. We just...our duty is to bring it to your attention and let you think about it.

MR. JENKINS

Well, Judge, I do care because I want us to maintain the intent and the language, you know. I think many of us voted for that thing with the...just as we did for most things, knowing what we were voting for; and knowing what was said. When the words are unambiguous, I don't see how you could...

MR. TATE

All right. Mr. Jenkins, the language has been interpreted--session, to mean to the regular session, in the case of Saint versus Dowling 167, LA.907127593, a 1929 case. We really thought we were clarifying what the intent was and avoiding lawsuits like that in the future. It makes no difference, as I say. If you gentlemen think, and ladies, think it's substantive, raise a point of order and defeat it. If you think it shouldn't be, fine. I'm not here to advocate it, Mr. Jenkins. I'm just here to call it to your attention.

MR. JENKINS

One other question.
Inasmuch as it's in the governor's interest to have his appointees continue in office, there would be little doubt that in...if a special session were called in a given instance, he would include the confirmation of his appointees in the call. Isn't that true?

MR. TATE

Well, I would hesitate to speculate. But, I do remember one session when they forgot to confirm all the notary publics of the state, and they had to reconfirm them by act. But, I suppose they'd usually remember them, I guess. I don't know.

[Amendment No. 44 adopted without objection.]

Amendment No. 45

MR. TATE

Amendment No. 45, which is to the Committee Amendment No. 40, about the appointment of officials, Section 22 which is on page 45 of your green material, and on page 5 of your yellow material. The effect of it is, it says "at the time of adoption of the constitution-- after the first election of state officials following adoption of this constitution." The recommendation was, and we have no strong views on it. Consistently-- we have been trying in most instances, unless it amounts to a change of substance, to use the consistent, "the effective date of", to make it clear...to clear up the ambiguity that may exist, whether the adoption means the date of the election, or the date the constitution becomes effective.

[Amendment No. 45 adopted without objection.]

Amendments Nos. 46 and 47

MR. TATE

Now, Amendments 46 and 47 are controversial. There will be a view of some that they are substantive. I am going to try to give you the balance of the debate. Then, I think for our committee, and for the Executive Branch Committee, you will have representatives speak.

Amendment 45...in the view of some, an ambiguity arises whether the attorney general is a member of the Executive Branch, or whether he is a member of the Judicial Branch. The ambiguity in the view of some results from the following:

There was an amendment to Section 1 (A) which is page 1 of your green materials, which took out the attorney general from those people listed as members of the Executive Branch. On the other hand, in subsequent articles of the Executive Branch Article, Sections 2, 3, 4, and 8, I believe, and maybe one more, the attorney general is spoken of in the same breath as the other members of the Executive Branch, and...within the title of Executive Branches includes the Department of Justice.

On the other hand, in the Judiciary Branch Article, they also have the Department of Justice, telling about the Executive Branch. So, in an effort to let this floor decide this question, and this question that has to do with whether there are going to be twenty or twenty-one departments. It may have to do with the power of reorganization. In an effort to let the floor resolve that issue, we have prepared first, Amendment 46 which has the effect of taking out of the Executive Branch the provisions 2, 3, and 4, that list the attorney general, and placing them in the General Provisions Article, because they refer not only to the attorney general, but other statewide elected officials. Also, of the leading Section 7, which talks about the attorney general, and which is repeated in the Judiciary Branch.

The alternative amendment, if that amendment is rejected, the...alternative Amendment No. 47 will, to clear up the ambiguity, reinsert the attorney general back in Section 1 (A). Now those are the two amendments before you.

Mr. Chairman, with your permission, I would yield to a member of the Style and Drafting Committee, I think Mr. Perez, who would probably speak in favor of Section...Amendment 46.

Questions

MR. NEWTON

Judge Tate, could the issue be stated, really, whether we are going to put the attorney general in the Executive Department or in the Judicial Department? Is that the issue here?

MR. TATE

I think that's the issue. I think that's....

MR. NEWTON

Now, I think there's a concomitant problem that comes along with placing him in the Executive Article. We've provided for what...twenty departments?

MR. TATE

Yea, sir, that's....

MR. NEWTON

This would be one of the twenty?

MR. TATE

That's the principle. It is my view the principal, practical difference.

MR. WEISS

Delegate Tate, one of the requirements in the Executive Article is that there be a Department of Justice. So, it's not that simple, is it?

MR. TATE

No, sir. It's not at all that simple. But, you listen to Mr. Perez and you'll see...frankly, my initial view may have been similar to yours. But if you'll listen to Mr. Perez, you'll see there's another view, too.

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, I would hope that I could have your attention just briefly because we do have a very serious problem which needs to be straightened out. It affects not only the attorney general's office, but all of the other statewide elected officials except the governor and lieutenant governor.

If I could have you go back to the Executive Branch, to Section 1 (B) which appears on page 2 of the document which is now before us on the Executive Department, it reads, "Except for the offices of governor and lieutenant governor, all offices, agencies, and other instrumentalities of the Executive Branch, and their functions, powers, duties and responsibilities, shall be allocated according to function within not more than twenty departments."

Now, that means, without any question, that in the allocation of functions, that there is no limitation, and that the constitutionally established functions of these various statewide offices could be taken away from these various offices through this reorganization process, except to the extent it's limited by the words "allocated according to function." Now, the answer which would...some have tried to give me with respect to this problem, is the fact that in the schedule provision...

MR. CASEY

Just a minute, Mr. Perez. A couple of people in the back of the room say that they cannot hear you. I'm not sure if it's the other delegates, or whether you're coming through on the mike. But delegates, please give the speaker the courtesy of your attention. Please hold down your voices.

Please proceed.

Motion

MR. PEREZ

This matter is of such importance, if you don't mind, for those who could not hear, I will begin the explanation again.

In Section 1 (B), adopted by the Executive Department, there is no exception in the provision which would limit the reorganization to not allowing the reallocation, or the allocation, of the constitutionally established duties and responsibilities of the statewide elected offices. There is, however, in the schedule, when a provision is made in the schedule, which is this thing that we talk about from time to time at the end of the constitution, but not really a part of the constitution, it does contain an exception that when it requires the legislature to allocate within not more than twenty departments, the functions and powers, etc. It does say in that case, "except those allocated by this constitution." But, there is no question that the constitution itself is superior to the schedule. Of course this schedule supposedly is superior to any laws which may be adopted. So, I do feel that we have a very, very serious problem which has to be straightened out in order to make it clear in 1 (B) that the powers and duties of the constitutionally designated offices cannot be affected by a reorganization in the first allocation of functions and duties. As long as that particular provision remains as it is, I would have to strongly object to the inclusion back into the Executive Article, of the attorney general when this convention voted squarely on the issue as to whether the attorney general should be, or should not be in the Executive Branch. I offered that amendment. The amendment carried before the floor. So, there is absolutely no question whatsoever that this is a totally substantive change.

Now, there are those who would say that further in the article there are provisions with respect to the attorney general. In the Local Government Article there are provisions with respect

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to school boards. That doesn't make school boards part of local government. So, I say to you that I am sincerely trying to work the situation out so that we will have an independent attorney general, in a position where he is independent of the governor, where his functions cannot be allocated away to the point where he is no longer what we know as an attorney general. I would strongly suggest to the...to Judge Tate, that we pass over this subject matter now; that we suspend the rules in order to amend Section 1 (B); and, if we can get 1 (B) in the right posture, then I don't believe that the problem would be as great as it now poses itself.

So, I would move at this time that we pass over the recommended amendment by Style and Drafting.

It has been suggested that I move to defer action instead of pass over. Therefore, I move to defer action on the remainder of the committee proposals....committee amendments.

Questions

MR. AVANT

Mr. Perez, the committee amendment suggested No. 46 is rather complicated and is really hard to follow. You have to have, I guess, a bundle of papers maybe that high and spread them all out to really figure out what it does. As I understand what you simply are suggesting is that we pass over that and go back and call from the table Section 1 (B) so that the exception can be added there which would render this rather complicated amendment, perhaps, unnecessary.

MR. PEREZ

That's what I'm hoping can be accomplished.

MR. TATE

I was going to ask Mr. Perez, although I think we have no objection, if it might not accomplish his ends better if I move to return it to the calendar so that it can come up tomorrow. But, I'll yield, if you have....

MR. PEREZ

I have no objection. I was just trying to do what was suggested by the Chair. I'll go along with any one of the suggested procedures as long as we can hopefully straighten out this Section 1 (B) before we can take action on the attorney general.

MR. TATE

All right. I withdraw this question. I just....it really....

MR. POYNTER

Deferring action, returning to the calendar, it's about six of one and half-a-dozen of the other. In fact, we just--kind of an in globo motion to do those two things would probably be the best thing to do to defer action and return the remainder of the proposed amendments to the calendar which would appear on the order of business under Regular Order No. 5, Proposals on Calendar for Approval of Final Styling. So, I think you all are both saying the same thing.

[Motion to defer action on Amendments Nos. 46 and 47 adopted without objection.]

Motion

MR. DE BLIEUX

If you defer action, Mr. Chairman, the matter is still....you....defer action, but we've still got the other matters. So, I just make a substitute motion that we return the whole proposal to the calendar for the time being.

[Motion to return the Proposal to the calendar adopted without objection. Motion to revert to other orders adopted without objection. Motion to call Delegate Proposal No. 16 from the calendar adopted without objection.]

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Delegate Proposal No. 16

Amendment

Explanation

MR. POYNTER

I have one further amendment here to Section 1. Copies of it are being distributed....are getting ready to be distributed here at the present time.

Amendment sent up by Delegates Kelly and Nunez....Kelly and Nunez.

Amendment No. 1. On page 1, line 17, immediately after the word "not", before the word "than", delete the word "more" and insert in lieu thereof the word "less."

MR. KELLY

Mr. Acting Vice Chairman, and Mr. Acting Chairman and ladies and gentlemen of the convention, all this amendment does is deletes the word "more" and inserts the word "less." Mr. Dennerly ran an amendment earlier which in essence would have left this entire matter to the legislature. Well, quite frankly, I voted for that amendment, the primary reason being that I don't think fifteen thousand dollars is even enough when you start talking about homestead exemption from seizure and sale. It's been four thousand dollars for years and years and years. Due to inflation and the devaluation of the dollar and so forth, this just doesn't mean anything nowadays. I would hate to see the thing locked at fifteen thousand. In essence, that's what this amendment does. It guarantees to the people of this state, at least a fifteen thousand dollar homestead exemption from seizure and sale. Yet, in the future, it allows the legislative flexibility to increase this if it becomes necessary. Quite frankly, if inflation continues, I think within the next twenty or twenty-five years we'll see the same thing, that this will need to be increased. It's a very simple amendment. I don't see that it....you're probably either for or against the concept. But, I would ask that you give it your favorable vote.

Questions

MR. DENNERLY

Mr. Kelly, I appreciate the purpose of your amendment. My question involves the next sentence, however, which reads in the proposal, "provided that in case the homestead exceeds fifteen thousand in value, the beneficiary shall be entitled," and so forth. Wouldn't your amendment have to include something about that as well? Or otherwise, it would have no meaning at all, would it?

MR. KELLY

We may well, Mr. Dennerly, we may well have to work that up afterwards.

MR. CONROY

My question was similar to that of Mr. Dennerly's. It seemed to me that the way this was worded, it would really effectively....might be self-operating, and exempt all homes from seizure, no matter what the value was, if you just change that to....to not less than fifteen thousand dollars. It seems to me it might automatically exempt all homes.

MR. KELLY

Well, let me say this, David, that's not the intention of the amendment. In other words, the intention of the amendment is to lock the fifteen thousand in, leaving legislative flexibility in the future--to increase it, but never to decrease it--and if you feel that appropriate language needs to be added in Paragraph 2 of Section 1, then I would have no objection to seeing that added.

Further Discussion

MR. ABRAHAM

Ladies and gentlemen, I hate to get up here and speak so much. But, I just have to speak out on this. I think this is just another example of where we get up here and on the spur of the moment, we start trying to legislate things in this constitution. We don't know what they're going to mean, or what is going to happen with it. This takes care of one part of the section and leaves the other paragraph hanging loose. I say to you, I guess we'll be legislating into this constitution until January 19. But, if we don't get out of this business, we're going to be in for serious trouble. We're never going to finish. I don't think any of this belongs in the constitution. It could very well be handled by the legislature. I urge the rejection of this amendment, and I hope that we can reject the entire proposal before it's over with and leave this thing up to the legislature. It's not going to hurt anything. If we are worried about taking care of people in the future, we're going to have to leave these things flexible. I urge the rejection of the amendment.

[Previous Question ordered.]

Closing

MR. NUNEZ

Mr. Acting Chairman and ladies and gentlemen of the convention, certainly we believe this is necessary. It's one of those things that the people look for. It's been in the constitution for years and years and years and years. All we are doing is to bring it up to modern day prices, modern day standards, and what is considered a moderate protection for an average home. What...all we are doing with this amendment is not putting a ceiling of fifteen thousand, but putting a floor of fifteen thousand. I think it's a good amendment. I think we'd be derelict if we didn't put this back in the constitution to protect a man's home from sale and seizure. I would certainly want, ask you to go along with this amendment of Mr. Kelly and I, that puts "not less than fifteen thousand" in the event that we can change it in the future. If we put "not more," it means that in the next ten years, and at the rate that prices are going up, as you and I both know, or all know, the average cost of a home is increasing like something like two and three percent a month in the past year. You bought a home in 1963, it's almost double in value in 1973. God knows what they will be in 1983 and 1993. I think we are writing this constitution, not based on what's going to be tomorrow, but based on what's going to be fifteen, twenty, thirty years from now. So, I think this is a worthwhile amendment and one we should adopt. So, I would ask you to adopt this amendment and certainly go on to adopt Delegate Alario's proposal on sale and seizure.

Questions

MR. FONTENOT

Senator Nunez, under the present system, or under what the committee has proposed, if you have a house worth...and land and everything else...worth ten thousand dollars, then if I try to seize it, then you could claim this homestead exemption. Is that correct... up to an amount of fifteen thousand dollars?

MR. NUNEZ

Yes, sir.

MR. FONTENOT

Now, if you had a home worth twenty thousand dollars, under the present committee--I mean the delegate proposal--what would be the...how would you treat that extra five thousand dollars?

MR. NUNEZ

How would you treat the extra five thousand dollars over fifteen....

MR. FONTENOT

Well, you can claim the fifteen thousand dollar exemption, but then, what would happen to that extra five thousand dollars whenever I seize that property and sell it?

MR. NUNEZ

That would be...to whoever did the seizing, whoever did the selling.

MR. FONTENOT

All right, now, under your proposal, if you put "not less than fifteen thousand dollars," and if you have a twenty thousand dollar house, couldn't you claim your exemption for the whole amount of twenty thousand dollars?

MR. NUNEZ

No, sir, that's not my understanding of what we're trying to do, Mr. Fontenot.

MR. FONTENOT

Well, by putting...or to support to a total value of not less than fifteen thousand dollars, it would seem that a twenty thousand dollar house would be exempt. I don't know if that's what you intend, but that's the way I read it.

MR. NUNEZ

Well, Mr. Fontenot, if you'll recall, when we had this proposal in the committee initially, we had not more than twenty thousand dollars. Because some of you, I think it probably was you, and several others, in a very close vote, we changed it from twenty thousand dollars. I think some people wanted it down to ten. We struck a compromise at fifteen thousand dollars.

[Amendment rejected: 32-50. Motion to reconsider tabled.]

Further Discussion

MR. ABRAHAM

Ladies and gentlemen, I rise in opposition to this section, and to this proposal. I think we need to defeat this section first. I see no need for any of this type of language to be in the constitution. Now, I have heard Mr. Alario get up here and say that we're supposed to be representing the people. We can't leave this matter up to the legislature. Well, I ask him, as a legislator, does not he represent the people in the legislature? Why can't he represent them, in the legislature, the same as he's doing right now? Now I agree that this has been in the constitution for a long period of time. But I say, I don't think there is a legislator in this state who is going to take anything away from the people through the legislative process, that they've enjoyed in the constitution for this number of years, by any manner of means, that if anything else, they are probably going to increase the benefits to the people. But, when we start writing language like this into this constitution, I say again, we tie the hands of the legislature. We don't know what's going to happen in the future. This does not provide in any way for any exemption from seizure for those people who rent. This is still going to have to be provided by the legislature if they're going to make any provisions for this type of people.

In the homestead exemption article, we provided for some relief, or we said that the legislature would provide for some relief for renters. If the legislature is providing for exemptions from seizure or various other things, then why not let this be part of it? Let's let the package be all in the hands of the legislature so that it can be changed. When you limit it to just the homestead, I think you simply just complicate the issue. This says every head of a family. Well, suppose the person owns his home and he's not the head of a family, if he's a bachelor, or suppose say, a woman who is no longer the head...who is not the head of a family. Will her home be seized? I think it's poorly written, it's poorly drawn. I think it just adds language that we don't need. I think it better could be handled in the legislature. I strongly urge the rejection of this section.

Further Discussion

MR. PLANCHARD

Mr. Chairman, fellow delegates, I regret that my good friend, Mack, did not understand this. But, I am sure if he went back home and told the people he was against homestead exemption, that they would explain it to him. This is so important, Mack, I hope you understand what we are doing here. If we do not do anything, if we do not put it in the constitution, as it's stated properly, right now, then, you do not have this exemption. Then you have to wait for the legislature to act. Now, Mr. Dennery put up an amendment while ago trying to change it and to put it in the hands of the legislature. We soundly defeated it. I think this is a very important exemption to have. It's the only protection a man has if he has a home. He has one piece of property. He gets down in his luck. He's financially bankrupt. Why not preserve the one last thing he has...is his home? We're not doing anything to hurt anyone in business by this amendment. We've had it since 1921. It's worked well, and I expect it to go on working well. The only thing that we have done here is increased it from an exemption of four thousand dollars, which obviously had to be increased, to the fifteen thousand dollars. I think as this proposal now stands, it's adequate. I think it is most important that we pass it for the people.

Questions

MR. DESHOTELS

Assuming that we do nothing on this particular provision, what would happen to the present law on homestead exemptions? I'm not talking about tax homestead exemptions, but homestead exemptions as far as judgments are concerned. What would happen?

MR. PLANCHARD

You said exemptions from seizure? It would be no more.

MR. DESHOTELS

Wouldn't it be in the statute, in the schedule? Wouldn't it be transferred to the statutes?

MR. PLANCHARD

I don't believe it is. No.

MR. DESHOTELS

If we simply say nothing about it, don't do anything to it, and it's in the '21 Constitution now, what would happen to it?

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MR. PLANCHARD

Well, it would no longer be the law.

MR. ABRAHAM

A. J., isn't it true that all items in the present '21 Constitution, which are not covered in the new constitution, that particularly, this particular item here, that the Committee on Revenue and Taxation would simply recommend that it be transferred to the statutes as provided for in the committee resolution for transitional measures. So, this would be, could be transferred to the statutes. It could either be placed in the statutes to be changed by a majority vote of the legislature, or by a super majority of the legislature. Isn't that true? The committee resolution does provide for this?

MR. PLANCHARD

Yes it does. But when?

MR. ABRAHAM

Well, our committee has already acted on transitional measures, and won't every committee have to act on transitional measures?

MR. PLANCHARD

Yes, but Mack, in order to increase it to the fifteen thousand dollars, you've got to have it in here.

MR. ABRAHAM

Well, now, this could be a matter for the legislature to handle, could it not? But, the point I'm trying to make is, the exemption from homestead....from seizure, would be transferred to the statute if so recommended by Revenue and Taxation, immediately on the effective date of this constitution.

MR. PLANCHARD

But, there is no guarantee that they will act, or when they will act. Is that correct?

MR. ABRAHAM

There is no guarantee that the legislature may increase it to fifteen thousand, but....

All right. I'll ask the questions.

Let me ask you another question. Did you hear me say that I was against exempting homesteads from seizure, or did you hear me say I was against placing it in the constitution?

MR. PLANCHARD

You are against the fifteen thousand dollars, apparently, exemption.

MR. ABRAHAM

I would like to ask you, if you did not hear me say that I was against placing this into the constitution. I'm not against the provisions of the present constitution. I am against this proposal because it does place it in the new constitution. Am I not?

MR. PLANCHARD

If you are against the proposal, you necessarily have to be against the limitation of fifteen thousand being placed in the constitution as it presently is.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, I have to agree with Mr. Abraham on this particular proposal. This is another one of those matters which we have allowed to get out of hand by placing into our statutes....I mean placing statutory material into our constitution. If I'm not mistaken, I think the exemptions are already covered in the statutes. But, certainly they should be. Furthermore, it would allow the legislature to adjust the need of the exemptions, the amount of the exemptions as the time may call and the economic and social situation may justify. When you place this material in the constitution without any leeway of the legislature to make the adjustments as this particular proposal is drawn, you are not really helping the debtors. You are handicapping them because as it is presently seen, the four thousand dollars is entirely unrealistic. So, therefore, let's leave this matter to the legislature. Let the legislature take care of it. I'm sure that they will because they are just as responsible to the people, and they are just as responsible as the delegates of this convention are.

Therefore, I ask you to go ahead, let's vote down the proposal and leave it to the legislature to adjust as it sees fit.

Recess

[Quorum Call: 78 delegates present and a quorum.]

Amendment

MR. POYNTER

The amendment reads as follows:

Amendment 1. Page 1, delete lines 9 through 27, both inclusive in their entirety and insert in lieu thereof the following:

"Section 1. Exemptions from Seizure and Sale

Section 1. The legislature shall provide by law for exemptions from seizure and sale as well as waivers of and exclusions from such exemptions. The exemption shall extend to at least fifteen thousand dollars in value of a homestead as provided by law."

Explanation

MR. CONROY

A majority of the delegates to this convention have indicated that they do want to provide in the constitution some minimum homestead exemption of fifteen thousand dollars. I disagreed with that figure. But, I think the majority has spoken on that issue. We then come to the question of how much detail should be spelled out in the constitution on this particular issue.

This amendment is intended to replace all of the language that's presently in the proposal--not just Section 1--but, ultimately would relate to all the remaining sections so that the detail that's presently spelled out in the proposal would not be part of the constitution. The details would be left to the legislature to define the homestead and the applicability of the homestead exemption. It would put in the constitution the very minimum statements necessary. That's the only purpose. I think that if anything goes in the constitution, this is as much as we ought to have in the constitution. I urge your consideration and favorable vote. I'll answer any questions.

Questions

MR. FONTENOT

Mr. Conroy, I had a question while ago. I'm still not really....I'm not sure what this means. But, if you have a home worth twelve thousand dollars and I seize it, and I try to sell that home, can I get any....I mean I have a five thousand dollar debt that you owe me. Now, you have a twelve thousand dollar home. Can I get any of that money when I sell the property?

MR. CONROY

Are you the creditor or the owner?

MR. FONTENOT

I'm the creditor.

MR. CONROY

I don't think you can sell the home at all under those circumstances.

MR. FONTENOT

I can't sell it at all because it....

MR. CONROY

That's my understanding.

MR. FONTENOT

Now, if it's worth....

MR. CONROY

It's only if the house is worth more than the exemption value that it could be sold. Then, the creditor would get only the amount over the amount of the homestead exemption.

MR. FONTENOT

O.K. You, in other words, you are the debtor. You claim... you claim your homestead exemption up to at least fifteen thousand dollars.

MR. CONROY

Right. Right.

MR. FONTENOT

Now, if your home is worth twenty thousand dollars, and I seize it, can't you claim your exemption?

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MR. CONROY

I...but the way the present provisions spell it out, I don't think it's necessary to spell it out. But the way it's presently spelled out in Section....I can't remember which section it is.... but the owner would get to receive the first fifteen thousand dollars of the sale price.

MR. FONTENOT

Under the present provision, and I would get the excess, or the five thousand dollars extra.
Now, under.....

MR. CONROY

Well, that's assuming your debt was five thousand or more. Yes.

MR. FONTENOT

Now, assuming this is passed, you can claim your exemption. Your last sentence says the exemption shall extend to at least fifteen thousand. So, I'm not sure....

MR. CONROY

As provided by law. That's right. The details....I leave all the details. I recognize....

MR. FONTENOT

I mean they....the legislature could set it at a hundred thousand dollars?

MR. CONROY

Yes, that's correct.

MR. FONTENOT

In other words, we are not setting....

MR. CONROY

We're not setting the figure. That's correct.

MR. CASEY

Mr. Pugh had a question; then Mr. Duval.

MR. PUGH

I'm embarrassed to ask my first question which is preliminary to the others.

Where did the fifteen thousand come from?

MR. CONROY

This is what's in the proposal--well, as a matter of fact, I think it was adopted by amendment by this convention. I think the figure that's in the proposal...assuming the proposal was fifty thousand...the committee amended it to fifteen thousand as it came out on the floor. It's fifteen thousand in the proposal. There was an attempt made to change that figure to ten thousand which was rejected by the convention.

MR. PUGH

Your proposition, really, is to take it, in effect, out of the constitution and put it in the statutes.

MR. CONROY

That's correct. But, to take that figure that apparently the convention has approved and use that figure in the constitution only.

MR. PUGH

They are, then, aware from previous discussions on the floor as to the fifteen thousand. If a fellow takes bankruptcy and owes a hundred thousand dollars and has got a twenty thousand dollar house, they gave him fifteen thousand dollars for taking bankruptcy?

MR. CONROY

That's correct.

MR. DUVAL

David, I think your premise was that apparent that the majority of the convention wanted some statement.

MR. CONROY

Yes.

MR. DUVAL

Well, didn't we, though, vote on an amendment, and at least the amendment that was soundly defeated?

MR. CONROY

Well, the reason I voted against that amendment was because

I wasn't sure whether its effect would be automatic, or whether it would be up to the legislature. I have no problem in giving it to the legislature. But, I do have problems if it extended automatically to any home. That's....the interpretation I gave to the amendment that we rejected.

MR. CHAMPAGNE

Your amendment would, in effect, mandate the legislature to provide what we now have to a little larger amount in the constitution without using a number of words to do so. Is that right, sir?

MR. CONROY

That's the intention of this amendment.

MR. ABRAHAM

David, the delegate proposal says "not more than fifteen thousand." Why did you change it to "at least fifteen thousand"?

MR. CONROY

Because I thought it ought to be left to the legislature.

MR. HAYES

Mr. Conroy, I only have one problem. It didn't say "homestead exemption" or anything about it. I noticed that the delegate proposal did say something about it. It didn't mention that.... it didn't mention....it said "the legislature shall provide by law for exemption from seizure and sale as well as"....it didn't say anything about what. What are you exempting?

MR. CONROY

Well, the next sentence does.

MR. HAYES

Oh, yes. I've got it now.

MR. KEAN

David, the only thing that concerns me is that the original proposal had certain transactions; mortgages, building and loan mortgages, etc., to which the exemption did not apply. It also had a provision that if you waived it, it didn't apply.

MR. CONROY

Right.

MR. KEAN

Now, I'm concerned about this last sentence which says "the exemption shall extend to at least fifteen thousand in value of a homestead as provided by law" as only referring to the amount and, therefore, not permitting the legislature to make those kind of exceptions from the application of the exemption.

MR. CONROY

Mr. Kean, that's the reason I worded the first sentence the way I did is because the...they can provide exemptions from seizure and sale as well as waivers of, and exclusions from such exemptions. It would be intended that in defining this exemption they would provide the methods of waivers and exclusions from it. That's the intent of the language in the first sentence so that the second sentence is to be read with the first sentence, and those exclusions and waivers would be available to the legislature to spell out as they apply to a homestead as well as to anything else.

[Quorum Call: 82 delegates present and a quorum.]

Further Discussion

MR. KELLY

I'm not sure that everyone here has paid adequate attention, and I hate to sound in such an accusatory manner, as to what this, in effect, does. But, whether you know it or not, I mean we are dealing with people's homes. Now, quite frankly in my own opinion and in the opinion of some of the people that I have talked to, they are really more concerned about their homestead exemption from seizure and sale, than they are from a homestead exemption from taxation because primarily there, you are dealing with a percentage. Usually, when those people....the taxes in Louisiana have never been too high. But here we're talking about a man, a wife, and some children actually possibly losing a home. I think this is of utmost importance. I don't think that we've given this material the time and attention that it needs. Here in the delegate

proposal, they lock it in at fifteen thousand dollars. That just isn't very much to protect a home owner. Quite frankly, I think it should be fifty thousand dollars--sixty thousand dollars. But, that is my own opinion. Quite frankly, I'm of the opinion that any time a man has a home and has a family, etc., that his home should be completely exempt from seizure and sale. But, we can't go that far. I understand that you are not willing to go that far. But for gosh sakes, let's don't lock this in at a straight fifteen thousand dollars because time, and in the future we are going to see inflation continue. I think that's apparent. What today is worth fifteen thousand dollars maybe ten years from now will be worth thirty thousand dollars of those same dollars. Now, what is wrong with us giving the home owners some protection within this constitution? Gee whiz, we've gone so far abroad we've done everything else in this constitution. Quite frankly, I'm not concerned about some of the others. I'm greatly concerned about some. But, there are a lot of homeowners throughout this country.

We keep concerned...being concerned about whether the police jury is going to support this constitution, whether this one's going to support it, or whether that one's going to support it. Well, what about the guy that lives across the street from you, is he going to support it? Because these are the people that are going to ultimately have to vote for the adoption of this constitution. Those are the votes that we've got to convince.

Now, I'm not saying that this should go into the constitution as a selling item. I'm not promoting that at all. What I'm saying is, and I firmly believe, that a person's home ought to be protected from seizure and sale. Now, in essence, what Mr. Conroy's doing, he is laying down a legislative mandate, and he's saying that there shall be a homestead exemption not less than fifteen thousand dollars. In other words, we're going to say that they are at least going to have a homestead exemption from seizure and sale of fifteen thousand dollars. In the future, because of inflation, and the devaluation of the dollar, if it becomes necessary, the legislature can increase this.

I urge that you support Mr. Conroy's amendment.

Further Discussion

MR. FONTENOT

Well, I wasn't going to say anything. But, I tried to call the question three times, and there was always somebody after me to speak. So, now, I will say something.

The fifteen thousand dollars was the maximum by which a person, if he was sued by somebody else, he was protected up to the value of fifteen thousand dollars. Now, if a person wants to...take a poor man. He goes to make a loan at a finance company or a bank. If he borrows a certain amount, sometimes the bank are going to lend this amount without a mortgage; he won't need security for the loan. If he borrows a big amount, he's going to have to have some security for that loan. If it's his home, in the mortgage, he waived this homestead exemption. Now, right now a lot of banks and finance companies are loaning out money to poor people without any security at all. So, he's protected by this homestead exemption because he doesn't waive it. Now, if you're going to put this provision in this constitution leaving it up to the legislature, then these small...these banks and finance companies, when they come to lend money to a poor man, they are going to require some security. The security might be his furniture, or his car, or his home. But, if it's a small loan, what that's going to require him to do is hire an attorney and either get out...take out a chattel mortgage or a mortgage to this finance company or to the bank. Now, that's costing the man a lot of extra money. He's going to have to go to an attorney and get these papers fixed, and then he's going to waive his homestead exemption. So, he's not getting protected at all.

Therefore, I think that the fifteen thousand dollar limitation we originally put in this delegate proposal was a good, medium figure for an average family and a home of fifteen thousand dollars

you are protected. Anything over that, if you can't pay your debts, then maybe they ought to seize your house. I think it's a big mistake what we're trying to do by this amendment, and I urge your rejection of it.

[Previous Question ordered. Record vote ordered. Amendment adopted: 83-18. Motion to reconsider tabled. Previous Question ordered on the Section. Section adopted: 81-17. Motion to reconsider tabled.]

Motion

MR. ALARIO

Mr. Chairman, members of the convention, I'd like now for you to...I would move on each individual section, Sections 2, 3 and 4, to move that you would reject those sections so that we might go ahead with the spirit of Mr. Conroy's amendment, and thus leaving this...these different exemptions, the waiver and who might be excluded in the legislature, and leave the legislature to handle it up to that matter. I certainly will promise you, at this point, that I will be birdogging it and looking after it in the legislature to see that the homeowners of this state don't have any less protections than what they have now and would be looking to make sure that if anything else, we'd be looking to increase those benefits.

So, I now move that we reject Section 2.

[Motion to reject Section 2. Section 2 failed to pass: 2-97. Motion to reconsider tabled. Motion to reject Section 3. Section 3 failed to pass: 0-101. Motion to reconsider tabled. Motion to reject Section 4. Section 4 failed to pass: 0-99. Motion to reconsider tabled. Previous Question ordered on the Proposal. Delegate Proposal No. 16 adopted: 87-14. Motion to reconsider pending. Motion to take up other orders adopted without objection.]

REPORT OF THE SECRETARY
[II Journal 1179-1183]

Motion

MR. JUNEAU

Mr. Chairman, I would move that on...at the time we convene tomorrow that Committee Resolution No. 13 be taken up as Special Order of the Day.

This is the committee resolution of the Rules Committee on alternates on the ballot.

[Motion adopted without objection.]

Announcements
[II Journal 1178-1179]

[Rules Suspended to allow Committee on Bill of Rights and Elections to meet without the required 24 hour notice. Adjournment to 1:00 o'clock p.m., Friday, January 11, 1974.]

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Friday, January 11, 1974

ROLL CALL

[92 delegates present and a quorum.]

PRAYER

MR. DE BLIEUX

Our Heavenly Father, we thank Thee again for having the privilege of gathering here. We ask Thy blessing upon this delegation, members of the families, all our officials, and those who are interested in our work. May we have the foresight to listen to Thy wisdom as we go about our duties this day, and for the rest of this convention, so that we may do it in a spirit of true humility insofar as our work is concerned, wisdom insofar as Thy grace gives to us, that we may truly be Your servants of Thy kingdom. We ask all this in our Savior's name, Jesus Christ. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

Personal Privilege

MRS. DUNLAP

Let me begin by making it quite clear that what I'm about to say are my own thoughts and ideas. Nobody has inatilled any thoughts in my mind. I realize being an appointed delegate is a strike against me. Why the governor appointed me, I'll never know, but he did. To the few original appointed delegates that are left, remember the governor told us to vote our conscience. I have taken him for his word. I have had no instructions from the governor concerning any of my voting. I am a delegate-at-large, and I define that to mean "a representative of all the people." Now, believe it or not, that's a hard job. However, I can honestly say that being a farmer's daughter and a doctor's wife has given me the insight to the way I think the new constitution should be written. I'm not talking about Style and Drafting. I'm not talking about the legal ramifications. I'm talking about a constitution that will benefit all the people. No one particular race, section, group, parish, or sex will receive all the goodies or all the burdens. Everyone must carry his fair share of the load. Government must be returned to the people. In my civics class in high school, I remember reading in my civics book that government is by the people, for the people. I know there's a third phrase that goes with this, but I can't remember what it is. Now, if something is wrong with my theory about government, that's where it started. But, I don't think I'm wrong. The people must be made to realize that they, and they alone, are responsible for the kind of government they have. They elect their senators and representatives to represent them. They have sent you here to do what is best for them. They trust you. They are waiting for you to go home and say, "It's all right. It's a good. Trust me. My only goal has been to serve you to the best of my ability and knowledge." The people from your area will turn on you and say, "Yes, what about such and such article? It's not so good for us." You must turn to them and explain, "Yes, but so and so article is good for us, and in order to get, we must give." I take issue with the governor on some of his suggested changes. Some I can agree with. Some, I can't. If he cares to know my reasons, then all he has to do is ask. I would like to see him with us. We need him. I appeal to him to reconsider his remarks. I know that I have said things that upon reconsideration I wish I hadn't said. After all, we are all mere human beings, given to our weaknesses and our faults. I care. I do believe I have cared too much.

REPORTS OF COMMITTEES

[II Journal 1185-1186]

[Rules Suspended to consider the proposal contained in the above report at this time.]

REPORTS OF COMMITTEES LYING OVER

[II Journal 1186-1187]

REPORTS OF COMMITTEES

[II Journal 1187-1190]

[Rules Suspended to consider the proposals contained in the above report. Motion to consider Committee Proposal No. 7 adopted without objection.]

Vice Chairman Casey in the Chair

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING

Committee Proposal No. 7

Amendment No. 1

MR. TATE

O.K.

Mr. Chairman, fellow delegates, there should be on your desk in front of you two packets of paper headed in green. The one with the rubber band is Committee Proposal No. 7; 11-8-74. The other one we would take up subsequently is on retirement benefits. It's just stapled together. It's a short one. Before you, you should have as we've noticed before the green copy and the yellow copy being those amendments which we thought you may or may not think are appropriate to be within our function or which we thought would be necessary to resolve ambiguities, but we wish your views as to what they are. Now, with regard to the first amendments—and when we get to the yellow amendments, we will alert you some more—with regard to the first amendments, Amendment No. 1, which rewrites the preamble, just simply places it in the present tense and keeps related words together. If ...Mr. Chairman, I'll yield.

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. TATE

Amendment No. 2 simply changes the words "Section 2" to "Section 1". As you remember, Section 1 had been deleted on the floor, and the old Section 2 now becomes Section 1.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TATE

Amendment No. 3 rewrites the old Section 3 which is now Section 2, which is on page 2 of your green material. It rearranges the language slightly. It...in line with the titles expressed in the first article of the Executive Department. It calls him the superintendent of education. Then, it goes on "for public, elementary, and secondary education." It omits needless words. It took a sentence out from Section 4(A), the old Section 4(A), and placed it in Section 2, which has to do with the effect that...if the office is made appointive, which was found in the former Section 4(A). It seemed to be more in continuity to put it in Section 2 under the office rather than under the state board. The other changes are of a strictly sort of clerical or grammatical nature.

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TATE

Amendment No. 4, which is—and from now on, I'll talk about the new titles, which is...of the new section numbers, I mean—which is Section 3 on page 4 of the green copy. It singularized and standardized language. It, for instance, it tried to use shorter language where appropriate, and in general, it amounts to nothing....and it took out 4(A) the section about who shall appoint the state superintendent of education and put it with the preceding article, as I previously noted.

[Amendment No. 4 adopted without objection.]

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Amendment No. 5

MR. TATE

Section 3(B), on page 5 simply has standardized the language or kept related words together and omitted a few needless words.

[Amendment No. 5 adopted without objection.]

Amendment No. 6

MR. TATE

Section 3(C) on page 6 of your green, rewrote the provision for clarity, took out...the provision about members serving without pay except for per diem, and put it in a general section which you're going to find under 8(C) below which refers to all boards. We repeat it under each board, 8(C), I said.

[Amendment No. 6 adopted without objection.]

Amendment No. 7

MR. TATE

Amendment No. 7, which is...it's s Section 4, rewrites Section 4, strictly a grammatical rearrangement and singularization and so on.

[Amendment No. 7 adopted without objection.]

Amendment No. 8

MR. TATE

Amendment No. 8, again, changed the form of the sentence from "there is created" to the "active board of regenta is created," omitted needless words...the floor amendment says "are provided in this section and by law." In context it clearly meant "or by law." "In this constitution or by law," so we accordingly changed the "and" to "or."

[Amendment No. 8 adopted without objection.]

Amendment No. 9

MR. TATE

Amendment No. 9, which is to Paragraph ...Section 5(B). "Membership; Terms," singularized, omitted "there is" in a sentence, and in general followed the rules of...

MR. CASEY

You've completed your remarks, Judge.

MR. TATE

Somewhat incoherently, yes, sir.

[Amendment No. 9 adopted without objection.]

Amendment No. 10

MR. TATE

Amendment No. 10--1 should call your attention that 7(C) had been deleted here--this is the per diem business--and was combined with 4(C)--the similar provision, 4(C)--and made a new Section 8(C). The amendment that we've just adopted took it out. We're about to put it back in.

Literally, Mr. Chairman, I repeat it as an explanation of the same amendment. Amendment No. 10 is a simple omission of commas that's unnecessary and using (B) to (A). Amendment No. 10, Mr. Chairman.

[Amendment No. 10 adopted without objection.]

Amendment No. 11

MR. TATE

We'll go to Amendment No. 11 now, and I'll explain 11 Amendment. Amendment No. 11 involves a rewrite without change according to the views of both Style and Drafting and of the Education Committee of the language of Section 5(D), which refers to the powers of the Board of Regents. The changes made are strictly the substitution of a word for a phrase, the general standardization; for instance, on page 9, it said "the board." Well, since there's several boards, we made... to make it clear, we said "the Board of Regents shall have the following powers and duties." The remaining phrases have to do with strictly, as you will notice, the usual sort of grammatical and stylistic changes we have been following in order to follow a consistent pattern of styling for the convention.

[Amendment No. 11 adopted without objection.]

Amendment No. 12

MR. TATE

Amendment No. 12 has to do with Section 5(E) on page 14. Two slight changes were made...four slight changes were made but they are of the same nature. We had to add, incidentally, the Southern Board because at the time this was adopted, the Southern Board...the Board of Trustees for the Southern University had not been added to...as a constitutional board. So, we added that in order to be consistent with the general intent. You'll see...Mr. Chairman, I'll yield to any questions.

[Amendment No. 12 adopted without objection.]

Amendment No. 13

MR. TATE

Amendment No. 13, slightly rewrites Section 6(A) about the board of trustees for state colleges, omit "there is," kept related words together, substituted words for phrases, omitted needless words in line with the previous styling of the previous article.

[Amendment No. 13 adopted without objection.]

Amendment No. 14

MR. TATE

Amendment No. 14 which is to Section 6(B) on page 17 simply rewrote the paragraph to state composition of the board before stating the terms the members served, so this would be a little more logical.

[Amendment No. 14 adopted without objection.]

Amendment No. 15

MR. TATE

Amendment No. 15, Section 6(C). On page 18 of your green, we standardized the language like saying "with consent" instead of "with the consent," and we used "a" in line with our usual practice of using an indefinite article for a definite article.

[Amendment No. 15 adopted without objection.]

Amendment No. 16

MR. TATE

Amendment No. 16 has to do with the Board of Supervisors of L.S.U. and of Southern. The . . . most of the changes were strictly of a . . . all of the changes here are of a mechanical nature. You will see we have a rewrite amendment. . . a yellow

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amendment that will add "subject to the powers vested in the Board of Regents" by this article. We'll bring it to your attention because we think that was the intent and they use a parallel discretion about the. . . the construction about the Board of Regents. But, that is not before you right now. This is strictly a rewrite on making shorter sentences, omitting "there is," putting unrelated "are's" in separate sentences, etc.

[Amendment No. 16 adopted without objection.]

Amendment No. 17

MR. TATE

Amendment No. 17, which is to Paragraph 7 (B) on page 19. We again rewrote the paragraph to state the composition of the board before stating the terms the members are to serve on it and to achieve a construction parallel to 6 (B) which is about the State Board of Trustees.

[Amendment No. 17 adopted without objection.]

Amendment No. 18

MR. TATE

Amendment No. 18 makes the same stylistic changes for the L.S.U. and Southern Boards that it did for the Board of Trustees of state universities with regard to vacancies.

[Amendment No. 18 adopted without objection.]

Amendment No. 19

MR. TATE

Amendment No. 19 to Section 8 (A) on page 21 simply puts the related words together, and did not split the infinitive, Mr. Dennery.
I yield to questions, Mr. Chairman.

[Amendment No. 19 adopted without objection.]

Amendment No. 20

Amendment No. 20 dealing with Section 8 (B). "Student Membership", was rewritten to avoid listing again all the higher education boards. It's been checked carefully for accuracy and this is exactly what the boards that were listed in Sections 6 and 7 are relisted here.

[Amendment No. 20 adopted without objection.]

Amendment No. 21

MR. TATE

All right. Amendment No. 21 deleted on page 3 of the enrolled copy, lines 24 through 30, which again spoke about the per diem, and it's going to consolidate them back in Section 8 (C), which we're coming to right away.

[Amendment No. 21 adopted without objection.]

Amendment No. 22

MR. TATE

Amendment No. 22 here has the catch-all phrase about the per diems that we've been talking about under each board Article separately. The three places consolidated in one in this catch-all Article or section that deals with all the boards. It substitutes the language of 8 (C). On page 22, it says that "a member of a board created by this Article shall serve without pay, but per diem expenses may be provided by law", in line with the floor language.

[3282]

[Amendment No. 22 adopted without objection.]

Amendment No. 23

MR. TATE

Amendment No. 23 deals with Section 9 (A) on parish school boards on page 23. It simply substituted a word for a phrase and omitted unnecessary words.

[Amendment No. 23 adopted without objection.]

Amendment No. 24

MR. TATE

Amendment No. 24 dealing with school superintendents, Section 9 (B) on page 24. On the right of your green... made a shorter sentence out of the long last sentence and it put unrelated ideas in a separate sentence in that regard.

[Amendment No. 24 adopted without objection.]

Amendment No. 25

MR. TATE

Amendment No. 25 deals with Section 10, Recognizing Existing School Boards Systems. As you may remember, here and there in the Education Article, you're going to have to deal with the problem of the Monroe and Bogalusa City School Boards which were created by the former Constitution. So, when you see references to city boards those are the boards and there are no others that can be created or have been created. So, keep that in mind as to the meaning of the language.

Section 10 (A), which is the subject of Amendment No. 25 simply omitted needless commas and words.

If there are any questions, Mr. Chairman, I'll yield.

[Amendment No. 25 adopted without objection.]

Amendment No. 26

MR. TATE

Amendment No. 26 dealing with 10 (B) on page 26 of your green-specks....of the Monroe and the Ouachita....Monroe and its parish school boards. It was the....Judge Dennis--Mr. Shady Wall amendment. It involves a minor stylistic change, stating in one case a sentence in positive form.

[Amendment No. 26 adopted without objection.]

Amendment No. 27

MR. TATE

Amendment No. 27 deals with 10 (C) and involves a... just placing the exception first, as general stylistic manual requires, and otherwise, standard changes of punctuation and language.

[Amendment No. 27 adopted without objection.]

Amendment No. 28

MR. TATE

Amendment No. 28 is to Section 11 on page 29--in your green. It's a simple...it's a minor...it says "state boards" in order to be consistent because there was no legislative intent that it meant parish school boards.

[Amendment No. 28 adopted without objection.]

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Amendment No. 29

MR. TATE

Now, I'm going to Section 12. Amendment No. 29, Section 12. On page 30--that's Amendment No. 29--we omitted a needless word and we, where it said "that appropriations"...we said "the funds appropriated" because that's what it means.

[Amendment No. 29 adopted without objection.]

Amendment No. 30

MR. TATE

Amendment No. 30 is to Section 13 on page 31 of your green. The only change made was to add a title to the subsection.

[Amendment No. 30 adopted without objection.]

Amendment No. 31

MR. TATE

Amendment No. 31, which is to Section 13 (B) on page 32. It changes a "such" to "the", puts...we think shortens and makes more clear the language; omits a "the" that's unnecessary; omits "to the time"...just says "prior to making the appropriations"--it's self-explanatory, referring to that event.

[Amendment No. 31 adopted without objection.]

Amendment No. 32

MR. TATE

Amendment No. 32 deals with Section 13 (C) on pages 33 and 34....On pages 33 and 34, the changes are strictly the stylistic ones that we've been following throughout about omitting needless words, using standard language, placing standard punctuation.

Questions

MR. JENKINS

Judge, this is really a stylistic question. You know this section includes that First, Second, and Third--these subparagraphs--and this seems to be the only place we've done that and I really can't see any rhyme or reason to it. Couldn't you all improve that?

MR. TATE

Mr. Jenkins, you're exactly right. You're exactly right. However, it was our understanding that they had hammered out the Education First, Second, and Third with such detail that is found in the present Constitution, although elsewhere in the Constitution we would have said, (1), (2), and (3). Nevertheless, because of the circumstances that every now and then we...rather than disturb bond attorneys or school boards, we departed from the standard practice, just as we have a Preamble in this Article, for instance, where we don't have anywhere else.

MR. JENKINS

Wasn't the reason the First, Second, and Third were in there before is because there were dedicated funds involved and we're not now talking about dedications, but rather a mere taxing authority?

MR. TATE

I do not know the reason it was in there before, but we were advised someone might regard it as tampering with sacred language.

MR. JENKINS

You don't think, then, if instead of First, Second, and Third, you just put (1), (2), (3), that that would do the same?

MR. TATE

I frankly think it would, Mr. Jenkins, but we yielded to expediency. Some of us voted for three dollar license taxes.

Some of us tried to make compromises that get to the subject of ham and other things, but now and then you have to move things along.

[Amendment No. 32 adopted without objection.]

Amendment No. 33

MR. TATE

Amendment No. 33 deals with 13 (D) on page 36. It makes no change. It's substantive, of course, and follows the general rule of granting...of the general consistent usage we've tried to follow in standardized language, and using words for phrases.

[Amendment No. 33 adopted without objection.]

Amendment No. 34

MR. TATE

Amendment No. 34 is about Tulane University, Section 14 on page 37. We omitted the needless commas and words and otherwise, such as it is, bring it to your attention for stylized adoption as is.

[Amendment No. 34 adopted without objection.]

Amendment No. 35

MR. TATE

Amendment No. 35. We now get into the yellow amendments. Amendment No. 35 on this white sheet--it's the first yellow amendment here. Now, it refers to Section 7 (A) on your green. 7 (A) on your green deals with the Board of Supervisors of L.S.U. and Southern and the effect of this amendment would be--on your green--on your Board of Regents....it's "subject to powers vested by this Article in the Board of Regents." The reason why the committee thought it was not substantive and that it might be needed is that in Section 6 (A) the same construction was used with regard to the Board of Trustees of State Colleges and Universities. "Subject to powers vested by this Article in the Board of Regents"....it was felt that the sense of the convention was and the meaning and context was that the....it was subject only to the....it was subject to the powers vested in the Board of Regents only by the constitution, that the legislature could not later on deprive those boards of the powers that were granted to them by the constitution. In order to be perfectly clear that the same treatment was going to be given to L.S.U. and to Southern as to the other Board of Trustees and that there's no intentional differentiation in their approach, we recommend to your attention placing those words....adoption of this Amendment No. 35, which has the effect of placing the parallel construction of the L.S.U. and Southern Boards.

[Amendment No. 35 adopted without objection.]

Amendment No. 36

MR. TATE

Amendment No. 36 is going to deal with Section 10 (B) and the complications that result from these city school boards being in the constitution. Then (B), as you see you adopted it, is a stylized version on pages 26 and 27; and includes the provision at the end which says "the provisions of this Paragraph shall be operative notwithstanding anything in this constitution to the contrary." Now, Section.....Paragraph (B) (1) provides for voting for and membership on the Monroe City and the Ouachita Parish School Boards. (B) (2) provides that the board member not meeting those requirements must vacate his position. (B) (3) provides that the Paragraph shall not be operative until 1977 or until reapportionment occurs. Then after this, follows the provision...."the provisions of this Paragraph shall be operative notwithstanding anything in this constitution to the contrary." Now, if the last sentence applies to all three items then there would arise the question as to whether the consolidation of the two school boards under Section 10 (C) would be pro-

hibited. But, Section 10 (C) indicates that the school boards may be....any school system may be consolidated under procedures enacted by the legislature. In other words, there was no intent to prevent the subsequent--excuse me, I'll go back--now, one interpretation of the language which would give effect to both the language in Section 10....there's no intention to stop consolidation in the future. In other words, the provisions of this paragraph were going to be operative, but only as to (3) the election of school board members taking office. It was not intended to prevent the consolidation under the general provision in the future. So, what the intent was....was that the notwithstanding clause of Paragraph (B) that you'll see on the bottom of page 36 really meant that "notwithstanding any contrary provision of this constitution, this Paragraph shall become operative upon the election of members of the parish school board taking office in '77 or upon the first reapportionment, whichever comes earlier." Now, if that interpretation is correct, then you can restyle and shorten Section 10 (B) as is recommended by Amendment No. 36. Now, Judge Dennis is closely familiar with the issue, Mr. Chairman. Might I yield to him to clarify any incoherences that have resulted?

Further Discussion

MR. DENNIS

Mr. Chairman and fellow delegates, I believe Justice Tate has given all the explanation that I can offer. I'd just like to urge you to go ahead and adopt this styling because if it is not styled properly, it might be interpreted to stop these two school districts from merging under the general provisions in Paragraph(C)in the future. I know that this was not ever the intention of Mr. Wall or myself,when we finally worked out a compromise to put this paragraph in. It was simply our intention that the school board be reapportioned immediately, but we both agreed that if the people in these two school districts wanted by an election to merge and consolidate the two school systems in the future under Paragraph (C),that they should be able to do so.

Question

MR. AERTKER

Judge Dennis, then it is my understanding that even though this allows and takes care of Ouachita and Monroe that this still allows for the consolidation of any school systems under procedures that could be established by the legislature.

MR. DENNIS

Yes. With this stylistic change it makes that clear. Without it, there would be some doubt. That's why I'm asking you to adopt this change.

MR. AERTKER

All right.

[Amendment No. 36 adopted without objection.]

MR. TATE

That completes, Mr. Chairman, that completes Committee Proposal No. 7. I think before you report it out, Committee Proposal No. 11 on Retirement and Survivors'Benefits. . .

MR. POYNTER

The gentleman moves to take up the Style and Drafting amendments to Committee Proposal No. 11 dealing with Human Resources, particularly retirement benefits.

[Motion to take up Committee Proposal No. 11 adopted without objection.]

Committee Proposal No. 11

Amendment No. 1

MR. TATE

All right. Mr. Chairman and delegates, the styling amendments you're about to take up are found in a second short pack . . . short section. . . the second short package headed by green material. There is a paper clip in the middle of the page. Take it off. (Some of our Bourbon Street friends got the wrong idea. Ha! Ha!), but anyway, then you'll have a yellow, a green,and the committee amendments which you will see, for a change, are on front and back. Now, Mr. Chairman, shall I move Amendment No. 1?

I should say preliminarily that the....Article VII. Human Resources is....again, we've titled it Section 1. We've got about six or seven Section 1'a to Article VII. Human Resources. In the final rearrangement it is anticipated that possibly the Civil Service will be put in a separate section called "Civil Service" and that many of these other miscellaneous articles might be better consolidated together in general provisions, but that will await your determination later. I'm just saying it so you don't worry about Section 1 being repeated. Now, Amendment No. 1 simply rewrites and puts a title to the first Section 1 (A). It has been checked by the--Oh, Mr. Aertker, I should have asked you to say whether--what I did there. I forgot I'd failed to show the great Chairman of the substantive Committee on Education the courtesy of having him express his input into our styling and drafting.--and he says it's unnecessary, he has no objections. In Section 1 (A) no changes are made that are substantive in nature, it's just the usual standardized rules and the singularizing that is common to what we've been doing in the other sections.

[Quorum Call: 89 delegates present and a quorum.]

MR. POYNTER

We have now the Style and Drafting amendment. We ask your indulgence for basic information. There is an amendment which Mr. Womack has had prepared and we've revised to fit in with respect to the proposed Style and Drafting Committee amendment which would call for a motion to reconsider the vote by which the vote was taken on the final adoption of this particular section. But, it will fit with the Style and Drafting Committee amendment, so Judge Tate at this time proposes to go on through all the Style and Drafting amendments and submit those for your consideration and Mr. Womack, or in his absence if he's not here at that moment, I believe, Mr. Aertker will handle the proposed substantive amendment.

Amendment continued

MR. TATE

Mr. Chairman, what we have before you is the Retirement and Survivors' Benefits in Human Resources, Section 1, as I started to explain. The first three amendments are purely stylistic. Then the two yellow amendments, which are to carry out the floor intent, which have been recommended and then you will later see, Mr. Burson or Mr. Aertker will move to suspend the rules to add something that...there's no question that the floor intended, but didn't exactly express.

All right. The first amendment deals with Section 1 (A) and it rewrites 1 (A) omitting needless words, standardizing language, attempting to clarify the language at the end, "payable to the member of the system or to his lawful beneficiary at his death or retirement." It attempts to clarify between the member of the system and his lawful beneficiary.

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. TATE

Amendment No.2 is to Section 1 (B) on page 3 of your green. It makes similar stylistic changes that were made in 1 (A). This has to deal with retirement systems of other officers, employees and schoolteachers. I yield to questions, Mr. Chairman.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TATE

In Section 1 (C) similar stylistic changes are made. On change 4, it says "shall be introduced into". "Shall be introduced in"was thought to be the appropriate language. Otherwise, they are the same sort of changes we've been making up to now, present tensing.... shortening the sentences,etc.

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TATE

Amendment No. 4, again, is a stylistic amendment. It's on page 6. For the compensation of law enforcement survivors.... survivors of law enforcement officers and firemen--the changes are strictly to use the standardized language. In other words, instead of saying "as may be defined by law", "as defined by law" meaning the same thing, etc. "who suffer death", "who die".

[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TATE

All right. Amendment No. 5, --now these next two are yellow amendments, caveat amendments-- we are convinced that they represent only a carrying out of the floor intent, but in the event we are wrong, we wanted to alert you to the fact that this involves an addition of language that you may wish to study. This had to do with the consequences of a floor amendment by Mr. Lanier, which originally the last sentence of this said, "membership in any retirement system of the state or of a political subdivision shall be a contract between the employer and the employee" and it said, "and the state or the political subdivision shall." Now, that was deleted on the floor when it said, "the political subdivision shall guarantee benefits." But, the effect of deleting it was unintentionally to make the state guarantee benefits to the members of any retirement system, state or local governmental. It was agreed that the original intent and the entire intent, the Lanier amendment had no such intent. So, to clarify that the state guarantees benefits only to the state retirement system, the recommendation is to add the words "of a state retirement system" after members "shall guarantee benefits payable to members of a state retirement system at retirement, etc." We did not think this was any substantive change, but we thought we should alert you to the fact of the clause or of the ambiguity and the necessity for its resolution.

[Amendment No. 5 adopted without objection.]

Amendment No. 6

MR. TATE

The changes in retirement systems. The very plain intent was that it would be...require public notice for changes in the retirement system for public employees. Now, as broadly written it said "to any retirement system", it being a constitutional provision...while we thought it doubtful that anyone could really think it meant that any private retirement systems still had to have to have the notice of intention, etc. In order to avoid the possible confusion, the possible lawsuit, we recommended adding to any retirement system...adding the words "for public employees" to make it crystal clear that the intent was only to require public notice of intentions to change public retirement systems by publication in the Journal and so on of the state.

Mr. Chairman, I'll yield to any questions.

[Amendment No. 6 adopted without objection.]

MR. TATE

All right. Mr. Chairman, I think Mr. Aertker and Mr. Womack desired at the request of the State Retirement Systems, State Teachers' Retirement Systems to introduce some amendments to carry out...there is no question this was the intent of the floor language except it didn't exactly say this.

Motion

MR. BURSON

Mr. Chairman, fellow delegates, Mr. Aertker had to leave and asked me to handle this amendment for him. Apparently the attorneys for the State Teachers' Retirement System are concerned that if you simply phrased Section 1 in terms of a member's benefits that you may not be guaranteeing a retiree's benefits because once a person retires he is no longer a member of the system but he is...his proper designation should be retiree; this is more of a technical change. It does not, in my view, change in any way the substance or the intent of the original amendment but it simply clarifies it and makes certain that the benefits of retirees are protected as well as those of the members who are contributing.

[Motion to suspend the rules to reconsider Section 1 of Committee Proposal No. 11 for the limited purpose of offering the Womack amendment adopted without objection.]

MR. CASEY

O.K. Section 1 is under consideration now. Let's have the Clerk read the Womack amendment now.

Reconsideration
Amendments

MR. POYNTER

All right. Set of two amendments. Amendment No. 1. On page 1, in Style and Drafting--you can follow this from your Style and Drafting amendments before you--page 1 Committee Amendment No. 1 adopted by the convention today, on line 9 of the text of the first amendment immediately after the word "member" strike out the words "at retirement" and insert in lieu thereof "or retiree" and on line 10, immediately after the word "upon" strike out the words "the member's" and insert in lieu thereof "his". Amendment No. 2. On page 1, in Style and Drafting Committee Amendment No. 2 adopted by the convention just now, strike out line 11 of the text of the amendment in its entirety and insert in lieu thereof the following: "or retiree or to his lawful beneficiary upon his".

Point of Information

MR. DENNERY

Mr. Clerk, do not the instructions on the second amendment now have to be changed? Haven't we already adopted a yellow amendment which covers Section 1 (B) and will not, therefore, your instructions have to be changed accordingly?

MR. POYNTER

If by...and I'm going to have to get back and glance at it again. As I recall, the way that amendment was drafted it only added language to the end of line 10; I may be incorrect in that. I believe that's Amendment No. 5; am I O.K. on that? It just adds some language at the end of line 10 in which case, I believe... you're agreeing, Mr. Dennery? I can't see you back there. I believe we are alright. O.K. No. 6, no that goes to Committee Amendment No. 3. O.K.

Questions

MR. PLANCHARD

Jack, in Amendment No. 2 "or retirees or to his lawful beneficiary upon his", the lawful beneficiary...isn't the word lawful a little extra word in there? Do we really need that? What is meant by lawful?

MR. BURSON

Well, that's the same word that was used in the original section and I suppose that's the reason they used it there. The purpose, as I understand it, would be to make it plain that the beneficiary is one spelled out by the retirement law and not his beneficiary under his estate or anything of that nature.

MR. PLANCHARD

Well, couldn't it also mean that that could be the beneficiary as designed by the forced heirship laws or couldn't it also mean by designation in the contract itself? I don't know, I....

MR. BURSON

As I understand, the Teachers' Retirement System, Mr. Planchard, it sets up definite categories of beneficiaries and the contingent beneficiary in all cases is the estate. So, if you didn't have one of the listed beneficiaries then it would be forced heirs in that instance because your estate would be....it would be distributed according to your estate in other words.

MR. PLANCHARD

But, do you feel that if we just said "to his beneficiary" would be sufficient?

MR. BURSON

I'm afraid that if you didn't say "lawful beneficiary" then it might not be plain; it would have to be those beneficiaries established by the law. I didn't draft the amendment and I'm

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presenting it for these other gentlemen. I would hate to change anything in it without clearing it with them first.

MR. PLANCHARD
O.K., thank you.

MR. CASEY
Mr. Sutherland, has a question; then, Mr. Goldman; then, Mrs. Corne.

MR. SUTHERLAND
Jack, this is probably, for the record, a clarification but you took out the word "member's" and you put in there "his" and down below you say "his lawful beneficiary." Now, in some systems males are recognized to have beneficiaries, females are not. I think the intent here is "his or her," and I just want to be sure that that is the intent.

MR. BURSON
Yes, sir. In other words, it's used generically here "hia", in other words, in the English grammar sense.

MR. SUTHERLAND
O.K.

MR. BURSON
...that modify back to "member's" or "retirees" whichever is involved.

MR. GOLDMAN
Mr. Burson, my question was along the same line. I assume or for the record I would like to know the reference in all of these Styling and Drafting amendments where personnel are involved the "his" is ambisexual; isn't it?

MR. BURSON
As far as I know, yes.

MR. GOLDMAN
In other words, it means either sex?

MR. BURSON
Yes, sir.

MRS. CORNE
Mr. Burson, my question refers to the necessity of adding the word "retiree." In a contractual relationship a member must sign the option that he wants on his retirement while he is a member and, therefore, this option cannot be changed when he becomes retired.

MR. BURSON
Yes, ma'am.

MRS. CORNE
He's then called a retiree; is he not?

MR. BURSON
That's correct. Frankly, I think this is being a little technical with it but apparently the attorney of the retirement system felt it was necessary, and we are talking about guaranteeing the benefits by the state and in that sense, perhaps you could make a distinction. Frankly, I don't think it would hold up but he is being super cautious and...

MRS. CORNE
And, also upon the death of the member he has when he is a member, he has signed the option and he has indicated his beneficiary in the retirement system and, therefore, he is a member at the time that he does that and then cannot be changed even if he becomes a retiree he cannot change it.

MR. BURSON
That's correct. I think it would be a vested right. I think it would be a vested right even if we didn't have this provision in the constitution but I suppose the purpose of all of this is to spell it out where there is no doubt about it and where you don't have to go to court to establish it.

MRS. CORNE
I'm just wondering, Mr. Burson—you have a legal mind and I don't—would this mislead some people into thinking that they can change from the time he was a member and signed these options and become a retiree?

MR. BURSON
I don't think so because it's used as an either or proposition here. I don't think it implies even that he could change his beneficiary.

MRS. CORNE
So, it will not be violence. Thank you, sir.

MR. BURSON
Yes, ma'am.

[Previous Question ordered. Record vote ordered. Amendment adopted: 100-0. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 99-0. Motion to reconsider tabled.]

Chairman Henry in the Chair

[Motion to alter the Order of Business adopted without objection.]

SPECIAL ORDER OF THE DAY

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Reading of the Proposal

MR. POYNTER
Committee Resolution No. 13, introduced by Delegate Stovall, Chairman on behalf of the Committee on Rules, Credentials and Ethics which is a substitute resolution for Committee Resolution No. 3 by the same gentleman.

A resolution to amend the Standing Rules of the Convention to add a new Rule 37.1 to provide expressly for submission of alternative provisions.

Explanation

MR. STAGG
Mr. Chairman, fellow delegates, if you will take from your books Committee Resolution No. 13 that came from the Rules Committee, its printed on blue paper. If the pages would cooperate with those delegates who have not a copy of it before them it would be helpful to be able to follow what we are proposing to do. When this rule was first being considered in the Rules Committee, there was a subcommittee appointed by the Chairman of the Rules Committee composed of Mr. Flory, Mr. Sandoz, Mr. Velazquez, Mr. Mire and myself. We prepared back before Christmas a proposal on the alternative. It is late coming to the floor so it will be necessary to go through an amendment process so that the amendment can be presented...or so that the proposal can be presented to you in a form for use by those delegates who wish to propose to the convention alternative proposals. If I may, Mr. Chairman, I would like to run through on the blue copy the way the amendments will be presented to the convention.

On page 1, on line 31, the first word is plural, it is to be changed to singular.

On page 2, on line 1, the semicolon ";" behind the first word is eliminated and the date in line 6 is "January 14" instead of "January 5."

We proposed to entirely delete Subparagraph (B). We have rewritten Paragraph (C) so that Paragraph (C) would now read that proposals would be sent to the convention on January 15 and on that date the debate on each proposal for an alternative will be limited to an hour with the time divided equally among the proponents...between the proponents and opponents and upon a receipt of sixty-seven favorable votes an alternative provision would be referred to Style and Drafting. Style and Drafting would have a day and a half to check out the language and to bring it back to the convention by twelve noon on the seventeenth of January and on that day debate would be had on the alternatives with sixty-seven votes....

Point of Information

MR. KEAN
Mr. Chairman, I've got what purports to be two amendments. I just don't see all of this material that Mr. Stagg is referring to in these two amendments.

MR. HENRY
There are five separate amendments.

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MR. STAGG

There are five separate amendments and they are in the process of being passed out.

MR. KEAN

I would like to suggest we get all the amendments before we start discussing them; I think it's too important a matter for Mr. Stagg to be talking about them....

MR. HENRY

Well, Mr. Kean, I think what he is doing is just giving an overall rundown of what the amendments do and then he is going to take them up one at a time for adoption, sir.
Proceed, Mr. Stagg.

Explanation continued

MR. STAGG

That's right, Mr. Chairman, I'm trying to explain what is to come so that it will not be entirely in the dark.
The first amendment that will be proposed, Mr. Chairman, is that amendment...or that page on which there are three technical corrections, Amendments No. 1, 2, and 3. The first Amendment No. 1 is to make "alternatives" "alternative". The next one removes the semicolon ";" and the next one substitutes for 5 January, "January 15" on line 6 on page 2.
I move the adoption of the three amendments. I'll be glad to answer any questions on any one of these three amendments.

MR. HENRY

No. We haven't offered the amendments yet, Mr. Stagg. We will go ahead and ask the Clerk to read the first set of amendments.

Amendments

MR. POYNTER

The first set of amendment reads as follows, it's a group of three amendments.
Amendment No. 1. On page 1, line 31, at the beginning of the line delete the word "alternatives" plural and insert in lieu thereof the word "alternative" singular.
Amendment No. 2. On page 2, line 1, after the word "native" and before the word "if" delete the semicolon ";"
Amendment No. 3. On page 2, line 6, at the beginning of the line delete the number "5" and insert in lieu thereof the number "15".

Explanation

MR. STAGG

Mr. Chairman, they are in the way of technical amendments to make the document applicable to the status of the convention as we find it today.

Questions

MR. CHAMPAGNE

....alternatives to alternative.

MR. STAGG

It was suggested as a matter of style that the proposal shall state specifically: (1) the text of the alternative. In other words, it is felt that a delegate with an alternative proposal is going to prevent an alternative proposal and they will be separately presented in the....alternatives will be separately presented to the convention.

MR. BURNS

Mr. Stagg, I don't know whether this is the proper time to ask this question but it will have to be answered anyway, so I imagine it's just as good now as ever. As I understand it, do we first when we get to that stage, do we first vote on whether or not to allow alternatives and then subsequently vote on the individual alternatives in the event the convention votes in favor of receiving alternatives, but is that the first vote?

MR. STAGG

Mr. Burns, there has to be a rule before anybody can get to line No. 1---there ought to be a rule of the convention. In this rule in Paragraph (A) it is required that there be forty coauthors on an amendment or rather on an alternative; that's the first roadblock a delegate with a serious alternative has to cross is

he has to have forty coauthors. Then is when the convention would decide whether they can have sixty-seven people agree that that ought to be an alternative.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Second amendment reads as follows:
On page 2, delete lines 7 through 9 both inclusive in their entirety.

Explanation

MR. STAGG

Mr. Chairman, back in December when the rule was written there was time for the following of the order of processing of proposals; that time no longer remains and in order to make it a workable rule, it is suggested that lines 7 through 9 be deleted.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I rise in objection to the proposed amendment for the following reasons. You look at Rule No. 44 which it proposes to eliminate its requirements. The committee that drafted this resolution put it in there for the sole purpose of allowing the Substantive Committee to handle the subject matter that might be contained in an alternative proposal and who had the benefit of the year's study on that particular subject matter would also consider the alternative proposal. By the elimination of this provision, what you are doing as a member of a Substantive Committee is turning over to Style and Drafting your responsibility and to allow them to do the committee work. I don't believe that to be the proper approach for this convention to take at this late hour. I'm sure in all deference to the membership of the Committee on Style and Drafting, they don't have all of the answers on the issues that came before the Education Committee on the education proposal. I don't think that they had the benefit of all the testimony that that committee had, nor do I believe that the Committee on Revenue, Finance and Taxation ought to yield its jurisdiction to the Committee on Style and Drafting because, likewise, they didn't have the benefit of all the testimony coming before that Committee on Revenue, Finance and Taxation. We're talking about substantive issues that might be presented to the voters of this state in the form of alternative proposals. I suggest to you that we ought to retain the committee's structure of this convention. We ought to proceed along the lines of using and utilizing to the fullest extent the Substantive Committees who have deliberated these issues for the past year. I recognize that it might be expedient; you might cut some corners. But, I suggest to you that that's not the best approach; it's not the wisest approach. I don't believe that the people in the final analysis will judge us as being prudent by bypassing for the sake of a few hours. If the Committee on Style and Drafting can handle all the proposals within the time prescribed here, I don't believe we can; that committee can do it with its other work and at the same time come back to this convention with a proper report. I believe if we are going to go into the issue of alternatives, we ought to utilize the committee structure and allow those committees to function as they have this past year. I ask you to reject the amendment.

Questions

MRS. ZERVIGON

Mr. Flory, let's leave aside the question of the Education Committee right now and discuss, for example, the Committee on Revenue, Finance and Taxation with regard to the governor's speech yesterday. The governor was asking us to change the bond issue provisions as they relate to revenue bonds. The measure that he's talking about, that we adopted on the convention floor, was reported out of the Committee on Revenue, Finance and Taxation with a substantial majority. Any alternative to go on the ballot that would change that, that we referred to them; wouldn't that stand a good chance of being killed in committee?

MR. FLORY

Not necessarily if you read the rest of the resolution. I think that if that committee doesn't act and report that out, then they can take...come forward, the convention can take possession of it on a certain date.

MRS. ZERVIGON

Thank you.

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MR. PLANCHARD

Gordon, isn't it true if we leave this in here that we could still as the body, suspend this rule?

MR. FLORY

There's no question that the body can suspend any of its rules if they get two-thirds of those present and voting sixty-seven votes whichever is the lesser number. But, I think we ought to utilize the structure that we set out as far as committees are concerned. Originally, we divided the constitution into eight substantive matters and assigned to those eight substantive committees the subject matter that ought to go to them for the purpose of discussing these issues. It came before those committees, and I think it's too late, now, to change that.

MR. PLANCHARD

I think you . . . you believe in the integrity of the committee system. . .

MR. FLORY

I certainly do; I certainly do.

MR. GAUTHIER

Gordon, I, like you, hesitated dropping the structure we've worked so hard to create and use so wisely up until this time.

MR. FLORY

I'm sorry; I can't hear you.

MR. GAUTHIER

I said, I, like you, also hesitate at dropping a procedure we have used well to this point. But, if we do not, will time permit us to go through the regular channels that we have in the past?

MR. FLORY

Well, I don't see why it won't. If it will allow you to go through the same procedure and go through Style and Drafting, I don't see why it won't let you go through the other committees. I see no reason why you can't suspend the rules when a delegate proposal is introduced and send it to the substantive committee just the same as you can send it to Style and Drafting.

MR. GAUTHIER

Now, do you see any distinction, though, in the fact that it requires that an alternate have at least the signature of forty delegates? Wouldn't that put it in a class of its own and therefore be a different procedure in itself?

MR. FLORY

Well, let me say this: we've already . . . I presume the amendments that were offered to that particular Section (A) have been adopted without objection, in my appreciation. Now, I know of no further amendments to that particular section, and I haven't had a chance to read all of the amendments. But, it was the thought of that committee that . . . in order to have and because some of those were not . . . require the forty signatures.

Further Discussion

MR. STOVALL

Mr. Chairman, ladies and gentlemen of the convention, I rise in support of the amendment that is before us for this very obvious reason: by adopting this amendment, we are not yielding so much to Style and Drafting as we are to the wisdom of this body. I think all of us, by this time, are knowledgeable on the substance of the various issues that are before us and that might come before us. I submit to you that this is a more democratic procedure that is suggested in this amendment, and I furthermore suggest that we are at a point in time when we must eliminate as many unadministrative procedures as possible and get to the substance of the issue. The adoption of this amendment will enable us to do so. This is a completely democratic procedure. It will be left to the wisdom of this body concerning the substance of the matter that is before us.

Mr. Chairman, if there are no other speakers, I move the previous. . . there are some questions.

Questions

MR. ROEMER

Reverend Stovall, if we adopt this amendment, we haven't

circumvented the convention in any way, have we? Won't these alternatives have to be brought up on the floor of the convention as they deserve?

MR. STOVALL

We're not circumventing the committees. We are, as a total group, making certain decisions concerning matters of substance.

MR. ROEMER

Well, isn't it true, Reverend, that every member of every committee is also a member of the whole convention and will get a chance to debate it on the floor of the convention?

MR. STOVALL

Yes.

MR. ROEMER

So, we haven't done any injustice to anybody or any committee, have we not?

MR. STOVALL

Absolutely not.

MR. ROEMER

Haven't..furthermore, we have looked at the calendar and know that we are running out of time, aren't we?

MR. STOVALL

Yes.

MR. ROEMER

If we have to go through a long, involved process just to get an alternative on the floor, then we're not going to get a chance to even discuss alternatives, are we?

MR. STOVALL

Right.

MR. ABRAHAM

Reverend Stovall, an alternate proposal will be very similar to a delegate proposal, would it not, in effect? It's going to be just like a delegate proposal that would have gone to committee, will it not? What would the committee do with such a proposal? The only thing it can do is it can either report it with amendments or report it without action. Then, it would still have to come back to the floor, huh? So, really. . .

MR. STOVALL

The substantive committees have already dealt with the issues that will come before us.

MR. ABRAHAM

Right. So, there is probably nothing that the committee--if it were referred to committee--there's nothing the committee could add to the proposal at all, could it not, other than just report it back to the floor.

MR. STOVALL

I think so. I think that's correct.

MR. ABRAHAM

So, we really haven't lost any ground if we were to adopt this amendment and go ahead and bring it to the floor, have we?

MR. STOVALL

I think you are right.

MR. GOLDMAN

Reverend Stovall, wouldn't the defeat of this amendment, in effect, defeat this resolution, and then we wouldn't have any chance for alternatives?

MR. STOVALL

Mr. Goldman, I would not say that we could not operate within that framework, but this . . . to eliminate . . . to pass this amendment will certainly expedite our parliamentary and administrative procedure in dealing with whatever alternative proposal might be presented to the group.

Mr. Chairman. . .

MR. FLORY

Mr. Stovall, isn't it true that you could have brought this resolution up prior to the Christmas holidays?

MR. STOVALL

We're not dealing with the time schedule of the Rules

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Committee at this time, Mr. Flory. I think the thing we're dealing with is Amendment No. 2.

MR. FLORY

No, what I'm talking about, as the author of the resolution, couldn't you have brought this resolution up prior to the Christmas holidays to allow more time for consideration of alternatives?

MR. STOVALL

We could have done many things in the past that we have not done, Mr. Flory.

Further Discussion

MR. KEAN

Mr. Chairman, fellow delegates, I think it's unfortunate that we have to consider this proposal at this late hour. I can certainly understand the desire of the committee to amend the original committee proposal in the interest of expediting alternative proposals, if we want to consider them. It seems to me that the real problem that we've got to face up to is not so much in shortcutting the usual procedures that are contained in Rule 44, but in the subsequent amendment which would bypass the substantive committees and refer the alternative proposal directly to the Committee on Style and Drafting. Now, I say this for this reason: these alternative proposals are not going to be simple propositions. It will be necessary for that alternative proposal to, among other things, state the effect of the alternative--if adopted by the people--in terms of additions to and deletions from the body of the proposed constitution, and the text of the ballot proposed on the alternative. Now, it seems to me that the substantive committees who worked with some expertise in the various fields that were within the scope of their jurisdiction are in a much better position to consider these particular factors which will go into the alternative proposition than would be the Committee on Style and Drafting. What we're really saying is that we're going to try to confect alternative proposals on the floor, and then really refer them to Style and Drafting for nothing more than style and drafting. It means that we will not have any real committee consideration of alternative proposals to be considered by this convention, and I think that's wrong. If we want to have alternative proposals, fine; that's one thing. But, let's have them deliberated; let's have them considered by committees in the proper manner so that if we finally adopt the alternative proposal, we do it in a sensible, reasonable fashion. What we're doing here is now simply becoming a Committee of the Whole for the purpose of considering alternative propositions and using the Style and Drafting Committee as a means to put it in final form. I simply do not believe that's the way we ought to conduct our business. I think we're going to end up with long and lengthy debates over alternative proposals and the language of those proposals that are going to take far greater time with less results than would be the case if these proposals were submitted to the substantive committee and by that committee, ordered to be considered and referred back to the floor by some specific date.

I suggest to you that you look at this matter carefully, and that if we want to bypass any of the procedures, that we do it not with respect to the committee it will be referred to, but we do it with respect to the time in which that committee would have to make a report back to the floor with respect to whatever proposal is referred to it. I think otherwise we are simply not going to get proper consideration of these proposals, the consideration which they deserve. For that reason, I oppose the amendment which is now before you.

Questions

MR. LANIER

Mr. Kean, as a matter of principle, do you favor the concept of alternate proposals?

MR. KEAN

Mr. Lanier, I haven't made up my mind on what I'm going to do with respect to alternative proposals. I have stated before that in some instance it may depend on what they are. But, I don't think the way to consider them is to bring them up, get sixty-seven votes and send them to Style and Drafting, because I think we're going to spend all next week--the last few days that we've got to complete this constitution--in debating alternative proposals which could be better served by being referred to the substantive committee for further consideration.

MR. FLORY

Mr. Kean, if this amendment is adopted--and I don't believe that the delegates have looked at Rule 44--but if this amendment should be adopted, under (J) and (K) and they are--let me read it to you--"Referral to Committee on Style and Drafting," "The Convention's Approval of Final Styling," and (L) is "Final Enrollment," then these alternate proposals wouldn't even have to comply with. . . the convention wouldn't have the opportunity, necessarily, to adopt the Committee on Style and Drafting's final report, nor would we finally have to enroll these documents; would we?

MR. KEAN

That's correct. You'd have to follow the procedure. . .

MR. HENRY

You've exceeded your time, Mr. Kean.

Further Discussion

MR. JUNEAU

Mr. Chairman and fellow delegates, I rise in as strenuous support as I can of the amendments offered by Mr. Stagg. I think that we ought to be apprised of the fact that we have approximately eight days left in this convention. So, let's not pussyfoot around with the issue. The question is--and let's have a record vote on it--do you want to delay and do you want to consider the mere mechanism of allowing the people to decide questions of magnitude that could effect the passage or defeat of this constitution? I tell you that we're within eight days; we're running on a short fuse now. To support the position that Mr. Flory took would be nothing other than a vote denying the people of this state the right to consider issues such as education, and such issues on education that were mentioned by the governor of this state to this convention. Now, you want to talk about a full and free debate, what fuller and freer debate do we need or what more information do you want on education than we've had over the past year? I'll tell you--and let's lay the cards on the table--what a lot of us are interested in is education. We want to put to the people the question of whether or not they want the multiplicity of five boards in the constitution, 'cause the alternate will be simply put--and I want to lay the facts on the table--that we will not change the responsibilities nor duties nor functions of the lower board. We do not propose to change the duties, responsibilities, or functions of the Board of Regents. We would make a change in the composition of the Board of Regents to provide for some elected officials. We would remove from the constitution, as advocated by the governor and as advocated by many, many people throughout this state and a substantial majority of the people in this convention, those management boards which were. . . had been deemed to be administrative in nature, and we would leave that to the legislature for flexibility. Now, I'm not asking you, and I don't think anybody is asking you to necessarily support that concept. But, what we are asking you for, by Mr. Stagg's amendment, is for. . . why don't you just give us a chance to present those arguments to you, and then let us decide whether or not you want to circumvent the right of the people to make that determination? So, what I'm asking you to do is to vote "yes," not only on this amendment by Mr. Stagg, but on all of the subsequent amendments that are offered by Mr. Stagg so that we can get to the issue and cut out what you know and what I know to be pigeonholing of a committee report.

I'll yield to any questions.

Questions

MR. ROEMER

Pat, I find you to be a reasonable, intelligent person. What do you. . . what, in your best opinion, do you think are the chances of an alternative going to a substantive committee? An alternative flies directly in the face of what that committee's pride of authorship is. What do you think are the chances of that alternative either getting a favorable hearing or a favorable report out of the committee?

MR. JUNEAU

Zero.

MR. ROEMER

Thank you.

MR. CHAMPAGNE

Mr. Juneau, did you know that before the opinion of various delegates became polarized on certain issues, in fact in the

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first or second week of this convention, that I inquired what provisions would be made for alternates, and I was told, "It shall be taken up at the right time"? Apparently, late is the time to take it.

Further Discussion

MR. DE BLIEUX

Mr. Chairman, ladies and gentlemen of the convention, Mr. Juneau has just about made my talk for me. I want to emphasize, too, the fact that we have got to have some input in the way of decision making from the voters of this state if we expect to get this document passed. The only way in the world that they feel like that they will have been able to make some choice is if we have some alternatives on this ballot. I don't believe that our voters are any different than that of other states, and as you have seen from the staff reports that we have had, in every state that they had a constitution submitted to them that there wasn't alternatives on, that constitution was rejected. You've attended some of the seminars we had at the very beginning and even last year and the year before that on this constitutional convention in which we had some of these people who have worked on those constitutions. . . .

They have told us in no uncertain terms that we should submit alternatives. Since 1966, nine states--nine states--have submitted new constitutions. Five of them didn't have any alternatives, and all five of them failed. Even one state that had a constitution with alternatives failed. Only three of them were able to pass it, and they all three had alternatives. Now, I ask you, let's be sure if you want to get this document passed, let's be sure we provide a mechanism by which we can get some alternatives on that ballot. I'm not trying to tell you what the alternatives ought to be. That's something we can make up our mind on when we get to that particular part. But, let's, for goodness sakes, provide the mechanism to do it. I ask you to support these Stagg amendments so that we can get that done.

Questions

MRS. CORNE

Mr. De Blieux, a vote against this amendment would, in effect, kill the resolution, would it not?

MR. DE BLIEUX

A vote for these amendments would kill the resolution?

MRS. CORNE

A vote against this amendment would kill the resolution, would it not, at this late date?

MR. DE BLIEUX

That's right. That's exactly right. We can't possibly do it without these amendments.

MRS. CORNE

We are then, in effect, telling the people that it is none of their business?

MR. DE BLIEUX

That's exactly right, and we are going to tell them what they ought to do and what they can't do.

[Motion to limit debate to 15 additional minutes adopted without objection.]

MR. FLORY

Senator De Blieux, you said your position was dictated by the wishes of the people. Could you tell me, if you delete Rule 44 requirements, when the public is going to be heard on these alternatives?

MR. DE BLIEUX

Mr. Flory, they will have their chance, whenever we get these alternatives on the ballot, to be heard, and I think they're going to speak loud and clear on them. They haven't been able to hear every amendment that we. . . that is, have a hearing before a committee on every amendment that's been proposed here, and you know we have had some radical amendments.

MR. FLORY

Do you know of any proposal that's been introduced in this convention that has not gone to a committee and that a public hearing has not been held on it, and that the public has been

offered the opportunity to come and present their views before that committee acted on that proposal?

MR. DE BLIEUX

We haven't done that with all the amendments, Mr. Flory. I say, if you want to kill the chance for a proposal. . . a proposed alternative. . .

MR. FLORY

We're talking about alternative proposals, Senator, not amendments. We're talking about alternative proposals.

MR. DE BLIEUX

Well, these alternative proposals, in my opinion, is something like an amendment to the proposal. That's all that they are going to be.

Further Discussion

MR. HERNANDEZ

Mr. Chairman, ladies and gentlemen of the convention, I rise in strenuous opposition not only to the amendments before us right now, but to this entire concept of going through all of this without due process. If this same deal outlined in these amendments could be followed, we've wasted a lot of the state's money. We have really pooped it off, because all of this time that we have been led to believe that before a proposal could be finally passed on by this convention, it should be heard by. . . it should be heard by these committees: that is, give everybody that was interested enough to come to Baton Rouge--and there have been a lot of them--give them a chance to be heard. Then, let that committee form its opinion.

Now, we propose to cut short all of that. All these proposals that have been heard before substantive committees and had people testifying from all over the State of Louisiana, just what are they going to think about this? Now, Mr. Juneau referred to the passage of this constitution by the electorate. Now, I've heard that mentioned many times. I do not think that should have a great place in this convention. I do not think that that should determine anybody's vote. We were elected or appointed to draw up the best constitution possible that we were capable of producing. Now, everybody--that's wrong. A lot of people throughout this state think that we have done so--a lot of people. There are also a lot of people that think we have been puppets, but those are in a minority. Now, if we can cut this thing so short as just to follow the procedure outlined by these amendments presented us today, how in the world could anybody think that we're more than puppets? They have not had a chance to testify; we have not had a chance to learn. Now, if these proposals--alternate proposals--are to be submitted to a committee, why should they not be submitted to the committee that has heard this information for a year, not to a group of men--and no matter how intelligent they are and what fine people. Certainly, I have the greatest respect in the world for these members of Style and Drafting, but they have not had all the. . . they have not had the opportunity to hear all the information that the members of the substantive committees have heard. So, if you're going to do this thing, let's be a little decent about this thing and give it to the committee that's heard all the information and can intelligently pass on it. Now, certainly I wouldn't. . . I wouldn't say that this Committee on Style and Drafting is not composed of some of the smartest members of this convention, but they just haven't had an opportunity to hear all these presentations. Some of them have been good; some of them have been by experts. Certainly there has been a lot of expertise that has been given to these committees. Now, when this thing gets out how this is attempted right now, we are going to lose more confidence of the people of the State of Louisiana by so doing than anything that we have done. That is my honest and considered opinion. People just can't keep from thinking that. . . that what some of them suspicioned all the time is true. I just cannot, for the life of me, see how it could be possible to do this and still us maintain the confidence of the people in the State of Louisiana. I can just imagine--of course, everybody is not like. . .

they are up in Vernon Parish, but I can imagine what's going to be said to me in Vernon Parish.

I urge your rejection.

Further Discussion

MR. WEISS

Mr. Chairman and fellow delegates, I ask of you to accept overwhelmingly and resoundingly the acceptance of this floor amendment. I think that the Rules Committee has done good by us all these months, and I would like to read to you the members of that committee in case there's any question in your mind as who

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composed it: Reverend Stovall, Delegates Arnette, Corne, Bel, Bollinger, Elkins, Flory, McDaniel, Mire, Sandoz, Shannon, Singletary, Stagg, Velazquez and Warren.

Now, there are two major issues, here, and I think we should resolve it. It will be resolved upon the vote, in a moment. The reason I think you should accept this amendment is that we are now faced with the usual problem that has come to this convention repeatedly: that is, the fact that the history of successful constitutional writing is in no small measure the history of procedure. This procedure is essential for us to go on.

The second fact is that we should exhibit due faith and respect to the highest elected officer of this state, our governor. Our governor, as he concluded his remarks, made it very clear that it was not only in his best interest, but our best interest and the best interest of the people of the State of Louisiana to have this proposal passed. Now, you may differ, as I do, on some of his recommendations, but there is little question that he is the highest elected officer of this state and should know the feelings of the sentiment of the people of this state. He tried to convey to you these points. I would suggest that we listen to what he has to say, to debate it, to earnestly and sincerely consider them. That's all he asked, that we consider these proposals. At the present moment, we are hog-tying the whole situation by procedure. I would suggest that this floor amendment clearly be voted overwhelmingly by this convention. In turn, the subsequent amendments of this committee be voted favorably, and let us go on with debating these matters and see whether we will accept or reject the governor's suggestions. I think that that's a very clear mandate to us. I would suggest and urgently try to persuade you to vote favorably in this floor amendment vote that will follow.

Questions

MR. MCDANIEL

Dr. Weiss, you read out the names of the Rules Committee of which I am a member. Are you aware that this Rules Committee has not met since we returned in January?

MR. WEISS

I'm aware of a lot of things that happened under my committee that I wish we could have avoided, but I think in all, the job has been commendable. I hope that you will meet and carry out the wishes of this convention, if we so vote to have it done.

MR. MCDANIEL

But, are you aware that the entire Rules Committee adopted the original proposal, but most of us had no committee meetings this morning and there was ample time for a rules meeting? But, these amendments are not amendments of the Rules Committee, but possibly a few members of it?

MR. WEISS

I'm not aware of that, but it doesn't surprise me. Procrastination is the nature of man.

MR. MCDANIEL

But, that is a fact.

Further Discussion

MR. JACK

Mr. Chairman and members, almost from the inception of this convention there has been discussion of alternatives. My appreciation has been that we wouldn't make the setup early on it because it would encourage too many of them. This resolution on the blue page limiting them to six. We've purposely, apparently delayed in taking them up. But, it has been the intention of this convention, at least the people have that idea, that on certain things there will be alternatives.

Now, they are entitled to choose on certain major issues here. Now, nobody has mentioned it, but it's the boards of the colleges and universities. Now, let me tell you something. There's a power struggle going on among the alumni of the different colleges and universities of Louisiana. I believe I'm in a position to look at this matter more fairly than people who are alumni of these various state colleges and universities. Let me tell you, I'm for allowing an alternative on the ballot for this board business. I was educated mainly during the depression. I didn't go to LSU---probably the main reason, I couldn't get a job down here in Baton Rouge. It was a small town, then, depression. Most of my college education---the depression started with the stock market crash in 1929---I was educated where I could get a

job. That included Shreveport at Centenary, University of North Carolina, and law school way out at Southern California where I was a process server. I came back here my last year of law when my mother had a breakdown. I went to Tulane because I had to go home each Friday night, the first semester; every other weekend, the second. Now, I can look at this fairly. I'm not prejudiced. I'm not in the power struggle of the alumni. This is a people's decision. What you are doing when you are fighting allowing an alternative, you are saying the power struggle about what kind of board is a matter for the alumni, and for this convention alone. Most of you in this convention who went to college, went to a state-maintained one. You are looking at your own school. You are not going far in being fair about it. Now, let me tell you, the vast majority of the voters in Louisiana did not go to college at all. A lot of them got more self-education and sense than a lot of people that did go to college. I'm not knocking college. I managed to have three degrees. But, I've seen people with an eighth grade education that have educated themselves. The people of Louisiana.... ought to have the say-so here. So, I'm for this amendment. Thank you.

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, I am a member of that illustrious committee on Style and Drafting. I am tired of all the hot potatoes being given to us. I wouldn't touch it with a ten foot pole. If it is given to Style and Drafting to review what this convention has done, I will resign from that committee. We have been here fourteen months, and it is rather late to think of the people. This is too important to be considered only on the floor of this convention. We must have full committee hearings in the proper manner

...we must have full committee hearings in the proper manner with everyone being given an opportunity to be heard. We have done that throughout our sessions. Now, we want to consider a complete reversal on the floor of this convention. Let us do it correctly, or not at all. Let us have committee hearings, or forget alternates. This proposal has been on the calendar for a long time. Why have you suddenly decided to call it up today? I certainly want no part of it. I certainly will vote against the resolution if this amendment is adopted. I do not want you to return it, to refer it to Style and Drafting. Please, refer it to your own committee.

Thank you.

Closing

MR. STAGG

Mr. Chairman and fellow delegates, I have a great deal of respect for those delegates who spoke in opposition to this amendment. They don't particularly care for alternatives, some of them. Others quite genuinely do not want to depart from the established rules of the convention. I feel we are being asked by Mr. Flory and others literally to throw the baby out with the bath water. There are strongly held beliefs by delegates to this convention, that are mirrored by the citizens of this state they represent. To the extent we have failed to mirror that citizen belief, then in some areas, we have written an imperfect document and they have no alternative. Certainly it would behoove us to at least direct the machinery by which alternatives might be considered and voted on, reminding you that it takes sixty-seven votes before an alternative provision can be placed on the ballot for consideration by the people. So, no half-baked proposal is going to get out of this convention without a majority of the delegates having spoken in favor of it.

There literally is not time to follow Rule 44 which requires three readings on three different days; it requires referral to committees; it requires referral back to the convention with the committee decision; then a second reading; then a vote on the floor; and then to advance it to Style and Drafting; then to bring it back to the floor. There isn't time. If you would take out your calendar you would find how strongly the clock is running. You might put down on your desk pad the number seventy-six because when we adjourn today, the maximum number of hours you have left in this convention is seventy-six hours, provided we are willing to work ten and eleven and twelve hours a day. That simply is the size of it. I would hope, Mr. Chairman and fellow delegates, that you will vote for the amendment and allow at least this convention to erect a usable piece of machinery by which expeditiously valid proposals for alternatives can be brought to the floor of this convention, at least to be considered by, and debated by, these delegates.

Questions

MR. GOLDMAN

Mr. Stagg, don't we as citizens of this state, and as a Constitutional Convention urge the people in this state to take a more active part in the political processes of the state?

MR. STAGG

Yes, sir. Always.

MR. GOLDMAN

When we do that, and we kill something like alternatives, aren't we just saying to them we... "you ought to take an active part in it," but are we giving them an opportunity to take an active part in it?

MR. STAGG

We are giving them a document to consider, Mr. Goldman. I would hope that those who were for the convention, except for maybe one or two items, would find the ability to express their opinion at the polls on those two items, and cause the convention to survive. You will remember--or no, you were not here, Mr. Goldman--but, early on in this convention, the Chairman of the Illinois Constitutional Convention appeared before the delegates in a seminar and he very clearly stated that but for the four alternative provisions on the Illinois ballot for their constitution, it would have failed to pass.

MR. GOLDMAN

Do you know I attended that seminar?

MR. STAGG

Very good.

MR. VELAZQUEZ

Mr. Stagg, did not the greatest number of delegates to this convention receive... their mandate from the people?

MR. STAGG

Yes, sir. The greater number did.

MR. VELAZQUEZ

Do you not think it's unfair, then, to say that these same people who are wise enough to pick the greatest majority of these delegates are... don't have sufficient wisdom to make the choice that they think is best for Louisiana; that they should not be given alternatives?

MR. STAGG

Mr. Velazquez, I am struck with the wisdom of other conventions in recent years--not those that happened way back--but it is a matter of history....
...of the recent conventions that those that did give their voters a choice on sticky issues succeeded in passing their constitutions.

[Record Quorum Call: 109 delegates present and a quorum. Record vote ordered. Amendment adopted: 78-32. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments sent up by Delegate Stagg goes to Paragraph (C). There were two different sets of amendments passed out by Delegate Stagg on this. This is the shorter... this is the shorter set of amendments... reads as follows:

Amendment No. 1. On page 2, delete lines ten through twenty-two, both inclusive in their entirety, and insert in lieu thereof the following:

"(C) All proposals setting forth proposed alternatives shall lie over for convention action on January 16, 1974. On that day, there shall be put to the convention the question of the final passage of each such proposal. Debate on the question on each proposal, shall be limited to two hours with the time equally divided between proponents and opponents (that should be a comma and a lower case instead of the period. The "with" ought to be lower case there, Mr. Stagg. We're not going to have us a sentence.) limited to two hours (then just simply) with the time equally divided between proponents and opponents. Each proposal receiving a favorable vote of sixty-

seven delegates shall be adopted and shall be referred to the committee on Style and Drafting."

Explanation

MR. STAGG

Mr. Chairman, in the previous amendment that was adopted, we set a date by which forty delegates had to agree on introduction of a proposed alternative. In order to assure that the document was printed and distributed to the delegates, it was felt that it was required that on January... that until January 16... would be a proper period of time and that on January 16 any alternatives would be placed before the convention for debate. The voting should be limited... the debate should be limited to two hours. We had had an earlier time in my first proposed amendment of one hour, and I didn't think that was sufficient for some of these things of such magnitude, and two hours' debate should be devoted to each one. Then, again, before any alternative can be sent to Style and Drafting for final action by that committee, a majority of the delegates to the convention shall have had to vote favorably on its adoption. Mr. Chairman, I do move the adoption of the amendment.

Questions

MR. KEAN

Mr. Stagg, as I appreciate your proposal, you could actually come up on the day of January 16, introduce an alternate proposal on January 16, and have the convention debate it that same day, couldn't you?

MR. STAGG

Mr. Kean, there was an amendment proposed on line 6, on page 2, which stated that no such proposal may be introduced after January 15... no proposal may be introduced after January 15. It would lie over and come before the convention on the 16th.

MR. KEAN

So, we'd have it one day before we get ready to take it up.

MR. STAGG

That's correct, sir, the time necessary to have it printed.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I rise in opposition to this amendment. I have always been of the opinion that regardless of what side of an issue that I was on, I did not want to gag this convention or to limit debate while there were those who wished to speak. I have voted consistently, almost, throughout this convention, when someone wanted to speak, not to cut off debate. What you have before you now is something that says that within two hours we're going to decide an alternative issue that it may have taken thirty days for this convention to come to a conclusion. After series, after series of amendments were proposed--and I tell you, I can see the handwriting on the wall--I don't, didn't believe that this convention would ever come to the point merely because a majority felt one way, they were going to stifle the minority and they were going to implement the gag rule. I ask you, in all fairness, regardless of what issue it is, and regardless of which side you are on, to look at this amendment. I have no idea what will be proposed, if any, in the way of alternatives. I haven't seen the first language of any alternative proposal. But, I can tell you this, I'm not one who wants to sit in my seat for two hours without the right to submit amendments, without the right to have it openly and fairly debated on its merits, and then say that we have completed our work and submit it to the people for their adoption. I don't believe that it's fair to the delegates of this convention. Above all, I don't believe it's fair to the people of this state to say that we can, in two hours, decide an issue that we might have spent thirty days now, in coming to a conclusion on, and a majority would have spoken. Whatever issue we are talking about in the form of an alternative, has to get sixty-seven votes in this convention on its initial passage. I ask you not... not to adopt this amendment; not to limit debate. If we've got an issue that's so serious that it ought to be submitted in the form of an alternative, we ought to give the utmost consideration to that. You can't do it under what's proposed here. You can't do it here.

I ask you to reject this amendment.

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Questions

MR. LANIER

Mr. Flory, on the firemen and policemen civil service, weren't you the one that came off the floor with the two page proposal that the convention ultimately considered?

MR. FLORY

I probably had some amendments longer than that that were offered, Mr. Lanier. I know you did, in local government. It took a lot more than two hours to decide them, too.

MR. GAUTHIER

Gordon, excuse me, but did I hear you say that you had never voted to limit debate?

MR. FLORY

No, I didn't say that. I said, almost throughout this convention, I had voted not to limit debate. Oh, yes. I voted to limit debate...on rare occasions. Yes.

MR. GAUTHIER

On rare occasions when you felt that there was enough material presented on that matter. You, then, in those instances, voted to limit debate. Correctly?

MR. FLORY

That's correct.

MR. GAUTHIER

So, there are some occasions when you did say, "We've heard enough, we know enough. Let's vote."

MR. FLORY

No question about that. No question about that, but we weren't facing a one hour or two hour deadline when we started.

Further Discussion

MR. BURNS

Mr. Chairman and fellow delegates, I don't know what position those of you who had to run for this office took in your campaign, but in St. Tammany Parish, you would have thought that we were running for governor instead of such an unappreciated job as this turned out to be. We had platforms and made pledges and had ads in every weekly paper, and made speeches. In every one of my appearances, and every one of my ads, I said that I strongly advocated alternatives in highly controversial matters so that the voters of the state would not be bound by either voting against the whole constitution because they very strenuously were against some particular article, or some particular section. Now, I've arrived at that position with reference to my pledge, and with reference to my campaign promises. I...that is the reason for me being up here on this particular occasion. I'm not trying to change one of your votes, or one of your opinions. But, to carry out that pledge, and to keep my word, I'm going to vote for one alternative if it's submitted to this convention, because I've... that's been my position for weeks. I haven't changed since yesterday morning, and those of you with whom I've talked, I believe that you would realize that I said that there's one article, or one provision of one proposal that we passed, that I think is about as highly controversial as anything that we've done in this convention. If it ever gets to that stage, I'm going to so vote. But, I just wanted to get up here so it would be a matter of record for the people of St. Tammany Parish in particular, that I kept my word.

MR. KEAN

Mr. Chairman and fellow delegates, I accept the vote of the majority of this convention which just took place, which clearly indicates to me that the convention wants to have a device by which they can consider alternative proposals.

I'm not here opposing this particular amendment in the interest of setting aside what this convention has already indicated it wants to do. I have prepared, and will offer after this amendment is considered, another amendment which would have the effect of referring these proposals to the Substantive Committee that would normally act upon those proposals. I have included in that amendment, procedure by which those proposals can get back to this convention floor, as rapidly and at the time indicated in the Stagg amendment. I simply think that if we move forward with the Stagg amendment as it's presently drawn, where we're going to consider alternate proposals, in effect, on the floor, that we do violence to what we've done here for the year's time that we've been in session, where we have used the committee system as a means of getting the benefit of advice and assistance prior to consideration of that proposal on the floor.

Now, my proposal would be to refer it to the Substantive Committee, but require that that Substantive Committee report it back in order for it to be considered on the same timetable as Mr. Stagg's proposal, and further provide that if the subcommittee did not on that time bring it out, that the convention, by a majority vote, would have a right to proceed to consider it to the same extent as if they had done so. It seems to me that that is a much preferable method of dealing with this problem than simply saying we're going to take it up on the floor and send it to Style and Drafting. What the Stagg proposal means is that there will be no committee consideration of any alternative proposals because when it goes to Style and Drafting, Style and Drafting under the rules has no right to make any change in that proposal other than those which relate to Style and Drafting. Under the circumstances, what we're really saying, and we might as well lay it out on the table, that is that we are going to consider alternative proposals on the floor, without the benefit of any committee consideration. I think that does violence to what we've done here in the past year in considering our proposals. I hope that if the Stagg amendment passes, I would hope that they would be willing to withdraw it in favor of mine. But, if it passes, I hope you'll give consideration to that point when my amendment comes up.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I urge just as strongly as I can possibly urge, the rejection of this amendment. Now, it amazes me...it amazes me, and I don't impugn anybody's motives or integrity, don't make that inference, but it amazes me that highly intelligent people can come up with a Mickey Mouse, Rube Goldberg type of proposition like this amendment, and another amendment that I see on my desk, presents. Now, I want you to consider this. This amendment says that these proposals will be considered on the 16th of January. They will be voted on by this convention on the 16th of January. Any one that receives sixty-seven votes will then be referred to the Committee on Style and Drafting. Now, that may well be at midnight on the 16th of January.

The next amendment that comes to my attention is that not later than 12 noon on the 17th of January, the Committee on Style and Drafting will report back each such proposal to this convention. Now, I'm on the Committee on Style and Drafting. Now, let me tell you just what that does. If that's what you want to do, so be it. That's a fourteen man committee, eight members of which constitute a quorum and five members of which constitute a majority of a quorum. That means that it is possible for five members of that committee, and I don't say anybody would do this deliberately or willfully or maliciously, but it places the fate of those proposals in the hands of as little as five men, to rewrite under the guise of Style and Drafting, in any fashion they see fit. Then it gives this convention...it gives this convention about a day and a half to straighten all that out. Now, if that isn't the most dangerous possible system that you could devise on a matter of this importance, I don't know how you'd go about devising one that had more quicksand in it. We sat down here for a week, as I recall, and debated the rules of this convention. Now, in the last minute, we are going to throw all of the collective wisdom of this convention, with respect to the procedures by which proposals are adopted, down the drain, and in a mad stampede we're going to come in here and substitute a system that to me is so replete with dangers that it just borders on the verge of being absolutely ridiculous. Without intending to insult anybody, I just don't see how any intelligent person could come up with any such of a Rube Goldberg proposition.

I urge the defeat of this amendment.

Personal Privilege

MR. JACK

Mr. Chairman and members, I want to read you a little appropriate saying that my daughter sent me. It fits in line with this. As she said, "Towards the closing days, all of you, including you, have talked enough and you all ought to just vote on things." Now, here's what this said, and it's very appropriate. Two hours is really too much under it. I read you:

"Lord, fill my mouth with worthwhile stuff, and shut it when I have said enough." That applies to everybody.

Closing

MR. STAGG

Mr. Chairman, I'll be very brief. I don't wish to respond to any questions. I just want to say to those delegates who oppose this amendment that nothing...nothing really new is likely to be presented in the alternative. You've heard these

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opposing viewpoints discussed, some of them to the point of exhaustion. If the proponents lost, they found a way to bring it back to the floor time and time again. We are asking, by this amendment, that the people be given the privilege of considering some alternatives if the convention in its wisdom produces them. I do wish, please, to urge you to vote for this amendment.

[Record vote ordered. Amendment adopted:
70-43. Motion to reconsider tabled.]

Amendment

MR. POYNTER

I have amendments sent up about the same time by both Mr. Flory and Mr. Kean. You gentlemen have a preference as between your amendments? You want to take yours, Mr. Kean?

O.K. It's probably still being passed out because it was an amendment to the amendment, and was held until we saw the disposition of your amendment, Mr. Stagg.

Amendment No. 1. On page 2, line 10, delete Floor Amendment No. 1 proposed by Delegate Stagg (Delegate Staff) and adopted by the convention on January 11, 1974, and insert in lieu thereof the following:

"(C) Every proposal setting forth a proposed alternative shall, upon introduction, be immediately referred to the appropriate Substantive Committee and shall be reported by that committee to the floor of the convention not later than January 16, 1974. On that date the convention shall proceed to consider each proposal. Debate on the question on each proposal shall be limited to one hour with the time equally divided between proponents and opponents. Each proposal receiving a favorable vote of sixty-seven delegates shall be referred to the Committee on Style and Drafting. Any proposal failing to receive such a majority vote shall be deemed withdrawn from the files of the convention. In the event the Substantive Committee does not report a proposal on or before January 16, the convention by a majority vote may proceed to consider the proposal to the same extent as if a report had been made. The Committee on Style and Drafting shall not report later than January 17, 1974."

Explanation

MR. KEAN

Mr. Chairman and fellow delegates, I regret very much that Mr. Stagg did not consent to yield to questions before the last amendment was considered, because the question I wanted to ask him, and it is not entirely clear to me, and from what was said to me by another delegate, indicates to me that perhaps no amendments would be permitted when these alternative proposals would come up for consideration. In other words, the Stagg proposal could be construed, as I see it, to mean that we've got to take it or leave it, and vote on it in that manner, and debate it in two hours and dispose of it. Now, I think that, if that is the intent of it, then we need to go back and take another look at it. If it's not, I still say that we do violence to our long-standing rules of referring matters to the Substantive Committees by the adoption of that amendment.

Now, I have proposed an amendment which I think would enable us to follow our rules, and at the same time get the matter out for floor consideration in the same time sequence and frame that Mr. Stagg proposes with his amendment. My proposal is that we refer it to the appropriate Substantive Committee. That means that those of you who have proposals that you want to have out, have got to get them in as soon as possible so the committee can proceed to take them up. Under those circumstances, have that committee report back to the convention by January 16, which means by the report of the committee's item on the agenda on January 16. We would then proceed to take up those proposals as submitted back to us in the same time and the same sequence as Mr. Stagg would have proposed. Then, at that time, following the same two hours of debate that Mr. Stagg would propose, the matter would then be referred to the Style and Drafting Committee for final consideration and a report back on January 17, if it passed. Now, it seems to me that puts it in the proper context for consideration. It makes it possible for the Substantive Committees to at least have an opportunity to look at it and to give us the benefit of any comments, thoughts, amendments that they might suggest before it comes back to this floor. I respectfully suggest to you that to do it otherwise is to simply deal with alternative proposals on a most arbitrary and unreasonable basis, contrary to what has been the deliberative process of this convention. Perhaps we should have taken this matter up a month ago, but we didn't. But, I don't think under the circumstances that the convention ought to be placed in a position of not giving fair consideration to these proposals simply because the governor waited until yesterday to

come before us, and the members of the committee now come out at the last minute with the means by which we can take up alternative proposals. I sincerely suggest to you that we ought to follow the Substantive procedure out. This amendment giving us an opportunity to do it without delaying in any way the timetable that Mr. Stagg and his committee placed on the consideration of these alternate proposals, as important as they are.

Questions

MR. KELLY

Gordon, am I understanding your amendment correctly that in essence the proposed alternative would be submitted to the convention? It'd be referred to a Substantive Committee. Is that correct?

MR. KEAN

That's right.

MR. KELLY

Then, that committee would have until January 16 to sit there and work on it and amend it and do anything they want to, and then they report it back out onto the floor, possibly, with all of their amendments, then we've got one hour to try and clear up what they've done. Is that correct?

MR. KEAN

The only way I...that's correct. The only way I can find any fault in that system, Mr. Kelly, is that Mr. Stagg's amendment must mean that no amendments would be permitted to any proposal because it's inconceivable to me that you are going to consider amendments in that time, two hours. At least this would give somebody an opportunity to offer some amendments.

MR. JUNEAU

Following Mr. Kelly's question, then you've gone one step further, Mr. Kean, since you've got the amendment process back in it, you've eliminated Mr. Stagg's time of two hours to one hour, isn't that right? So, if you've got amendments on, fifteen or twenty amendments, I've got to do all that in one hour to make it look like the alternate that more than forty people have to sign.

MR. KEAN

If the one hour is in here, it was by mistake. I intended to follow exactly what Mr. Stagg had. I'd be willing to withdraw it and put the two hours in there. But, it concerns me, ladies and gentlemen of this convention. I think my concern has now been borne out by Mr. Kelly's question, that it was anticipated under the Stagg proposal that no amendments would be permitted to any alternative proposal submitted to this convention. I think for that reason, all the more, we need to have the regular process which is suggested by this amendment followed.

[Previous Question ordered. Record
vote ordered. Amendment rejected:
44-68. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Next set of amendments sent up by Delegate Flory.

The amendments read as follows:

Amendment No. 1. On page 2, line 10 in Floor Amendment No. 1 proposed by Delegate Stagg and adopted by the convention today, on line 5 of the text of the amendment, immediately after the word and punctuation "proposal." delete the remainder of the line and delete line 6 in its entirety, and on line 7, delete the word and punctuation "equally divided between proponents and opponents".

Explanation

MR. FLORY

Mr. Chairman and delegates, what this amendment does, it takes out the following language: "Debate on the question on each proposal shall be limited to two hours with the time equally divided between the proponents and the opponents." All this does is to remove the time limit of debate. If it gets to the point in this convention, the convention decides that they've heard enough testimony, then they have the right to move the previous question. But, I suggest to you we ought not to tie and limit debate ahead of time on something that we don't know what ramifications is going to be presented. I think this is only a matter of good business with the full realization that we have a provision in the rules to limit debate. We ought to go by that

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rule rather than setting forth a prescribed limit on debate before we even know what we are going to consider. I ask you to adopt the amendment.

Explanation

Questions

MR. DE BLIEUX

Mr. Flory, under your...under the amendment that we have adopted already, if we wanted to extend it beyond an hour, wouldn't we be able to do that by a vote of the delegation just as easy as we would in suspending the rules under your proposal?

MR. FLORY

No, sir, Senator De Blieux, you're not going to get me in that trap.

Under what you're talking about, if the amendment stands as it is, you have to have a suspension of the rules which requires sixty-seven votes, or two-thirds of those present and voting, whichever is the lesser number. But if you stay within the rules that we have, it only takes a simple majority of those present and voting to limit debate.

MR. FAYARD

Mr. Flory, under your amendment, wouldn't it be more probable that amendments to the proposal could be presented to the convention if you delete the limitation that you're talking about?

MR. FLORY

If you delete the limitation, it's quite possible that the convention could consider amendments. If the amendments were meritorious enough to be considered, the convention could consider them. If they were not, then the convention could move the previous question. Very simple.

MR. KELLY

Gordon, also, isn't it true that if you leave the time limitation in there and it becomes apparent that extra debate or testimony is needed, that the convention could suspend this rule and proceed further?

MR. FLORY

That's quite true. I answered that for Senator De Blieux, Mr. Kelly. The same answer will go to you that it takes a two-thirds vote to suspend the rules, or sixty-seven votes, whichever is the lesser number. As on the other hand, if the convention decides to limit debate under its present rules, it can do so with a simple majority of those present and voting. It's much easier and much more feasible to work it under the present rules rather than setting up a special rule for this particular situation.

MR. CONROY

Mr. Flory, aren't you concerned that there may be a lot of delegates who would feel the same way you earlier expressed, that you would prefer never to vote to limit debate?

MR. FLORY

No, sir, I don't believe. As the time draws nearer toward the end, I think if the reason is that we've heard enough debate... the reason I didn't vote to limit debate, Mr. Conroy, prior to that time, we had months ahead. It was the first time we had considered something on the floor of this convention on that subject matter. I was willing to listen to everything that could be said. There may be a time, as the time draws near towards the nineteenth that you might want to limit debate.

[Previous Question ordered. Record vote ordered. Amendment rejected: 45-63. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Next set of amendments sent up by Delegate Stagg read as follows:

Amendment No. 1. On page 2, delete lines 23 through 28 both inclusive in their entirety and insert in lieu thereof the following:

"Not later than twelve o'clock noon on January 17, 1974, the Committee on Style and Drafting shall report each proposal referred it to the convention."

MR. STAGG

Mr. Chairman, this is simply a follow-on of the other amendments that have been accepted by the convention. It does place a serious limitation. But serious limitations on time are absolutely necessary. I believe that the provision for forty delegates, which is almost one-third of the total membership of this convention, makes it mandatory that no half-baked proposal be brought to the floor. When those proposals have come to the floor with forty coauthors, and have been adopted by the convention by more than sixty-seven votes, then I think Style and Drafting can work its will on it in the time limitations proposed to it. I do not agree with what was said from this microphone a few minutes ago that this process does not allow floor amendments. That simply is not true. There's not a word in this amendment proposal made from the time we began debate on it, no word in the proposal itself nor in the debate, that says floor amendments may not be offered. That simply isn't true. Mr. Chairman, I do move the adoption of the amendment.

Questions

MR. KEAN

Mr. Stagg, as I understand you, it's your position that the Stagg amendment would permit amendments....

MR. STAGG

Yes, Mr. Kean.

MR. KEAN

....on the proposals as they are offered on the floor.

MR. STAGG

Yes, Mr. Kean.

MR. KEAN

Well, would you have any objection to an amendment to this section which would say that?

MR. STAGG

No, Mr. Kean.

[Amendment adopted: 79-26. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments also sent up by Delegate Stagg reads as follows:

Amendment No. 1. Delete lines 1 and 2 in their entirety.

Explanation

MR. STAGG

...there seems to be no particular reason at this stage of the convention proceedings to place an arbitrary limit, upper limit on the number of alternatives. I don't believe that time would allow much more than two, or three, or perhaps four alternatives. To put six in the rules seems to invite that there be six. I think this convention, in its wisdom, will hold down on the number of alternates, and it's not necessary to put it in the rule. I move to adopt the amendment.

[Previous Question ordered. Amendment adopted: 69-36. Motion to reconsider tabled.]

MR. POYNTER

We don't have the distribution copies on these yet. It's Mr. Kean's amendment that he mentioned on the mike awhile ago. It's not a lengthy amendment.

Motion

MR. KEAN

Mr. Chairman, I wonder if we can take about a two minute recess until I get this amendment straightened out. In the meanwhile, I think this amendment is important. What it does or will do is provide that every proposal that is submitted and considered under Subsection (C) is subject to amendment. The reason I offer it, despite Mr. Stagg's comments from the floor, is that I have been told by other persons from the floor that they do not agree with

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Mr. Stagg's interpretation. I think under those circumstances, we need to get this matter straight because if we can't offer amendments to this proposal, then we'd better find out about it right now. If that's the intent of the proposal, then we'd better change it. I'd like to ask for a three minute recess to get the amendment straightened out.

Point of Order

MR. STOVALL

Mr. Chairman, could we have a judgment from the Clerk as to whether or not this amendment is necessary? Or would the Chair rule that amendments can be offered to alternative provisions which are...which might be presented under this rule?

MR. HENRY

Well, certainly, Reverend Stovall, there's nothing to prohibit the amendment to any alternative proposition that might be offered. But, it doesn't hurt...it won't hurt anything to put it in, in my judgment.

MR. STOVALL

Well, it won't...Mr. Kean, if this is the official ruling of the Chair, I simply don't see the necessity of the amendment. I would suggest that Mr. Kean accept the judgement of the Chair in this.

MR. HENRY

Mr. Champagne, why do you rise?

MR. CHAMPAGNE

Mr. Chairman, I don't think we've reached a point in history when a three minute request will be denied, sir. I consider this, in other words, a steamroller tactic. I appreciate a three minute recess, and I beg of you to grant it to the man as he asked for it.

MR. HENRY

I'm not refusing the three minute recess. I was just trying to get people like you and Reverend Stovall quieted down, Mr. Champagne, because I don't want you to have a heat stroke. We'll stand at ease for two minutes.

Amendment

MR. POYNTER

Amendment sent up by Delegate Kean reads as follows:

Amendment No. 1. In Floor Amendment No. 1, and just for clarity, to make sure, since Mr. Stagg's had a number of amendments here, add the language in Floor Amendment No. 1, affecting page 2, lines 10 through 22, so one is certain which amendment we're talking about, proposed by Delegate Stagg and others, and adopted in the convention today, at the end of the text add the following:

"Every proposal shall be subject to floor amendment."...every proposal shall be subject to floor amendment.

Now, that goes to the revised Paragraph (C) so that the Stagg amendment adding a proposed revised Section (C). You would just add that sentence at the end of that paragraph.

Explanation

MR. KEAN

Mr. Chairman and fellow delegates, I would not have pursued this particular amendment in light of Mr. Stagg's explanation had it not been for the fact that one of the delegates came to me and said that they did not share Mr. Stagg's view of that particular amendment. I think it's vital under those circumstances that we make it clear that these alternative proposals, when they come to the floor, would be the subject of floor amendment just like other proposals have been when submitted to the floor throughout this entire convention. Now, under the circumstances, in order to clarify the point, I ask your favorable consideration of the amendment.

Questions

MR. ABRAHAM

Gordon, wouldn't this defeat the purpose of the alternate proposal to begin with? Isn't it conceivable that the proposal could be so amended that actually it winds up just like the amendment...the proposal we already have in the constitution so that it no longer becomes an alternate.

MR. KEAN

Well, that might be the case, Mr. Abraham, but I still

think that we ought to have the right to offer floor amendments. If it ends up bringing it back to where we started, I guess we simply just wouldn't have an alternative proposal.

MR. PEREZ

Mr. Kean, I don't believe that your amendment is clear in the intent as to how many delegates it would take to introduce an amendment because of the fact that it takes forty to introduce any such alternate proposal. I wanted it to be clear. Did you intend that any one delegate could offer an amendment?

MR. KEAN

That's the way it's been in the past, Mr. Perez, under the rules.

MR. PEREZ

I just wanted that clear so that we would know the intent in the event that this particular amendment passed.

MR. GAUTHIER

Gordon, I, like Mack....

MR. KEAN

I'm having a hard time finding you, Wendell.

MR. GAUTHIER

....if I grew a few inches it would help.

I, like Mack, am having a hard time, to distinguish how we should allow alternatives to be amended when, in essence, we are dealing with two separate views. We're dealing with two conflicting views. It's not like having one proposal and trying to straighten out that proposal. You're dealing with two different views. Yet, the same proposal that we may be working on would at one time have been passed by a large majority, or a majority of the delegates of this convention. Therefore, that same majority could affect the alternate so that you would, in essence, have, not an alternate, but two proposals to vote on. Do you understand what I'm...?

MR. KEAN

I...appreciate that, Wendell. My problem is that...you've either got to do it one of two ways. You've either got to say there will be no amendments, or you've got to say there will be amendments. Under those circumstances, you'll just have to try to work it out.

MR. GAUTHIER

Well, could we possibly clarify that a little bit further in that we may have technical amendments, but not substantive amendments that would change completely the proposal recommended by forty delegates to this convention?

MR. KEAN

Well, I would think that if forty delegates propose it, and a majority of the delegates want to amend it, they ought to have the right to do so. Now the technical amendments are the... that's the only reason that I can see for referring it to Style and Drafting is to permit that committee to make whatever technical amendments might be involved. Now, if we don't allow amendments on the floor, then we're simply saying you take or leave this proposal as it is. I don't think this convention wants to do that.

MR. GAUTHIER

But, Gordon, don't you agree one of the reasons for offering alternates is that you are dealing with a topic matter that is highly controversial and that represents two different views. Is that correct?

MR. KEAN

Well, certainly they're going to do that....

MR. GAUTHIER

All right. But, don't you also follow me when I say by offering amendments to the alternate views you could, in essence, come out with not two different views, but two proposals which represent, possibly, the same view?

MR. KEAN

Well, my position would be, Wendell, that if a majority of the people in this convention end up amending that proposal in such a way that it's no longer an alternative proposal, they simply didn't want it in the first place. I think it's going to be up to those who offer these alternative proposals, to do whatever is necessary to keep it in the proper frame as an alternative proposal. Otherwise, you'd take away the right to amend.

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MR. GAUTHIER

But, in this particular case, Gordon, because of the type of subatantive matter, I do believe that the ability to amend substantially would do injustice to the whole idea of offering alternatives.

MR. KEAN

Well, I respect your position. Mine is that you have to have the right to make amendments on the floor to these proposals. That's what I have offered in this amendment to the convention.

MR. ARNETTE

Mr. Kean--over here--the thing that worries me about your particular amendmer: is that you are allowing one person to introduce a change in an alternate which may completely change the entire alternate, that it took forty people to introduce. Do you see this as a problem? In other words, one person is introducing a new alternate by himself now.

MR. KEAN

Well, if that person can introduce the amendment and get a majority of this convention to support it, I think there's nothing wrong with it.

MR. ARNETTE

Well, then, that brings up my next question. Do you foresee the possibility of say, one individual, if he doesn't like a particular alternative, of offering, say, twenty amendments to it and tying up this convention?

MR. KEAN

I think you'd have a right to, under those circumstances, to suspend the rules and deny further amendments just like you do with respect to the right to speak.

MR. ARNETTE

Excuse me, I didn't hear your answer, Mr. Kean.

MR. KEAN

I said if that resulted, and there was an abuse of the right to amend, the convention would have a right, under those circumstances, as I see it, to suspend the rules and limit the number or the length of the amendments just like we do with respect to the right to speak.

MR. ARNETTE

Now, Mr. Kean, my final question....

MR. KEAN

In other words, we've got rules that if we....

Further Discussion

MR. WEISS

Mr. Chairman and fellow delegates, a while ago I argued against the procedural death of the governor's suggestions. I would now to argue now for the procedural safeguards in this convention. I think that the last floor amendment is an example of reason being lost and a rationality prevailing or as one of the delegates referred to this as "railroading." Let me read to you the resolution....the floor amendment that you wiped out on arguments that are beyond reason, "No more than six alternative provisions shall be placed on the ballot," you deleted this. The argument for this was that there's only going to be one or two. Now, I'm no attorney but I can read this and it said, "No more than six," so why did we have to vote on it in the first place? I urge you to support Delegate Kean's amendment. I think that every proposal should be subject to floor amendments; we've abided by that throughout the convention; I think we should continue. Now, let's listen to some of the arguments that disturb you and disturb me if it's to be overdone. The rules can be suspended. If the extension of...if the two hours is insufficient to discuss the matter, the convention can extend this for further time. The argument that the proposal may be amended to equal the article in the present constitution is certainly a good one. If a majority of the delegates wish it that way, then the result will be there will be no alternate provision as recommended. Now, let's argue these as they come about. But, let's give ourselves some procedural safeguards. I ask that you do adopt the Kean amendment that "Every proposal shall be subject to floor amendment."

Questions

MR. STINSON

Dr. Weiss, in view of the procedure we've followed during this long year; don't you think everyone should be heard and everyone should be able to offer their alternatives?

MR. WEISS

I think everyone has been heard; our Chairman has been excellent. I don't think it's his intent to squash anyone. But this amendment, if not accepted, will be automatically squashing the delegates of this convention as to their expression, or the governor's, or whoever's proposal may come up.

MR. STINSON

The last week we are coming up and taking a radical departure from what has been the procedure in the past.

MR. WEISS

Sir?

MR. STINSON

I said this last week we're coming up and changing and trying to cut off debate. I don't have an alternative, but if anyone did, I think they should have the right; don't you?

MR. WEISS

I think you're right. I think this body has exhibited intelligence enough to go on with its deliberations and complete this document as it was instructed to do. I have the faith and confidence that the majority of these delegates will see that it's completed.

Further Discussion

MR. GAUTHIER

Mr. Chairman and members of the convention, I know at this time it's hard to command any attention, but I can assure you I'm going to give it all out effort and I wish you would bear with me for just a few seconds. I guess we just as soon stop playing this little cat and mouse game and lay it on the line. Probably the one subject matter that is demanding an alternative more than any other in this convention is that on education. Something I feel that I'm not a professional in. Something I'm sure you feel that you're not a professional in. I do feel this, though, that the educators in this state could not get together; they could not come to this convention with one view. The committee proposal they submitted to us came here very divided and since this time this convention has been divided. I submit to you that they did not do their jobs. I submit to you that it would behoove us to say, "These are the two proposals that the education people gave to us, the people who are professional educators in this state. These are the alternatives. Now, you, the public, decide which one you want." Don't let this convention go down because you were forced to decide with going on one proposal because the professional educators in this state could not get together and come to a compromise. Now, we're talking about amending alternatives. I find myself, Mr. Leithman, in a strange paradox when I stand before you and I recommend that you do not allow a proposal or an alternative to be amended because isn't this the democratic process? But, what are we dealing with when we deal with alternatives? We're not dealing with a compromise. We're not dealing with a proposal that by the amendment process was worked out to conform to the group. We are dealing with two conflicting views. If you allow it to be amended, in essence you can come away with two proposals but not an alternative. We would have two proposals on the ballot all right, an (A) and a (B), or a (C) and a (D), or whatever it may be. But, it may not convey the different views that have been brought to us--again now--that have been brought to us by the professional educators in this state. Let me say this here and now, that I have the utmost respect for Robert Aertker, Ralph Cowen, Jimmy Morris who have done a terrific job. But, I also very much respect Kenny Leithman, Eloise Corne, Pat Juneau; they have also done a very worthwhile job. This is the one area where the professionals have not been able to compromise; they have not been able to get together and it's the one area that you and I know that the citizenry of this state reacted to and said, "We've got to have some change. We've got to do something to this thing, give us another point of view." Don't allow alternates to be amended because I say now if you do so, you will not have two views but rather similar views. It takes forty signatures to bring an alternate to this convention. Now, someone up here before said, "Don't do this because in the past we've always allowed delegates to introduce amendments."

The difference--and please if I may have your attention, Woody--the difference, and there is a substantial difference, is that an alternate will have forty signatures on it; it's not a committee proposal; it's not a delegate proposal, therefore, the amending process should be different. Now, to allow subatantive amendments that could do injustice to the entire alternative would be, in essence, to allow no alternatives. I admit that we should possibly seek a way to make those corrections that need to be done. But, to allow carte blanche amendments to be proposed by one delegate --and now remember we'll be working under a two hour time limit--we could see amendment after amendment come out that would be proposed by one

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delegate and yet you require forty delegates to bring this alternative to you. I say to you if you allow this amendment process to go carte blanche on alternatives you will, in essence, have destroyed the concept of alternatives. I urge you to please, please defeat this amendment. Thank you very much.

Further Discussion

MR. JUNEAU

Mr. Chairman, and fellow delegates, you know in the course of the debate we've had in the past fifteen, twenty, or thirty minutes I heard the statement made that the train was rolling through the convention. Well, I don't know if it's the same one that came through here three months ago or not. But, let's talk about fair play. I'm willing to play fair in consistence with Mr. Kean's amendment. I think the intent is not to cut off debate nor have we ever attempted to cut off debate as debate was cut off, as you will recall, on the Education Article when they had the votes to shove it down when they...the proposal you now have before you. I oppose this particular amendment not to cut off debates. I oppose it because it does not mandate that we have the same number of signatures as you want to mandate to file the amendment. So, all I'm telling you is I think that the appropriate amendment would be if you take forty signatures to sign it, to file it, then you ought to have forty signatures to file an amendment. I can assure you that shouldn't be very difficult to do, but I think it is consistent and for that reason I would oppose this amendment and would support an amendment which could be, by anyone here filed, to put in that additional requirement which I think is fair play and keeping it consistent.

Questions

MR. PEREZ

I didn't quite understand your comments. Do you mean you would have to have forty people on the amendment under your proposal?

MR. JUNEAU

Well, not my proposal. I said I would vote for something like that, Mr. Perez, yes, sir, which is consistent with asking for the original forty signatures.

MR. FLORY

Mr. Juneau, how many signatures did we have to have to introduce a committee proposal?

MR. JUNEAU

It's my understanding it's forty; am I correct?

MR. FLORY

No, I said a committee proposal at the outset of this convention.

MR. JUNEAU

One.

MR. FLORY

Not a committee proposal, you had to have a majority of the committee.

MR. JUNEAU

Oh, excuse me, I misunderstood you, with committee that's right.

MR. FLORY

All right. How many did it take to amend that on the floor? How many signatures?

MR. JUNEAU

One. I don't know of anything that we had on the floor of this convention, the rule which we just previously adopted which required forty. I'm just asking what I think it to be fair play.

[Previous Question ordered. Amendment adopted: 59-47. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Yes. I have an amendment by Mr. Avant.
Amendment reads as follows:
On page 3, line 1, insert the following:

"F. No alternative proposal shall be considered by the convention until all other business has been disposed of by the convention."

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, this amendment I respectfully submit to you is a necessary amendment. As I look at this proposal with the amendments that have been placed upon it, on January 16th, the convention will turn aside from all of its other business, whether that business has been completed or not, and will begin to debate on these alternative proposals. The Committee on Style and Drafting is mandated to not later than noon on the seventeenth of January to report those proposals back to the convention. As I have said many, many times before from this podium, I am just not the kind of a person that believes in putting myself in a straight jacket or putting this convention in a straight jacket. Now, we have much unfinished business in this convention, just how much I don't know, but I know that there's a considerable volume of work that remains to be done by the convention...

I'm going to read it again, Mr. Chairman, with your permission and start over. This amendment adds a provision to this resolution which I'll read to you, "No alternative proposal shall be considered by the convention until all other business has been disposed of by the convention." Now, as I've said before, I think that is an absolutely essential amendment that must go in this resolution and I'll tell you why. If you will look at this resolution as it has been amended, it says that on the sixteenth day of January regardless of in what position we may find ourselves at that time with respect to the regular affairs and business of this convention, we are going to turn aside from that and consider the debate of these alternative proposals. It also says that after that one day, at not later than twelve noon on the seventeenth of January the Committee on Style and Drafting shall report each of these proposals back to the convention. Now, I know that much work remains to be done on the regular business of this convention. I know that much work remains to be done by the Committee on Style and Drafting. I recall that several delegate proposals and perhaps some other matters were returned to the calendar and must yet be considered by this convention. I say that it would be a sad day if on the sixteenth of January when we have only three days left to finish the work of this convention, that regardless of that fact, we would turn aside from what we have debated one year and considerable money of the taxpayers of this state toward accomplishing and get into the question of these alternative proposals and let the rest of the document, the main basic document that we devoted our time to, just go by the wayside. I think that would be a very, very bad thing for us to do. I simply ask you to adopt this resolution...this amendment to this resolution so that in the eventuality that the sixteenth of January rolls around and we still have work to be done, such as putting this document together in its final form as one constitution, that we will finish that work before we enter this thicket of delegate proposals, of alternative proposals. I'll answer any questions.

Questions

MRS. ZERVIGON

Mr. Avant, if we accept your amendment, wouldn't it be possible for one single soul to frustrate this rule from ever going into action by proposing amendment after amendment after amendment to Style and Drafting by talking at great length on Style and Drafting?

MR. AVANT

Mrs. Zervigon, it would be no more possible than it is now under what you in your wisdom have adopted so far, that same process could be accomplished if people were so inclined to do so, and I think more so than if you adopt this proposal. I pointed that out, if you will recall, earlier when I was up here because I would like to point out--well, I'll say that later when we get to the proposal.

MR. GRAHAM

Mr. Avant, my concern apparently is the same as Mrs. Zervigon's. Wouldn't you say that especially those people who are opposed to alternates per se could bog this convention down so much in little minute detail with Style and Drafting and any other thing that would pertain to all other business that we would run out of time before we would ever get to alternatives?

MR. AVANT

They can do that anyhow and what good is it going to do, Mr. Graham, to have two alternatives or one alternative and an incomplete basic document if people want to do that?

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MR. BERGERON

Jack, I read to you language from a Stagg amendment previously adopted by the convention, it's number (C), "All proposals setting forth proposed alternatives shall lie over for convention action on January 16, 1974. On that day there shall be put to the convention the question of the final passage of each such proposal." So, would not, in effect, this amendment completely reverse a decision which we just adopted on the Stagg amendment?

MR. AVANT

Mr. Bergeron, I'm not sure that I understand your question. But, the reason for my amendment is, what if on the sixteenth day of January when we are mandated to take up these alternative propositions and nothing else, we haven't finished the basic job we were sent here to accomplish?

MR. BERGERON

Well, Jack, don't you agree that this decision requires on the sixteenth day of January there shall be put to the convention the question of the final passage of each such proposal? So, in effect, this would put off a decision which we have already made today; am I correct?

MR. AVANT

Would put off?

MR. BERGERON

This would reverse a decision which we have already made today saying that we shall decide on the sixteenth of January all such alternative proposals.

MR. AVANT

Well, I know but those things are going to have to come up on final passage and be debated and as I read it, you will not be considering anything but alternative proposals on that day.

MR. BERGERON

The sixteenth, which has been set out in this amendment.

MR. AVANT

That's right. Where are you going to be if you haven't finished the basic document?

MR. JUNEAU

Mr. Avant, you just said that the only thing we'll take up on the sixteenth is alternates on the ballot; is that what you said?

MR. AVANT

As I read this, it says, "On that day there shall be put to the convention the question of the final passage of such proposals," that's the alternative proposals. Now, you can debate that for two hours. If you've got several of them, it will consume that day.

MR. JUNEAU

All right. Mr. Avant, if we have one proposal and we don't go through a filibuster with amendments and we dispose of it in two hours--two hours--we can go to Style and Drafting or whatever the convention wants to do.

MR. AVANT

How do you know you're going to have but one? You got that already fixed up, Mr. Juneau?

MR. GOLDMAN

Mr. Avant, this is a friendly question; I hope you'll take it in a friendly manner, but would you object to an amendment to your amendment which would delete everything after the word "until" and then just add to it "until January 20, 1974"?

MR. AVANT

No, that....I'm not trying to do that, Mr. Goldman. The sole purpose of my amendment is not to engage in any shenanigans but to just have the convention say that if we are going to consider alternatives, we're going to do it after we finish the job we were basically sent here to do.

Further Discussion

MR. NUNEZ

Mr. Chairman and fellow delegates, today is January 11, 1974. My understanding of the law on January 19, 1974 at twelve o'clock, we are going to shut this business down and then we haven't got another chance to do anything, not one single thing with this constitution. I had spoken to you and I'm glad Mr. Avant came up with this amendment. I had spoken to a number of you about this

particular provision as to how to handle it. I didn't know that we can do it by amendment, I'm certainly glad that he did. Let me quote you something from what the governor said yesterday and let me give you my own opinion about where I and you as a convention, as individuals, as public officials, as prospective public officials, and just citizens of this state who's been working one year in this convention hall, one year. I'm just....but at the same time nothing you do here is going to hurt you as much as being a signature to a document that goes down in dismal defeat. It is going to haunt you for the rest of your political life; if you have been appointed to a three million dollar venture looking for the golden fleece--I don't know what that means--after you have spent a year of your time and three million dollars of the taxpayers' money, if it gets badly defeated at the polls. I take strong issue and strong disagreement with that, just like I take strong issue with a lot of things that were said here yesterday. But, I'll tell you what can hurt Sammy Nunez or you in this convention more than anything else that come January 19 at twelve o'clock if we don't have a document to submit to the people of this state. I'm not sure there's a lot of people that don't want us to be in that exact position, I'm not sure at all. You think about it a minute, you think about it. We've been handling ten different proposals of things we have debated for over one year in this convention and I think we've come to some good, good, good considerations, that we have made some good decisions. I'm ready to support what we have made. I'll go one further than that; I'm ready to give him an alternate and I'm ready to give some considerations because I think we need the governor to pass this document. But, I don't know whether I'm going to take the chance that on January 19 at twelve o'clock we'll still be debating whether education should have an alternate, whether property tax should have an alternate, whether Revenue, Finance and Taxation Article on the income tax provision should have an alternate, or whether we are going to take what we have. I don't know, and I don't think you do. Now, if you want to take a chance and start debating alternatives, and I think we are getting pretty close to where it looks like that's what this convention wants to do. Well, possibly the amendments that have been passed have given us some protection. But, you talk to Judge Tate and the people working on Style and Drafting; we've debated almost three or four hours on this particular provision already, just on whether we are going to have alternates or not; we are still talking about a rule change. We haven't made any definite conclusions yet. I'm telling you we have got a lot of work to do here. I'm ready to sit here from now and twenty-four hours a day and doing it. I believe that the worst, and contrary to what the governor said, the worst single thing that can happen to me and happen to you too is that we're not ready to give to the people of this state a document. If they beat it, then it's their business. If he wants to be against it, it's his business. But, I've worked here for one year just like you have and I think as conscientious as anyone of you have. We're running short of time. It takes us hours to....our procedures are established and it takes us hours upon hours upon hours to come to some decision. I don't think we should look at this amendment lightly. I think it's a good, good amendment. I think it gives us something to put our hide on, after all you're here, almost seventy-five or eighty percent of you are elected by the people to do a job. Now, if you want to go home, I think it would be a disastrous thing for us individually, collectively as a state and I think a lot of people would sit on the outside and gloat over it. They've failed. We told you they were going to fail. They have wasted three million dollars of the taxpayers' money. I don't want to do that. I can not afford to do that if I want to run for public office again.

....and, I would ask you to consider very, very seriously--very seriously. Mr. Chairman, if they want to give me time to answer questions, I'll answer anything anybody wants to ask.

[Previous Question ordered. Record vote ordered.]

Closing

MR. AVANT

Mr. Chairman and fellow delegates, I just want to say this, you read the Stagg amendments--it's on page 2 and in lieu of lines 10 through 22--it says "debate on the question of each proposal shall be limited to two hours," each proposal will take two hours. Now, if you are convinced that there's only going to be one proposal, as Mr. Juneau suggests, then I think you better take another look at it because I think you are going to be in for a great surprise.

[Amendment rejected: 39-72. Motion to reconsider tabled. Motion to limit debate on the resolution to five minutes adopted without objection.]

Further Discussion

MR. MCDANIEL

Mr. Chairman, fellow delegates, most of you know that during this year I have used my time here very sparingly. Most of you in this convention hall know my position on alternatives. I am against the rule on alternatives; I am against any alternatives in any fashion or form. But, I do think that I need an opportunity, or I should have the opportunity to express myself in that if this time had been divided by a hundred and thirty-two, I'd have a lot of credit coming. We've hammered out this constitution. What we've done up until this time I can support. I don't agree with it all. But, collectively, we, by compromise, by careful consideration we have hammered out a document that has been compromised and worked and represents a collective effort of all hundred and thirty-two whether we want to admit it or not. If we have made glaring errors, there is a provision under the rules that are already adopted. We have not laid it on the table. I'm not an authority at a lot of this, but we have the machinery to do it. We don't need to get into this. Looking at it as a practical matter, I don't want a bunch of side fights on a lot of issues here while we're trying to pass this constitution. A lot of reference has been made to apathy on the part of the public. I think this is a plus for our side. Once the debate is over, once we have collectively come to a decision, then we can go and sell it. I would like to see the governor on our side, but I maintain the capability is on this floor today for the success or failure of this constitution. I hope it's where I can support it in my weekly columns. I came within a very, very, close margin last week of formally endorsing it, but better judgment told me I'd better just wait. I think you can look at any of these articles that we have approved from the Legislative, Executive, Judiciary, or whatnot. Why, you take the Bill of Rights. Twenty-eight of us even voted against the entire article. This is a substantial group. I can accept it even though I voted against it. When you look at it in relation to the total article and the good that's in it, we really have an alternative built in already. What this group has collectively done in this year with the benefit of research, with staff, with study, with testimony, and blending of ideas from the northern part of this state to the southern, against the 1921 Constitution, that is...we all are in general agreement on is outdated and doesn't meet our needs. Why you take here in this case of alternatives in my committee on Revenue and Taxation. It took us six months--six months, mind you--to agree to discuss the ad valorem issue. Yet, here in a few hours we're going to come and come up with an alternative. I just don't think it can be done. If there are mistakes here, I think that with the machinery we have, they can be hammered out. We can give everybody an opportunity to have his last say. What I'm trying to say, as one delegate, never been involved in public office of this type before, let's complete our work; let's move on. The main alternative is the '21 Constitution or what we've done up to now. Thank you.

[Previous Question ordered on the resolution. Quorum Call: 112 delegates present and a quorum. Resolution adopted without objection. Motion to reconsider tabled.]

Recess

[Quorum Call: 82 delegates present and a quorum.]

Motion

MR. BURSON

Mr. Chairman, I've got a matter which I was going to, for some time, request be reconsidered by the convention, and I don't know what the time schedule is today--whether it would permit it or not--I'm simply...

MR. HENRY

You're talking about...

MR. BURSON

The counaer and the grand jury proposal.

MR. HENRY

You propose to take that up now?

MR. BURSON

I would like to if it be acceptable with...

[Motion to suspend the rules to discharge Committee Proposal No. 21 from the Committee on Style and Drafting adopted: 74-10. Motion to reconsider Committee Proposal No. 21.]

Explanation

MR. BURSON

Ladies and gentlemen of the convention, I have made an effort to talk to every delegate in the convention personally about the matter I wish to ask you to reconsider, which is Section 35(B) of the Judiciary Proposal which relates to the proposition that a person testifying at any stage in grand jury proceedings shall have the right to the advice of counsel while testifying. I'm sure there are a few of you that I have not talked to. In fact, I know there are, but I've tried to talk to most of you. When we completed the Judiciary Proposal and the Bill of Rights, I felt it would be inappropriate of me to conclude on my own that this particular provision would cause the difficulties that I thought it would. So, I requested counsel from every district attorney in this state, and thirty-two of the thirty-four said that in their opinion this measure would do more harm than good. Mark me well; I'm not saying that the good intentions of the original proponents of this measure were not valid. I'm not saying that there never have been abuses of the grand jury, although in my own personal opinion I think these abuses have occurred more often in the federal grand jury procedure than they have in the state. What I am saying is simply this, that this would do more harm, far more harm than it could ever do good because, for instance, in parishes the size of mine, with ninety thousand people and fifty lawyers, it would simply be a practical impossibility to provide counsel for each and every witness we call before the grand jury when we may call as many as a hundred and fifty witnesses in a day. You cannot say that something is a right unless you give it to everybody. You can't just give it to those who can afford to pay for counsel. We don't do that at any other stage of the criminal law. We use the grand jury in state proceedings more often to kill bad charges, charges that were made out of spite, than we do to investigate. I'm here to tell you that if we impose upon the state grand jury system the absolute requirement of counsel that we will be to all practical effect, eliminating its use for that good purpose, for that purpose which helps the defendant and will be limiting its use only to those that we have absolutely mandated in this constitution, such as a capital crime. I think that would be a bad thing, and it would be a bad thing for criminal defendants. I would remind you also that when you create a vacuum in law, it's got to be filled. The governor mentioned this yesterday. I'm glad that he did. I'm glad that he did mention this proposal because I think it's in the best interest of the people of all the state if you allow me to reopen this to present an amendment which would leave this to the legislature and the Code of Criminal Procedure because we researched this matter, and the staff could find only one mention of it, and that was in the Code of Criminal Procedure of the State of Washington. I'll answer any questions.

Questions

MR. CHATELAIN

Delegate Burson, is this the same amendment or the same thought that you discussed with me some one week ago, when myself and many other delegates joined with you on this thought?

MR. BURSON

Mr. Chatelain, it is not only the same thought; it is the identical language. The language in the amendment that has been passed out, sponsored by Henry, Gravel, Pugh, Graham, Alphonse Jackson, and myself, is the identical language I discussed with you and I had that before the governor's speech, I had more than forty coauthors on it.

MR. CHATELAIN

Is it fair to say in our discussion over one week ago that I who voted for this in the first place, realized my mistake and considered to reconsider at that time? Is that correct, sir?

MR. BURSON

Yes, sir. I might mention that I made the same mistake, so you're not by yourself.

MR. BURNS

Mr. Burson, isn't...doesn't it very often happen--I know it used to happen--that a district attorney, where they have a family quarrel between two big local families and he doesn't

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want to take either side, that he'll put the whole matter before the grand jury, and each side, each family may have ten witnesses apiece. In a situation like that every witness may demand an attorney. There'd be twenty attorneys there representing witnesses in a little two-bit misdemeanor case. Isn't that right?

MR. BURSON
Yes, sir. That's correct.

MR. CHAMPAGNE
Is it correct that your intention to open this section is for this one specific purpose?

MR. BURSON
That one limited, specific purpose, yes, sir.

MR. JENKINS
Mr. Burson, I know that we have included in this constitution a number of protections for those accused of criminal offenses, and that some of our district attorneys in the state have been concerned about the extent of that protection. Do you feel that if this change is made, on the basis of your discussions with the members of their association and the individual district attorneys that they will be able to support and enthusiastically defend the aspects of this constitution that deal with criminal justice and district attorneys?

MR. BURSON
In every case and every person I've talked to, I've been told that, and in fact, your district attorney here has authorized me to say that he would unquestionably support this document, if we can make...

Point of Information

MR. DENNIS
I'd like to know the exact extent of Mr. Burson's motion. Is his motion solely to take from the calendar for the purpose of offering amendment to Section 35?

MR. BURSON
Yes, sir.

MR. DENNIS
Of the article?

MR. HENRY
When we get there, that's what I appreciate and understand his motion will be, but now...there's the motion to reconsider the adoption of that committee proposal which we have to dispose of before we can ever get in that posture, Judge.

MR. DENNIS
Well, then, could I ask him a question?

MR. HENRY
Yes, sir.

MR. DENNIS
Is this the only section that you are going to ask that be reconsidered, when you get to that point?

MR. BURSON
Absolutely, Judge. The only reason I'm discussing it at this time is so that the convention will be fully aware of my intention, and as I understand it, the motion to call from the table is to suspend the rules to reconsider the Section 35 is not a debatable motion. Therefore, I have to explain it now, or I don't get to explain it.

MR. DENNIS
Well, I appreciate your explanation. I just wanted to make that clear.

Point of Information

MR. TAPPER
Really, it's for a point of information, Mr. Chairman. If Mr. Burson's motion carries, then I assume that the whole Judiciary Article would then be opened.

MR. HENRY
Well, no, sir. It won't. Now, if Mr. Burson's motion to reconsider is adopted, then his next motion would be to call from the table the motion to reconsider the vote by which Section 31...

35 was adopted, and then Section 35 would be all that we'd be talking about right then. A similar motion would have to be made to get into any other of the sections in that proposal.

MR. TAPPER
Well, Mr. Chairman, wouldn't you first have to call the proposal from the Chair before...from the table before you can consider a section within the proposal?

MR. HENRY
No, sir, because the proposal has never been tabled, the motion to reconsider. You see, we never acted on the motion to reconsider, on any of these proposals, if you recall, just for this specific purpose, in the event we did need to get back in to do something to one of the sections.

Point of Information

MR. TAPPER
One other question, or point of information, Mr. Chairman. How many votes would it then take after, if assuming that this motion passes, how many votes would it take to call that section off the table?

MR. HENRY
Sixty-seven, or two-thirds of those present and voting, whichever is lesser.

Further Discussion

MR. STINSON
Fellow members, I'm sure in view of a few of the past votes that I'm shouting in the dark, but I like to shout in the dark even if I'm by myself. Any time one group, especially the district attorneys, that they think they are so smart and so strong that they can come in here and say, "If you don't change one thing, then we're going to beat the constitution." Well, I say they should have written the constitution to start with instead of us here laboring for one year. Now, you get up here and talk about having a lawyer for a two-bit case. It may be a two-bit case, but if someone jumps in there and is questioned by the district attorney, and he can have two or three assistants with him, and some poor person that's not educated can, through error, make a false statement, it won't be a two-bit case as far as he's concerned; he's going to be sent to the penitentiary for lying before the grand jury. One person, now, if he doesn't testify the way they want him to, and can be tied up and confused, and unintentionally tell a falsehood, he can be prosecuted. It doesn't say he has to have a lawyer; it says he has one if he wants one, and he can afford it, or can get one. They used a two-bit case, but there are a lot of cases that are not two-bit cases, and two-bit cases shouldn't be put before the grand jury. Now, we came up here, and I don't know, but I'm advised there were ten votes against it, including Mr. Burson's, and he's an educated, smart person, but he didn't understand it, and we're going to still take some person who's not educated before a grand jury, and possibly send him to the penitentiary because he couldn't get advice when he needed it. You have to go before the grand jury. If you refuse to testify, they can send you away. But, we're going to take these people, we're supposed to be protecting everybody with a Bill of Rights, and we're going to take this out, that only ten people opposed, and that wasn't including Mr. Burson; he voted for it. Now, he comes up at this late date and says he made a mistake. We've got to change it; if we don't, the district attorneys are going to defeat the constitution. Well, I don't appreciate a threat like that from the district attorneys, or the governor or anyone else. Just because he couldn't win what he wanted, he's going to quit playing ball, and go against it. Now, if we're going to give in to threats like that--I personally don't care about this--but it's the principle of it, and the fact that we're supposed to protect these little people. If we're going to come up here this last week and after voting only ten against it, and say because the district attorneys threatened us, we're going to have to give in and bow down. Well, there's going to be one "no" vote up there when this comes up, I can assure you. If you think the legislature is going to pass this, well, you're just whistling in the dark. I've seen the district attorneys control the legislature so it is pathetic. We are considered as a nonpolitical group because we are not going to run for reelection, but the representatives and senators do. This will never stand a snowball in heck if it's left up to the legislature. What's wrong with letting someone have a lawyer to advise him as to what he should testify? I think we are taking sway a right, and we are giving in to pressure from the district

attorneys. If we've got to depend on the passage of this constitution by the district attorneys or anyone else, I'm sorry that I'm here as a delegate. I wish I had not run, and if I was foolish enough to have won, I wish I had lost. I'm not coming here and let one group say, "If you don't do this, well, we're going to beat it." As far as I'm concerned, they can just take that and do whatever they want to with it. Yes, ma'am.

Questions

MRS. WARREN

Mr. Stinson, do you realize that whatever I do, I'm not doing it because of any special persons? I'm going to ask this just for information. What does a witness--I've never been a witness before a grand jury--what does one testify to when he's before the grand jury? Is he supposed to tell the truth, or does the attorney have to tell him to tell the truth?

MR. STINSON

But, the way they twist the questions around as all lawyers try to do to confuse them if they're on the other side; you don't know whether you're telling the truth or not. Some witnesses don't, and they can prosecute them if they unintentionally do not state a fact that happened the way it did.

MRS. WARREN

Mr. Stinson, don't you think if a person doesn't know whether he's telling the truth or not, he shouldn't be there in the first place?

MR. STINSON

He didn't offer to go there. He was summoned and required to go there, Mrs. Warren. He wasn't there by choice.

Further Discussion

MR. TAPPER

Mr. Chairman, fellow delegates, this has been debated before. I think we debated it quite extensively the first time. We all know what it means. The handwriting is on the wall. I still feel the same way as I did when I asked you to pass this amendment. I do understand the problems that the district attorneys will have with it. However, I still feel that this is necessary. If you will recall just a few weeks ago, the United States Supreme Court has issued an order ordering counsel in grand juries in certain cases throughout these United States. So, I'm asking you not to go along with Mr. Burson. I'm not making a forceful request of you because what I'm telling you is this, that regardless of what we do in this constitution--and Mr. Stinson is correct, it will never be passed in the legislature. Mrs. Warren, if you've never been before a grand jury, I can understand why you don't know why someone would need representation. It may be just to keep you from perjuring yourself, or to keep you from being held in contempt when you don't know whether you should answer a question or not, or whether you have to answer a particular question that might be discriminatory against you, or whether or not you--you may volunteer to go before a grand jury, and if you're not given immunity, then what you say there can be held against you. I don't think this is proper. I think you should be told first before and advised as to your rights before you appear before the grand jury. The passage of this amendment was not an indictment of the district attorneys in this state. It was just for the protection of the individuals who might be innocent that are called before a grand jury. I ask you not to go along with Mr. Burson, but if you do take it out of this constitution, the federal government and the United States' courts are going to do it for us anyway, so I don't think we're going to be hurting anybody. Thank you.

[Previous Question ordered. Record vote ordered. Motion to reconsider Committee Proposal No. 21 adopted: 94-11. Motion to suspend the rules to call from the table the motion to reconsider Section 35 for the limited purpose of considering the Burson amendment adopted without objection. Motion to reconsider adopted without objection.]

MR. HENRY

Mr. Burson offers up amendments.

Reconsideration

Committee Proposal 21, Section 35

Amendment

MR. POYNTER

I might point out this goes to the final enrollment so that if you have the first enrollment, the lines may not match up.

On page 11, delete lines 24 through 26, both inclusive, in their entirety, being the entirety of Paragraph (B) of Section 35, and insert in lieu thereof the following:

"(B) Right to Counsel. The legislature may establish by law, terms and conditions under which a witness may have the right to the advice of counsel while testifying before the grand jury."

Explanation

MR. BURSON

I think I've already explained it. What this will do will allow the legislature to respond to whatever the requirements may be in the future, either of the federal law, as Mr. Tapper pointed out, or simply of the needs of reform in our criminal justice system. I think we all know and we all admit it needs a lot of reform in a lot of ways. But, the legislature can respond to these needs, and we will not freeze in a rule. I might point out; I understand the depth of Mr. Stinson's commitment on this issue, but I did not say, and I hope I was not misinterpreted as saying that the D.A.'s would beat or fight this constitution if this amendment did not pass, 'cause I certainly would never say that. The only thing I will say, and I think this is true, is that the passage of this amendment will help to pass the constitution. I'm convinced of that.

Questions

MR. STINSON

Mr. Burson, when the legislature introduces this, you all will be there fighting it, won't you?

MR. BURSON

Mr. Stinson, of course, whatever the legislature presents will have to be considered on its merits at that time. I can think of a lot of circumstances where it might be justified.

MRS. ZERVIGON

Mr. Burson, your amendment doesn't say "Notwithstanding," and then mention the section number of the secrecy section on the grand jury. But, what this is meant to do is to be an exception to the secrecy in the grand jury room, isn't that correct?

MR. BURSON

This is the reason why we're putting this language in here: because it might be susceptible if you didn't say it; that maybe the secrecy would prohibit anyone from going in there. I think it's quite clear with this language that this...they're in the same section. This whole section deals with the grand jury, and this permits the legislature to do whatever it thinks appropriate in this regard.

MR. CASEY

Mr. Burson, you may have already made mention of this. If you did, I didn't hear you. Is there any need to distinguish between the word "witness" and the word "defendant"?

MR. BURSON

Well, I think that in order to answer this question you've got to understand that the law of the State of Louisiana right now, under the case of State vs. Harrell, which is an old case, the defendant in a criminal prosecution, if he's not advised that he's the focus of the interrogation before the grand jury and warned of his rights against self-incrimination, then anything he says in the grand jury can't be used to form an indictment against him or an infirmation except on grounds of perjury or public bribery under an old constitutional section that we have.

MR. CASEY

Well, I guess my question is, then, under your answer, is the defendant going to have...can a defendant be granted a right by the legislatively established terms and conditions; can a defendant have the right to counsel?

MR. BURSON

There's no question if he's a witness before the grand jury. A witness, here, means any witness, if he's a defendant or any other witness.

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MR. CASEY

Well, that's what I'm driving at. Under your interpretation, for the record, the term "witness" includes defendants?

vious Question ordered on the Proposal. Proposal passed: 106-2. Motion to reconsider pending.]

MR. BURSON

Yea, sir. I think under present federal requirements the defendant, once he becomes an accused, and under our state law, he's got to be appointed counsel within forty-eight hours, I believe, anyway.

MR. WEISS

Delegate Burson, the floor amendment you propose, would you say it's to the benefit or the detriment of a majority of people of the State of Louisiana?

MR. BURSON

If I didn't think it was to the benefit of the majority of the people of the state, Dr. Weiss, I wouldn't offer it.

MR. AVANT

Jack, I'm just a little bit confused by the question and answer between you and Mr. Casey. But, to me, a defendant is a person who has been charged with a crime. In other words, a prosecution has been instituted, and he is the defendant; the state is the plaintiff.

MR. BURSON

That's right.

MR. AVANT

Under no circumstances could such a person be compelled to go before a grand jury with respect to the offense with which he has already been charged. So, you don't have any problem there, do you?

MR. BURSON

You're absolutely right. That's been the law of this state and of the United States under the self-incrimination provisions which we have. . . also have in this constitution in the Bill of Rights.

MR. AVANT

I just wanted to clarify that in the record.

MR. GIARRUSSO

Jack, I'd just like to clarify something: to be indicted, you don't have to appear before the grand jury. Is that correct?

MR. BURSON

That's correct.

MR. GIARRUSSO

But, it is possible, under the law, that if you are an accused that you can be summoned before the jury?

MR. BURSON

It's possible under federal law, I believe, Chief; but I do not think, as my understanding of state law--and I did quite a bit of research on this--that if you are subpoenaed, then you must be told at that time of your rights about self-incrimination or given some indication that you're more than just a witness: that you are, in fact, possibly a focus of the investigation. Or, if you're not given that warning about self-incrimination, then I don't believe, under the three cases I've read, the district attorney could use whatever you said in a bill.

MR. GIARRUSSO

I'm asking; I don't know. Would it not be better to say that an accused is entitled? This is the one that you are talking about, when he appears before the jury, that's entitled to counsel and not a witness.

MR. BURSON

The problem you get into is you may not know in all cases that he's the accused before he gets called. This is why "witness" gives you more protection, because it's a broader term. It includes everybody.

Motion

MR. ROY

Mr. Chairman, I move to suspend the rules to consider the proposal in the local. . . general governmental provisions, particularly Section 9 which deals with multi-banking.

MR. HENRY

Well, then what you want to do, first, is move to suspend the rules for the purpose of calling it from the Committee on Style and Drafting. Is that right?

MR. ROY

That's correct.

Point of Order

MR. NEWTON

Mr. Chairman, I believe we suspended the rules to call that Proposal No. 21 from Style and Drafting. Would it be necessary to move to return it to Style and Drafting?

MR. HENRY

No.

MR. POYNTER

That would be automatic, under the rules.

MR. HENRY

It automatically goes when we get through with it, sir.

[Motion to suspend the rules adopted: 83-7. Motion to reconsider Committee Proposal No. 35.]

Explanation

MR. BOLLINGER

Mr. Chairman, fellow delegates, we sat here yesterday morning and listened to the governor say that unless we made some drastic changes in what we have adopted, the constitution did not have a chance of being adopted by the people. He was right in a lot of the things he said. But, look and listen. How much flack did anyone get on the proposal we adopted on multi-bank holding companies? How much did anybody get? This is the proposal that's going to make every small bank in this state get behind this constitution. It's going to make them work for the adoption of this constitution. If you don't think little banks have an effect, you go to every small rural town and see who kind of controls it. Who says what's good and what's bad in most cases? Who is respected? Now, if we take this out, you're going to disenfranchise all of these small banks. The governor said that the Banking Commission or the group of bankers in Louisiana were split about 60-40, and that might be right. But, I venture to say that every small bank in Louisiana would back this constitution if this provision remains in it. Everybody got up here the day this came up and said, "This is good for the small people. It keeps the personal element in doing banking business." Do you want to see, in ten years, the banks out of New York come up and buy up all the banks in the state, or just have maybe one or two state banks and do away with all the personalization you get now when you go to your bank? Do you want this? Do the people of Louisiana want this? If so, take the provision out.

We have not locked in forever and ever a provision to prohibit multi-bank holding companies. We have just said that if you're going to have them, it's going to take two-thirds votes of the legislature. This is good. But, with a majority vote, it's very possible that the will of the minority is going to rule. Please, vote to leave it like it is. We've debated it well. The governor, for some unforeseeable reason, has said. . . picked this, of all issues, to say it's not. . . shouldn't be in the constitution. Look at the other things we have in the constitution. Just look at some of them. But, yet, we're going to take out the little provision about multi-bank holding companies.

Please vote no on the motion to reconsider and leave the small banks protected so that the people in the rural areas of this state will keep the personal contact they now have.

Further Discussion

MR. ROEMER

Mr. Chairman and fellow delegates, I've been trying to sit at my seat the last hour and watch what's going on. I. . . frankly, I just can't believe it. I guess the longer you live, the more

[Previous Question ordered. Record vote ordered. Amendment adopted: 99-8. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 102-3. Motion to reconsider tabled. Pre-

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you realize how little you know. Every day I learn something new. Somebody asked me a few minutes ago, "What's going on?" Well, here's what I think what's going on: One little fellow from North Louisiana thinks that what this constitutional convention is going to do is going to go down the governor's checklist one by one and make every absolute change he wants. Now, it's not right. Where was he when we needed him? Now, it's not right. We debated every one of these issues, and I'll debate them with you all over again because some of them, I think, were a mistake, and I lost.

On the specific issue of multi-bank holding companies, it's quite clear to me in the area where I come from that what we did and have done in this convention is in the best interest of the people that I represent--the people that I represent. But, I'm not going to argue against it on the basis of facts. I just want to point out to you my personal opinion that any one man, no matter who he might be or no matter what he might want to become, does not have the right to expect of you that you go down a checklist and make the changes that in his personal opinion you ought to make. No documentation, no facts, no substantiation whatsoever, and he's asking us--or somebody is asking us--in this case, the very proponent of the thing we passed is asking us to wipe it off the books, perhaps with no debate whatsoever. Now, I don't resent Edwin Edwards. I appreciate him; I think he's a fine man and a great governor. But, I do resent not standing up for what I believe, or being asked not to stand up for what I believe. I'm going to tell you what I believe, right or wrong. I believe in you. I believe in the debate we gave it and the effort you put into it. Now, I just think this is dead wrong.

I ask you to let's stop it now. This is not an alternative. This is not something we're going to give the people a choice on. This is something we're just going to wipe off the books altogether. I say let's stop it here; let's stop it now.

Questions

MR. LANIER

Mr. Roemer, for those of us who are like me that happen to think on this particular point that the governor is correct, wouldn't you recommend that we vote our convictions?

MR. ROEMER

Yes, I'd do that. I certainly do. I'm not here to suggest that just because you vote a certain way that you're just following the dictates of the governor. However, I am keenly aware of the mood on the floor in certain segments, as you are, Mr. Lanier. I just don't want you to vote one way or the other without thinking about what you're doing. That's all I'm asking. If you vote against me, that's your right, and you might be right. I'm just asking you to think about it; that's all.

MR. GRIER

Buddy, don't you feel that the two-thirds vote of each house gives the flexibility, here, to change this section in the future as the governor stated yesterday, already?

MR. ROEMER

Yes, Bill. Mr. Roy, who brought this to our attention before this convention, had in his first draft no flexibility whatsoever.

MR. GRIER

Right.

MR. ROEMER

We compromised, here--you and I did. We agreed to the two-thirds rule. I think that gives all the flexibility we need.

MR. GRIER

Right.

Further Discussion

MR. STINSON

Fellow delegates, what I say, I'm not reflecting against anyone. If it reflects against anyone, it's against me, as an individual. I'm ashamed that I am a part of a farce that we've gone through for this last year. It's a shame and a disgrace, and I look with pride up to this week on what we had done. We had debated and we had fought and we had been good winners and good losers. But, now, within the last week, because the governor doesn't like, we're going to become a group of puppets and roll-over and play dead. Now, this is not the first time I have been shocked and disillusioned. I have been shocked and disillusioned for twenty-four years in the legislature, because the same thing

has happened there. I felt that we were a different group. I'm not criticizing you. You have your rights, and certainly I respect it in every way. But the idea to come up here on something we debated and fought and it carried. It happened that I prevailed on this, but if I'd have been the loser, I would still be making the same speech. We are not to come up here and be a group of puppets, which we are being made. Just because one man, yesterday--it happened to be the governor--got up here and said he didn't think it was right, and a poll that the paper said was made on the fourth floor, which is in his office, and we're going to come in here and completely reverse ourselves on anything that he wants. If that's so, the governor should have been here and written the constitution and submitted it to the people. We have wasted the money. Are we going to use it as a window dressing or something to say it's the will of the people? But, anything that he picked out at random will come up and we're going to just roll over and play dead and say the governor wants it--the last week of it.

I hope I'll never be ashamed enough of myself to vote for "yes" on something like that.

MR. HENRY

Mr. Leithman, have a seat.

MR. STINSON

Mr. Leithman is referring to a sign that I was given in the legislature when anything like this came up. It was in . . . respecting the French and English, it says, "Kill that snake." I wish I had it today. But, I still say, right or wrong, when it's sent down here from the governor and we're going to play dead and do what he wants. If so, we've been a farce with what we've been doing this year, so far. I'm sorry that I have been against them. I want to say that I'm sorry that I've been part of this. Certainly, after I get through, some of you are going to think I'm reflecting against you and I, but I'm thinking out loud. What my children and the people after them--I can never point out with pride and say, "I helped write the constitution in 1973." When it goes down in history we came up here the last week and one man--even though he's the governor--gets up and says, "Well, that's wrong; you have made a mistake; you've got to change it." Then we're going to come up here and, with about four or five people who vote ridiculously, as I do--because they have a little pride left--going to say, "Yeah, we were wrong; he was right; and we're going to change." Now, we don't know how many are coming, but I'll bet you if it gets through like this, and we play dead, it's going to be quite a few others. The old saying is: "If you don't hang together, you're going to certainly be hung when you get separated." That's what's happened now. I'm not an administration man, and that's what I don't like is steamrolling. I'm sorry that it's happened in this convention, because I felt and hoped that we were independent.

Thank you for my ridiculous remarks that I'm sure most of you think they are.

Further Discussion

MR. CHAMPAGNE

Mr. Chairman, ladies and gentlemen, on this occasion I rise in support of this amendment, not because the governor was here yesterday, because as I told a good friend of mine that I thought in a month or two we'd play a game with the delegates in this convention--something like "Let's see your score." The score would be a result of the whip he would use on us. I hope that mine would be just about as big as anybody else's. But, the reason why I rise in support of this amendment is because when Mr. Roy circulated it among these delegates, many of you asked me my opinion on it. I really felt that it could best be done not in the constitution. But, I urge you to support the amendment for the sole reason that there was many rumors to the effect that many people are going throughout the state buying up banks and would like this to exist. I had the pleasure of reading telegrams from some of these people. But, on yesterday, the governor of this state made a pledge in our presence that he would never support legislation that the banks of this state would not want. I assume when he made that statement he didn't mean the big banks would want. But, I assume and I have, in my estimation, his word that he meant the majority of all the banks of this state. This concerns the banks of the State of Louisiana, and I suggest to you--with that commitment and the fact that I, personally, have never heard of him lying to me on any occasion--that I can urge you to support this amendment. I feel I have a commitment from him that as long as he's governor, he will not advocate or support, and I urged. . . I suggested that would mean he would suppress any move for multi-banking.

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Questions

MR. WINCHESTER

Mr. Champagne, you are assuming that the present governor will continue to be governor an indefinite time. . . term?

MR. CHAMPAGNE

No, sir. But, the reason for the amendment, I am told, is because some people thought that possibly he was in favor of this.

MR. WINCHESTER

Mr. Champagne, do you know that I'm not in favor of the amendment? I'm still standing like I did the other day.

MR. CHAMPAGNE

Fine.

Further Discussion

MR. WEISS

Mr. Chairman and fellow delegates, I don't think there's any question, for those of you who remember my discussing this, that I never thought this should be in the constitution, anyway. But, I think I should discuss with you some of the statements that the delegates are using now and tell you that I consider this extremely unfair. I would like you to say that although we may not agree with you, you would still defend the right for me to say it. I think that's the position that I would take with Mr. Stinson and other members, here. On the other hand, we heard our governor speak yesterday, and he asked us--I think very reasonably--to consider nine sections for political expediency. I'm a neophyte at this game, and I'm graduating at the end of this week. But, I'm taking his suggestions seriously. In this particular matter, as I say, I have no problem. I'll vote the way I voted before. I'm certainly opposed to it being in the constitution. But, I am astounded at the people, here, who consider personal matters far in excess of those which should be considered for the people of the State of Louisiana. There are far more little people than there are little bankers. I don't think it's fair to make the governor the whipping boy of your dissatisfaction. He has come before you honestly and sincerely and has given you a political opinion and left it for us to decide. Furthermore, I resent very much the statement of delegates here that the governor did not come here. I personally recall, some months ago, going before a committee where he was completely rejected by the committee, where one of the delegates, here, said, "We don't want an Edwards' constitution." He has been rebuffed repeatedly by this body, and it was only recently that we invited him. For weeks I had proposed that he come before this group, but could not get enough support. So, don't blame him for not being here. If you wanted him, why didn't you ask him? When you did ask him, he came. Now, I must say that my short lesson in politics indicates that this last minute, this last week, is very important. If he's not a politician, then give him credit for what he's done, because Senator Rayburn told you this when we started this out in July. He brings these matters up at the end of the game, and this is when the action goes. I think we have given ourselves sufficient procedural safeguards to prevent too much shenanigans. Now, let's go about debating these issues. For those of you who have reconsidered your stand on the banking matter, I congratulate you. I congratulate you not only, perhaps, for political expediency, but because you've reconsidered and decided that this was not a constitutional matter and will vote against it. . .

Questions

MR. JONES

Dr. Weiss, just to put it in proper perspective, the laws are already on the books protecting the small state banks. The latest amendment was in 1948. All that we are asking, or has happened here so far, is for a majority vote of the legislature. They're trying to tie it down to a two-thirds vote of the legislature; is that not correct?

MR. WEISS

I concluded my remarks in opposing the matter, originally, on that basis. This amendment only shows that a two-thirds vote is needed. There are 453 pages of statutory law that are concerned with bank and banking. Why pick out the issue of multi-banking holding companies and the other, unless it's a personal matter for the delegates here, rather than the people of the State of Louisiana?

MR. JONES

Thank you, Doctor.

MR. CHATELAIN

Delegate Weiss, is it not true that there's not anything in the present constitution relative to this?

MR. WEISS

It doesn't even list multi-bank holding companies. It's so new that it's not even on the books. This is newly introduced in a new constitution. That is correct, sir.

MR. CHATELAIN

There's nothing in the present constitution?

MR. WEISS

Absolutely nothing.

MR. CHATELAIN

Thank you.

[Motion to limit debate to five minutes adopted without objection.]

Further Discussion

MR. NEWTON

I don't plan on taking five minutes. I would just like to remind you that a two-thirds vote in the legislature is a two-edged sword. While it might protect these banks now, suppose the national banks got multi-banking and multi-parish banking and all this, and then they got one-third--they just got to have one-third of the legislature to keep the state banks from being able to protect themselves. I urge that you call this thing from the table and that you pass this amendment.

I move the previous question.

[Previous Question ordered.]

Closing

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, I feel that you're entitled to know. . .

I feel that since I was the person who initiated all of this and started it, that you're entitled to some comment from me. I'm not one who, when it comes time to eat crow, would try to pass it on to anyone else. If I have to eat crow, I'll eat it myself. I was very much concerned, and I can state to you right now, that philosophically I abhor the practice or maybe the thought of little banks going under to big banks. The governor came here yesterday and made what I believe a personal commitment. He made the commitment to everyone in here, and he made the commitment to all the bankers in this state. I believe the governor when he makes a commitment of that nature. The other thing that I know is that the people who were very much concerned with this feel, after having heard the governor, after having read his remarks, that they are fully protected and that, unless their association decides that they want some change, that there will be no change. I must, of course, give credence to their views, and I do so. I think that one thing that's proved here--and I'm glad that it was--and that is, that for those who will deal with this matter in the future--and it is more statutory than constitutional material--I thought that it could be rationalized on the basis "well, it's something like civil service and we ought to deal with it very cautiously." I still think it's very serious, but I think that with the reflection of this body politic on the philosophy of the issue: that is, whether you believe in multi-bank holding companies or parish-wide branch banking, that those who serve in the legislature who should deal with this in the future at least have a pretty darn good feeling of what this convention--which represents the views of the people of this state--feel. For that reason, and in view of what I've said, I'm going to vote to delete this from the constitution because in the final analysis--in the final analysis--we have what I consider the best possible constitution in the state of the whole United States. I'm committed to this constitution, and I will compromise even my own personal beliefs about things if I'm not sure that I'm absolutely right. I will compromise those for somebody who's got his hands on the pulse of the people more, particularly when that person is most responsible for us being here by having the guts to have called this constitutional convention. For that reason I'm going to vote to delete it from the constitution.

Questions

MR. NUNEZ

Mr. Roy, as the prime author of this amendment, when you

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placed it in the constitution, did you get any reaction from the small banks throughout this state?

MR. ROY

I spoke with the two people who are most responsible, Mr. Will Whitmore, who's President of the LIAB, and I spoke with Mr. Easterly who's very much concerned with it. Of course, I've spoken with my brother who was very much interested in this matter, and they feel that, with the commitment made by the governor, with the feeling that was shown by the convention, that they would take their chances with the legislature and would not want some type of confrontation with any political group at this particular time.

MR. NUNEZ

You spoke about the pulse of the people. What type of people do you think requested to take this out of the constitution?

MR. ROY

If you're talking about did I get a lot of telegrams, I didn't get any. I only got a couple when I brought it up.

[Record vote ordered. Motion to reconsider adopted: 79-27. Motion to suspend the rules to reconsider Committee Proposal No. 35, Section 9. Record vote ordered. Rules Suspended: 78-30. Motion to reconsider Section 9 adopted without objection.]

Reconsideration

Committee Proposal No. 35, Section 9

Amendment

MR. POYNTER

Amendments sent up as follows by Delegates Henry, Gravel, et al. Amendment No. 1. On page 2, delete lines 17 through 26, both inclusive in their entirety.

Mr. Roy, you know you're going to handle this. As I appreciate it, that second amendment is out of order. It would have the effect of changing the future section numbers, but the rules suspension was just to reconsider the one section, and quite frankly, this thing has not even been through final styling of Style and Drafting. I think you could just withdraw that second amendment.

[Amendment No. 2 withdrawn. Previous Question ordered. Record vote ordered. Amendment adopted: 81-2. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 91-16. Motion to take up other orders adopted without objection.]

REPORTS OF COMMITTEES
[II Journal 1205-1212]

[Adjournment to 9:30 o'clock a.m.,
Saturday, January 12, 1974.]

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Saturday, January 12, 1974

ROLL CALL

[114 delegates present and a quorum.]

PRAYER

MR. BURNS

Our Heavenly Father, Thy greatest of all lawmakers and lawgivers, we ask that Thou would be with us from now until next Saturday, January 19. We pray, Father, that You would give us the power and the courage to complete this constitution in a manner which will not only be acceptable to Thee, and be a credit to the delegates, but last, but not least, be acceptable to the people of the State of Louisiana. We pray that for the next eight days Thou would give us divine guidance that we would put the interest and the welfare of the people of the State of Louisiana before our own personal interests. We ask these things all in Jesus' name and for His sake. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

Personal Privilege

MR. AERTKER

Mr. Chairman, ladies and gentlemen of the convention, I rise this morning to speak to you just a little bit in the way of explanation because I feel that in the last two days, the work of what I consider some conscientious, dedicated folks has been seriously criticized. I thought, perhaps, maybe I might try to shed some light on that entire matter, rather than let you go away from this convention, feeling that we had a bunch of people who didn't know what they were doing on the matter of education in this state.

We had in that committee, as I explained to you previously, spent many, many hours coming up with the proposal that we had. Two days ago, there appeared before this very microphone, the governor of this state, and who implied that we had come up with something that was completely unworkable and unpalatable, and that frankly, I began to question my own judgment in the matter. I did just a little research in the matter. I would like to just read you the minutes of the Education Committee of May 8. Maybe it will give you some enlightenment on why we proceeded in the direction that we did. I'd just like to read those minutes for you for your edification, and maybe for my way of explanation. It says:

"The committee then heard from Governor Edwards. He said that the board for governing education in the state had no business in the constitution. The constitution should be short and concise. However, assuming that it is in the constitution, education at the college level could be best served by a single board. If one board would have the responsibility, the competition would be eliminated and there'd be a better chance for fair play.

If the one concept is not agreeable, then there should be one Board of Regents that would have exclusive power for all universities and colleges in the state, to form policies, to be responsible for the budgets, and take care of long-range planning at college level. Under this board there would be a separate administration board for the LSU system, and a separate board for other colleges and universities. A separate state board, with its membership elected, would continue to exist and operate and plan for, and obtain funding for education in the elementary and high school level."

Now, if you will read Committee Proposal No. 7, you will see that it tracks what was stated as agreeable to Governor Edwards exactly as presented to this convention floor. In fact, the proposal that we presented to this floor actually had more powers into the Board of Regents. If you will again get out Committee Proposal No. 7, you will see that we have designated nineteen powers given to the Board of Regents, and that we have left stripped down to practically no board, or no powers, the LSU Board of Supervisors and the Board of Trustees. As I pointed out to many people in this convention, perhaps the one mistake that our committee made was that perhaps maybe we shouldn't have called the other, lesser board to the day by day management boards, boards, we probably should have called them councils or commissions, etc., and then we wouldn't have had this misrepresentation that has been presented to so many people...presented to so many people.

Yesterday, you heard from this microphone, the statement that the professional educators on the committee could not get together. I state to you that all you have to do is look at the record. There

were six professional educators on that committee, and five out of that six have supported it, five out of that six members of that committee have voted every time to go along with the committee recommendation. I think that five out of six does represent pretty well some understanding and some common agreement as to what is good for education in this state.

Unfortunately, there has been misrepresentation about this whole document to many people. Unfortunately, our committee was exposed to people who came with false testimony. We had student groups come before us who had been misinformed about what we were doing as a committee. This is regrettable, and this is something that will have to be overcome. I rise this morning to talk to you, to tell you that this committee on education did not represent a bunch of loose-jointed, brainy people. These people came up with something that they heard, and they understood represented what the people did want. I think that unfortunately, that if we had been given the opportunity to sell our cause to the people of this state, that it could have been done. Perhaps, maybe, it still will be done, hopefully. I make these statements to you because I recognize that the die is cast and that we will be moving into another direction. But, I do hope that what other direction we do move in to, that we do remember some of the points that I have pointed out to you today, and that we move in a direction that is compatible, and something that the majority of the people of this state can live with as far as the cause of education is concerned. Hopefully, I await the judgment of this convention in that direction.

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING

[Motion to take Committee Proposal No. 35 out of its regular order adopted without objection.]

Committee Proposal No. 35

MR. TATE

Mr. Chairman, fellow delegates, we are presenting the report of Style and Drafting concurred in by, insofar as the language is concerned, by the Bill of Rights and Elections Committee on Committee Proposal No. 35. Now, that is the little bunch of material that you have with a paper clip in the middle that says Committee Proposal No. 35, 1-11-73. This is Article II, Distribution of Powers, and Article XII, General Powers. You will have only the green page and the yellow amendments.

The first amendment, Mr. Chairman, if I may...

Vice Chairman Casey in the Chair

Amendment No. 1

MR. TATE

The first amendment of the...the first amendment is to Section 1, it changed "the government of the State of Louisiana" to "of the state" in line with our usage, because it's only this state, into "three separate branches" instead of "three distinct branches"; and it used a colon instead of a double hyphen...instead of a -- whatever that is.

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. TATE

"Except", in Section 2, Amendment 2, we put the exception in the beginning of the language as is done throughout the constitution. Otherwise, no change in language or...

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TATE

All right. Now, you will see then, ladies and gentlemen, that Article II which will be up at the beginning of the constitution consists of those two articles about Executive, Legislative, and Judicial. Now, Article XII, Section...General Provisions, the Bill of Rights has recommended renumbering this. We did not go

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along with this simply because this general provision, as we anticipated, there will be a lot of other general provisions transferred from other parts of the constitution, or from those one page articles adopted into this position. So, do not at the present time worry about the particular placement. Because of that, for instance; you'll see in a minute we'll be able to take care of the matter of the amendment yesterday without any major change of numbering.

Amendment No. 3 simply changed the numbering here for reasons unnecessary from 3 to 1.

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TATE

Amendment No. 4, again, simply changes the numbers.

[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TATE

Amendment No. 5 repeats the oath of office. We thought "I (AB)" and then as you see on line...3 of the 4 oaths as is found in the present constitution, and line 12, just a long space, or with a line. After some discussion, we thought both would be better, read better, look better, and say the same thing if you said "I..." which in legal abbreviation means some words are left out, and go on, and then "upon me as" instead of leaving a blank space and putting in line "as..." meaning the name of the office is left out. Otherwise, there's no change in substance, Mr. Chairman.

[Amendment No. 5 adopted without objection.]

Amendment No. 6

MR. TATE

Amendment No. 6 is just a change of numbers, Mr. Chairman.

[Amendment No. 6 adopted without objection.]

Amendment No. 7

MR. TATE

Amendment No. 7 is a change of number. Also, we inserted a comma --wait a minute --after "by law," in order to break up the two independent sentences.

[Amendment No. 7 adopted without objection.]

Amendment No. 8

MR. TATE

Independent clauses is what I meant... Amendment No. 8, let's see, Amendment No. 8, Mr. Chairman, this is a matter that was deleted yesterday, and Amendment No. 8,-- we just withdraw Amendment No. 8. Will that kill it?

[Amendment No. 8 withdrawn.]

Amendment No. 9

MR. TATE

May I ask one thing, Mr. Chairman, as a parliament thing, when we withdraw the amendment, that means the whole thing passes out of the constitution because the previous amendment took it out of the first enrolled copy. Is that correct?

It's gone.

O.K.

All right. Amendment No. 9 is simply a change of numbering, an insertion of commas in series, in line with the usage throughout the constitution.

Any questions, Mr. Chairman?

[Amendment No. 9 adopted without objection.]

Amendment No. 10

MR. TATE

Amendment No. 10, Mr. Chairman, aside from changing the numbering, in line with a suggestion from the authors of the amendment, as well as from the Bill of Rights Committee, made "origins" plural because it was thought by them, at least, that despite our rule of singularization, it was a little more accurate to say "origins", that one person could have several origins, I guess.

[Amendment No. 10 adopted without objection.]

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING

Committee Proposal No. 26

Amendment No. 1

MR. TATE

...Article XI. Revenue and Finance. Committee Proposal No. 26.

In this package, there are three components, three items: the green amendment, the yellow amendment, and then the white formal description of exactly what we are doing. By formally, with reference to the first enrolled copy.

Now, with this introduction, Mr. Chairman...

All right, Mr. Chairman and fellow delegates, with regard to Amendment No. 1, aside from adding a title to the Subsection 1 (A), and breaking the long sentence into two sentences, deleting "as such", the...change in the interest of accuracy, because "use value" was added by a floor amendment by Subsection (C) so that the initial statement is not quite accurate.

The initial statement was "property subject to ad valorem taxations shall be listed on the ad valorem rolls at its assessed valuation which shall be a percentage of its fair market value." Subsequently, the floor adopted an amendment that provided also it could be valued on use value. In order to make it perfectly clear, and on the representations of agricultural groups that there might be a--it might seem to be an ambiguity--both committees, at least the Style and Drafting, recommends, and without objection from Revenue and Taxation, adding the words on line 7 and 8 "which, (and adding these words,) except as provided in Paragraph (C)," (that's a use value thing,) "shall be determined at a percentage of its fair market value. It makes no change in substance so we didn't bring it to you as a yellow amendment. But I do think since it's a little additional wording, I should mention it before submitting the amendment for your consideration.

Question

MR. DENNERY

Judge, my question relates to the last sentence. Wouldn't you have to make a similar change there, that the percentage of use value should also be uniform?

MR. TATE

Mr. Dennery, in all frankness, our committees originally thought you could handle the matter by saying, "should be listed at its fair market or use value, and that the percentage of fair market or use value shall be uniform throughout the state."

This was felt by some to be substantive. We think that whatever ambiguity is...settled by the provision in 1 (D) "that shall be determined in accordance with the criteria which shall be established by law, and which shall apply uniformly throughout the state."

But, in view of the representations of some that we might be making a substantive change, which we didn't think we were, we withdrew the...we withdrew that proposal, as proposed amendment, and are approaching it in this manner, sir.

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. TATE

Amendment No. 2 involves--the chief changes were we thought it looks a little better typographically, not to have caps on "the classifications and percentages", and not to have the series

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of dots following each. In line with these things, when you say "all land", it means "land" will be subject to this percentage. We deleted "all" and we've deleted "all" in front of "all other property". You would either to add "all" in front of "the improvement" or delete all three. It seems to us, to be consistent, and we feel that there is absolutely no change of substance. We omitted a "such" on line 5, "before each such classification", we omitted "such" as unnecessary.

MR. CASEY
Any...Mr. Dennery has a question.

MR. DENNERY
Again, you don't think you have to put the "except as provided" in Paragraph (D) as you did in (A)?

MR. TATE
Well, in this instance, we thought that when we say "the classification of each market value--of each property subject to ad valorem taxation and the percentage of fair market value", you see, I think, possibly, you are right. But this is the only amendment recommended. I don't think it's ambiguous. We just think it's self-explanatory. It's not an inaccurate statement, I don't believe.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TATE
Amendment No. 3. You see in line with your structure, we first said that "it shall be assessed at fair market except as provided 1 (C)." Then (D) says how fair market value is classified. Now we come to (C) which is use value. We--you'll see that we think that the sense, there's an unnecessary "lands" in there. You either have to add a "lands" or delete a "lands". We thought it would be better to just say "cultural marsh, horticultural marsh, and timber lands" rather than "horticultural lands, marshlands, and timber lands." So we recommended a delete of "lands"...we used "for tax purposes" instead of "for the purpose of taxation". We thought that when you say "the legislature may make similar provisions," it may read a little better, or may not in your judgment, "may provide similarly for buildings of historic importance."

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TATE
Amendment No. 4, which was on page 2, delete 9 through 13. In the organization of these amendments, apparently up until now we would have included Amendments 3 and 4 at the same time. Amendment No. 4 is simply to delete the prior language "on bona fide agriculturally, horticultural, etc., lands" that you've just substituted. I'll have to watch that in the future. But, this is just a technical amendment, Mr. Chairman.

Questions

MR. AVANT
Judge Tate, we are on page 3, Section 1 (C)?

MR. TATE
Yea, sir. I'm sorry, we just now passed from page 3, Section 1 (C). Yes, sir. I'm sorry.

MR. AVANT
All right. This is something that apparently slipped by us on the committee. I was wondering if you would, or could, I'm talking to you and the chairman, withdraw this particular amendment for the purpose of resubmitting it so as to add on line 8, on the right hand side, following the word "legislature", ", by law,".

MR. TATE
Mr. Chairman, what does it require? That is exactly...

MR. CASEY
I think what Mr. Avant is asking you is can you change your committee report which I don't think you can do. I don't say we can solve the problem, but that's not the way we can solve the problem.

Motion

MR. AVANT
Well, I guess I would move for a suspension of the rules, then, if that would be right. You see, we have tried, as I understand it, to, you know, when we say legislature, we say "by law" to avoid any question of whether it be by resolution. This is just one we didn't get, apparently.

MR. CASEY
Mr. Avant, just a minute, Judge Tate. I won't say you can't suspend the rules because you can. We were discussing this on yesterday. There's a lot of things you can suspend the rules on. I think we have tried to be extremely cautious not to do that in any case, but to follow a more formal procedure because this may happen to be not controversial, but one of these hours, it's going to be something that you and I won't like.

MR. AVANT
Well, I'm not all hung up about it. I think since we tried to put "by law" everywhere we say the legislature may do something, except when we meant other than by law. I just asked your assistance, Mr. Chairman, so we can get "by law" in here if we want to.

[Motion withdrawn.]

MR. TATE
All right. I move the adoption of Amendment No. 4 which deletes that language from the present constitution which we have just substituted in Amendment No. 3. We may--it's just by nature of a technical amendment. There is an amendment that will come back to put that "by law" in.

[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TATE
Now, Amendment No. 5, we are later going to come back with a caveat amendment to call your attention to an ambiguity which the Revenue Committee agreed should be clarified. But, Amendment No. (D) Amendment No. 5 is simply, with regard to the language in the provision, and we--the general, aside from adding a title, the general change made was to singularize the usage of assessor--each assessor--instead of assessors within his respective parish--respective parish or district--and, since everywhere else when they speak of an existing body they add, "or its successor", we thought the sense of the committee, that "or its successor", or the sense of the convention floor, that you meant the Louisiana Tax Commission. But, if they call it something else in the future, it'd be "or its successor". So, we recommended that adoption.

The last one is just to--we thought the language read a little smoother if we said "which shall apply uniformly throughout the state" instead of "which shall be uniformly applicable throughout the state".

[Amendment No. 5 adopted without objection.]

Amendment No. 6

MR. TATE
Amendment No. 6 is to Section 1 (E) on page 4 of your green. We thought that the sense would be slightly clarified if we said "the assessor shall be subject to review by the governing authority of the parish, then by the Louisiana Tax Commission, and finally by the courts," we said the parallelism would be more accurate if we said "review first by the parish governing authority". We added the word "first", then by the commission, finally by the court. Then, because of that series, to be sure that it didn't mean just by the courts, only in accordance with the procedures, we recommended adding a comma and saying "all in accordance with procedures" with "procedures established by law."

[Amendment No. 6 adopted without objection.]

Amendment No. 7

MR. TATE
Section 7 simply eliminated...Amendment No. 7 is to Section 1 (F)

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on page 5 of your green, it eliminated "the provisions of" as unnecessary and added a comma "," after section thinking that it showed the natural interruption and the flow of the language.

[Amendment No. 7 adopted without objection.]

Amendment No. 8

MR. TATE

Amendment No. 8 is by nature of a technical amendment here, it should have been included with Amendment No. 7. But, I'll have to watch this in the future because in some instances there are two amendments together. Amendment No. 8 deleting lines 11 through 13 is the parent provision which is shown on your left as [Section] 1 (G) and it says to delete the language which we just replaced by Amendment No. 7.

[Amendment No. 8 adopted without objection.]

Amendments Nos. 9 and 10

MR. TATE

Mr. Chairmen, again, Amendment Nos. 9 and 10 are really in a series. Amendment No. 10 is going to delete the language which is replaced by Amendment No. 9. All right. So, I move the adoption of [Amendment Nos.] 9 and 10 together.

[Amendments Nos. 9 and 10 adopted without objection.]

Amendment No. 11

MR. TATE

All right. Amendment No. 11 which is to the homestead exemption on Section 3 (A) and (B) pages 7 through 9 on your green copies. The changes recommended in every case amount to omitting needless commas, added a "shall" in one point to carry out a parallel construction to the previous shall. We, in an effort to make this long, long, long, long one sentence...section which goes on for two pages read a little better and to separate the ideas, we recommended breaking it into these paragraphs and, in general, simply carry out stylistic...standard stylistic practices adding subtitles and breaking it into paragraphs.

Questions

MR. DUVAL

Judge, this is...might be nit-picking, but I guess that's what we are on right now. I noticed in this amendment you refer to "exempt from state, parish, and special ad valorem taxes" in the prior section where we dealt with the amount of state taxation, we didn't use ad valorem taxation and we limited to five and three-quarters mills. Now, if there was an inheritance tax on the property in addition to five and three-quarter property tax, that wouldn't apply would it?

MR. TATE

No, that's why we...no.

MR. DUVAL

I'm just wondering why you said ad valorem taxation, what place is that?

MR. TATE

Well, I think because we were uncertain about special. You see, I think in context it had to be ad valorem taxes. Special taxes, we don't know, and Mr. Lanier will tell you at length how much we don't know what special taxes mean, but in context we knew it had to be ad valorem special taxes.

MR. DUVAL

And, certainly, you only refer to ad valorem taxes in the other sections where you merely have taxation.

MR. TATE

Oh, of course, because it's in the ad valorem taxation thing. The reason we added it here was simply because of some uncertainty and we were unwilling to try to take "special" out here because it's in, but we don't quite know what it means.

[Amendment No. 11 adopted without objection.]

Amendment No. 12

MR. TATE

On Amendment No. 12 it's the Section 4 (A) on page 10 of your green material. The section numbering was changed to conform with the previous section numbers. You may at line 15 we say, "the following property and no other shall be exempt" because in order to take...put right in the beginning the provision added at the conclusion of this section by the convention floor which was... it was added as a section--let's see if I have it here--and no other Section 3 (H)...in the original floor amendment there was a [Section] 3 (H) added when we finished our entire deliberations; it said (H) "No additional property shall be exempted from taxation". It was easier, it seems to us to be, better to put it right in the beginning and say, "No others shall be exempt from taxation" which would then permit us to delete that section when we later come to it; that is the principle change made. We left out "all" in both instances because public lands means all public lands.

[Amendment No. 12 adopted without objection.]

Amendment No. 13

MR. TATE

Amendment No. 13 is to Paragraph (B) (1) on page 11. There is minor change. We left out "exclusively" because it must mean "organized and operated exclusively", we put "exclusively" in front of what it was for rather than in front of exclusively organized and operated, meaning the same thing and carrying out the intent a little bit better. I think that's the only change and we singularized "profit corporation." Two, (B) (2) on that page we thought that Mr. Flory...we might sneak one by and we take out that property of a "bona fide labor organization"....

Questions

MR. DE BLIEUX

Judge Tate, I just wondered why...you notice in the...looking at the recommended change following the word "exclusively for religious on line 4, "dedicated places of burial." Wouldn't it have been much better if that particular clause had been placed after the words "educational purposes" on line 7 rather than where it is? Doesn't it seem like it's a little bit out of place hanging up here?

MR. TATE

Senator De Blieux, there is an ambiguity there but it was the definite intent of the Revenue and Tax people that it means...here is how you have to read it...but, it is an ambiguity and we have a floor amendment to somewhat clarify it, now here's the history on that. Dedicated places of burial were under the previous constitution whether they were nonprofit or profit were exempt from ad valorem taxation. The assessors' association called the attention of the Revenue and Tax Commission that there were large, large tracts that might be dedicated but not in use, you know, not sold for bodies.

MR. DE BLIEUX

I'm not speaking about the particular merit; I'm talking about the smoothness of the article because you see you start off and say, "operated exclusively for religious, charitable, health, welfare, fraternal, or educational purposes, or dedicated places of burial, you see.

MR. TATE

Well, Senator De Blieux, I think....

MR. DE BLIEUX

....or/and dedicated....

MR. TATE

I am inclined to believe you are right but the trouble was we were dealing with something that is...here's the way they read it: "operated exclusively for dedicated places of burial purposes, no part of the net earnings inure to any shareholder." Now, I think we could have said "or dedicated" but you see it's no part of the net earnings it was hard to make modify dedicated places of burial unless you use it as an adjective, you see, it is not grammatically accurate but to move it to somewhere else...you either have to have organizations operating dedicated places of burial, no part of the profit...it's just a difficult concept but after some fooling with it, we just figured we better leave it like it passed the floor because I can see the intent and to express the intent

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otherwise is going to very...is quite difficult, but we were... the committee did inform us and we have the yellow amendment that there was no intention to subject to ad valorem taxation actual private...actual family plots, plots in which there were bodies, plots that were already sold to individuals. We have a floor... a caveat amendment to call to your attention. There is no question in what you say, it's a great deal accurate but we wrestled with the problem as best we could and the sense of the thing as best carried out if you think of dedicated places of burial as kind of a phrase or adjective phrase sort of modifying dedicated places of burial purposes---that is apparently the meaning as difficult as it is to justify it grammatically.

MR. JENKINS

Judge, you know when this thing was put in there "dedicated places of burial" I was under the, I guess, mistaken belief that all dedicated places of burial regardless of who they were owned by, or so forth, would be exempt. For those of us who had that concept of the thing it would definitely have to be moved out of here; wouldn't it?

MR. TATE

Well, Mr. Jenkins, originally after it passed Style and Drafting and you, yourself, were good enough and another representative to go to the Speaker, the Speaker said to bring it up. We went back and looked at it. We went back to the legislature history and the legislature history is very plain, you see, the difference is if it's in Subsection (C) dedicated place of burial whether they operated for profit or not is exempt. If it's in Paragraph (B) (1), it's got to be a nonprofit operation to be exempt from taxation. If it's in Paragraph (C) where it used to be under the old constitution, whether it's profit making or not it's exempt. It was...I'm sorry to say, I mean, we were seriously concerned in view of the representations of those people that may have been a miscarriage of the intent. But, we followed the legislative history through. The Revenue, Finance and Taxation was adamant that that was its intention; it passed the floor in that way and we just were unable to do anything with regard to it except to have that caveat amendment to carry out the other intention which was, (1) to tax profit-making places of burial up till the time that the plots were sold to somebody but not to tax plots in which bodies are placed on which...but we haven't come to that caveat amendment yet.

MR. JENKINS

One other question. You remember that right after this thing passed I had come to you and asked about it and the initial reaction was you didn't think there would be any problem and then later we realized that there would be. So, if I do come and try to deal with this problem when you get to your caveat, I hope you will understand it's because I was told at that time that this would be the appropriate time to do it.

MR. DUVAL

Judge Tate, there's something that really concerns me in this provision is that I don't know...I'm sure everyone here probably read the book or saw the movie, "The Loved Ones." I just wondered if I dedicated a place of burial to pets, it wouldn't be exempt under here, would it?

MR. TATE

Well, that's a joke, son. You've got to leave the courts something to do.

MR. CASEY

Mr. Duval wants to know if he can get an early opinion from you, Judge, on it.

MR. COMAR

Judge Tate, I recall the discussion on this exemption as far as the burial places are concerned because I worked on it with many people including Senator Rayburn who was probably the most concerned individual. But, I know we are not on the caveat yet, but I believe that that does not express the sentiment of the group as I understood it. In other words, if a church organization owns a place of burial which is wholly dedicated to burial purposes and under this amendment, do you think that it would be exempt?

MR. TATE

Oh, no question about it. Look, this is what it means. "Property owned by a nonprofit corporation or association organized and operated exclusively for religious, dedicated places of burial, no part of the net earnings of which inure to the benefits of any private shareholder," you don't have any private shareholder....

MR. COMAR

Under the proposal as you have drafted I read that. But, do you read that also if we discuss it in the yellow pages?

MR. TATE

Oh, no. When the yellow pages come up that would mean in addition to nonprofit burials that's totally exempt. These others are exempt when for your own loved ones if not for your pets.

MR. COMAR

Fine, thank you very much.

MR. JENKINS

Yes. Judge Tate, as I understand it your caveat would not delete what you are putting in here on the right.

MR. TATE

Oh, no, oh, no, it would add an additional category.

MR. JENKINS

Well, so, in either case you are leaving in this dedicated places of burial as an adjective, that whole phrase as an adjective?

MR. TATE

Yes, Mr. Jenkins, it was the intent of the floor, we could work it out no other way without doing violence to what was the apparent intent of the floor.

[Amendment No. 13 adopted without objection.]

Amendment No. 14

MR. TATE

Amendment No. 14 is to Section 4 (C) on page 13. This has to do with property that's totally exempt from ad valorem taxation, you know, whether or not it's nonprofit and so on. Now, the changes made were in general we singularized and provided an "however." However, we were not able to...some members...we singularize by "a homestead" but in general the Committee on Revenue and Finance preferred we kept the plural on stocks and bonds and so on obligations, and we went along with them along that idea since they thought they had some views on it. The only other change made, there are very few changes made, you notice. In line with the general approach of styling, instead of having "it provided" we said "however" on line 15.

[Amendment No. 14 adopted without objection.]

Amendment No. 15

MR. TATE

As you will notice in [Amendment No.] 14 it was self-evident and I didn't call it to your attention, we also enumerated rather than have that long sentence. Section 15 is to 4 (D) on page 15. We generally just eliminated unnecessary "suches" and that's in general what we did. We simplified the language....(D) ending on page 16 if you will see that's, I think, the only changes made were along that line, don't use double prepositions, omitting needless words, voiding hackneyed reference phrases, using a comma to set off a nonrestrictive participial phrase and so on...and paragraph renumbered.

[Amendment No. 15 adopted without objection.]

Amendment No. 16

MR. TATE

Amendment No. 16, I forgot to call it up at the same time as [Amendment No.] 15. Again, this was to delete the section that you just replaced. On line 5, page 23 through 25 was the "raw materials", etc. exception which is shown on the left hand side of your green sheet...your green collection of Style and Drafting materials on page 15 which we have just replaced by that on the right hand side.

[Amendment No. 16 adopted without objection.]

Amendment No. 17

MR. TATE

Amendment No. 17 is to Section 4 (E) on page 18 of your green materials. As we did earlier, it added public motor vehicles used on the public highways of this state are exempted from special. We added "ad valorem taxes" because that's the context in which it's used. If you didn't use ad valorem, possibly some people would say it exempted them from other taxes.

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[Amendment No. 17 adopted without objection.]

Amendment No. 18

MR. TATE

All right. The next amendment, No. 18, is to revise stylistically Section 4 (F) on pages 18 and 19 of your green materials. It involves standardization of language and usage and the usual rules we have been following in stylizing in sections up until now.

MR. CASEY

Any questions?
Judge, did you want to consider [Amendment Nos.] 18 and 19 together?

MR. TATE

No, sir, for once you will see [Amendment No.] 19 refers back to something we added way up in Section 1, a section at the beginning.

[Amendment No. 18 adopted without objection.]

Amendment No. 19

MR. TATE

Amendment No. 19 is to delete the old [Section] 3 (H) which said "no additional property may be exempted from taxation." I believe it's Mr. Denney's amendment because what we did as I earlier explained, the old Section 3 became Section 4. So, in the introduction to the old Section 3, which is now Section 4, we said "and no other" in order to carry out the intent and put it right at the beginning for emphasis of what used to be Section 3 (H) and the deletion having done that, this should be deleted because it's no longer necessary because we said at the beginning of this section instead of at the end.

[Amendment No. 19 adopted without objection.]

Amendment No. 20

MR. TATE

Amendment No. 20 is to Section 5 on the right hand side of your green materials. In line with the usage we said instead of saying "the provisions of this article," you don't need that to say, "This article shall" it said "in no way shall be construed or applied," shall not be applied means the same thing; "In such a manner" there's one more such, it was a bad such "imposed prior to the effective date of this constitution," in this instance it made no change whether you said adoption or effective and in later sections you will see we found there was a problem and the same change in the latter. In other words, it says in the adoption it's not sure whether you mean on the date of the election or the date it becomes effective, but in this instance it made no difference.

[Amendment No. 20 adopted without objection.]

Amendment No. 21

MR. TATE

Amendment No. 21 is to Section 6 on pages 21 and 22 of your green materials. We again, on (2) we added "or its successor", on line 7 "Louisiana Tax Commission or its successor" in line with the situation throughout the constitution where we refer in the few instances, thank goodness, that we refer to a nonconstitutional board that could be changed by the legislature, then we will add "or its successors" in case the legislature changes it so it will be an accurate phrase in the years ahead. In general, the remaining changes here are simply the usual stylistic changes we have been making of avoiding hackneyed reference phrases, omitting needless words and so on. Now, this has been checked by Revenue and Finance as well as by ourselves and we found no...there was no...incidentally, in the interest of clarity, for instance, on line 17 in which Sections 1 and 3 of this article are implemented and in line 27 which Sections 1 and 3 of this article are implemented was felt it advisable to add those because that is what they are talking about when this purpose of implementing the provisions of this article. Those are the specific provisions that we are talking about, the reassessment according to fair market or use value. In order to make it crystal

clear, that's exactly what you intended, that was the...that specification was recommended to be substituted for the vague thing of implementing the provisions of this article.

[Amendment No. 21 adopted without objection.]

Amendment No. 22

MR. TATE

Amendment No. 22 is to Section 7 (A) at the top of page 24. Aside from adding a title the Revenue Sharing Fund was put in the active voice instead of the passive voice, in other words,... the fund was put first. "The Revenue Fund is created as a special fund" instead of a special fund "is created that it's known by..." It was thought that the better emphasis should be on what is created instead of saying, generally a special fund is created which shall be called "and so on.

[Amendment No. 22 adopted without objection.]

Amendment No. 23

MR. TATE

Amendment No. 23 which is Subsection 7 (B) is on page 24 of your green materials. Generally, we just eliminated a "hereby" as unnecessary and had a general reference to the fund instead of repeating "Revenue Sharing Fund" over again.

[Amendment No. 23 adopted without objection.]

Amendment No. 24

MR. TATE

Now, in the next section, Section 7 (C) we should point out to you that lines 14 to 29 were formally found as part of Section 6 (D) on page 27, onto your left---that part was formally found in that section. By putting it here it is thought that it would be...it's the beginning part of [Section] 6 (D)...excuse me, it's the end part of the original [Section] 6 (D) which is generally to all parishes. We thought it was more logical to put that up in [Section] 6 (C) which is talking about the general formula for all parishes and to leave in (D)...as to (D) the distributing officer requirement as a separate section. The other changes, Mr. Chairman, are simply style...ordinary stylistic changes.

[Amendment No. 24 adopted without objection.]

Amendment No. 25

MR. TATE

All right. Amendment No. 25, Mr. Chairman and fellow delegates, simply restylized the beginning portions of former [Section] 6 (D), the latter half of which has just been transferred to the preceding section, practically no changes were made.

[Amendment No. 25 adopted without objection.]

Amendment No. 26

MR. TATE

Amendment No. 26, Mr. Chairman, is to [Section] 7 (E) on page 28 of your green materials. They were simply stylistic changes made here and I don't think that anything that requires any explanation that's not immediately apparent.

[Amendment No. 26 adopted without objection.]

Amendment No. 27

MR. TATE

Amendment No. 27 to Section 8 (A) on the top of page 30, the right hand side of your green materials omitted "there is" as unnecessary; shortened a sentence and rearranged the phrases

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to place "election" first in this series, "election, duties, and compensation" because it's in that order. He's elected; he's got duties and he might get paid.

[Amendment No. 27 adopted without objection.]

Amendment No. 28

MR. TATE

Amendment No. 28, Orleans Parish, the seven assessors....we left their "shall be" because it was the easiest way to get into Board of Assessors and it seemed to be....and also because our suggested stylistic chaoging wasn't approved by the Revenue and Taxation Committee as I remember, except for the same sort of stylistic omission and punctuation as in the preceding subsection, there are no changes made.

[Amendment No. 28 adopted without objection.]

Amendment No. 29

MR. TATE

Twenty-nine is to Subsection 8 (C)--8, Subsection (C)--on page 32 of your right-hand side. The changes are:using a comma to set off the introductory clause, omitting needless words, and the usual stylistic changes, that we've been following, to be consistent.

[Amendment No. 29 adopted without objection.]

Amendment No. 30

MR. TATE

Amendment No. 30 is on tax sales. This is on tax sales. It's more about tax sales than there is about the executive and legislative branches of government. It goes on from pages 33 on through 36. Despite our best efforts, we couldn't shorten it very much. It could have been shortened a lot, but what had been proposed to be shortened a lot by...had not been approved by the floor. So simply, our general work that we did was just to subsection it, and try to break the sentences up a little bit so that it would read a little bit clearer. Of course, this is the kind of material that ordinarily--in this detail--you wouldn't have in a constitution, providing for all that detail, but nevertheless, the floor rejected that approach. So, this is just an ordinary stylized stylizing, doing the best we could. The only sort of change that I might call to your attention is that when it mentioned the State Board of Liquidation in the middle of all this, we changed it to the Interim Emergency Board, which is a new name of what, in the old constitution, was called the State Board of Liquidation.

[Amendment No. 30 adopted without objection.]

Amendment No. 31

MR. TATE

Amendment 31, which was the old Section 1 (H) found up way in the beginning, which talks about reevaluating property according to fair market value or according to the use value. It was thought better, Mrs. Zervigon, to put this at the end of Section 10 so, in the event later on, we can get to transitional measures, this could be taken out very easily and put into the transitional provision. It was formerly Section 1 (H) on page 3, line 14, following the enrolled copy, and it was thought better to remove it to the end like this, as I said, specifying that it passed the reevaluation according to the fair market use value, but also placing it at a place where Mrs. Zervigon's committee--if we have the chance to, say--might more easily get it over to transitional measures.

MR. CASEY

Are there any questions of Judge Tate on Amendment No. 31?

Is there any discussion on Amendment No. 31? Judge Tate, inasmuch as it looks like this adds a new section, the Clerk suggests that we ought to have a record vote, just so there'll be no problem in the future.

[Previous Question ordered. Section passed; 91-0. Motion to reconsider tabled.]

Amendment No. 32

MR. TATE

Mr. Chairman, Amendment No. 32 is to effectuate the intent of the last amendment and to delete from the original enrollment lines 14 through 21, which had that provision in Section 1 instead of as Section 10. By now, it's in the nature of a technical amendment.

[Amendment No. 32 adopted without objection.]

Amendment

MR. POYNTER

Before we go into the caveat amendments, since yours didn't appear to be controversial, you want to go ahead and take it now? Yes, sir, we're having them distributed right now.

Amendment No. 3--there was a little confusion at that time--Amendment No. 3 had been adopted when Mr. Avant got up and made that question to Judge Tate. We were really on Amendment No. 4. Mr. Avant's amendment has been prepared as an amendment to the amendment adopted, which is Amendment No. 3--Style and Drafting Committee back on the first white sheet here. So, it will amend the first white sheet, Amendment No. 3.

Explanation

MR. TATE

The reason for the amendment--and I'm glad Mr. Avant caught it; we haven't missed it much; we missed it here--is when you say the legislature shall do something, ordinarily, almost always the intent has been that you meant "by law". It passed "by law" and the governor can veto it. It's not something independent of government, and to specify that, wherever it is appropriate --which is, usually, we have said "the legislature by law". We've been making the heading "by law" or saying, "it shall be done by law," instead of by the legislature. We have watched a few instances in the constitution where they meant only by a concurrent resolution.

[Motion to suspend the rules to reconsider Section 1 of Committee Proposal No. 26 for the limited purpose of considering the Avant amendment adopted without objection. Motion to reconsider adopted without objection.]

Reconsideration

Committee Proposal No. 26, Section 1

Questions

MR. DE BLIEUX

Judge Tate, I'd like to just ask this question to find out whether or not the amendment of Mr. Avant is necessary. You see, in the provision that you have, you say "the legislature may provide" similarly. Now, if the legislature provides, isn't that by law? Why do we need the repetition by saying "by law"? Because if the legislature is making the provisions, it's by law.

MR. TATE

Senator De Blieux, I would be inclined to agree with you except for the couple of instances where the court has gone wrong where they said the legislature shall do something, and they say they could do it by concurrent resolution. That's now a possibility in our law. The most normal--I forget the other instance. Many people think that the original requirement when

it said "the legislature may waive immunity," they meant "by law"-- "by law". But, that is now accepted as a concurrent resolution. The language in that... we have tried to clarify it. I think you're right. I don't think they would, in a million years, say the legislature could do it without the governor, but because of the fact that we've used the standardized language--and when we say "by the legislature", tried to say "by law" instead, through-out---it might be a good thing to adopt Mr. Avant's amendment just because that's consistent with our usage. I kind of agree with you; it's not necessary, but...

intent if that is the intent. That particular one was rejected and placed in this form because some people thought that it might...public service properties, you know, and where I don't agree with them, that was the best way to do it.

[Amendment No. 33 adopted without objection]

Amendment No. 34

MR. DE BLIEUX

I just feel like if you're going to change it that much that maybe the whole phrase should be changed to eliminate the absolute-- looks like to me--duplication by the words. If you say "similar provision may be made by law" for buildings of historic architectural importance, I could see that. But to say the "legislature by law", that just looks like redundant duplication.

MR. TATE

Amendment No. 34 which I'm going to ask Mr. Conroy to explain because he has been with the Committee on Revenue throughout the deliberation, is on page 3 of your green materials. It adds a Subsection 10; it inserts one that's not there, in saying, "properties exempt from taxation"--totally exempt, that means-- "of property irrevocably dedicated places of burial held by individuals for purposes of burial of themselves or members of their families;". This would be an insertion on your other materials on page 13; it's between 9 and 10 on line 28. That paragraph would be inserted. The remainder of the amendment is to change the numbering, if you approve it. Now, Mr. Conroy, if he'll be good enough, he can explain to you the background and history of the thing.

MR. TATE

Senator, if we'd caught it, we would have done it this way. I agree; maybe it could be done better. But, this will avoid that ambiguity. I agree with you that it probably could be done better, but we're now aiming for 99.2 instead of 99.4.

Mr. Chairman, in further answer to Senator De Blieux, incidentally, the other provision in the constitution that has that interpretation is Article III, Section 34 of the present constitution, which says "Salaries may be changed by a vote of two-thirds of the members of each house of the legislature," and when they didn't say "by law", the later attorney general's opinion says it just needs to be by the legislature, not by the governor. That's the sort of thing we're trying to avoid.

Explanation

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 91-0. Motion to reconsider tabled.]

MR. CONROY

Actually, I think that Judge Tate has already explained the reasoning that went behind this. The question had come up as to the meaning of this phrase as it appeared in Paragraph (B). The Committee on Revenue, Finance and Taxation, I think, unanimously felt that the only error that had been made was possibly in failing to give an exemption for places of burial in which somebody had been buried, or which had been sold to an individual for burial use. The committee felt that it was not intended in any way to extend the exemption for burial places to burial places commercially owned to be sold by a commercial operation at a later date. That's the reason we suggested this additional exemption. I don't know whether Mr. Jenkins wants to pursue the questions he had raised earlier, but this, we felt, clarified the intent of the Committee on Revenue, Finance and Taxation, to add this exemption.

Amendment No. 33

MR. TATE

Now, we're getting to the caveat amendments. They are, of course, on your yellow sheets. The first is going to be on Amendment No. 33, which on your yellow sheets, adds the phrase... adds a sentence in lines 10 to 13: "Each assessor shall determine the use value.....which is to be so assessed under the provisions of Paragraph (C)." That is found on your original materials at Section 1 (D), page 4. Now, the reason we ask for clarification: as the committee draft wrote it, there was no mention of use value. So, they said "the assessors shall determine the fair market value of property subject to taxation within his district, except public service properties," and those are valued by the Tax Commission. Now, this seems to leave a hiatus to some who would assess the use value, but the obvious intent from the floor debate, from the structure of the article, and all that, was that the assessor would determine the use value of the property under (C), which is agricultural, horticultural, marsh, and so on lands, and the historic buildings and the historic architectural importance. Now, in order not to leave that sort of hiatus, we asked revenue and taxation if we shouldn't be clarified in some way; and they came back and suggested this language, which we are calling to your attention for your consideration in order--if it is your intent--to end the ambiguity and to provide...to clarify that in the whole Section 1 who does what as to each use and fair market value. This would clarify that and place it--as we believe--with your probable intent to, let's say, the assessors shall determine use value subject to the other provisions. You have to do it by criteria established by the state legislature.

Questions

Questions

MR. ABRAHAM

Judge Tate, why was it necessary to just add a complete new sentence here dealing with use value? Why couldn't you have simply said at the beginning that "each assessor shall determine the fair market value or use value of all property subject to taxation?"

MR. AVANT

Mr. Conroy, if this amendment is adopted as is, then under the terms of this constitution, the only places of burial that will be exempt from taxation will be those that are owned by an individual or those that are owned by a nonprofit corporation for that purpose; isn't that right?

MR. CONROY

That's correct.

MR. AVANT

Now, isn't the law that even a profit-making venture, when it opens up a cemetery and files a plat and says "this is a cemetery, and this property is dedicated for places of burial," that they have to comply with certain perpetual care requirements, etc., and in effect, that property is taken out of commerce? It can never be used for any other purpose; isn't that right?

MR. CONROY

I'm not sure that it's that irrevocable, Mr. Avant, but, yes, there are statutory provisions along those lines. If they were an area of a cemetery that had not been used, I think you could probably, with the consent of the parish governing authority, get a part of that dedication revoked at a later time if you hadn't sold any plots.

MR. AVANT

But, you're not sure of that; are you?

MR. CONROY

No.

MR. AVANT

Under the law as it now exists, once property has been dedicated and laid out as a cemetery and a plat has been filed, then that property is not subject to ad valorem taxation?

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MR. CONROY

At the present time, all places of burial are exempt at the present time. That's correct.

MR. AVANT

I wanted to clarify that.

MR. CONROY

That's correct; it is a change.

MR. AVANT

I just want to speak against the amendment. I have another amendment that I'm going to offer.

MR. CHAMPAGNE

Is it true that some people felt that without this amendment there was a possibility that individuals owning places of burial in a commercial place might be taxed?

MR. CONROY

Yes, that was the purpose of the additional amendment as far as the concepts involved in what the committee had initially done and what the convention had initially done. I think the concepts applicable here to cemeteries was the same that we applied to schools, nursing homes, etc. and that is: that those who are operated commercially would be taxed; while those who were on a nonprofit basis would not be. However, unintentionally in doing that, we subjected to possible taxation, places of burial held by individuals, and we did not intend that result. That's what the purpose of this amendment.

MR. NUNEZ

Mr. Conroy, the question you just answered was one I was going to ask you. One step further: Wasn't it brought out in committee--I think by Mr. Slay--that there are several places in this state that have dedicated places of burial? Maybe there's forty acres that are dedicated, or we tend them, are being used for burial; the other thirty would be used, for example, for something like a golf course. As it's needed for burial, they'd just take another acre or two acres. Wasn't that brought out in that those other thirty acres are not now subject to taxation?

MR. CONROY

There was discussion...I don't recall whether that there was a discussion of it being at this time used for other purposes, but the fact that it could certainly be held for investment purposes on that basis, and then later the dedication revoked and the property sold and have escaped taxation during that time that it was held. That's right.

MR. NUNEZ

The only purpose for this amendment then would be to guarantee that an individual or a family that had title to that property would be exempt from taxation?

MR. CONROY

That's correct.

MR. NUNEZ

And not the people who are making profit on the other piece of land?

MR. CONROY

That's exactly the concept of the committee.

MR. DE BLIEUX

Mr. Conroy, I noticed that there is no provision in the amendment to eliminate the language that was previously adopted in the section.

MR. CONROY

That's correct.

MR. DE BLIEUX

Now, this would in essence--even though it might be that I know it was the intention of the committee--so this would be the adding of additional exemptions which was not really adopted by the convention, even though that was our intent; is that correct?

MR. CONROY

Well, I guess that question could be raised. Yes, we felt I thought the committee unanimously had felt that this was clearly our intention.

MR. DE BLIEUX

I feel like that was the intent of our committee.

MR. CONROY

That's correct.

MR. DE BLIEUX

There's no questions about that in my mind. But I say this does add something which we inadvertently left out.

MR. CONROY

This is additional language; that's correct. The other would not be changed; it would be left as it was.

MR. DE BLIEUX

But it would not change the other, previous wordage, which was adopted?

MR. CONROY

Correct.

Further Discussion

MR. AVANT

Mr. Chairman, I'm not going to go with my amendment. I yield to anybody else who may have one.

Further Discussion

MR. JENKINS

Mr. Chairman, I have an amendment. Now, I suppose their amendment will have to be adopted first; is that correct?

Well, then in that case, I would like to speak on the amendment that's being offered.

Mr. Chairman, delegates, I'd like to have your attention for just a moment....

This is a matter that, in the whole scheme of the state, is not very important and, certainly, in terms of the financial income of the various political subdivisions, is not very important; but it is something that is very important to some people in our state who have made investments in cemeteries, and it's important enough that we need to address ourselves to it. As you know, under the present constitution, all dedicated places of burial of every sort are exempt from property taxation. Now, there is an amendment adopted, when we were on revenue and taxation, which included--if you'll look on the yellow sheet, page 3, the top of the left-hand column, where it says "dedicated places of burial"--there was an amendment inserting those words: "dedicated places of burial." At that time, I felt--and a number of people thought--that we were thus continuing the exemption for all dedicated places of burial. However, because of the context that amendment now finds itself in, it means that only dedicated places of burial owned by nonprofit corporations are exempt from property taxation. When the Revenue and Finance Committee found out about this change, they realized that we would then be taxing places of burial, even if someone's buried there or even if it's held for burial. Thus, they have proposed this caveat amendment, and I think their amendment is good. I think that it clarifies the intent of the amendment as originally introduced, but I don't think that this amendment by Revenue and Taxation goes far enough. It is still leaving some problems unanswered; so I'm going to ask you to adopt their amendment, but I'm going to offer a further amendment after that; to try to clarify it. The amendment that I will offer would, in item number (10) on page 3, delete part of what they have and insert some other language, and it would say: "irrevocably dedicated places of burial not used for other purposes." Now, the reason for this is as follows: We have had people in this state undertake to build cemeteries--to clear the land, to invest the money required--some of them, ten, twenty, thirty years ago. They have set up a business that's going to last, probably, for centuries. They have established trusts; they've made plans; and they have made a situation whereby the financial structure of their organization is dependent on the fact that they're not going to be required to pay property taxes. Unless we make the change that I'm going to suggest to you, we're going to put additional taxes on someone that have not now contemplated paying these taxes, and I think we're going to create some havoc for this segment of our economy. Now, let me give you an example of what can happen. Suppose a man has a thirty-acre plot that he purchased twenty years ago for purposes of development as a cemetery. In that time, ten acres has been developed. At the time that he began his development, he was out in the country--in a rural area--and the property was not worth very much; and, even if he didn't have a cemetery on it, he wouldn't be paying much in taxes. But, in the

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meantime, the city has grown up around it--in the last twenty years--and there are now subdivisions all around it. If this man is required to pay property taxes on that remaining twenty acres that is yet to be developed, it will be assessed at the fair market value of the surrounding subdivisions, and he will be forced to dispose of that land and not continue to keep it for cemetery purposes. He'll have to sell it for a subdivision. Now, that means that we're going to see, increasingly, it almost impossible for people to develop cemeteries. We're going to either have postage-stamp cemeteries or all of them owned by nonprofit corporations. Now, here's the thing you must remember: The people who pay taxes on plots of burial are not the owners of the cemetery, the person who's developing it. The people who pay it are the people who buy the plots. If we tax cemeteries--whether they're in development or not--it's going to be the people who are going to buy the plots who are going to ultimately pay these taxes. I just don't see any reason that we need to start today--in 1974--start taxing places of burial, when they've been taxed before. There's no reason for it whatsoever. So, for that reason, I'd urge you to adopt this Style and Drafting caveat. Then, after it's adopted, I want to offer an amendment to further clarify this situation. I hope you'll consider my amendment at that time.

Questions

MR. LANDRUM

Don't you think, since 1921, you've had a great change in the business of burying people? At one time, there wasn't any money in it too much, but that's a big business today. Don't you think developers should pay a tax?

MR. JENKINS

Oh, I think they're paying plenty of taxes, Reverend. I think they're paying plenty in income taxes; they're paying all sorts of taxes. But, what we're talking about now is whether or not we're going to start taxing dedicated places of burial that have never been taxed before. Now, I don't think we should. I think we tax people all through their lives....

MR. LANDRUM

No, now, I'm not talking about your churches' cemeteries or army cemeteries or either city cemeteries. I'm not talking about such places.

MR. JENKINS

Well, that is what you're talking about, Reverend, because the people who pay these....

MR. LANDRUM

I'm talking about those persons that go into the business. You have your rest beauties and, well, quite a number of places where you bury people. I mean it's not a cheap business today; it's quite an expensive business. Now, don't you think those people should pay taxes?

MR. JENKINS

Reverend--just let me answer your question is--the only income these people have is from the people who are buried there. Those people have to pay these taxes. That's who's paying the taxes--the people who are going to be buried there--because that's the only source of income these cemeteries have.

MR. LANDRUM

A built-in tax system--that's what you're saying then?

MR. JENKINS

Of course.

Further Discussion

MR. SLAY

Mr. Chairman, members of the convention, I don't rise here with real strong feelings about assessing property that is owned by commercial establishments who are out in the cemetery business, but I want to point out to you that, if I bought a tract of land--say, forty acres--and I start selling that at about six hundred dollars for each burial plot, I am going to get about two hundred thousand dollars per acre for that piece of land. It's inconceivable to me that I can come and ask you to exempt me from a piece of land that, in time, I'm going to get about two hundred thousand dollars per acre. Now, we talked about it being irrevocably dedicated. There's no such thing. There's nothing that we can do that can't be undone. I'm going to give you an example. There's a place in Rapides Parish where we had a cemetery that had been there for about a hundred years. All of a sudden, the

government decided they needed an airport there. They dug these people up--or dug up the ground of people who had been there about a hundred years--moved them five miles over, and there now is an airport, Esler Field, sitting on top of the cemetery. What I'm trying to say to you: If I had a piece of land there, and I put a plat on record--said this is going to be a cemetery--I sold a few plots off, I'm going to hold a piece of land that I'm going to make a profit off of, and I'm going to ask you now to exempt me. If we're going to do that, why shouldn't we go to the funeral directors and exempt the caskets from ad valorem taxes because, after all, they're going to pass those taxes on to the consumer. Everybody passes their taxes on to somebody else. So, I urge you to adopt what we have--what Mr. Conroy has submitted to you--and that we should stop at that point. Thank you, sir.

Questions

MR. ROEMER

Charlie, we never meant to--and don't--with this language tax religious cemeteries, do we?

MR. SLAY

We've never taxed religious....

MR. ROEMER

And, we also don't tax nonprofit cemeteries, do we?

MR. SLAY

Nonprofit ones are not on the roll.

MR. ROEMER

We also don't tax plots that are occupied by bodies, do we?

MR. SLAY

No.

MR. ROEMER

We also don't tax plots that are held by members of a family for members of that family, do we?

MR. SLAY

We do not.

MR. ROEMER

All we're getting at here is those corporations in business for a profit who have land that's not developed, even though it's for burial places. Isn't that true?

MR. SLAY

That's right, and let me point out to you that we have four commercial cemeteries on the tax roll of Rapides Parish, and not one of these people have asked us not to put them on there.

MR. ROEMER

So, don't you think that we ought to adopt the Style and Drafting caveat here because it clears up our intent, but then hold the line against any further amendments?

MR. SLAY

I agree a hundred percent, Buddy.

MR. JENKINS

Charles, don't you think that we're going to be, for one thing, creating clouds on a title of burial plots? because, if a man doesn't pay--say, the developer failed to pay the property taxes on it one year, and it sold the next, you would have a situation arise where a person could be concerned about whether or not he...back taxes are owed on these plots for burial and things like that?

MR. SLAY

No, I don't believe there's any danger at all of that. Let me point out to you that very few times do they even put those deeds on record when a plot is sold.

MRS. MILLER

Mr. Slay, isn't it true that very seldom do people include the burial plots in the succession records when they're transferring title? It just kind of stays in the family and goes on and on, but no transfer of title on these private burial plots?

MR. SLAY

Well, now, I don't know about successions. You'd have to ask a lawyer on that, and I don't know whether you're speaking about commercial plots or not.

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MRS. MILLER

No, I mean private.

MR. SLAY

On private, in the cemeteries--most church-owned cemeteries--there is no title to that plot to start with. It's just owned by the religious order there.

MRS. MILLER

Now, in some of your cemeteries, you have the families--someone will buy the plot from the association that owns the thing; this is still noncommercial. Like in Jennings--the city of Jennings has title to all the property and, yet, you buy this lot. It's been our experience with the IRS it's not required that you show the ownership of this burial plot, though you may have paid fifteen hundred or two thousand dollars for it. So, this would indicate that the state, too, should not try to tax private burial places.

MR. SLAY

That's right. Now, you're speaking about--if I understand you correctly--in a nonprofit corporation, not a profit corporation.

MRS. MILLER

That's correct.

MR. SLAY

Of course, what we have exempts those nonprofit corporations from taxes. What we're speaking about here is only those that are owned by a commercial establishment.

MRS. MILLER

So, you think we'll be protected on these private things by adopting the committee proposal.

MR. SLAY

They sure will be.

[Amendment No. 34 adopted without objection.]

MR. POYNTER

Before we go to Amendment No. 35, Mr. Jenkins, of course, had mentioned on the mike, and he does have a pending amendment which would propose--and the amendment has been passed out--would propose the addition of further language to the Amendment No. 34. Of course, that's ultimately going to take a suspension of the rules. Did you explain your purpose, Mr. Jenkins, when you made your original remark?

MR. JENKINS

Mr. Chairman, I don't know whether it'd take a suspension of the rules or not, truly. I think that this is a style and drafting change that I'm proposing, not a substantive change in relation to the intent of any of the delegates, because when we inserted the language--and this was one amendment that inserted the language "dedicated places of burial"--my intent, and the intent of many delegates, was that all dedicated places of burial would be exempt--just what it said. But, because of the context in which it was inserted, it ended up not meaning that. So, the amendment that I'm now proposing keeps that intention intact. Frankly, you know, I have no interest in this, one way or the other; but it was called to my attention immediately after that vote what we had done, and I was told that the appropriate place to deal with this was when we got to style and drafting changes, and I've been preserving it throughout this time. So, for the limited purpose of considering this--which I consider a technical change in relation to the original amendment--and to maintain the meaning of the original amendment, I'd like to ask for a suspension of the rules for the purpose of offering this amendment.

[Motion to suspend the rules to reconsider Section 4 of Committee Proposal No. 26 for the limited purpose of considering the Jenkins amendment. Record vote ordered. Motion rejected: 54-48.]

Amendments Nos. 35, 36 and 37

MR. TATE

Mr. Chairman, fellow delegates, the next three amendments deal with the same technical point which is this: taking over from the present constitution the treatment of exemptions. We refer to points outside the continental United States--for export to a point outside

the....Now, these amendments--let me tell you where they are, first, and what is being done.

On page 5 of your yellow copy, on line 9 where it says "states of", circle that. That "states of" is going to be substituted for "continental United States." On same page, on line 4 of Section (D), same thing--"continental" to "states of". On the next page, 6, the amendment is correctly worded, by the way; but through a typographical error, the correct language you just adopted that you're going to amend is on the left-hand side. But, in either event, what you're doing is changing "continental" to "the states of". It's on the left-hand side because, by error, they copied the old language here and the new language on the left-hand side, instead of vice-versa. Now, the reason for all three amendments is this: As adopted from our previous constitution--or, rather, from the existing constitution of 1921--we had certain exemptions which did or did not apply with regard to trade within the continental United States, or only to trade outside the continental United States. Now, "continental" was accurate at the time it was adopted because we had forty-eight states, all within the continental United States. We now, of course, have fifty states--one of which clearly is outside the continental United States, Hawaii; the other, which is Alaska, which in the view of some might be considered outside the continental United States. Now, all of these three amendments--they would be denial of equal protection to the citizens of these other states that might be outside the continental United States, or that are outside the United States, under the federal constitution. It raises questions like that, and it raises questions of an unreasonable burden on interstate commerce, if we don't include within the exemption, or nonexemption respectively, all of the states of the United States--not just the forty-eight or forty-nine continental states. So, in order to avoid the complication and in the unanimous opinion of both committees, the sense of what you intended and what was the stark purpose of the original exemption, or nonexemption, as provided by the previous constitution, is carried out by substituting for "continental" the words "the states". So, these three amendments--35, 36, and 37--in each case, substitute for "continental" "states of the," meaning states of the United States for "continental United States. With that explanation, Mr. Chairman, and subject to further questioning, I move the adoption of all three amendments, which are related--35, 36, and 37.

Questions

MR. WINCHESTER

Judge Tate, does that give any more rights, or it just clarifies it?

MR. TATE

In the opinion of the committee--we brought it to your attention in case you think it gives more rights--in the opinion of the committee it gives no more rights than the federal constitution would allow. In our opinion, it clarifies your intent, which is commerce within the United States--within, at least, the states of the United States--is either protected or nonprotected, as the case may be; and, in our opinion, it does not do anything more than clarify it. But, because of the fact that we wanted to be sure that you here could pass on it, we bring it to your attention by way of yellow amendment.

MR. WINCHESTER

Thank you, sir.

MR. DE BLIEUX

Judge Tate, I'd just like to ask: Why didn't the committee consider just leaving out the word "continental" rather than adding in the words "states of the United States"? What difference would it make?

MR. TATE

The committee considered saying "outside of the United States," but the question is it might become a change in intent, because the territories of the United States, historically, may not have been considered part of the continental United States, and there's no federal constitutional question raised as to denying equal protection to a citizen of a state when we say "the states of." That is the reason. Our initial recommendation was just to delete "continental." The Revenue and Finance pointed out to us that it might amount to a change, because up until the present time, let's say, Puerto Rico--a territory of the United States--or Guam--a territory under the administration of the....or our protectorates throughout the Pacific. It might be a change; so, in order to hold it down to what we felt was the meaning of continental United States as it passed the floor, meaning the states of the American Union, as well as to avoid questions as to if it was restricted only to the forty-eight original states, or the forty-nine states on the continent--whether it might not be a denial of equal protection to the citizens of any states excluded.

MR. DE BLIEUX

Well, that's the point that concerns me, because I know, as the verbiage was originally written many years ago--that's even before 1898--we referred to the continental United States as being only those states located within the, you might say, the North American continent at that particular time. Now, if you use the words "states of the United States," then you're excluding that territory which is part of the United States which has not achieved statehood yet.

MR. TATE

At the present time, Senator De Blieux, there's no part of the United States that is a territory. There's no part.

MR. DE BLIEUX

What about Puerto Rico?

MR. TATE

That's not part of the continental United States.

MR. DE BLIEUX

It's not part of the continental United States any more than Alaska is or--well, I might say Hawaii--but it is a state. That is, Hawaii is a state, but it's not located within the original confines of the original forty-eight. I can see that possible discrimination there, insofar as the territory. If you're speaking about territory which is under the jurisdiction of the United States, then, by this particular amendment, you're excluding Puerto Rico and Guam and those particular areas, while, on the other hand, if you wanted to limit it to the original forty-eight states, well, then, you're including Hawaii, which has no connection with the original forty-eight--or Alaska. The way it's worded, I think you're inviting some problems; that's my point.

MR. TATE

Well, Senator, we brought it to the attention of the convention floor for their consideration. Our view, with regard to what you mention, was that, if Puerto Rico is excluded now, it would still be excluded. If Puerto Rico is considered a state for certain purposes, as is, for instance, the District of Columbia, then, that it would be protected. We yield to the expertise and the judgment of the membership. We are only calling it to your attention as an area that may need clarification. You may not think it does, or you may think it'd be better to be left unclarified.

MR. DE BLIEUX

I just wonder if the possibility for clarification of what the original intent of the amendment might be, that if it might not be better that we just exclude the word "continental" rather than just saying "states" because, insofar as state is concerned, even the District of Columbia is not considered as a state; and yet, it is part of the original continental United States as originally existed. It certainly was included within the definition originally part of our constitution, while, on the other hand, the territory of Alaska was not included in that. Yet, under the amendment you have now, it would be included, you see, while the territory of Guam and Puerto Rico would not be included, you see, in this. So, I think, if we're to say "the United States"--which, I think, was the original intent as we had before we acquired Alaska and those territories--that we ought to just say "United States" rather than "continental."

MR. TATE

Well, Senator, here's the situation: that was our recommendation--to delete "continental," to consider caveating deleting "continental." The Revenue and Finance Committee came back with the thought that continental United States, as used, does exclude our overseas territories--our noncontinental territories like Puerto Rico and Guam right now--but that the probable intent, and, at any rate, it'd raise a serious federal question of denial of equal protection and interstate commerce if we leave out Hawaii. So, for that reason, instead of deleting "continental," they recommended inserting "states of." The only alternatives that were given to us as nonsubstantive changes were either to leave in "continental," with its questions and inaccuracies and intent, or putting "states of," which would include most of the intent, at least--if not all of the intent--and avoid the federal constitutional question. That was our problem, Senator.

MR. ALEXANDER

Judge Tate, if you were to utilize the language that's found in the constitution of the United States and simply state at the end of the sentence, "or any territory subject to the jurisdiction thereof," would it not include Senator De Blieux's objection, possibly, or satisfy his objection? which would include Guam or Puerto Rico, or any other place which may come under the jurisdiction of the United States government subsequently.

MR. TATE

Yes, Reverend Alexander, if we did include that, it would include those territories; but our problem was that, if it did include them, it would be regarded as substantive. We had originally thought that leaving out "continental" would accomplish the result. There were objections made by the tax experts that it would change the intent if we said--in effect--said "or territories." So, for that reason, whatever equities there may be in it--for that reason, since it would be a substantive change, we regarded ourselves as limited to the amendment we're proposing now, sir.

[Amendments Nos. 35, 36 and 37
adopted without objection.]

Personal Privilege

MR. PUGH

Mr. Chairman, fellow delegates, you will recall that the Honorable Governor of this state on Thursday suggested to you, and I quote, "There are serious questions which have now been raised as to whether or not the language in the proposed article on Revenue and Finance impairs the authority of the Superboard, HEAL, and some of the other state agencies to issue revenue bonds. On the advice of bond attorneys, whose opinions I respect, and in the knowledge that we may someday want to issue revenue bonds, I suggest that you clarify that language, and we will submit for your consideration a document for that purpose. In that connection, Mr. Juddell, a lawyer of great prominence in this field has made an examination of the constitutional provisions as passed by this body and has made certain recommendations. In connection with those recommendations, I call your attention to the fact that three illustrious lawyers in this body who also have a great deal of knowledge on the subject have concurred and agreed that the provisions that you will be considering in a minute would rectify the problem that has been brought to the attention of the governor. These lawyers are Mr. Conroy, Mr. Kean, and also, Mr. Dennery. I would like to submit these matters to you this morning for your consideration."

[Motion to suspend the rules to call
Committee Proposal No. 15 from the
Committee on Style and Drafting
adopted without objection. Motion
to reconsider Committee Proposal
No. 15 adopted without objection.
Motion to suspend the rules to re-
consider Section 7 adopted without
objection. Motion to reconsider
Section 7 adopted without objection.]

Reconsideration

Amendment

MR. POYNTER

Amendment No. 1-- and, of course, this is drafted to the first enrollment of the proposal.

Amendment No. 1. On page 4, at the end of line 2 add the following:

"However, any state board, agency, or commission heretofore or hereafter authorized by law to issue bonds may, in the manner so authorized, and with the approval of the State Bond Commission or its successor, issue bonds which are payable from fees, rates, rentals, tolls, charges, grants or other receipts or income derived by or in connection with an undertaking, facility or facilities, project or projects or any combination thereof without a pledge of the full faith and credit of the state. Such type bonds may but are not required to be issued in accordance with the provisions of Section 7 (A) and (B) hereof and if issued without a pledge of the full faith and credit of the state the issuance of the bonds shall not constitute the incurring of state debt under this constitution."

Explanation

MR. PUGH

Mr. Chairman and fellow delegates, by my preliminary remarks, I have suggested to you what there is before you for consideration. I reiterate, that if any or all of these gentlemen were called to appear before you, that's Mr. Kean, Mr. Conroy or Mr. Dennery, they would all evidence to you their approval of this amendment. In that connection, I'm also authorized to say that Mr. Kean had discussed this with you at 7:30 p.m. on the night in which we actually adopted this section. We were all tired. We did not at that time take his suggestion. I highly recommend at this point in time that we do so, and I'll submit to any questions.

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Questions

MR. ROEMER

Bob, in the last sentence of this proposed amendment it says "such type bonds may but are not required to be issued in accordance, etc., provisions of 7 (A) and 7 (B)." That means, as I understand it, that these bonds may circumvent our intent of a two-thirds vote. They also may circumvent our intent of having them in the capital budget; is that not true?

MR. PUGH

Let me get those sections; just a minute.
I am informed that they do not have to be issued by the legislature, and to that extent the statement is correct.

MR. AVANT

Mr. Pugh, as I read this, these bonds may be issued without compliance with the two-thirds vote and those other provisions and they may nevertheless constitute a pledge of the full faith and credit of the state. Doesn't say that they may be issued, but if issued, they won't have a pledge of the full faith and credit. So, they may be issued without going through those safeguards that were put in there and nevertheless have the full faith and credit of the state behind them; isn't that right?

MR. PUGH

As Mr. Kean has explained to me, the only way that can occur is by then having the two-thirds vote of the legislature.

MR. AVANT

Well isn't the two-thirds required under either 7 (A) or (B)?

MR. PUGH

7 (A).

MR. AVANT

All right. So they are not required to be issued in accordance with the provisions of 7 (A) and "if issued without a pledge of the full faith and credit shall not constitute the incurring of debt," but if you go back up in the preceding sentence they say that they "may be issued without a pledge," but there's no prohibition against them being issued with a pledge of the full faith and credit; isn't that right?

MR. PUGH

As I understand from Mr. Kean-- I just don't have it before me is the reason I'm asking, he's very familiar with it-- it still takes the two-thirds vote of the legislature for you to have the full faith and credit.

Further Discussion

MR. KEAN

Mr. Chairman and fellow delegates, you may recall that when this section was before you originally, I spoke not so much in opposition to it, but with the request that we lay it over for further consideration because of the practical problem I saw in dealing with the matter of revenue bonds. This proposed amendment simply provides a means by which the legislature could authorize the issuance of the revenue bonds, and where those bonds were secured by a pledge of the user fees, charges, etc., they would then . . . it would be able to issue them under the general authorization rather than have the legislature by specific authorization authorize that issuance from time to time. Now, the only way under the sections together as I view it, that the legislature could pledge the full faith and credit to these bonds would be under the provisions of 7 (A), which would require a two-thirds vote of the legislature on the specific bonds to be issued. Otherwise, the bonds would be issued under the general authorization without a pledge of the full faith and credit. I think this gives us the flexibility we need in order to deal with the problem of revenue bonds. It is impractical, as I pointed out before, to have revenue bonds bearing in all instances the full faith and credit of this state. It is equally impractical to have revenue bonds only issued by specific authorization of the legislature and coming up every year during the legislative session, and for that reason I suggest to you that this amendment is a needed amendment to clarify a situation which is otherwise going to cause considerable difficulty insofar as the issuance of these important bonds by the state and its agencies is concerned. I support the amendment and ask that you do likewise.

Questions

MR. FLORY

Mr. Kean, could you tell me in the past--let's take the port authority or someone who would issue revenue bonds

based upon user fees or rent on a long time purchase agreement, etc. It's my understanding in the past that they've only had to go before the Bond Commission in order to get the approval to issue the revenue bonds. Is that correct?

MR. KEAN

Yes, that's correct.

MR. FLORY

They did not have to have the full . . .

MR. KEAN

If you had the general authorization to issue the bonds, . . .

MR. FLORY

But, you didn't carry the full faith and credit of the state, so you didn't need the approval of the legislature; isn't that correct?

MR. KEAN

That's correct.

MR. DREW

Gordon, under the last sentence in this amendment these agencies would be permitted to issue bonds without complying with (A) or (B)?

MR. KEAN

That's correct.

MR. DREW

Therefore, (C) would still be applicable--putting the full faith and credit of the state behind those bonds?

MR. KEAN

Only if you had the two-thirds vote of the legislature. That is . . .

MR. DREW

No, it doesn't say that, Gordon; it says it can be done without (A) or (B). But, it doesn't say that would automatically delete (C) requirements, which is your full faith and credit of the state.

MR. KEAN

Yes, but (C) only becomes applicable where you have had a two-thirds vote of the legislature, as I understand the section.

MR. DREW

Well, the way this last sentence reads, I think you've deleted that requirement of the full faith and credit of the state. Don't you agree?

MR. KEAN

Well, we were simply trying to take out the requirement of the full faith and credit, but leave it in a posture where if the state legislature by a vote of two-thirds did authorize the bonds, you would then have the full faith and credit, and they would then become debt obligations of the state. That was the intention of the amendment; I think that's what it does.

MR. NUNEZ

Mr. Kean, the state now issues bonds --as a specific example,-- such as our universities will issue revenue bonds, the dormitory bonds, and our ports, harbor and terminal districts such as the Baton Rouge Port or New Orleans Port, and they . . . my understanding is that they do come before the legislature now and they are revenue bonds without the full faith and credit of the state. But, it's also my understanding that these bonds without the full . . . even though they're revenue bonds, they carry the full faith and credit of the state. The state will never forfeit on dormitory bonds or on port bonds or things like that or direct state agencies. Won't you agree with that?

MR. KEAN

No. I think, Senator Nunez, that there's a vast difference between full faith and credit bonds and legitimate revenue bonds. I think the buyers who buy revenue bonds based upon a pledge of fees which have been developed by reason of feasibility reports look to those sources of income as a security for the bonds. If we had some trouble in the past with respect to dormitory bonds which seems to be the hang-up in this whole problem, and it seems to me that the State Bond Commission simply has to do a better job in studying the feasibility of these type bonds. These bonds have to be approved by the State Bond Commission; they've got the

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facilities to review them and determine that they do have feasibility and if they don't, then they've simply got to deny the right to issue the bonds. But, they don't carry the full faith and credit of the state and the buyers who purchase them don't look upon them as having full faith and credit.

MR. NUNEZ

Mr. Kean, what you're saying is that the only agency that they would deal with then would be dealing with the State Bond and Building Commission. There's no other restriction on the issuance of these revenue bonds but the State Bond and Building Commission, if they don't carry the full faith and credit of the state according to law?

MR. KEAN

Well, of course, the legislature would have to authorize the issuance of the bonds in the general terms to begin with. Once that authorization has been approved by the legislature then if there were revenue bonds to be issued, the particular agency would have to develop a feasibility report showing that the fees, income, or whatever it may be would justify the issuance of the bonds and the payment of the principal and interest. It seems to me at that point that it then becomes the obligation and the duty of the State Bond Commission to make certain that the revenues that will be produced will be adequate to meet the principal and interest requirements of the bonds. I don't see why you would want to have a full faith and credit pledge. I think all that that will do if we leave it as it is, we're going to have revenue bond issues being approved by the legislature on the strength of full faith and credit where they can't stand on their own bottom based on the user fees and the feasibility report.

MR. ABRAHAM

Gordon, reading the section in chronological order, Section 7 (A) deals with the manner in which you can issue the bonds, and 7 (B) is for capital improvement. Then in Paragraph (C) it says "the full faith and credit of the state shall be pledged to the repayment of all bonds," you see. Now, we're going to put this language at the end of Paragraph (C). "All bonds" to me would also include all these. Don't we need some additional corrective language to state "the full faith and credit of the state shall be pledged to the repayment of all bonds issued in accordance with Paragraphs 7 (A) and (B)?"

MR. KEAN

I would have no objection to such an amendment.

MR. ABRAHAM

I think we're going to need some corrective language there to clarify the intent.

MR. KEAN

If that would be helpful in satisfying that objection, I would certainly be in favor of it.

Further Discussion

MR. ROEMER

Mr. Chairman and fellow delegates, as a member of the Revenue, Finance and Taxation Committee, I can tell you that we studied this problem long and hard in our committee and our first report to you, and what you passed on the floor of this convention, would be to eliminate revenue bonds. The reason we felt that we should eliminate revenue bonds is that we wanted to put all bonds, that is, obligations of the future generations of this state, through the state legislature. It is the authority and obligation of the state legislature to review this bonded indebtedness and pass on it, we felt, by: Number 1, a two-thirds vote and Number 2 to put it in the capital budget each year, so that the legislature could set priorities for bonds. You see it's not enough for an agency to say, "We have money coming in and we ought to issue bonds." It's the obligation of the legislature to the people of this state not to spend all the money that comes in, but to set up priorities on the money. So, I feel we ought to do away with the revenue bonds. Now, it was brought to our attention the last couple of weeks by Mr. Juddell, who's a bond attorney, Darwin Fenner who has the same title, and others, that there might be a time we want to issue revenue bonds without the full faith and credit of the state for very limited purposes. Well, they convinced me that there might be times. They gave an example of a project through HEAL with Tulane University, and I agree with them, the full faith and credit of the state wouldn't be behind those bonds and we would actually hurt HEAL and Tulane University in this case if we didn't have some provision like this in the constitution. However, I

strongly disagree with the language as set forth here because as set forth here these bonds would not be subject to the provisions of 7 (A) and (B), but would be subject to the provisions of (C) and the full faith and credit might be somehow construed to be behind these bonds. I don't think it's the intent of the authors of this amendment to let that happen. I would ask them to withdraw this amendment and let's put language in it that makes clear that the full faith and credit of the state is not behind these bonds. I think that's the only way we can be protected from future dome stadiums in this state and things like that. The same proponents of this amendment talk about the Superport. We've already exempted the deep-water ports from the provisions of general obligation bonds in this state, and that's not a problem. That's just a straw dog, that's just something to divert your attention from what I'm afraid might happen if we let this amendment go in like it is now. If we pass it just like it is now the legislature doesn't have to pass on these bonds by two-thirds vote; they don't have to be in the capital budget; they don't even have to fit the priorities of the state as a whole. I don't think you want to do that; that certainly would be a change from what you and this convention voted on just a month and a half ago. So, I ask the authors of this amendment to draw this thing down so we can correct it, and if they won't do that then I ask you to vote it down because we don't need to open the door again to more dome stadiums, to more agencies just issuing bonds willy-nilly without the priorities of the state being involved.

Questions

MR. DREW

Buddy, as this amendment is drawn, if those bonds that could be issued indiscriminately did not definitely negate the full faith and credit of the state they would automatically have it, wouldn't they?

MR. ROEMER

That's my understanding.

MR. DREW

Without the safeguards in (A) and (B)?

MR. ROEMER

Yes, sir, that's my understanding and that's what upsets me about it. I don't think it was the intent of the authors; I hope it wasn't. If it was, maybe they ought to get here and say that. I don't want to put that on their back; I don't think they want to do that any more than I do. I think that the revenue and taxation proposal was quite a good one. We called for a capital budget; we called for some priorities. But, if we pass this amendment, we've just completely circumvented what we tried to do.

MRS. MILLER

Mr. Roemer, if it was not the intent of the ones drafting this then they should be happy to withdraw it and make the corrections, shouldn't they?

MR. ROEMER

I hope so, yea ma'am.

MR. JONES

Buddy, it was the intent of the authors who drafted this to make it exempt from provisions of (A) and (B) for revenue bonds. You're talking about two different kind of animals. When you're talking about general obligation bonds you want to be very careful about it and you want the state legislature to okay it on a two-thirds basis. But, we're talking about oranges and apples here. When you deal with revenue bonds you're not talking about serial bonds or bonds that are backed by taxing authority of the state. Now, . . .

MR. ROEMER

Well, you know I understand that, but you're not talking about apples and oranges here, Mr. Jones, you're talking about the money owned by the people of this state, and we have a responsibility to spend that money wisely. I would suggest to you that we'd be better off to have all bonds under Section (A) and (B); that is to require some legislative perusal and require them to be in the capital budget. But, I will accept . . . rather than that, I will accept a flat statement here that such bonds do not require the g. o. obligation of this state in any shape, form or manner. This does not clearly say that.

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MR. AVANT

Mr. Chairman, I've been informed that the authors of this amendment are willing to temporarily withdraw it to make some changes in it and, therefore, I don't have anything to say.

[Amendment withdrawn.]

MR. POYNTER

Just so that the proposal won't be open, I understand Mr. Gravel is going to check this a little bit and probably maybe do this on Monday, but not just to leave it up in the air Mr. Gravel at this time, would go ahead and move once again the adoption of Section 7 and, in the proposal, to put the proposal back in the same status it was.

MR. CASEY

Mr. Gravel now moves the adoption of Section 7.
Okay. Just so everybody will understand. The amendment has been withdrawn, and they're going to have to resubmit it on another date, so all we have to do is put Committee Proposal No. 15 in the condition it was before we started. So, we have to adopt Section 7.

[Previous Question ordered on the Section. Section passed: 109-0. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 108-0. Motion to reconsider pending. Motion to recommit the Proposal to the Committee on Style and Drafting adopted without objection. Motion to take up other orders adopted without objection.]

Report of the Secretary
[II Journal 1222-1225]

Announcements
[II Journal 1225]

[Motion to adjourn to 1:00 o'clock p.m., Monday, January 14, 1974. Substitute motion to adjourn to 10:00 o'clock a.m., Monday, January 14, 1974 adopted: 72-18. Adjournment to 10:00 o'clock a.m., Monday, January 14, 1974.]

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Monday, January 14, 1974

Vice Chairman Casey in the Chair

ROLL CALL

[88 delegates present and a quorum.]

PRAYER

MISS WISHAM

Grant us, Oh, Lord, in the work of this day, make us decent, orderly, useful, and appreciative, courageous, and kind. Let us not weaken ourselves by anger, cheapen ourselves by boasting, or playing the fool of lying. Dear God, help us to remember our purpose for being here today. Teach us to observe the rules of the game, to come through defeat with strength and courage, and out of victory with gratitude and humility, and finally, Lord, help us to live every day as we wish we had when we come to die.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

INTRODUCTION OF RESOLUTIONS
[II Journal 1227]

REPORTS OF COMMITTEES
[II Journal 1227-1228]

[Rules Suspended to take up Committee Proposal No. 17 contained in the above report.]

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING

Committee Proposal No. 17

Explanation

MR. TATE

On this proposal, fellow delegates, as you will see, you have the green as usual with the floor version on your left, and the drafting proposals on the right. You have just one yellow amendment, but you do have an addendum, some technical amendments that were added at the last moment and not included on your package of materials, but that's separate; everyone got them separately. Now, in this particular proposal there are ten instances where the green copy does not...there are two words added in most cases by law; and I'll call your attention to them where the green copy is not in accordance with the amendment. That is strictly because due to logistical difficulties we had to run the green before the absolute final drafting; and I'll call your attention to those instances. May I say one more thing? Local Government did an excellent job of digesting four hundred pages of present statutory material down to what we have before us, which actually is just a fraction of the four hundred pages. However, in this particular section, both committees were forced to retain in some instances, very technical language to allay the fears of some of the interests affected by the removal that they would be deprived of some of the powers they now have; and we were assured that with these technical wordings that the people would be spared the numerous special and local constitutional amendments that were necessary in the past. Now, with that as a preliminary, Mr. Chairman, I would first like to move the adoption of Amendment No. 1.

Amendment No. 1

MR. TATE

Amendment No. 1 is the first of those instances. On line 13

[3322]

of your green copy right after "The legislature" the words "by law" was added and it's found on your amendment to specify that it's by law, by act, not by joint resolution that the legislature may establish and organize new parishes. Are there any questions?

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. TATE

Mr. Chairman, would it be in order, if I went to Amendment No. 67 at this time, which is a technical amendment to Amendment No. 1; or would you rather I waited till I got there?

The Clerk suggests I go straight through. We'll do that. Amendment No. 2, which was to Paragraph (D) of Section 1, just has a formalized language and of using "established" instead of "created" as we've been doing in other instances, and otherwise, there's no change.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TATE

Amendment No. 3, likewise contains purely stylistic changes. There will be a technical amendment brought to your attention later at 68 to clarify the existing question, but there's just simply stylistic changes.

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TATE

Amendment No. 4, which is to Section 3 on page 5, again, it's very simple, breaking something into a sentence.

[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TATE

Amendment No. 5 is to Section 4 on page 6. Again, it's a simple rearrangement of the language, and otherwise, the... and formulates, "so also enjoys" made "shall have," and "any" as "admitted". Otherwise, it's a simple...that's all the stylistic changes.

[Amendment No. 5 adopted without objection.]

Amendment No. 6

MR. TATE

On page 7--this is on your green materials--Section 5(A) on page 7, again it's simply stylistic consistency.

[Amendment No. 6 adopted without objection.]

Amendment No. 7

MR. TATE

Amendment No. 7, which is to the Section 5(B) on page 8

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of your green material, "fewer" was substituted for "less" because "less" is supposed to refer to quantity, and "fewer" to numbers technically, although it made no difference. Otherwise, it's the same, just stylistic changes, Mr. Chairman.

[Amendment No. 7 adopted without objection.]

Amendment No. 8

MR. TATE

Amendment No. 8 is to Section 5(C) at the top of page 9. No real change except to add a title and substitute the word "held" for "called" to standardize the language. That's all, sir.

[Amendment No. 8 adopted without objection.]

Amendment No. 9

MR. TATE

Amendment No. 9 is to Section 5(D) on pages 9 and 10 of your green material. There, again, it's just usual stylistic things of omitting needless words, and putting parallelism in and so on.

[Amendment No. 9 adopted without objection.]

Amendment No. 10

MR. TATE

Amendment No. 10 is to Section 5(E). Now, you will note that Section 5(E) contains a...as passed the floor contains a sentence from pages 14 to 22 which affect all home rule charters, even though it is only found in Section...what is now Section 5, but was formerly Section 8. So, this was taken out of this. It's recommended that this be taken out of it, and it will be found as Section 6 on your materials on page 14. Otherwise, they are simply stylistic changes.

Questions

MR. JENKINS

Yes, Judge, I'm wondering, do you really think that this is a technical change, or do you think that this is more of a substantive change?

MR. TATE

In the judgment of the committees it was a technical change, Mr. Jenkins.

MR. JENKINS

So, you would take the left-hand portion on page 11, and take the last sentence in it, and make that a new section, found on page 14.

MR. TATE

Yes, sir.

MR. JENKINS

Now, we have on that part on page 11, on the left-hand, don't both of those sentences have to be read together? Aren't they really being read together in that 8(E), whereas they're not read together because of the placement that you have here, on page 14?

MR. TATE

All right, let's see. "A home rule charter adopted pursuant shall provide for the structure and organization, powers, and functions which may include the exercise of any power...that is not denied by general law or inconsistent with any provision of this constitution." Then, "The legislature shall not pass any law, the effect of which changes, modifies, or affects the structure and organization under a particular distribution of powers." If that is so, which I think is correct, Mr. Jenkins, it is also so when it's in Section 6.

MR. JENKINS

When it's in Section 6 like that on page 14, it then applies

to all home rule charter political subdivisions, whereas before, it only applied to a particular category. So, isn't that then a substantive change that's being made?

MR. TATE

Mr. Jenkins, in the judgment of both committees, it was intended to apply to both although it was found in that particular section because it says it without qualification.

MR. JENKINS

So, in other words, its placement clearly would make it apply only to one type of home rule charter political subdivision, but because of your change, because you think that this preserves the intent, it would apply to others?

MR. TATE

Yes, sir, because as it passed the floor it says "any local governmental subdivision which operates under a home rule charter" which then referred to both those under 8 and those under 7, and we thought it would clarify the intent and neither committee... nobody raised any question in either committee on it, sir. On this broad language it says "of any local governmental subdivision," and it is apparently to apply to all home rule charters. I think it's a good question you raised, sir, but that's our judgment on it, submitted for your consideration.

Point of Order

MR. JENKINS

You know, this has just been placed on our desk, and we've just now had an opportunity to look at it. It's very lengthy. There are rearrangements of sections affecting, perhaps, the whole context of the meaning. Isn't there some means whereby we would be allowed to even read it before we approve it? Don't you think that would be appropriate?

MR. POYNTER

Mr. Jenkins, you could move to pass over the section or this particular amendment if it's just the amendment that concerns you.

MR. JENKINS

No, no, it's the whole thing. I mean, we have a seventy-six page report here that we haven't even had a chance to look at. I would move to return it to the calendar, yes.

MR. TATE

All right, Mr. Chairman, for what I can say, it's only in this instance that I can recall, and in consolidating two similar provisions found in two other sections that the...it was rearranged. I would say that the...Mr. Chairman, we'll never finish the work of the convention, although I agree with Mr. Jenkins that it's important that we not do something hastily. But, if in your judgment the view of both committees, I think we should perhaps pass over this amendment, and after Mr. Jenkins has had a chance to think about it, then we can maybe come back to it. But, rather than pass over the...

MR. CASEY

Judge Tate, I think you're probably arguing the merits of returning it to the calendar. That's not really a debatable motion.

[Motion to return Committee Proposal No. 17 to the calendar rejected: 7-73.]

MR. TATE

Unless there's objection, I'll proceed with Amendment No. 10, which is on Section 5(E) on page 11, and move for its adoption subject to further discussion.

[Amendment No. 10 adopted without objection.]

Amendment No. 11

MR. TATE

Amendment No. 11 is 5(F) on page 12. It is simply stylistic changes.

[Amendment No. 11 adopted without objection.]

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Amendment No. 12

MR. TATE

Amendment No. 12 is to 5(C) on page 13. There's just a slight rearrangement of the language; one little rearrangement to keep related words together.

[Amendment No. 12 adopted without objection.]

Amendment No. 13

MR. TATE

Amendment No. 13 is going to delete Section 8(H) because the same provision about nothing in these particular legislative provisions can affect the establishment of courts which shall be established or affected only as provided by Article V. Section 8(H) and Section 9(C) were continued, were consolidated in Section 27, which is found...Section 26, which is found on page 40 of your material. At that point you can consolidate them and avoid saying the same thing twice. Judge Dennis, the author of both amendments, had no objection to this rearrangement, and in the judgment of both committees, it affects no change of substance.

[Amendment No. 13 adopted without objection.]

Amendment No. 14

MR. TATE

Amendment No. 14 is the amendment we've just talked about which took the second half of 8(E) and made it a separate section, Section 6. In the judgment of the committee, both committees, it says the same thing but says it at the right place.

Questions

MR. JENKINS

Judge Tate, if we did not create this as a separate section, what would be the legal effect of keeping it just the way it was passed from the convention floor?

MR. TATE

Well, Mr. Jenkins, as it passed the convention floor, it said, "any local governmental subdivision which operates under a home rule charter." This referred to both those before and those after the creation of the new constitution, and it just seemed to us self-evident, and I heard no objection on either committee to the fact that it does refer to any local governmental subdivision which operates under a home rule charter and therefore logically it should be placed here rather than create the ambiguity which some people might raise, but it was not intended. It seems not to have been intended to put it here; it offers stylistic clarity.

MR. AVANT

Judge Tate, however, if the language was left in the section that dealt with the adoption of home rule charters by municipalities after the effective date of this constitution, which municipalities did not have a home rule charter prior to the effective date of this constitution, then it would be possibly susceptible to the interpretation that it was applicable only to those type of home rule charters. Is that not correct?

MR. TATE

That is correct, but because in broad language it said that any local governmental subdivision which operates under a home rule charter, the intent was more clearly shown by putting it in a separate section, and to avoid that susceptibility which I think would be defeated by the words of the language, we thought it would be clarified by putting it like this.

MR. AVANT

Well, I understand what you're saying, and that's about as far as I can go.

MR. TATE

Yes, sir.

MR. FLORY

Judge Tate, let me refer you back to Amendment No. 4, if you will, on Section 3, which gives the authority to the legislature to classify parishes or municipalities according to population, etc. It says "legislation may be limited in its effect to any such class or classes." But, then when you go and separate that, and make a separate section under Amendment No. 14, in my judgment that gives identical authority or carries identical authority as would Section 3 which then would prohibit the legislature from enacting legislation affecting local government in this regard even though you give them the authority in Section 3. I think you only do that with the separation by section, whereas you couldn't do it if you kept it in the same section earlier.

MR. TATE

I see your point, Mr. Flory. I think, however, that the language...if the language means more, I regard the language as meaning that shall enact no law of the effect which changes the structure organization, but it's subject to up above, and the previous things that say about home rule charters. But, anyway, I do not regard its meaning as being changed, as being removed from one section to another; under specific language it says "any local governmental subdivision, which operates under a home rule charter." I personally think that it probably means in line with what is said up above in Sections 4 and 5, that it's subject to and not inconsistent with, and it's subject to the police power. I mean I know what you're worrying about. Don't get me wrong.

MR. FLORY

If you follow the reasoning of what I just stated, then why wouldn't the committee have put in Section 6 in its new section, "subject to and not inconsistent with the other provisions of this constitution"?

MR. TATE

Well, because I believe it is implicitly so, but primarily because that particular thing was not found as an introduction to this provision applying to any local governmental subdivision. But, I do believe that, as a matter of what the proper construction probably is that obviously it's subject to and not inconsistent with any other provisions.

MR. FLORY

Then, let me ask you categorically, in your opinion, and in the committee's opinion, then, it was their intent that this new Section 6 would be subject to and not inconsistent with the other provisions of this article?

MR. TATE

Mr. Flory, I can't speak for the committee, of course, because we didn't discuss it in that regard. In my opinion, of course, that is true because Sections 4 and 5 limit the home rule charter to the "subject to and not inconsistent with any provision of this constitution." But, that's not a good answer to you, no.

MR. FLORY

Specifically, then, this would be subject to the provisions of Section 3?

MR. TATE

In my personal opinion it is, Mr. Flory.

MR. AVANT

Judge Tate, it would likewise be subject to any other provision in this constitution, would it not, sir, specifically?

MR. TATE

Yes, Mr. Avant, it was regarded as subject to all other provisions in the article, and in the constitution, subject to the police power and so on, things like that.

MR. AVANT

Specifically, Section 14, it would be subject to Section 14, would it not, sir?

MR. TATE

Yea, it'd be definitely subject to Section 14, which is about the law, about increasing expenditures except for police and firemen. It would definitely be subject to that.

MR. CASEY

Judge Tate, as I understand, this is the adoption of a new

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section. I think the committee would have to have a record vote on it. Sixty-seven members would have to vote for the adoption.

[Previous Question ordered. Quorum
Call: 92 delegates present and a
quorum. Amendment No. 14 adopted:
96-0. Motion to reconsider tabled.]

Point of Order

MR. TATE

Mr. Chairman, before proceeding, may I note the circumstance that we did not object to the ruling of the Chair that it required sixty-seven votes, which I didn't understand to be a firm ruling because we...but we think that under the rules, this is not a new section, but a reorganization. Just in case the question comes up in the future, we wouldn't want to accede to the ruling that every time you renumber something, or put it in a different place, it's a new section, sir.

MR. CASEY

Not on a renumbering, Judge. On a brand new section we would have to have a record vote, we think.

MR. TATE

I won't fight the Chair now, until we have to. We won't have to, I don't believe. O.K.

Amendment No. 15

MR. TATE

Amendment No. 15 is simply a stylistic revision of Section 7 (A). I yield to further questions, Mr. Chairman.

[Amendment No. 15 adopted without
objection]

Amendment No. 16

MR. TATE

Amendment No. 16 deletes Section 9 (C) and it adds it over in the new Section 26 about the organization of the courts. It consolidates the similar provision found in the, as 8 (H), and makes it one section in the interest of...in the interest of serving, repeating it twice at the end of every section. But, it's the same provisions as found under another number.

[Amendment No. 16 adopted without
objection]

Amendment No. 17

MR. TATE

Mr. Chairman, I have just explained Amendment No. 17. Amendment No. 16 is simply a...that was 17 that deletes it and 16 is the one that just stylistically arranges 7 (B) on the top of page 17.

MR. CASEY

We've already adopted 16.

Questions

MR. AVANT

Judge Tate, this is not a question about the substance of what we're talking about. But, would it be possible for you to refer to the page in the green material that we have? It would be much easier to follow, I believe.

MR. TATE

Surely. I'm sorry, Mr. Avant. I had consented to do that and I forgot.

Page 17 is..Amendment No. 17 is to page 17. It deletes Section 9 (C) on the left hand side of the page. Later on, it will be found as Section 26 which is on page 40 of your material, consolidating Sections 8 (H) and Section 9 (C). Judge Dennis, the author of both amendments, had no objection

to this consolidation of the same concept. The courts, excuse me, are created and established only as authorized by Article V and that we need not talk about them in the home rule section.

MR. BERGERON

Judge...Judge Tate, you said Section 9 (C) becomes Section 26?

MR. TATE

Twenty-six on page 40, it consolidates Section 9 (C) and also Section 8 (H).

MR. BERGERON

O.K. I was just--just a point of information. My green copy has it become Section 27.

MR. TATE

That's an error. The 27, we didn't catch the renumbering and changed that in ink. You see, that's just a staff note in ink on the bottom. We are apologizing for that, too.

[Amendment No. 17 adopted without
objection]

Amendment No. 18

MR. TATE

Amendment No. 18, simply in line with the usual practice in the constitution, singularize cities, towns, and villages to "no parish shall prohibit the incorporation of a city, town, or village as provided by general law." Of course, that means one or more cities. But, it was singularized in line with the rule of singularization we're following throughout. When you say "a judge can't do that" you mean all judges can't. "A city" can't do anything, all cities can't, and so on.

Question

MR. J. JACKSON

Judge, I just heard your explanation. I just want to make sure that it's not a limitation on parishes which may have, maybe, three cities incorporated, and might want to expand, or might not want to expand. You might use the argument, "well this is the limitation." So, in effect, what you are saying for the records that this is not a limitation to one city....

MR. TATE

To one city. No, that's true.
It's "no parish shall prohibit the corporation of a city"--one or more cities, it means----any cities, all cities.

[Amendment No. 18 adopted without
objection]

Amendment No. 19

MR. TATE

Amendment 19 once again singularizes. Instead of saying plural "local governmental subdivisions", it says "no local governmental subdivision shall", and otherwise is simply stylistic changes, leaving out words as we ordinarily leave them--"except as may be" and "except as" provided by law, mean the same thing.

[Amendment No. 19 adopted without
objection]

Amendment No. 20

MR. TATE

Amendment No. 20, which is to Section 9 (B) on page 19 of your green material...simply adds a title, and otherwise, no change in language.

[Amendment No. 20 adopted without
objection]

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Amendment No. 21

MR. TATE

Amendment No. 21 is to Section 10 on page 20, talking about the Singletary codes. It shortens the language and has the same effect. I want you all from now on when these municipalitiea and other local governmental units start to enact these codea, we got to remember to call them the Singletary codes. That will be Alvin's....one of Alvin's immortalitiea.

[Amendment No. 21 adopted without objection.]

Amendment No. 22

MR. TATE

Amendment 22 is to Section 11. Again, it just...omitted as unnecessary the repetition of the words "of any governing authority." and it felt that "from single-member districts" with a hyphen said the same... the same thing a little bit more--with a little more punch than" on the basis of single-member districts."

[Amendment No. 22 adopted without objection.]

Amendment No. 23

MR. TATE

Amendment No. 23 is to Section 12 on page 22 of your green copy. It is simply using standard punctuation and renumbering the sections to conform to the new section, singularizing, and the usual rules of consistency we have been trying to follow.

[Amendment No. 23 adopted without objection.]

Amendment No. 24

MR. TATE

Amendment No. 24, aside from other clearly stylistic changes, removes the reference to the assessor in the Local Government Article because he has been provided for in the Revenue and Taxation Article. Otherwise, they're simply stylistic changes.

[Amendment No. 24 adopted without objection.]

Amendment No. 25

MR. TATE

Amendment No. 25 which is to Section 13 (B) on page 24 of your green material. It was simply standardized language and singularizing it.

[Amendment No. 25 adopted without objection.]

Amendment No. 26

MR. TATE

Amendment No. 26, very minor changes in punctuation, adding the comma in a series and so on, were made.

[Amendment No. 26 adopted without objection.]

Amendment No. 27

MR. TATE

Amendment No. 27, which is to Section 15, on page 26 of your material.

Now, as you find it there, there is a comma after "levied,". That comma, the amendment is not found in the comma--I mean the

comma is not found in Amendment No. 27. It was removed as incorrect punctuation because there are just two in the series-- "prior approval of any charge or tax levied or bond issued." There are three in the series, and you either had to have no...omit the "or", one "or", or omit the comma. That was done without changing the substance.

[Amendment No. 27 adopted without objection.]

Amendment No. 28

MR. TATE

Amendment 28, on page 27 of your material. As you see, we shortened it without leaving out any of the substance, put in commas, and put statements in a positive form--the usual stylistic changes.

[Amendment No. 28 adopted without objection.]

Amendment No. 29

MR. TATE

Amendment No. 29 is to Section 16 (B)...on page 29. It's just the usual stylistic changes.

[Amendment No. 29 adopted without objection.]

Amendment No. 30

MR. TATE

Amendment No. 30 is to Section 17 on page 30. We singularized and made other usual changes. We did legislatively establish procedures established by law in line with what we have been doing throughout the constitution to clarify that it's a law when the legislature acts, except for the two or three instances when it's not, and so on.

Questions

MR. FLORY

Judge Tate, under your proposed Section 17 as you have it, do you believe that this would negate any authority that a state official might have insofar as enforcing regulations passed or adopted by the legislature?

MR. TATE

No, Mr. Flory. We deliberately left that question to the future. We couldn't spell it out. It's a policy question that we did not think it appropriate for us to try to bring to your attention because it's just one of those things that is best left to the future to decide.

MR. FLORY

The future of what?

MR. TATE

The future of the...whether he does or does not would not be changed by our language, we took language there as it was found. I would say that it is...personally, I would say it's subject to the police power of the state which may be exercised through the state fire marshal, etc. I would say that, because you have in other provisions "nothing shall abridge the police power of the state." But, I would say that we did not attempt to clarify that lurking issue here, because it required more of a policy judgment than was available to Style and Drafting.

MR. FLORY

In other words, you believe that this section would be subject to the police power of the state.

MR. TATE

I personally so believe, Mr. Flory.

MRS. MILLER

Judge Tate, in the last sentence, you've changed the word "districts" to "commissions." You don't know what we've created in some of our areas. We've created districts under the revised statutes. To some extent, this parallels statutory things,

but, I'm wondering, because we create the districts and commissions run them.

MR. TATE

Mrs. Miller, we have caveated that to Local Government because the only existing one is a commission and not a district. Local Government came back and said that "commissions" would be more accurate. There's only one, the Vieux Carre Commission. So, this only refers to the existing one. There's only one. They thought, to be accurate, we should say "commission" instead of "district." I'm glad you called that to attention....

MRS. MILLER

Well, now, I do want to say now we have created a Historic Preservation District out in Jeff Davis Parish.

MR. TATE

Correct.

MRS. MILLER

A commission runs it. But, I don't know if changing the term here---in fact, I almost think you need both the words "districts" and "commission" rather than just limiting it to one.

MR. TATE

Well, are you created by the constitution in Jeff Davis?

MRS. MILLER

We created this under the statute...under statutory authority, the same one under which Toledo Bend Recreation District was created.

MR. TATE

Yes. But this....

MRS. MILLER

Well, I just wonder. I mean, I'm--because we used the word "districts"....

MR. TATE

For what it's worth, the floor debate showed--would someone clarify me?--the floor debate showed this was only intended to refer to the Vieux Carre. The others are automatically continued.... the others are automatically continued because they are in the statutes or under statutory authority. But, this one was put in simply because the local government people repealed the Vieux Carre. They got some--quite a few pages out of the constitution on that. But, in order to protect the Vieux Carre, which is nowhere else in the constitution, this sentence was added, "the existing constitutional authority for historic preservation commissions is the same." My understanding, and I'll yield to a question from Mr. Perez, if necessary, is that the only one at issue was the Vieux Carre Commission established in the constitution.

[Amendment No. 30 adopted without objection.]

Amendment No. 31

MR. TATE

Amendment No. 31 is to Section 18 on page 31. Again you have--this is the third instance where your green copy does not show two words that are on your amendment. Your amendment shows "the legislature by law may." In other words, on line 4, after "the legislature" add "by law" in line with the usual stylistic clarification that we've been following through the rest of the constitution. Otherwise, present tense is singularized and the usual stylistic changes made.

[Amendment No. 31 adopted without objection.]

Amendment No. 32

MR. TATE

Amendment No. 32 is to Section 19--Amendment No. 32 is to Section 19 on page 33. Again, you have here for the third or fourth time a slight variation between the green copy and your amendment. On line 20, the comma is removed, and the "and" is put in because those are series of two; it's not properly separated by a comma but by an "and". Otherwise, there's simply standard language being used.

[Amendment No. 32 adopted without objection.]

Amendment No. 33

MR. TATE

Amendment No. 33 is to Section 20. The usual changes are made. Now, an "and" was changed to "or" in line 11, either with--because in its sense, it meant--this says "a political subdivision may perform any authorized function, etc., including financing either within or without the state, or with the United States or its agencies". The "or" was recommended to us by Local Government to clarify that you didn't have to have all--you didn't have to do it with the United States and its agencies--either within or without the state, or with the United States or its agencies." They recommended it to us, and it seems to be in accord with its sense.

[Amendment No. 33 adopted without objection.]

Amendment No. 34

MR. TATE

Amendment No. 34 is to Section 21 and--which is found on pages 35 and 36 of your material. This is, again, about the fourth time where there's a slight variation between your green copy and the amendment. On page 15--I mean on line 15 of page 35, by words "by law" are inserted; "the legislature by law may authorize" in line with the standard practice in the rest of the constitution. The other changes made are the usual standard--slight changes made using standardized language, and so on. Some of this language we wanted to simplify, but we were--the bonding attorneys informed us this was what they wanted. This is what the Local Government had agreed to in exchange for removing hundreds of pages out of the present constitution.

Questions

MR. AVANT

Judge Tate, my question relates to Section (B) on page 36 of the green material, and beginning with the line 4.

MR. TATE

Section who?

Oh, and I should also say thank you, Mr. Avant, about "no, property expropriated under authority of this article." We checked with the Local Government, and back with us, and it went under this section.

That's what you meant?

MR. AVANT

Now, you know we had some discussion in the committee about that. I want to clarify the intent of that section.

It was the intent of that section, it was more or less agreed, was it not, that property which was expropriated under this section, that is Industrial Development, cannot be expropriated for the purpose of selling it or donating it to the alien or the prohibited class of persons. But, it was not the intention of this section that if property is expropriated and sold to someone not within the prohibited class, that some years later in a bona fide transaction that it could not be sold to an alien. It is strictly the prohibiting of government from expropriating property for this purpose either directly or by subterfuge through, say, a party interposed or something like that. Is that correct?

MR. TATE

That is correct, Mr. Avant. In other words, you can't expropriate it to sell it to the alien or alien controlled. It doesn't go out of commerce forever because later on it can go back in.

MR. AVANT

By a bona fide transaction and not as a way of subterfuge of getting around this prohibition. Correct?

MR. TATE

That was our understanding, Mr. Avant.

MR. NUNEZ

Judge Tate, why do we have to take exception that this does not apply to a school board?

MR. TATE

Mr. Nunez, Mr. Burson put it in. We couldn't take it out. We might have been able to take it out, but apparently, school boards want to be able to expropriate....I don't know, Mr....

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MR. NUNEZ

Then, they can expropriate and sell to alien countries?

MR. TATE

Well, that was in before the (B) was added--that was in before (B) was added. They had some reason--they didn't want school boards, anyway, to be able to buy property, I guess. Oh, I remember why. The reason why...they talked about any political subdivision...let's see...the legislature authorized any political subdivision to do this. The school board is technically a political subdivision. The school boards, in their generosity, did not want to get into the business of industrial plants. So, they got excepted from it to make it plain that school boards couldn't do so. Does that answer your question, whoever asked?

MR. CASEY

It was Mr. Nunez that asked the question.'

[Amendment No. 34 adopted without objection.]

Amendment No. 35

MR. TATE

Amendment No. 35 is to provide a Section 22....I mean just simply revises Section 22, rennumbers it in accord with the usual stylistic changes.

[Amendment No. 35 adopted without objection.]

Amendment No. 36

MR. TATE

Amendment No. 36...usual stylistic revision of Section 23.

[Amendment No. 36 adopted without objection.]

Amendment No. 37

MR. TATE

Amendment No. 37 to Section 24, on page 39 of your green materials--minor stylistic change in accord with consistent practice.

[Amendment No. 37 adopted without objection.]

Amendment No. 38

MR. TATE

Amendment No. 38 makes no change, but simply rennumbers the former Section 29 into Section 25 on the right hand side of your green material.

[Amendment No. 38 adopted without objection.]

Amendment No. 39

MR. TATE

Amendment No. 39 is the one we talked about earlier. It creates a new section. It creates a new...under some interpretations it creates a new section; under others it simply consolidates under a new number, provisions found earlier to avoid repeating. It simply says "notwithstanding any provision of the Local Government Article creating subdivisions, courts and their offices may be established or effected only provided by the Judiciary Article."

[3328]

[Previous Question ordered. Record vote ordered. Amendment No. 39 adopted: 98-0. Motion to reconsider tabled.]

Amendment No. 40

MR. TATE

Amendment No. 40, which is to Section 27. On page 41. About the parish ad valorem tax. Just simpler words. That's all--the usual singularization rules and using standard language, substituting a word for a phrase, etc., and the usual punctuation rules.

[Amendment No. 40 adopted without objection.]

Amendment No. 41

MR. TATE

Amendment No. 41 is to Section 27 (B) Millage Increase Not for General Purposes. On page 42 of your green materials. Just made it into shorter sentences--broke it into two sentences.

[Amendment No. 41 adopted without objection.]

Amendment No. 42

MR. TATE

Amendment No. 42, which is to Section 27 (C). On page 43 of your green materials. Here again is a change. On the amendment, what is shown, on line 8, is "a population in excess of one thousand" had been changed to "exceeding one thousand". Otherwise, the green copy reflects the amendment. That, along with the other changes, are simply for stylistic consistency.

[Amendment No. 42 adopted without objection.]

Amendment No. 43

MR. TATE

Amendment No. 43 is to Section 27 (D). On page 44 of your green materials. Just using standard language and omitting needless words. We're using "the effective date" instead of "on the date of adoption," etc.

[Amendment No. 43 adopted without objection.]

Amendment No. 44

MR. TATE

Amendment No. 44 is to Section 28 (A). On page 45 of your green materials. The standard language and standard stylization is done. On line 20, for interest of clarity: It said "Millage rates may be increased in any municipality when approved". In context, that's what it means; and it was suggested to us by Local Government that for purposes of clarity that should be added, and we concurred in their recommendation.

[Amendment No. 44 adopted without objection.]

Amendment No. 45

MR. TATE

Amendment No. 45 is to Section 28 (B) and (C). Practically no change was made, except to add titles and to break the first (B) into two sentences. That's about all.

[Amendment No. 45 adopted without objection.]

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Amendment No. 46

MR. TATE

Amendment No. 46 is to Section 29. On page 47 of your green materials. Again, standard stylistic changes have been made.

[Amendment No. 46 adopted without objection.]

Amendment No. 47

MR. TATE

Amendment No. 47 is to Section 30. On pages 48 and 49 of your green materials. Again, it simply standardizes the language. There are only stylistic changes that, I think, are self-evident.

[Amendment No. 47 adopted without objection.]

Amendment No. 48

MR. TATE

Amendment No. 48. On page 50. Once again--this is one of the last times; this will be about four more times, I believe--your green copy does not reflect two words in the amendment. The words in the amendment that are not reflected are: On line 4, it says "the legislature"---insert "by law"---"may uniformly exempt or exclude any goods"---in line with the usual stylistic practice.

Question

MR. SINGLETARY

Judge, when you say "by law," you mean by statute as opposed to by resolution; right?

MR. TATE

Yes, sir. We wanted to be darn sure there's no subsequent litigation, as there was under the prior constitution in two instances.

[Amendment No. 48 adopted without objection.]

Amendment No. 49

MR. TATE

Amendment No. 49 is to ... On page 51. Incidentally, the capital "S"--Subdivision--on line 5 was a clerical error. It was caught after this thing was run. "Political subdivision" is a small "s"--subdivision--there on line 5. Otherwise, of course, it's exactly what's in the amendment and involves the usual standard changes.

[Amendment No. 49 adopted without objection.]

Amendment No. 50

MR. TATE

Amendment No. 50. We're going to come back and submit to you a yellow amendment recommended by the Local Government Committee; but, for the time being, the only changes made are standard language's. The intent was--when we come to it, I'll try to explain it, subject to further question--was just to continue all taxes that were authorized for special purposes under the present constitution. But, anyway, presently before you are stylistic changes only.

[Amendment No. 50 adopted without objection.]

Amendment No. 51

MR. TATE

Amendment No. 51 is to Section 33. On page 52 of your green materials. Three simple, usual sections have been made. Former Section 36 (B) it creates into a special section because it refers

to a different subject. It makes [Section] 36 (B) into a separate section on special taxes. Section 32 maintains present taxes for special purposes; Section 33 authorizes special taxes, in the future, for certain purposes "when authorized by a majority of the electors". It does take a part of a prior section and give it a new number.

[Previous question ordered.]

Point of Information

MR. AVANT

Mr. Chairman, have you called the question on that amendment?

MR. CASEY

I have, yes.

Motion

MR. AVANT

The reason that I ask that: I think that that amendment, which makes a separate section of that particular language, is tied in with and related to the one yellow amendment that you have on this section. I don't want to take the time to explain it right now, but I think that that should be continued and taken up at the time we take up the yellow amendment. I will be glad to explain the reason for that, if the Chair would desire.

MR. CASEY

Are you suggesting that we pass over Amendment No. 51?

MR. AVANT

Pass over this particular amendment until we can take it up and consider it in connection with the yellow amendment; and I don't know what number it is, but there's only one on this proposal.

MR. CASEY

Mr. Avant now moves for a suspension of the rules for the purpose of passing over Amendment No. 51 until we consider which amendment, Judge Tate? Until when, Mr. Avant? Till what amendment?

MR. AVANT

So that it may be considered at the same time that the yellow amendment is considered. Number sixty-six.

[Motion to suspend the rules to pass over Amendment No. 51 adopted without objection.]

Amendment No. 52

MR. TATE

Amendment No. 52 deletes the former Section 38... Amendment No. 52 deletes lines 17 through 35 on page 14 of the original draft--which is the Section 38--and it will delete both sections--former [Section] 38 and [Section] 39--and it will consolidate them into a new [Section] 34 (A), with the former [Section] 38, following as [Section] 34 (B) being in its more logical place. You talk about the authorization of political bonds in [Section] 39, and then you talk about them being full faith and credit. It seemed more logical to both committees to do it, first, talk about authorization and then, second, talk about their full faith and credit. So, for that reason, this organization was made. There's a fairly little change in language because our friends in the bond profession had a great deal to do with the language used, and they didn't want much Englishification of it.

[Amendment No. 52 adopted without objection.]

Amendment No. 53

MR. TATE

Amendment No. 53. The amendment, as it shows you, does not... The green copy does not include "the legislature by law" on line 3. "By law" is in the amendment. Otherwise, there is no change. The green does not cover that standard phrase "by law" at the end of line 3, but it is in the white amendment. Otherwise, there's no change.

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[Amendment No. 53 adopted without objection.]

Amendment No. 54

MR. TATE

Amendment No. 54, which is [Section] 36 (A). On pages 57 and 58. Most of the changes are the usual stylistic changes. There is one change that was suggested to us by Local Government: to eliminate the language "as provided for, held under the provisions of this section"--to eliminate that because this applies to all tax elections, we are informed. For that reason, we do not have, on line 22, "authorized or provided for"--"held under..this section." We are informed that it has the same meaning and might create some ambiguity because it was intended to refer to all bond elections. On your page, by the way--page 13--Amendment No. 54, somewhere--it doesn't show as Amendment No. 54 on your page, but it's the one between [Amendment No.] 53 and [Amendment No.] 55, and I guess we can deduce it was intended to be [Amendment No.] 54. You all got that?

[Amendment No. 54 adopted without objection.]

Amendment No. 55

MR. TATE

Amendment No. 55 is to Section 36 (B). The general, slight changes we were able to make with this bond and tax language are very minor and in the interest of a little more Englishification, but very little.

Question

MS. ZERVIGON

Judge Tate, what is Englishification?

MR. TATE

Englishification is what we hope to make this constitution. It's between legalese and standard English.

[Amendment No. 55 adopted without objection.]

Amendment No. 56

MR. TATE

Amendment No. 56 rennumbers Section 42 into 37. It includes [Section] 37's (A) through (C)--which are on pages 61 and 62 of your green material. Aside from adding titles, it has simply the standard punctuation changes, etc.

[Amendment No. 56 adopted without objection.]

Amendment No. 57

MR. TATE

Amendment No. 57 is for Section 38. On page 63 of your green materials. Again, it's standard language. Now, there's one.... Your green copy does not show that on page 4 of line 63, inserted "The legislature by law may authorize". It does not show that, but that's in line with the standard practice that's been followed.

[Amendment No. 57 adopted without objection.]

Amendment No. 58

MR. TATE

Amendment No. 58, Mr. Chairman. This is the first time we have reached this question. This has to do with levee districts. Generally speaking, we've used the standard language "on the effective

date of this constitution" when something will come into effect, on the idea that this constitution--if adopted--will succeed the old constitution. Occasionally--and this is one of the two or three instances in the constitution--there was an intent to refreeze the situation as of the time we left the convention so that, say, a special session of the legislature, for example, couldn't change what the convention thought it had adopted. This said: "Levee districts as now organized shall continue to exist." "Now," of course--we don't know whether that means "now, when it passed the floor," "now," etc. "As now organized," at the latest, meant January 19, when we put our signatures to the convention. We thought of putting January 19 and then submitting a yellow amendment to you to change it back to January 1, 1974, because fifty years from now, if this constitution is successful enough to be adopted and survive, they wouldn't know why you picked January 19 instead of any other year. So, it just looked--and these two or three instances like this when they tended to freeze the situation--as we left this convention hall, to use January 1, 1974. Now, that's the first time, and it'll happen two or three other times at the most--maybe two other times. Occasionally, when there's real doubt, we've left, in a couple of instances, "when adopted"--when there's a real question and when it's unlikely the question would rise up and there was resistance to changing the floor language from "when adopted" to "on the effective date." This is not before us. Generally, we'll have made the provisions become effective "on the effective date of the new constitution" because that's generally what's intended. We've tried, in every instance, though, to check it. Now, that's the only change here that I think requires explanation. The others are the usual atylistic changes made.

[Amendment No. 58 adopted without objection.]

Amendment No. 59

MR. TATE

Amendment No. 59 is to Section 40. Which is on page 66 of your green materials. I think all we did was add a title and remove a comma.

[Amendment No. 59 adopted without objection.]

Amendment No. 60

MR. TATE

Amendment No. 60. This is the millage increase. Here is one of the last occasions where you'll find this. On lines 7 and 8 of your green copy. It says: "as specified by the legislature". For "the legislature" substitute on the amendment "as specified by law". Otherwise,--and that's one of the usual stylistic changes made throughout--the other changes are the usual ones about mood, singularization, using a word instead of a phrase, trying to omit needless words, etc.

[Amendment No. 60 adopted without objection.]

Amendment No. 61

MR. TATE

Amendment No. 61 is to Section 41. On pages 68 and 69 of your green materials. The changes are the usual formal, standard changes made in styling the constitution. I'd yield to questions, Mr. Chairman.

[Amendment No. 61 adopted without objection.]

Amendment No. 62

MR. TATE

Amendment No. 62 is to Section 42. On page 70. The usual changes about....the simplification of language and singularizing. The usual stylistic changes.

[Amendment No. 62 adopted without objection.]

MR. TATE

Amendment No. 63 is to Section 43. We consolidated the former (A) and (B) into one section and made Section (C) into Section (B) and, aside from those changes, broke the long first sentence into two sentences and, otherwise, made normal stylistic changes.

[Amendment No. 63 adopted without objection.]

Amendment No. 64

MR. TATE

Amendment No. 64 retitled the Part IV of the section. There's a "Part IV. Port Commissions and Districts." Mr. Clerk, may I ask you something, sir? It doesn't show in caps on here. Do you need a technical amendment to make it caps? Part IV should be in caps for stylistic conformity. "Port Commissions and Districts" should be in caps--all caps after "Part IV." Then, "Section 44" would be upper and lower case. It changes it from "Ports" to "Port Commissions and Districts" at the recommendation of the Local Government Committee because of the circumstance that it more accurately describes what's in the section. I should call your attention that, on line 14, your green copy says "The legislature may grant"; the amendment says "The legislature by law may grant". On your green page 74, it says "it may be changed only by the favorable vote of two-thirds". The amendment is going to say "by law enacted by the favorable vote of two-thirds" to specify, in each case, that it is a law and not a resolution.

Question

MR. CANNON

Justice Tate, having served on this subcommittee on ports and shepherded this particular section through, there seems to be some question raised, and I wanted to raise it for a point of clarification so that there can be no misunderstanding about it. When we say these deep-water ports and "deep-water port harbor, and terminal districts as organized and constituted on January 1, 1974, including their powers and functions, structure and organization, and territorial jurisdiction, are ratified and confirmed and shall continue to exist," by this we're meaning the powers including all the powers they presently have under the Constitution of 1921 and its amendments? This includes their bonding power--the general obligation bonding power--which they are allowed to issue bonds with the full faith and credit of the state, since they are state agencies.

MR. TATE

Well, we understood that to be the intention; and, if that was the intention when it passed the floor, it is not changed by the styling and drafting.

MR. CANNON

I wanted that read into the record for future interpretation, sir.

MR. TATE

Yes, sir. I did forget to call your attention. This is the second time they said "as now organized." We froze it on January 1, 1974, to prevent any possible question that, between now and the ratification or effective date, something could be changed to change the will of what the delegates here adopted.

[Amendment No. 64 adopted without objection.]

Amendment No. 65

MR. TATE

Amendment No. 65 is the definition section. The changes are self-explanatory. We standardized the usual standard. . . like "in the state" instead of "in the entire state," etc. and "incorporated city, town, or village," singularized it instead of using the duplicate.

The only . . . on (7) it said, "Deep-water port commission and deep-water port, harbor, and terminal districts;" they meant, "deep-water port commissions" and "deep-water port, harbor, and terminal districts." The two phrases were to be defined, so we made that clear by adding the appropriate quotation marks.

Amendment No. 66

MR. TATE

All right. Now the . . . Section 66 has to do, as it passed the floor--and Mr. Avant is going to have a question about it. Should I explain it first and then turn it over. . .

Section 32, which is on page 52 of your green materials, said "Any special tax being levied by a political subdivision under prior legislative or constitutional authority on the effective date of this constitution is ratified." Paragraph (B) said, "for the purpose of acquiring certain special taxes may be levied." Now, the Local Government Committee, and they will. . . after I yield to Mr. Avant, and then Mr. Lanier, I think it is who called our attention may want to explain it--said that this created an ambiguity because what they were talking about was "special purpose taxes" other than the "general purpose taxes" and whereas ordinarily the "special tax" is a word of indefinite connotation. But, put so close to 34. . . the old. . . the old (B) section or even followed by Section 33, talking about certain types of special taxes, it might appear to restrict its meaning to those sort of "special purpose taxes" being continued as beyond this date. So, they recommend your attention, and they think it is not a substantive change, the amendment that leaves out "special tax." Now, some question, I think, has been raised later on. . . which is either one is subject to, is whether it could be a. . . does that continue an invalid tax. I would have thought that under prior legislative and constitutional authority it would just keep it as to taxes validly levied. But, then I would. . . I think Mr. Avant wants to explain both sections together. Then I think Mr. Lanier. . . Mr. Lanier.

Further Discussion

MR. AVANT

I think the problem has been solved, Mr. Chairman and fellow delegates. But, this particular section, as originally adopted by the convention, was only one section. It was Section 36, and it had (A) and it had (B). (A) was a section which. . . a subsection which confirmed and ratified existing special taxes being levied by political subdivisions. Then, in (B), it was a grant of authority to levy special taxes. It defined those taxes, as I read it, as "a tax for the purpose of acquiring, constructing, improving, maintaining or operating any work of public improvement." Now, what that section, in my humble opinion, meant when it was adopted by the convention, was that any such tax which was being levied at the time this constitution became effective was ratified and made valid whether it was valid when it was adopted or whether, in fact, it would be even valid under this constitution. If that's what the convention wanted, it didn't particularly disturb me, because it was limited to taxes "for acquiring, constructing, improving or maintaining or operating a work of public improvement." Now, what the Style and Drafting Committee did, was they first recommended the division of that section into two sections--into 36, and then I guess it would be 37. Then they come along with an amendment that is being offered at this time which would, in the original Section 36 or (A) delete the word "special." So, that would, in my judgment, ratify any tax that was being levied by a local governmental subdivision on the effective date of this constitution whether it was valid when it was enacted or whether it was, in fact, valid under this constitution. But, anyway, I have been informed by someone that the people who want to do this have no objection to going back and inserting in 36 the word "validly," so that it will read, "any tax being validly levied by a political subdivision is hereby ratified and confirmed." Now, if they are willing to do that, then I have nothing else to say, and that would be satisfactory. The main thing is I would not want to validate retrospectively an invalid tax, because there are several suits now pending attacking the validity of certain taxes. We don't want to come along at this point and say, "Oh, well, you lose your lawsuit. The tax is valid whether it was or wasn't."

Questions

MR. JENKINS

Mr. Chairman, in view of Mr. Avant's remarks, I'm wondering that maybe a point of order might be appropriate, because it seems as though this is clearly a substantive change that the committee is proposing.

MR. CASEY

Now, you are raising that on Amendment 66, Mr. Jenkins?

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MR. JENKINS

On the caveat amendment.

MR. AVANT

I'm authorized by Mr. Jenkins to state that if the proponents of this amendment are going to put the word "validly" in there, that then he won't raise the point of order.

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, there is no question in my mind, and I'm sure not in the minds of any members of the Local Government Committee or of the Style and Drafting Committee that the law had to be validly imposed in order for it to be ratified. To satisfy Mr. Avant, we'll be happy to get the word in there, provided we can get the procedure worked out in order to be able to get the word "validly" in. So that. . . we have no problems with it at all. We did not intend to have any substantive change. We don't think it's a substantive change, but to satisfy Mr. Avant, we'll be glad to go ahead and get it worked out.

MR. TATE

Mr. Chairman, I move the adoption. I understand immediately after this they will move to suspend the rules to insert the proper language on "validly." They'll need you to be present, I imagine, to have sixty-seven votes or something. But. . . adoption of 66, Mr. Chairman.

[Previous Question ordered. Amendment No. 66 adopted without objection.]

Point of Information

MR. TATE

Amendment No. 67, Mr. Chairman. What have we done with the amendment we passed over?

MR. POYNTER

We haven't, yet, but we. . . you want to go ahead and take Mr. Avant's amendment now to Amendment No. 66, first?

MR. TATE

If the amendment to 66 is prepared and ready, we could do that. Otherwise, we might go back and finish 33 or whatever it was and go through 67 and 68.

Amendment

MR. POYNTER

Well, I have the amendment at the desk. I don't have the distribution copies.

All it does is add the word "validly."

On page 14, line 7, in Committee Amendment No. 66 proposed by the Committee on Style and Drafting and adopted by the Convention on today, on line 2, after the word "tax" and before the word "being" insert the word "validly".

[Motion to suspend the rules to reconsider Section 32 for the limited purpose of considering the Avant amendment adopted without objection. Motion to reconsider Section 32 adopted without objection. Previous Question ordered on the Amendment.]

Reconsideration

Reading of the Section with Proposed Amendment

MR. POYNTER

If you can. . .

You want to read the entire paragraph? All right. It would read:

[3332]

"Any tax validly being levied by any political subdivision under prior legislative or constitutional authority on the effective date of this constitution is ratified."

Just insert the word "validly" after "tax and before "being."

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 105-0. Motion to reconsider tabled.]

Motion

MR. TATE

Mr. Chairman, we previously discussed 51. Mr. Avant had asked us to hold up its adoption until we clarified the question on Section 32. Since we just have, I see. . . move the adoption of Amendment 51 which is Section 33. . . which is on Section 33, page 52 of your green, which allows special taxes for certain purposes when the majority of the electors voting vote to hold them. . .

[Previous Question ordered. Amendment No. 51 adopted: 106-0. Motion to reconsider tabled.]

Amendment No. 67

MR. TATE

Yes, Mr. Chairman. Now, Amendments 67 and 68 are of the same nature. They are on the sheets like this that says "Addendum." They are amendments to catch the stylistic uniformity, something that we had missed until final styling. They are an amendment to your Amendment No. 1, on page 1 of your white material. Where it says, "Section 1 (A) Parish and Boundaries Ratified. Parishes and their boundaries as established," it says, "under existing law are recognized and ratified." Amendment No. 67, because fifty years from now we won't know what "existing law" was, and the intent was, "as established existing on the effective date of this constitution--as established existing on the effective date of this constitution are recognized and ratified."

You could do it a little bit better than that, but that carries out the sense that "the effective date of this constitution" determines when the parishes. . .

Mr. Perez has suggested, and on behalf of the committee I'm sure we have no objection to deleting the first word of the proposed amendment, which is the present amendment, page 57, and deleting the "existing" and just put in it, "on the effective date of this constitution." Then the section would read: "Parishes and their boundaries as established on the effective date of this constitution are recognized and ratified."

I think he correctly points out it will make a little better English.

[Amendment No. 67 adopted without objection.]

Amendment No. 68

MR. TATE

Mr. Chairman, No. 68 is a similar provision. Your Amendment No. 3 on page 1 of your green material says, "however, an existing special legislative charter." There are very few of them. Since the '21 Constitution, at least, the legislature has been prohibited from granting special legislative charters. So, however, when you say "an existing special legislative charter," if they read it twenty years from now, they won't be sure what. . . when it was existing. To make it crystal clear, the amendment has recommended to delete "an existing" and put "a special legislative charter," and then insert between "charter" and "may," "existing on the effective date of this constitution may be amended, modified or repealed by local and special law." It's regarded as a technical change.

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[Amendment No. 68 adopted without objection.]

Announcements
[II Journal 1244]

Recess

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

[Motion to suspend the rules to permit Committee Proposal No. 26 to be discharged from the Committee on Style and Drafting.]

MR. PUGH

Mr. Chairman, fellow delegates, you will recall when the governor spoke to this body last Thursday, he made certain recommendations for your consideration. In connection with those recommendations and to specifically carry into effect those of the governor's relating to property tax, we have submitted for your consideration three amendments.

Point of Information

MR. CHEHARDY

Mr. . . Well, here's what I want to find out: in other words, if we are not interested in changing the ten and fifteen percent, we vote against Mr. Pugh's call of Section 26. Is that right?

MR. CASEY

Mr. Chehardy, I might say this: of course, the purpose of the suspension of the rules is to get back into that proposal. The idea of the amendments granted is to change that. We, of course, can't debate the merits of this one way or the other. But, that would be the end result of it if we. . .

MR. CHEHARDY

So, the trick is to vote against this if we don't want to change the ten and fifteen. That's what I wanted to know.

Point of Information

MR. TAPPER

Mr. Acting Chairman, you know, you used the word just now-- you said something about "discharging." I haven't heard that here in this convention since we started. Now, would you explain what we're talking about?

MR. CASEY

Mr. Tapper, under the rules, Committee Proposal No. 26 is now in the Style and Drafting Committee. Under the rules, it's properly there. So, we have to suspend the rules in order to take it out of that committee and bring it back to the floor of the convention. Does that answer your question?

MR. TAPPER

Yes, and I object to that, sir.

[Record vote ordered.]

Point of Information

MR. SINGLETARY

A point of information, Mr. Chairman. We have several amendments dealing with the property tax thing. Which amendment is this that Mr. Pugh wants to. . .

MR. POYNTER

It's a set of three amendments. It's on one sheet of paper; there are three amendments. The first one deals with the twelve and a half percent fair market value. The second one deals with paragraph . . . proposed Paragraph (B) on use value. The third one would propose just to reletter paragraphs to Section 1, Mr. Singletary.

Point of Information

MRS. ZERVIGON

Mr. Acting Chairman, my question is: Is this suspension for the limited purpose of discussing these three amendments, because the governor also made suggestions about exemptions? I was wondering if we were to consider them at the same time.

MR. CASEY

Mrs. Zervigon, of course, that is up to the person making the motion. But, I would say when that motion is made in order to suspend the rules for the purpose of taking whatever subject matter we're going to take up, that would be appropriate at that time. That's not really the matter under discussion or debate right now. What the matter is merely to suspend the rules in order to bring it back, and that's all. It's the sole thing we're going to vote on.

Point of Information

MR. NUNEZ

Mr. Acting Chairman, I. . . as a lot of others asked a question about the. . . what the suspension was for, and I know that's not the point of discussion. But, I didn't quite understand Mr. Pugh. Is this the amendment that assesses all property--residential, farmland and industrial property--at the same level, twelve and a half percent? That's the one we're going to suspend the rules for?

MR. CASEY

That's correct, Mr. Nunez.

Point of Information

MR. CHATELAIN

Mr. Chairman, if we suspend the rules here, now, this doesn't in any way obligate us to vote on the amendment or anything; is that right, sir?

MR. CASEY

The only thing you're voting on now is the suspension of the rules. How you vote on the amendments is entirely up to you after the discussion.

MR. CHATELAIN

I can vote to suspend the rules and still vote like I want later on, right?

MR. CASEY

That's up to you, Mr. Chatelain.

Point of Information

MR. TAPPER

Mr. Acting Chairman, if we suspend the rules, is it not a fact that under our rules that the whole proposal is then up for discussion, and amendments can be made in any area of this proposal? You can't suspend the rules, is it not correct, for one specific purpose? If you suspend the rules, you're bringing the whole proposal back; don't we?

MR. CASEY

No, Mr. Tapper. You can. . . that's not the motion right now. The only motion is to bring the proposal back into the Convention. But, once you get to that point, a motion can be made to suspend the rules for a limited purpose. We have done this at least twenty times in the last few days.

MR. TAPPER

I understand that, but we could also say it's for an open debate on everything; can't we?

MR. CASEY

That's up to the convention, Mr. Tapper.

Point of Information

MR. CANNON

A point of information. How many votes would be required to suspend the. . . to. . .

MR. CASEY

Sixty-seven votes or two-thirds of those present and voting, whichever is less.

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MR. CANNON

. . .necessary green lights to suspend.

MR. CASEY

That's correct.

[Motion to suspend the rules rejected:
34-72.]

MR. CASEY

Mr. Chehardy, why do you rise?

Motion

MR. CHEHARDY

To move to reconsider the vote by which the proposal was adopted, and to lay the motion on the table.

MR. CASEY

Mr. Chehardy, the Clerk has rightfully advised me that that motion is out of order because. . .

MR. CHEHARDY

Why?

MR. CASEY

I'm going to explain right now. Because the convention just. . . just now, this moment, refused to suspend the rules in order to bring the proposal back from the committee to the floor of the convention.

MR. CHEHARDY

So, it's on the table?

MR. CASEY

No. The whole point is, Mr. Chehardy, that the proposal isn't even here to make that vote on.

MR. CHEHARDY

But, isn't the proposal presently before the constitution, passed upon, but not laid upon the table?

MR. CASEY

No. But, the point is, the proposal is in the Committee on Style and Drafting. In order to do anything with it, we had to bring it back to the floor of the convention. Most of the convention just refused to do that just now.

Let me just go one step further, Mr. Chehardy. Also, we had. . . .the convention had a gentleman's agreement that in the interest of taking care of any problems that had to be resolved with these proposals, we did have a gentleman's agreement that we would not do that at this time.

MR. CHEHARDY

Yea, but we'd rather not have anything else done with this particular section.

MR. CASEY

Well, Mr. Chehardy, your motion's out of order.

Motion

MR. AVANT

Mr. Chairman, I move for a suspension of the rules for the purpose of discharging Committee Proposal (whatever it is) having to do with ad valorem property taxation from the Committee on Revenue, Finance and Taxation, for the purpose of having it finally adopted by this convention, and reconsidering the vote by which it was adopted and laying that motion on the table.

Point of Order

MR. TATE

I thought that under the rules of the convention, I. . . like the rest interpret that vote as decisive, that we are not going to go into the merits of the ad valorem, twelve-and-a-half percent and fifteen percent again. But, I thought under the rules of the convention, you wanted to hold all these things together because we might, for instance, renumber it from Article XI to Article IX, if some of the earlier articles disappear and so on.

MR. CASEY

Judge Tate, that's absolutely correct. But a gentleman has made the motion. We may question the wisdom of it, but, we have to vote.

Now, Mr. Avant has moved for a suspension of the rules for the sole purpose of discharging and removing Committee Proposal No. . . .

[Motion withdrawn.]

Point of Information

MR. RAYBURN

Can you get better recognized if you run and grab a mike, or can you get better recognized if you stay in your seat and hold your hand up?

[Quorum Call: 102 delegates present
and a quorum.]

Point of Information

MR. SHANNON

Mr. Acting Chairman, I believe the rules of this convention specify that no one be acknowledged unless he is at his seat. Is that not right?

MR. CASEY

Mr. Shannon, you're absolutely correct. As you know, we've tried to use, interpret the rules as liberally as possible. Do you--are you--what point are you making, however?

MR. SHANNON

I would like to that we insist upon that. That we not recognize anybody unless they are at their seat.

MR. CASEY

Mr. Shannon, that is perfectly in order, and if the-- as long as the convention understands the rules will be strictly interpreted, don't be surprised if you don't get recognized if you're not at your seat.

Motion

MR. GRAVEL

I just want to be sure that I present this fairly and clearly to the convention. In just a moment, I'm going to ask for a suspension of the rules in order that we can, through whatever parliamentary procedure is necessary, reconsider Committee Proposal No. 37. In the event the suspension of the rules is granted by this convention, I'm going to ask that we reconsider that proposal for the limited and exclusive purpose of making it clear that the provisions of Committee Proposal No.37 with respect to automatic rate increases by the. . . .automatic rate increases for public utilities is an area that's left up to the legislature and the legislature only. That's the only purpose that I rise for at this time. I wanted to make it clear what I intended to do in the event that you do suspend the rules and permit us to consider Committee Proposal No. 37.

Questions

MR. TATE

Mr. Gravel, if the amendment is going to specify that the legislature may do what you want, many members voted here on the idea that it--the present language does--and Style and Drafting plans, in the recommendation of both Natural Resources, and its own committee--to submit to the floor language to this effect, which may carry out what you want. It says, 14 (D) 3, "after the effective filing date"--so on and so on--"if no decision is rendered on the application within twelve months after such filing date, the proposed increase may be put into effect but only if and as provided by law and subject to protective bond." Now, would that accomplish the objectives of your amendment?

MR. GRAVEL

Not exactly, Judge. If we get to it I'd like to explain it because I do think there needs to be some explanation.

MR. SCHMITT

Well, he's been up there for five minutes.

I'd like to ask a question with reference to this. Is my interpretation correct that according to this (D) 2, the legislature could put the rate increase into effect immediately and would not have to wait for the twelve month period of time according to this amendment here. Is that correct?

Explanation continued

MR. GRAVEL

Well, Mr. Schmitt, I don't, I hadn't intended to discuss the merits of this proposal at this time. I'm perfectly willing to do it.

MR. SCHMITT

I just want to know whether that's correct or not. It seems to me that by adopting this the people are much worse off than they are with what we have in here. I don't see how this is protecting anybody.

MR. GRAVEL

Well, Mr. Schmitt, I'm perfectly willing to discuss it on its merits. But, I don't think now is the time to do that.

MR. SCHMITT

Well, I object to you....

MR. CASEY

Now, look, gentleman. Mr. Gravel is up there to make a motion which is not debatable. We tried to allow a fair amount of latitude just to explain in advance what he intended to do.

[Motion to suspend the rules to permit Committee Proposal No. 37 to be discharged from the Committee on Style and Drafting.]

Substitute Motion

MR. PEREZ

My substitute motion is for a suspension of the rules for the purpose of allowing Mr. Gravel to explain to the convention and submit to questions with respect to the difference between what his proposal is and what the present provisions which have been adopted by this convention are.

So, I move for a suspension of the rules for a period of fifteen minutes for that purpose as a substitute.

[Substitute Motion adopted without objection.]

Explanation

MR. GRAVEL

Well, I hope I don't need that long, Mr. Acting Chairman, but I'll be glad to do the very best I can on this.

Ladies and gentlemen of the convention, with respect to the provisions that were adopted when we considered the Public Service Commission Article, there was a Section (D)....

There are two or three people that are asking a lot of... either want to ask questions, or waving their hands. I don't know what the trouble is.

MR. CASEY

Mr. Gravel, just let them wave their hands and go ahead and make your remarks. I'm putting them on the list.

MR. GRAVEL

I have no objections to answering any questions to the extent that I'm able to do so.

MR. CASEY

In other words, you yield for questions at this time?

MR. GRAVEL

I'd rather make a statement as to what we are trying to do here, and the background of it, to the extent that it might enlighten some of the delegates, and we'll see exactly where we are.

MR. CASEY

Go ahead and make your statement, first, Mr. Gravel. We'll take up questions later on.

You are now recognized for your statement, Mr. Gravel. Go right ahead.

MR. GRAVEL

I'm not going to yield to anybody until I get through making a brief statement. I'd appreciate it, Mr. Chairman, if I can go ahead, then, with this.

MR. CASEY

You have the floor, Mr. Gravel.

MR. GRAVEL

The governor came before us and suggested that some changes be made in the proposal dealing with the Public Service Commission insofar as there appeared to be substantial misunderstanding throughout the entire state about what had been accomplished by this convention.

MR. CASEY

Just a minute, Mr. Gravel.

MR. POYNTER

Mr. Shannon, while we're waiting here a second....where's Mr. Shannon? You want to know which amendment he's talking about? It's the one at the bottom that says "Amended Proposed Amendment." He passed out two of them and he revised it. So, it's a revised one. I think it says "Amended Proposed Amendment" at the bottom.

MR. GRAVEL

Yes. Go ahead, Mr. Clerk, please.

Amendments

MR. POYNTER

I'm sorry, Mr. Gravel.

Mr. Gravel, prior to that. If we get that far, prior to the actual introduction there are a number of small changes that even to the amended proposed amendment need to be made.

In Subparagraph 2, on line 2, after the words, "the legislature may", the word "be" should be corrected to be "by" not "be". On the very same last line of the text of it the word "appealed", I believe, is misspelled. On the fourth to the last line which begins with a portion of the word "requirements as it" striking the word "it" and for clarity putting "the legislature shall provide." So, that paragraph would read "notwithstanding any contrary provisions of this constitution the legislature may by law provide a proposed rate increase to be put into effect pending final action by the commission, and pending appeal in the courts but only subject to protective bond or security requirements as the legislature shall provide, and subject to refund with legal interest thereon, of amounts collected in excess of the rate schedule finally approved by the commission or, if appealed, by the court."

Explanation continued

MR. GRAVEL

As I stated before, there's been a great deal of misunderstanding about what this convention has done with respect to the so-called automatic rate increase provisions that relate to public utilities. There is some serious concern about just what effect exists with regard to the language that was adopted by this convention in that section, Section (B), when we considered the Public Service Commission Proposal. What this particular proposal will do is to retain Section (B) 2 that provides that within twelve months from the effective date of filing, the commission shall render a full decision on every application, petition, and proposed rate schedule. That section, (B) 2, is now incorporated in the proposed amendment as (B) 1. All of the other provisions of Section (D) of that proposal are deleted by the amendment which I will propose in the event that this convention permits me to do so. In lieu, thereof, we will insert the language that is now set forth as amended by the statements made by the Clerk, as (B) 2 of the proposed floor amendment that you have before you.

What this, then, will do is to make it perfectly clear that the legislature may provide with respect to automatic rate increases in the event it sees fit to do so. This simply carries out completely the suggestion that the governor made that this being an area in which the legislature should operate, and not the constitutional convention, we afford the legislature the opportunity to do so. Now, some of you have had some concerns and some doubts about the exact language as here employed. Perhaps it can be recast in such a way to make it more acceptable by the Style and Drafting Commission--Committee. But, I do suggest to you this. That those who supported the original proposal that was adopted by the convention--I'm talking about delegates on the floor and people who had the interest to some extent of both the commission and the utilities at heart--have approved of this language as it is, and have subscribed to it as accomplishing the purposes that the governor said should be accomplished by this convention. Now I urge you to suspend the rules, give consideration to this proposal, and hopefully adopt it so that we can relegate to the legislature arena those provisions that have to do with the putting of public utility

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rates in effect under protective bond and security, where there hasn't been any final decision either by the commission or by the courts. That's about all I can say to you at this time.

Questions

MR. RAYBURN

Mr. Gravel, if I understand this amendment correctly, you are putting the provision in the constitution where that if a decision has not been reached--a full decision on every application, petition, and proposed rate schedule--you are saying that the Public Service Commission members will have to render a decision within twelve months.

MR. GRAVEL

Yes, sir.

MR. RAYBURN

Now, the second part, you are saying that you can leave it up to the legislature, subject to protective bonds or security requirements with refunds and legal interest rate. Does not the legislature have that power and authority now?

MR. GRAVEL

I think, Senator Rayburn, that there might be some serious question as to whether the legislature either presently has that power and authority, because of the power and authority of the Public Service Commission. There would be a serious question as to whether the legislature could exercise such power under the new constitution unless we specifically give it to them because of the powers otherwise granted to the Public Service Commission. I think this would be a modification of the powers of the Public Service Commission in which area the legislature could act.

MR. DUVAL

Mr. Gravel, Senator Rayburn asked the question I was going to ask, but as a corollary to that, I was wondering, doesn't the...and I'm not certain...doesn't the provision on the Public Service Commission say "subject to such other powers and duties that the legislature may give to the commission." Wouldn't that basically be a legislative grant to give the commission certain duties?

MR. GRAVEL

Stan, let me tell you what I believe about this. I believe if we do not have this language in here, if I understand your question correctly, that only the Public Service Commission would be in a position to put rate increases in effect under any circumstances, and that unless this specific grant of authority is given to the legislature, that the legislature would not have the authority to permit even temporary increases into effect.

MR. DUVAL

Well, one thing some people are concerned about, does this change what we've done so as to allow rate increases to come into effect almost immediately, the legislature would so desire. Whereas, under the committee proposal a rate increase could not come into effect until after the commission had failed to decide within a specified time.

MR. GRAVEL

I think that would be a matter that would address itself to the legislature...that the legislature could make the determination and provide with respect to temporary rate increases without final adjudication.

It would have the same effect as the language, I think, that we have in the constitution would have.

MR. CHATELAIN

Delegate Gravel, in your amendment that you are proposing, in Section (D), or the first paragraph of your amendment, would you construe this to be a constitutional direction to the Public Service Commission?

MR. GRAVEL

Yea, I would.

MR. CHATELAIN

In other words, within twelve months they have to make a decision.

MR. GRAVEL

Well, it would be a constitutional mandate. But, of course, if they...it doesn't mean that they...that it's self-executing

where a decision is forced. But, this is a directive and a mandate to the commission.

MR. CHATELAIN

Second part of the two part there would be a permissive deal. The legislature could or could not do this.

MR. GRAVEL

Correct.

MR. CHATELAIN

In other words, they can stay where it is now, but the first part would be a constitutional mandate or direction to the Public Service Commission.

MR. GRAVEL

Correct. Yes, sir.

MR. PEREZ

So that we can understand what we're talking about. As I would understand it, what has already been adopted by the convention is that the rate increase could only become effective twelve months after the filing. Whereas, under the proposed amendment which you have, it is possible that the legislature might allow immediate rate increase prior to any hearing. Is that correct?

MR. GRAVEL

Mr. Perez, it's my recollection that under the one, what we had adopted, that the commission could authorize a rate increase pending final action by it.

MR. PEREZ

Well, let me read to you what we have adopted. It says, "If no decision is rendered on the application within twelve months after such filing date, the proposed increase may be put into effect, but only as provided by law." So, therefore, it would have to be a twelve month waiting period before the rate could be put into effect. Whereas, under your proposal the rate, if the legislature so determines, the rate could be put into effect immediately upon the filing. Is that correct?

MR. GRAVEL

I believe though, Mr. Perez, that the next section may authorize the Public Service Commission to authorize a rate increase under protective bond and security before it finally decides within the twelve months. I believe that provision is in there.

MR. ARNETTE

Mr. Gravel, you are perfectly correct about the commission being able to put these things into effect under bond, if they so choose to. But, what I'm worried about, under your language, it would allow the legislature to say that the utility company could do it by their own action simply on the filing date if the legislature chose to give them that authority. This is what worries me. At least in the other one, the commission had to O.K. it or there was a twelve month wait. In your amendment, there is neither.

MR. GRAVEL

Mr. Arnette, I want to say this as clearly as I can, what this does, and is intended to do, and what I think personally should be done, is to leave to the legislature complete authority to decide if at all, when, and under what circumstances, rate schedules may go into effect, other than by decision of the commission and the courts, subject, however, to protective bond and security.

MR. ARNETTE

So, in other words your amendment seeks to take out these limitations on the automatic rate increase that we already have in the other proposal?

MR. GRAVEL

That's what it would do. But, the purpose is, is to leave the entire matter to the legislature as being a legislative matter.

MR. NUNEZ

Mr. Gravel, I'm trying to understand what, exactly, you and the rest of us, the group who are trying to put in some provisions that the governor recommended, just what we're trying to do because my understanding was that the governor said this should not be in the constitution. Isn't that correct?

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MR. GRAVEL

Not this particular provision, that there should be no . . . all of the details should not be spelled out in the constitution, but that this was a matter that should be left to the legislature. But, Senator Nunez, let me make this point clear because I think it's important.

Unless we have this provision in here, I don't think that the legislature could act because of the authority that is granted exclusively, otherwise to the Public Service Commission to put rate increases into effect.

MR. NUNEZ

But, it seems like on times that you want to keep what's in there, you make it stronger when you want to take it out, you take it completely out on the other one.

Don't you agree, if this statement I'm going to make here, I'll read to you, refreshes your memory, then we'd know what the governor wants to do--I think--"I have to be practical . . . you're going to want to say something about it in the constitution. I suggest that you delete from the provisions of the constitution that provision related to automatic rate increases for Public Service agencies. Even with assurances, it doesn't belong in the constitution and should be handled on a legislative basis. As a matter of fact, I would be perfectly content, if it isn't in the constitution, I would be perfectly content to suggest to the legislature in May that a companion piece of legislation be adopted by the legislature in May, because there's a great deal of merit for that pass of that kind. But, I say again, it doesn't belong in a constitution, and I ask you to take it out." Unquote, isn't that what he said?

MR. GRAVEL

Mr. Nunez, let me make sure you understand clearly. . . .

MR. NUNEZ

I'm trying to make sure you understand.

MR. GRAVEL

. . . wait. I think I want to understand, but I'm not convinced that you do on this point. The governor says that the question of automatic rate increases should be left to the legislature. You can't leave that to the legislature unless you do modify by language of this type, the grant of authority that the proposed new constitution gives to the Public Service Commission. If you don't have this language, in my judgment, the legislature cannot act in this field at all.

MR. NUNEZ

Mr. Gravel, I just read you exactly what the governor said. I think I can read the language that was written down here. . . not very good, but I understand it. It specifically says the bonding provisions and the rate increase provisions should not be in the constitution. Isn't that correct?

MR. GRAVEL

Mr. . . . maybe the best answer to you is that I've gone over this proposal specifically with the governor, and asked him if this carried out his intent and purpose, and he said yes.

MR. NUNEZ

Well, that's not what he told us the other day.

MR. GRAVEL

What he said the other day, or what I understood him to say, and what I think that says is that you don't spell out in the constitution, statutory provisions with respect to rate increases. There's a difference between what we have done in the Public Service Commission Article, and what this language purports to do. This language checks it to the legislature. The other language in itself legislates. It's just that simple, Mr. Nunez, to me.

MR. NUNEZ

Mr. Gravel, if what he said is not correct in here, I think we're spending a lot of money uselessly in recording and putting these things in this document. I read it out to you what he said. If he's changed his mind and given you additional instruction, I don't know about it. But, I'm going to vote the way I think what he said to do. Take it out of the constitution.

MR. GRAVEL

But, if we take it out of the constitution, you could not do what he specifically said, and that is to help get such legislation passed by the legislature because you wouldn't

have the authority to do it, Senator. Now, if you want to be. . . .

[Motion to suspend the rules to allow an additional ten minutes for questions adopted: 95-7.]

MR. BURSON

Mr. Gravel, I agree after rereading what was finally adopted that we did, indeed, leave to the Public Service Commission the power to put these rates into effect immediately if they so desired.

Now, as I read Section 2 of this amendment, it does not mandate the legislature to do this, but simply makes it permissive. Is that correct?

MR. GRAVEL

That's correct.

MR. BURSON

But, it does make it mandatory if they do it, that they've got to provide a protective bond, a refund, and legal interest on whatever refund would be made. Is that correct?

MR. GRAVEL

That's correct.

MR. SINGLETARY

Mr. Gravel, I have a copy here of the committee proposal. Now, your amendment suggests deleting lines. "On page 2, delete lines 8 through 35." That's essentially what Senator Rayburn wanted to do. Now, I want to ask you this, under Paragraph (B) on page 1, Powers and Duties--if we delete lines 8 through 35, why do we need to insert your language? Why will not Paragraph (B), Power and Duties which says, "the commission shall regulate all common carriers and public utilities as provided by law." Why isn't that sufficient? Why do we need to put your language in there if we delete 8 through 35?

MR. GRAVEL

Well, because frankly, I believe, and others, too, Mr. Singletary, believe that all powers with respect to regulation are thereby vested, of course, in the commission.

MR. SINGLETARY

As provided by law.

MR. GRAVEL

But, we're talking, and this is the area of concern, we're talking about really a determination authorized by statute in my proposed amendment which ordinarily would be in the area of adjudication by the commission. Unless there is clearly set forth this particular authority in this area, there is a serious question as to whether or not the legislature can so act with respect to an adjudication or determination on rates even as a temporary measure.

MR. SINGLETARY

Well, I'm not sure that I'm following you. But, is it your opinion that the language, "the commission shall regulate all common carriers and public utilities as provided by law." If we delete lines 8 through 35, is it your opinion that anything else in this constitutional provision would conflict with the power or the authority of the legislature to do what you want to do?

MR. GRAVEL

Well, I don't know that I can say it any differently than to say that I think that when you're talking about a matter that involves a partial adjudication, so to speak, that in view of the language that we've employed, it needs to be made clear in my judgment, that the legislature does have specific authority to provide the mechanism and method if it so determines, whereby rate increases can be put into effect under bond and security. If we don't do it, there is a serious question in my mind as to whether or not, if we just deleted all of this language, that the Public Service Commission, I mean that the legislature could permit it. That's all I can say.

We say in this same section, that the commission shall render a full decision on every application, petition, and proposed rate schedule. That we're not taking out. We think that's important. To some extent, the proposal that I make modifies that section as well as the section involving the powers and duties of the commission. I think this makes it absolutely clear that the legislature can act, whereas there is a serious question as to whether it can act if we don't have this permissive language. That's all that it really is.

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MRS. WARREN

Mr. Gravel, I'm on the Natural Resources Committee which had dealt with this problem. Did you know that we thought when we put in there that that automatic increase, that the commission wouldn't do it, but they would just go and do their jobs. So, I notice in Committee Proposal No. 26 where you stated, and you own this amendment, "the legislature shall provide by law for penalties to be imposed on assessors and all other taxing authorities who fail to comply with their duties imposed upon them by this constitution or by law." Now, wouldn't that, couldn't that refer to the Public Service Commission and done away with all the rest of this?

MR. GRAVEL

No, I don't think that particular proposal, the way it's worded would apply to the Public Service Commission. As I recall it applies to assessors and other taxing authorities.

MRS. WARREN

I know it, but they were not doing their job. What we thought that the Public Service Commission wasn't doing that, and that was the reason we were putting the penalty in there. I was just thinking, this would have been a shorter measure, would have been legislative, and they could have set whatever penalties they want on it, our elected Public Service Commission for not doing what they were supposed to do.

MR. GRAVEL

Well, of course, that's not the issue that we're trying to correct. That's not the issue that the governor proposed to this convention, Mrs. Warren. But, I think that there is a possibility that kind of a provision could be put into this constitution.

MR. GAUTHIER

Camille, I have no problems with (D) but like a lot of other people in here, I question the language of (2). In the past when we have said "the legislature may" we have actually used that language to indicate that this convention possibly desire that they do take some action on a certain provision. I don't know if this truly represents the feeling of this convention. In other words, we have implied in the past that we have desired them to take some action in an affirmative matter and what I'm saying is this---I think what we want to do is tell the legislature they can act, but we don't want to encourage them either affirmatively or negatively; is that correct? Do you follow that I'm...

MR. GRAVEL

I follow you. I don't think that the language that I'm proposing does do that; it's permissive language. I think it's essential for two reasons. One is, the general provisions that we have saying that "the Public Service Commission shall regulate all public utilities" and also to make sure that there's no problem that the legislature can so act if it wants to under irrespective of the provisions that mandate the Public Service Commission to act fully within twelve months. So, there is an area in which the legislature can act if it wants to beyond the limitations that I do perceive in the proposal.

MR. GAUTHIER

Well, I think we agree on what we are trying to do. I just... I don't think...I'm not sure that this language does it, put it that way.

MR. GRAVEL

Well, it is, Mr. Gauthier, it is permissive language, there is no mandate here at all. It does make sure that to some extent the legislature can provide for a rate increase under certain circumstances when there hasn't been any final adjudication.

MR. GAUTHIER

You see, that's my problem as to whether or not it's permissive, but permissive in an affirmative way; in other words, we are directing them to put in such provisions because in the past that's what we have done.

MR. CASEY

Mr. Roy, has a question; then, Reverend Alexander; then, Mr. Anzalone.

MR. ROY

Mr. Gravel, the essential difference between this proposition and the committee proposal is that under what we've passed several days ago the Public Service Commission in its discretion, at any time within a year could allow the rate increase to go into effect; isn't that correct?

MR. GRAVEL

That's correct.

MR. ROY

And, we provided, though, but after the year the legislature could authorize the rate increase to go into effect subject to it being refunded in any event, at any time if the courts later reversed; right?

MR. GRAVEL

That is correct and the legislature could either keep those concepts, or modify them, or change them.

MR. ROY

Now, what this does, it essentially takes away our first discretionary grant to the Public Service Commission to make... to allow a rate increase to go into effect within a year. This provides that only the legislature may provide for any type of rate increase to be put into effect at any time within a year or after a year; isn't that true?

MR. GRAVEL

That's correct and prescribe the conditions and the circumstances under which it may be done, but it must be under protective bond and security and it must provide for a refund and must provide for the payment of interest.

MR. ROY

And, the final comment that you are trying to make with respect to the constitutionality of having to put this language in in answer to Senator Rayburn's question, is that in the committee proposal thus far adopted when we grant to the PFC the absolute right of making the rate decision, it could constitutionally be argued that unless we empower the legislature by permissive language to cope with any problems related to that, the court could take the position that only the PFC has the authority to act as constitutionally granted and no law would be constitutional which tried to dictate any terms to it; isn't that true?

MR. GRAVEL

Right.

MR. ALEXANDER

Well, Mr. Gravel, apparently you are authorizing the legislature to grant temporary rate increases instead of the automatic provision as was provided in the original document. Now, it appears to me that the major objection here is the fact or the fear that the legislature may do this within the first twelve months after filing. I'm wondering if you would not be willing to go along with the provision that would read like this: "Notwithstanding any contrary, but not within twelve months of any filing the legislature may allow"?

MR. GRAVEL

Reverend, I think that what this does is to give the authority to the legislature to treat of the whole concept. I don't think that we ought to have any...the limiting language. I just think it's up to the legislature to provide if at all when it will permit rates to go into effect without a final adjudication. I think that is a matter that should be treated legislatively, and I think we ought to leave it that way.

MR. ALEXANDER

Well, what is your opinion about the possibility of the legislature acting to authorize a rate increase within twelve months or before the commission makes its decision?

MR. GRAVEL

Well, the legislature could make a provision in that regard or it could authorize the Public Service Commission to do it as we presently have or it could say that no such increase could go into effect until after twelve months; I still believe that's an area that should be left to the legislature.

[Motion to suspend the rules to allow an additional ten minutes for questions adopted: 76-10.]

MR. ANZALONE

Mr. Camille, if the utility company or whomsoever involved were to file a petition for a rate increase, and we'll just say for the sake of argument that they would be entitled to a five million dollar increase. They file for a proposed rate increase that would grant them fifteen million dollars. Would this entire fifteen million dollars be subject to bond and placed into effect immediately?

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MR. GRAVEL

Well, Mr. Anzalone, the entire procedure would be left up to the legislature if this proposed amendment is adopted. The legislature would make provision as to under what circumstances rate increases would be permitted other than by determination of the courts of the Public Service Commission.

MR. ANZALONE

Is there anything in your amendment that constitutionally guarantees that the Public Service Commission is going to have a right of review before this rate increase can be put into effect under bond?

MR. GRAVEL

There's nothing in this proposal that would militate against the efficacy of the final determination made by the Public Service Commission as finally determined by the courts, that would be the final determination.

MR. ANZALONE

No, you didn't answer my question.

MR. GRAVEL

This only would permit the legislature to permit rate increases under certain circumstances pending the proceedings before the Public Service Commission or the courts. But, the final determination, clearly, under this language and under the language of the proposal itself would be that ultimately and finally approved by the courts.

MR. ANZALONE

The final determination but not the initial putting into effect of the rate increase under bond, this would be left entirely to the legislature?

MR. GRAVEL

Under such circumstances if the legislature would prescribe mandating the legislature, however, to provide that full refund with interest can be made if after final adjudication the proposed rate increase was excessive.

MR. ANZALONE

One other question, Mr. Camille. What's the prime rate of interest right now for....

MR. GRAVEL

The prime rate or the legal rate?

MR. ANZALONE

Prime.

MR. GRAVEL

I don't know what the prime rate is right now, it's somewhere between nine and a half and ten and a half percent, but the legal rate of interest, I think, is what we have in here....

MR. ANZALONE

Seven.

MR. GRAVEL

Seven percent.

MR. HERNANDEZ

Mr. Gravel, I think it was brought out during Mr. Roy's questions that you agreed that this takes away from the Public Service Commission and gives to the legislature the right to put a rate increase in effect pending a decision of the Public Service Commission. I believe that was agreed; wasn't it?

MR. GRAVEL

That's correct.

MR. HERNANDEZ

Now, I have two questions, the first being this: This says here that "the legislature may by law allow a proposed rate increase to be put into effect," but it does not say that the application must even be filed before the Public Service Commission before that can be done, it does not require that. In fact, there is no requirement as to how long a time a utility would have in order to file such a rate increase. Why is that omitted from your.....

MR. GRAVEL

Because, Mr. Hernandez, that these matters that need to be determined and considered by the legislature.

MR. HERNANDEZ

All right. Now, that you have taken this...now, my second question is: Why is this authority taken away from the Public Service Commission where that is their constitutional right and the constitutional duty to determine such rate increases? Why do you take that away from the Public Service Commission and give it to the legislature?

MR. GRAVEL

The whole concept behind it is to allow the legislature to permit a procedure that can be followed so that capital improvements and services can be permitted sooner than would ordinarily be permitted upon final adjudication of the case, that's the whole issue, I think, that was discussed and debated when this was adopted. Let me just make this point clear. I don't know what the disposition of this convention is going to be. We've already adopted provisions that constitutionally authorize the putting into effect of proposed rate increases under certain circumstances without a final determination being made by the Public Service Commission. Most of you know that, perhaps because it was misunderstood, that this convention got a great deal of opposition and reaction to that particular proposal; it's a very, very simple where they are now. The governor feels very much concerned about it and has asked you to reconsider this matter and to permit the legislature to go into this area rather than to mandate it in the constitution. We debated this particular issue on this floor for well over a day as I recall it. I don't think we are going to change anybody's views one way or the other with respect to the philosophy behind this kind of an approach. I suggest that we respond to what I believe is a fair analysis of the public's attitude towards what we did and make the change recommended by the governor and check this entire matter to the legislature.

MR. HERNANDEZ

Mr. Gravel, my final question: Do you honestly feel that it is constitutional to take away the constitutional authority of the Public Service Commission and give that to the legislature with absolutely no strings as to the duration of it, whether or not they have filed, or when they expect to file, or anything else; could that possibly be?

MR. GRAVEL

Well, I think whatever we put in the constitution, Mr. Hernandez, is constitutional. If we put this in the constitution and give this authority which I don't think causes anybody any problems insofar as knowing what we are doing. Now, I'm not saying that they will agree or disagree with the philosophy; but all we are doing is saying that increases that are put into effect other than by final determination by the courts and the Public Service Commission shall be authorized by the legislature, subject to protective bond and security, and subject to the right of refund as we set forth here. I don't think that this particular provision is cloudy or unclear at all. I think this is clearly doing exactly what the governor intended to do, what he asked us to do in order to help us present a document to the people that would be more acceptable than the document in its present state.

MR. HERNANDEZ

Mr. Gravel, I'm not needing you, I just can't understand why it should be.....that authority should be taken away from the Public Service Commission and given to the legislature, that is not a legislative function usually. Thank you very much, sir.

MR. GOLDMAN

Mr. Gravel, I don't know if you can do this but a while ago Judge Tate said that Style and Drafting was proposing to do something that would take care of this, and you said it wasn't exactly. Could you explain it to us the difference between.....

MR. GRAVEL

No, I really can't; I honestly don't know. All I'm saying is that Style and Drafting can then treat this as it thinks it must be treated for Style and Drafting purposes. I don't think we need, you know, to consider the Style and Drafting at this time, we haven't done that on other provisions.

MR. DERBES

Mr. Gravel, isn't it a fact that the concept of a proposed... the concept of an automatic rate increase is really a type of derogation from Public Service Commission jurisdiction? In other words, I think what most people here understand an automatic rate increase to be is where the Public Service Commission is putting the rate increase into effect automatically. But, in fact, what it is, it is a legislative automatic rate increase that works around or without the Public Service Commission jurisdiction; isn't that correct?

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MR. GRAVEL

That's correct, Mr. Derbes, and that's what I intended to say and think I said when I made the statement that to authorize the legislature to act in this area is, in part, a modification of the authority of the Public Service Commission. Now, I think you are correct. I think that....

MR. DERBES

And, when we say that "the Public Service Commission shall regulate common carriers and public utilities" and when we later say "shall have such other powers and perform such other duties as may be provided by law" that would not necessarily permit the legislature to authorize an automatic rate increase?

MR. GRAVEL

That's correct. Thank you, Mr. Derbes.

MR. BURNS

Mr. Gravel, as I see it, the main opposition that is discussed and being talked around the floor is to Section (2) (D) in that they are afraid that the legislature can provide that the raise will go into effect the day after the application is filed. Would you be satisfied to delete (D) (2) completely? It seems like to me that would meet with the governor's wishes, he wants to take it out of the constitution and by leaving (D) in there it would....that much of it would be in the constitution, it would be mandating the commission to render a decision within twelve months and then.... if they didn't, from then on the legislature could do what they wanted to do.

MR. GRAVEL

Mr. Burns, I honestly don't think the legislature could act in this area at all if we don't leave D (2) in there, I honestly don't. I think (D) (2) modifies both (D) (1) and the general grant of authority is called....

MR. BURNS

Well, all right. Then, would you consider an amendment to this effect the way it reads now, "Notwithstanding any contrary provision of this constitution, the legislature may by law allow a proposed rate increase"? Would you agree to this wording instead of "Notwithstanding if the commission does not render a full decision within twelve months, the legislature may by law allow a proposed increase"?

MR. GRAVEL

Well, let me tell you why I would have some problem with that. Actually, as I understood the governor's position and his recommendation very clearly says "We've already authorized the Public Service Commission itself to put an increase into effect, that's what the proposed constitution presently says under protective bond and security. It would take this kind of language to permit the legislature to give to the Public Service Commission that authorization. All that this language does, Mr. Burns, is to permit the legislature to deal with the entire concept of nonfinality, judicially determined automatic increases. I think we ought to leave it this way.

MR. BURNS

Just one more question: But, if we were going to put this in there it would seem like to me that the wording I suggest would give a year leeway there for the commission to act, during which time there would be no automatic raise. I think that's what concerns everybody that the automatic raise would go into effect under this the day after it was passed.

MR. GRAVEL

Well, Mr. Burns, that's not what we have done up to right now. If we adopt the proposed article the way it presently exist, the Public Service Commission itself is authorized to put a proposed rate increase into effect pending its determination, the legislature should have that authority.

[Motion to suspend the rules to allow Committee Proposal No. 37 to be discharged from the Committee on Style and Drafting. Record vote ordered.]

Point of Information

MR. NUNEZ

So, if we want an opportunity to do what the governor said, in fact, what he said and not what Mr. Gravel said he said, we should open it and try to delete this section?

MR. CASEY

Mr. Nunez, we can't argue the merits of it, that's up to the convention and what they want to do.

Therefore, those in favor of a suspension of the rules will vote yes. Those opposed will vote no,....

Why do you rise, Mr. Singletary? Let's get it moving, gentlemen.

Point of Information

MR. SINGLETARY

Is this to open it up just to consider Mr. Gravel's amendment as it is?

MR. CASEY

Mr. Singletary, the only purpose of this immediate motion is to discharge it from the Style and Drafting Committee. We have a bunch of other motions that we have to go through in order just to take it off the table.

Point of Information

MRS. WARREN

Mr. Chairman, if we open it up, can we offer other amendments?

MR. CASEY

We haven't gotten that far, but the motion as I understand will be a motion to suspend the rules only for the purpose of taking up the Gravel amendment, Mrs. Warren, therefore, other amendments would be out of order. Now, that's again up to the convention, Mrs. Warren.

MR. RAYBURN

Mr. Acting Chairman, does anyone have any idea as to when Style and Drafting plans to report out this particular proposal?

MR. CASEY

That could only be answered by Judge Tate, Senator Rayburn.

Point of Information

MR. RAYBURN

Well, actually, we don't know whether Style and Drafting has taken any action or made any recommendations or anything at this point; do we?

MR. CASEY

I think Senator Rayburn that Judge Tate has already taken the mike and can explain what they plan, but at this point, as I understand his explanation, they have not done whatever he says yet.

MR. TATE

Mr. Chairman, to report we have discharged it from committee with a caveat amendment to the effect that I mentioned earlier. I'm not trying to argue the merits and it should be the next order of business after Committee Proposal No. 22, which was just a special or stylization having to do with the Legislative Article; it should be the next order of business should we get back to Style and Drafting, Committee Proposal No. 15.

[Rules Suspended: 81-25.]

Motion

MR. NUNEZ

I move to suspend the rules to return this to the calendar and to take up the provision in Style and Drafting that deals with this subject, which is what Judge Tate says we are ready to do.

MR. CASEY

Senator Nunez, I'm not sure that the process has gone through whatever steps it has to go through....we now have it? We can take it up?

Senator, what you are making a motion on now is that we revert to Morning Hour No. 7, which is Reports of Committees. At that time, Style and Drafting would make its report. Then, at that time it would be appropriate to consider the report of Style and Drafting for the purpose of adopting whatever they propose, whatever amendments. Now, is that the motion that you intend?

MR. NUNEZ

That's the motion that I intend if it does what I intended to do, that is, to get it to the provision on Style and Drafting,

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that is, Committee Proposal No. 37 that deals with this subject which I believe would clear it up without going back into it and getting into a big debate.

[Motion to revert to Reports of Committees. Record vote ordered. Motion adopted: 71-32.]

Report of the Committee on Style and Drafting

MR. HARDIN

Justice Tate, Chairman of the Committee on behalf of Style and Drafting submits the following report:

Chairman, delegates of the Constitutional Convention:

I am directed by your Committee on Style and Drafting to submit the following report:

Committee Proposal No. 37, introduced by Delegate Lambert, Chairman on behalf of the Committee on Natural Resources and Environment is reported with amendments.

Justice Tate now moves for a suspension of the rules for the purpose of considering the report...the proposal containing the report at this time.

[Motion to suspend the rules to consider the above report at this time adopted without objection.]

Committee Proposal No. 37

Explanation

MR. TATE

Mr. Chairman, I don't know if Committee Proposal No. 37 has been distributed yet. The staff is distributing Committee Proposal No. 37. When you see it, you are going to see it's one set of green ones, a one page yellow amendment on both sides, you will have to look at that because it's a different format because of the shortage of paper and then the white amendment. The yellow amendment is a caveat is in the form of, I believe, two caveat amendments--we'll see when we get to it. It is held by a paper clip in the middle, not a paper clip, a staple. What you should do is....you now have three sets of things before you.....memory, this is going to be Section 14 of the Natural Resources Article---this was separated in December. What do you have? Committee Proposal No. 37?

All right. To refresh your memory, this was Section 14 of the Natural Resources Article, it was separated just before the Christmas recess to separate the questions and the Public Service Commission was treated separately. Now, to refresh your memory one more time, the amendments in which you are interested will be the last amendment. The first run through are just stylistic changes in the interest of using standard language, shortening sentences, and so on, providing titles for the subsections. Now, with that explanation, Mr. Chairman, I would first introduce Amendment No. 1.

Amendment No. 1

MR. CASEY

Amendment No. 1. Please refer to your Style and Drafting report now, Amendment No. 1.

MR. TATE

The green on the right, of course, as against on the left which passed the floor. As you notice, in general, simplifies the language---as to "the five members, who shall be elected for overlapping terms of six years," it puts together from the end to the middle the retention clause about the commissioners presently serving and then it puts at the end, the provision about the commission shall elect its chairman and the work shall be domiciled and so on.

May I make one comment, Mr. Chairman? There will be one caveat amendment on this which will specify that it's in the Executive Branch, but that comes up later.

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. TATE

Amendment No. 2, Paragraph (B) and it deletes the provision in Paragraph (B) which said "Notwithstanding any provision in this

paragraph the legislature shall provide for the regulation of natural gas by such regulatory authority as it may designate" because that similar provision was contained in Committee Proposal No. 34 on Natural Resources and, of course, its repetitive here.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TATE

Amendment No. 3 which is to Section 14 (C) on page 3 of your green....simply changes "consent" to "approval" because we have been using approval of the majority of the electors voting on and make other....and specifies that this paragraph shall apply to safety regulations and adds "in which it was surrendered" because was surrendered...was left hanging without the connective "in which".

[Amendment No. 3 adopted without objection.]

Amendments Nos. 4, 5, 6, and 7

MR. TATE

Amendment No. 4 is to 14 (D) (1). It takes the "within twenty days" at the beginning of the clause. . . at the beginning of the sentence in (D) (1)...it leaves out surplus language as you can see and has the same meaning. In other words, it's . . .

MR. CASEY

Do you have a question, Mr. Gravel?
Do you yield to a question? You want the floor?
Okay, let Judge Tate complete his remarks.

MR. TATE

Well, I think I've completed it. It says,"within twenty days after a common carrier files a proposed rate schedule which would result in a change in rates, it shall give notice thereof by publication in the official state journal and in the official journal of each parish within the geographical area." It says the same thing as far as we're concerned.

Motion

MR. GRAVEL

Mr. Chairman, first for a question and then, I believe, a motion might be in order. The question is: is that the proposed amendment that I had asked the convention to consider, of course, was not directed toward the section as changed by Style and Drafting. I would like to move that we defer any consideration of Section 14 (D) at least until such time as I can get with Judge Tate and coordinate the proper kind of language so that it will fit into the document that's now before us, that is submitted by Style and Drafting. Now, my amendment, of course, relates to the first enrollment of the proposal and I just think I need to properly get it before the convention.

MR. CASEY

So, your motion is to defer action on Amendments . . . let's get straight on the amendments now, Mr. Gravel.

MR. GRAVEL

On Section 14 (D). Any amendments to Section 14 (D)?

MR. CASEY

Okay. Is that Amendments Nos. 4 and 5?

MR. GRAVEL

Well, it would be on everything that's on pages 4, 5, and 6.

MR. HARDIN

Those are the two subject matters that your amendments refer to, Mr. Gravel.

Point of Information

MR. RAYBURN

I don't really know how to put this, but I'm of the opinion that maybe we should hear the recommendation from Style and Drafting and then vote on Mr. Gravel's motion. We haven't even heard their recommendations yet.

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MR. CASEY

Well, Senator, then you'd vote no on the motion . . . you're objecting, I assume; is that correct?

MR. RAYBURN

I'm just wondering if Mr. Gravel would have any objection to letting the Judge explain their suggested proposal and then maybe vote on his motion. But, I think we're at least entitled to hear, Camille, what they suggest and then vote on your motion.

MR. GRAVEL

Mr. Chairman, the proposal that I make is a substantive change. I don't think it's right to go into the changes suggested by Style and Drafting when we are in the process of trying to get the substance of the section considered.

Point of Order

MR. NUNEZ

Mr. Acting Chairman, this convention just voted by a vote of seventy something to twenty something to take up Style and Drafting, this provision specifically because they wanted to see what Style and Drafting had recommended before they voted on the substantive change, it's my understanding. Now, if we do and take it up now, we're going back to undo exactly what we did to take up Style and Drafting.

MR. CASEY

Now, Mr. Nunez, you are arguing the merits of it.

MR. NUNEZ

I'm not arguing the merits. That's a point of information, or whatever you want to call it.

MR. CASEY

The point is, the convention can do anything it wishes. At this particular time that is in order. The motion is in order, Mr. Nunez.

[Motion to defer action on Amendments Nos. 4, 5, 6, and 7 rejected: 30-74. Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TATE

Amendment No. 5 is to 14 (D) (2), at the top of page 5. It just singularized "every" to "each" . . . and "effective date of filing" to "effective filing date."

[Amendment No. 5 adopted without objection.]

MR. CASEY

Amendment No. 6.

MR. TATE

Section 14 (D) (3) is the one to which there will be a caveat amendment offered clarifying the intent. The present language is just to carry out the ordinary styling which is to say "any" for "a", etc. "Any increase in rates" . . . "a rate increase."

MR. CASEY

Any questions?
Any discussion?
Mr. Burns.

MR. BURNS

I asked that the Clerk read Section 3 under Amendment No. 6.

Amendment No. 6

MR. HARDIN

Amendment No. 6. On page 2, delete lines 20 through 31, both inclusive, in their entirety and insert in lieu thereof the following:
"(3) After the effective filing date of any proposed schedule by a public utility which would result in a rate increase, the commission may permit the proposed schedule to be

put into effect, in whole or in part, pending its decision on the application for rate increase and subject to protective bond or security approved by the commission. If no decision is rendered on the application within twelve months after such filing date, the proposed increase may be put into effect, but only as provided by law and subject to protective bond or security requirements, until final action by a court of last resort."

Explanation

MR. TATE

Mr. Chairman, I may explain that the substitute (D) (3) is offered on page 2, the back of your yellow sheet which is going to add . . . when it is offered. But, this is just the floor language clarified right now, "but only if and as provided by law." But, that will come up as the last amendment before you, but this is just stylized.

[Amendment No. 6 adopted without objection.]

Amendment No. 7

MR. TATE

Amendment No. 7 is to 14 (D) (4), on the right-hand top of page 6. It just changes "any" to "a" in accordance with the stylistic conformity we've been following up to now.

[Amendment No. 7 adopted without objection.]

Amendment No. 8

MR. TATE

Amendment No. 8 is to 14 (E). On page 7 of your green. As you will see, it simply . . . for instance, it clarified "these rights of appeal" because there was an appeal from the commission to the district court, and an appeal from the district court to the Supreme Court. It clarified those and it used "including, but not limited to action," instead of "including without limitation," and "Subparagraph (3) above" substituted "this paragraph" for "above." In other words, "Subparagraph (3) of this paragraph." They are just ordinarily stylistic changes.

[Amendment No. 8 adopted without objection.]

Amendment No. 9

MR. TATE

Now, Amendment No. 9 is not the issue before you yet, but this was . . . the Style and Drafting Committee was divided, narrowly divided, but it did vote and the Natural Resources Committee did approve submitting this on the idea to clarify that the Public Service Commission is in the Executive Branch, like the Interstate Commerce Commission of the federal government. Now, this has to do . . . to go way back to the first part of the constitution where there says "there shall be an Executive Branch, a Judicial Branch and a Legislative Branch." It said that all of the various components of the Executive Branch shall be divided into twenty administrative units or departments. To clarify, if it needs clarification, that the Public Service Commission would be in the Executive Branch rather than to leave it up in the air whether or not it's within that reorganization, it was recommended. . . the recommendation really adds "in the Executive Branch" -- "There shall be a Public Service Commission in the Executive Branch" -- on line 6. As I say, the committee was divided on whether this clarification was needed or was proper, but we thought it appropriate to bring it to the floor to avoid lawsuits in the future.

Point of Order

MR. KEAN

Question of the Chair, point of order, Mr. Chairman. As I appreciate this particular amendment it would specifically provide that the Public Service Commission would be in the Executive Branch and as I understand, the specific provision of the Executive Branch dealing with allocation of functions into twenty departments would then be subject to those provisions with respect to reallocations

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of functions, powers and duties. I question for that reason that this is a Style and Drafting amendment, and ask for the ruling of the Chair as to whether or not it does not constitute a substantive amendment for which sixty-seven votes would be required to take it from the table.

MR. CASEY

Mr. Kean, what we've been doing on the . . . on whether a Style and Drafting amendment is in order is just letting the convention decide. So, what you're doing, you're questioning whether Amendment No. 9 is in order.

MR. KEAN

That's correct.

[Chair declined to rule. Question put to the Convention.]

Point of Information

MR. FLORY

Is Amendment No. 9 the one that they have the caveat on?

MR. CASEY

Amendment No. 9.

MR. TATE

Yes, that's caveat Amendment No. 9. We left it to the judgment of the convention whether it's substantive and whether you wanted to clarify. Some people thought it was not substantive, some thought it was and some thought you needed clarification, and some thought you didn't. We left it to the judgment of the convention. It's Amendment No. 9 on the top side of this 1/12/74 which adds "in the Executive Branch" on line 6 to what you previously adopted.

MR. FLORY

Mr. Chairman, I asked the Chair a question: if Amendment No. 9 is the same as the caveat offered by the Committee on Style and Drafting?

MR. TATE

Yes, Mr. Flory.

MR. FLORY

Then I object to the Chair stating then that the vote is whether or not you want to uphold the Committee on Style and Drafting because they've already said that it's a substantive change by the submission of a caveat.

[Convention declared the Amendment in order: 69-34.]

Further Discussion

MR. TATE

My only remark is, as I understand the constitutional reallocation, you cannot take away from a constitutional department that which was allocated to it by the constitution. That is in the reallocation provisions and it's also in the Transitional Measures about the first reallocation or allocation of duties. So, as I understand the reasoning of the Executive Branch Committee it was for administrative efficiency all these various branches would be in twenty units for purposes of administration, without disturbing any constitutional allocation of duties to them, with regard to their regulation or what not. Perhaps, Mr. Stagg would have a friendly question or would like to take the floor.

Questions

MR. STAGG

Judge Tate, would it not be then your concept that one of the twenty departments in the Executive Branch could be a Department of Regulatory Affairs? Under the Department of Regulatory Affairs for administration purposes you'd find the Public Service Commission and some of these other regulatory commissions and this would not be a department or one of the twenty departments as we had conceived the Executive Branch?

MR. TATE

As I understand the Executive Branch Proposal, that is it. It would be for the purposes of administering traffic regulations

and personnel policies and for better management, but it would not affect. . . it would not mean this had to be one of the twenty departments. It would not mean, as I understand it, that it disturbs at all constitutional functions.

MR. STAGG

None of its powers and functions would be thereby deleted. Is that correct?

MR. TATE

As I understand it, yes, sir.

Further Discussion

MR. KEAN

Mr. Chairman and fellow delegates, I take serious exception to the amendment which would include the Public Service Commission in the Executive Branch and thus make it subject to the reallocation authority that is contained both in the Executive Branch Proposal and in the transitional schedule. Now, it's true that the transition schedule says that it does not affect agencies to which duties and functions are allocated by this constitution. But, I want to call your attention to the provisions of Section 14 (B) and it may well be that . . . the first sentence of Section 14 (B) was not intended to read as it does read and to have the meaning that it does have, but it is nonetheless contained in Section 14 (B) that "the Public Service Commission shall regulate all common carriers and public utilities as provided by law." The Public Service Commission under this constitutional provision has no constitutional allocation of authority. The Public Service Commission has only such authority as may be provided by the legislature in due course by law. Under those circumstances, the Public Service Commission is not protected by the transitional schedule provision relating to the allocation of functions by this constitution. If you read 14 (B), the first sentence of 14 (B), and you put the Public Service Commission in the Executive Branch, then I say to you that under Section 1 of Article XVII which is the transitional schedule, the whole department known as the Public Service Commission could be, in my opinion, allocated to another department, or those functions and powers and duties, as might otherwise be allocated by law to the commission, handed over to someone else. I don't think that was the intention of this convention in the enactment of this particular section. There is nothing in this original Section 14 (A) that talks about the Public Service Commission being in the Executive Branch. I think we judiciously did not provide for it in the Executive Branch because it's a quasi-judicial body, and it ought not to be subject to reallocation by the Executive Branch or by the legislature. For that reason, and particularly in light of the language contained in 14 (B), which makes it clear that no duties are allocated to the Public Service Commission by this constitution, I think we do violence to what we intended to do with the Public Service Commission if we now move it into the Executive Branch. For that reason, I oppose the amendment.

Questions

MR. ARNETTE

Mr. Kean, is it not the case that no matter where we place the Public Service Commission they have absolutely no jurisdiction unless the legislature chooses to give it to them?

MR. KEAN

That's correct, but if they . . .

MR. ARNETTE

In other words, if we leave it right where it is now they still don't have any constitutional jurisdiction, and they won't have unless the legislature gives it to them; correct?

MR. KEAN

That's correct, Mr. Arnette, and that's the reason I'm concerned about this because if we put it over in the Executive Branch, you could reallocate it to somebody else and then give that agency or body the jurisdiction.

MR. ARNETTE

Mr. Kean, cannot the legislature do that right now?

MR. KEAN

No.

MR. ARNETTE

If we leave it where it is?

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MR. KEAN

No. They might. . . the legislature might not give them any authority to operate under this particular section, but there'd be a Public Service Commission and they couldn't give it to anybody else.

MR. CONROY

Mr. Kean, in the Article on Distribution of Powers we said the powers of government of this state are divided into three separate branches, Legislative, Executive, and Judicial. Which of those three branches would you think that this entity fell under if it doesn't fall under the Executive Branch?

MR. KEAN

Mr. Conroy, I'm not going to try to decide where it falls; all I'm saying is that if you say that it is in the Executive Branch and spell it out, it then comes under the reallocation provisions that are applicable to the Executive Branch, and for that reason, I'm opposed to the amendment.

MR. ARNETTE

But, Mr. Kean, don't you agree that it has to be in one of those three and that we ought to say where it is?

MR. KEAN

Well, you can say where it is, as long as you don't put it over in the Executive Branch where it's going to be reallocated to somebody else.

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, I too have great reservations with respect to the placing of the Public Service Commission in the Executive Branch of government because of the possibility of its reorganization in the allocation of functions. I think that the great majority of the delegates here want to have a Public Service Commission which will continue to exist and which will continue to have the functions which we now know they exercise. I am very much concerned in a reorganization that the authority and powers of the Public Service Commission might be stripped and placed into some other regulatory agency. Whether, in fact, this agency is in the Executive Branch or the Judicial Branch should make no difference from the standpoint that we are trying to protect the jurisdiction of that particular agency, and if we reject the amendment which would place it in the Executive Branch, technically it might end up in the Judicial Branch because the commission does exercise judicial functions of determining rates. The appeals from their decisions go to the courts so that they are definitely, at least quasi-judicial and could be considered in the Judicial Branch just as well as in the Executive Branch. I would therefore, very strongly urge to you as I did before the Committee on Style and Drafting that those words are very substantive in nature, would completely change the concept of what we have already done by placing the Public Service Commission as a separate constitutional agency which would regulate rates, etc. So, I, therefore, strongly urge you to reject the amendment which would place the Public Service Commission in the Executive Branch so that we can avoid its being stripped of its authorities and jurisdiction by a reorganization plan.

Questions

MR. DERBES

Mr. Perez, isn't the jurisdiction of the Public Service Commission truly determined in the phrase "it shall regulate common carriers and public utilities as provided by law?"

MR. PEREZ

Yes.

MR. DERBES

Now, within a reorganization in the Executive Branch of government the very fact of reorganization does not necessarily and, in fact, does not really point at the functions of the commission if the commission is a constitutional commission, does it?

MR. PEREZ

Well, if you'll look at Section 1 (B) on the first allocation it says that "except the office of governor and lieutenant governor all offices, agencies and other instrumentalities

of the Executive Branch and their functions, powers, duties and responsibilities shall be allocated according to function, etc." Since there are no specifics set out with respect to their functions, I agree with Mr. Kean that those functions could be allocated to another branch if they so decided.

MR. DERBES

It just seems to me that this is a very essential question which we failed to answer when we were debating the Executive Article.

MR. PEREZ

Yes, it's one of the things that's bothered me greatly with respect to this reorganization.

MR. DERBES

What we really need here is we need some type of amendment which may say that. . . in terms of the jurisdiction and the functions of the agencies within the Executive Branch they cannot be tampered with unless it is so provided in the constitution, but in terms of whom they report to and how their money is budgeted, etc., they can be reorganized within the Executive Branch of government. It seems to me that's what we're really talking about.

MR. PEREZ

The legislature appropriates funds for all branches of government, Legislative, Executive and Judicial, so I don't believe that that is a fair analysis.

MR. LANIER

Mr. Perez, we also dealt with the Forestry Commission and the Wildlife and Fisheries Commission. What disposition do you feel should be made with them?

MR. PEREZ

As far as I'm concerned, we should not make the substantive change of putting any of them in the Executive Branch as such, and leave it on its own bottom, so to speak.

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, I am not taking a position on this amendment. I just want to be certain that the delegates understand what took place in the Committee on Style and Drafting. I am a member of Style and Drafting and of the Executive Department. There are three things you will have to consider: On the Forestry Commission, the Wildlife and Fisheries Commission and the Public Service Commission the Committee on Style and Drafting was closely divided on two; it was 6-5 and on one 7-4. In other words, we could not decide whether or not--what you wanted to do. We did feel it was a substantive change. I agree with Mr. Kean and Mr. Perez that if you put this in the Executive Department, you have placed it under the limitations and provisions of that article. I do not know what you want to do, but I urge you to think about it because it does not come from the Committee on Style and Drafting with a unanimous report. It was a closely divided question, 6-5, 6-5, 7-4. The decision is yours. I'm not urging you to do anything except think about it. Thank you.

MR. GOLDMAN

Delegate Asseff, you mentioned the Wildlife and Fisheries and the Forestry Commission. In your committee did you discuss at all the Civil Service Commission?

MR. ASSEFF

No. These three came up under Natural Resources, Mr. Goldman, and we voted on a roll call vote 6-5, 6-5, 7-4 to submit them as substantive amendments to this convention. I opposed.

MR. GOLDMAN

But, nothing was done on the Civil Service Commission?

MR. ASSEFF

Well, I don't recall whether we voted or not on that, Mr. Goldman. Most instances there is not a roll call vote; on these three there was, 6-5, 6-5, 7-4. I don't care how you decide except that you do understand that it does not come to you recommended by a unanimous or even a near unanimous vote of Style and Drafting.

[Previous Question ordered. Record vote ordered. Amendment No. 9 adopted: 56-51.]

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Amendment No. 10

MR. TATE

Amendment No. 10. Now, this is the amendment you were waiting for. This amendment, in effect, adds, on line 23 on your yellow--on the back of your yellow--to Section 14 (D) (3); as it passed the floor it said, "but only as provided by law." The floor explanation, which your speaker foolishly offered to give, was to the effect that it meant "but only if and as," only if the legislature so provided and only as provided. Both committees agreed and understand the authors of the amendment had no objection to it for this clarifying amendment which is to say, "if no decision is rendered within twelve months, the proposed increase may be put into effect, but only if--if--and as provided by law." Subject to it, to make it plain that the legislature might provide a general law to provide a method by which, if the commission did not act in the twelve months, a temporary rate increase might be put into effect. As your speaker said at that time, I had visualized and the thing would go to court or do something like that and have to have a strong rule to show cause. But, anyway, this is the clarifying language that both committees recommended for your attention to carry out the original intent of those who explained the floor amendment, "but only if and as."

Questions

MR. ROY

Do you know, Justice Tate, that I was the author of that particular amendment and have no objection, do you not?

MR. TATE

Yes, Mr. . .

MR. ROY

Now, do you think that anybody in this hall or any literate person can read that provision as now, you know, with the word "if" in it and come up with the conclusion that it provides for automatic rate increases? I mean, that includes newsmen too, your Honor. I want you to answer with respect to that.

MR. TATE

Well, I would say almost no one could.

MR. BURSON

Judge, as I read this sentence as you all recommend that it be adopted in this caveat, it would make it plain that you have here, two categories of possibilities. Number one, that it is within the discretion of the elected Public Service Commission, if they so choose, to adopt a procedure whereby they might permit a rate increase to go into effect pending an ultimate decision on final appeal, etc. But, that's within their discretion--the discretion of the Public Service Commission. Is that right?

MR. TATE

Yes, sir. There was not much debate on that, as I recall it, the first time. The main controversy centered on the second sentence. Yes, sir.

MR. BURSON

Then, the second thing which was where we had the big debate was that after twelve months, if there is no decision, some of us . . . some of us were very concerned, at that time, that the language that we adopted was somewhat ambiguous in that it implied that perhaps it might be within the option of the company to put the rate into effect; but that the language you're suggesting, here, makes it crystal clear that no rate can go into effect unless and if the state legislature adopts enabling legislation, as it were, to permit such a procedure.

MR. TATE

That is correct, Mr. Burson.

MR. BURSON

So, there is no question, here, that absent some enabling legislation by the House and by the Senate that nobody could argue that from the constitution you could put a rate into effect automatically. Is that right?

MR. TATE

I don't think. . . almost no one could, Mr. Burson.

MR. RAYBURN

Judge, I guess I fall in that illiterate category, but I'm going to ask you a question, if you don't mind.

MR. TATE

Anytime, Senator. I'm just a little scared, though.

MR. RAYBURN

I might make a statement about them over-smart people before it's over.

If I read this correctly, you say, here, "If no decision is rendered on the application."

MR. TATE

Right.

MR. RAYBURN

"Within a twelve month period."

MR. TATE

Right.

MR. RAYBURN

What if an unfavorable decision is rendered in a two month period?

MR. TATE

There is no way, under this. . . there's no way, under this, for them to allow a temporary rate increase. It's only if no decision is rendered within twelve months and only if the legislature so provides a procedure that may a rate. . . temporary rate increase be given.

MR. RAYBURN

Then, if any decision is rendered, then nothing can happen?

MR. TATE

As I read this amendment, Senator, that is absolutely correct.

MR. NUNEZ

Judge Tate, in the event that this is adopted, I think that you have said that this was the intent of the convention when we passed the "as only provided by the legislature." Is that right?

MR. TATE

Senator Nunez, all I can say is that those who voted for it did so--most of them, I understood--upon the representations of your speaker, who unfortunately thought he was speaking for. . . in a statesman-like way to resolve the difficulty. He said that's just what it meant.

MR. NUNEZ

One further question: as a point of procedure, Judge, if this is adopted, then this is securely as the convention has. . . will. Then, if Mr. Gravel wants to come back in and tries to open it and tries to change it and is unsuccessful, then this language will stand, and we'll have something. . . something in the constitution on this thing. . . on this. . .

MR. TATE

As I understand the legislative procedure, Senator Nunez, I think you are exactly right.

MR. NUNEZ

Judge, would you describe a man illiterate as one who vacillates and changes his mind on such important issues as we have before us, as Mr. Roy has?

MR. TATE

I would. . . I would. . . My good friend, Mr. Roy, I would not. . .

MR. NUNEZ

You don't have to answer that. You don't have to answer that. I think we can. . . up their own minds.

MR. TATE

I would say he's not illiterate; he's not illiterate.

[Previous Question ordered. Amendment No. 10 adopted without objection. Motion to suspend the rules to reconsider Committee Proposal No. 37, Section 14, for the limited purpose of considering the Tobias amendment adopted without objection.]

Reconsideration

Amendment

MR. HARDIN

Delegates Tobias sends up what has been styled as a technical amendment to change a paragraph description in one of the amendments offered by the Committee on Style and Drafting.

Amendment No. 1. On page 3, line 2, in Committee Amendment No. 8 proposed by the Committee on Style and Drafting and adopted by the convention on January 14, 1974, on line 9 thereof, after the number and word "(3) of," delete the remainder of the line and insert in lieu thereof the following:

"Paragraph (D) of this Section."

Explanation

MR. TOBIAS

Very simply, Mr. Chairman, fellow delegates, this clarifies the language contained in the last section of Section 14 of Committee Proposal No. 37. There is no Subparagraph (3) in Paragraph (E). It really refers to Paragraph (D). That's what this clarifies, and I move the favorable adoption.

*[Amendment adopted without objection.
Section passed: 109-0. Motion to reconsider tabled.]*

MR. CASEY

Now, Mr. Juneau, I understand you have an amendment that you wanted to offer. Why don't you just hit it a lick and explain what you're going to do, because you're going to move to suspend the rules. Right?

Explanation

MR. JUNEAU

Yes, sir.

You want me to explain what I want to attempt to do by . . . or make the motion first, Mr. Chairman?

Mr. Chairman and fellow delegates, if you will, look at Committee Proposal No. 37, and more specifically, Paragraph (B) starting at line 25. Part of this problem was referred to in Mr. Kean's remarks regarding whether or not this article was to be put in the Executive Department or the Public Service Commission. I'm not getting into that particular issue, but I would like to discuss part of the problem here raised with regard to the first sentence. More specifically, it says: "The commission shall regulate all common carriers and public utilities as provided by law." I really don't think that that's what we intended to say. More specifically, if we're going to put into the constitution a commission which will regulate common carriers and public utilities, you have, in effect, destroyed the constitutionality of that provision by in turn saying, "as provided by law." It makes sense that by a mere legislative act, you could strip away the authority of the Public Service Commission to regulate common carriers and public utilities. I might further add that if we were to leave this language alone, you are making a drastic change in the current law. In that regard, I refer you to page 67 of your black book, which refers to the present duties, responsibilities and functions of the Public Service Commission. I think you will find, by reading that language, that there is no such restriction. I think the intent was, of this convention, to put the authority to regulate common carriers and public utilities in the exclusive jurisdiction of the Public Service Commission. What I would propose to do would be to offer an amendment, which language would read as follows:

"The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law."

That is in basis what the present law is, and we will have obviated the possible conflict, in the future, of the legislature completely stripping the Public Service Commission of duties that I think we fully intend to give them. That would be the purpose of the amendment.

[Motion to suspend the rules to reconsider Committee Proposal No. 37, Section 14 for the limited purpose of considering the Juneau amendment.]

Point of Information

MR. ANZALONE

Will there be any amendments allowed to Mr. Juneau's proposal?

MR. CASEY

Not under the motion for a suspension of the rules.

MR. ANZALONE

Might I ask him a question before you call for a vote, please?

MR. CASEY

State . . . what is your question if it goes to the merits of it and what not? Honestly, Mr. Anzalone, it's not a debatable type of motion. But, go ahead and ask your question.

Question

MR. ANZALONE

Pat, Paragraph (A) is what you . . . Section 14, Paragraph (A) is what you . . . Wait a minute.

No, Paragraph (B) is what you are concerned with. Now, I am concerned with Paragraph (C). How are you going to say that they are given constitutional authority to regulate all public utilities in Paragraph (B) and not make an exception to Paragraph (C) and still have something that we can all live with? What I'm trying to ask you is: Will you accept an amendment that says, "except as otherwise provided by this constitution and shall have other regulatory powers as provided by law"?

MR. JUNEAU

I have no objection to that at all, Mr. Anzalone. I just don't think that that language is necessary, because you have added a Paragraph (C) which specifically eliminates the regulation that I think you're concerned with. You're talking about the municipalities, districts, and that thing. But, I don't . . . you know, if that bothers you, I don't have any objection to that at all. . .

MR. ANZALONE

I just wanted to get an interpretation on the floor.

MR. CASEY

Now, gentlemen, just a minute. We're getting hands for questions and people to speak. It's a nondebateable motion. I just sort of waived the rules just so one delegate could try to get some information.

[Motion adopted: 75-21. Motion to reconsider adopted without objection.]

Reconsideration

Amendment

MR. HARDIN

Amendment offered by Delegate Juneau to Committee Proposal No. 37 by Delegates Lambert, et al.

To the first enrolled proposal, amend the proposal as follows:

"Amendment No. 1. On page 1, line 25, after the word and punctuation "Duties." delete the remainder of line 25, and delete line 26, in its entirety and insert in lieu thereof the following:

"The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It"

Point of Order

MR. TOBIAS

This particular section of the proposal has been restyled by the Committee on Style and Drafting, and I think the amendment would probably have to be redrawn.

MR. HARDIN

The amendment is correctly drawn, Mr. Tobias.

Explanation

MR. JUNEAU

Members of the convention, I think if you have any questions I'll be glad to answer the questions. I attempted to explain in as much detail as I could the purpose of this amendment. But,

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again, just for purposes of clarification, I'm only attempting to leave the authority of the Public Service Commission as it is under the present law. I want to negate the possibility of the legislature being able to completely strip the regulatory authority of the Public Service Commission as it relates to all common carriers and public utilities. I don't think. . . I think if we do not adopt this change, we're going to be in for substantial trouble in the future with the language that we now have in the committee proposal.

Questions

MR. JENKINS

Pat, I'm concerned about your amendment. As I read the language we now have, the legislature can fix, sort of, the limits of the regulatory authority of the Public Service Commission. But, under your amendment, they could not. Is that correct?

MR. JUNEAU

Under my amendment, the regulation of. . . the regulation, per se, of common carriers and public utilities is strictly to be administered by the Public Service Commission. As I read the language that is now in the provision, the regulation of those two activities could be stripped to the point that there would be no regulation at all.

MR. JENKINS

But what I mean is, for example, suppose the legislature found that it would be in the public interest not to have price regulations on buses or on trucks, for example. There's no way that you could prevent the Public Service Commission from so regulating, could you; because you're giving them, here, authority to do whatever they want, even though the legislature does not find it to be in the public interest? Isn't that correct?

MR. JUNEAU

I think that's the present law, Woody. As I read Section 4 of Article VI, it says, "The commission shall have and exercise all necessary power and authority to supervise, govern, regulate and control all common carrier, railroads, etc., which includes utilities.

MR. JENKINS

So, really, what you're saying is we should build into this constitution a guarantee of regulation of all aspects, every aspect, of public utilities and common carriers and that it should never be possible, in any respect, to have a free market in any of those; for instance, if the legislature provided to have a free market with regard to rate for trucking.

MR. JUNEAU

What I'm saying, Woody, is I think that the law ought to be the same as it is today, and that since we have a constitutionally created office with elected officials--people elected by the people of this state--that they should have the authority to regulate all aspects of radio common carriers and public utilities.

MR. JENKINS

But, for instance, the attorney general has authority which, in fact, is provided by law; isn't that correct, and the secretary of state? They have certain designated functions and certain limitations, etc. in the constitution. But, basically, it's as provided by law, is it not?

MR. JUNEAU

Well, I don't think that's a carte blanche authority to the secretary of state. I think there are some things that are within his exclusive providence. I might. . . Let me further clarify it by saying this, Woody: if you put anything in this constitution as the language now stands, "as provided by law," we have in essence said nothing for the Public Service Commission. We might as well throw it out.

MR. JENKINS

No, haven't we said that if there is regulation of a common carrier or a public utility, it will be by the Public Service Commission? Haven't we said that? But, we have not necessarily said in our language we now have that there will necessarily be regulation of every aspect of these businesses, have we?

MR. JUNEAU

Well, I construe that to be. . . to mean, Woody, that it's no use having any regulations of the Public Service Commission by the elected members of this state because, in essence, those regulations have to be provided by the legislature. I don't know what we'd be playing with a constitutionally created office for. I. . .

MR. JENKINS

Well, for example, the legislature passed an act in, I believe it was in 1972, setting up certain fees that can be charged for inspections and licenses issued to common carriers by the Public Service Commission. Now, are you telling me that under your language the legislature could not so provide? They're going to regulate in whatever manner they desire?

MR. JUNEAU

No. What I'm telling you is this: is the intent and the language that is encompassed within the amendment which I proposed is not to make any change whatsoever in the present authority and jurisdiction of the Public Service Commission. Whatever act you may have passed in the legislature relating to the Public Service Commission could be passed in 1975, 1976 or '77. I'm only talking about the regulation per se. If you have authority in the legislature to pass an act relating to the Public Service Commission, whatever those acts are today, I think you would have the same authority under this amendment to pass that type of legislation. I just want to preclude a type of situation where you establish a Public Service Commission and then say, "But it's going. . . their regulations as provided by law." In other words, the legislature is going to run the Public Service Commission. If that's true, I don't see what we're putting it in the constitution for.

MR. JENKINS

One other question, Pat: if you look at the Section 4 of Article VI of the constitution, you will see that the right of the legislature with regard to the powers of the Public Service Commission seems to be unlimited; does it not? In fact, it so states.

MR. JUNEAU

Give me the language, Woody. It's a long paragraph. I'm not sure where you are referring to.

MR. JENKINS

Well, it. . . for instance, the language, "the right of the legislature to place other public utilities under the control of and confer other powers upon the Public Service Commission, respecting common carriers and public utilities is hereby declared to be unlimited by any provision of this constitution."

MR. JUNEAU

I think that's the same language that I have in this amendment. It's certainly intended to be that way.

MR. ARNETTE

Mr. Juneau, in other words, what you seek to do is put some constitutional jurisdiction in the Public Service Commission whereas now, they have none?

MR. JUNEAU

That's absolutely correct, Mr. Arnette.

MR. ARNETTE

Is it your understanding of the proposal that we've passed that the Public Service Commission has absolutely no jurisdiction whatsoever unless the legislature chooses to give it to them?

MR. JUNEAU

It's my understanding of the proposal as now adopted by this convention that the Public Service Commission has no constitutional jurisdiction with any validity at all.

MR. SINGLETARY

Mr. Juneau. . . down in, well, beginning with line 26, "it shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties and shall have other powers and perform other duties as provided by law." You've got a duplication of "as provided by law." Is that your intent?

MR. JUNEAU

Your point may be well taken, Mr. Singletary. My answer to that would be: if that is, in fact, a duplication, I think that Style and Drafting can eliminate it as a technical change, if there's a duplication.

MR. ROY

Mr. Juneau, I don't know if Al's question was directly like mine, but when it says under what we have presently passed, "it shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties," one of which its duties was stated previously, "to regulate all common carriers

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and public utilities as provided by law," you don't think that that's giving it jurisdiction?

MR. JUNEAU

No way in the world, Chris. The first sentence is as clear as a bell to me.

MR. ROY

"As provided by law," you say it does not mean that the constitution is law and can grant it?

MR. JUNEAU

I think by a legislative act they can restrict and limit that regulation by legislative act to nothing at all.

MR. ROY

I didn't say that they couldn't, but your statement is that you need implementing legislation to give them jurisdiction. I think you are wrong.

MR. JUNEAU

Well, let me just answer your question this way, Chris: all you've got to do is read Section 4 of the present law. You read the first sentence of Paragraph (B), and it's obvious to me that we've emasculated the true jurisdiction of the Public Service Commission unless we make a substantial change in that language. We might as not even have it. . . well have it in the constitution.

MR. RAYBURN

Mr. Juneau, if I understand what you're concerned about, under (B) where it lists powers and duties, it says, "The commission shall regulate all common carriers and public utilities as provided by law." If the legislature does not see fit to provide by law or wants to change the law, then they will be elected officials with no duties. Is that. . .

MR. JUNEAU

I think that's entirely possible, Senator.

MR. RAYBURN

Now, could you tell me briefly what the present constitution. . . the language in the present constitution, is that not the language contained in your amendment where it says, "They shall regulate all common carriers, public utilities and have such other regulatory authority as provided by law"?

MR. JUNEAU

That's Section 4. That's correct, Senator.

MR. RAYBURN

Did you know that recently we placed all records in this state, by an act, under the Public Service Commission to regulate?

MR. JUNEAU

Yes, sir.

MR. DE BLIEUX

Mr. Juneau, as a direct representative of the people, and considering the needs from time to time, why shouldn't the legislature determine what powers and authority and jurisdiction the Public Service Commission should have?

MR. JUNEAU

Well, my answer to your question, Senator, would simply be this: if it be the will of this convention that the magnitude and responsibilities of Public Service Commission justifies constitutional status, then I think we ought to vest in that elected body jurisdiction. I think it would be wrong to, by one sentence, per se, as provided by law, completely emasculate the jurisdiction that we gave them. In essence what I'm telling you, if we're going to put it in the constitution, let's give them meaningful jurisdiction.

MR. DE BLIEUX

What is wrong with the legislature determining what jurisdiction the Public Service Commission should have?

MR. JUNEAU

What happens, Senator, if a particular governor together with the legislature does not like the Public Service Commission, and says, "We just want to take them out of the regulation of the fields of common carriers and public utilities"? They can very easily do it by the little, simple language "as provided by law."

MR. DE BLIEUX

If the people that those representatives and the governor represent don't want the Public Service Commission to regulate those, why shouldn't he?

MR. JUNEAU

If that's true, Senator, why do we put into this constitution language saying that they're going to regulate public utilities and common carriers? We're playing with words.

MR. DE BLIEUX

No, we're not playing with words if it's determined by the legislature.

Further Discussion

MR. DERBES

Ladies and gentlemen, I don't often rise unless I think I have something to say, and I want to bring a couple of things to your attention. This is the sum and substance of the Arnette amendment which we defeated by a substantial majority when we were considering the powers and functions of the Public Service Commission. Now, let me explain a couple of things to you. When people rise and tell you that the jurisdiction of the Public Service Commission is clearly stated in the present constitution, they are telling you the truth. But, what they fail to tell you is that the powers and functions and jurisdiction of the Public Service Commission is stated in considerable detail. I read to you as follows: "The commission shall have and exercise all necessary power and the authority to supervise, govern, regulate and control all common carrier railroads, street railroads, inter-urban railroads, steamboats, and other watercraft, sleeping car, express telephone, telegraph, gas, electric, light, heat, power, waterworks, common carrier pipelines, canals and other public utilities in the State of Louisiana, etc. The crux of this matter, ladies and gentlemen, is when you use the abbreviated catch phrase "common carriers and public utilities." If you use that phrase and do not say "as provided by law," then, you leave the jurisdiction of the Public Service Commission up to the court's interpretation. If the court feels that something is a common carrier, then the Public Service Commission has jurisdiction. If the court feels that something is a public utility, then the Public Service Commission has jurisdiction. It becomes a matter of filling up that accordion phrase, that stoic universal public utility or common carrier. If you do that by judicial interpretation you give the Public Service Commission jurisdiction, and there's no way we can get something that's been given such jurisdiction away from the Public Service Commission even though we might pass a legislative act doing so, it could not modify this constitution once the courts so declared it. The meat of this coconut developed in our committee deliberations--and for your information I was on and participated in the deliberations of the Committee on Natural Resources and Environment--the meat of this coconut is in the direct industrial sale of natural gas. Now, I am no particular friend of industry, but what I want to point out to you is that industry now has a constitutional exemption whereby direct industrial sales of natural gas are exempt from Public Service Commission jurisdiction. If you don't include the phrase "as provided by law" in the constitution, the only way you can get direct industrial sales--and I want you to listen to this, Mr. Jenkins--the only way you can get direct industrial sales of natural gas away from Public Service Commission jurisdiction is by a constitutional amendment because once any industrial sales of natural gas go into any thing that's considered a common carrier pipeline, even if there are only two consumers, then the Public Service Commission had jurisdiction, and you can't get it away from the Public Service Commission, whether everybody in the state wants to get it away from the Public Service Commission, you cannot get it away from the Public Service Commission, even by a legislative act. Now, in all fairness to the proponent of this amendment, I happen to be basically in sympathy with it, but I want to point out to you that when you do this, when you state the jurisdiction of the Public Service Commission succinctly and briefly, and in the two catch phrases that we have been considering here without saying that the legislature may further define it, then you run into all the problems that I just mentioned. We considered this long and hard, and determined that the best way to handle the problem was in the present language of the proposal as it sits before you. So, I urge you, in the interest of permitting a certain amount of flexibility in this area, and in the interest of an abbreviated and succinct constitution, I urge you to reject the amendment because otherwise, if we are going to say the Public Service Commission, ipso facto, has jurisdiction, then we're going to

have to spell out all the exceptions. If we're going to do that, we might as well incorporate all of the complex language that's in the existing constitution, which in my opinion is rather superfluous, and in some cases, outdated. Yes, I'll yield to a question.

Question

MR. ANZALONE

Jim, you were concerned about the regulation of natural gas. Are you aware that the last sentence of the paragraph with which this amendment deals, provides that notwithstanding any provision in this paragraph the legislature shall provide for the regulation of natural gas?

MR. DERBES

I realize that. Yes, I do.

Further Discussion

MR. JENKINS

Mr. Chairman, delegates, this present provision as adopted by Style and Drafting says, "The commission shall regulate all common carriers and public utilities as provided by law." Mr. Juneau's amendment would say "The commission shall regulate all common carriers and public utilities, and have such other regulatory authority as may be provided by law." In other words, he would be giving carte blanche to the Public Service Commission to enact whatever regulations it may choose, subject to no limitation whatsoever by the legislature with regard to common carriers and public utilities. The Public Service Commission would be totally autonomous, it seems like. It's already tremendously powerful. It's attracted demagogues in the past. Think what it would do with this provision. Notice that it has a bias in favor of all-pervasive regulation. Now, the legislature might well believe that some aspect of public utilities or common carriers may not need regulation. Maybe rates don't need regulation in a certain field. If we're talking about wreckers, for example, or ambulances, they may feel that certain qualifications for drivers or certain fees ought to be established by law. There's an infinite number of things that the legislature may require that be done or may require not be done. But, here this five-man commission would have sole authority to enact whatever regulations it might want with regard to common carriers and public utilities with no limitation whatsoever. Notice there is a mandate to regulate. It says "a public service commission shall regulate these." Does this mean they're going to regulate, for example, who can own stock, how much stock they can own? What if a commission decided to impose all sorts of onerous regulations that did not work? The legislature could not temper that? It doesn't make sense to me. Notice that the Public Service Commission is merely an agency of government, a quasi-judicial, quasi-administrative agency. It is not a court. The jurisdiction doesn't have to be spelled out here, even if you took the position that courts' jurisdiction have to be spelled out in constitutions, which I think is tenuous. This is just another state commission, an agency, an important one, but still that. It's got to be subject to general law. Now, we've provided by law for the functions of all sorts of local officials, and state officials, and I don't see why that we shouldn't say that it's going to be as provided by law in the case of the Public Service Commission. So, I'd urge you to reject Mr. Juneau's amendment. I think the committee proposal, as amended, with the Style and Drafting changes completely adequate for this subject. We can't give the Public Service Commission unbridled authority to regulate without limitation. So, I urge the rejection of the amendment.

Questions

MR. ROY

Woody, even so far as the legislature itself is concerned, this convention through this constitution has made certain restrictions on it with respect to like voting taxes. It takes a two-thirds vote, and other types of limitations; have we not?

MR. JENKINS

Well, that's correct. You remember the great discussion we had on telephone rates and utility rates, and some people argued that we don't even need that in the constitution because it can be provided by law. But, notice, if we adopt this language, the legislature could not even provide it by law. Only the commission would have authority to regulate as they saw fit, and the legislature could not provide a procedure with regard to utility rates, as we thought we could do before.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, I'm not going to take much of your time because what I wanted to say has already been made by Mr. Jenkins, and also by Mr. Derbes with reference to this particular amendment. But, I just want to call your attention that what you're doing, you are limiting the power of the legislature to control a regulatory agency. There may be an occasion when it be necessary. Remember this: that legislature's a direct representative of the people of this state. They're supposed to take care of the problems that rise from day to day and year to year, and as many limitations that you put upon that, that means the necessary constitutional amendments you're going to have to have to correct conditions. I ask you, we debated this matter when the Public Service Commission was before this body before. I think we defeated this very same amendment. I haven't had the time to look it up in the Journal but as I recall this very same amendment was presented to this delegation, and it was defeated. So, I ask you now, let's confirm to our original position, and defeat this amendment because it has no place in this constitution. Furthermore I think it might seriously upset the energy bill that was passed in the recent special session of the legislature. I just don't think we ought to take this and tamper with it, and upset that particular bill. So, I ask you to vote down this amendment.

[Previous Question ordered.]

Closing

MR. JUNEAU

Mr. Chairman, fellow delegates, I will make my remarks very brief. The issue to me is very simple. If you leave the language in that we have, you in essence, have created a constitutionally created office, who will have duties as prescribed by the legislature. If they don't give me anything to do, they'll draw twenty thousand dollars and just sit up here in Baton Rouge and have meetings every other month. On the other hand, if you want to leave the law as it is today, then I ask you to adopt the amendment. I think that that's what we ought to do. We said it justifies constitutional status. It is operated under the system in the past, and I'm not willing to subject that to constant legislative act. I ask for its favorable adoption.

[Record vote ordered. Amendment adopted: 57-52. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 87-22. Motion to reconsider tabled.]

REPORTS OF COMMITTEES
[II Journal 1251-1254]

Committee Proposal No. 15

MR. POYNTER

Do you want to take 15 next, Judge?

Mr. Tate sends up a further Style and Drafting report at this time.

Chairman, Delegates of the convention, directed by your Committee on Style and Drafting to report that Committee Proposal No. 15 has been reported with amendments.

Respectfully submitted, Judge Tate, Chairman of that committee.

The same gentleman now asks for a suspension of the rules for the purpose of considering the amendments contained in the report at this time.

[Rules Suspended without objection.]

MR. TATE

Mr. Chairman and fellow delegates, this is Committee Proposal No. 15, which is dated 1-12-74, Revenue and Finance. It's in two sections and a middle. It is being passed out right now. It's a rather big package with the green in front, and the white in back which you will when you get it...

Explanation

Amendment No. 1

MR. TATE

On Amendment No. 1 which is to Section 1 of Article XI, about the power to tax, there's just two technical amendments made. "Provided in" was changed to "provided by" in accordance

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with the standard usage. "The power of taxation shall be imposed," the powers are exercised. So, "imposed" was changed to "exercised."

Amendment No. 7

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. TATE

Section 2, "the levy of a new tax, an increase in an existing tax, or a repeal of an existing tax exemption" was again, in line with our standard usage, with exceptions, "require the enactment of a law" instead of just simply saying it "by two-thirds vote" to make it plain that it was by legislation, not by concurrent resolution.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TATE

Amendment No. 3 is to Section 3 on page 2 of your green. When it said, "The legislature shall provide against, shall prohibit." The sentence was broken into two because it shall prohibit something and it shall provide a remedy. It was thought this was a little more accurate language as well as it reads better.

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TATE

Amendment No. 4 is to Section 4 on page 2. This includes the prohibition against raising the federal income tax rates, and the deduct...federal income tax deduction, which I understand may be the subject of an amendment later on, a substantive amendment. But, with regard to the stylistic changes, it was recommended that we clarify the rates presently set forth in Title 47 to do like we did in two other instances, and I believe those are the only three instances. Pick a date now. The intention of those who voted for the thing was to freeze it now, and provide against any change that might happen later on between now and the effective date. So, this, saying January 19, which would have been when we leave here on Saturday, in line with the stylistic suggestions that have met no oppositions, we picked January 1, 1974, instead of January 19 so that twenty or thirty years from now, they'll never know why we did January 19 instead of January 1. Otherwise, the changes, stylistic changes made, I think, are self-explanatory, and require no explanation.

[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TATE

Amendment No. 5 is to Section 4(B). That was on page 3 of your green. The...again in these tax areas, we're somewhat restricted because a lot of the language has a meaning, and the stylistic change is to make it into Englishese instead of taxese, and so the amendments, generally, are just to make a long sentence into two, to add a comma.

[Amendment No. 5 adopted without objection.]

Amendment No. 6

MR. TATE

Amendment No. 6 is to Subsection 4(C) at the top of page 4 on your green sheets, and as you see, it just singularizes in general, and adds a title.

[Amendment No. 6 adopted without objection.]

MR. TATE

Amendment No. 7, Section 4(D) was divided into two, Sections 4(D) and (E), and Section 8, which was added to Committee Proposal No. 34, Natural Resources, which had to do with the Russell Sage Wildlife and Game Refund, and which defined "state-owned property" to be "state-owned land, lake and river beds and other water bottoms belonging to the state or the title to which is the public for mineral development" was combined with this section, and when we get to Committee Proposal No. 34, we'll recommend its deletion there. It was added there for the specific purpose of clarifying the language in (D) and it was also added at Mrs. Miller's suggestion to be sure that the royalties would not be allocated insofar as the property that is in the state under the Russell Sage Wildlife and Game Refuge, trust or foundation because under the terms of that donation to the state, it could only be used for certain purposes, and we've got the legal opinions to be darn sure that it meant just what it said, that it's only royalties that might be affected by the Russell Sage Wildlife and Game Refuge Agreement that has nothing to do with severance tax allocations which, of course, the state taxing power couldn't be restricted by a private agreement, and so (D) and (E) in the best judgment of those on the committee, of both committees mean exactly what Subsection 4(D) meant as it passed the floor, together with Section 8 of Committee Proposal No. 34.

Question

MR. THOMPSON

Judge, what you're saying is that they'll just get what's allocated to them, but it won't stop the severance tax or any of this on this; is this correct?

MR. TATE

Yes, sir.

[Amendment No. 7 adopted without objection.]

Amendment No. 8

MR. TATE

Amendment No. 8 is to Section 5 on the top of page 5 in your green, and it is simply stylistic changes to what passed the floor. The three dollar license fee, and also the prohibition against parishes, municipalities taxing motor vehicles.

Questions

MR. FONTENOT

Judge Tate, maybe I should have raised this question when we were debating this section, but as I read it, "the legislature shall impose an annual license tax of three dollars on automobiles for private use." Would that possibly allow the legislature to impose a greater annual license tax than three dollars?

MR. TATE

I was not here during the floor debate on that, Mr. Fontenot, so I'm not familiar with the intent. As the language read, it says "shall impose an annual license tax." An argument could certainly be made when it says "it shall impose it."

MR. FONTENOT

They could impose a greater one, could they not?

MR. TATE

It doesn't necessarily...as you read the language, it does not necessarily restrict them. I don't know what the intent of the legislature was...of the convention floor was. It might have been, "the legislature shall not impose an annual license tax greater than three dollars," but it doesn't say that; that's for sure.

MR. FONTENOT

Suppose language to the effect that "the legislature shall impose an annual tax not to exceed three dollars on automobiles for private use." Wouldn't that be more in line with the intent of the convention?

MR. TATE

It could easily be, Mr. Fontenot. Nobody raised this question as it went through either committee. As you say, had it been raised in the Revenue and Taxation Committee, I suppose we would have submitted a caveat amendment, but it was not.

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MR. NUNEZ

Judge, it is my understanding that it was the intention of this convention to limit the imposition of a three dollar license plate at three dollars, and no more than three dollars.

[Amendment No. 9 adopted without objection.]

Amendment No. 10

MR. TATE

Senator, I happen not to have been here during the floor debate on this, and nobody raised the issue that was just raised before our committee or before Revenue and Taxation. It could well be as you say. I would gather from reading the...Times Picayune is a good paper...from reading other papers, that I could well be, as I gathered from reading those papers that that was the floor intent, but I was not present. I don't know what the floor debates show, and what the floor explanations show.

MR. TATE

Amendment No. 10 is to...6 (B) on the top of page 7, Capital Improvements, the...as you can see, the stylistic enchainement...the stylistic change is simply to eliminate unnecessary language.

[Amendment No. 10 adopted without objection.]

Amendment No. 11

MR. NUNEZ

Would it be in order to suspend the rules and get an amendment to make it three, or do you have a caveat that would deal with the subject?

MR. TATE

Amendment No. 11 is to 6 (C) on the right-hand page of page 7. The second sentence is added. It is added. It was felt to be necessary to be added in view with this...adding this amendment...adding this amendment avoided what would have been necessary to have been substantial reconsideration of the Subsection 6 (E). Now mind you, here 'a---listen to the explanation--I think the Revenue and Finance and concurred in by the Chairman of Local Government agreed. As it originally passed the floor, 6 (C) said "the full faith and credit of the state shall be pledged to the repayment of all bonds or other evidences of indebtedness issued by the state directly or through any state board, agency, or commission." Now 6 (C) was added as Mr. Perez's amendment to say "nothing in this section shall apply to any levee district, political subdivision, or local public agency unless the full faith and credit is pledged to the payment."

MR. TATE

Senator, I'm sorry that we do not have a caveat. It was not raised before either committee. I'm sorry, Senator, it wasn't raised, and for what clarity it had, we kept exactly what passed the floor, you see.

Now, as it read as it passed the floor, it was possible by circular reasoning to say "the full faith and credit"...because levee boards have been interpreted in many instances to be state agencies and state boards...it was possible to say that 6 (C) pledged the full faith of the state through the state boards, including the levee boards, and that 6 (E), when you say nothing is to apply to any levee district unless the full faith and credit is pledged, it made it meaningless because under the interpretation that being a state agency or board, the full faith and credit was pledged to it, then under 6 (E) it made it meaningless because it didn't apply to levee districts unless the full faith and credit was pledged, but it was applied to it by 6 (C). So, by adding that sentence, the second sentence, "the full faith and credit is not hereby pledged to the repayment of the bonds by a levee district, political subdivision, or local public agency." We carried out the intent of the legislature, and we carried out the intent of the exception in our opinion.

Point of Information

MR. NUNEZ

Mr. Chairman, I therefore would move, then, at this time that we suspend the rules in order to put "not to exceed three dollars."

MR. CASEY

Mr. Nunez, we were trying to avoid that. I don't say you can't handle it, but I'd suggest you do it by a separate amendment if you want to try to resolve the problems.

MR. NUNEZ

As long as we understand that that's the intentions of what we're trying to do.

Questions

MR. DUVAL

Judge Tate, isn't that the same exact language in the '21 Constitution?

MR. TATE

Mr. Duval, I'm sorry that I did not reread that to the forty---Constitution. I suppose it did, but I did not... the forty amendments to the '21 Constitution. I'm sorry to say that I'm not familiar with the floor debate because I was doing doing injustices in New Orleans on that day.

[Amendment No. 11 adopted without objection.]

Amendment No. 12

MR. DUVAL

Well, I think it was the intent of this commission, wasn't it, to merely retain the basic provision of the...contained in the present constitution, which I think we did.

MR. TATE

Amendment No. 12 is to 6 (D) on the top of page 8. Very little change was made in the language as it passed the floor except to add the title and to clarify...needs to be "by law, enacted by two-thirds"...at a statewide referendum...may be done.

[Amendment No. 12 adopted without objection.]

Amendment No. 13

MR. TATE

If this language is in the present constitution, and has been interpreted to mean "shall impose no greater than," then I would suppose under ordinary rules of construction, that means the same thing.

MR. TATE

Amendment No. 13 is to the exception in 6 (E) on page 8 which I previously mentioned. The...you'll note that Mrs. Zervigon had added amendment "nothing in this section shall apply to any levee district, political subdivision, or local public agency" on line 12, but, there is... "local public agency" was not also included on lines 16 and 17, though in context it meant the same thing. "Nothing shall apply to any...unless the full faith and credit is pledged to the payment of the bonds" of the same agencies up above. So, the amendment adds "local public agency" on pages 16 and 17, parallel to parallelism and of the apparent intent of Section 16 to except levee districts, political subdivisions, and local public agencies from the application of the section.

[Amendment No. 8 adopted without objection.]

Amendment No. 9

[Amendment No. 13 adopted without objection.]

MR. TATE

Amendment No. 9 is to Section 6. Again, we clarified this "except by law enacted by two-thirds of the elected members" instead "of an affirmative vote", because that was what was intended in the law. It broke that long sentence into two. We were able to knock out an extra preposition. The last sentence, let me see and be sure. The last sentence was deleted, "legislative approval may be obtained only during open session except as otherwise provided in this constitution", because once you clarify it it can only be "except by law", and laws can only be adopted in open session. Upon recommendation of the revenue and finance committee, we deleted it. It is no longer necessary.

Amendment No. 14

MR. TATE

Amendment No. 14 on 7 (A)...Section 7 (A), on page 9, creating the Interim Emergency Board to succeed the board of liquidation. The main changes made are to eliminate the bunch of "the's" in a series as unnecessary.

[Amendment No. 14 adopted without objection.]

Amendment No. 15

MR. TATE

7 (B)...which is on page 10 of your green copies...changes the "is determined", the passive, to "determines". It attempts to...see "when it is determined by majority vote" is "when the board by majority vote determines". It simplifies the language we thought. It attempted to put in parallel clauses its powers. It made a separate sentence of the second part of the sentence instead of one long sentence. Let's see. Now, on lines 8 and 9, it added "or the indebtedness incurred." Let me see if that was... in order to clarify that it...let's see...that appropriation may be made... In other words, they were authorized to do two things: to make an appropriation on current debt, and we had to add "or the indebtedness incurred" in order to carry out the parallel. See it may either appropriate or borrow money. We had to...we added the words "or the indebtedness incurred" to carry out the parallel construction involved in the first sentence.

[Amendment No. 15 adopted without objection.]

Amendment No. 16

MR. TATE

Amendment No. 16 is to section 7 (C) on the top of page 11, providing for limits. We just took out the capitals. The general approach is to capitalize a fund the first time as a proper name, and after that just to refer to it without caps as a sort of an entity that doesn't need to be capitalized.

[Amendment No. 16 adopted without objection.]

Amendment No. 17

MR. TATE

Amendment No. 17 is to 7 (D) on page 11. The...again we uncapitalized "state general fund" and we changed the order of the sentence to say the same thing because instead of saying as a first priority, each fiscal year something allocated...to pay the debts of last year," we just said "an amount sufficient to pay...is allocated under the authority." It seemed to read a little clearer.

Are there any questions, Mr. Chairman?

[Amendment No. 17 adopted without objection.]

Amendment No. 18

MR. TATE

Amendment No. 18 about the state bond commission, just primarily left out of here....divided the long sentence into two sentences.

[Amendment No. 18 adopted without objection.]

Amendment No. 19

MR. TATE

Amendment No. 19 is to Section 8 (B) on your green page 13and all it did was uncapitalize "state bond commission." It's a mistake because they are talking about the bond commission up in (A) and we thought it was unnecessary to repeat it.

[Amendment No. 19 adopted without objection.]

Amendment No. 20

MR. TATE

Section 8 (C), for instance added "because"...shall not be invalid because of any irregularity"...added "because". It added "in the issuance" instead of "or the issuance" to carry out the parallelism "in the proceedings or in the issuance". The changes made, as you will note, are stylistic only and self-explanatory. It's long and detailed, but usually it's adding commas at the end of sentences or clauses, singularizing, using a word like "may" for "shall have the right", using "no" for "such"...such action is not taken", "if no action is taken" and so on, spelling out 30 for "thirty" in line with the style that is being followed in the other styling.

[Amendment No. 20 adopted without objection.]

Amendment No. 21

MR. TATE

Amendment No. 21 is to Section 9 which is on pages 16 and 17 of your green copies...and Amendment 9 broke into sections that long section 11 as adopted. It broke...it enumerated the exceptions in separate paragraphs there instead of having a long sentence; as you can see on the left-hand side it has them follow one another without separating them. Of course, it added titles to the...it simplified the section title, but added titles to the subsections.

[Amendment No. 21 adopted without objection.]

Amendment No. 22

MR. TATE

Amendment No. 22 is to section 10 (A) on the top of page 18 of your green...and some of you are probably now in white. It makes no change except to add a title to the subsection and said "provided by" instead of "provided in", in line with the ordinary styling that we've been following.

[Amendment No. 22 adopted without objection.]

Amendment No. 23

MR. TATE

Amendment No. 23 is to Section 10 (B) on page 18 of your green. Aside from adding a title, it left out the word "made" because "total appropriations made by the legislature" and "total appropriations by the legislature" meant the same thing. Instead of "shall not be greater", "shall not exceed", and the idea that "exceed" refers to...states it a little simpler than "anticipated revenues".

[Amendment No. 23 adopted without objection.]

Amendment No. 24

MR. TATE

Amendment No. 24 is to Section 10 (C) on page 19 of your green. We just said "the legislature shall provide for the publication". The consensus of the committee was, and as approved by Revenue and Finance, that "the legislature shall have published". It shouldn't vest in the law that somebody else should publish it. It should have it published itself.

[Amendment No. 24 adopted without objection.]

Amendment No. 25

MR. TATE

Amendment 25 is.....to 10 (D) on page 19. It simply added the title and singularized "public purposes" to "for a public purpose."

[Amendment No. 25 adopted without objection.]

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MR. CASEY

O.K. I'm sorry, Judge, let's just make sure that there's no questions on 25, and there's no objection to the adoption. Is that correct?

Then, without objection, 25 is adopted, and 26 is now under discussion.

Amendment No. 26

MR. TATE

26 is to 11 (A) on page 20 of your green material about the operating budget.

Incidentally, later we are going to have to make a policy judgment....same provision that's contained in Executive Branch materials as is here. They duplicate. You may or may not wish to duplicate it. But, we don't have to make that determination now. I just call it to your attention. Now this, in general, as you notice, breaks a long sentence into two sentences, and it says "a bill for proposed ordinary operating...ordinary operating expenditures", instead of "a bill to authorize."

The others are stylistic. There's been a recommendation for "new or additional revenues", to "raise additional revenues."

Questions

MR. DENNERY

Judge, I must have missed your explanation of why you removed the recommendations' language from lines 14 and 15 on the left-hand side.

MR. TATE

"He shall cause to be submitted a general appropriation bill and if necessary, a bill or bills to raise additional revenues". How shall he cause it to be submitted?

MR. DENNERY

In other words, you...the Style and Drafting Committee felt that the language "if necessary, a bill or bills containing recommendations for new or additional revenues" was surplusage and it should just be "a bill or bills to raise additional revenues?"

MR. TATE

Mr. Dennery, the governor, you see, can't introduce a bill. So, when "he shall cause to be submitted", is the verb in that sentence. "Shall cause to be submitted, if necessary, a bill or bills containing recommendations for new or additional revenues". Well, you can't have a bill with a recommendation. "He shall cause to be submitted a bill or bills to raise the additional revenues" we thought was a clear expression of what was intended 'cause he can't introduce anything. He can just recommend things. So, how does he...when he causes them to be submitted, it's by his recommendation, so to speak. And the bill can't recommend new additional revenues because the bill has to be say, "there shall be this tax or that tax" and so on.

MR. DENNERY

Well, my idea in asking the question was that I understood that when we adopted this originally that he could submit to the legislature a recommendation for Method A, Method B, or Method C, and then the legislature would determine which method it would use for the additional revenues. The way it reads now, he would have to cause to be introduced A, or B, or C, and he couldn't introduce all three of them.

MR. TATE

Mr. Dennery, I do not read it that way. Because "a bill or bills" would mean..carry out the same concept, Mr. Dennery.

MR. DENNERY

In other words, instead of introducing one bill with three alternative recommendations, he would have to submit three alternate bills.

MR. TATE

It could do that easily. It would not....it wasn't trying to restrict the language. It was just saying "He shall cause to be submitted a bill or bills"...whether they are alternative or supplementary doesn't make a lot of difference.

MR. DENNERY

Well, I appreciate the argument that you make. What occurs

to me, though, is that it doesn't give future governors the meaning behind the clause. You and I may understand the meaning, but twenty years from now, unless somebody looked back to see why they...why it was worded this way, they wouldn't understand that the purpose of it was to give a governor the opportunity to submit to the legislature alternate methods of raising these additional revenues. I think we've lost the true meaning of the proposal by doing that. Now, it may be that we have to lose that true meaning.

MR. TATE

Well, I appreciate your position. As it passed the floor "He shall cause to be submitted a bill or bills containing recommendations for new or additional revenues". As we recommend styling, "He shall cause to be submitted, if necessary, a bill or bills to raise additional revenues". I don't think it's a substantial change, but I...

[Amendment No. 26 adopted without objection.]

Amendment No. 27

MR. TATE

Amendment 27 is to Section 11 (B). We felt that with a... that we're saying the same thing and making it read a little smoother by breaking it into two coordinate clauses instead of having a...with a prepositional phrase following "the capital outlay program."

We added a comma...line 9.

[Amendment No. 27 adopted without objection.]

Amendment No. 28

MR. TATE

Amendment No. 28 is...provides for Section 12 on page 22 of your green materials. The...it makes "all" unnecessary. When you say "reports and records", that means "all reports and records shall be matters of public record". And we use "pertaining to those returns" instead of "pertaining thereto" on the idea that it's a little more ordinary English.

[Amendment No. 28 adopted without objection.]

Amendment No. 29

MR. TATE

Amendment 29 is to Section 13, on the top of page 23 of your green materials, Investment of State Funds. It was thought that we're saying the same thing when we say "All money in the custody of the state treasurer which is available for investment" and we thought it was a little clearer than saying "all money available for investment in the custody of the state treasurer shall be invested as provided by law."

[Amendment No. 29 adopted without objection.]

Amendment No. 30

MR. TATE

Amendment No. 30 is to Section 14, on page 23, to 14 (A) to be exact, on page 23. We...the changes made were to add commas...I mean to...change the "end" to "by"..."provided by this constitution"; to omit "thereof" because it is unnecessary; to add a comma in a series, and to remove a bunch of "ors" in a series, since they were all in a series; to break it into two sentences in the interest of clarity.

[Amendment No. 30 adopted without objection.]

Amendment No. 31

MR. TATE

Amendment No. 31 is to 14 (B) on page 24 of your green material. What we...when it said "the legislature" at the beginning of (3), "for public purpose"...the legislature from authorizing"...nothing in this section shall prevent the legislature from authorizing". It means the pledge of public funds "as provided by law".

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[Amendment No. 31 adopted without objection.]

Amendment No. 32

MR. TATE

Amendment 32 on cooperative subdivisions. The language as it passed the floor, had to do with "its political corporations". Now, that's a term that was used in the Constitution of '21 and in a few instances has been used here, but very rarely. We did not want to take it out, or recommend to you that it should be taken out, because it has some viability in a few limited areas. However, the intent was "all political subdivisions", including things that might be considered corporations rather than subdivisions. Since the new constitution uses "political subdivisions" intensively, it was thought that it would be clearer if we spelled it out and recommended to you adding "political subdivisions or political corporations". In other words, "for a public purpose, the state and its political subdivisions or political corporations may engage in cooperative endeavors with each other, with the United States", etc.

[Amendment No. 32 adopted without objection.]

Amendment No. 33

MR. TATE

Amendment 33 is to Section 14 (D) on page 26 of your green... the...we mostly left out "thereon". We had to leave a "heretofore" in. "Granted by prior laws of the state"---"by prior state law" we felt was a little bit shorter way to say the same thing.

[Amendment No. 33 adopted without objection.]

Amendment No. 34

MR. TATE

Amendment 34, on Section 15 (A) page 27 is the Release of Obligations to State, Parish, or Municipality. One thing that was...we recommend to you is dividing that thing into sections. It's such a long, long, long, sentence. The dividing into paragraphs, and then redividing that long sentence within the paragraph into separate sentences. We made minor stylistic changes like "a system whereby"... "a system under which claims may be compromised" and so on.

[Amendment No. 34 adopted without objection.]

Amendment No. 35

MR. TATE

Amendment 35 is to Section 16 on pages 29 and 30. The... we had wanted to clarify some of the language; for instance we had wanted to say "license fees" instead of "licensea", but it's

found in the present...as "license, fee"... "no state, district, parish, or other tax, license, fee, or assessment", is found in the present constitutional provision in that form as if a license and a fee are separate. From fear of changing some meaning of what we...Revenue and Finance said we shouldn't try to clarify that. The language in general is about the same as in the present constitution, except we have done our best to leave out some of the "whereofs" and so on.

Mr. Chairman, what we did, we took 17 (B) which is old... which is that long, long, long, thing and recommended it be a new Section 16 (A) and (B). If the Chair feels inclined, you may wish to have a record vote on it because some people think it's a new section, because it is called...what used to be 17 (B)...Section 16 (A) and (B). To avoid any doubt that it needs a...that it's a new section, I'd raise no objection to the Chair ordering a record vote...we took 17 (B) and made it 16 (A) and (B).

[Previous Question ordered. Amendment No. 35 adopted without objection. Motion to reconsider tabled.]

Amendment No. 36

MR. TATE

Amendment No. 36 is to your Section 17 on page 31. It's the last of the stylistic amendments to Committee Proposal No. 15, and it leaves out a few "its" in the series of "the state, its agencies, boards, commissions"...instead of "its boards, its commissions" and so on and "to secure federal participation" we thought "in funding of capital improvement" was more accurate than "in the cost of capital improvement projects," and recommended that change as stylistic.

[Amendment No. 36 adopted without objection.]

REPORTS OF COMMITTEES
[II Journal 1259-1264]

Report of the Secretary
[II Journal 1264-1267]

[Motion to advance to Proposals on Introduction and First Reading adopted without objection.]

INTRODUCTION OF PROPOSALS
[II Journal 1268]

Announcements
[II Journal 1268]

[Adjournment to 9:00 o'clock a.m.,
Tuesday, January 15, 1974.]

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Tuesday, January 15, 1974

[Amendment No. 1 adopted without objection.]

RDLL CALL

[73 delegates present and a quorum.]

Amendment No. 2

PRAYER

MR. E. J. LANDRY

In the name of the Father, Son, Holy Ghost. Amen.
Our Father Who art in Heaven, hallowed be Thy name, Thy kingdom come, Thy will be done on earth as it is in Heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us, and lead us not into temptation, but deliver us from evil. For the power, the kingdom is Yours. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

REPORTS OF COMMITTEES
[II Journal 1269-1271]

RESOLUTIONS ON SECOND READING AND REFERRAL
[II Journal 1271]

PROPOSALS ON THE CALENDAR
FOR APPROVAL OF FINAL STYLING

Delegate Proposal No. 22

Amendments Nos. 1-4

MR. TATE

Delegate Proposal No. 22 was circulated yesterday. It's the one that has just two pages. It's done a little differently than before because the changes were so nominal, they just marked in ink on the green, the green that should be on your desk, the slight changes of adding a title, and the changes are self-explanatory. A title was added, "any" was changed to "a", "for the relief of" was changed to "relieving"...an extra "r" was left out, and a title was added, and the changes were passed. They are so nominal, but they are obvious stylistic changes. I move the adoption of the amendments 1 through 4 of that on Delegate Proposal No. 22, Mr. Chairman, unless there is any questions.

This is to do with prohibited local and special laws.

Mr. Chairman, I move the adoption of Amendments 1 through 4 to Delegate Proposal 22, including minor stylistic changes.

[Amendments Nos. 1-4 adopted without objection.]

Committee Proposal No. 9

Amendment No. 1

MR. TATE

All right. Delegate...Committee Proposal No. 9 is entitled "Article VII. Human Resources, State and City Civil Service." It's a package of two things, green and white, which, of course, to use, you go presto, like that! Thank you, Mr. Thistlethwaite. There are no caveat amendments on it. The changes made were strictly technical. Neither committee found any problems that I can think of at the minute.

The first amendment is Amendment No. 1, is on the first page of your green, and it's a Section 1, (A) and (B), establishing state and city service. As it passed the floor, it said the state civil service includes...the city civil service includes in line with the drafting practice, in both instances, they said, "it established...is established and includes" on the idea that there should be some sort of an establishment clause in the constitution.

The other changes are strictly stylistic, using "regardless" instead of "irrespective," and the main thrust is as drafted it said it includes positions, and later it talks about people. So, to clarify that the city civil service includes people, that...those...instead of saying it includes all offices and positions, of course, it includes all persons holding offices and positions of trust. Those are the main changes, Mr. Chairman.

Subject to question, I move the adoption of Amendment No. 1.

MR. TATE

Amendment No. 2, Mr. Chairman, is to Section 1 (B)...1 (B). It formerly was a Section 1 (A), 1 and 2; Section 1 (B), talking about the classified and unclassified employees. As you can see, it's on page 3 and 4 of your green, and as you can see, just nominal changes are made, like instead of saying "elected officers," it uses the phraseology of this constitution, "elected officials." It, to some extent, singularizes because towards the end, it didn't try to do that for technical reasons that have nothing to do with meaning, but for stylistic reading. It leaves out unnecessary "of's" in a series: of this, of that, of that, and just says "of them" in series. In general, as you can see, those are strictly stylistic changes in the interest of consistency of the other portions of the constitution.

So, Mr. Chairman, I move the adoption of Amendment No. 2.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TATE

Amendment No. 3 is to 1 (C) on page 5, about the State Civil Service Commission. As I recall...I'm looking to be sure this is so, we alphabetized...oh, it was in the next section. We left out the state name following each college because it's obvious they're all in Louisiana. The other changes, as you can see, are strictly stylistic changes like "should the governor"—we made it "if the governor" in line with the usual styling. We changed the position of "automatically" so as not to separate the verb "shall become", "automatically shall become." The others are the usual stylistic changes, and, Mr. Chairman, with that, I move the adoption of the amendment.

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TATE

Amendment No. 4 is to Section 1(D) on page 7 of your green material. It...the changes made are to add the titles as in the previous page, to change the positioning of the domicile because it says, "each city service...each city so and so shall have a...there shall be a city civil service commission in each city having a population exceeding four hundred thousand." Then it tells who the commission is. We put the domicile up right following the commission. We, again, as we did in the previous one, we made sure the colleges were in alphabetical order, the same order they were up above for parallelism, and the other changes made are strictly of...the usual stylistic changes that we have been making consistently throughout about singularizing, removing excess prepositions, etc. Mr. Chairman, subject to question, I move the adoption of Amendment No. 4.

[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TATE

Amendment No. 5 is to Section 1(E) on page 10 of your materials. The changes are as you can see, strictly stylistic. We put in "as the case may be" to be exactly...to clarify, say, a member of the state or civil may be removed by the governor. That's the state or the governing authority; that's the city, as the case may be, for cause. In order to clarify that the governor can't remove city and the governing authority of cities can't remove the state. It doesn't need much clarification, but we thought it would be a little plainer. Mr. Chairman, subject to question, I move the adoption of Amendment No. 5.

[Amendment No. 5 adopted without objection.]

Amendment No. 6

MR. TATE

Amendment No. 6 is to 1(F) on page 11. Now, you notice we

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did what we did yesterday, and nobody thought this needed a yellow amendment in this instance. The Department of State Civil Service is established. Well, it did say it already in the executive branch of the state government. We had no problem with that. The other amendments are strictly stylistic. Mr. Chairman, with that, I move the adoption of Amendment No. 6.

[Amendment No. 6 adopted without objection.]

Amendment No. 7

MR. TATE

Amendment No. 7, to 1(G) on page 12 changes "the certification" to "certifying" and changes a "where" to an "if" and otherwise adopts unchanged the floor language. Mr. Chairman, I move the adoption of Amendment No. 7, subject to question.

[Amendment No. 7 adopted without objection.]

Amendment No. 8

MR. TATE

Likewise, Amendment No. 8 to 1(H) on page 13 makes very minor changes. "By reason of" to "because"; "any" to "a". Mr. Chairman, I move the adoption of Amendment No. 8.

[Amendment No. 8 adopted without objection.]

Amendment No. 9

MR. TATE

Amendment No. 9, to 1(I) on page 14, extremely nominal changes, leaving out "or's" in a series because you only need one following the last, and adding a comma, and removing a "such." Mr. Chairman, subject to question, I move the adoption.

[Amendment No. 9 adopted without objection.]

Amendment No. 10

MR. TATE

Amendment No. 10, likewise, extremely nominal changes because this thing had extremely nominal changes in line with our usual practices. We broke sentences in this long veterans' thing; we broke it into two or three sentences instead of having one long one; but, it's still pretty long, and without changing substance tried to simplify that very long, complex and statutory language that was included. Mr. Chairman, subject to question, I move...

Questions

MR. AVANT

Judge Tate, you remember we had a discussion, and I had requested a caveat in this section, which I believe the committee obviously didn't approve it, I forget, but it ain't here, so I don't guess we voted to have it. But, my question is this: as I read the original language as it was adopted by the convention, on line 16...

On line 16, at the end of the word "transactions," the first sixteen lines up to that point very clearly relate to the rule making power of the Civil Service Commission. My interpretation of that, it seems to me, is that after the word "transactions" you're leaving the rule making power, and you're going into another area because it speaks of the adoption of a uniform pay and classification plan, employments conditions; employment training and safety; compensation and disbursements to employees, etc. Now, the significance of the question is that any regulation that they adopt under the rule making power has the force and effect of law, and they may provide disciplinary rules and penalties and punishment for the violation of such a rule, and I'm particularly concerned with respect to the area of employee training and safety. For that reason, I would request that we pass over this amendment for the moment so that I may prepare an amendment which will separate those two concepts and offer it to the convention.

MR. TATE

Mr. Avant, would you look at the language, and I do not

recall if we did not...let's see, it says, "including rule making powers or rules and regulation including the power to adopt rules for regulating employment," so on, and so on, "and other personnel matters and transactions; to adopt a uniform pay and classification plan". It would seem to me that what your objection is without changing the substance was accomplished by setting that up as a parallel.

MR. AVANT

No, sir. I think that just the opposite was done because the phrase "employee training and safety" is before the semi-colon in the stylized version which appears on page 17, clearly makes the area of the employee training and safety within the rule making power of the commission, which has the force and effect of law, which I don't think was the intent of the convention.

MR. TATE

Mr. Avant, I remember the discussion clearly now. The discussion was the adoption of a uniform pay and classification plan was adopted as a floor amendment and it fell in the middle of this rule-making business, and the committee's best judgment was--although I know you disagreed and made a vigorous fight for your point of view--the committee's best judgment was that the floor amendment that adopted a uniform pay and classification plan was something that did not...that in its context, if you took out that adoption of uniform pay and classification plan as it read before it was put in, the employment division, employee training, safety and all that, fell clearly within, as it does now within the rule-making power. Therefore, in order to separate the idea of the adoption of the uniform pay and classification plan, whether or not it was in the rule-making power because it didn't follow dramatically...

MR. AVANT

Well, my only question at this point, Judge Tate, is would you consider passing over this particular amendment until we complete the other amendments and let me consider whether or not I want to offer an alternative amendment? Would you do that?

MR. TATE

No objection at all, Mr. Avant. We're about finished with this section, but no objection, sir.

Motion

MR. AVANT

Mr. Chairman, I move that we temporarily pass over Amendment No. 10 until we have completed the other amendments.

MR. HENRY

You don't object, Judge Tate?

MR. TATE

No, sir.

[Motion adopted without objection.]

Amendment No. 11

MR. TATE

Will Mr. Dennery consult with Mr. Avant?

Amendment No. 11, which is on Section 1(K), on page 22 of your green, made "any person who willfully violates," it put it in the language of this statutory provision in the statutory language "willful violation of any provision shall be a misdemeanor." It has the same intent and it makes it as it is intended to do to make it sort of a self-executing sort of provision.

[Amendment No. 11 adopted without objection.]

Amendment No. 12

MR. TATE

Amendment No. 12 is to Section 1(L) on page 23. There are--"such" was changed to "the" twice and otherwise no changes, Mr. Chairman.

MR. HENRY

That's the extent of the changes?

MR. TATE

Yes, sir.

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[Amendment No. 12 adopted without objection.]

Amendment No. 13

MR. TATE

Section 1(M) on page 24, we thought it read "to carry out efficiently and effectively"; we just said "to implement this section" rather than to carry out efficiently and effectively the provisions of the section. We thought it read better, and it says exactly the same thing. We recommended separating the first long sentence into two, and again we use "implement" instead of that long, long phrase. Mr. Chairman, if there are no questions, I move the adoption.

[Amendment No. 13 adopted without objection.]

Amendment No. 14

MR. TATE

I wonder if Mr. Avant and Mr. Denney have been able to discuss the matter. I don't know if it's resolvable without a vote is the thing that...

We have a couple of more amendments, I'm informed. I'm sorry I missed them.

Amendment No. 14, Mr. Chairman. Amendment No. 14 is to 1(N) on pages 25 and 26 of Committee Proposal No. 9. Amendment No. 14 as you will notice, singularizes "any" to "each city, parish" and so on. We thought "the latest official decennial federal census" means exactly the same thing "according to the last preceding decennial federal census," which shall follow "report of population growth as reported to the President of the United States." The remainder of the changes have to do with the usual stylistic changes of omitting, putting "these" for "suches". We divided this long sentence into to three subparagraphs. Otherwise, the changes are the normal stylistic changes. Mr. Chairman, I move the adoption of Section 1 and Amendment 15.

[Amendment No. 14 adopted without objection.]

Amendment No. 15

MR. TATE

Mr. Chairman, let's see, my copy does not have the last amendment. Number 15 is to Section 1(O) on page 28; again, it takes that long, long, long one sentence paragraph, and breaks it down into three subparagraphs and to some sentences within each paragraph. The other changes are stylistically of the nature you have been approving all along up till now. Mr. Chairman, subject to objection, I move the adoption of Amendment No. 15.

[Amendment No. 15 adopted without objection. Quorum Call: 68 delegates present and a quorum.]

Point of Information

MR. AVANT

Mr. Chairman, I would have no objection to going ahead and adopting Amendment No. 10 as recommended by the Committee on Style and Drafting with the distinct understanding that I will have the right and the privilege to later request for a suspension of the rules so that I may offer my amendment as an alternative and let the convention decide whether they want the Style and Drafting version or whether they want to adopt what I feel was the intent of the section.

MR. HENRY

Do you withdraw your objection?

MR. AVANT

No, I don't withdraw my objection. I only withdraw it and say that you can...I have no objection to adopting Style and Drafting's amendment at this time if I have that distinct understanding that I have that privilege.

MR. HENRY

Well, you always have the privilege to move to suspend the rules, Mr. Avant, if that...I was doing something else, so I honestly wasn't paying attention. If you're talking about a rules suspension, of course, you can always at any time be recognized for that purpose inasmuch as it is a suspension of the rules. Is that what you're asking?

MR. AVANT

That would be the mechanics by which we had to proceed under the rules that we have, isn't it?

MR. HENRY

Yes, sir. I believe it would be.

Point of Information

MR. KEAN

Mr. Chairman, I just want to have it understood that while Mr. Avant, of course, has the right to ask for a suspension of the rules, that we are not here agreeing by adopting this amendment that he's going to get a suspension of the rules.

MR. HENRY

I don't think Mr. Avant is asking for that and certainly, I don't believe that...I don't have the authority to grant such a bargain or deal and certainly that's not my intention, but anybody can at any time move to suspend the rules for just about anything.

Point of Information

MR. FLORY

Mr. Chairman, can't we leave this pending and return this proposal to the calendar until we have a chance to try and work it out?

MR. HENRY

Mr. Flory, in my opinion, this is a Style and Drafting problem as opposed to a substantive problem.

MR. FLORY

Well, there is a question in our mind as to whether or not it is a substantive change. We are trying to discuss it with Mr. Denney to find out actually what the Committee on Style and Drafting has done by changing and rearranging....

MR. HENRY

I suppose it could be returned to the calendar for the time being, pending what the body....there would be no reason....

MR. FLORY

I move that it be returned to the calendar temporarily.

[Motion to return Committee Proposal No. 9 temporarily to the calendar adopted without objection.]

MR. TATE

Mr. Chairman, if I understand the situation, it's all been styled except for Amendment No. 10 and we are waiting for a short time to see if they can't resolve the fact that it's only a stylistic rearrangement. Is that right, Mr. Chairman?

Amendment No. 9 was on state and city.

Amendment No. 10 is on firemen civil service. Now, Committee Proposal No. 10, Firemen Civil Service.

[Motion to call Committee Proposal No. 10 from the calendar adopted without objection.]

Committee Proposal No. 10

Amendment No. 1

MR. TATE

All right. Municipal Fire and Police Civil Service, Proposal No. 10, you will see before you this very, very short....

The next committee proposal we intended to call up is Committee Proposal No. 10 on Firemen's and Police Civil Service. As you can see, it's a short....one amendment revision which breaks that long paragraph up insofar as possible into separate subparagraphs, it makes no change in substance. If you will hurry up and adopt the amendment before Mr. Flory notices what we've done to firemen's and police civil service, we will save a lot of discussion. Mr. Chairman, before Mr. Flory studies it close, I move the adoption of Amendment No. 1.

[Amendment No. 1 adopted without objection. Motion to take up Committee Proposal No. 10 adopted without objection.]

Committee Proposal No. 34

Amendment No. 1

MR. TATE

Now, [Committee Proposal] No. 34, when you see it, looks like this...it's got a little green; it's got a little gold--three pages of gold caveat; and it's got a white; stapled in the middle and you go presto, like that. We'll take up the green amendments first as we did it before and then the caveat yellow amendments. This has to do, of course, with natural resources, Article VIII, Natural Resources. Mr. Chairman, Amendment No. 1 is to Section 1, on the right-hand side of page 1. The changes, as you notice, remove a comma when it says, "The legislature shall implement this policy by appropriate legislation". It just says, "it shall enact laws to implement this policy". Mr. Chairman, I move the adoption of Amendment No. 1.

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. TATE

Amendment No. 2, Mr. Chairman, is to Section 2, on page 2 of your green materials. You will remember yesterday we left out the clause about the Public Service Commission's authority that "the legislature may give the Public Service Commission authority to regulate natural gas" because it's contained in this provision right here in Section 2 and that's not a change, but it's to call it to your attention. The changes in this article, as you may notice, are strictly stylistic in nature as are all the others, but they are the standard changes we are making. Mr. Chairman, if there is no question, I would move the adoption of Amendment No. 2.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TATE

Amendment No. 3, Mr. Chairman, is to Section 3 on page 3 of your green materials. The changes are fairly nominal, of course, there is a rechange in numbering because...because what....

...because, apparently, when it passed the floor another Section 3 was not passed, so this Section 4 becomes Section 3.... and otherwise, the changes as a nature are strictly the usual stylistic changes that we have been approving up till now, sir. I move the adoption, subject to questions, of Amendment No. 3.

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TATE

Amendment No. 4 is to Section 4 (A), on page 6 at the top. This is a reservation of mineral rights; it changes the "where" to "when", "Mineral rights on all property;" just "on property"; it means the same thing, "sold by the state", "...may buy or redeem" was changed to "buy or redeem" to the present tense. In other words, the normal stylistic changes, Mr. Chairman. I move the adoption of Amendment No. 4, subject to questions.

[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TATE

Amendment No. 5 on [Section] 4 (B), on page 4, adds an "of" to carry out the series. We could have either left out the "of" after the first one. But, in this case, it read better if we added an "of" to carry out the parallelism and that's about all we did; we changed "any" to "a" in each instance. Mr. Chairman, I move the adoption of Amendment No. 5.

[Amendment No. 5 adopted without objection.]

Amendment No. 6

MR. TATE

Amendment No. 6 is to Section 5, on page 5, of your materials; it was a former Section 6 (1) that was added. All we did there was to say "the state" instead of repeating the "State of Louisiana". Mr. Chairman, subject to questions, I move the adoption of that amendment.

[Amendment No. 6 adopted without objection.]

Amendment No. 7

MR. TATE

All right. Mr. Chairman, let me explain the next one. On Amendment No. 7 deletes lines 30 to 35 on page 2 and lines 1 through 5 on page 3 as it passed the floor. This had to do with definition as used in Article XI, Section 4 (D) what state-owned property means and it exempted the provisions of this section or the provisions of Article XVI, "it shall apply to property comprising the Russell Sage Wildlife and Game Refuge." Yesterday, you approved removing this language and placing it in the proposal yesterday adopted in Committee Proposal No. 15 of Revenue, Finance and Taxation, which is about the allocation of service taxes, but, particularly of royalties to the local parishes; it's already been included, so it may be deleted at this point. Mr. Chairman, I move the adoption of Amendment No. 7.

[Amendment No. 7 adopted without objection.]

Amendment No. 8

MR. TATE

Amendment No. 8 simply changes title numbers on the original enrollment; let me be absolutely sure that's what it is. It simply changes section numbers in the Section 7 which now becomes Section 6, Tidelands Ownership. That's the only effect of those changes which is at the top of page 7 on your green materials. Mr. Chairman, I move the adoption of that amendment.

[Amendment No. 8 adopted without objection.]

Amendment No. 9

MR. TATE

All right. Amendment No. 9 is on page 7 to Section 7, that long section about funds from offshore mineral leases held in escrow pending settlement of the tidelands dispute. The stylistic changes made are obviously in line with the standard practice. I move the adoption of Amendment No. 9. I want to note, Mr. Chairman, that this is one of those provisions we may be able to remove from the body of the constitution and put in the transitional portions upon the final styling which will eventually accomplish a shorter constitution as this transitional matter expires. Mr. Chairman, I move the adoption of Amendment No. 9.

[Amendment No. 9 adopted without objection.]

Amendment No. 10

MR. TATE

Amendment No. 10 is to Section 8, the Wildlife and Fisheries Commission. You will see that after this...shortly after this, we will have some yellow amendments on this section. But, these amendments strictly stylize as it came off the floor. The yellow amendments, as will the yellow amendment that is proposed to offshore minerals, are intended to clarify the intent. But, we are calling it to your attention because you may or may not wish to add them. But, these amendments to Section 8 provided by Amendment No. 10 is strictly stylistic, it breaks the long sentence up into several sentences and made without any change of substance; it slightly rearranges it. Mr. Chairman, I move the adoption of Amendment No. 10.

[Amendment No. 10 adopted without objection.]

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Amendment No. 11

MR. TATE

Amendment No. 11 is to Section 9 (A), on page 10 of your green materials. This is simply a stylistic rearrangement with very minor changes; for instance, it doesn't repeat "the legislature" but it would say "enact laws" instead of "enact provisions" to make sure that we know that they are talking about laws being made. We will come back to this later on but right now it's a stylistic arrangement of Section 9 (A).

Question

MR. HERNANDEZ

Judge, when are you going to take up your caveat amendment?

MR. TATE

Right away, right when we finish these technical amendments. I think the ones you are interested in are [Amendment No.] 16 and 17, and we are now on [Amendment No.] 11 and the others should go fast at the last.

Is there any objection to Amendment....excuse me, Mr. Chairman. Are there any questions? Subject to questions, I move the adoption of Amendment No. 11.

[Amendment No. 11 adopted without objection.]

Amendment No. 12

MR. TATE

Amendment No. 12 is to Section 9 (B) strictly stylistic changes about the Louisiana Forestry Commission. After this, we will come to the caveat amendments in a short time, but these are strictly stylistic amendments. Mr. Chairman, I move the adoption of Amendment No. 12.

[Amendment No. 12 adopted without objection.]

Amendment No. 13

MR. TATE

Amendment No. 13, to State Forestry [Section] 9 (C) on page 11, very minor stylistic changes, "he must be", "he shall be" a graduate from "a graduate of" believing that to be preferable grammar. Mr. Chairman, I move....subject to any questions, I move the adoption of Amendment No. 13.

[Amendment No. 13 adopted without objection.]

Amendment No. 14

MR. TATE

All right. Now, Amendment No. 14 deletes on page 4, lines 33 through 35 and on page 5, lines 1 through 4. These amendments provided that -- the Department of Wildlife and Fisheries Commission Enforcement Officers -- nothing relating to civil service shall prevent the legislature from enacting laws supplementing civil service plan with regard to them. We recommended deletion at this point because they were inserted in Section 1 (A) of CP 9. If you will look, we just approved that, where we said "nothing herein shall prevent the legislature from enacting laws" so and so "uniform pay plans for sworn" so on and so and "regularly commissioned officers of the enforcement division of the Department of Wildlife and Fisheries." In other words, we put it in one [Section] 1 (A) of the civil service proposal and is unnecessary here. So, I recommend...I move, Mr. Chairman, subject to questions, the adoption of Amendment No. 14 deleting the language in question from the original proposal.

[Amendment No. 14 adopted without objection.]

Amendment No. 15

MR. TATE

Now, the first caveat amendment we do not regard...there is no objection to it; some people thought we shouldn't even make it a caveat amendment that is purely stylistic but because it does

add a couple of words, we thought we better do it in a yellow manner...I mean yellow paper, not yellow, yellow. Now, the amendment, in effect, if you will go to...on your green...on your yellow one here it adds "upon such settlement" on line 9 on your right-hand side. On your green copy, it would add "upon such settlement" at the end of line 14 as an introductory phrase to the sentence now beginning on page 15; the reason being that at first reading, it really does not need this language to clarify it. But, at first reading it says "the funds derived from offshore mineral leases and held in escrow shall be deposited in the state treasury when received." Now, it's held pending settlement shall be deposited when received. Well, obviously, the funds held in escrow pending the settlement of the dispute between the United States and our state can't be deposited in our state treasury; they are in escrow. But, as you read it fast, it seems to mean as soon as you get them, you are supposed to deposit them in the state treasury which you can't do. So, to clarify so that, just so it reads better, it doesn't need this in the legal sense, to clarify it when it's settled there are to be...when the dispute is settled, they are to be deposited in the state treasury and applied to debts and all of that. We recommended adding the words "upon such settlement" and that is the effect of Amendment No. 15 which is pending before you. Mr. Chairman, I yield to questions. If there are none, move for its adoption.

[Amendment No. 15 adopted without objection.]

Amendment No. 16

MR. TATE

Now, Mr. Chairman, the next yellow amendment--I understand there is some opposition to it, there was some on our committee, there was...I believe it was a narrow division on our committee, I don't remember right now--but the effect of this next amendment, Amendment No. 16, which is proposed as a caveat amendment for your consideration. You can consider whether this clarification should be needed or whether if, in your view, it is substantive. We are not recommending it. We are calling it to your attention. Now, you see, as this amendment...as we talked about the...this is Amendment No. 16. We, in Section 8 as you restyled it, we talked... we said "there shall--the control" of so and so "is vested in the Louisiana Wildlife and Fisheries Commission consisting of seven members", etc. Now, in view of the dispute that arose as to clarification of other offices we have tried to clarify the circumstance that in the view of at least those who recommended this amendment to you, for your consideration, that the Department of Wildlife and Fisheries we should say "The commission shall be," in effect, we are adding the language on pages 9 and 10...up to 11, "The committee shall be in the executive branch", in effect, that's what we are adding to specify that this is one of the... that is an executive branch and because in view of those who recommended it, it could not be in the legislature branch; it couldn't be in the judicial branch; it had to be in the executive branch. In the view of those who recommended it, we better save a lawsuit right now, that although its constitutional powers could not be reallocated under the constitution it could be subject to the administrative organization of the government provided by the Executive Branch Article. In other words, there could be one master Department of Natural Resources which has three or four of these departments in it. But, we know there is disagreement on our committee as a closely divided vote. Mr. Chairman, I will yield to either questions or to other speakers, of course.

Questions

MR. AVANT

Judge Tate, the policy or the position of the Committee on Style and Drafting has been that when we recommended a change or when we submitted a change for the consideration of the convention, we don't recommend anything, that we did it in this form because we felt that it probably was a substantive change. Is that not a correct statement?

MR. TATE

No, Mr. Avant. I would say because...if there is any substantial view in either committee that it is substantive change or that it changes the sense, because we can recommend substantive changes, as I view the rules, if they are inconsistent. But, if there is any substantial view either that some think it might be a substantive change, or some think it's a policy clarification, or some think that for any other reason there is any question about our doing it, we do submit it in the yellow form to let the members decide what they want, what their views are. We don't take any stand on the merits of the change.

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MR. AVANT

All right, that's right. Well, there was a substantive view on the Committee on Style and Drafting that this was a definite substantive change and the amendment itself was submitted only by a very close vote, I think, maybe one or two votes; is that not correct?

MR. TATE

That is correct, Mr. Avant.

MR. AVANT

I believe it was one vote.

MR. TATE

That is correct. I don't remember whether this one was the six to five or the seven to four, but there is no question that it was a substantial division.

Point of Order

MR. AVANT

Well, Mr. Chairman, I had already been recognized and I asked my question. At this time, I would like to raise a point of order and suggest that the amendment suggested by the Committee on Style and Drafting makes a substantive change in the document and, therefore, is out of order. I would like to have the privilege of speaking on that objection.

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, the section in this committee proposal which relates to the Wildlife and Fisheries Commission makes no mention whatsoever that it shall be in the executive branch of government as various other articles-- particularly, I'm thinking of the Civil Service Commission. There was a specific statement that "there shall be a Civil Service Commission within the executive branch." Now, what this amendment does is to suggest to you that you should adopt a specific statement in this section, and I will read it to you, "The commission shall be in the executive branch." Now, if you will remember the discussion when this section was on the floor before, this convention voted overwhelmingly to create an independent, constitutional Wildlife and Fisheries Commission to control and supervise the wildlife of this state and the aquatic life of this state. If you will recall, it was pointed out in the discussions that the people of this state have on not one but four or five occasions overwhelmingly voted against constitutional amendments which would tamper with the constitutional status of the Wildlife and Fisheries Commission. Now, if you put this commission in the executive branch, you know what that does; it will become subject to the reorganization plan and it will be up to the legislature to consolidate it with any other agency they may want to or to interfere with, or take away from its powers and independence in any manner that best suits their judgment at the moment which is something that I respectfully submit to you that the people of this state have shown time and time again that they do not want, and for that reason, I would ask that you reject this amendment. That you would leave it as it was adopted by this convention; namely, an independent, constitutional Wildlife and Fisheries Commission which is the way the people of this state want it.

Questions

MR. ROY

Mr. Avant, under the present creation of the present Wildlife and Fisheries Commission it is subject to reorganization by the legislature; is it not?

MR. AVANT

I don't believe it is, Mr. Roy. I would like for you to point out to me how it is.

MR. ROY

Under Article IV, Section 32 of the present constitution it is.

MR. AVANT

Well, the people of this state have demonstrated time and time again they don't want it tampered with.

MR. ROY

Well, we're not talking about tampering....

MR. AVANT

...and, the legislature has not seen fit to tamper with it.

MR. ROY

Did you know that I don't even think that we should have had it constitutionalized much less now not being able to be reorganized?

MR. AVANT

Well, Mr. Roy, you are certainly entitled to your opinion.

MR. NEWTON

Mr. Avant, if we don't say anything about it, don't you think it would be in the Executive Department?

MR. AVANT

No, sir, I don't.

MR. NEWTON

Well, if we don't put it in the Executive Department, are we going to put it in the Judicial or the Legislative?

MR. AVANT

It would be an independent constitutional commission.

MR. CONROY

Mr. Avant, the proposed amendment here that the Style and Drafting Committee has presented to the convention is the same thing that was adopted by this convention yesterday with regard to the Public Service Commission; isn't it?

MR. AVANT

Yes, sir. It is.

MR. ASSEFF

Mr. Avant, aren't we both members of the Committee on Style and Drafting?

MR. AVANT

We are, sir.

MR. ASSEFF

Isn't it a fact that on the vote, the original vote was five to five with one abstaining?

MR. AVANT

That's correct, sir.

MR. ASSEFF

Didn't that person originally feel that it was substantive and should be referred to the substantive committee, and at the last minute changed his vote to make it six to five; isn't that a fact?

MR. AVANT

That is correct.

MR. ASSEFF

Isn't it also true that if we took no action that the two commissions would be within the Executive Branch, but as regulatory commissions, and not subject to the provisions of Article IV? If we vote to put them specifically, then--I'm asking this for the record--in my opinion, and I'm asking if you agree, we are making them subject to the provisions of Article IV?

MR. AVANT

There's no question about it. If you put that amendment...if you adopt this amendment, there's no question about that, Dr. Asseff.

MR. ASSEFF

As this now stands, they would still be within the Executive Branch, but independent commissions.

MR. AVANT

That's correct.

I urge that you vote this amendment out of order.

Further Discussion

MR. STAGG

Mr. Chairman, I rise in support of this amendment. There are only three branches of government. Mr. Avant would have

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us elect another branch of government called wildlife, and I don't think that that's required under these circumstances. The opportunity yesterday was presented to adopt a fifth branch of government, that is the Public Service Commission. This convention wisely put the Public Service Commission under the Executive Branch where it belongs. You're either going to have three departments of government: Executive, Legislative and Judicial; or you're not. Now, properly, the Commission on Wildlife and Fisheries belongs in the Executive Department, and it belongs under a department head concerned with wildlife and fisheries, and recreation and parks, and the other similarly allied facets of our state government in a proper scheme of reorganization. I think the amendment is in order. This is where a Wildlife and Fisheries Commission belongs--that's in the Executive Department. I doubt there could be much question about it except those raised by Mr. Avant.

Questions

MRS. WARREN

Mr. Stagg, is it whether it belongs in the Executive Branch or is this amendment adding substance to our proposal?

MR. STAGG

Mrs. Warren, I simply believe it states the obvious, and by stating the obvious it is that this commission must be in one of the three coordinate branches of state government.

MRS. WARREN

Yes, but couldn't we move that it was a substantive change, and then turn around and adopt it because it is a substantive change, and I'm not speaking for or against it because I feel kind of like you, but I know it is a substantive change.

MR. STAGG

Well, Mrs. Warren, I think that it belongs where they have put it. For that reason in ...

MRS. WARREN

I understand, but what I'm trying to say, is it a change?

MR. STAGG

I think it's a change only in the form of the sentence, Ma'am. Everybody should know that this commission has got to be put somewhere. It is not...

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, I wish you would give me your attention for just a moment to point out what the present constitution says with respect to all of these issues that are being raised by Mr. Avant and others that we're making a substantive change. Now, I asked him specifically, "doesn't the present constitution provide that the Wildlife and Fisheries Commission and all other constitutional boards and commissions may be consolidated and changed by the legislature?" He said, he didn't think so; in his opinion, he didn't know. If you'll get page twenty-one of your constitutional material, you'll see under Article III, Section 32; Merger or Consolidation of Similar Executive and Administrative Offices. "The legislature is authorized to provide for the merger or consolidation into one department of all executive and administrative offices, boards, or commissions, whether created in this constitution or otherwise, whose duties or functions are of a similar nature or character, and in the event of any such consolidation or merger, to reduce the number of offices at the end of that current term." Nothing could be more explicit. I don't know why we think now we've got to sanctify the Wildlife and Fisheries Commission, which I don't think should have been in the constitution in the first place, but because of the politics of it, because of the past, we have reconstitutionalized. I don't have any hang-up about that, but I do have a hang-up when we start saying that a board or a commission that we put in this present constitution is going to be immunized from any type of consolidation, reorganization, or what have you, on the part of the legislature when historically they have always been subject to that. So, I ask that you cut through the technical arguments and just vote to make the change that is suggested by Style and Drafting. I think it's in order. I don't think it's a substantive change, and I think that it's something we absolutely need. Thank you.

Question

MR. GOLDMAN

Mr. Roy, I tried to get to ask this question of Mr. Stagg, but I think you can answer it just as well. If we don't adopt

this amendment, wouldn't it be possible then to negate the idea of twenty departments in the Executive Department and have twenty-one or twenty-two departments, or twenty-three?

MR. ROY

We'd have them strung out all over. Let me tell you that this particular section has been decided and interpreted by the Louisiana Supreme Court on two occasions, one of which was Higginbotham v. City of Baton Rouge. I don't have that before me, and there was a more recent decision. The way that the legislature's tried to consolidate L.S.U. and other state board of educations under Act 712 was pursuant to Article 3, Section 32 of the constitution.

Further Discussion

MR. TATE

Mr. Chairman, fellow delegates, speaking for the majority, however narrow, of the Committee on Style and Drafting, as well as I understood, for the Natural Resource Committee, we do not regard this as at all substantive. Whether or not we say it's in the Executive Branch, it is in the Executive Branch. Whether or not we say so, it's one of those divisions of government that is subject to be rearranged without disturbing its constitutional allocation of duties. Now, we adopted yesterday on the Public Service Commission the clarifying amendment, not to change the substance, but to save a lawsuit later on. I suggest to you, I suggest to you that it would be more appropriate, now, once you've made the decision on the Public Service Commission to go ahead and be consistent than to leave it out. I think whether it's adopted or not, it's a part of the Executive Branch. There's no way out of it in my opinion. It cannot be disturbed within its constitutional allocation of duty. So, therefore, Mr. Chairman, not in the interest of any substantive interest, but in the interest of consistency, I ask for your favorable consideration of the yellow amendment in question.

Questions

MR. AVANT

Mr. Tate, when you start off in the Executive Article and you say that the following offices are in the Executive Branch... when you start off and you name some, and then you say others, and then you get over in other parts of the constitution, and you're dealing with other instrumentalities, I'm going to call them, and you say specifically some are in the Executive Branch, and you say nothing about the others, wouldn't you think that a reasonable interpretation of that would be that when you name some and you didn't name others that those that you didn't name weren't in the contemplation of the Executive Branch?

MR. TATE

It would certainly create a possible... construction. In my opinion, though, when it says "Executive Branch shall consist of the governor," etc., etc., "and all other executive officers, agencies, and instrumentalities of the state," I can see no way in the world that the Wildlife and Fisheries Commission could be a part of the Legislative Branch, or part of the Judicial Branch. It seems to me after the lawsuit is over and the debt is settled, it would have to be settled that it is in that branch.

MR. AVANT

Well, Judge Tate, if the issue was presented squarely to this convention on this amendment, and the convention says, "We're not going to say it's in the Executive Branch"; don't you think that's of some significance?

MR. TATE

Frankly, Mr. Avant, as I see it, no court could say that it's in the Judicial Branch or the Legislative Branch. I mean I hate to... I won't prejudge a question. If it ever comes up, I'll study it first and come to the same conclusion, I'm sure, because it's the only logical conclusion. I'm just joking... I'm not going to joke about it here, anymore.

MR. GOLDMAN

Judge Tate, if we don't put it in one branch, and then it came up in court, couldn't you say it's in a broken branch somewhere on the ground?

MR. TATE

I think that's a funny, Mr. Goldman. But, they don't laugh at my funnies; and I'm not going to laugh at yours.

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MR. DREW

Judge, if we adopted this amendment that has been proposed here, then the legislature under their mandate would have to put in the twenty departments, wouldn't they?

MR. TATE

Yes, Mr. Drew, but as I read the Executive Department, they have to anyway. I think it's a member of the Executive Branch whether we say it or not, and all we're trying to do in my opinion is to avoid the possible lawsuit that someone might raise because its constitutional allocation of duties could not be affected but it might for administrative purposes be in a department of Natural Resources include a bunch of these things.

MR. DREW

If it is not put in the Executive Department, and the legislature does not reallocate, what is the lawsuit going to be; to mandamus the legislature?

MR. TATE

To reallocate them, yea, sir.

MR. DREW

To mandamus the legislature?

MR. TATE

I see what you mean. Someone might not bring the lawsuit. I just anticipate the legislature to perform its duty, put it in one of the branches, and then somebody will file a lawsuit to get it out from under administrative control on...and all those sort of things.

MR. DREW

Well, Judge, the point I'm trying to make, the only lawsuit that could be brought if it's not put in the Executive Department, there is no absolute, unqualified mandate to the legislature to consolidate into the twenty; is it?

MR. TATE

Yes, sir. You're quite right.

MR. DREW

Well, I say, you take this under the agencies. But, as Mr. Avant said, where we have designated those in the Executive Department, and have not designated others, don't you think our intent is very clear there, although it may be a broken branch?

MR. TATE

Well, no, Mr. Drew, honestly, I don't see how, when we told them that all these things were in the Executive Branch, and have to...

Further Discussion

MR. ASSEFF

Mr. Chairman, delegates, it seems to me that we are discussing what is immaterial. What the Constitution of 1921 says is immaterial. It is what we place in this constitution. It is not quite as simple as Judge Tate presented it. Our committee was closely divided. I repeat: five for; five against; one abstained because he really felt it was substantive, and should be returned to the Substantive Committee. He did not vote, but when we revoted he did vote, 6 to 5. So, I don't think you should say that the learned committee has spoken because the learned committee is very divided. It is my opinion that if we leave it as it is that it still will be in the Executive Department, and that is not before you. But, if we place it as we are doing, and that may be what this convention wants, we are subjecting it to the provisions of Article IV, the including reorganization. Now, if that is what you want, vote for it. But, in my opinion, it is a substantive change. The decision is yours. Do you want it in the Executive Branch, subject to all of the provisions of Article IV, or don't you? It's just that simple. I voted with the five because I felt the convention wanted it as an independent commission. If you don't, well, then, vote the way you prefer it. Thank you, Mr. Chairman, delegates.

Further Discussion

MR. HERNANDEZ

Mr. Chairman, ladies and gentlemen of the commission, I rise in support of Mr. Avant's plea for you to reject this amendment for the reason that it places it under the Executive Department. I feel that the convention has voted to establish the Wildlife and Fisheries Commission as an independent constitutionally-

created commission, independent as possible from the Executive Branch. This, as I pointed out when we discussed this before, when it was passed by the convention, the Wildlife and Fisheries Commission is extremely popular with the...those men who hunt and fish in the State of Louisiana. There is a lot of hunters and fishermen in this state. They want an independent Wildlife and Fisheries Commission, and I urge you to consider this large segment of our population that wants it this way, and at least consider their desires and oppose this caveat amendment proposed by the committee. I urge your rejection of this amendment.

Questions

MR. STAGG

Pete, when you made your original pitch for the Wildlife and Fisheries Commission to be in the constitution, and you will recall that it, like a lot of other boards, by the Executive Branch, was left out of the constitution to be statutory. All you pleaded with us at that time was that it be in the constitution. Now, you come back today, and you want it to be a fully independent commission, which is a change in your view from before. How do you explain to us that you've now changed your position from that held when you argued for it simply to be in the constitution?

MR. HERNANDEZ

Mr. Stagg, my position is not changed. I, frankly, never anticipated Style and Drafting would propose a caveat change like they have propose here to put it under the Executive Department. I didn't think that...

MR. STAGG

Do you also, Pete, believe that the Forestry Commission should be an independent free standing commission?

MR. HERNANDEZ

Well, I would like to see it that way, but that's a hopeless case. In the present constitution, it is under the Executive Department, and I think there's no way to get away from that. But, it's not subject to the same reorganization changes that could take place with the Wildlife and Fisheries Commission.

MR. STAGG

Did you vote yesterday that the Public Service Commission be a part of the Executive Branch?

MR. HERNANDEZ

No, sir; I did not.

MR. STAGG

I'll accede that you did not. But, should it have been left a free standing commission so that the government is composed of an Executive and a Legislative and a Judicial branch, and then this commission and that commission and that commission to where reorganization of state government becomes an absolute hodgepodge; is that what you propose to this convention?

MR. HERNANDEZ

No, sir, not enough of them, but I don't think that this constitution is going to be damaged in any way by leaving this

MR. STAGG

What you want, then, is Wildlife and Fisheries Commission to be unlike anything else in the state; is that what you propose?

MR. HERNANDEZ

Well, yes, sir. It is different.

MR. ROY

Mr. Hernandez, how can you say that your purpose is to take the Wildlife and Fisheries out of politics, or out of politics of the Executive Branch, when it's the Executive Branch that nominates the people who serve on it?

MR. HERNANDEZ

Well, that is the...like so many other commissions. They are appointed by the governor, and should be appointed by the governor, but they should feel a certain responsibility to the people of the State of Louisiana, especially those that hunt and fish; and there is a large segment of our population that does hunt and fish, and another large segment is sympathetic to the preservation of our wildlife.

MR. ROY

Are you really of the opinion that what we have written here

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will permit the Executive Branch to reorganize it, or don't you realize that we're leaving the reorganization to the Legislative Branch; therefore, we do remove them from the politics of the Executive?

MR. HERNANDEZ

No, sir, I do not fully agree with that.

MR. ROY

Well, how can you not when we just passed it the other day that the legislature shall make the reorganization, and only in the absence of any stand taken by the legislature, the Executive Branch could do certain things?

MR. HERNANDEZ

Well, that's in there now, and there's no effort made to take that out of this provision.

MR. GOLDMAN

Doesn't the Wildlife and Fisheries Commission have to get money from the legislature to operate?

MR. HERNANDEZ

Well, certainly, they do.

MR. GOLDMAN

And they are appointed by the governor? How can you call them independent, then? No one's independent.

MR. HERNANDEZ

I said "independently created" in the constitution.

MR. GOLDMAN

Thank you very much.

[Previous Question ordered.]

Closing

MR. AVANT

I just want to say this: you've heard all the arguments. But to be practical about it, if you think that you're going to help this constitution when the people of this state have five times in the last twenty years said that they do not want this commission to be the subject of tampering and meddling, then you go ahead and say that this amendment's in order. But, if you do, I respectfully tell you that you're going right in the teeth of what the people of this state have said time and time again they want to do, and I ask you to vote that this amendment is out of order.

[Convention declared Amendment in order: 60-40. Motion to reconsider tabled.]

MR. TATE

Well, Mr. Chairman, I think the debate is self-explanatory. I move for the adoption of the clarifying amendment.

[Amendment No. 16 adopted without objection.]

Amendment No. 17

MR. TATE

Mr. Chairman, the next amendment, in view of Mr. Hernandez's concession, and in view of your next vote, I suppose is relatively noncontroversial. It does the same thing as the Louisiana Forestry Commission. It just says, "the commission shall be in the Executive Branch." That's the effect of the amendment, Amendment No. 17 is effective in that it just specifies that it's in the Executive Branch in order—for the same reasons we mentioned. Mr. Chairman, if there are no questions, and if there's no objection, I move the adoption of that clarifying amendment.

[Amendment No. 17 adopted without objection.]

MR. TATE

Mr. Chairman, right now we have pending Committee Proposal... the styling on Committee Proposal No. 9 on that one Section I-J; I don't know if Mr. Avant and Mr. Dennis have worked it out.

We have pending the section on the attorney general on Executive Committee Proposal No. 4. I know that the amendments that have come this morning may clarify that. We have only two more things and I've asked Mr. Tobias, the Vice-Chairman, to present these because he's got something sneaky that we're going to try to put over on you now.

[Motion to call Committee Proposal No. 30 from the calendar and to suspend the rules to consider the report at this time adopted without objection.]

Committee Proposal No. 30

Amendment No. 1

MR. TOBIAS

Committee Proposal No. 30 is on pink paper, which at the top is labeled "green copy," which I'll never be able to figure out. The stylistic changes are basically technical in nature. These are schedule provisions. Amendment No. 1 deals with the Board of Regents. It simply clarifies and shortens the language. I'll yield to any questions.

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. TOBIAS

Amendment No. 2 deals with Section 3, affecting the Board of Supervisors of L.S.U. It conforms basically to the same stylistic changes that we made on the Board of Regents. I'll yield to any questions, and move the favorable adoption of the amendment.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TOBIAS

Amendment No. 3 deals with Section 4 on the State Board of Elementary and Secondary Education, and the Board of Trustees for state colleges and universities. It conforms to the language that we have styled in Sections 2 and 3, and I'll move the adoption of the amendment, and yield to any questions.

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TOBIAS

Amendment No. 4 is on the rear--on the back of the amendment page-- it just concerns and changes Sections 7, 8, and 9 to Sections 5, 6, and 7 to conform to the Education Article. I move. . . it adds a comma after No. 6. I move the favorable adoption of the amendment.

[Amendment No. 4 adopted without objection. Motion to call Committee Proposal No. 36 from the calendar and to suspend the rules to consider the report at this time adopted without objection.]

Committee Proposal No. 36

Amendment No. 1

MR. TOBIAS

C. P. No. 36 is on the blue paper labeled green copy. We have people that are color-blind in two different ways. There is a set of caveat amendments, which we will explain in a few minutes, but we shall take up the substantive ones first. Amendment No. 1 just conforms the language to clarify it conforming to the Style and Drafting Manual and I move the adoption of Amendment No. 1, and yield to any questions.

[Amendment No. 1 adopted without objection.]

Amendment No. 2

MR. TOBIAS

Amendment No. 2 moves . . . changes Paragraph (B) in the original committee proposal and moves it down to Paragraph (C) and vice versa. It also moves the last sentence in the language adopted on the floor first, the first sentence last, the sentence to last sentence is split into two sentences. The last sentence is moved down and it just clarifies the language as adopted on the floor. I move the favorable adoption of Amendment No. 2 and yield to any questions.

[Amendment No. 2 adopted without objection.]

Amendment No. 3

MR. TOBIAS

Amendment No. 3 is on the rear of the amendment page. It was originally Paragraph (B). It clarifies the language as adopted by the floor of the convention. I move its favorable adoption and yield to any questions.

[Amendment No. 3 adopted without objection.]

Amendment No. 4

MR. TOBIAS

Amendment No. 4 changes the title from "the convention called by the legislation" to "constitutional convention." It clarifies the language as adopted by the floor. It's been approved by the Committee on Bill of Rights as containing no changes. I move favorable adoption and yield to any questions.

[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TOBIAS

Amendment No. 5 deals with Section 3. There are no changes, except to change the section number from 4 to 3. I move the adoption of the amendment and yield to any questions.

[Amendment No. 5 adopted without objection.]

Amendment No. 6

MR. TOBIAS

The next amendment, Amendment No. 6 is a caveat amendment. It clarifies language as adopted by the floor of the convention dealing with the rules of the House of the Legislature. As originally introduced on the floor of the convention, there was some ambiguity as to what the phrase "in accordance with the rules of the Houses of the Legislature" meant. This particular amendment clarifies the question whether an amendment . . . a resolution introduced in one house must conform to the rules of the other house. This clarifies it so as to make it that it would conform in each house to the rules of that house. I move the favorable adoption of the amendment and yield to any questions.

[Amendment No. 6 adopted without objection.]

Amendment No. 7

MR. TOBIAS

Amendment No. 7 deals with the question of whether the governor must promulgate and declare an amendment to be adopted. As adopted on the floor of the convention there was no way that . . . there was no mandatory language that the governor had to proclaim the adoption of the amendment.

A caveat Amendment No. 7 would say that the governor must proclaim the adoption of the amendment which would allow a person to mandamus the governor. . . a citizen to mandamus the governor to promulgate it. In other words, it's just making it mandatory on one state agent that he . . . the governor that he declare the adoption of this proposal. I move the favorable adoption of the amendment; yield to any questions.

[Amendment No. 7 adopted without objection.]

Delegate Proposal No. 32

Amendment No. 1

MR. TATE

All right. Mr. Chairman, the Drew Proposal No. 32, since it was incorporated in Committee Proposal No. 10, we reported a recommendation to delete it in Committee Proposal No. 32. The amendment--which should or should not be on your desk--just says amend . . . page 1, delete lines 12 through 18 in entirety, and the note says because it has previously been inserted in the Judicial Branch. Mr. Chairman, I move the favorable adoption of this Amendment No. 1 to Committee Proposal No. 32.

Questions

MR. DREW

Judge, as I understand it, my amendment has been incorporated in the Judiciary Article, and what you're doing is just disposing of the delegate proposal now?

MR. TATE

Yes, Mr. Drew, we had without formally reporting it, we had incorporated the substance. . . recommended to the convention to incorporate the substance as a caveat amendment. It's in the Judiciary Article, mechanically that to clear away what happened to Delegate Proposal No. 22 and for that reason, we recommend its deletion since we have already incorporated its substance in the Judiciary Article.

MR. DREW

There's no change in what we've done, it's just deleting it from the Delegate Proposal?

MR. TATE

Absolutely no change, Mr. Drew.

[Amendment No. 1 adopted without objection.]

MR. TATE

Mr. Chairman, I understand that the Committee Proposal No. 9 that we held over on Civil Service, Mr. Avant and Mr. Denny have worked out clarifying amendments to our Committee Amendment No. 10.

[Motion to call Committee Proposal No. 9 from the calendar adopted without objection.]

Motion

MR. AVANT

Mr. Chairman, I would like at this time to move and if it requires a suspension of the rules to do so, I request a suspension of the rules. I wish to offer an amendment to the Amendment No. 10 which was offered by the Committee on Style and Drafting. Now, that amendment of the Committee on Style and Drafting has not yet been adopted, but I would like to amend it before it's adopted if that's possible; if not, go on and adopt it and then I'll move for a suspension of the rules.

MR. HENRY

I think we're going to proceed with some sort of semblance of organization; we're going to have to adopt the amendment.

MR. AVANT

Well, that will be satisfactory.

Point of Information

MR. KEAN

Mr. Chairman, in consideration of this matter would it be asking too much for somebody to tell us what the problem is and what we're trying to do, so that we can intelligently act on this?

MR. HENRY

I think that Judge Tate might be able to explain that when he talks about the amendment to Section 10 which is going to be to which, if it's adopted, an amendment by Mr. Avant will be offered. So, Judge Tate, if you will, explain the nature of the problem here?

Amendment No. 10

MR. TATE

All right, Mr. Chairman, Amendment No. 10 is the restylization of Section 1 (J) of the Civil Service Article. In 1 (A) . . . (J) (1) (a) a floor amendment was inserted which, as inserted, changed the flow and the consecutive nature of the ideas expressed. We styled it in accordance with the floor passage to reflect the seeming intent reflected by the floor passage. We would therefore recommend adoption of Amendment No. 10. But, Mr. Dennery and Mr. Avant have worked out the clarifying language that would more accurately carry out the real intent of the entire provision. I would prefer for one of them to explain it, but I would first move the adoption of Amendment No. 10, Mr. Chairman, and then have their amendment submitted to this.

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, this amendment relates to the rule-making power of the Civil Service Commission. Now, the proposal that was adopted says that the commission is vested with broad and general rule-making power and it then proceeds to mention various areas in which it has rule-making power. If you will look at the original version as it was adopted, on line . . . on page 16 of the green material that has been furnished you by the Style and Drafting Committee, the word "transactions" you will see that the language at that point -- you have some difficulty in following it-- it doesn't flow very easily. Now, the substance of the thing is simply this: it was never the intention of Mr. Dennery nor, I believe of this convention in light of the questions that were asked of Mr. Dennery when this was under consideration, that the Civil Service Commission would be able by rule to provide specifics as to employee training and safety programs. Let me tell you the significance of the word "rule". If you will look on further in this article-- I forget just where it is-- but you'll find a specific provision as to the effect of rules adopted by the Civil Service Commission. If you will look on page 20, in Subparagraph (D) you have the statement that "rules adopted pursuant hereto shall have the effect of law and be published and made available to the public. Each commission may impose penalties for violation of its rules by demotion in or suspension or discharge from position, with attendant loss of pay." The intent of the article, as I understood it, and as I believe Mr. Dennery will tell you that he understood it, was that the commission by its rule-making authority would have the power to require an appointing authority to institute an employee training and safety program that they would have to have one, but insofar as the basic content of that program or what the specific rules with respect to training or with respect to safety would be, the commission would only be able to recommend what should be in that program. Now, if you will recall at that time, it was brought out in the discussion that the commission did not want the authority, for instance, to tell the Division of State Police that you can only send out a patrol car if you have two officers in that car under the guise of safety. They wanted to leave those particular details such as how many hours a week a state police officer may have to spend on a firing range and all of those particular detailed matters up to the appointing authority feeling that they were the people who were best qualified to make the specific rules. But, they did want and there was no objection to the commission having the authority by rule which would have the effect of law to make the authority institute a program. The difference being that it would be up to the authority to establish the specific content of that program. Well, when it came out of Style and Drafting this Amendment No. 10, it didn't do that. It would have vested in the commission the sole authority to make rules which would have the effect of law with respect to employee training and safety, and that would mean that neither the appointing authority nor the legislature could act in that area, that the sole and exclusive such authority would be vested in the Civil Service Commission which is something that nobody wanted as I understood it and that nobody intended. So, Mr. Dennery and I together, have worked out this amendment which bears my name which will accomplish what was the intent at the time, and that is that the Civil Service Commission could require an appointing authority to institute an employee training and safety program and could make general recommendations as to what that program should consist of as to details, but could not dictate the specific safety rules or the specific training measures that would be implemented, and that would be left up to the appointing authority or to the legislature in the event they felt some legislation was needed in a particular area of employee training or safety.

MR. KEAN

Mr. Avant, how would the commission require an appointing authority to institute employee training and safety programs if they can't adopt any regulations with respect to that kind of activity?

MR. AVANT

Well, Mr. Kean, if they don't have a program and the commission has adopted a rule saying you shall have a safety program or you shall have a training program and they just don't have one, then they would be in violation of the rule and the appointing authority is always some individual-- he's some department head-- and if . . . and he could be punished accordingly.

MR. KEAN

Well, as I understand your amendment you would delete any reference to training and safety programs under the regulatory authority of the commission.

MR. AVANT

No. You're wrong; you misinterpret the amendment. The way the amendment would read, Mr. Kean, and I'll read the whole section as it would read with the amendment. It would say: "(J) Rules, Investigations; Wages and Hours". Under that (1) would be "Rules". Under that would be "(a) Powers. Each commission is vested with broad and general rule-making and subpoena powers for the administration and regulation of the classified service, including the power to adopt rules for regulating employment, promotion, demotion, suspension, reduction in pay, removal, certification, qualifications, political activities, employment conditions, compensation and disbursements of employees, and other personnel matters and transactions; to adopt a uniform pay and classification plan--and in the sentence--to require an appointing authority to institute an employee training and safety program and generally to accomplish the objectives and purposes of the merit system of civil service as herein established--now, that would be the end of that sentence--and then we come to the sentence--it may make recommendations with respect to employee training and safety, then you go on with the language--nothing herein shall prevent, etc."

MR. KEAN

I understand that. My point is though you have deleted the regulatory authority of the commission with respect to safety and training programs and you've said they can require him to do it, but they've got no regulatory authority by which they accomplish that.

MR. AVANT

Well, they have the rule-making power to require them to do it and violation of the rules can be punished.

[Amendment No. 10 adopted without objection.]

Motion

MR. AVANT

Mr. Chairman, I move for a suspension of the rules in order to now amend Amendment No. 10 of the Style and Drafting Committee to this Proposal No. 9, which amendment should be on the tables of delegates at this time.

MR. HENRY

You move for a suspension of the rules for the purpose of reconsidering the vote?

You moved for a suspension of the rules for the purpose of calling from the table the motion to reconsider the vote by which this section was adopted; is that what you're doing, Mr. Avant?

MR. AVANT

Yes, sir.

MR. HENRY

You want to get back into the substance of the section, right?

MR. AVANT

For the limited purpose of offering the amendment to Style and Drafting Committee Amendment No. 10.

[Motion to suspend the rules to reconsider Committee Proposal No. 9,

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Section 1 for the limited purpose of offering the Avant amendments adopted without objection.]

Reconsideration

Amendments

MR. HARDIN

Amendments sent up by Delegate Avant to Committee Proposal No. 9.

Amendment No. 1. On page 7, line 7, in Committee Amendment No. 10 proposed by the Committee on Style and Drafting and adopted by the convention on January 15, on line 9 of said amendment, immediately after the words and punctuation "conditions," delete the remainder of the line and delete line 10 . . . on line 10 delete the word and punctuation "safety,"

Amendment No. 2. On page 7, line 7, in Committee Amendment No. 10 proposed by the Committee on Style and Drafting and adopted by the convention on today, on line 12 of said amendment, immediately after the word and punctuation "plan;" and before the word "and" insert the following: "to require an appointing authority to institute an employee training and safety program;"

Amendment No. 3. On page 7, line 7, in Committee Amendment No. 10 proposed by the Committee on Style and Drafting and adopted by the convention on January 15, 1974, on line 14 of the text of the amendment, immediately after the word and punctuation "established."and before the word "Nothing" insert the following: "It may make recommendations with respect to employee training and safety."

Explanation

MR. AVANT

I say that, Mr. Chairman and fellow delegates, that I've already explained the amendment, though it bears my name it was actually drafted by Mr. Dennery. So, I ask your adoption of the amendment.

Questions

MR. BOLLINGER

Jack, do you really think that the language provided in Amendment No. 2--I know you didn't draft it--but do you really think: number 1, that it is necessary in a constitution, and number 2, that it could present problems for smaller appointing authorities?

MR. AVANT

Well, Mr. Bollinger, this is something that is not in the present constitution. As far as I am personally concerned, I'd just as soon leave it all out, but Mr. Dennery incorporated it in that proposal, at least that committee did; they wanted to add something in the area of employee training and safety. The point is that there's no objection from my point of view for the commission to have the authority to require an appointing authority to institute a program of training and safety. But, there was objection and I think that everybody more or less agreed that this was the meaning of it during the floor debate on it, what we're doing right here, that they would not be able to dictate to a particular appointing authority that you've got to have thus and such a rule. Such as telling the state police that we make a rule that you've got to have two police officers in every vehicle.... every patrol car that is out on the highways; you can't have one, you've got to have two at all times because those go to the details of the management of that department that has to be left up to the people who are entrusted with running that department. The same as to say, to take another example, telling the department or division of the state police that you have to require, you have to have a training program that will require every officer to spend X number of hours on the range every week when that may not be practical. They may feel that he ought to have more or maybe less time; those are things that go to the day to day operation of the department. It was the consensus, as I understand it, is reflected exactly in this amendment that they can require that there be a program, but the details of that program will be left up to the people running the department and the commission will only recommend as to what they think should be in it.

MR. ABRAHAM

Jack, if the Civil Service Commission simply requires the particular appointing authority to establish a program, then who

will set the standards for these different programs, the appointing authority?

MR. AVANT

That's a just exactly what I've been explaining up here I thought, Mack, that the commission would say, "we think you ought to have a training program, we make....we require you to have a training program, you have to have one; that's a rule." It has the effect of law. We think that these things ought to be in it, but they could only recommend as to what would actually be in it.

MR. ABRAHAM

But, the appointing authority could establish it any way it wants? Now, would not this become then a subject for negotiations between the employee and the employer?

MR. AVANT

It would be a matter between the Civil Service Commission and the appointing authority.

MR. ABRAHAM

No. I mean if the Civil Service Commission has no authority to regulate the programs or to oversee them or anything like that, then would not then this become a subject matter for negotiation between the employee, say the patrolman and the Public Safety?

MR. AVANT

It might, Mr. Abraham, and I don't know who would be more concerned with employee training and safety than the state policemen and the other people who are actually out on the firing line. I don't know who has more interest in seeing that a safety program is instituted than the people who are going to be killed, and maimed and injured if it's not a good one.

Further Discussion

MR. DENNERY

Mr. Chairman and delegates to the convention, I rise merely to confirm what Mr. Avant said. This was a suggestion made by Mr. Avant--the actual drafting of the amendment was performed by me. I am very much in favor of this amendment because I think it expresses what we discussed on the floor at the time we adopted this particular section of the civil service proposal. I believe it to be a very fine amendment, and I urge its adoption.

[Previous Question ordered. Record vote ordered. Amendments adopted: 99-8. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 105-1. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 108-1. Motion to reconsider pending. Motion to suspend the rules to call Committee Proposal No. 15 from the Committee on Style and Drafting adopted without objection. Motion to suspend the rules to reconsider Committee Proposal No. 15, Section 6 for the limited purpose of considering the Pugh amendment adopted without objection.]

Reconsideration

Amendment

MR. HARDIN

Amendment sent up by Delegates Heary, Pugh, Conroy, and others.

On page 3, line 34 of the final enrolled copy, delete the language inserted by Committee Amendment No. 11 proposed by the Committee on Style and Drafting, and adopted by the convention on January 14, 1974, and insert the following:

"(C) Full Faith and Credit. The full faith and credit of the state shall be pledged to the repayment of all bonds or other evidences of indebtedness issued by the state directly or through any state board, agency or commission, pursuant to the provisions of Paragraphs (A) and (B) hereof. The full faith and credit of the state is not hereby pledged to the repayment of bonds of a levee district, political subdivision, or local public agency.

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In addition, any state board, agency, or commission authorized by law to issue bonds in the manner so authorized and with the approval of the state bond commission, or its successor, may issue bonds which are payable from fees, rates, rentals, tolls, charges, grants, or other receipts or income derived by or in connection with an undertaking, facility, project, or any combination thereof, without a pledge of the full faith and credit of the state. Such revenue bonds may, but are not required to be issued in accordance with the provisions of Paragraphs (A) and (B) hereof. If issued other than as provided in Paragraphs (A) and (B), such revenue bonds shall not carry the pledge of the full faith and credit of the state, and the issuance of the bonds shall not constitute the incurring of state debt under this constitution. The rights granted to deep-water port commissions, or deep-water port, harbor, and terminal districts under this constitution shall not be impaired by the provisions of this section."

Explanation

MR. PUGH

Mr. Chairman and fellow delegates, this amendment addresses itself to Section (C), Subparagraph (C) of Section 6 relating to full faith and credit. It provides as follows:

First of all, if you want the full faith and credit of this state, in connection with any of these bond issuances, you must do three things. You must get the permission of the State Bond Commission, you must have a two-thirds vote of the legislature, in addition to that, you must comply with the capital improvement requirements....

as I stated, if you want the full faith and credit of this state, you must meet three criteria. You must meet those set forth by the state bond commission, you must obtain a two-thirds vote of the legislature, and you must also meet the capital improvement requirements as specified yesterday in the constitution. If you do not want the full faith and credit of this state, you may still issue bonds providing you obtain permission of the State Bond Commission. To obtain the permission of the State Bond Commission, you must have a satisfactory feasibility study reflecting that your proposed income will take care of these revenue bonds. That is to say if between sessions of the legislature you want to issue bonds on account of a favorable market, but you do not care to have the full faith and credit of the state behind you, you may do so. But in doing so, you must still comply with all the requirements of the State Bond Commission, and specifically those relating to feasibility studies.

This amendment also excludes the deep-water ports in view of the fact that when we were in local government, we agreed that the state insofar as the deep-water ports were concerned, they would continue to have the same powers and conditions and rights and duties and obligations as previously imposed upon them. For your information, it is my understanding from the staff that there are five such ports, that is the one in New Orleans, the Greater Baton Rouge Port, the South Louisiana Port, the Concordia Port, and the Lake Charles Harbor and Terminal District.

I yield to any questions.

Questions

MR. BROWN

Mr. Pugh, what did you say about a feasibility study would have to be made? Run through that again. You talked about a feasibility study made to the bonding commission. I don't see anything in here about a feasibility study. What were you referring to?

MR. PUGH

It is my understanding that that is a requirement of the State Bond Commission before bonds would be approved by them. Having nothing to do with the full faith and credit of the state, there must be a feasibility study submitted to them reflecting to the best of their judgement, that income will, in fact, pay for the bonds they propose to put out.

MR. BROWN

What was your comment about issuing the bonds when the legislature is not meeting, the problems involved in better interest rates? Isn't it true that revenue bonds are historically...never get as good an interest rate without the full faith and credit pledged behind them, as they would with the full faith and credit pledged behind them?

MR. PUGH

Well, I don't think there's any question. If you have the full faith and credit, you might have a better interest factor

on your bonds. However, the bond market may be greater during the times when the legislature is not in session, and they may, as a matter of judgment, elect to go forward without the full faith and credit of the state, in which event they can, but they must comply....

MR. BROWN

They...you're talking about the commission involved, or who are you speaking....?

MR. PUGH

Whoever wants to issue the bond. Whatever agency proposes to issue the bonds may do so without the full faith and credit of the state, but they must have the permission of the State Bond Commission, including the requirements for the feasibility study.

MR. BROWN

Well, then, the protections we have to stop the proliferation of tremendous numbers of revenue bonds would be the bonding commission?

MR. PUGH

Well, that has always been one of the protections and one of the better protections. In addition to that, you now have a protection relating to the two-thirds....
...the State Bond Commission has a responsibility under the law, and when fulfilled--that responsibility--then, you will, in fact, cut down some of these bond issues you have reference to. One of the requirements, as I understand it, is that there must be a feasibility study. May be a matter of opinion as to whether or not that feasibility study reflects factually correct that income will be there. That will be the responsibility of the State Bond Commission to see.

The important thing is, we don't have the full faith and credit of this state behind any of these unless, or until, they get two-thirds vote of the legislature, and also comply with the capital improvement requirements.

MR. HENRY

Will you yield to a question from Mr....Senator Nunez?
The gentleman yields.

MR. NUNEZ

Well, Mr. Pugh, I'm...let me preface my remarks by saying I'll probably vote for your amendment. But, it's still got me sort of confused as to why the revenue producing agencies of our state, those that collect fees, rates, rentals, tolls, charges, grants or etc.; they are still state agencies, but they produce their own revenues. They are still taxpayers' revenues, would not want to take advantage of a concept that we adopted several years ago whereby the general obligation bonds of this state have first call on the revenues of this state, general fund of this state; thereby, this recommendation, I believe, wouldn't you agree, was from the Public Affairs Research Council whereby these agencies would get a first-class rating on their bonds, and thereby sell their bonds for a cheaper rate than they normally would.

Would you tell me, so I can, I'm asking for the record, why would these agencies that were successful in getting us to amend this provision, the agencies such and HEAL and the others, Mr. Fenner and the others, that have stormed upon this group to get us to amend this to take out the full faith and credit of the state behind these type of bonds that would actually give them a better rating? Why are they so insistent on this provision, the bonding attorneys and the people that run these revenue-producing agencies? I can't conceive of why they would not want better rates on those bonds.

MR. PUGH

Well, you are asking me two subjective questions. If they were objective in nature, perhaps I could answer them. Why an agency did something, I can't answer that. Why "Affinity," or whoever you mentioned did something, I can't answer that. All I can say is that this purports to be the best judgment of the knowledgeable people in the subject.

MR. NUNEZ

Those are the bonding attorneys?

MR. PUGH

Well, insofar as this convention is concerned.

MR. NUNEZ

Those are the people who want to sell bonds?

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MR. PUGH

Well....I regret an inability to answer....

MR. NUNEZ

I preface my remarks. I'm just trying to get some answers so I'd be more conscientiously voting for it rather than just doing something to be doing it. That's what I'm saying.

MR. PUGH

Well, I admire you for that, Senator. I just regret that I can't answer a subjective question of why does a board feel a certain way, or why does a lawyer whom I've never met feel a certain way. I could answer an objective question.

MR. RAYBURN

Mr. Pugh, I'll share Senator Nunez's view and I hope I can vote for this amendment. But, I would like for the record, to submit a couple of questions to you.

If I understand this amendment right, any state agency, board, or commission that wants to have a bond issue, if they want the full faith and credit of the state behind it, they have to subject themselves to what is now in Paragraph (A) and (B), which is a two-thirds vote of the legislature. Am I correct?

MR. PUGH

That's absolutely correct, Senator.

MR. RAYBURN

Now, supposing that some board who now, under the present law, has to get approval of the legislature, is this amendment broad enough, if they don't want the full faith and credit of the state behind it, they can come and do it themselves, if they can get the bond commission to approve it, and by-pass the legislature even though now, under the present law and present constitution, they have to get the approval of the legislature? But, if they decide we don't want the full faith and credit of the state behind it, we'll just go on our own with it and can get the bond commission to approve it. Can they circumvent the legislature?

MR. PUGH

It is my appreciation that they do not have to have the permission of the legislature in that event.

MR. RAYBURN

Mr. Pugh, I'm now talking about the regular state agencies that can only issue bonds by a two-thirds vote of the legislature. We have a lot of state agencies that now have to meet those requirements. We have some agencies and commissions that don't have to meet those requirements. Under this amendment, could every state agency in the future issue bonds and circumvent the legislature if they so desired, and said, "We don't want the full faith and credit of the state behind it; all we have to do is get the bond commission to approve it." Could that happen?

MR. PUGH

It's my....it's my appreciation of this amendment that they do not have to have the vote of the legislature if they elect not to obtain the full faith and credit, and if they comply with the requirements of the State Bond Commission, including the feasibility study.

MR. RAYBURN

Well, then, Mr. Pugh--and I'm trying to understand this where I can vote for it, believe me--but, I'm deeply concerned over the language, as you well know. If a state agency that today has to have the approval of the legislature before they can issue bonds--I'll say the highway department, the highway board--I'll just use them--they cannot issue bonds without prior approval of a two-thirds vote of the legislature. That is the law today.

MR. PUGH

Yea, sir.

MR. RAYBURN

Do you follow me?

MR. PUGH

I follow you.

MR. RAYBURN

If we are--and any bonds they issue, the full faith and credit of the state are behind them.

MR. PUGH

All right.

MR. RAYBURN

If this language in this amendment is adopted, could the highway board at a later date say we are going to issue some bonds, we are not going to have to go by the legislature, we are not worried about the full faith and credit of the state behind them, but directly, they would be behind them? Could that happen?

MR. PUGH

Yea, they may. They issue bonds.

MR. RAYBURN

All they'd have to do is get the approval of the bond commission?

MR. PUGH

Well, you say "All they'd have to do," the answer is yea.

[Motion to allow an additional five minutes adopted without objection.]

MR. CANNON

I'd like to ask these questions to sort of set aside what fears that Senator Rayburn and Senator Nunez have.

If you'll look down there about almost half-way down, the sentence beginning, "In addition, any state board, agency, or commission authorized by law." That means the legislature must first give them the authorization to issue such revenue bonds. They have this power to issue bonds in the manner so authorized. Again, the legislature has the control as to how this....they are authorized to issue revenue bonds. Again, they must have the approval of the State Bond Commission or its successor. I think that will....I think that adequately satisfies whatever fears that Senator Rayburn and Senator Nunez has. They first...the legislature themselves must authorize this agency to have the power to issue revenue bonds, and whatever conditions they wish to impose.

Further on down there, the sentence below this, which is about two-thirds of the way down, beginning, "Such revenue bonds may, but are not required to be issued in accordance with the provisions of Paragraph (A) and (B) hereof." That, in itself, dictates back to the legislature that they may or may not require these state boards and agencies to comply in such a way. Am I correct in this, Mr. Pugh?

MR. PUGH

You are correct. I think what the Senator had in mind was the legislature creates a commission. As a matter of course, authorizes it to issue bonds under certain circumstances and conditions. Now, the legislature, at that point in time, may make those just as stringent as they want to. I think the Senator's question, though, Senator Rayburn, was directed to an instance where once all that's been done, do they still have to come back to the legislature to issue particular bonds. Obviously, if they are secured by taxes, they've got to come back to the....they've got to get the permission of the legislature anyway. But, I did not think his question was directed in that score. I thought his question was, once the commission has been created, predetermining the question that as they create these commissions, they can make it just as tough as they want to going in. But, once they are created, do they have to come back for a particular issue? Now, if this question was directed at anything other than that, I beg that he ask me and advise me so.

MR. CANNON

Well, then, it's been my general appreciation that the legislature, if they wanted to put a ceiling on the amount of revenue bonds an agency could issue, could do so by law.

MR. PUGH

No question about it. Even after they create the agency, they can come back and make that requirement.

MR. CANNON

Right. This gives the legislature the ultimate control over these agencies.

MR. PUGH

One hundred percent. Now, I think his question, though, and I may be wrong, but, his question was, "O.K. Here's a set of facts where we're looking at all the acts up till now."

Now, do they still have to come back to the legislature? They don't have to meet any more than the last requirement of the last session of the legislature prior to the time they elect to do it. But, getting up to that point, the legislature can make them do anything.

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MR. CANNON

In continuation of this idea, if the legislature should find some agency which it had granted a blanket authority to issue bonds, it might deem it advisable on their part to restrict it. They could, at some future time after the constitution is adopted, come back and place the limitation, "by law," on these....

MR. PUGH

They could make it worse. They could make it that they had to have three-fourths vote of the legislature instead of two-thirds.

MR. CANNON

That's correct. That's my understanding.

MR. PUGH

They could restrict them to that...

MR. CANNON

I think....

MR. PUGH

...but, we are talking about a constitutional concept here.

MR. CANNON

...and legislative control.

MR. PUGH

That's correct.

MR. CANNON

I thank you, sir.

MR. PUGH

I certainly didn't mean to leave the impression that there is no control by the legislature.

MR. SCHMITT

Does every bond issued by any state agency have to be approved by the State Bond Commission under this proposal?

MR. PUGH

All of them have to be except those already authorized for the deep-water ports that we agreed, right or wrongly, we agreed earlier that they wouldn't have to do it.

MR. SCHMITT

The deep-water ports are not presently being authorized by the State Bonding Commission?

MR. PUGH

Whether they are presently, I couldn't answer that. All I know is that they are being excepted here because it's already been the wishes of this convention....

MR. SCHMITT

I thought that the wishes of the convention were that the ...because they had emergency situations, that they'd have to expend money, therefore, it would be no restrictions. I don't think we ever enter into any kind of agreement with reference to bonds, 'cause capital bonds are long-term expenditures. Isn't that correct?

MR. PUGH

I can merely tell you what you did in local government. In local government, you left them where you found them. You let them have all the powers that

MR. SCHMITT

That they had up to the present time. But, no more than they had before.

MR. PUGH

You're not creating any new powers for them. No, sir.

MR. SCHMITT

By not allowing...by assuming that they did not have to go to the State Bond Commission in the past, I mean that they did have to go in the past, and that they don't have to go in the future. Don't you think that's giving them any greater powers?

MR. PUGH

All I'm saying this amendment does, this amendment ratifies and confirms what you are elected to do under local government. Under local government, you left them with the same powers that

they previously had. This neither extends those powers nor restricts them.

MR. SCHMITT

Maybe one....do you think maybe one of the reasons for that was because they were elected bodies, and perhaps there's a difference because these are appointed?

MR. PUGH

You again are asking me a subjective question. I can't tell you what the thinking of everybody was here at the time that they passed the provision in local government. All I know is that it was overwhelmingly passed.

MR. SCHMITT

O.K. Assuming that this would be adopted, your proposal, would these various state agencies have to report their income to the legislature of the State of Louisiana? Would they have to report their expenditures to the State of Louisiana as we have put under our proposal, under the committee's adopted proposal?

MR. PUGH

It's my appreciation that they do. Yes.

MR. SCHMITT

I don't see it required in here.

MR. PUGH

Well, as I understand from somebody more knowledgeable over here about reporting, the law presently requires that.

MR. SCHMITT

The statutory law presently requires that.

MR. PUGH

That's correct.

MR. SCHMITT

But, you don't think by this last section here where you are exempting them, they say that they are exempted, "if issued other than as provided in Paragraphs (A) and (B), such revenue bonds shall not carry the full faith and credit of the state." It goes further, that this doesn't exempt them from those provisions?

MR. PUGH

No, sir. It merely grants you....it merely leaves them where we found them. We've already given them certain rights and we're not trying to take them away now.

MR. SCHMITT

Does this allow a state agency to issue a bond issue, maybe of a hundred million dollars, or fifty million dollars if it's a revenue bond issue, without the approval of the legislature?

MR. PUGH

If there is such a provision.

MR. SCHMITT

If it is adopted, is this possible, if your proposal is adopted?

MR. PUGH

If, under the present law, one of the deep-water ports has the authority to....

MR. SCHMITT

Not a deep-water port. Let's go to any. As an example, a new building....

MR. HENRY

Mr. Schmitt, there's some other people, now, that want to ask questions. So, sort of wind it up, if you will.

MR. SCHMITT

Would you answer that question, then, please?

MR. PUGH

I'll be glad to.

Rephrase the question so I'll understand it. Will you?

MR. SCHMITT

Is it possible, under this provision, for a large bond issue to be issued by a state agency without the approval of the legislature, providing it's a revenue bond issue?

MR. PUGH

Yes, so long....

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MR. SCHMITT

Isn't that the problem that we had throughout the entire time with our committee, and didn't we try and solve it by this particular proposal?

MR. PUGH

Can I answer...do you want me to answer the question? I want to. Let me answer the first, then I'll go to the second one.

The first question is, if that agency complies with all of the requirements...statutory requirements on the books at the time they want to do it, they don't have to go back to the legislature again. Between sessions, if they want to issue it without the full faith and credit, but comply with all the then requirements of the legislature, they may do so. Now, the legislature next May or April, or whenever they meet, if they want to, can say, "All of these things--all of these agencies must have a three-fourths vote." Then, they'd have to have it.

MR. SCHMITT

Three-fourths vote of what?

MR. PUGH

Huh?

MR. SCHMITT

You said all of these agencies have to have a three-fourths vote. A three-fourths vote of what?

MR. PUGH

The legislature may enact into law a provision that an agency has to have a three-fourths vote of the legislature before they may issue bonds without the full faith and credit of the state, and if that's the law, then they've got to comply with it because this provision says they must comply with the provisions of the law.

MR. JONES

Mr. Pugh, isn't the basic problem we have here that revenue bonds are not required to have the full faith and credit of the state because we must be very careful when we put the full faith and credit of the state behind bonds, that it's for all the people, and not some particular private state agency that may have a project like we're talking about--the superport?

MR. PUGH

There's no question, but you are right, Mr. Jones.

MR. JONES

Also, that when you issue revenue bonds, or start out on a project, it's difficult, other than the enabling authority, to be able to say exactly how the matter is going to come out. You've got to have either term bonds, and not serial bonds, as you do in full faith and credit obligations?

MR. PUGH

That is correct.

MR. JONES

It's not for all the people. Also, if you don't put the full faith and credit of the state behind it, the feasibility study made by the bond commission provides that it has to stand on its own feet; that the revenue will support the bonds that are issued. Therefore, you don't have to pledge the full faith and credit of the state. Is that correct?

MR. PUGH

As a practical matter, if...the feasibility study reflects the fact that they will be self-supporting, then not only would the commission approve them, but intelligent buyers would buy them.

MR. JONES

That's correct.

MR. PUGH

Regardless of the fact it doesn't have the full faith and credit because it stands on its own.

MR. CHAMPAGNE

Mr. Pugh, I should say, do you know that the objections raised a couple of days ago when this was first submitted was because there was a feeling that these boards or commissions might secure the full faith and credit of the state, without submitting to the provisions of (A) and (B)?

MR. PUGH

That is correct.

MR. CHAMPAGNE

All right. Then, one of those provisions, as you know, is the two-thirds vote.

MR. PUGH

That is correct.

MR. CHAMPAGNE

But, it became aware at the time, that there might be some quasi public-type of commission created which the...would be reluctant to give the two-thirds vote, or reluctant to say that all the state is going to be responsible for these debts, but then this provides that these could be created. I think that most of the members of the committee are in agreement that this does no harm. Are you aware of that, sir?

MR. PUGH

Well, I'm not aware of the fact that the committee is all in agreement. I'm aware of what everybody's told me on the floor. Who's on that committee by name, I can't tell you... but getting back to what you said, last Saturday there was a proposal that some objections were made to. I was of the opinion that the objections were satisfied in the proposal. Be that as it may, we redrafted it--if you want to--to clarify any question about those factors. That redrafted, clarified version is before you. It has the approval of the person who made the objections in the first place.

MR. NUNEZ

Mr. Chairman, I hate to be so quick on a matter of so much importance. If every question Mr. Jones has asked you, Mr. Pugh, is correct, and you indicated they were, well, how come that the Public Affairs Research Council and all the good government groups and all the people who buy and sell bonds wanted us to put into the statutes, several years ago, that the first call of all bond obligations would be under the general fund of this state? In so doing, we'd give better rates to bonds--better rates. That's what we're all aiming for, to save the taxpayers money. How come if that's true, then, we have to go around the door and say, well, these agencies which are state agencies--by the way, isn't it true--which are state agencies and which are public funds--taxpayer's money: dormitory funds, toll road funds; it's all public funds. We now say, "We don't need that good rate. Let them sell all the bonds they want." How come that's true; and that's a fact?

MR. PUGH

Well, let me say again, and I apologize for an inability to answer a subjective question. You asked me why PAR wanted. . . I don't even belong to PAR. I don't know why. . . what their policies are. All I can tell you is that in my personal experience that bank interest, for instance, went from six to ten percent in less than a year--six to ten percent in less than a year. If bank interest can do that, somebody is probably right when they say that there can be a favorable market for the sale of bonds at a time other than when the legislature is meeting; and that even though ordinarily common sense dictates that a bond has a greater marketability if it has the full faith and credit of the state behind it, be that as it may, it may have a better marketability at a given time even though it doesn't have the full faith and credit behind it. I think that's the purpose that they're talking about.

MR. NUNEZ

You absolutely said nothing. . .

MR. HENRY

The gentleman has exceeded his time.

Further Discussion

MR. RAYBURN

Mr. Chairman and fellow delegates, on behalf of our committee, I feel like I need to make a brief explanation about what we were attempting to do. It is possible that we might have gone too far; it certainly wasn't intentional. I serve on the Bond Commission; however, a subcommittee of Revenue, Finance and Taxation handled this proposal. They went into it in depth. The whole committee went into it briefly. What has been happening in this state in the past is this: if the college at Hammond, Southeastern College wanted to build a dormitory out of revenue bonds or revenue financing out of fees, the State Board authorized that. The Bond Commission

advertised and sold the bonds. You can check the record; those bonds ran about one percent plus, every time more than a bond with the full faith and credit of the state did. The records are there for you to go look at. Now, if anyone can tell me that a dormitory located on state land adjacent to other college buildings or university buildings is not an obligation of the state, I'd like to know why. I don't think it's going to be moved; I don't think it's going to be seized and sold. That's what the committee was trying to do. We, as far as I know, had no intentions of going beyond bonds that were authorized for buildings on state property controlled and financed by the state. We were trying to see that we could get a better interest rate. It was not my intentions to go to little port commissions where the state had nothing to do with them and to say that they had to get a two-thirds vote of the legislature. What I was trying to do with Mr. Pugh, and I went over this several times with him, was to be sure that it was still going to do what the committee wanted it to do. I hope it will do that. I can't compete with these sharpies when you come to these bond attorneys. I'm not that familiar with them. But, the only safeguard I see here now is it says that they can only be sold "as provided by law," which means that if there's an agency in the state today that don't have the legal authority to issue bonds, they can't do it in the future unless they come to the legislature and get the authority. Well, then when the legislature gives them the authority, they can set forth how they will sell them, if they want them to come get a two-thirds vote. So, I think that's fairly well covered. As far as the Bond Commission, the Bond Commission has nothing to do with authorizing bond issues. There's roughly seven hundred million dollars worth of bonds today in this state that has been authorized by the state or its agencies--the legislature or the state agencies that has not been sold. The Bond Commission merely figures out when the bond market is best, how many bonds this state can afford to sell in any given year without flooding the market, and they do advertise and sell the bonds. They either reject or accept the bids when they've advertised, and that's what the Bond Commission does. But, I do think, after reading this amendment, that in the future if there is a state agency that has to come to the legislature, now, to get a bond issue passed, they will still have to come. They will still have to meet the requirements as outlined in Paragraph (A) and (B). However, if there are some agencies that the law says today they don't have to come to the legislature, it's my opinion that they won't have to come, under this language. I hope I'm right in the way I have interpreted the amendment, because I know what the committee was trying to do. We had some bond people that met our committee, and I don't know why this come up at the last moment, but it looks like we're doing a lot of things that we're finding out really what they mean at the last moment. So, I hope this amendment will do what I . . . what the committee wants it to do.

Further Discussion

MR. BROWN

Mr. Chairman, fellow delegates, I'd like to echo what Senator Rayburn said in terms of the work of the committee and in terms of what we were trying to do when this particular proposal was brought forth. It's interesting to me as to what brought about any major change. Now, we've heard about the bond attorneys. Our subcommittee met down in New Orleans; we met with the firm of Beck-Juddell; we met with the state treasurer's office; we met with the Division of Administration; and no one had any objection to this particular section. In fact, they highly praised what we were trying to do. Now, I don't know what's . . . quite fully understand what's brought about the switch. As Senator Rayburn says, this was gone over in great detail in the committee in trying to find some way to get a better interest rate. I got a letter from one of the largest bonding attorney . . . bonding firms in the state, a New Orleans law firm. I want to read you this one paragraph as to what was brought to my attention. The letter says . . . talks about the fact that we might be making a mistake. It goes into detail about: "I'm sure that your committee would not want to handicap agencies in the construction of toll roads, toll bridges, water terminals, ports, deep-water ports," and goes on and on and on. Now, the question in my mind is: Do we want large things like this built without being presented to the legislature? It gets back to the overall checks and balances. The same thing like we were talking about here a few weeks ago about the dome stadium. As I mentioned to you, right now the legislature is being asked to vote for some eight million dollars additionally for the dome stadium, and it wasn't even brought before a public hearing, under our old constitution. That's just not right. These are major, major projects that we are being asked to allow state agencies to bring forth in terms of bonds--even though they don't have the full faith and credit of the state behind them--without a vote of the legislature. It raises

some serious questions in my mind. This was brought up awfully fast. I'm surprised; Mr. Pugh and I talked briefly about it. But, our committee involving Senator Rayburn, Mr. Roemer and myself really haven't had any rapport on this thing. I got the amendment this morning.

Mr. Chairman, if I'm in order, I'd like to move right now--since it's 12:15--I'd like to move that we adjourn for lunch with the hopes that over the two hour lunch period maybe we can find some particular ground, here. Otherwise, as it stands right now, an awful lot of us are going to have to oppose it. We'd like to work something out on it. So, I'd like to move right now that we adjourn until two o'clock or some other time that the Chairman might suggest, if that's not agreeable.

[Motion to recess for one and one-half hours rejected: 45-49. Previous Question ordered.]

Closing

MR. PUGH

I shall not take the five. I will merely tell you that under the terms of the amendment, the legislature--in which Mr. Brown belongs, Mr. Rayburn belongs, and so many other delegates here--may establish any procedures they want to establish. It's fully open under the amendment for them to do whatever they want to do. They can make it just as difficult to build dormitories or build anything else as they want to do, under the terms of this amendment. Anything they want to do, they may do. There's no prohibition against the legislature passing laws to make it difficult to sell or provide for bonds in Louisiana. Thank you.

Questions

MR. LANIER

Mr. Pugh, with reference to the situation described by Senator Rayburn, wouldn't we have a problem with this language after the effective date of the new constitution with reference to limitations on agencies that presently have the authority to do this, acting in the interim period before the legislature puts subsequent restrictions on them?

MR. PUGH

Yes. In my opinion, you're going to have many problems between the passage of this constitution and the next session of the legislature. This may be one of them. We're going to have a lot of problems in that regard. We can't resolve them all. All I can tell you, that if the legislature wants to, they can provide where a state institution is concerned. You can't build dormitories without getting a two-thirds, or a three-fourths, or a five-sixths, or any percentage you want permission of the legislature. This provides for that. You may certainly do that. The only . . . any place that an instrumentality of this state, an agency feels that even if they are built that the state is going to have to bail them out of their problems, then obviously the legislature can provide that anywhere it's to be built on state owned property, it must have a certain percentage vote of the legislature before it's allowed. There's no problem there.

MR. LANIER

The point I'm getting at, Mr. Pugh, is that if we have some time, don't you think we can design some language to cover this loophole, this hiatus that would be in the law if this proposal is adopted as drafted with reference to the situation that I have just described?

MR. PUGH

I suggest to you that the Committee on Legislative Liaison can make such an arrangement, if you want to. The difficulty is that there are many statutory provisions that are going to be affected by what we did in this constitution. The purpose of the Legislative Liaison Committee is to take care of those problems. If they say they can't, then we'll worry about it at that point. I believe they can.

[Record vote ordered. Amendment adopted: 107-5. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 108-1. Motion to reconsider tabled.]

[Quorum Call: 96 delegates present and a quorum.]

Recess

MR. POYNTER

There's been . . . in that light, Mr. O'Neill, in fact, had a resolution that went to committee today, but I know a lot of interest expressed in each delegate to the convention having a copy signed of the proposed constitution. Informally, through our printer, etc., we've worked out a procedure by which the printer will print and you will get, I hope within a week or so after the convention is over, a signed--originally signed--copy, hot-lead set of what the ultimate document looks like. Now, to make this possible, what it will amount to is: first of all, that each of you are going to have to sign your names about a hundred and thirty-five times, approximately, so that each of you can have a copy--an original copy--signed by all the delegates, of what the document will look like. Now, to facilitate that, we have already sent to the printer and have gotten proof back--and we'll return it to the printer for final printing this evening--signature sheets with all of your names on it; your district number; and if you happen to be an appointive delegate, that fact, and whether you were appointed to represent the public at large or otherwise, together with their offices and so forth. These should be back to us by some time tomorrow, probably tomorrow morning. Now, there will be no way, physically, for all of you to come and sign your name that many times Saturday, since, oh, roughly twenty-five of you are on the same sheet of paper. As a result, tomorrow--beginning tomorrow--we will set up--I think there are six separate sheets, perhaps seven--that many tables. There will be available at those tables the hundred-and-thirty-odd copies of the signature sheets for your name. So, sometime between tomorrow, Thursday and Friday, if you would, when you find a moment--and it will take more than a moment, I presume--go and sign your name to all of those signature sheets.

MR. HENRY

You've almost exceeded your time, Mr. Poynter.

MR. POYNTER

That's what I was afraid of. Then, they will become a part of the document which will be mailed to you. We've made arrangements for a nice . . . relatively nice cover for it and that sort of thing. But, if we don't get your signatures on it, then the result will be that you just simply will not get a copy of the document with all of your signatures on it. I think it's probably going to take that long a period of time for all of you to be able to do that.

MR. HENRY

Mr. Graham, now, is going to move to . . . for a suspension of the rules for the purpose of calling from the table the motion to reconsider the vote by which Section 9 of Committee Proposal No. 15 was adopted, for the limited purpose of offering his amendment, which is just some wording that needs to be done to implement the bond language that we adopted before lunch.

[Motion to suspend the rules to reconsider Committee Proposal No. 15, Section 9, for the limited purpose of considering an amendment adopted without objection.]

Reconsideration

Amendment

MR. POYNTER

Amendment sent up by Mr. Henry, Pugh, Conroy, Kean, Graham, et al. Reads as follows:

Amendment No. 1. On page 6 line 6, in Convention Floor Amendment No. 21 proposed by the Committee on Style and Drafting and adopted yesterday, at the end of line 14 of the text of the amendment, delete the word "and" and at the end of line 18 of the text of the amendment delete the period "." and insert the punctuation and word "; and" and insert between lines 18 and 19 of the amendment the following:

"(6) by a state board, agency, or commission, but pledged by it in connection with the issuance of revenue bonds as provided in Paragraph (C) of Section 6 of this Article, other than any surplus as may be defined in the law authorizing such revenue bonds."

Now, by way of explanation, I might say that if any of you have your final enrollment still with you that was passed out on Committee Proposal No. 15, this will appear again on page 6, line 6 of that, affecting Section 9 dealing with state funds and their deposit in the state treasury. That was formerly Section 11, and by Style and Drafting changes, it became Section 9. There is contained in that section, enumeration presently of five different types of funds received which do not go to the state treasury.

This amendment, then, would propose immediately after that fifth item to add a sixth item as set forth in the text of the proposed amendment Mr. Graham has before you.

Explanation

MR. GRAHAM

Mr. Chairman and fellow delegates, I believe that Mr. Poynter just explained it for me. Thank you, Mr. Poynter.

This is simply to provide the mechanism for the change in the authorization for revenue bonds that was just passed prior to lunch. It's simply a matter that the funds derived in connection with the issuance of revenue bonds will be maintained by the agency issuing the bonds so that they can use those funds in payment of the project for which the bonds were issued. It will prevent them from having to go to the legislature for this authorization. I might mention that this is already provided for in the act creating the Bond Security and Redemption Fund, and this is to complement that and so that that act will not be in conflict with the constitutional provisions.

I would appreciate your adoption of the amendment.

Questions

MR. BROWN

Mr. Graham, tell me why this is necessary. In other words, what I'm concerned about is I understand that the income from the revenues go to pay off the bonds. Do you know if there is any delay at all? In other words, if the money is collected and if it sits in an account for thirty days or so, the purpose of what we did before was to keep it from just lying around, to see that all idle funds were immediately invested the very moment they were obtained. My question to you is: Why is this necessary? Do the . . . does the money that is collected off a revenue bond, like say, a toll road--let's take a toll road, for instance. Once the tolls are collected and they are deposited in a particular account, do they go directly from that account to pay off the bonds, or do they go into an account that the commission holds and at the end of the month go to pay off the bonds? I know it's a complicated question, but it deserves answering to see why this is even necessary. It looks to me like it's kind of a bookkeeping procedure to let it go into the state treasury and say, "Well, now look, we've got this much money coming in from revenues. Therefore, it should be," you know, "sent when we normally write checks to pay off the bond payment that's due this month." But, I'm worried about the two weeks or the three weeks it may sit there. Why is it necessary to do this?

MR. GRAHAM

All right. To begin with, this is . . . this pertains to the funds that are derived in connection with the issuance of the bonds, the funds that are obtained from that person or group of persons or corporation that buys the bonds, and are used to pay the cost of constructing a project--whether it's a toll road, a bridge, or whatever it might be. Those funds that are used to pay for that project, those are the funds that we are talking about. If so, then let's assume that an agency issues six hundred thousand dollars in bonds. Those . . . that six hundred thousand dollars would go to the agency so that they may pay on the estimate on the project during the course of its construction, as required of them. If so, then those funds will not go to the state treasury, and then the agency would have to go to the legislature and get an appropriation to pay for the project they are issuing. It doesn't affect the funds in the manner in which you are concerned, Senator Brown.

MR. BROWN

Well, this amendment would not . . . we still have the same provisions in terms of the protections that the agency has to undertake when it gets the money. If it gets the six hundred thousand dollars and it's sitting there with it for six months or a year, this doesn't affect the investment or idle cash flow or anything like that that we've done before?

MR. GRAHAM

No, it doesn't affect that at all. Now, one thing it does do that I think is tightening this provision up some, as it is at the present time, it's providing that any surplus that remains as a result of the project would go to the state treasury and would not remain with the agency. That is not provided for under our present law. So, in my opinion, this is tightening the existing law up some from that standpoint.

MR. BROWN

Do you realize that ninety percent of the delegates don't have the faintest idea what you're talking about right now?

MR. FLORY

Mr. Graham, the reason I rise is that last statement you made, and that's what bothers me, where you say, "other than any surplus as may be defined by law." Let me give you the prime example that I happen to know of. Let's take in an assistance budget for the state colleges and universities who use that to issue bonds and pay those bonds off for the dormitories. They're allowed to keep those surplus funds as reserved to pay off the bonds in case they have a bad year as far as receipts on the dormitories; plus the fact that if the civil service raises the pay plan in the state, then they have to make up the difference from that system's budget. But, here you come along and you want to turn back that surplus to the general fund. Is that what I understand you're doing?

MR. GRAHAM

Mr. Flory, at this particular point, without the amendment, they wouldn't keep the funds to begin with. It does say that; that they would refund the surplus, assuming, let's say, that they earn some interest or the project costs a little less than they had anticipated, and they have fifty thousand or a hundred thousand dollars left over. They would return that to the state in a manner provided and defined by law. But, under what we have right now, they would have to return it. In fact, they wouldn't have it to return. It would go directly to the state treasury.

MR. FLORY

In other words, what you're saying is the legislature could define that surplus to be whatever they, in their judgment, thought it ought to be to allow for certain reserves to be certain. . .

MR. GRAHAM

I would say, under the provisions of this, the legislature could provide that they could have some reserves.

MR. DE BLIEUX

Mr. Graham, now, let me see if I understand this situation right. This particular section of the constitution we have requires a deposit into the state treasury of all funds held by all state agencies, etc. Is that correct?

MR. GRAHAM

Except as excluded in Section 6 of Committee Proposal No. 15. There are presently five exclusions, and we're adding a sixth exclusion, Senator De Blieux.

MR. DE BLIEUX

Now, this particular provision, here, since we have added to the proposal revenue bonds, which was not in the original proposal, now it's necessary to add this in to take care of those agencies that might have money from revenue bonds that are issued so that we can get the benefit of the investment of those funds from those agencies. Is that right?

MR. GRAHAM

Yes, sir.

MR. ABRAHAM

Buzzy, both in answer to Mr. Brown and Mr. Flory, you made the statement that this surplus you were talking about was money that was received, say, from a bond issue, and it was being used to pay off for. . . pay the construction project off, and this would apply to any surplus. Well, I interpret this to mean this is the money that is received during the year that is used to pay off the bonds, and this is what this applies to is the recurring revenues that are received from year to year to year to pay off those bonds; isn't it?

MR. GRAHAM

No, sir. This applies to the money derived through the. . . in connection with the issuance of the bonds, not in connection with the receipts of fees or tolls or whatever it might be as a result of the project that was constructed. . .

MR. ABRAHAM

Well, if you read it correct, it says, "all money received by a state board, agency, or commission, but pledged by it in connection with the issuance of revenue bonds." Now, that, to me, means that it's the revenue that is received and is pledged to pay off the bond; isn't it?

MR. GRAHAM

No, sir. It's pledged for the project for which the bonds were issued.

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 104-2. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 109-0. Motion to reconsider pending. Motion to recommit Committee Proposal No. 15 to the Committee on Style and Drafting adopted without objection. Motion to revert to Proposals on Third Reading and Final Passage adopted without objection. Motion to call Delegate Proposal No. 43 from the calendar adopted without objection.]

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Delegate Proposal No. 43

Reading of the Proposal

MR. POYNTER

Delegate Proposal No. 43 was introduced by Delegate Johnny Jackson, Gauthier, and others.

A proposal providing for juvenile courts having exclusive original jurisdiction except in certain offenses.

Now, that proposal has been amended and includes, in fact, an amendment which deleted lines 5 through 23 thereof, as printed.

MR. HENRY

Mr. Derbes offers up amendments. The Clerk will read the amendment.

Proceed, Mr. Clerk.

Amendment

MR. POYNTER

The gentleman sends up amendments, read as follows:

Amendment No. 1. On page 1, line 5, add the following: "Providing for special juvenile procedures.

Be it adopted by the convention:

Article _____, Section _____, Special Juvenile Procedures.

Section _____. Except for a person fifteen years of age or older who is alleged to have committed a capital offense or attempted aggravated rape, the determination of guilt or innocence, the detention, and the custody of a person who is alleged to have committed a crime prior to his seventeenth birthday shall be exclusively pursuant to special juvenile procedures which shall be provided by law. However, by law enacted by a two-thirds vote of the elected members of each house, the legislature may (1) lower the maximum ages of persons to whom juvenile procedures would apply and (2) establish a procedure by which the court of original jurisdiction may waive such special juvenile procedures in order that adult procedures would apply in individual cases."

Explanation

MR. DERBES

Ladies and gentlemen, I respectfully request your attention for a brief explanation or for an explanation of this amendment. I would like to call further to your attention the fact that accompanying each copy of the amendment is a short explanation drafted by me which explains the scope of the amendment. This is the subject matter on which there has been considerable debate back and forth with respect to the effect that such an amendment would have on the jurisdiction of juvenile courts and on the ability of the legislature to merge and abolish juvenile courts. The amendment that is currently before you has nothing whatsoever to do with the jurisdiction of juvenile court as such. It does not bear upon or affect in any way the ability of the legislature under the Judiciary Article as we have adopted it to merge juvenile courts into other courts or to abolish juvenile courts. In other words, it represents no impediment to a unified court system. What it does do, it forces the legislature to consider separately, juvenile procedures from adult procedures, that is to say when the legislature decides by what procedures a child is to be tried, the legislature must designate those procedures as special juvenile procedures. It prevents a child from arbitrarily being tried under adult procedures, and preserves what has come to be an important part of our judicial history: namely, the concept of separate and specialized treatment for juveniles. Furthermore, this

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particular amendment permits the legislature by two-thirds vote to change the juvenile ages, and of course, it does not represent any hindrance or impediment to the legislature in making juvenile laws applicable to people of older ages. It does, however, require that the legislature have a two-thirds vote in order to make juvenile procedures applicable to anyone...in order to make adult procedures applicable to anyone under the current juvenile ages. The amendment has been drafted in the spirit of compromise, and we have worked long and hard over it. I would like to state for the record now, and I would request that the clerk add the following names as coauthors to the amendment. In addition to myself, to Judge Dennis, to Mr. Johnny Jackson, Mr. Pugh, Mr. Vesich, and Mr. Tobias who appear on the copy of the amendment before you, the following people have consented to have their names included as coauthors as well; they are: Alphonse Jackson, Mr. Henry, Mr. Gravel, Mr. Graham, Justice Tate, Mr. Kelly, Mrs. Warren, Sheriff Edwards, Mr. Gauthier, Mr. Casey, and Mr. Ginn. I would request that the Clerk insert their names as coauthors of the amendment in the record. This amendment creates an atmosphere of flexibility while requiring the legislature to deal especially with matters relating to juvenile procedures. It does not affect juvenile court jurisdiction. I urge its adoption, and I yield to any questions.

Questions

MR. ABRAHAM

Jim, why did you limit the legislature to being able only to lower the maximum age for persons whom general procedures would apply? If you wanted it to be flexible, why didn't you just say "revised"?

MR. DERBES

Because, this is a very, very specific point, Mack. The legislature may increase the juvenile age by majority vote. This would prohibit the legislature from lowering the juvenile age by anything but a two-thirds vote. This will allow the legislature to increase the juvenile age by a majority vote. That is already committed under the Judiciary Article as we have adopted it. The legislature may increase the juvenile age by a majority vote. In other words, it's not specifically prohibited in the Judiciary Article, and therefore, the legislature may do it. This will not prohibit the legislature from increasing the juvenile age by a majority vote. This will prohibit the legislature from making juvenile procedures...from making adult procedures applicable to persons who are now juveniles except by two-thirds vote. In other words, the legislature must have a two-thirds vote in order to make adult procedures applicable to persons who are now governed by juvenile procedures.

MR. JACK

Mr. Derbes, by the term "juvenile procedures" what are you talking about?

MR. DERBES

I'm talking about the juvenile procedures and the methods for treatment of juveniles which are currently spelled out in the revised statutes, Mr. Jack.

MR. JACK

All right. Now, that's what I'm getting at. We passed, already, jurisdiction of juvenile courts shall be set by the legislature.

MR. DERBES

May I interrupt you? What we've said is that the current...the existing jurisdiction of juvenile court is retained subject to change by a majority vote of the legislature.

MR. JACK

That's right. Now, on this, couldn't all this be done very simply by legislative acts instead of nailing this down in the constitution?

MR. DERBES

Many of us think, Mr. Jack, that it is necessary to preserve the distinction between adults and juveniles so that the legislature will be hopefully governed by that distinction by stating it in the constitution. This says that wherever a child is tried--he can be tried in a district court; he can be tried in an adult court; he can be tried in a civil court; you can call it whatever you want--you can try him in any manner that you want to, as provided by law, but he must be tried under special juvenile procedures.

MR. JACK

But, before you introduce this amendment, the legislature by majority vote could set whatever the juvenile age they want. Isn't that correct?

MR. DERBES

If you're talking about what this convention has done, that's correct.

MR. JACK

That is correct. Now, what you, in effect, are doing is changing that so that unless it's a capital offense, then all the juveniles are those under seventeen; isn't that correct?

MR. DERBES

Yes, let me try to explain because I think it's a very important distinction. As...what we have done so far, we have left juvenile court jurisdiction up to the legislature, and we've said nothing about procedures. What we are saying here is that we are not in any way disturbing the concept of a unified court system. In other words, we're permitting merger; we're permitting abolition under the rules as adopted by the convention. We are saying that wherever a person of this particular age is tried, he should be tried only pursuant to special juvenile laws.

MR. JACK

But, what I am getting at, isn't it a fact, Mr. Derbes--and if I'm correct, go on and admit it--this is a way of setting the juvenile age at a boy or girl that hasn't reached their seventeenth birthday, except if that boy or girl is charged with a capital offense, or attempted aggravated rape, then it applies to those fifteen and up to the seventeen? I mean...

MR. DERBES

Yes, Mr. Jack, it has the effect of setting a juvenile age, but it permits the legislature to lower the age by a two-thirds vote. It does not require a constitutional amendment, and it permits the legislature to increase the age by a majority vote, and furthermore, it permits the legislature to provide by law for the juvenile procedures. So, the legislature by implementing this provision, may make the juvenile procedures as juvenile or as adult as the legislature pleases. But, they are nevertheless required to consider a separate distinction between adults and juveniles, which I think is a distinction worthy of being in this constitution.

MR. BURNS

Mr. Derbes, just exactly what did you mean by when you said that this amendment was being offered in a spirit of compromise? Compromise what?

MR. DERBES

Well, Mr. Burns, when I said "spirit of compromise" I meant that I had worked for many hours literally with Judge Dennis, and Judge Tate, and Mr. Tobias, and Mr. Jackson over trying to resolve a problem where many of us felt that it was necessary to preserve some special distinction for juveniles. Now, on the one hand there are people who want to spell out all juvenile court jurisdiction in the constitution, and only change juvenile court jurisdiction by a constitutional amendment. On the other hand, there are those of us who felt that nothing should be said about juvenile court at all, but everything should be left up to the legislature, and in the midst of those two alternatives, I happen to feel that by saying that the legislature should consider separate juvenile procedures when they say how a person should be tried, I felt that that was an adequate middle ground to satisfy both people. It didn't prevent a unified court system. It didn't have anything to do with jurisdiction, and it permitted the legislature by various ratios of votes to make appropriate changes. This is no constitutional dedication of jurisdiction. It is a constitutional distinction of procedures, but changeable by a two-thirds vote. That to me is the definition of a compromise. I hope it fits your definition.

MR. BURNS

I thought you meant you were going to compromise as the other three or four times this same thing has been voted on. I mean, practically, it's the same subject matter, not the same...

MR. DERBES

Well, it is a completely different approach to the problem. It has only to do with procedure, and it has nothing to do with jurisdiction. It's, I think, a different approach, and one that is not nearly so obstructive to the same problem.

Further Discussion

MR. DENNIS

Mr. Chairman, fellow delegates, I rise in support of Mr. Derbes' amendment, and if his amendment is adopted, then I urge the support of the delegate proposal. Now, ladies and gentlemen, as you will certainly recall, I have several times asked you to vote down Mr. Johnny Jackson's delegate proposal, and each time you have done so. The reason that I have opposed Mr. Jackson's proposal in the past is because it would have frozen into the constitution the structure of juvenile courts, and the age limits by which we determine who is a juvenile and who is not a juvenile. Mr. Derbes' amendment does not do either one of these things. All Mr. Derbes' amendment does is afford two juveniles a measure of protection by requiring that the legislature vote by a two-thirds vote before reducing the age limit at which a person becomes a juvenile, or becomes an adult, and that the legislature must likewise by two-thirds vote get such a super majority before it can transfer or provide how someone is transferred from the juvenile court to the adult court. Now, personally, I would be in favor of taking out of this constitution all super majority votes of the legislature because I think the legislature is responsible enough, and would be even more responsible if everything that it determined would be determined by a majority of those voting. However, as you know, this convention has not followed that approach. We have in many instances put into this constitution a requirement that the legislature reach its conclusions by a super majority vote. For example, in this Judiciary Article we have said that before the legislature may change Supreme Court or court of appeal districts, it must do so by a two-thirds vote of the legislature. We have said that before a district court district may be changed that the legislature must act, and then there must be a referendum of the people in all of the parishes affected. For this reason, I think, there is ample precedence for giving some issues which have a great deal of sensitivity, some cloak of protection so that the legislature will not act overly hastily. I think the juvenile...the definition of who is a juvenile, the definition of who will be transferred from a juvenile court to an adult court is worthy of this same type of protection. So, I am asking you to approve Mr. Derbes' amendment because if it is approved, it will simply set up a special procedure for juveniles. It will simply require that the legislature must get a two-thirds vote before it changes the age limit of juveniles; likewise, the same vote before transferring a juvenile to an adult court. I think that this protection is justified, and I ask you to adopt his amendment, and if his amendment is adopted, I will support the delegate proposal as amended.

Further Discussion

MR. JACK

Mr. Chairman and fellow delegates, this is a slick way of undoing what we've done. Now, we have set up about the jurisdiction of the juvenile court in the constitution shall be set by the legislature. The present law by statute--and this should be by statute--we've got a fluctuating thing. People get grown quicker. We've seen fit all over the country to say you're grown when you're eighteen. You're grown, just same as your father. Now, I want you to listen to this: there is today... you're a juvenile until you reach your seventeenth birthday. It used to be you wasn't grown till you're twenty-one. So, you were juvenile then till you were seventeen. Then there was three, four years before you were twenty-one. People are more knowledgeable, more educated; they move faster; they get in trouble, too. That's why I'm standing here defending what I'm saying. Therefore, today you may find the legislature want to change this age to sixteen because the way it is now, a person jumps in one second from a juvenile to a grown person--one second. One second before a boy, or girl, is seventeen, he is a little juvenile, as so many people say. As soon as that second is up, he's eighteen instead...I mean, he's gone on to the seventeenth birthday, and he gets tried in district court. Now, I say, you are setting a dangerous thing. Now, where this is slick, they are calling this "juvenile procedures." Procedures are not substantive. This is substantive. This applies to setting the age limit for what's a juvenile. Number one, "juvenile procedures shall apply to all children under fifteen and except those charged with capital offense or attempted aggravated rape, to all children under seventeen." They might as well instead of saying "procedures" should have said "a juvenile is a child under fifteen, and except those charged with capital offenses, attempted aggravated rape, a juvenile is one under seventeen." Procedure is like a matter of what's legal evidence, or how you start, like by an information, indictments, and criminal matters, or a petition and exceptions. Those are procedural. This is not.

This is doing just exactly what we defeated several times. Now, you go on. I know Judge Dennis says he voted against the others, and he did, and I can't see how he can turn right around and vote for this. This is no more procedural than anything. I'm against it.

Further Discussion

MR. PUGH

Mr. Chairman, fellow delegates, I rise in favor of this proposed amendment for your consideration. I shall not speak at length to you of my warm personal feelings relative to juveniles of this state and the procedures by which they have been considered in the past in relation to the juvenile court. I regret sincerely that we did not see fit to provide for the jurisdiction in these courts. I bow, however, to your overwhelming defeat of that proposal. I ask that you give consideration to this amendment. It serves a very good purpose. Perhaps, it's not so important where the issues related to these children are heard. Perhaps I'm in error and perhaps you're right. It's not the form so much, as the manner in which the matters are to be considered. This relates solely to one of procedures. It provides a method by which we may continue the philosophy of the past as it relates to the treatment of the youth of this, our noble state. I ask that you give serious consideration to this amendment, that you study it carefully, and that upon its presentation for your vote, that you cast your favorable vote therefor. Thank you.

Questions

MR. ROEMER

Mr. Pugh, we can sum up your feelings by saying that in your opinion, this provision would be a protection for the juveniles of our state; isn't that true?

MR. PUGH

Yes.

MR. ROEMER

Well, don't you think that that's really the basic point that we're trying to make here; it would be a protection to the juveniles of Louisiana?

MR. PUGH

Well, yes, that goes without saying. If I support a provision because I think it relates to the best interest of the juveniles, then in turn it refers to the protective measures that should be made for those children.

MR. KEAN

Mr. Pugh, if I understand this proposal correctly, it would be necessary for some type of special juvenile procedures to be adopted by the legislature; would it not?

MR. PUGH

In my opinion, they may take the very same procedures that have been available for years and also provide for their use. I think that the transitional provisions can take the ones that we presently have relating to juveniles, and as they will have to do in so many other matters, provide for their transition to the legislature.

MR. KEAN

In other words, you would assume that we would also have to have some transitional provisions with respect to present juvenile statutes in order to make this workable?

MR. PUGH

Not juvenile statutes, but juvenile jurisdictional provisions as they are now in the constitution.

Further Discussion

MR. JENKINS

Mr. Chairman, it's unfortunate that we have to deal with this issue again because we've disposed of it before on many occasions. If I may, I'd like to review why this issue is so important to the people of this state. We face a most serious juvenile crime problem, particularly in the urban areas. Many of our rural delegates are not as aware of it. But, in East Baton Rouge Parish, for example, a majority of all the serious crimes committed here are committed by juveniles, and it's quite obvious that the time has long passed when it's safe to walk the streets of our major urban areas. One of the main reasons has been that our juvenile justice system has not

permitted anything to be done with the juveniles who commit offenses, primarily because of the provisions of the 1921 Constitution. This is an attempt to continue to some degree, and in some form, the restrictions in that 1921 Constitution on what can be done to juveniles. You may remember that in 1973, May session, the legislature passed legislation to try to deal with the juvenile crime problem. The governor vetoed that bill even though it was passed with more than eighty-five votes because he felt that it was unconstitutional because of the restricted nature of the language in the 1921 Constitution. Let me give you some examples of what the problems are: suppose a child, we'll say, sixteen years old, shoots an elderly man, eighty years old; he falls; the child, sixteen years old, goes again and points the weapon right at his head, and shoots him again and leaves him for dead. But, the man lives. The authorities find out who that child is, and so they bring him to juvenile court. He has to be tried in juvenile court under the present law, and under this he would be subject to so-called juvenile procedures. Now, suppose this happened last year, and he were brought to trial in September. Do you know, chances are he would be released from L.T.I. in three months, even though he committed eight or nine or ten or more serious offenses before. I can tell you that not only will happen; it has happened. The case I tell you is just one of hundreds of examples. Standard procedure when a juvenile is found delinquent on the basis of committing aggravated assault, aggravated battery, aggravated arson, attempted murder, armed robbery; no matter how many offenses he had before, he is tried by the juvenile court, and if found delinquent, he is sent to L.T.I. Procedure there is that as soon as he gets thirty merits, regardless of what he committed, offense he committed, he is released, which he can do in three or four months. We have these people on the streets. They're not juvenile delinquents. They are criminals, and there's no reason they should be treated with kid gloves. Now, that's why this provision was deleted originally. It needs to be deleted so that the legislature can deal with this problem.

Now, we're not talking here about kids who are throwing rocks at somebody's house, or commits some minor act of vandalism. The problem has come with these extremely serious offenses, which endanger other people, like armed robbery in particular. Now, notice that this language says that except for persons fifteen years of age or older who are alleged to have committed a capital offense, or attempted aggravated rape, then he has to be tried under juvenile procedures. What are capital crimes in Louisiana? There's only one right now--first degree murder. So, only in the case of first degree murder and attempted aggravated rape can a child under this--so-called child--be treated by anything other than juvenile procedures. Now, it says in the exception number one that the age can be lowered for dealing with people by juvenile procedures. But if the age is lowered under that number one, it has to be lowered for all offenses. There's no need to lower it for all offenses. We don't want to lower the juvenile age from seventeen to sixteen or fifteen. What we want to do is provide that in certain crimes like armed robbery and attempted murder, and things like that, that you can deal with people according to standard criminal justice procedures, not juvenile procedures. This provision does not allow that. Only if you lower it in all instances, can you lower it at all. That second exception deals with waiver of jurisdiction by a juvenile court. We don't want the juvenile court to waive jurisdiction in those cases. We want the district attorney to be able to demand that it be tried in a district court or according to criminal justice procedures. We want to be able to write down in the law that in case of multiple offenses like armed robbery or other things that it will be an automatic thing that it's tried in the district court, not that some juvenile judge will have the discretion to waive jurisdiction if he so chooses. That's the only way that in the legislature we can deal with this problem. So, I urge you to reject this amendment.

[Previous Question ordered.]

Closing

MR. DERBES

The legislative act to which Mr. Jenkins refers would not be unconstitutional under this provision. It's purely and simply a matter of truth, and to say anything other than that, is to obfuscate and obstruct this particular issue. If eighty-five votes of the House of Representatives were cast in order to lower the juvenile ages, that would clearly constitute sufficient votes under this particular provision to permit the changes in the law that were contemplated by that particular act.

The flexibility with which... or the flexibility that this particular act provides is quite clear. The legislature may establish a procedure by which the juvenile court would decide on a case by case basis, whether a person should be tried under adult procedures or under juvenile procedures. If the person is a recidivist, if the person has committed a particularly heinous crime, or even for particular categories of crimes, the legislature may authorize waiver, but the waiver must be by the juvenile court, based on the totality of the circumstances. Furthermore, the legislature may lower the juvenile age with respect to certain crimes, as well as with respect to all crimes, by a two-thirds vote. So, if the legislature were to decide, for example, that armed robbery should have a maximum age of fifteen for juvenile court, and the legislature did so by a two-thirds vote, then that would be the law. If the legislature were not able to muster a two-thirds vote, it would not be the law. There is ample flexibility for people who are concerned with the rising crime problem, and I am one of those people. I did not support amendments for juvenile court jurisdiction until those amendments included waiver provisions. This amendment does include a waiver provision that permits me to support it. I suggest to you that there is nothing in this amendment which will prohibit the legislature from adequately dealing with this problem of juvenile crime. But, it will force and require the legislature to consider separately the issue of juvenile crime versus adult crime because as a person who has had more than four years of very specialized experience in this area I can tell you that it is a matter where arbitrary and clear decisions are not very convenient and very possible. The court should be granted, in my opinion, the right to decide on a case by case basis whether a juvenile is to be tried under adult procedures or under juvenile procedures. There should continue to be that distinction between adult and juvenile procedures to protect youthful offenders.

Thank you.

Questions

MR. WILLIS

Mr. Derbes, you are familiar with Charles Dickens', Oliver Twist?

MR. DERBES

Yes.

MR. WILLIS

You know that as soon as young Oliver, who was below seventeen, reached London, he was recruited to thievery by Fagin who was over eighteen years of age...much more...through the artful dodger?

MR. DERBES

I'm not sure where you're leading, Mr. Willis, but....

MR. WILLIS

Well, I'm asking you this final question. Isn't this a vehicle to reward crime or improperly deter it by inappropriate punishment under the guise of procedure, thereby destroying the law and order we need in this state?

MR. DERBES

Absolutely and emphatically not, Mr. Willis.

There is ample flexibility in here for everybody who is concerned with law and order. I say that to you very seriously.

MR. WILLIS

Isn't it a fact that before a juvenile is tried he has to pass through the discretion first of the district attorney and that of the honorable district judges and juvenile judges of this state? Don't you think he receives fair justice?

MR. DERBES

Mr. Willis, as you may be aware, the proceedings brought in the interest of juveniles may be initiated by the judges. If the legislature changes the law they will eventually be initiated by the district attorney or by the judges. This would give the juvenile court--the court, namely, the judge--the right, subject to certain procedures, to say that a child should be tried under adult procedures. Yes.

MR. WILLIS

What is wrong with the legislature providing the procedure to protect our law and order when you consider that all crimes, or most of them, are committed by juveniles between fifteen and sixteen-and-a-half years of age?

MR. DERBES

For this very simple reason, Mr. Willis. Because when one--when a person tries to define on a crime by crime basis who is to go to what court and under what procedures he is to be tried, one eventually does a certain amount of injustice.... because certain particular types of crimes, although they may qualify as such, are relatively minor.

[Record vote ordered. Record Quorum Call: 109 delegates present and a quorum. Amendment adopted: 78-35. Motion to reconsider tabled. Motion to limit debate on the Section to five minutes adopted without objection.]

Further Discussion

MR. JENKINS

Mr. Chairman, think back, if you will, to the Bill of Rights... think back if you will, to the Bill of Rights...think about the protections we gave to people accused of crimes. You know, I've voted in favor of every single protection for people accused of crimes included in that Bill of Rights. You know what we are talking about here, though? We're talking about people who we know to be guilty, and what's going to be done with them; whether or not there is going to be adequate safeguards and protections for the public. I don't think that this procedure here grants to the legislature the authority to deal with different crimes differently, or different people differently. For example, look at Exception Number 2. How can that square with the equal protection clause? How could you give one juvenile accused of armed robbery the protection of juvenile procedures, and not give it to another juvenile also charged with armed robbery? You could not. Think about Number 1--Exception Number 1. It does not say exceptions can be made for people accused of specific crimes. It only says you can lower the age for juveniles as to whether or not they are going to be tried under juvenile procedures.

Mr. Derbes said that he did not--I believe it was Mr. Derbes--no, or Mr. Pugh said, that he did not feel the acts passed by the legislature would be unconstitutional under this provision. Was that you, Mr. Derbes? Judge Dennis told me, not fifteen minutes ago, and he is the coauthor of this, that he thought it would be unconstitutional--

This section needs sixty-seven votes to pass. A similar provision in the 1921 Constitution has hampered seriously the prosecution of people who have committed serious offenses against the people of this state. I certainly urge you not to lock into this constitution a similar provision which can do nothing more than hamper the prosecution of such individuals. You can be sure the legislature will provide protection for juvenile delinquents. But we need procedures to deal with people who have engaged in serious offenses. I certainly urge the rejection of this section.

Delegate De Blieux in the Chair

[Previous Question ordered.]

Closing

MR. DENNIS

Mr. Chairman, fellow delegates, I'll be very brief. The reason I am supporting this, the reason that I think this is different from what I have opposed in the past, is that this does not constitutionalize the age limits. It allows the legislature flexibility. The only thing it does, it requires the legislature to get a two-thirds vote before bringing into adult court, people who are now being treated as juveniles. I think that we are entitled to that. Or the juveniles are entitled to that much pause and reflection before the legislature takes an act in this area. So, I ask you to support this delegate proposal as it has been amended.

Questions

MR. BURSON

Judge Dennis, is it clear to you that under the language of this proposal, in this amendment, that the legislature could classify, let us say, in the example of a multiple juvenile offender, just as they classify in criminal law for a third offender who will get a greater sentence than a first offender for a particular crime?

MR. DENNIS

It's clear to me that under the last part of this amendment, in establishing a procedure by which the court of original jurisdiction could waive juvenile procedures and have adult procedures apply, that the legislature could use that as one of the criteria. The legislature could say when a juvenile has committed X number of offenses of a certain nature, then the juvenile court may use this as one of the criteria by which it can determine that it shall waive its juvenile jurisdiction, and let that person be tried as an adult.

MR. BURSON

So that they could classify both by the gravity and frequency of the offenses then?

MR. DENNIS

I think they could use any reasonable criteria. I think that would be a reasonable criteria.

[Section passed: 80-29. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 98-13. Motion to reconsider pending.]

Chairman Henry in the Chair

MR. HENRY

Mr. Burson now would move to reconsider the vote by which Committee Proposal No. 4 on the Executive Article was adopted, to reconsider the vote by which it was adopted.

Is there objection?

For the purpose of...he's going to then move to suspend the rules for the limited purpose of offering an amendment on Section 1 relative to the powers of the attorney general, as I appreciate it.

[Motion to advance to Proposals on the Calendar for Approval of Final Styling adopted without objection. Motion to reconsider Committee Proposal No. 4 adopted without objection.]

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING

Committee Proposal No. 4

Reconsideration

Point of Information

MR. RAYBURN

Mr. Chairman, I would like for Mr. Burson to explain to us the change that he purposes to make before we vote on the reconsideration.

MR. HENRY

Well, now, we've already voted on reconsideration. This is a....

MR. RAYBURN

I mean suspension of the rules.

MR. HENRY

All right. Mr. Burson, if you will..this is not debatable... but if you will, you might better hit your reasons for your motion a lick or two there. I mean, explain it.

Explanation

MR. BURSON

Thank you.

Mr. Chairman, fellow delegates, I think Senator Rayburn's request is entirely appropriate. I would ask you to pull from the many papers you have the following material so that you might better understand the explanation I will try to make:

First of all, Section 26 of Committee Proposal No. 21, the Judiciary Article, which deals with the powers of the attorney general; secondly, it would also be helpful if you would have available Article 7, Section 56 of the old constitution, the '21 Constitution in your book; then, of course, the packet of four amendments that have been passed out. The objective here

is purely and simply this...to remove from the Judiciary Article and put in the Executive Article the office and powers of the attorney general. This has been a bone of contention throughout this convention. Quite frankly, I was on the team of the people that wanted to keep him in the Judiciary Article when this contention began. One of the reasons I was is because I didn't know what the effect of the reallocation and allocation of powers in the reorganization section of the executive article would be on the attorney general. If you will look at the first amendment, I think that problem is taken care of. The amendment on the first page says that "the powers, functions, and duties allocated by this constitution to any executive office, or commission (which takes care of the Public Service Commission problem raised by some people yesterday) shall not be effected or diminished by the allocation provided herein except as authorized by Section 22 of this article." Section 22 of the Executive Article, of course, is the article which permits the legislature to decide that three of the offices may become appointed rather than elected.

But, other than Section 22, this makes it clear that all of the executive offices that we provide for, all of those that you are interested in, or commissions that you are interested in, that we have provided for in this constitution, cannot be diminished or deleteriously affected by the original allocation provided for into twenty executive departments.

In the second place, if you will look at the Executive Article, and look at Section 1 (C) of the Style and Drafting, you will see that any reorganization or reallocation of powers, excepts all functions, powers, and duties allocated by this constitution. So, I think with the addition of the sentence that we are suggesting here, you can be assured that it will not be possible under the guise of either the original allocation into twenty departments, or, in a subsequent reorganization, to gut one of the constitutional offices that you have created during the course of this constitutional convention. I think for that reason that this amendment may be the most important amendment that is offered here.

[Motion to suspend the rules to reconsider Committee Proposal No. 4, Section 1 for the limited purpose of considering the Burson amendment adopted without objection.]

Reconsideration

Amendment

MR. HARDIN

Amendment No. 1, On page 1, at the end of line 23, after the word and punctuation, "departments", add the following sentence:

"The powers, functions, and duties allocated by this constitution to any executive office or commission shall not be affected or diminished by the allocation provided herein except as authorized by Section 22 of this article."

Explanation

MR. BURSON

I think I have explained this thing as well as I know how to explain it. I will be happy to try and answer any questions that anyone has on the point. I made the point earlier that this affects more than just the attorney general. I think it's a guarantee which extends to all of the executive offices or commissions that we have herein created. We've had some arguments here even today about the allocation, or reallocation of powers that might apply to particular commissions.

Questions

MR. BURNS

Mr. Burson, just for the record, in discussing this matter with you some time today, am I right that you told me that the board of the committee of the District Attorneys' Association had approved or consented to this amendment that you're now getting ready to explain?

MR. BURSON

I think it would be correct to say that even though they have previously and we have, I have previously, argued against giving the attorney general any original criminal jurisdiction that we are satisfied with the compromise which the amendment that's being offered here next would involve. But, that we were concerned that if you put the attorney general in the Executive Article, that you better be sure you were guaranteed that his powers could not be

affected by any reorganization which is the purpose of this first amendment.

MR. BURNS

No, but didn't I understand you or one of the other gentlemen to say that the District Attorney Committee, or whatever they have, met on Saturday and agreed this wording was acceptable to them?

MR. BURSON

Yes, sir.

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 106-0. Motion to reconsider tabled.]

Personal Privilege

MR. THOMPSON

Mr. Chairman, I've got a half of a letter addressed to Governor Edwards with no signature on it or none of the rest of it, what is this?

MR. HENRY

If it's addressed to Governor Edwards, I wouldn't know Mr. Thompson, I haven't seen it.

MR. THOMPSON

Well, it's being passed out here in the convention.

MR. HENRY

I haven't seen it unless it's what Senator Rayburn showed me, and I understood it was not being passed out. I have not authorized anything to be passed out. If you will find out who gave it to you, we will chastise him, or her, or them.

MR. THOMPSON

I don't believe you want to jump on the little lady that's passing them out; do you?

MR. HENRY

Well some people like to jump on little ladies and some don't. Mr. Willis.

MR. WILLIS

Mr. Chairman, I have the same grievance as Representative Thompson. It may be unbecoming of me to say so, but I reject, repudiate, refuse, and resent the passage and putting on my desk of a letter signed with two crosses, which most certainly must attest to its authors double illiteracy.

MR. HENRY

I don't know what you meant, Mr. Willis, but I think I agree with you, sir.

Personal Privilege

MR. RAYBURN

Mr. Chairman and fellow delegates, I do not know who passed this letter out because I received a copy. If you will look in the first paragraph, this letter is addressed to the governor of this state and it says "Dear Governor Edwards". It goes on to say that "I don't believe the governor understands"--do you believe that?--"The basic concerns about the property tax provision which the constitutional convention seems tentatively to have agreed upon." It further states that "so many motives have been attributed to us by such careless speakers as Mr. Chehardy, Mr. Bussie, and myself. The only way I know how one would define a careless speaker is to have a careless mind; I guess Mr. Steimel has that. I don't know much about that gentleman, but since he seems fit or saw fit to write the governor of this state and tell him that I was a careless speaker, which I know the governor don't believe, because I read in the paper the other day, ... I went home, when so many of you fell off the log--Mr. Roy, Mr. Gravel, and all of you people that passed all them bad things--and now you are trying to get back on the log; when all of you fell off I left. The next morning I was drinking coffee with my wife--she hadn't seen me in quite a while, and my dogs...I went to feed them and they barked at me and tried to bite me, but I finally made peace with them--and I was reading the Times-Picayune and it outlined, I believe, nine things the governor was against. You know I had been to this mike and opposed every one of them but one? The only reason I didn't oppose that, he had agreed to it earlier--that was the ten and fifteen percent that the tax assessors proposed and passed through this body. I say, "Well, I'm not doing

too bad and me and old Edwards are getting along pretty good." I was laughing and she wanted to know what I was laughing about. Well, I told her. I said "I tried to stop all these things before they happened, but I was in the minority." But, low and behold I come back and I get a copy of where Mr. Steimel wrote to the governor and he said people like myself was using careless words--Mr. Bussie,-- putting me in the category with Vick and Lawrence. Well, for a little top-water I'm doing pretty good, ain't I? Well, let me tell you, I just tried to find out a little about Mr. Steimel. I found out he was born in 1922 in a place called Running Lakes in Arkansas. Well, I called a few people up there and they said he had been running ever since. The little town he was born in was called Pocahontas, and he has been hunting ever since. Well, he couldn't find nothing in Arkansas and he came to Louisiana; so, we got him. I don't know what we are going to do with him, but he's here. He was an elementary school teacher. He is a Public Information director. He was at the Arkansas State College and I don't know why they discharged him, but evidently they let him go. Then, he came to Baton Rouge in '49 and he has been here ever since. But, I just want to say this about this letter. I had nothing to do with the passing out of this. I don't know who passed it out. But, I would like to say that I'm glad to be in the midst of some other careless speakers. But, I speak for the people of this state; I always have and if I live out this term, will be thirty-two years I've spoke for them. Maybe I've spoke wrong, but they've sent me back. Maybe they don't know me. But, I didn't hail from Arkansas. I didn't come from the city named Running Lakes. I didn't come from a village called Pocahontas. I haven't been hunting. I've been down here trying to do a job. I don't necessarily agree with Mr. Steimel. I think he's got a right to his views, but for him to write a letter to the chief executive of this state and to say that you people, and you know how many times I've been to this mke--well, McDaniel back there you know that and a lot of other delegates know it--and that I have been doing a little careless talking. Well, maybe I have. But, the only talking I've done before this mke is talking for the people of our great state and I have no apologies. I didn't get a copy of this letter. I don't know whether Mr. Bussie got one, he operates in a lot of circles that I don't. Mr. Chehardy can be everybody's sweetheart and nobody's gal, but he is still my friend and I get along with him. But, I don't know, Mr. Chairman, who passed this out. If they did it in violation of our rules, I'm sorry and I apologize. But, I have no apology to make to this convention or to the people of this state for the careless talking that I have done to this convention. I am among a lot of our delegates who has done some careless talking, in my opinion, and are now trying to correct it. Thank you very much.

MR. HENRY

Gentlemen, we usually don't go along with this question business on personal privilege. I don't know who....I don't think anyone authorized the sending out of that letter because it doesn't have the O.K. with the initials on it. But, if the pages or page who first got it and started passing it out will let me know where you got it, I would appreciate it. I might say that, Senator Rayburn, I heard you accused of having careless hands but never a careless speaker.

Personal Privilege

MR. CHATELAIN

Mr. Chairman, I would like to ask that the Chair direct its staff or someone to try to determine whether or not, in fact, this letter was sent out-- originally in October 31, 1973--was sent out from the offices of PAR.

MR. HENRY

I assure you, we will try to get to the bottom of it.

MR. CHATELAIN

I think that someone is trying to play a joke, and someone is trying to take it seriously here.

Personal Privilege

MR. RAYBURN

There is no doubt in my mind, Mr. Chairman, PAR sent this letter out. Mr. Chatelain, I don't know if Mr. Steimel is here or not, but if he is, let him come down. This is a letter bound by his signature and it is a letter sent out by his office; it is signed, and I have the original....a copy of it, it is a letter signed by him. He's got a right to call me a careless speaker. I can't really call him what I think he is because I don't want to get engaged in that, but he called me that to the governor-- and that's all right with me--but it is a letter that came directly from PAR's office sent to the governor of this state; I can assure you that.

Point of Information

MR. PUGH

Well, Mr. Chairman, we got four days and eight hours to get through here; can we get on with the regular course of some business?

[Motion to suspend the rules to reconsider Committee Proposal No. 4, Section 8.]

Point of Information

MR. AVANT

Is that a debatable motion?

MR. HENRY

No, sir, it's not a debatable motion. We are going to read the amendment here and let Mr. Burson sort of make his quick explanation of it.

Amendment

MR. HARDIN

This amendment is sent up by Delegates Henry, Gravel, Pugh, Graham, and Alphonse Jackson.

Amendment No. 1. On page 5--this is in your first enrollment, Mr. Abraham--delete lines 22, 23, and 24 in their entirety and all amendments thereto and insert in lieu thereof the following:

"Section 8. Department of Justice

Section 8. (A) There shall be a Department of Justice, headed by the attorney general, who shall be the state's chief legal officer. The attorney general shall be elected for a term of four years at the state general election. The assistant attorneys general shall be appointed by the attorney general to serve at his pleasure.

(B) As may be necessary for the assertion or protection of any right or interest of the state, the attorney general shall have the authority to

(1) to institute, prosecute, or intervene in any civil action or proceedings;

(2) upon the written request of a district attorney, to advise and assist in the prosecution of any criminal case;

(3) for cause, when authorized by the court which would have original jurisdiction and subject to judicial review,

(a) to institute, prosecute, or intervene in any criminal action or proceeding, or

(b) to supersede any attorney representing the state in any civil or criminal action.

(C) The attorney general shall exercise such other powers and perform such other duties as may be authorized by this constitution or by law."

Explanation

MR. BURSON

Mr. Chairman and fellow delegates, I again direct your attention to Article VII, Section 56 of the old constitution and Section 26 of Committee Proposal No. 21, the Judiciary Article. If you will look at these, and first of all looking at Section 26 in this amendment, you will find that the relevant change in this amendment is not in... (B) (1) remains the same, that is, the power to institute, prosecute, or intervene in any civil action or proceeding. (B) (2) remains the same, that is, upon the written request it says "written request", the other one simply said "request of a district attorney to advise and assist in the prosecution of any criminal case." The change comes in Section 3. Now, you will recall that I was very vociferous among other people in opposing any original criminal jurisdiction for the attorney general on the thesis that this was the responsibility of the locally elected district attorney. However, on examination of this issue in the spirit of trying to compromise here and reach a solution--which I frankly confess to you like most compromises will not totally satisfy either the district attorneys or the attorney general because the attorney general would like the discretion to bring a criminal prosecution whenever it's necessary in his judgment, whereas the D.A.'s would probably be just as happy for him not to have any such jurisdiction. The D.A.'s, at least, have agreed that in the spirit of compromise it would be proper "for cause, when authorized by the court which would have original jurisdiction subject to judicial review" as was suggested in the original Judiciary Committee Proposal for the attorney general (a)--and here if you refer to Section 56 of Article VII of the old constitution you will find that (3) (a) of this amendment is...the language is taken from that language "to institute, prosecute, or intervene in any criminal action or proceeding"--that it is clear

by this amendment that the attorney general would have, if he went to court and showed cause for doing so, the power to institute a proceeding. But, it is subject to the same necessity of showing for cause as was in the original Judiciary Committee Proposal which was somewhat ambiguous when it talked about a proceeding or affidavit because an affidavit, of course, is how you normally institute a criminal proceeding anyway. But, this language clarifies and makes it clear that under the terms and conditions set out in this amendment the attorney general would, in that instance, be able to exercise original criminal jurisdiction and that is the change.

[Motion to suspend the rules to reconsider Committee Proposal No. 4, Section 8 for the limited purpose of offering an amendment adopted without objection.]

Committee Proposal No. 4

Reconsideration

Explanation

MR. BURSON

Only this: It seems to me at this stage of the convention when we've been through so many battles that it's incumbent on us to try to be reasonable and to compromise our more extreme positions. I took the extreme position that he ought not to have any original criminal jurisdiction. This would permit him if the attorney general can go into court and show cause because the district attorney, for whatever reason, has not done his duty in a particular case and can convince the courts of this; then, in that limited instance, he could come in and exercise original criminal jurisdiction. Otherwise, of course, he cannot and I know this won't satisfy him; that's why it's a compromise. I'll answer any questions.

[Previous Question ordered. Amendment adopted: 104-5. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 102-7. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 105-4. Motion to reconsider pending. Motion to recommit the proposal to the Committee on Style and Drafting adopted without objection. Motion to suspend the rules to call Committee Proposal No. 21 from the Committee on Style and Drafting.]

Point of Information

MR. DENNIS

I would like to ask the Chair or Mr. Burson the specific purpose for which this thing....

MR. HENRY

It's to go ahead and clean up this attorney general's business, just to delete what's already in there and make it conform with the executive.

MR. DENNIS

Limited to that purpose?

MR. HENRY

That's what the final motion is going to be, Judge.

[Motion adopted without objection. Motion to reconsider Committee Proposal No. 21.]

Point of Information

MR. DENNIS

Mr. Chairman, is this the point at which we're going to say exactly why the vote is going to be reconsidered?

MR. HENRY

Well, you know, I've already said why, but it's not the point that the motion is made for the specific purpose and all that business. But, that motion is going to be made. I'm not going to recognize anyone in order to do otherwise, Judge.

MR. DENNIS

All right, sir.

[Motion to reconsider Committee Proposal No. 21 adopted without objection. Motion to suspend the rules to reconsider Section 25 for the limited purpose of offering an amendment.]

Amendment

MR. HARDIN

The amendment to Section 25, Amendment No. 1. On page 8, delete lines 24 through 30, both inclusive in their entirety, which constitutes the entire section, and renumber the succeeding sections in conformity therewith.

Questions

MR. AVANT

The overall effect of what you would have accomplished if you go to this third step, as I understand it, would delete any reference to the attorney general in the Judiciary Article, to put him in the Executive Article and make him subject. . . make that office subject to the reorganization provisions as they have been amended here this afternoon, which in effect says he can be reorganized, but his constitutional powers would not be disturbed. Is that the net result of all of this?

MR. BURSON

Yes, sir. The powers, functions, duties of his office, as allocated by this constitution, cannot be diminished or affected in any way.

MR. AVANT

But, is it not true that if the office of attorney general is subject to reorganization at all, that it would be then subject to pressures, or possible pressures, because of proposed legislation which would affect other aspects of his operation other than simply in the area of his constitutional duties which may in turn have an effect on the performance of his duties and his independent status?

MR. BURSON

Mr. Avant, if I thought that he would be susceptible to any more pressure than he would be now, let's say by cutting his budget, which certainly would be the greatest pressure of all, which could be done under either scheme by the legislature, then I would not have proposed this. That was the reason why that first sentence was put in there. I think we've been specific enough in the grant of power to him, saying that he's the state's chief legal officer, that he has the power to hire his assistants, that as required to assert . . . to protect the right or interest of the state that he can do all these various and sundry things plus whatever else is prescribed by law, and that he's the head of the Department of Justice which we've also said, that we've made it very plain with that first sentence and with the reservation and the reorganization section that he couldn't be gutted or gerrymandered out of power. In fact, I think it would be a lot more difficult to do it since we added this section than it might have been if we hadn't.

MR. SINGLETARY

Mr. Burson, I don't have a copy. I believe your amendment goes to the first enrollment, right?

MR. BURSON

That's correct. Yes, sir.

MR. SINGLETARY

I'm trying to get a copy of the first enrollment, but what you're doing, I believe, is deleting not only Section 25 but also Section 26, is that right?

MR. BURSON

That's correct. In other words, the amendment that we just adopted sets out in much greater detail, I think, the powers of the attorney general than the original proposal did.

MR. DE BLIEUX

Mr. Burson, the amendment that we just previously adopted, didn't we put the attorney general in the Executive Department by adopting that amendment?

MR. BURSON

That's correct, sir.

MR. DE BLIEUX

Now, if we don't adopt this amendment won't we have the

attorney general in both the Executive and the Department of Justice. . . the Branch of Justice?

Amendment

MR. BURSON
Yes, sir, Senator.

MR. DE BLEIUX
So, then it's necessary that we eliminate one of these, isn't that correct?

MR. BURSON
Yes, sir, that's correct.

MRS. WARREN
Mr. Burson, could you tell me why it's so important to have him in the Executive instead of the Judiciary Branch?

MR. BURSON
Mrs. Warren, I'll be frank to say it wasn't that important to me at all. I'm simply trying at this late stage of the convention to participate in resolving some conflicts that we've had since the beginning. I guess, since I was responsible for creating part of the conflicts maybe that's why I was asked to present this particular measure. I don't mind because I feel that with the safeguard that we've put in here in the first part of the amendment, that the major objection that I personally had to moving the attorney general from the Judiciary Article has been fully taken care of. . . been taken care of as far as I'm concerned and the other people who got up to the mike here and expressed the concern in the original debate that we had on this question.

MRS. WARREN
Mr. Stagg is interrupting me . . . but I would still like to know from whoever that is wanting. . . you know wanted him in one branch or the other so bad, I'd like to know the difference; I really would.

MR. BURSON
Well, Mrs. Warren, this has been going on since the convention began. The Executive Committee said he ought to be part of the Executive Branch because he is part of the Executive Branch in the national government and in all other state governments we know about, and the Judiciary Committee said, "Well, that may be true, but he's always been in the Judiciary Branch in our constitution and we think he ought to stay there because he might be subject to executive influence otherwise." I feel that we have . . . by the caveat that we've put in here, by the specific reservation against affecting or diminishing any of his constitutional powers, we've taken care of that because under the old constitution, if you'll look at Article VII, Section 56, there's very, very little set out in the old constitution about the attorney general's power; the rest is all by statute anyway. So, actually we have set out much more specifically in this constitutional provision the attorney general's power than is done under the old Section 56. I don't think there's any question about that.

[Motion to suspend the rules adopted without objection. Motion to reconsider Committee Proposal No. 21, Section 25 adopted without objection.]

Reconsideration

Explanation

MR. BURSON
I think I've already explained it. Section 25 of the Judiciary Proposal simply said that "there shall be a Department of Justice consisting of an attorney general and his assistants." The amendment we've just adopted says that, also. Section 25 said that "the attorney general shall be elected for a term of four years at the state general election, that he shall appoint assistants to serve at his pleasure," and the amendment we just adopted says all of that. So, the sum and substance of what Section 25 says is in the new Section 8 of the Executive Department Proposal that we have adopted. I, therefore, urge your adoption of this amendment to delete it from the Judiciary Proposal.

[Amendment adopted without objection. Previous Question ordered on the Section. Section deleted: 102-2. Motion to suspend the rules to reconsider Committee Proposal No. 21, Section 26.]

MR. HARDIN
Amendment No. 1. On page 8, delete lines 31 through 34, both inclusive, in their entirety, and on page 9, delete lines 1 through 10 both inclusive, in their entirety, and renumber the succeeding sections in conformity therewith.

[Motion to suspend the rules adopted without objection. Motion to reconsider Section 26 adopted without objection.]

Reconsideration

Explanation

MR. BURSON
I would point out to you again that we are here removing from the Judiciary Article the powers and duties which we have already inserted in the Executive Article. The reason we did it that way is because those of us who felt strongly about it wanted to be sure that before we took him out of Judiciary that the duties, powers, and functions of the attorney general as elaborated herein were fully protected from any allocation or reallocation by the first sentence of the amendment that we adopted. But, if you will look at the powers such as they are set out in Section 26, you will see they say that the attorney general shall be the chief legal officer of the state; we've said that in the amendment that we previously adopted. It goes on to set out what the attorney general may do and we have said each and every one of those things plus more in the amendment that we have adopted. So, for those reasons, I urge your adoption of the amendment to delete the powers from the Judiciary Article.

[Amendment adopted without objection. Previous Question ordered on the Proposal. Proposal passed: 105-2. Motion to reconsider pending.]

Personal Privilege

MR. VICK
Mr. Chairman and fellow delegates, I rise not because I am aggrieved necessarily, because the vote was overwhelming to do what you wanted to do, but I rise to remind you that this battle is not over. On tomorrow, my alternate presumably will be debated according to the rules of this convention and that alternate very simply is to leave the question to the people whether they want a strong attorney general or a weak one. The strong attorney general by the Constitution of '21, Article VII, Section 56, as delineated, as opposed to the current proposal or even the updated proposal is set forth in a letter from Dean Francis Sullivan of the L.S.U. School of Law to the attorney general, dated November the 14th, which accompanies a memorandum sent to you by the attorney general himself. Now, ladies and gentlemen, this is perhaps by some standards one of the most critical issues before the convention. This office, as opposed to any other in this constitution on a statewide basis, has had its powers severely diminished. That is the power to initiate original criminal jurisdiction or to initiate original criminal prosecutions. The erosion on the part of the Judiciary Committee and others to move the office, the duties, powers and functions to the Executive is again reflected by your vote. We went through this once before; the vote was so indicative of your mood on that subject there was no need to dispute it. But, I urge you, ladies and gentlemen, I implore you, to read the letter from Dean Sullivan because I am going to be referring to it in detail tomorrow when we debate the alternate, and the issue then will be very simple; let the people decide whether they want a strong attorney general or a weak one. Until tomorrow, thank you.

[Motion to suspend the rules to call Committee Proposal No. 26 from the Committee on Style and Drafting adopted: 85-20. Motion to reconsider Committee Proposal No. 26 adopted: 73-22. Motion to suspend the rules to reconsider Committee Proposal No. 26, Section 4 for the limited purpose of considering the Graham amendment.]

Reconsideration

Committee Proposal No. 26, Section 4

Amendment

MR. HARDIN

Amendment No. 1. On page 5, line 13, after the word and punctuation "contrary," delete the remainder of the line and delete lines 14 through 22, both inclusive, in their entirety and insert in lieu thereof the following:

"the state board of commerce and industry or its successor, with the approval of the governor, may enter into contracts for the exemption from -- this is an insertion--ad valorem taxes of any manufacturing establishment or an addition to any existing manufacturing establishment on such terms and conditions as the board, with the approval of the governor, may deem to be in the best interest of the state.

No exemption from taxes shall be granted under authority of this Paragraph for a longer initial period than five calendar years. In like manner, the exemption may be renewed for an additional period of five years.

All property exempted shall be listed on the assessment rolls and be submitted to the Louisiana Tax Commission or its successor, but no taxes shall be collected thereon during the period of exemption."

[Substitute motion to allow fifteen minutes to explain the Amendment adopted without objection.]

Explanation

MR. GRAHAM

Mr. Chairman and fellow delegates, the purpose of this amendment is to place the industrial tax exemption in the constitution as it has been for the last twelve or fifteen years. As you know, we presently have a provision in Proposal No. 26 that provides that the legislature may authorize this exemption. Whereas, in the same proposal we are providing for constitutional exemptions for public lands, religious properties, fraternal, charitable, health, burial, educational, agricultural products, agricultural machinery, cultural, and Mardi Gras property, ships, towboats, barges. Yet, with the industrial tax exemption that we have had and do have in our present constitution, it was taken out and made permissive. The simple, total, sole purpose of this proposed amendment is to constitutionally provide for that exemption in essentially the same manner that is provided for at the present time, that is, the Board of Commerce and Industry may enter into contract for a period of five years and that at the end of five years, the Board of Commerce and Industry may extend that contract for an additional five years. I might mention in the present constitution we're saying that the Board of Commerce and Industry shall extend the contract for five years if the terms of the contract are met by the industry. In this proposed amendment we're saying that they may extend it for one additional five-year period. That's the total purpose and essentially the whole content of this amendment.

Questions

MR. PEREZ

Mr. Graham, were you a delegate to this convention when this subject matter was debated on the floor?

MR. GRAHAM

Mr. Perez, I was a delegate at a time when it was debated, but I can't say that I necessarily was a delegate the time that you're talking about. I just don't know.

MR. PEREZ

Well, what I'm trying to do is find out whether you're familiar with what happened with respect to this particular proposal. First, do you know that when this proposal came out of the Revenue Committee there was a recommendation that the local government approve the exemptions before they could be granted; were you aware of that?

MR. GRAHAM

I was not aware that that was a committee recommendation, I was aware that at one time the proposal did provide for local government approval and it was changed to provide permissive legislation.

MR. PEREZ

Well, then if I tell you it was a part of the Revenue Committee Proposal, and if I tell you at a later time that there was an amendment on the floor which refused to take out the requirement that local government approve, then my question to you is would you be agreeable to an amendment which would give

local government the right to approve any such industrial exemption within that parish?

MR. GRAHAM

To begin with, I don't question it if you say that it was the position of the committee; I don't question that at all, Mr. Perez, but I would not be agreeable to the amendment that you suggest, that it be subject to local government approval. I prefer to keep it the way it presently is in our constitution.

MR. PEREZ

All right. Are you aware of the fact that after long debate, that the present provision was adopted over my objection, I might say and at the request and insistence of the industrial people, so that what we presently have was that which was put in there at their request? Are you aware of that?

MR. GRAHAM

Mr. Perez, I am aware that they preferred the terms that are presently in the proposal as opposed to the provision that it was subject to approval of local governmental agencies.

MR. LANDRUM

Mr. Graham, you stated five years and one additional five-year period. . .

MR. GRAHAM

Yes, sir.

MR. LANDRUM

. . . no more than one additional five-year exemption?

MR. GRAHAM

You're right.

MR. FLORY

Mr. Graham, could you tell me why you left the following language out that's in the '21 Constitution where it defines a manufacturing establishment which says, "as used in this paragraph means a new plant or establishment or an addition or additions to any existing plant or establishment which engages in the business of working raw materials into wares suitable for use or which gives new shapes, new qualities or new combinations to matter which already has gone through some artificial process"? Could you tell me why you left that out?

MR. GRAHAM

Mr. Flory, it was left out in the interest of space and in taking out unnecessary verbiage. I know that you can say that this is necessary; on the other hand, I think that we can leave this up to the Board of Commerce and Industry and let them exercise the discretion over whether the industry is actually a manufacturing industry and does justify this exemption.

MR. FLORY

Are you saying then that the Board of Commerce and Industry would decide that on an application by application or would it be rather to define it by statute?

MR. GRAHAM

I don't see why. . . what would prohibit defining this by statute where we don't provide that it can be done, we surely don't provide that it cannot be done, Mr. Flory.

MR. FLORY

You don't really provide who determines what a manufacturing facility is, do you?

MR. GRAHAM

No, sir, we don't, other than the Commerce and Industry Board with the approval of the governor.

MR. CHAMPAGNE

Do you feel that it would be the prerogative of the legislature, in fact their duty, to define manufacturing establishments as to what they are?

MR. GRAHAM

Mr. Champagne, I just said that I don't think that while we have not said that the legislature can do this, we have in no way prohibited the legislature, and I feel under those conditions it would be the prerogative of the legislature.

MR. CHAMPAGNE

Another question. Do you know it's my understanding that the

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people involved in this, in other words the industries, are agreed to taking it out of the constitution because the thing they didn't want was local decisions on whether or not they'd get an exemption?

MR. GRAHAM

Thank you, sir. That was my understanding, also, Mr. Champagne.

MR. PEREZ

Mr. Graham, don't you know that if there's a positive provision in the constitution which says "the State Board of Commerce and Industry can give to new manufacturing establishments", that it would be beyond the reach of the legislature to define a new manufacturing establishment?

MR. GRAHAM

Mr. Perez, I don't know that. Frankly, I don't agree with you. I do respect your legal talent. But, I don't think it would be beyond their prerogative in that we are not saying that the Board of Commerce and Industry has to grant these exemptions. We are saying that they may enter into contract and grant exemptions.

MR. PEREZ

Mr. Graham, don't you further know that the state is no longer engaged in the ad valorem tax field, and probably will not enter into it again? If it does, it can only do it to the extent of five and three-quarter mills.

MR. GRAHAM

Yea, sir, Mr. Perez, I realize that. But, at the same time, I realize the state is engaged in all efforts to attract new industry to this state, especially in light of the fact that our natural resources are depleting. I also recognize the fact that if a local governing authority does not want an industry to locate in their particular area, there is serious doubt that the industry would locate in that area in spite of the fact that they don't want them to.

MR. PEREZ

Well, Mr. Graham, don't you think that it would be fair if the state thought enough that we needed that industry, that they could help make up some of the loss of revenue that the local government should receive from ad valorem taxes?

MR. GRAHAM

Mr. Perez, I feel, frankly, that the state is making up for a lot of lost revenue to the local governments in the way of revenue sharing and other matters that have been provided for in this constitution, or proposed constitution.

MR. PEREZ

Mr. Graham, don't you know that revenue sharing is figured only once every ten years? That in all probability, the local government could not get the effect of increased revenue sharing until that ten year period had expired? So, therefore, you'd be giving a ten year tax exemption on industry, and could not get the effect of your increase in population until ten years, or a large part of that ten years, Mr. Graham?

MR. GRAHAM

Mr. Perez, I know that the revenue sharing provisions that we have already adopted in our proposed constitution already provide for an increase.

MR. PEREZ

Mr. Graham, isn't it true that as far as the revenue sharing fund is concerned, that it is based upon the federal decennial census which is taken once every ten years?

MR. GRAHAM

Yea, sir.

MR. PEREZ

So, I again ask you the question. Isn't it quite possible that no increase in revenue sharing would come about as a result of the increase in population, but the local government would have to bear the additional cost of servicing the new people, plus the new industry, with increased cost for schools, for sewerage, for water, for roads, and so, therefore, probably would have to increase taxes on the other existing industries and the other existing homeowners in order to be able to hopefully make up for the increased cost in services?

MR. GRAHAM

Yea, sir.

MR. ABRAHAM

Mr. Graham, doesn't the article we've adopted state that "the revenue sharing funds shall be distributed annually as provided by the legislature solely on the basis of population and number of homesteads in each parish in proportion to population and number of homesteads throughout the state? Unless the legislature provides otherwise, population statistics of the last federal census, decennial census, shall be utilized for this purpose". So doesn't this allow the legislature to change its formula every year, if it so desires?

MR. GRAHAM

They can change the formula. I think Mr. Perez was referring to the fact that the legislature can't change the population. But, it can change the formula.

MR. ABRAHAM

But, it can revise the population figures if it so desires, because it says, "Unless the legislature provides otherwise", it'll use the decennial census.

MR. GRAHAM

Right.

MR. AVANT

Mr. Graham, as I recall the remarks of the governor when he addressed us, he suggested, or recommended, or whatever you want to call it, that this exemption be put back in the constitution like it was. I just wonder if you would consider withdrawing this amendment and recreating it so that if we do vote for it, which I would like to do, we can put this exemption back in the constitution like it was, and not open it wide open by taking out the present constitutional definition of manufacturing establishments.

MR. GRAHAM

Mr. Avant, I do recall that the governor suggested that we either remove all of the exemptions, or give the exemption back to industry. That's the purpose of this amendment is to give it back to industry.

In answer to your question, I don't believe that the verbiage that we have taken out of the present constitution makes all that much difference if you look at the position that the Board of Commerce and Industry has taken. I believe that even with the present verbiage, they do have a lot of discretion in determining whether an industry is, in fact, a manufacturing industry or not.

MR. AVANT

But, they got a whole lot more if you don't define manufacturing industry, don't they?

MR. GRAHAM

Mr. Avant, I believe that that can be a matter that the legislature can do. As I said a few minutes ago, because this proposed amendment says that "the Board of Commerce and Industry, with the approval of the governor, may enter into contract;" I believe that there will be discretion on the part of the legislature and a prerogative on the part of the legislature to determine what will, in fact, constitute a manufacturing establishment.

MR. AVANT

Well, that's what the present constitution says, "that the Board and the governor may enter into contracts with manufacturing establishments as defined in the constitution." Isn't that what it says?

MR. GRAHAM

I don't know if it says, "As defined in the constitution." I have.....

MR. AVANT

Well, I mean, that's why the authority is given to them, because they operate under a constitutional definition of a manufacturing establishment, don't they?

MR. GRAHAM

However, Mr. Avant, I don't believe the legislature has ever defined what would constitute a manufacturing establishment.

MR. AVANT

Don't have to. It's in the constitution. But now it won't be in the constitution.

MR. GRAHAM

That's right.

MR. NUNEZ

Mr. Graham, I'm glad you corrected Mr. Avant and said that the governor gave us a choice. He said either take out...either place the industrial exemption back in, or take out all of the exemptions. Did you know that our committee, and many of us, feel like these exemptions should not be in there? I would prefer an opportunity to vote on a choice between the two, and let's take out all the exemptions in the constitution that don't belong in there...they don't belong there, and let's allow the legislature to grant those exemptions by a two-thirds vote.

MR. GRAHAM

I don't, in answer to your question, Senator Nunez, quarrel with that at all. On the other hand, it was determined that it would be more acceptable to this convention to add the one exemption, the industrial exemption, as it presently is, than it would be to go in and take out a multitude of exemptions that include churches and hospitals; religious, charitable, fraternal institutions; agricultural equipment. I just think that the convention itself would prefer to add one than to take out all of these.

MR. MUNSON

Mr. Graham, did you know that I disagree with Senator Nunez, and so do a lot more of us in this convention hall?

MR. GRAHAM

Representative Munson, I would assume that a lot of people do. Based on my conversations with them, I found that there was a substantial majority of the people that would rather add one than take out the rest.

MR. RAYBURN

Mr. Graham, would you explain to me what you mean when you are saying "in like manner the exemption may be renewed for an additional period of five years"? We found out in our committee hearings where if they created one three thousand dollar job, one additional job, they could get a renewal for five years. What is the purpose of this language?

MR. GRAHAM

Because in the preceding paragraph it says that "the Board of Commerce and Industry, with the approval of the governor, may enter into contracts for the exemption of ad valorem taxes". It's saying in a like manner, they may enter into a contract to continue that exemption for five additional years. Senator Rayburn, you might....

MR. RAYBURN

What are the provisions to renew that contract, Mr. Graham? What are the provisions to renew that contract?

MR. GRAHAM

The same provisions as the initial contract that they entered into, Senator Rayburn. The present constitution says the same thing. The provision, as it is, says "the legislature may authorize the same thing." But, the present constitution says that "they shall extend it for an additional five years." The proposed amendment says that "they may extend it for an additional five years."

MR. RAYBURN

I mean under what provisions may they extend it? Give me a definition of how they can extend a five year contract.

I would like, Mr. Graham, to know what provisions where it says "in a like manner the exemption may be renewed for an additional period of five years?" What are the qualifications or the requirements to get that exemption renewed?

MR. GRAHAM

Senator Rayburn, I don't know the exact terms of any contract that the Board of Commerce and Industry may have. I'm not familiar with that. But, what this is saying is that the Board of Commerce and Industry, with the approval of the governor, may enter into a contract with an industry...a new industry....and, at the end of five years it may be extended for an additional five years in a like manner--in the like manner as it initially entered into that contract.. I do not have a copy of the contract. I don't know what it says, Senator Rayburn.

MR. RAYBURN

In the like manner to create additional jobs?

MR. GRAHAM

I beg your pardon.

MR. RAYBURN

I say would it be in a like manner to create employment or additional jobs?

MR. GRAHAM

Senator Rayburn, I would say it would be in a like manner as the initial contract. That's all I know, sir.

MR. RAYBURN

Did you know that we found out in the hearings on the committee where some industries had created two three thousand dollar a year jobs and got an additional five year contract? Did you know that?

MR. GRAHAM

I didn't know that. But, if you say that, I accept your comments.

MR. RAYBURN

That was testimony we heard in our committee, Mr. Graham. I just want to know that if this language where it says "in a like manner the exemption may be renewed." I want to know what provisions do you have to have to renew it for five years. I know the initial application says they are going to hire fifty people, forty people, ten people, or two people. Then, I want to know what you've got to do to renew it. Do you know?

MR. GRAHAM

You have to make an application for a continuation or a renewal thereof, Senator Rayburn.

MR. RAYBURN

Thank you.

MR. GRAHAM

Yea, sir.

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

Point of Information

MR. NUNEZ

I rise for a point of information, Mr. Chairman. Are we... has he moved for suspension of the rules for the limited purpose of considering his amendment only?

MR. HENRY

Yea, sir. That's correct.

MR. NUNEZ

Would the gentleman consider moving for suspension of the rules to consider amendments...any amendments that would be applicable to the article, that would take out all exemptions, or either put that one back in?

MR. HENRY

Mr. Graham?

The gentleman says, no, sir. He's made his motion.

[Record vote ordered. Rules Suspended: 71-37.]

Reconsideration

Amendment

MR. POYNTER

Amendment sent up by the gentleman reads as follows:

Amendment No. 1. On page 5, line 13, after the word and punctuation "contrary", delete the remainder of the line, and delete lines 14 through 22, both inclusive in their entirety, and insert in lieu thereof the following:

"The State Board of Commerce and Industry, or its successor, with the approval of the governor, may enter into contracts for the exemption from (and here's the insert previously noted) ad valorem taxes of any new manufacturing establishment or an addition to any existing manufacturing establishment, on such terms and conditions as the board, with the approval of the governor, deem to be in the best interest of the state. No exemption from taxes shall be granted under authority of this paragraph for a longer initial term than five calendar years. In like manner, the exemption may be renewed for an additional period of five years. All property exempted shall be listed on the assessment rolls and be submitted to the Louisiana Tax

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Commission or its successor, but no taxes shall be collected thereon during the period of exemption."

[Motion to limit debate on the Amendment to twenty minutes rejected: 40-51.]

Explanation

MR. GRAHAM

Mr. Chairman and fellow delegates, I believe that I explained the proposed amendment to the extent that I am capable of explaining it. If it meets with the approval of the delegates here, I would just as soon let the opponents, or those others who would like to discuss this proposed amendment, carry on rather than stand up here and answer questions for the next hour. I will close on the amendment, and perhaps you'll have a chance to try to shoot me down at that time.

Questions

MR. ROEMER

Buzzy, what changes? Could you explain, now since you've got all of our attention, what changes would your amendment make in what we've already adopted? Could you list those specifically the two or three changes that it would make?

MR. GRAHAM

Actually, Mr. Roemer, it changes one, and this is the most important change. What we've already adopted simply says that the legislature may authorize the State Board of Commerce and Industry, under such conditions and terms, and with such approval as the legislature may specify...this is saying...is granting the exemption as a constitutional exemption, as we have in the proposal for every other exemption other than this one.

MR. ROEMER

I understand that.

What about the local option business? Is that in yours?

MR. GRAHAM

This is not included in the amendment that we are proposing.

MR. ROEMER

Well, don't you think that's a change?

MR. GRAHAM

The present provision does not have the local option provision.

MR. ROEMER

What about any vote? Is there any vote requirement in the legislature for the formulation of the rules?

MR. GRAHAM

That is not provided for. It was covered awhile ago, and I suggested that the legislature would have the prerogative to define a manufacturing establishment.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I ask you to defeat this amendment for this specific reason. Article X, Section 4, of the present constitution says that "the State Board of Commerce and Industry, with the approval of the governor, may enter into contract for the exemption of any new manufacturing establishment, or an addition or additions to any manufacturing establishment already existing in the state upon such terms and conditions as the board, with the approval of the governor, may deem to be in the best interest of the state." Now, then they proceed to define what is a manufacturing establishment. The term, manufacturing establishment, and addition or additions, as used in this paragraph, mean a new plant or establishment, or an addition or additions to any existing plant or establishment which engages in the business of working raw materials into wares suitable for use, or which gives new shapes, new qualities, or new combinations to matter which has already gone through some artificial process." Now, if you will recall the debate when this matter was before this convention, it was established during the course of that debate that over fifty percent of the assessed valuation in this state was on the exempt rolls—in excess of seven billion dollars—even under that definition. Now, when you delete that language, that definition, then you throw this thing wide open, absolutely wide open. Though I respect Mr.

Graham and his ability, I think he is seriously in error when he tells you that the legislature can come back and define manufacturing establishments, because under his language, and under this amendment that is offered, it says that "the State Board of Commerce and Industry, etc., etc., to any existing manufacturing establishment, or new...on such times and conditions as the board, with the approval of the governor, deem in the best interest of the state." That language leaves no room--no room--for the legislature to define what shall constitute a manufacturing establishment because it will be on the terms and conditions that the board, with the approval of the governor, deem in the best interest of the state.

So, I ask you to defeat this amendment for that specific reason. Now, if they want to come back and put the exemption back in the constitution like it is, as we were told we should do, that's a horse of another color. I don't think I would even be up here. But, when you take that definition out, then I think you can see that you throw this wide open to where the governor and the board can grant any exemption they want to, under any terms and conditions they may see fit, because there is no definition of what is a manufacturing establishment.

So, unless and until that definition is put back in this proposal, I would respectfully request that you reject this amendment.

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I rise to call your attention to the amendment and the position that Mr. Avant has taken. I concur in what he has said. Let me say this as a representative of labor, when this issue was before this convention, I supported leaving the industrial exemption in the constitution, voted with it all the way, and still believe that it is good for the growth of jobs in this state. But, I suggest to you that you ought to realize what you are about to vote on.

Remember, now, that the state is not in the ad valorem tax business. The taxes that you are talking about exempting are local taxes. Now, what the governor said the other day was to either strip this document of all exemptions, or as a compromise, and I quote, "I would suggest that you also include the industrial exemptions." Now, I take that to mean in the same light that they were granted in the 1921 Constitution, later amended. If you take out of the constitution the definition of a manufacturing facility, you're leaving it up to fifteen appointed members to determine what is a manufacturing facility. There is already, now, litigation in the courts as to what is and what is not a manufacturing facility. There's been contentions already for years that the power plants in this state are not per se manufacturing facilities. But, under this amendment, they could put a shirt shop that sells shirts on as a manufacturing facility if they sewed a button on the shirt, if they wanted to. I suggest to you that it's so prone to interpretation, case by case, administration by administration, that if in the constitution you don't define what is a manufacturing facility, we're going to get into some serious financial problems on local governmental levels in this state. I ask you to reject this amendment until such time as they define what is a manufacturing facility, and then I'd be more than happy to support it. But, I can't support it in the posture it is now, because it's just too wide open for interpretation, and makes....creates for a suspicious atmosphere. I'd be happy to yield.

Questions

MR. ROY

Mr. Flory, what about an amendment that would say, you know, with respect to the manufacturing as defined by law, let the legislature define....

MR. FLORY

I see no reason....

MR. ROY

....instead of us defining it here.

MR. FLORY

When I asked the question of Mr. Graham why he didn't include that language in the constitution--this constitution that was in the old constitution--because there is jurisprudence on it, he said in the expediency of shortening the document. I appreciate that, but when you are talking about dollars on the local level, I don't think we ought to be too concerned about words versus dollars to local government.

MR. ROY

Well, if the legislature--my thing is that if we define

something in the constitution, and you ever want to change it, you've got to go to the constitution. But, if you let it be as defined by law, don't you agree that the legislature could define what is a manufacturing concern, and whether it would be applicable or not?

MR. FLORY

Mr. Roy, if you would say that the present definition and the present constitution of a manufacturing facility would be transferred in the schedule to the statutes, and it required a two-thirds vote to change it, I would have no objections--no objections--but, I don't want to get into the position every year that the legislature meets.... they can change the definition of a manufacturing facility.

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, I would hope that I could have your attention for a little while so that we could reasonably discuss the posture in which we now find ourselves.

If you will recall, when this matter was being debated when it first came up, the Revenue Committee had recommended and provided almost without opposition, that before an industrial exemption could be granted, that it would also have to have the approval of the governing authority of the local government. If you will recall, Mr. Gravel offered an amendment at which time he alluded to local governmental officials as the lowest form of petty politics. I say to you that local government is responsive and responsible, and that it is becoming even more so all the time. But I say to you that in spite of the fact that I attempted at that time to have a provision which would require the local government approval, that this convention decided that it would be better to leave it up to the legislature so that the way the provision now reads is that the legislature by law may authorize the State Board of Commerce and Industry, or its successor, under such terms and conditions, and with such approval as the legislature specifies, to provide for the exemption from property taxation of a new manufacturing establishment, etc.

I say to you that I think that even though I was not satisfied, and acceptable or agreeable to that particular provision, at least it will give the opportunity to have this matter more thoroughly discussed and thrashed out when it is presented to the legislature because of the fact that it's easy to say we want to induce industry. We all want to induce industry. But, with any new industry there comes problems. We have the problem of where do we find the money to build new schools for the new employees; where do we find the money to pay for all the additional deputies that have to be hired; where do we find the money for the sewerage and for the water; for the streets, and on and on and on and on. The state is out of the property tax business and as far as we know, does not intend to reenter it. I say to you that this is the worst form of violation of local governmental principles to say that without...without any regard whatsoever to the local governmental people, that an appointive board, the State Board of Commerce and Industry, with the approval of the governor, may under certain circumstances virtually bankrupt local government, or on the other hand, possibly require the increase in taxes for those who are already there to accommodate those who may come. Now, let's make it clear that this business of revenue sharing does not cover a situation like this because of the fact that revenue sharing is figured every ten years. It is quite possible that the increase in population will come along with the new industry near, say 1970 or 1980, so that the local governmental officials and the school boards would have to suffer for a period of ten years, hopefully to find the money to continue the governmental functions for those who are already there, plus those who want to come. All that I'm saying to you is that this is a very, very, very serious matter, and I would hope that you would not cut off the possibility of a reasonable settlement to this matter by allowing it to go to the legislature instead of making a fixed, hard determination here at this convention, that this should be an absolute exemption, and local government should have nothing to say about it. I say to you that this is a very dangerous procedure. I do know that the steamroller is rolling. But, for God's sake, let's try to put the brakes on it; get back to reasonableness, and let's reject this amendment, please.

Questions

MR. WILLIS

Mr. Perez, isn't it a fact that the legislature may not define words in the constitution, that that is the work of the courts?

MR. PEREZ

That's correct.

MR. WILLIS

Does not this amendment replace the one hundred and forty-two members of the legislature for a governor and a board, the members of which he appoints?

MR. PEREZ

There is no question about the fact that this is an absolute right for the granting of an exemption without adequate determination of what a manufacturing establishment is. I might say to you that even under the present procedure, they have called things manufacturing establishments where they really had to stretch their imagination to do it. Without any definition, I say to you it would be possible for just about any business establishment to be defined as a manufacturing establishment, and, therefore, be granted an exemption.

MR. WILLIS

One more last question. This is a firm constitutional question. Do you think that exemptions is an executive function?

MR. PEREZ

No, sir. It certainly should not be.

MR. WILLIS

It is either constitutional or legislative function, or both. Isn't that correct?

MR. PEREZ

It should be the legislative function of local government at least to have a say-so.

Further Discussion

MR. LANDRUM

Mr. Chairman and fellow delegates, I rise in opposition to this amendment. In my opinion, I do not believe that the governor, nor the legislature, nor the State Board of Commerce should have the right to exempt property on a local level. I believe that this five and ten year exemption is harmful to the people of the city of New Orleans, and to the rest of the State of Louisiana. I do not believe that industry should have a ten year incentive program in order to come into this state. I do believe that Louisiana...we have enough right here in this state to induce industry from many many different angles. We do not have to give this type of an incentive to industry to locate here in this state. We should give the people some incentives. Everywhere you turn for the past year, industry certainly has had its role here in this convention. But now, as delegates, we are the only hope that the people have represented here. If we fail in representing the people, then there is no need to have elections at all. I do believe this, that industry plays a very vital role in every community. But now, why should industry be exempted--given ten years exemption? Mr. Rayburn mentioned the fact that all industry has to do is to hire a few more people, or to put a wing or something on to renew that exemption. But, what happens to your home when you add--make an addition to your home. Rather than get an exemption, you have to pay more taxes.

Let's think about the people a little bit now. The remainder of these days that we are to be here, let's think about the people. Let's give the people some incentive.

Thank you.

Point of Information

MR. GRAHAM

Mr. Chairman, with the permission of the convention, we'd like to withdraw the amendment for the purpose of adding a provision that is the definition as provided for in the present constitution.

MR. HENRY

Now, Mr. Graham, if you withdraw the amendment, then what we are going to do is vote again on the adoption of the section. We are going to have to go through the reconsideration business again because it was for the limited purpose of this amendment. Just so that you'll understand that.

What's your pleasure?

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MR. GRAHAM

Mr. Chairman, I believe this is the only way we can do it. We are adding to the proposed amendment those provisions that are in the present constitution that define a manufacturing establishment, or additions thereto.

MR. HENRY

All right, all right. Don't explain your amendment, please.

[Amendment withdrawn. Previous Question ordered on the Section. Quorum Call: 96 delegates present and a quorum.]

Point of Information

MR. BURNS

I thought you were getting ready to call a vote, Mr. Chairman. I just wanted a point of information.

Now that he's withdrawn that amendment, at least temporarily, what would we be voting on?

MR. HENRY

You are voting on the adoption of Section 4 as it was when we started fooling with this amendment, just as we'd already adopted it once during the deliberations of this convention.

We really have it on reconsideration.

[Section passed: 97-3. Motion to reconsider tabled. Motion to suspend the rules to reconsider Committee Proposal No. 26, Section 4 for the limited purpose of considering the Graham amendment adopted without objection.]

Point of Information

MR. NUNEZ

Mr. Chairman, I would ask that Mr. Graham explain the amendment. From the amendment that I've seen that they're going to adopt, it's not the intent of this convention of the objection for not adopting the other one. He's just going to simply define terms, while we were concerned with the legislative section of it.

MR. HENRY

I'll ask the Clerk, number one, to read the amendment. Then we'll let Mr. Graham say a few words on it.

Reconsideration

Amendment

MR. POYNTER

The amendment is resubmitted. It would read as follows: First of all, the text of the first partial paragraph and second and third. . . first two full paragraphs are the same. Again, it has been run off without the word, on the third line, "ad valorem" being inserted before the word "taxes," "taxes" being the last word on the third line of the amendment. The words "ad valorem" should appear immediately prior to that, after the word "from."

It, in addition, adds this paragraph, additionally, as a third paragraph:

"The terms 'manufacturing establishment' and 'addition' or 'additions' as used herein mean a new plant or establishment or an addition or additions to any existing plant or establishment which engages in the business of working raw materials into wares suitable for use or which gives new shapes, new qualities, or new combinations to matter which already has gone through some artificial process."

Explanation

MR. GRAHAM

Mr. Chairman, fellow delegates, briefly, this amendment is identical to the amendment previously offered. We have placed "ad valorem" back in the amendment up at the top where it says "taxes." It adds the definition, as contained in our present constitution, to manufacturing establishments or additions thereto. Other than that, it is identical; but I believe this does resolve the problem that several delegates had, by virtue of the fact that we had not defined "manufacturing establishment."

Questions

MR. PEREZ

Mr. Graham, in your latest sentence you've added, you say, "addition or additions," plural. Where do you use the word "additions," plural, in. . . up above?

MR. GRAHAM

Mr. Perez, I didn't understand you. All I know is that that's what it says in the present constitution.

MR. PEREZ

Well, except that the way you have your provision now drawn, you don't use the word "additions," plural. So, I'm just. . . isn't your amendment kind of messed up is what I'm trying to get to?

MR. GRAHAM

Mr. Perez, I think that's a matter that Style and Drafting can handle. The present constitution says, "addition or additions," and that's what we did. We thought that that was the wishes of this convention.

MR. PEREZ

Don't you know that Style and Drafting has no right to make substantive changes? All you are allowing, as I read it, above, is one addition. But, here, when you get to your definition, you're adding additional "additions." Is that correct?

MR. GRAHAM

Would that be a substantive change in lieu of the fact, or in light of the fact that we have said in the last paragraph "addition" or "additions"?

MR. PEREZ

Mr. Graham, do you realize that even under this definition which we now have that the Board of Commerce and Industry has been granting ten year tax exemptions to grain elevators, and all the grain elevators do is to take grain and mix it and heat it up a little bit to get the wetness out of it, and they get an industrial exemption? Did you realize that?

MR. GRAHAM

Mr. Perez, if you say that they do, I accept your word for it.

MR. PEREZ

Well, don't you realize that it would be a lot better for the legislature to look into this matter and make some meaningful changes instead of cementing this thing as we have it now with the abuses that we now have in the industrial exemption practice in this state?

MR. FLORY

Mr. Graham, I appreciate you adding that definition, but when you talk about "addition" or "additions," really what we're talking about there is where a plant may have more than one addition in process at the same time and more than one application for expansion at the same time.

MR. GRAHAM

Thank you, Mr. Flory.

[Record vote ordered. Substitute motion to suspend the rules to consider any amendments to the Section rejected: 19-75.]

Point of Information

MR. PEREZ

Let me see if I can understand where we are now. This means that if we adopt this amendment, that no other delegate would have the right to come in and offer any additional amendments to try to improve on this thing, and that we'd either have to take it or leave it?

MR. HENRY

No sir, Mr. Perez. It does not mean that at all, and you know that. It means that you can make the same motion and go through the same procedure anyone else here can, as has been done all afternoon, sir.

[Rules Suspended: 78-21. Motion to reconsider Section 4 adopted without objection.]

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, I don't know whether you heard the question which I previously asked Mr. Graham a little bit earlier, but there are in the practice of granting industrial exemptions many, many, many abuses. I don't know whether you heard me ask the question whether or not a grain elevator, a grain elevator which only accepts or receives grain, mixes that grain to change its grade and quality and which may do a little drying--have a little drying process--and the State Board of Commerce and Industry has considered that to be a manufacturing establishment under the provisions of this constitution and therefore, has granted--has granted--industrial exemptions to people like that without any opportunity for anyone else in the state, including the local government, to have a say--so whatsoever in this matter. I say to you, that this matter of industrial exemption is one of the most misused provisions which we have in our constitution. So, again I beg of you, please, let's leave this up to the legislature where this matter can be more thoroughly thrashed out so that we can look into this matter and try to straighten out and to give bona fide exemptions to those who deserve the exemptions, but not to those who do not deserve the exemptions. The purpose of this is to bring new business and new industry into the state. But, I can tell you, in our area, we have those who would come in and would be here without an industrial exemption at the same time the local government has had to bear the tremendous additional expense of taking care of the necessary services for that industry. I say to you, that the provision which we now have, which leaves it up to the legislature to straighten out this business of industrial exemptions is what we should follow, because--again--because of the tremendous abuses that we've had through the State Board of Commerce and Industry in granting exemptions to many, many, many industries who are not entitled to it.

I'll yield to questions.

Further Discussion

MR. E. J. LANDRY

Mr. Chairman, ladies and gentlemen of this convention, I'm going to ask you to please give me your attention. If there's one thing that has disturbed me in this convention, it's the fact that sometimes you really overlook a very important issue. I'm going to ask you, please, to soundly defeat this amendment, and I'm going to tell you why. I live in an area where grain elevators have been sprouting, one after the other, destroying my community. Two great big elevators came up without the knowledge of our people and destroyed the property and the homes of close to a thousand people. One of them blew up and came near destroying a school. It blew up for the second time; litigation is in process, now, trying to retrieve. It's been very difficult--very difficult--to know that the local people have no protection whatsoever. I have gone over to the Board of Commerce and Industry. I have researched the records, and I've found in those records how these exemptions came about. I read the argument, I read the argument of Bryan Lahmann, a former Representative of this state, who later had very strong difficulties with the affairs of this state. In the argument, it was argued that this grain elevator was a manufacturing concern. Then, later on at this time, ten years later, the same people, the same industry wants exemption because they claim, now, that they are not a manufacturing establishment. That is why, a moment ago, I pleaded with Mr. Flory to please try and have the original definition of a manufacturing establishment put back into this constitution. Rather than that, I'd rather eliminate the whole business, because I cannot approve of the fact that a few people will bypass the representatives of the people and allow this kind of thing to continue to happen. So, I'm imploring you, please, let the representatives of the people have something to say about what's happening. I think they've gotten too enthusiastic about this business of industrial exemptions. I've long believed that we do not need all of these exemptions in order to attract this industry. In my little parish, we are overcrowded with a billion dollars of tax exemptions. The people do not have enough places to live. I'm going to have to move my new home pretty soon, which is close to the river. I'm going to have to make way, and many other people have had to make way for these industries that have come in without the approval of the people. I'm asking you to defeat this thing.

Further Discussion

MR. SCHMITT

It's most amazing to me that the governor would come before us with amendments which he deems to be in the best interest of

the entire State of Louisiana and upon which he thinks that this constitution will rise and fall, and two of them are . . . one, the first one is multi-parish banking--which I'm sure couldn't concern very many people except the special interest groups of banks--and the second one, with reference to the industrial tax exemption, one which was fought so hard by many of the delegates here, and particularly by the members of the Revenue, Finance and Taxation Committee.

I'd like to review with you for a couple of minutes some of the facts which were brought out before our committee. As all of you know, the state is not presently in the ad valorem property tax business. In the past, these exemptions were granted for five years and one year at a time, thereon, up to another period of five more years, for a total of ten years. At the end of that time, these corporate properties or partnership properties were put on the tax rolls at the initial tax value. That means if it's twenty million dollars and it happened to be fifteen percent in that district, it would go on at three million dollars at the end of the ten year period of time. Now, let's assume that we would adopt this proposal which came up by Mr. Henry, Pugh, Gravel, etc. At the end of the ten year period of time, this industry would not go on at three million dollars. It would go on as part of the other part of our constitution at the current fair market value. That means that the depreciated value at the end of ten years. What is this worth? Assuming it's worth ten percent, we've not only lost the taxes over that ten year period of time, we've lost an entire tax base to the future of that locality. This doesn't affect the governor, but this does affect every municipality and every parish in the State of Louisiana. Who pays the bills? The state pays part, surely, but the major part of the bills for capital improvements, etc., are paid by the ad valorem property taxes. Why should the people who enjoy most of the benefits and to a large extent can incur much damage on those around them be free from the burden of taxation? This is a burden which must be shared by all the people if they expect our state to advance into the future. Through the analysis of the property taxes throughout the United States, we have seen that by far, Louisiana taxes are the lowest, or one of the lowest in the United States. I do not think that by the elimination of this industrial tax exemption it would encourage large industries to go to other states. Let me say that I would like to rely upon Mr. Ed Steimel, in his letter, which was . . . the first page was passed out today. He indicated that our prime concern is not for Exxon, or Dow, or Ethyl or the other major oil companies or petrochemical plants, because he further indicates in there that no matter what happens to the business in the State of Louisiana, they're going to stay here. These are the major companies which are receiving the industrial tax exemption at the present time. Gulf Oil Corporation came to the governor and attempted to get approximately a five hundred million dollar tax exemption. They attempted to bypass the local leaders; however, because there was a strong local leader who is also a member of this convention, they were prevented from doing this, and a sliding scale was established so that at least the people could get partial benefits from this, so that part of the burden could be shared by this large corporation. This corporation with approximately five hundred million dollars of plants which went up created less than fifty permanent jobs. Now, I believe that . . .

. . . this is unfair, and what we have already adopted is quite adequate. It allows the legislature enough latitude. If they should decide to establish some type of sliding scale rather than a complete exemption, they have the ability to do so. I don't think that we should open up our purses to these large industrial complexes which come in, allow them to take advantage of the state. This is one of the worst pieces of constitutional material I've ever seen. I'm really ashamed to see that our Chairman is part of this. This is really horrible, and I wish you'd reject this. Thank you.

Further Discussion

MR. NUNEZ

Mr. Chairman and ladies and gentlemen of the convention, would you please just give me your attention for a minute, because it looks like we've got four more days, but we wanted to finish yesterday. It just seems to me that some of this stuff is so vitally important, it's taken up a year of our time for us to get this far. In two days, we've undone a lot of what we've done. Maybe justifiably so, maybe not. But, let's . . . if we're going to do it, let's get the facts straight. Let's don't let somebody get up here and give you an amendment and the amendment is wrong after we've worked in committee, after committee, after committee and then heard it on the floor for hours and days and weeks and then they come up here with an amendment. I want to try to do what the governor wants and try to give him some of what he wants. I don't

think what they're doing is what he wants. It is not what he said, and I'm glad whoever said "Put this in the record," I want to thank them, because it's been very useful. I want to read you what he said. I want to . . . there's nothing in this article that we've adopted about local government vetoing--vetoing--industry in this state; not a word, not one word. This is what the governor said: "I therefore recommend to you that either you strip the constitution completely of such exemptions, or if you are going to leave them in, as a compromise, I would suggest that you also include the industrial exemptions and that you do so without the effort of . . . to give some local governing veto power on the granting of exemptions." I tell you and I say to you in all sincerity, the governor was misinformed when he said that. He was absolutely misinformed, because if he had read the article like it reads, it doesn't say anything about local government vetoing exemptions in the parish. We had considered that in this convention, but we compromised it, and this is what we said. I think we've got a good article, here.

Let me read you that. Give me your attention one minute, please. "Notwithstanding any provision of this section to the contrary the legislature may authorize the State Board of Commerce and Industry, under such conditions and terms and with such approval as the legislature may specify to provide for the exemptions from property taxation of any new manufacturing establishment or any addition or additions to any manufacturing establishment already within the state." Where is local government going to veto it? We talked about it at length, but we defeated it. So, please get that out of your mind. Mr. Graham has said it, Mr. Gravel said it; they all are saying local government. It has nothing to do with this. It boils down to a question. . . and it's not what the governor said, again. Almost every amendment they've come up here with, "This is what the governor wants." I believe every man and woman sitting here wants to do something that he said he does so he can support it, and I want to do the same thing. But, I don't think we're doing what he wants us to do. I just don't believe . . . somebody is misinformed. I don't think it's this convention; I think it's the people who are bringing these amendments to you. Indicative of that is the fact that they've got to keep . . . go changing them everytime we question it. For God's sakes, it's a good article. The committee article is a good proposal. I would beg you, please don't change it. What they did is went back to the original 1921 Constitution, and all they did is define a manufacturing establishment. It doesn't upgrade the constitution to its modern concept. If you don't trust the legislature, then vote against it. Maybe that's what it's all about. But, it has nothing at all to do with local government. They are not involved in this. It's your legislature, elected by the people. I just could not be strong enough and tell you that you've got one good article here, and I wish that one of the floor leaders would go read this to the governor. I think he would agree with it. If he thinks local government has the veto, then I'm telling you right here and now, it does not. But, evidently he does, because he said it does. What are we trying to do? We just did the same thing, we took the legislature out of the exemptions. . . out of the bond and redemption fund--excuse me--out of the bond thing completely. We took them out completely. Now, we're taking them out the exemptions completely. I don't believe this is what you want to do, but we are moving rather rapidly. There's been a lot of little conditions getting together here, for one and against one. I think it's wrong. I think what we're doing here, we're undoing some hell of a good work that we've done over the past year.

I don't believe you want to do that, so please give the . . . some of the people who are telling you exactly what you're doing up here, give them your attention and just try to vote on what we have voted on without radically changing those principles of what we have. . .

Further Discussion

MR. ROEMER

Mr. Chairman and fellow delegates, I have just a few brief personal remarks in opposition to this amendment. You know, Senator Nunez spoke loud and clear and, I think, very well to the point when he talked about the hours and literally days that we spent in our Committee of Revenue, Finance and Taxation and come up with what we thought was a good article. The same debate, at least not hour for hour, but many hours of it were held on this very floor when we talked about the industrial exemption. I think it's a step forward; I think it's one of the best things we have in the Revenue, Finance and Taxation section, that we could take a major exemption like this out of the constitution, could unfreeze it and turn it over to the legislature that represents all the people in the state to define it, to administrate it, to overview the operation of a particular type of exemption that has been badly,

badly, sadly misused in the past. Now, I think we can all point to the examples of industry coming to this state because of the industrial exemption. We want that; we need that. But, I can point out some personal cases of misuse and abuse in my area, and I'm sure you can in yours, where it was just left up to the governor, left up to the Commerce and Industry Board; and we, the people, had no say-so in our local area as to what industry moved in and the tax burden that they carried. Now, the hope, I think, for the industrial tax exemption is that the legislature can work it out where it's both fair to the industry that moves in and fair to the people that have to bear some of the burden in the local areas. If we adopt an amendment like this, we have, in fact, turned over this very important exemption lock, stock and barrel and constitutionally frozen to one man--the governor. Sure, he's got a Board of Commerce and Industry, all of whom he appoints, the rationale of whom he controls. He flies all around the country and literally around the world with this group of men trying to find industry for Louisiana. Fine; I praise him for that. But, this same closely knit group should not have the right to determine who gets the exemption and for how much and when the conditions prevail. I think that we made a step forward, one of the clear steps forward in this article, the way we wrote it, when we left it up to the legislature to determine the mechanics and the particulars of the industrial tax exemption.

Now, some people questioned me. They said, "Well, what have we done for industry in this new constitution?" Well, what have we done for them? We've probably given them more good government than they ever can stomach. But, I think it's about time, when the constitution was written for all the people--the people that work for the industry, the people that get paid by the industry, but the people that are also abused by the industry. That's what I think this constitution has done for industry is to help the people that work for industry, and that's going to directly help the industry itself. So, I urge you, let's defeat this amendment. The governor, I think, was sadly misinformed when he came up and told you that we had written a lot of particulars in the constitution about local option. You heard my question to Mr. Graham when I asked him quite clearly, "Did the original proposal have local option in it?" He said, "No, that's not the way it passed." That's right; that's not the way it passed. The governor was misinformed when he said that's the way it was passed. I urge you, let's defeat this amendment. Let's stick with what we have and let the industrial tax exemption be motivated by, molded by the body that represents us all--the legislature.

Questions

MR. JENKINS

Mr. Roemer, now isn't it true that we took off the limitation on corporate income taxes, but we kept it on personal income taxes? We protected the homeowner constitutionally, and we shifted some of the property taxes to business and industry?

MR. ROEMER

Well, it depends on the area, Mr. Jenkins. It would depend on what rate they are assessed now.

MR. JENKINS

Isn't it true that this is probably the only thing that the State of Louisiana offers as an inducement to industry, is the industrial tax exemption? Is that not true?

MR. ROEMER

Mr. Jenkins, that is a ridiculous argument. What we offer to industry in Louisiana are our streams, our lakes, our natural resource--the most important of which is the people that live here.

[Previous Question ordered.]

Closing

MR. GRAHAM

Mr. Chairman, fellow delegates, I will be very, very brief. There are a couple of statements that I would like to correct. To begin with, the governor did not think that the local option provision was in the proposal. He knew that it was not in the proposal. He did, however, know that at one time when the provision for industrial tax exemption was in the proposal as a constitutional provision--not a legislative authorization--that it did have the local option provision in it. Number two, this purely and simply does one thing: it provides for the industrial tax exemption in the same manner that we have provided for every other exemption in this proposal. Otherwise, we are providing for exemptions for a multitude of classifications. But, on the industrial exemption, we're saying that the legislature may provide for it.

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I would sincerely appreciate your adoption of the amendment. Thank you.

[Record vote ordered. Amendment adopted: 71-39. Motion to reconsider tabled.]

Motion

MR. NUNEZ

When Mr. Graham made his motion, it was for the specific reason of introducing an amendment. I'd like to suspend the rules again, further, to introduce an amendment.

MR. HENRY

Well, Senator Nunez, the previous question on the section has been ordered.

I guess. . .well, your motion for a suspension of the rules. . . it would be in order. The gentleman. . .

MR. NUNEZ

Mr. Henry, you indicated that we could do the same thing after or try. I hope that you would. . .

MR. HENRY

I just got through saying, Senator, that you're in order. Mr. Graham had moved the previous question on the adoption of the section, and there was no objection.

[Motion to suspend the rules to allow additional amendments rejected: 57-53.]

Point of Information

MR. PEREZ

Did you say the previous question has been ordered, because I would have liked to had the opportunity to speak against the section?

MR. HENRY

Well, there was no objection at the time, Mr. Perez, and I did look around.

[Section passed: 78-31. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 100-11. Motion to reconsider pending.]

Motion

MR. NUNEZ

Mr. Chairman, I move to suspend the rules to reopen the section for the specific reason of one amendment.

MR. HENRY

Is that to Section 4, Senator?

MR. NUNEZ

Yea, sir.

MR. HENRY

The gentleman moves for a suspension of the rules for the purpose of calling from the table the motion to reconsider the vote by which Section 4 was adopted.

MR. NUNEZ

Mr. Chairman, I would like to just tell the convention what the amendment is so they will know and not....

MR. HENRY

All right. Read the amendment, Mr. Clerk.

Amendment

MR. POYNTER

Amendment would read as follows:

On page 5, line 13, in Floor Amendment No. 1 proposed by Delegate Henry and others and adopted by the convention just now, below the last line of the text of the amendment add the following new paragraph:

"The State Board of Commerce and Industry or its successor, shall exercise the authority herein granted in such manner and under

such terms and conditions not inconsistent herewith as the legislature shall provide by law."

MR. HENRY

All right. The gentlemen...Senator Nunez, what you do is insist on the motion for reconsideration at this time since it was left pending.

MR. NUNEZ

Yes, sir, Mr. Chairman. I just wanted the convention to know that the amendment was specifically for one reason and the reason was to be "shall provide by law."

Questions

MR. DUVAL

Senator Nunez, was your amendment to take out all the exemptions?

Motion

MR. PEREZ

I move for a further suspension of the rules to allow Mr. Nunez ten minutes to explain his proposed amendment just as we have done before to others for this.

MR. HENRY

The gentleman moves for a suspension of the rules for the purpose of allowing the gentleman ten minutes to explain his amendment.

Point of Information

MR. MUNSON

Well, he said for a further suspension; we haven't had the first suspension yet.

MR. HENRY

Well, it would be for a suspension of the rules because we are not talking about a suspension, we are talking about right now a motion to reconsider the vote by which the proposal was adopted but it would require a suspension of the rules to allow the gentleman ten minutes to explain his amendment.

Point of Information

MR. AVANT

I just want to understand one thing. As I understand the amendment, it doesn't delete anything, it just adds some language?

MR. POYNTER

I believe that's right, Mr. Avant.

Point of Information

MR. NUNEZ

Mr. Chairman, would you please explain what the suspension is for? Is it an explanation of the amendment?

MR. HENRY

After you get through explaining your amendment, then we will take a vote, Senator, on reconsidering the adoption of the committee proposal, that takes a majority of those present and voting. Now, if you are successful there, then we will make the motion to suspend the rules for the purpose of calling from the table the motion to reconsider the vote by which this section was adopted, which takes you sixty-seven votes there. So, we've got to get through the reconsideration first, which is a lesser number.

Explanation

MR. NUNEZ

Thank you, Mr. Chairman. Ladies and gentlemen, I certainly hate to be one that takes the valuable time at this convention at such a late hour. But, I consider it important enough that in the rapid rate that we are moving if we would just slow down maybe for a few minutes, we would get maybe more meaningful legislation or more meaningful constitution out of what we are doing. I explained to you what the original committee proposal did and it just left it to the legislature. I also explained to you what the proposal did that Mr. Graham and Gravel and others had offered. At this time, all I'm doing is adding, not deleting and not going into the exemptions that we have already granted. None of those terrible things, none of those things that I've been accused of and put this language in there, which I think is absolutely necessary, if you want your legislative body to

have anything at all to do with exemptions granted to industry in this state over the next hundreds of years. "The State Board of Commerce and Industry or its successors, shall exercise the authority granted herein in such manner and under such terms and conditions not inconsistent herewith as the legislature shall provide for law"; I think it's a good amendment. I think it's one we should adopt, ladies and gentlemen. I think it's one we probably should have had in there. I think it's one had the authors of the other one had a little more time and would have thought it out a little clearer that they very possibly would have put this in there. I don't see where it's that harmful of an amendment but it does give the legislature some say-so as to what the exemptions will be; it does correct some of the inequities that we have been hearing about on this floor. Let me assure you there are a lot of them. There are a lot of inequities. I think Mr. E. J. Landry admitted very apropos, I'm from a very highly industrialized area myself where industry is granted that ten year exemption and you have absolutely no say-so about it. We are not trying to take it away from them, by the way, we are just trying to put some guidelines basically that the people can live with. I think it's a good amendment. I think we should adopt the amendment. I would ask that you give me the opportunity. Again, it's a long procedure and I tried to get it twice but was denied that right, but ask that you give me the opportunity to insert this amendment into what we have already adopted.

Questions

MR. ROY
Mr. Nunez, if I understand your amendment, does it apply to all the exemptions that we have given to churches and all or just to industrial exemptions that the commerce and industry would give?

MR. NUNEZ
Just to commerce and industry.

MR. ROY
Then, what you have done, we've passed something that's redundant with yours because that would make it so that industry would have to parade by the legislature maybe every year to get certain authorization that we are trying to put in the constitution and put them on the same footing as everybody else; wouldn't it?

MR. NUNEZ
No, sir, Mr. Roy, and the way you say parade by the legislature, if they did have to parade by the legislature, I think the state would be better off than having them parade by appointed State Board of Commerce and Industry.

MR. ROY
Well, let me see if I understand the chronology of all of this. Presently, in the constitution, commerce and industries handles industrial exemptions; does it not, in the present constitution of the state, 1921?

MR. NUNEZ
This convention has just adopted essentially what the present constitution says.

MR. ROY
But, with respect to....

MR. NUNEZ
...and, it always worked, by the way.

MR. ROY
I understand. With respect to only one area of what we have done, that is, we have granted exemptions for churches and everything else that are constitutionalized that may not be dealt with by the legislature, you are now going to turn around and say that but with respect to industry, commerce and industry, we, the legislature, are going to tell you what to do whenever we want to; isn't that true?

MR. NUNEZ
Mr. Roy, do you have the figures on what the exemptions for churches, and the very few nursing homes, and the few charitable exemptions we have granted? Do you know what they amount to?

MR. ROY
I don't know, but I know that....

MR. NUNEZ
Let me answer your question; they amount to very little. But, do you know the granting of the exemptions to the billions

and billions of dollar worth of industry in this state amounts to, it's billions of dollars, exactly what it is.

MR. ROY
I understand that the portfolio of the Roman Catholic Church is in the billions of dollars too and we grant them exemptions and so many other churches, also.

MR. WOMACK
Senator Nunez, the question I have and I wondered if it ever dawned on you that the industrial people, the industrial jobs that's spending the money coming in that maybe they have a right to say, "We want just a little protection out of Louisiana in the constitution before we are ready to spend our money in Louisiana." Had you considered that in this amendment?

MR. NUNEZ
Mr. Womack, I've considered and I'm sure over the past twenty-four or twenty-five years you have been around here you must have considered it because they seem to be happy.

[Motion to reconsider Proposal No. 26 adopted: 54-50. Motion to suspend the rules to reconsider Section 4 for the limited purpose of considering the Nunez amendment rejected: 54-44. Previous Question ordered on the Proposal. Proposal passed: 92-11. Motion to reconsider pending. Proposal recommitted to the Committee on Style and Drafting.]

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING

Committee Proposal No. 4

Vice Chairman Casey in the Chair

Amendments Nos. 46 and 47

MR. POYNTER
Gentlemen, at this time there were two pending amendments, all the others have been adopted or otherwise disposed of. The gentleman at this time moves to withdraw Amendments Nos. 46 and 47 which had dealt with the location of the attorney general.

[Amendments withdrawn without objection. Proposal returned to the Committee on Style and Drafting under the rules. Motion to revert to Introduction of Proposals adopted without objection.]

INTRODUCTION OF PROPOSALS [II Journal 1293-1294]

[Motion to suspend the rules to permit introduction of a proposal adopted without objection.]

MR. POYNTER
Now, at this time, Mrs. Zervigon is going to ask for a suspension of the rules for the purpose of introducing a committee proposal. This committee proposal is a proposal from the committee by Mrs. Zervigon on behalf of Legislative Liaison and Transitional Measures and sets forth the proposed transitional measures provision for your consideration. It would be my appreciation under the rules, since this is not an alternative, that Mrs. Zervigon will need a suspension to introduce this measure on transitional measures since the deadline has now passed. The lady would ask for a suspension of the rules for the purpose of introducing this delegate proposal on behalf of the Committee concerning Transitional Measures.

Reading of the Proposal

MR. POYNTER
A proposal then sent up by Mrs. Zervigon and others makes provisions relating to transitional provisions. Becomes Committee Proposal No. 38. Lies over under the normal rules of the convention.

Personal Privilege

MR. RAYBURN

Mr. Acting Chairman and fellow delegates, I tried to get recognized about five minutes before now because I just wanted to state that Mr. Chehardy and I was behind the rail talking to Mr. Stelmel, who is back there now, trying to get our business straight with him. We got called out of order when we were out of this Chamber. But, I reagent the fact that I could not be recognized by the presiding officer or even by the temporary presiding officer and if I'm wrong, I'm wrong. But, I came to this convention by a choice of my people and as long as I'm here I'm going to try to do what I think is right. You can not recognize me or pass me by, and I don't care. I'll take my chances with the people of this state in the final analysis. You denied me, you denied me, he denied me, and just keep on denying me, but old Rayburn will be there.

Report of the Secretary
[II Journal 1294-1308]

[Motion to suspend the rules to advance to Proposals on Third Reading and Final Passage adopted without objection. Motion to call Delegate Proposal No. 67 from the calendar adopted without objection. Proposal withdrawn. Motion to call Delegate Proposal No. 71 from the calendar adopted without objection. Proposal withdrawn. Motion to call Delegate

Proposal No. 72 from the calendar adopted without objection. Proposal withdrawn.]

Announcements
[II Journal 1309]

Point of Information

MR. O'NEILL

Mr. Chairman, a point of information. Are these alternatives coming up in any special order?

MR. CASEY

Maybe the Clerk could best answer that in what order they would come up, Mr. O'Neill.

MR. POYNTER

Well, it would be my opinion that the convention would be sort of free to do what it wants to; presumably, you would go in the order of introduced unless someone wanted to make a motion that you otherwise handle them, Mr. O'Neill. I don't know any reason why on tomorrow a motion couldn't lie to do otherwise.

[Adjournment to 9:00 o'clock a.m.,
Wednesday, January 16, 1974.]

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Wednesday, January 16, 1974

ROLL CALL

[91 delegates present and a quorum.]

PRAYER

MRS. BRIEN

First, I would like to relate a few thoughts to you for 1974.
You cannot bring about prosperity by discouraging thrift.
You cannot strengthen the weak by weakening the strong.
You cannot help small men by tearing down big men.
You cannot help the poor by destroying the rich.
You cannot lift the wage earner by pulling down the wage payer.
You cannot keep out of trouble by spending more than your

income.

You cannot further the brotherhood of man by inciting class hatred.

You cannot establish sound security on borrowed money.

You cannot build character and courage by taking away a man's initiative and independence.

You cannot help men permanently by doing for them what they could and should do for themselves.

Now, let us pray: Dear God, our Heavenly Father, let the light of Thy divine wisdom direct the completion of this convention and shine forth in all our proceedings and laws framed for our rule and government. Protect all our state officials. Give the people of this state security to accept what not can be changed, courage to accept what they think should be changed, and wisdom to distinguish the one from the other. Protect our loved ones at home. Give all the people the wisdom to understand and let love, through honesty and integrity, flourish throughout this state. We ask You all this in Thy most beloved Son, Jesus Christ. Amen.

PLEDGE OF ALLEGIANCE

INTRODUCTION OF RESOLUTIONS

[II Journal 1310]

REPORTS OF COMMITTEES

[II Journal 1310-1311]

[Motion to suspend the rules to take up the proposals contained in the report of the Committee on Style and Drafting at this time adopted without objection.]

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING

Delegate Proposal No. 43

Amendment No. 1

MR. TATE

All right. While we are waiting for that, I would first bring up the stylistic changes recommended to Delegate Proposal No. 43, by Mr. Jackson, about juvenile procedures. It is a two page thing. Your green copy is blue, as you notice, and it reads from top to bottom instead of from side to side like the other ones. So, you do presto and. . .that's a joke. Thanks,Boysie.

The only amendment suggested is Amendment No. 1. It's shown on the blue copy, which is your green copy, on line 19 to delete "a" and to delete the word "vote," in line with the usual way we say "enacted by a" . . ."a law enacted by two-thirds of the elected members."

Mr. Chairman, if there is no discussion, I move for the adoption of that amendment.

[Amendment No. 1 adopted without objection.]

Committee Proposal No. 15

Amendment No. 1

MR. TATE

Mr. Chairman, the CP 15 amendments, the Henry-Pugh amendments, is what I'd like to call up next.

Those are those amendments that are parallel. The parallel columns are sideways. What passed the floor on this side, and what was done on this side. Now, unfortunately, we didn't notice it was done. The amendment on the next page is going to show it. There is a hyphen added between "deep" and "water" on the third line from the bottom to make it: "deep-water port commissions," like we talk about in the rest of the constitution. There's a hyphen added between "deep" and "water" on the next to the last line to do the same. There is a comma added after "harbor" in line with the usage in the rest of the constitution. Those are the three amendments that are shown by repeating the last three lines.

Mr. Chairman, subject to any discussion, I move for the adoption of that amendment.

[Amendment No. 1 adopted without objection.]

Committee Proposal No. 4

Amendment No. 48

MR. TATE

All right. Mr. Chairman, has everybody got their information copies on the Executive Proposal?

Mr. Chairman, with regard to Committee Proposal No. 15, Amendment No. 1 . . .Committee Proposal No. 4--I'm sorry--the Executive Branch. Amendment No. 1 simply adds to. . .Amendment No. 48 simply adds to Amendment No. 1, the attorney general in the Executive Department, in line with your decision yesterday that he is in the Executive Branch.

Subject to any discussion, Mr. Chairman, I move for the adoption of Amendment No. 48.

Question

MR. TOBIAS

Judge Tate, I have two copies of amendments to Section 1 of Committee Proposal No. 4. One does not have the attorney general and one does. Which is the correct one, because I have a xeroxed copy of something that they just passed out?

MR. TATE

Amendment No. 1 does not have the attorney general. That was the stylized as passed the floor. Amendment No. 48, which is that piece of paper behind these parallel columns on attorney general, Amendment No. 48 is to insert on Amendment No. 1, line 5 of that amendment, before the word. . .after the word and punctuation "state," and before the word "treasurer" the word "attorney general." It's Amendment No. 48 that is before you at the moment.

Do you all understand it? Amendment No. 1 you adopted the other day. We just reproduced it right now for your ready convenience and understanding of what Amendment No. 48 is all about.

[Amendment No. 48 adopted without objection.]

Amendment No. 49

MR. TATE

Amendment No. 49 was a stylistic amendment that was lost. It is to Amendment No. 5. Amendment No. 49 is Committee Proposal. . . Committee Amendment No. 5. You see that on your. . .the other sheet of white paper. We adopted that the other day. On line 10, after the word "each"--you see that, "of each official shall begin at noon--and before the word "official" insert the word "such," so that it says: "The term of each such official shall begin at noon on the second Monday of March." This is regarded as a good "such," at least the Executive Branch recommended it to us as a good "such."

Subject to any discussion, Mr. Chairman. . .

[Amendment No. 49 adopted without objection.]

Amendment No. 50

MR. TATE

Mr. Chairman, the next. . .Amendment No. 50 is to the amendment that passed yesterday. The instructions are a little wrong on it. It was to. . .the amendment that passed yesterday about the attorney general had already deleted Committee Amendment No. 21 and substituted the language which is shown on your left hand side of this green page--the blue page, of course--here. On the right hand side is our stylizing. Now, normally we would have

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put that in paragraphs. However, this is the only place in the Executive Branch Article where there would be subparagraphs. So, we departed from the usual rule in this instance, but we did consolidate into one paragraph what is shown as (B) without indentation. We made it one paragraph, but an unlettered subparagraph. I do not believe any other changes were made except a "such" was left out on the next to the last line. It says, "The attorney general shall exercise other powers and perform other duties." I believe those are the only changes made.

Question

MR. ABRAHAM

Judge Tate, I would simply like to point out for the record that in this particular amendment where the words, "The attorney general shall be elected for a term of four years at the state general election. The assistant attorney general shall be appointed by the attorney general to serve at his pleasure," that those . . . that particular language does not need to be in under the powers and duties because it is covered elsewhere in the Executive Article under different sections. I would recommend that the Committee on Style and Drafting correct this.

MR. TATE

Mr. Abraham, I appreciate your calling our attention to it as you did before the convention. On the final styling, which we are going to start on at noon today, the rearrangement and try to catch duplications like that and come back to the floor with stylistic amendments to eliminate duplication. We will try to do our best to do that, time permitting. Thank you very much, Mr. Abraham. We do appreciate your help in all the committee deliberations over the last months.

Subject to any further discussion, Mr. Chairman, I move the adoption of Amendment No. 50.

[Amendment No. 50 adopted without objection.]

Personal Privilege

MR. TATE

Mr. Chairman and fellow delegates, Style and Drafting is moving into the concluding stages of whatever assistance it may be to the convention. We certainly appreciate the collaboration of all the delegates in the work that we have tried to do. Now, the next stage is . . . the time is drawing close where we have to get on the address a final, complete copy numbered in consecutive order, eliminating as far as we can any duplication. We were going to meet . . . the Style and Drafting is going to meet at twelve noon today. If anyone has any suggestions—like Mr. Abraham just gave us an excellent suggestion about duplication that we may somehow have missed, and about the rearrangement of the article—just talk to some member of Style and Drafting. If the members of Style and Drafting will . . . you know who they are, I guess.

Thank you very much, Mr. Chairman.

PROPOSALS ON SECOND READING AND REFERRAL *[II Journal 1312]*

[Motion to suspend the rules to engross Committee Proposal No. 38 and pass it to its third reading adopted without objection.]

PROPOSALS ON THIRD READING AND FINAL PASSAGE

[Motion to withdraw Delegate Proposal No. 99 adopted without objection. Motion to allow five minutes of explanation on each alternative proposal adopted without objection.]

Point of information

MR. THOMPSON

Mr. Chairman, I know we . . . when we opened it up, we allowed six alternates. Can this be reduced to possibly one?

MR. HENRY

We have made no provision for any number of alternates under the rules, Mr. Thompson.

MR. THOMPSON

Well, what I'm asking, then, is---we're going to hear five minutes from each one of them, which I'm perfectly in agreement

with. Then, after this, would it be in order for somebody to make a motion that maybe we limit it to one, or two, or three, or would this be out of order?

MR. HENRY

It would take a suspension of the rules to accomplish that, Mr. Thompson, because we have adopted the rule that alternative provisions would be introduced and would be considered if they were introduced by today.

MR. THOMPSON

In other words, when we vote for alternates, then, we're going to vote for six or none, huh?

MR. HENRY

No, sir. You're going to take one of them at a time. You'll vote . . . we'll probably start with . . . as they are introduced, Alternate No. 77, consider that. You'll vote for or against that. Then, we'll take 98, etc.

Point of Information

MR. STOVALL

Mr. Chairman, what's the objection to taking them in numerical order and save that thirty minutes?

MR. HENRY

We haven't even . . . well, because, Reverend Stovall, somebody is going to be last on this thing. I just think in the interest of fair play that we ought to allow everybody an even break out of the chute at least to explain--five minutes--what they have.

Point of Information

MR. LANDRUM

Can these proposals be amended?

MR. HENRY

Yes. If this body decides to, there's nothing to prevent the proposal from being amended. There was--that's right--a specific provision in the rules.

We'll hear from Delegate Asseff for five minutes on his proposal.

Delegate Proposal No. 97

Explanation

MR. ASSEFF

Mr. Chairman, delegates, I assume you want me to explain what the proposal will do. I urge the delegates to listen very carefully not only to what I say, but to what the other delegates say with respect to their alternates, for in my personal opinion, only alternates can save this constitution. The decision is yours as to which alternates will appear on the ballot.

My alternate, which is Delegate Proposal No. 97, will simply do this: as you will recall, we adopted Section 22 of Article IV which provides that after a certain period of time the legislature, by a two-thirds vote of the elected members of each house, may make four offices appointive rather than elective. Those four offices are the commissioner of insurance, commissioner of agriculture, custodian of voting machines, the superintendent of education. The purpose of this proposal is to give the people a choice of approving that or defeating it. If they defeat it, then it will mean that the offices will remain elective and the legislature may not change them. That is the sole purpose, and I feel that regardless of your personal opinion that it is a crucial issue insofar as the people of Louisiana are concerned, or so the polls indicate.

Are there any questions, Mr. Chairman?

MR. HENRY

Are there any questions of the gentleman? Any questions? Does that complete your remarks, Dr. Asseff?

MR. ASSEFF

Yes, sir, if that's all you wanted me to do. I will argue it when my proposal comes up, Mr. Chairman.

Delegate Proposal No. 98

Explanation

MR. JUNEAU

Mr. Chairman and fellow delegates, the delegate proposal which you have before you regarding to education--that is, Delegate

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Proposal No. 98--can be simply put in these terms: most of the bulk of the language which is in Committee Report No. 7 has not been changed except for these three modifications. Number one, we have taken the Board of Regents and have changed the composition of the Board of Regents from a fifteen appointed board to an eight - seven board--eight elected, seven appointed. We have removed from Committee Proposal No. 7 the three management boards, thereby leaving it up to the legislature if, in their wisdom, they deem it necessary to have a management board, to establish same. The third change which has been made is that we have put . . . have taken vocational-technical training and have placed that under the Board for Lower and Secondary Education and have removed that from the jurisdiction of the Board of Regents. Those are the three changes that are made in the proposal. That's what will be before you in Delegate Proposal No. 98.

So, basically what you would have would be two boards for education. Number one, one for lower and secondary and vocational training, and number two, a Board of Regents for higher education. That, very simply, is what the delegate proposal will be.

Delegate Proposal No. 100

Explanation

MR. McDANIEL

Mr. Chairman, fellow delegates, inasmuch as we've set the procedure for alternatives, my proposal is a rather simple one, probably one of the most simple. But, I think it is an issue that needs consideration when we consider alternatives. My proposal would simply submit back to the voters of this state the basic question that after the '76 election and this constitution is ratified, the basic decision of whether you want future governors to serve one elective term or successive elective terms. Why this question? This is essentially the one that was decided several years ago. I think it's important that this one be considered because of the wide interest, the knowledge, and the opinion that people have in this state about the top elective office. I think this is--by way of explanation--I think whether you're a pulpwood cutter in Union Parish, a black person, a white person, a businessman in the hustle and bustle of urban New Orleans, or even a soybean farmer in the Mississippi Delta, you have an opinion. All of us are interested in government and the governor. As the chief elective officer of this state, he sets the political climate, the atmosphere, that determines economic growth and the livelihood of all of us. This is a fair decision; it's simple; it's easy for people to understand; it has broad interests. For this reason I submit it for consideration.

Delegate Proposal No. 101

Explanation

MR. STAGG

Mr. Chairman and fellow delegates, as some of you already know from the argument on the adoption of the rule on the alternative, I am firmly convinced that some alternatives are going to be necessary to assure passage of our work on the adoption election. Most of the problem areas you've heard about have been concerned with education and with taxes. The purpose of Delegate Proposal No. 101 is to give the convention one last clear chance to make the job of campaigning for adoption of this document a whole lot easier, particularly so in the larger urban areas whose taxing methods are different from those in most of the rural parishes of the state. In the document that we passed up to this point, after fixing the fair market value of the property the assessor is directed to assess homes at ten percent of that amount and subject that to a three thousand dollar homestead exemption. In effect that that does as you have been told so often is to say to everyone who owns a thirty thousand dollar house, "You are out of the ad valorem tax paying business, and your parish school board and your parish police jury simply have to get their money from somewhere else." Where else is there? Many of the people who own those houses also own a business. Most of the people who own those houses work for some other business, and there's where the bulk of the money is supposed to come from--from business and from industry. Insofar as Mr. Chehardy is concerned and the other assessors, all that is reflected is a simple difference of philosophy. There are those who believe that homeowners do have a stake in this government of ours, and having a stake in the government, they ought to share in some of its cost. Mr. Chehardy believes the opposite to be true. I'm worried about the future of this state insofar as its children

and their jobs are concerned, so I have formed an alternative which in effect states that all property in this state after the assessor shall have fixed his market value, shall be assessed at fifteen percent of value. But, it is a local option bill because it will allow the parish governing authority to go down from fifteen percent to ten percent, or to go up from fifteen percent to as high as twenty-five percent with legislative approval. But, there is a hooker to it that allows it to be constitutional. If you change from fifteen percent down, your homestead exemption will go down by the same percentage. If you change from fifteen percent up, your homestead exemption in that parish will go up. I have added one thing that the convention failed to add, and that's in Paragraph (H), which has a little bit of a push on the assessor, that if the assessor does not properly value these properties and place these ratios on them, then any revenue sharing fund for that parish will be held in jeopardy until he does. That is the curative thing that many of us felt was necessary to make the assessor do his job, and those are the effects of Delegate Proposal 101.

Delegate Proposal No. 102

Explanation

MR. VICK

Mr. Chairman and fellow delegates, first I want to clarify that DP 99 was withdrawn because DP 99 directed itself to the Judiciary Article where the attorney general was until yesterday afternoon, and DP 102 is the updated version to address itself to the Executive Article where the attorney general is now. This convention for good or for ill has stripped the attorney general and his assistants of the power to institute and prosecute or to intervene in any criminal proceedings as they deem necessary for the assertion or protection of the rights and interests of this state. Further, they have stripped the attorney general and his assistants of the power to exercise supervision over the several district attorneys throughout this state. Proposal 102 will submit to the people the very simple question of whether the attorney general shall retain the powers he's had since 1913 intact, verbatim, without one word changed, or whether this proposal as adopted by this convention yesterday for authorizing the attorney general to institute, prosecute, and intervene only in civil suits to protect the interests of the state, shall prevail. Now, I urged you; I implored you yesterday to read Dean Sullivan's letter, and I want to tell you briefly how that letter came to pass. There were numerous discussions--some of which I was a party to--between the attorney general and Mr. Ed Ware, the President of the District Attorneys' Association. There was not a meeting of the minds as to what the words meant in Article VII, Section 56 of the Constitution of 1921, primarily supervision, supersession, etc. The attorney general suggested to Mr. Ware that this matter be submitted to an impartial third party. I believe there was agreement to submit it to the Dean of the LSU Law School, Dean Hebert. It was then in turn given to Dean Sullivan, an expert in the field of criminal law, to give the attorney general and Mr. Ware his analysis of the Constitution of 1921, Article VII, Section 56, at least, as compared with the current proposal before the convention at that time, which was the article passed, section passed by the Judiciary. Now, yesterday there was some small change, and I'm authorized to say that Dean Sullivan's letter is not changed one iota by the changes that were made by this body yesterday. Dean Sullivan points out--and I'm going to go over this in some detail, and be prepared to answer questions when the time comes--Dean Sullivan points out that the section that was passed on the attorney general clearly reduces the power of the attorney general in criminal cases, removes entirely the authority to initiate criminal prosecution, and reduces the possible participation of the attorney general in the prosecution of criminal cases to that of advising and assisting district attorneys, as you recall yesterday, upon their written request. He states unequivocally that this represents a very significant change in the basic law of this state and the policy which had heretofore been a part of the basic laws of this state, verbatim since 1913. There's one crucial point that Dean Sullivan makes on page 4--and I have additional copies of that letter for anyone that has mislaid his or didn't get one--the crucial point on page 4, which I again urge you to read. It's his concluding paragraph. He suggests that the section as presently written would produce such difficulty in protractive litigation as to make the attorney general's power so ineffective in a practical sense as you would have perhaps a defense raised by any accused that he was denied the right to a speedy trial. I want you to envision, if you can, the two law enforcement officials squabbling in open court about who could conceivably prosecute someone and the

defendant, sitting back and taking advantage of this extraordinary proceeding before him, because I would assume the accused would have to be a party or at least an observer. Then through protracted appeals, after the district court had ruled, to the Supreme Court, this could take an unknown amount of time, and when the matter was finally remanded by the Supreme Court, the accused could raise his denial of a speedy trial--and perhaps have it granted--or undue publicity, as well. Ladies and gentlemen, when I come back, I'm going to go over that letter and the points Dean Sullivan has made, as well as some observation the attorney general has. For those of you who do not have the letter, I will have the pages redistribute it. The issue in conclusion is very simple, and I don't know how many times it's been said from this podium that it's been practically said to exhaustion. The attorney general's request to this convention is: Let the people decide whether they want him and his successor in office--and I think we should remember and keep in mind it's the office of the attorney general that's involved and not the incumbent. The question before the convention is to let the people decide to authorize the attorney general to institute, prosecute, and intervene in both civil and criminal suits to protect the interests of the state, or for authorizing him only to institute, prosecute, or intervene in civil suits.

Thank you.

Delegate Proposal No. 103

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, I'll make a brief explanation of the Proposal No. 103. In the legislative article which has been adopted so far, this convention has provided that the legislature will meet in annual sessions of not more than sixty legislative days within an eighty-five day calendar period. The only limitation on that is that in those sessions which occur in the odd-numbered years no provision increasing taxes would be in order. As you know, under the present constitution the legislature meets biannually in a sixty-day, sixty calendar day, session; then in the odd-numbered years meets for thirty days in a so-called limited or fiscal session. The alternate, which I have suggested along with many other people who have signed it, is simply to provide that the legislature will meet annually for a period of not to exceed sixty calendar days. That is the only change that the alternate would make in the proposal as it is so far adopted. Now, why did I do this? I can only tell you what I believe sincerely and honestly and that is this: I don't know anybody in the general population of this state who's been agitating to increase the length of time within which the legislature may meet, to extend its sessions. I firmly believe this, and the reason for my offering and getting a number of people to sign this alternative is simply this: I have labored down here for a year, as you have. I sincerely and honestly do not want to have been engaged in an exercise in futility. I can only tell you what I believe--what I sincerely believe--not what I know, but what I believe. I believe that if this alternative is submitted to the people that there will be a substantial number of people who will vote for this constitution who will not otherwise vote for it. If they are not given that choice, I sincerely and honestly believe that there will be a substantial effort to defeat this constitution. I for one do not want to have labored in vain.

Reading of the Proposal

MR. HARDIN

Delegate Proposal No. 97, introduced by Delegates Asseff and at least thirty-nine other coauthors.

A proposal to provide with respect to an alternative provision relative to the executive branch.

Be it adopted by the Constitutional Convention of Louisiana of 1973.

Explanation

MR. ASSEFF

Mr. Chairman, delegates, the issue before this convention is not whether you prefer election or appointment of your public officials, but whether or not this is a crucial issue to the people and, by placing it as an alternate, will strengthen the passage of the constitution. That is the sole issue before you. As I indicated to you, the convention adopted Section 22 to the Executive Article giving the legislature the authority by a two-thirds vote of the elected membership of each House to make the commissioner of insurance, the commissioner of agriculture,

the commissioner of elections, and the superintendent of education, appointive offices. The purpose of this alternate is to give to the people the choice of approving this section or defeating it. If defeated, these offices couldn't be made appointive by the legislature and would remain elective offices. Do remember this: The purpose of alternates is to gain friends by giving the people a choice on crucial issues. If done properly, it can save the constitution as it has done in other states. I urge you to study that; this is my specialty, not yours. What you put on alternates may save or defeat the constitution. I urge you to consider each alternate, not only this one, in the light not only of what is best for Louisiana but also whether it is a crucial issue and will strengthen the chances of adoption of the constitution. It is my personal opinion that the election of public officials is more important to the people than any other alternate that we will consider. The experts do not agree as to whether appointment or election of public officials is better. Most agree that such matters must be considered in the light of the political history of a state, and what is good in one state may not be in another. The principal arguments for it in Louisiana are that the people want it; every poll has shown that, and the governor is in fact, if not in law, one of the most powerful in the United States. It is argued--and I urge you to listen to this--that it will be

impossible to obtain the two-thirds vote required to make these offices appointed. Who's kidding who? I suggest you tell that to your people and see what they'll ask you. If that is so, why include it; just leave it out. It is included because it is known that it can be obtained. Let me give you an example: I prepared address out of office resolutions for the governor in 1956 and in 1960--two on distinguished members of this convention. Very able and reputable men in office at 9 a.m. on one day were out of office on 2 p.m. on the same day. The governor obtained a two-thirds vote of the elected members of each House without any trouble. Do you know the reason the governor gave me for the address resolution? He said, "I have a popular mandate, and they will agree with me. Out they go."

A governor is the most powerful, generally, the first legislative session of his term. Many people are interested only in electing their public officials, three dollar car license plates, gambling, homestead exemptions, aid to parochial schools, and the like. They simply don't care on many alternates that we will consider. If we submit only one alternate, as many say is planned, we will kill this constitution, for we will lose friends, not gain them. I assure you, if you submit only one, you have lost all hope of any support by me. If you submit the alternates, you may gain my support which you now do not have.

In answer to Mr. Stovall's question which he always asks me, I am speaking as the representative of those who elected me and am urging you to adopt this as an alternate, and thus strengthen the chances of the constitution's adoption. All polls indicate that the people want this. This is one of the few times that I am speaking as the representative of my people. In ninety-nine point ninety-nine percent of the times, I have voted my convictions as what I thought was best, or what I thought would get this constitution adopted. In this instance, I am not speaking as an expert. I don't represent a textbook. I am speaking as the representative of the people. This is what they want. This time what I think, personally, is immaterial. Neither I nor you have a mandate to impose our views upon the people. It is their government, and I urge you to give to the people an opportunity to decide for themselves whether they wish to elect their public officials or whether they wish them appointed. I think you will find that they want them elected. In presenting this alternate, you will strengthen the chances of passage. If you want to defeat it, just submit one alternate to the people. I predict, now, for posterity that we will be writing another one in about two years.

That concludes my remarks, Mr. Chairman.

Further Discussion

MR. FULCO

Mr. Chairman, and fellow delegates, first, I'll tell you that I am for this proposal. I am for alternates. I cannot agree that if we do not have alternates, that this constitution will not pass in the coming elections. I believe as to whether or not the constitution will pass will depend on the attitude of the delegates in the presentation of the constitution to the people. If you want to kill the constitution, all you have to do is to use the famous expression, just "bad mouth" the constitution. If you feel, honestly and conscientiously, that the constitution is a good one for the people, then you will speak in favor of the constitution to everyone you meet. But,

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to say that the constitution cannot pass if we do not have any alternates, in my judgment, is terribly incorrect.

Now, the people want a choice. I agree with that very emphatically. I believe very emphatically that the people should have a choice. I know that the people do want a choice because I have been extremely active throughout this entire year in talking to the people about the diligent, dedicated, unselfish work on the part of every delegate to this constitutional convention. I know that the people do want alternates. How many? I can agree that too many would be too bad. But six, in my judgment, certainly aren't too many.

Now, let's do this. Let's give the people the right to decide whether they want four lesser state offices appointed or elected, or whether or not they want all elected. That is all that this proposal is calling for. But still, let's let the people have the choice. Not only with this alternate, but all the alternates that have been submitted to this constitutional convention. I urge you to vote alternates, to give the people a choice, and it will help the passage of the constitution. It will strengthen the possibility of its passage. But, without, I reiterate, I don't think it will kill the constitution.

Further Discussion

MRS. MILLER

Mr. Chairman and ladies and gentlemen of the convention, regardless of the argument for or against the election of any particular public official, or any of the several public officials that we have provided might be appointed at a later date, this is a critical and crucial issue. It is of primary and paramount importance and interest to the people of this state. As you know, when we made the decisions and put the provision as it now stands in our proposed document, some of these decisions about which officials would be elected, and which would be appointed, these decisions were made overnight, behind closed doors. The decisions--the announcement of the decision the next morning came as a surprise to people. We were under great pressures. We did not have time for cool and calm contemplation and reflection. I think that this is very important to the people of this state. The people of Louisiana are perfectly capable of understanding what the issue will be on the ballot. They are perfectly capable of making this decision. It is not a complicated matter like the tax structure of the state. They can look at that ballot, and they can know whether they want to elect or appoint....

Mr. Chairman, I wish to goodness you'd tell these lobbyists up in the balcony to sit down and take their seat. We've had them with us day after day.

MR. HENRY

We are glad to have the people with us there in the balcony, but would ask that you please hold down on the talking and help us maintain as much order as we can. I ask that you have a seat, if you would, please.

Proceed, Mrs. Miller.

MRS. MILLER

Thank you, Mr. Chairman. Thank you, many of the delegates who are paying attention.

I do feel that this is an issue that the voter can go into the ballot box. They can see this proposal on the ballot. They are...every voter will be able to make this decision whether they want to have appointed or elected delegates. It's not a complicated issue. It is one that addresses attention to the heart of every person, every voter of this state. I don't think that we, as a hundred and thirty-two elected and appointed delegates, should deprive the voters of the opportunity to make this selection for themselves.

I do urge you to support this proposal. I feel that it will be a popular proposal on the ballot with the people. Thank you.

Further Discussion

MR. STOVALL

Mr. Chairman, ladies and gentlemen of the convention, I rise to speak in opposition to this alternative provision which has been presented to us by Dr. Asseff. The first point I want to make is that the provision which we presently have in the article for the executive branch is, and was, a compromise between the different points of view. We arrived at that compromise after considerable debate and discussion. It was generally accepted by this group. Since it was accepted, there has been no great effort on the part of the people of this state to change it. I think what we did was a reasonable compromise.

The second point I want to make is that the present procedure is democratic. We do not change the offices from elected to

appointed. We simply give the power to the legislature after 1976. This means that the people will still have input if the decision should be changed. We are at a good place. I suggest we leave it there.

The other point I want to make is that we do not want to clutter the constitution with a large number of alternative provisions. I think that this is an unnecessary alternative provision. I think it would be well for us to keep the number to one or two. Therefore, I suggest to you that we reject this alternative provision.

Further Discussion

MRS. WARREN

Mr. Chairman and delegates, this is one of the issues that was talked about in District 102 more than any other issue in this convention. This is the issue that I had more calls on. This is the issue that I had a resolution for before they decided that they would have to get forty votes. The other day, when our governor spoke, he used the expression that "this bitter cup should fall from me." There are two bitter cups. There is a bitter cup that Jesus had to take, not of His own creation. There is a bitter cup that we will have to take, of our own making. I hope that we won't do that today. If we should vote against the alternative, of whether our elected officials will be appointed or elected, I can assure you it will be a bitter cup. I have never stood before this podium and said to you that I would support, or I would be in opposition to a constitution--a new constitution. I say to you today, whether I support it, or whether I don't, I don't belabor whether it will fail or pass. But, I will say to you this: I have not made up my mind. I'm going to look in this package when it's all over, and I'm going to see if any of the important things that the people from my district wanted, and if it's not there, I am not in a popularity contest. It can go up, or it can go down, because what difference does it make if you receive a beautiful package and it's nothing in there for you?

So, I say to you--and I don't want to take up too much of your time. I want to give everybody a chance to say whatever they have to say. I'm going to ask you to support this. Let the people decide what they want. This is a time that we should do it. I wish it were possible that every proposal that we had written, that each person would be able to see it and decide whether they wanted it or not. But, we are going to have to send and give to the people, a piece of material with many flaws. We are going to have to say that you are going to buy it at a high price whether you like it or not. In many instances when you buy material, if there is a flaw in it, you can get a reduction. The going price is high, and we are going to have to pay the full price for it all. So, I say to you, support this, and some other issues that have been crucial to me. I might appear before you again. I ask you to support the Asseff proposal.

Thank you.

Further Discussion

MR. GRAVEL

Mr. Chairman and ladies and gentlemen of the convention, with all due respect, I urge that you reject this particular proposal. As many of you know, the proposal as it presently exists in the proposed constitution, was the consequence of a great deal of debate and discussion among the delegates. As it presently exists, it represents a compromise that was reluctantly accepted, I think, by both sides. I'm sure all of you realize the posture that we are in and that is that the statewide officials are all elected, except for those that we completely eliminated from the constitution. We have, I think wisely, left to the legislature after the next statewide elections, a mechanism by a two-thirds vote whereby the appointment of certain officials can be made.

Now, ladies and gentlemen, the governor of the state campaigned, and almost everybody else campaigned, in the last governor's race to reduce the number of elected officials--statewide officials. Now, we haven't done that. I think, perhaps, wisely. But, we have for future generations, afforded the opportunity whereby the legislature in extreme circumstances, and by an extreme vote, could make a change, and could change back by a similar vote if the legislature thought it was necessary. I urge that you leave what we have done in the constitution as a fair compromise, and let that be one of the articles that is submitted to the electorate.

I urge that you defeat the recommendation that this proposal be placed on the ballot as an alternate proposal.

Thank you very much.

Questions

MRS. WARREN

Mr. Gravel, do you believe if this went on the ballot as an alternative, whether it would win or lose?

MR. GRAVEL

That it would lose?

I don't really know. I think that we've provided, Mrs. Warren, the mechanism that is necessary for the people in Louisiana. I think that a lot of alternatives, of course, could be submitted to the people. But I don't think this one should be submitted.

MRS. WARREN

I can understand it because you are against it. But, I mean, what is wrong with letting the people decide when this was a well-debated issue. At one time, it was made elective all the way. Now, so you say compromise. The best compromise really would be to let the people decide since this was such a great issue, wouldn't you think?

MR. GRAVEL

Well, I'm just as...content, Mrs. Warren, to stay with the provision that lets the legislature, by a two-thirds vote, you know, make the determination in the future.

MRS. WARREN

Mr. Gravel, did you know, as much as I have debated this issue, if the people decided that they wanted it, that the legislature could provide for the appointment of our elected officials, I would be happy?

MR. DUVAL

Camille, the way we have it now, isn't it so that the article is flexible enough so that the people, through their elected representatives, can have their way one way or the other in the future? Isn't that right?

MR. GRAVEL

That's correct. Absolutely.

MR. DUVAL

Thank you very much.

Further Discussion

MR. ULLO

Mr. Chairman, members of the delegation, it has been quite a lengthy period since I've been before you. I hadn't planned on talking this morning. But, after seeing the various speakers come before you, I felt like the proponents of this were running rather short. So, I thought that it was very important that I come before you.

The governor of this state mentioned to all of us in his speech last week, that he was very, very sensitive to the people of this state. Well, I want all of you to know that I feel I have that complete sensitivity in touch with the people, like the governor. I want all of you to know that I speak in behalf of the greater majority of the people of District 84, which I represent, that they would continue to like to have their officials elected. I never thought, and never will think that it is in the best interest of this body to make the decision to do away with these positions, or put them in the hands of the legislature, that they can be done away with by a two-thirds vote. Certainly, there was a lot of debate. As I can recollect, one day we made a complete--there was an overwhelming vote in favor of continuing the elected position. The following day, there was a complete reversal. I don't feel at the present time, that the two-thirds provision is an adequate compromise as far as the people of this state is concerned. I believe this alternate proposal will greatly enhance the passage of this constitution and take away another albatross that possibly could be dangling around our necks. Please, I hope and pray in behalf of all the people of District 84 that you vote to place this alternate on the ballot and let the people make that final decision.

Further Discussion

MR. STINSON

Fellow delegates, just a minute. This is the main issue that my people are concerned with. They want elected officials. I don't think we are necessarily satisfied with what we have on the two-thirds, because I think that a governor can get in, and especially the first session of his election, can change it

with a two-thirds vote. They usually can control it. I think it's too important to leave it up to the legislature. It should be set forth as elective in the constitution. If we are going to have alternates, I'm not necessarily in favor of any, but if we are, this is one that I think certainly should be on the ballot at the time they vote because you know--suppose--an appointee is only as good as the person who makes the appointment. So, if the governor makes the appointment, we'll have some good appointees when we have good governors. When we have bad governors, we're going to have bad. Let's don't take the chance. It's too important. Let's make them all elective. Leave them as they are at the present time. Thank you.

Further Discussion

MRS. BRIEN

Mr. Chairman, delegates, I don't like to come up here because it makes me shaky. But, I have to tell you this. If you say this constitution be not passed if they have no alternative proposals, I think you are wrong. Did you ever try to bring voters to the polls for election? You most have to pull them out of their houses to go and do their duty. Yes, they also have many interested people. They are the ones who elected you, to ask that you write a good constitution. So, please think about alternate proposals, very good, then write a constitution for all the people. When anyone knows we cannot come up with a perfect one, but, we will have a much, much better one than we have now. In comparison with the old constitution, we will have a perfect constitution.

Further Discussion

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, I rise in support of this alternative that has been proposed.

Let me go back to a little bit of the discussion that was had in this convention when these officers...offices were made elective. Then, because of the division of this own convention--our own convention--as I recall that proposal did not receive enough votes to be adopted. Then, the present proposal was brought back later and adopted, in an attempt to get the proposal adopted. Now, during the period of those discussions, you heard from several people on several occasions, that the legislature already had this power insofar as certain offices were concerned.

Now, let me call your attention to Article V, Section 1 of the existing constitution. It does provide that the legislature may consolidate. Ladies and gentlemen, it uses the word consolidate. It says nothing about making appointive certain specified offices in Section 1. But, then, when you move over to Section 18, it names these offices and says "they shall be elected." So, the only reasonable interpretation of those two articles, sections of articles, are that as long as those offices existed, they would remain elected, but that the legislature under Section 1, would have the authority to consolidate, not make appointive, to consolidate which would, in effect, amount to abolishing the office.

You heard the argument that if, since the legislature has had this authority since 1962, I believe, when these amendments were adopted, why hasn't it done it? Because it was a question of abolishing these offices, not making them appointive. This is a very important question to the people at the present time whether they are right, and the fact that they may not fully understand the import of Section 1 of this article, they do feel like that they are guaranteed in their right to elect the state offices that are contained...are covered in this alternative proposal. It is very important because they feel like they have that right now. Well, all we are doing by this proposal is giving those very same people the right to say we are willing to relinquish this right upon certain conditions which you have proposed.

There is one other question that I raised that I have not been able to satisfy myself on. Maybe someone in the convention can fully explain it to me, but as I read the committee proposal as it now stands, it refers to after the 1975 elections. I do not know that whether or not a candidate who has been elected and has not taken office, has any vested interest in that office. We have been told time and time again that this could not take effect until 1980 by virtue of that provision. If they do not have a vested interest in that office prior to qualifying and taking office, there is nothing to prohibit a special session of the legislature between the 1975 elections, and May of 1976 with the date in which the state officers take their office, and possibly make them appointive during that interim period. Maybe that's carrying it far, but

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I am not satisfied in my own mind it cannot be done.

I would ask you to support this. The people have enjoyed the privilege of electing offices. I think they have a right to participate in government to the fullest extent. I think whether we do it with limitations or without limitations, when we take that right away from them, we have taken away one of the sacred rights that the people of this country enjoy. I ask your support of the alternative proposal.

Further Discussion

MR. GOLDMAN

Mr. Chairman, fellow delegates, I'm not here to suggest how you vote on these, but I'm here to talk about the philosophy of the alternatives. I think it's very important that we have alternatives on the ballot in order to give the people a chance to participate in the democratic process. It's my feeling that we should allow all of these six alternatives on the ballot. By saying that, I don't mean that I'm for or against the alternative. I may be for what's in the constitution now, and not for the alternative. But, I do believe that we ought to give the people a chance to voice their opinion. Now, the point has been made here that these hundred and thirty-two delegates were elected by the people to come here and make the choice for them. I'd like to point out one thing that I believe. I believe that these people who were elected as constitutional convention delegates, were elected not to make the choice for the people, but were elected to deliberate and present, and promulgate ideas for the best governance of the State of Louisiana. When there might be two different philosophies on the same basic idea, the people have a right to choose between those two. I don't think we were elected to come here as dictators to the people. I don't think that because we give them a choice on alternatives that we're not doing our duty, or we haven't done our duty because we only gave them one way to do it. I think in these particular six alternatives there are two ways. I think the people ought to have a choice of which way they would rather have it done for themselves.

Amendment

MR. HARDIN

The Kean amendment reads as follows:

Amendment No. 1. On page 1, delete lines 22 through 27, in their entirety and insert in lieu thereof the following:

"The proposed constitution will include provisions by which the legislature, by a two-thirds vote, may provide for the appointment of the Commissioner of Agriculture, Commissioner of Insurance, Commissioner of Elections, and the Superintendent of Public Education unless a majority of those voting in this election vote for the following alternative proposal.

[] 2A. FOR requiring the election of the Commissioner of Agriculture, Commissioner of Insurance, Commissioner of Elections and the Superintendent of Public Education instead of the provisions in the proposed constitution.

Explanation

MR. KEAN

Mr. Chairman, fellow delegates, I raised this issue at this time because I think it is one of the serious questions to which we have to address ourselves in connection with these alternative proposals. One of the other serious questions that we have is the manner in which the alternative proposal is going to be considered in relation to the proposed constitution itself. I think it has to be made abundantly clear that the alternative proposal has to receive a majority of those voting in the election, voting on the alternative proposal. I think it should further be abundantly clear that the alternative proposal is "for" some thing and not simply a "for" or "against" situation where it's running against itself in so many words. My amendment would simply provide that in lieu of the proposed language in the proposal, No. 97, by which this alternative proposal will be voted on that we would provide in simple language that if a majority of those voting in that election desired to have these particular public officials elected rather than appointed, as provided in the original document, if under those circumstances they have a right to do so by voting for this particular amendment. I submit to you that this will go far in solving some of the various tricky legal questions which can be raised in the absence of some clear provision such as this. I certainly share Mr. Avant's comments made earlier. We've spent a year in the process of developing a document for submission to the people of this state. I think we would be remiss to place these alternative proposals on the ballot in such a manner as to raise serious legal questions concerning the meaning and effect of those alternative proposals and, in effect, which could, in the long run, create a question concerning the validity of the document itself. This particular proposal is taken in substantive part from the alternative propositions which were

offered in the Montsna elections. It seems to me that this proposal clearly reflecting that a majority of those who vote in the election must vote in favor of the alternative proposal and must vote "for" requiring the election, rather than for a confused "for" or "against" proposition would go a long way in clarifying what is being presented to the people by the alternative proposal and more importantly would go a long way in my mind to relieve any legal question that might arise if we try to do it differently.

Questions

MR. WEISS

Delegate Kean, in speaking to Secretary of State Wade Martin, I understand that you may not place on a ballot only a proposition for something; you must also vote "against" or "for;" is that correct?

MR. KEAN

I don't agree with that, Dr. Weiss. As I appreciate Act 2 of '72, it may well be necessary for this convention to prescribe the manner in which the election procedures will be handled. It may well be necessary for us to adopt some resolution to that effect. I think if this convention says that these alternative proposals shall be considered on a fair basis and under those circumstances that would be the procedure that would be followed. You're certainly not going to find anything in the election laws of this state that relate to this question.

MR. DENNERY

Mr. Kean, in relation to your amendment, is it not possible that the secretary of state could place on the ballot "FOR 2A" or "FOR 2B", so that the average voter would have a clear-cut determination of which he was voting for?

MR. KEAN

As I understand your question, Mr. Dennery, you're talking about having a 2A which says "FOR the election of the commissioner" and "2B FOR the appointment of the"....

MR. DENNERY

In effect, yes. I don't care whether which is A or which is B. But, you have written in there that if you adopt the constitution you have adopted....2A, let us say, and if you prefer 2B, you vote here. But, you don't give him a clear-cut choice then between the two is my point.

MR. KEAN

Well it seems to me that here we are saying that what's in the constitution will be the law, will be the body of the constitution unless a majority of those voting in this election vote for this particular alternative and that clearly states the issues, I believe.

MR. DENNERY

Now, that would include anyone who voted primarily against the constitution?

MR. KEAN

That's correct. I don't see how we can deny anyone the right to vote both on the constitution and on the alternative.

MR. ASSEFF

Mr. Chairman, I don't have a question. I simply want to say that I agree with Mr. Kean's amendment; it will clarify the matter and I do accept it. Thank you.

Point of Order

MR. ABRAHAM

For a question of the Chair and a point of order. Of course, this commission has not decided how these various propositions will be placed on the ballot. I would ask the ruling of the Chair if in voting on this particular thing won't we be establishing, in effect, how this proposition will be placed on the ballot?

MR. HENRY

Give us a little time to look at this rule again. All right. Mr. Abraham has raised a point of order as to whether or not the manner in which the amendment is set out is in keeping with the rule that we adopted relative to alternates. It's the opinion of the Chair that the way the amendment is drafted inasmuch as it does not allow a vote "for" or "against" an alternate and inasmuch as the remaining proposals for alternates have been introduced with "for" or "against", that we are going to be setting a precedence that if we adopt this and the others are adopted "for" or "against", we're going to be, in effect,

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adopting some alternatives and some inclusions or some exclusions on the basis of the way this amendment is drawn.

Mr. Flory, why do you rise?

Point of Information

MR. FLORY

Are you saying that this section is not amendable?

MR. HENRY

No, sir. I'm not saying it's not amended, I never said that at all, Mr. Flory.

MR. FLORY

Well, you say that....I thought I understood from your remarks that you inferred that the amendment was out of order.

MR. HENRY

I believe that the amendment, in all probability, is out of order, not because it is an amendment but because of the way that it's drawn and because the other proposals; and I think it was the idea of this convention that alternatives would be put on the ballot so that people could "for" or "against" the alternatives and this is not the way that this is drafted, sir.

MR. FLORY

Could you point out to me the rule that says that you have to have "for" or "against" in it?

MR. HENRY

I think that's more or less set out by implications in the rules, Mr. Flory, but if you will give me just a few minutes.... All right. Mr. Avant, why do you rise?

Point of Order

MR. AVANT

Mr. Chairman, I do not want to lightly argue with the Chair on what you seem to....clearly is a point of order insofar as the rules of this convention are concerned. But, I would like to point out something to the Chair which I consider is a matter of law under the terms of Act 2 which is the act of the legislature that brought us here. If I would be permitted to do so, I would like to point out something to you in Act 2 which I think, in my humble opinion, is directly contrary to what you have just indicated.

If you will refer to the booklet, which we have....in Section 9 of the act and coming down into the second paragraph it says "The election shall be held and the results shall be promulgated under the general election laws of the state." Now, it's the next sentence that I direct your attention to: "All electors duly qualified to vote in this state at the time of the election shall be entitled to vote without regard to party affiliation in their respective party"--now, listen to this--"on the proposition for or against adoption of the constitution and on the question or questions of adoption of such alternative provisions as may be proposed by the convention." Now, if you've got to vote "for" or "against" the alternative, why didn't the act say "for or against the adoption of the alternatives" instead of changing the language and getting away from the "for" or "against" when they talked about the alternatives?

MR. HENRY

Mr. Avant, your point, perhaps, to some extent is well taken. If you will give me just about five minutes....about three minutes to look at this thing....

Point of Order

MR. GRAVEL

Mr. Chairman, I would like to raise this point of order. We have not yet adopted the proposal. I do not think that it's orderly to proceed to discuss amendments of the proposal until the convention adopts it. Now, as I recall it the other day, we provided clearly in the rule that when any proposal was accepted by this convention then it would be subject to amendment. My point of order is, is that we cannot and should not be considering amendments to the proposal until a determination is made by the convention that the proposal is accepted.

MR. HENRY

Mr. Gravel, I would have to say that you're incorrect because we provided that "these proposals could clearly be amended." I think we would be locking the hands of the delegates of this convention that they would almost have to take a pig in a poke in certain instances, that's like saying that the proposal on the Executive Branch of state government would have to be adopted

before any amendments could be offered. I don't....that's not my intentions. I will have to rule that you are out of order.

MR. GRAVEL

Well, my understanding, Mr. Chairman, I certainly abide by your rules, was that that was the purpose of the rule as amended that we adopted the other day.

MR. HENRY

That's not the appreciation of the Chair.

MR. KEAN

Mr. Chairman, I'd ask leave of the convention to withdraw the amendment which I previously submitted in order to re-submit a new amendment which will include a "for" and "against" the proposal.

[Amendment withdrawn.]

Amendment

MR. HARDIN

The new Kean amendment reads as follows:

Amendment No. 1. On page 1, delete lines 22 through 27, in their entirety and insert in lieu thereof the following:

"The proposed constitution will include provisions by which the legislature, by a two-thirds vote, may provide for the appointment of the Commissioner of Agriculture, Commissioner of Insurance, Commissioner of Elections, and the Superintendent of Public Education unless a majority of those voting in the election on the proposed constitution vote for the following alternative proposal.

[] 2A. FOR requiring the election of the Commissioner of Agriculture, Commissioner of Insurance, Commissioner of Elections, and the Superintendent of Public Education instead of the provisions in the proposed constitution.

[] 2B. AGAINST requiring the election of the Commissioner of Agriculture, Commissioner of Insurance, Commissioner of Elections, and the Superintendent of Public Education and permitting their appointment as provided in the provisions of the proposed constitution.

Explanation

MR. KEAN

Mr. Chairman, fellow delegates, the original amendment, as submitted, simply calls for a vote "for." It was my position under those circumstances that you had an alternative by voting for the constitution and not voting for the alternative proposal to thereby say that you were against the alternative proposal. However, it's been pointed out to me that in other instances there have been alternative proposals....or where there have been alternative proposals that they've always had either a "yes" or "no" or "for" or "against" proposition. Now, under the circumstances I have added an "against" so that you would have the opportunity on the alternative proposal of not voting at all or voting "for" or "against" the alternative proposal. I've also corrected the provision in the heading of the language to make it clear that it would require a majority of those voting in the election on the proposed constitution voting on the alternative in order for it to pass. It was quite correctly pointed out that if this constitution was presented in a general election rather than a special election for the sole purpose of considering the constitution, you could have some confusion as to what would be the required majority. Under the circumstances, it seems to me that if we say that we're talking about the election on the proposed constitution it makes it clear that it would take a majority of those who vote in that election voting for the alternative proposal in order for the alternative proposal to be approved. I believe with those corrections that we fill in and adequately state the matter to be presented to the people and afford them an opportunity to clearly decide whether or not they wish to retain what the proposed constitution provides or go to the alternative proposal.

Questions

MR. CONROY

Mr. Kean, I'm trying to be sure I understand what your proposal would do with regard to the number of people it would require to approve this alternative. If you had four hundred thousand people vote for the constitution and three hundred thousand vote against, would those three hundred thousand who voted against the new constitution be allowed to vote for the alternatives under your proposal?

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MR. KEAN

Yes.

MR. CONROY

Even though they voted against the constitution? Now, a failure to vote on the question of alternatives under your proposal would be the same as a vote against; is that correct?

MR. KEAN

David, as I read it, yes; that's correct.

MR. ROY

Mr. Kean, just so I fully understand the new constitution, as presented, would have the...what we have already done with respect to the work; right, like the two-thirds vote after '76 that will be in the new constitution and the document itself? So, that if a citizen chose not to vote at all on any alternatives, in essence, he votes for what's in the document; right?

MR. KEAN

That's correct.

MR. ROY

Good.

MR. KEAN

In other words, I...I'm looking at the sample ballot...or the official ballot which was used in Montana and it contained, first of all, for the proposed constitution and against the proposed constitution. Then, it had language substantially the same as the heading on this proposed amendment, then it followed with the alternative proposals "for" or "against." Now, they did in one instance in the Montana proposal use "for" and "for." But, I think "for" and "against" is the preferable approach to it.

MR. BURNS

Mr. Kean, I didn't quite understand a question and your answer just now, so I'll ask mine. In the event that a person voted in favor of the constitution and didn't vote on any alternatives, if they are on the ballot, that wouldn't affect that vote.....

MR. KEAN

I would say that would be an "against" vote because.....

MR. BURNS

Against the constitution?

MR. KEAN

No, against the alternative.

MR. BURNS

Pardon me.

MR. KEAN

Against the alternative. In other words, if he voted for the constitution and did not vote "for" or "against" the alternative, I would say that that would constitute an "against" vote for the alternative....against the alternative.

MR. BURNS

All right, but not the constitution?

MR. KEAN

No, because you would have to have a majority of those voting on the constitution in order to pass the alternative. Therefore, anybody who didn't vote on the alternative was really an "against" vote.

MR. BURNS

...because I think you will agree with me there's going to be a lot of people...voters go in there that are either going to vote "for" or "against" the constitution and walk out, and they aren't going to vote on the alternatives one way or the other.

MR. KEAN

That's correct.

MR. DENNERY

Mr. Kean, I have two questions to ask you, one is: As I understand Act 2 it says "you have the right to vote for an alternative," it doesn't say anything about against. Now, you just are interpreting or interpolating from that that you should have a clear-cut "for" or "against" a particular alternative with just a general description of what's in the constitution which would be replaced by that alternative; is that correct?

MR. KEAN

I lost you on the last part, Moise.

MR. DENNERY

I say you would still have on the ballot a short description of what is contained in the specific article in the constitution so that the voter would have the opportunity to choose between what is in the constitution and an alternative. Now, the second question is really two questions. As I understood it, if you don't vote "for" or "against" the alternative, it would not invalidate your vote; is that correct?

MR. KEAN

That's correct.

MR. DENNERY

Do you think, though, that if you...would you believe that you could vote "for" or "against" the alternative and not vote "for" or "against" the constitution?

MR. KEAN

I think that would be entirely possible. In other words, I don't think we can deny the voter who goes into the voting booth the right to vote either on one proposal or the other. I think if he goes in he can vote, if he wants to on the constitution, and he can vote on the alternative, or he can vote on one or the other.

MR. DENNERY

Now, did you say that in one of those instances in the Montana ballot that there was a "for" and "for"?

MR. KEAN

There were three alternatives on the Montana ballot assuming that what I have here is a copy of the official ballot. The first alternative was a "for", "for;" the second two were "for" and "against."

MR. DENNERY

Now, the "for", "for" really gave you two alternatives to what was in the constitution or what?

MR. KEAN

Apparently, there was an unicameral provision in the constitution. No, apparently, there was not any provision in the constitution with respect to the makeup of the legislature and, therefore, the No. 1 alternative said "for an unicameral one house legislature" "for a bicameral two house legislature" and they.....

MR. DENNERY

So, the voter had a clear choice, then?

MR. KEAN

Then, you had a clear choice, the majority won.

MR. DENNERY

Don't you think that's the best way to do it, to give the voter a clear choice which way he wants?

MR. KEAN

Well, the problem we got here, Moise, is that we've got in the constitution certain provision with respect to some of these... some of the matters that the alternative proposals are dealing with. I'm certainly not in favor of taking those out and making those proposals bend to the item that you are going to vote for in one instance or for something else in another instance.

MR. DENNERY

I understand your point, and I think your.....

MR. HENRY

The gentleman has exceeded his time unless we give him some more minutes to answer questions; you might as well give him five because we've got a lot of people that want to ask questions.

MR. DENNERY

Well, my last question is don't you think it is less confusing as far as the voter is concerned the way you had your amendment drawn originally so that you were given a clear-cut choice between what is in the constitution and to vote for an alternate proposal? Don't you think it will confuse the voter to have that "for" or "against" down there?

MR. KEAN

Well, your question goes to the very reason I drew it the way it was to begin with, there seemed to be a substantial number of the delegates and the comments by the Chair indicating that

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they preferred a "for" or "against" proposal and that's the reason I changed it.

MR. McDANIEL

Mr. Kean, in the simplest form isn't what you're really trying to assure, that whether the constitution as written or the alternative, whichever is favorable, is that the view of the majority of the people voting is really what we are trying to work for?

MR. KEAN

That's correct, Mr. McDaniel. I'm more interested in the preamble if you want to call it to this particular proposal which would require and make certain that it would take a majority of those voting in the election on the constitution for any alternate to be approved. I would not want us to be in the position because I think it's not the position we want to be in. I think it would probably raise serious legal questions of having a situation where a hundred thousand people just...to use numbers would vote on the constitution and twenty-five thousand would vote on the alternatives. Then, out of that twenty-five thousand, thirteen thousand would vote for the alternative, twelve thousand against and you end up with a plurality of those voting on the alternative or in the election perhaps carrying the alternative and that's the primary objective of my proposal. I don't care how we set it up "for" or "against" or "for", "for" or what you want to do. I think we've got to make it clear that it takes a majority of those voting in that election to carry any alternative proposal.

MR. MUNSON

Mr. Kean, you really got me confused as to how we're going to tabulate the vote. I believe you said in answer to Mr. Burns a few moments ago that a person who voted for the constitution and didn't vote at all on the alternate would be a vote against. . . it would be a vote against the alternate. How are you going to count the vote?

MR. KEAN

Well, my point is, I was talking only in practical terms, Mr. Munson, because if you got to carry the alternate by a majority of those who vote in the election on the constitution, then if somebody votes for them the constitution and doesn't vote on the alternate, it really amounts to an against vote so far as the alternate is concerned because you're reducing the number of people who are voting on the alternate.

MR. MUNSON

What would you do in a case if the constitution failed and alternate passed?

MR. KEAN

Oh, I think if the constitution fails, that everything fails.

MR. MUNSON

Well, it would seem to me that since you've changed yours from for and against that the vote on the alternate should be just tabulated on those ballots not on whether a person voted for or against the constitution.

MR. KEAN

Well, it doesn't matter how they vote on the constitution so far as this ballot is concerned, and you wouldn't calculate the vote on this ballot, Mr. Munson.

MR. MUNSON

Well, that's what I thought, but then you said a moment ago though a vote for the constitution on a person who didn't vote on this at all would be counted as a vote against the alternate.

MR. KEAN

Well, the reason I said that was that if you require that there be a majority of those who vote in the election on the proposed constitution to carry the alternative proposal. . . if a lot of people don't vote on the alternate proposal that in effect reduces the chances of its passage. That's my point.

MR. SINGLETARY

Mr. Kean, I'm looking at Mr. Asseff's a proposal and his (2) (A) permits appointment. Your (2) (A) does not. Your (2) (B) would permit appointment so it seems to me that your amendment. . . your (2) (A) should be (2) (B) and your (2) (B) should be (2) (A).

MR. KEAN

I think that's a good point, Mr. Singletary, and I think it's one that we're going to have to look at as we go through the rest of these because if we're really saying that what we're offering is

what the convention has adopted and that is and now we're coming with another alternative that we ought to be for and against as you suggest.

Motion

MR. BURSON

I move that we do whatever is required including, if necessary, a suspension of the rules to pretermite two questions at this time. To pretermite the precise form in which the alternative proposals will be put on the ballot and to pretermite the question of the majority that will be required, because I believe we need to consult with the attorney general and with the secretary of state on these two questions. I believe we know what the issues are involved in these alternatives and I think we can decide whether we want to consider those issues as alternatives separate and apart on the form which they would appear on the ballot.

MR. HENRY

All right. Mr. Burson, you listen to me now to make sure I got your motion. You're just. . . simply stated, are you just moving that we don't determine the majority required to. . . number one, you're moving that we determine first of all what alternates will be placed on the ballot?

MR. BURSON

That's correct. In other words, . . .

MR. HENRY

Then once we do that if there are alternates. . . if this body decide to place alternates on the ballot then that we determine after consultation with the attorney general, secretary of state, etc., the manner in which they should be placed on the ballot and the majority by which they will be adopted?

MR. BURSON

That is correct because each one of these alternates, as I see them, has some variation in the proposed form that would go on the ballot and I don't think this convention should be married to one form or the other until we've checked it out fully and know what we're talking about.

Point of Information

MR. AVANT

I object. . . to voice an objection to Mr. Burson's motion for a suspension of the rules and to ask of the Chair if that is a debatable motion?

MR. HENRY

Well, in my opinion. . .

MR. AVANT

Or his motion to pretermite?

MR. HENRY

I don't think it would require a suspension of the rules. I believe. . .

MR. AVANT

I mean the motion to pretermite.

MR. HENRY

All right, sir. In my opinion the motion would be debatable, Mr. Avant.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates. Now, I have always tried from this podium to say exactly what I mean and I'm certainly going to do that here. I think we all know that the proponents of one side or the other primarily on the education question have their own pet ideas of how the thing ought to be placed on the ballot. I'm sure that in the minds of both sides they're being fair to the other side. But, what we've got to try and do is be fair to the people of the state and I don't think that we can reach that determination in the midst here of deciding whether we're going to have the alternatives at all or not on a specific issue because the politicks of the convention, the politicks of the competition that we have over the particular issue may lead us to make a mistake in the form that we submit to the people and thereby I think confuse them and obstruct the chances that we have of getting this constitution, which overall I think is a very fine one, getting passed. I don't think we want to do that. The secretary of state has sent all of us a letter asking for consultation on this matter. I don't think we ought to make a final decision on the form that these things would go on the ballot

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on until we discuss it with him because he's got to set up the machinery. Secondly, the attorney general should be consulted on the thing. My own personal belief is that you need an overall majority for the thing to become part of the constitution, but I don't know what the law is on it. I think we ought to find that out and we ought to consider that question calmly and soberly all apart from the particular issue that we're discussing here. That is the reason why I made the motion that I've made. I'll answer any questions that anyone has.

Questions

MR. FLORY

Mr. Burson, isn't it true though that you can't do that because you delay the convention making that decision because you don't know what to put in the body of the proposal until that decision is made?

MR. BURSON

No, I don't think that's true. The alternates that we have seen today all involve decisions that have already been made in the body of the proposal and would seek to some extent or the other to undo them. So, I think we're covered there. We have a complete constitution as we stand right now. If we didn't, it would be a different matter.

MR. FLORY

No, my question, Mr. Burson, is, how do you determine the verbiage that goes into the contents of the alternate proposal without knowing how it's going to appear on the ballot under the rules?

MR. BURSON

Well, under our rule that we adopted, you set those two things out separate and apart anyway. So, all I'm asking for here is that we simply pretermitt the determination of how it appears on the ballot. Under the alternate rule that we adopted you had to prepare that separately anyway from the alternate itself.

MR. KEAN

Mr. Burson, as I read Committee Resolution No. 13 which provides for alternate proposals, it sets forth in rather precise language what shall be specifically stated in the proposal. Item No. 4 says the "text of the ballot proposition on the alternative." Now, how can we separate out that particular requirement and decide on what the rest of it is going to be without suspending the rules of the convention?

MR. BURSON

Mr. Kean, I think purely and simply it says that you have to submit the text. I don't disagree with you at all there.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I rise in opposition to Mr. Burson's motion for this reason, I think and would respectfully submit to you that what we're talking about now is the most . . . and probably the most important decision that we're going to have to make in this convention insofar as the ultimate fate of this document is concerned. When I say that I'm assuming that perhaps the convention has determined that maybe at least one alternate is going to go on the ballot. Well, I have been for the last week studying his act and trying to come to some definite conclusion as to what the proper manner and procedure and vote required in this particular area is. Now, I submit to you it is now twelve o'clock on the 16th day of January and at twelve midnight on the 19th day of January it's going to all be over with. Now what good is it going to do us to stay here and argue and debate, I believe, six alternative propositions and decide which one we want, which ones we don't want if we can't ever agree on the manner and form in which those propositions are going to be submitted to the people and what vote is going to be required for the adoption of any such proposition. It seems to me that you are strictly getting the cart before the horse because I want to tell you and I ask anybody in here to sit down and read Act No. 2 and I particularly invite the attorneys in here to sit down and read Act No. 2. Whatever you do on this you more or less are going to be engaged in a guessing game and believe you me if you don't guess right, if you don't guess right and you put one of these alternative propositions on this ballot then you have killed the entire document because there's no way it can stand. If you don't comply with Act No. 2, and get it on there in the way that the Supreme Court is ultimately going to say that it had to be put on there and if you don't decide that question and decide it first, then you're wasting your time debating six alternative propositions. It seems to me that Mr. Burson's motion is strictly putting the cart before the horse and the first thing we've got to decide is, can we safely and assuredly place one of these propositions on the ballot and be sure that we have done it in the proper manner and in accordance with Act No. 2 and that we have not by doing so jeopardized one year's work

and several million dollars of the taxpayers' money. So, I think that that is the first question that we've got to decide, and for that reason I urge you to vote against Mr. Burson's motion.

Further Discussion

MR. ROY

Mr. Chairman, I think that we're getting into nothing, but maybe a big filibustering effort. We're going to get to the point where we won't have anything. I move that we limit debate on this particular issue to a half hour.

[Motion to limit debate on the Burson motion to thirty minutes. Substitute motion to limit debate on the motion to fifteen minutes adopted: 68-31.]

Point of Information

MR. FLORY

I want to know if this fifteen minutes is coming out of that two hours Mr. Asseff had for this proposal?

MR. HENRY

I really hadn't thought about it that way Mr. . . . are you suggesting that we do that, Mr. Flory?

No, I'm keeping the time on the thing. None of this other business has come out of Mr. Asseff's time, Mr. Flory.

Point of Order

MR. WILLIS

Well, I was curious in your response to that inquiry by Mr. Flory. It seems to me that was the amendment that precipitated the matter, so that in the interest of time which is most precious, may I suggest to you that you might reconsider your opinion.

MR. HENRY

I'll reconsider it, Mr. Willis; take your seat.

Further Discussion

MR. KEAN

Mr. Chairman and fellow delegates, I'm going to be brief. I think what we are dealing with here as was previously pointed out is one of the more important aspects of this whole area of alternative proposals. I don't like to say I told you so, but I got up and argued originally for the submission of these alternative proposals to committees in hopes that we could get some of these particular matters ironed out before they came up for floor discussion. I don't have any objection to consulting with the attorney general or the secretary of state or anyone else who can shed some light on this matter, but I vigorously oppose any separation of the manner of presenting the proposal from the proposal itself because I think that the manner in which the proposal is to be presented on the ballot can have a significant bearing upon the vote which I might cast with respect to some or all of these alternative proposals. I'm going to be quite candid with this convention and tell you that the major thrust of my amendment is to make abundantly clear that it takes a majority of those voting in the election on the constitution to carry an alternative proposal, so we run no risk of someone urging that you could have an alternative proposal adopted by a plurality. Now, beyond that point I have no particular feeling about how we present the for or against or two "fors" or one "for" whatever may be the best way of presenting it intelligently to the voters of this state. But, I am concerned, greatly concerned that unless we have a Preamble such as we've set forth in this amendment which prescribes and makes clear without any ambiguity or doubt that it takes a majority of those who vote in that election to pass an alternative proposal; I think we make a serious mistake to consider these alternative proposals. I say to you if we want to recess this convention and send Mr. Burson or Mr. Pugh or a committee or whatever you want to have to go over and confer during the noon recess with the secretary of state and the attorney general and come up with the best stylistic arrangement of these ballot proposals then that's fine. But, I don't see how we can sit here and say that we're going to pretermitt the question of how the matter is put on the ballot and then intelligently vote on the proposal itself because I'll tell you right here and now if there's any question, any question or any suggestion that less than a majority will vote. . . . have to vote in order for the passage of an alternative proposal, I think that we do violence to the democratic process and we raise a serious legal question that jeopardizes the whole constitution. Under those circumstances, I object, I oppose Mr. Burson's proposal, not because I don't understand the . . . I understand perfectly his desire to move ahead and his desire to get this matter properly considered by people

who ought to consider it, but I think it goes too greatly to the manner in which these proposals will be presented to the voters and the vote that will be required to carry them for us . . . at this time.

For that reason, I object to Mr. Burson's proposal and if someone wants to sit down in the noon recess and try to resolve this matter, I'm available to do it.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, I support the Burson motion and let me give you some reasons why. The first thing we've got to decide is whether or not we're going to have alternatives, and I hope we do. If we don't have any alternatives, then we're discussing and wasting a lot of time about nothing as to how we're going to submit them. After we determine that we will have alternatives, then we can determine the method by which they will be submitted and I would like to say to you that there are several different methods by which an alternative can be placed upon the ballot. I have been discussing that with a number of the delegates, with the Chairman, and some of the others and I think that after we determine what alternatives will be submitted we can come up with something reasonable so that the people will have a knowledgeable choice of how they are going to determine what alternatives will go into this constitution if it's adopted. As I see the situation, every individual walks into that voting machine and votes on the constitution and other alternatives we have ought to have a choice. He ought to be able to vote on the constitution or against it as he sees fit. He ought to be able to vote on the alternatives the same way. He should not be forced to vote for one or the other in order to make his vote count. We don't do that in elections except when we have multiple people to be elected; I don't see why we should do it now. I think that we can determine that particular issue at the time when it comes up. So, let's first determine whether or not we're going to have alternatives and what alternatives we're going to have and then decide what method that they will be submitted to the voters. I ask you to vote for the Burson amendment. Let's save some time by doing that because we could get into a long argument on each proposal as to how it's going to be submitted, and I don't think we ought to do that at this particular time. I ask you to support the Burson motion. I might say in closing on this particular matter that all Act 2 said, and I believe Mr. Avant said we ought to read it with reference to the proposal on alternatives was to the effect that "at the discretion of the convention it may propose to submit at the same time such alternative provisions as it deemed appropriate. The constitution is drafted by the convention together with any alternative provisions proposed shall be submitted to the people for their adoption or rejection." That's all it says with reference to alternatives so it's up to us to decide how we're going to submit them.

Questions

MR. KEAN

Mr. De Blieux, as I understand your position you want to take up these proposals and decide how we're going to present them later, is that correct?

MR. DE BLIEUX

We ought to decide whether or not we're going to submit them alternatives.

MR. KEAN

Well, would it make some difference . . . wouldn't it make some difference to you in whether or not you voted on some of these alternatives as to what vote would be required for them to pass?

MR. DE BLIEUX

Mr. Kean, I don't think that's up to us to decide by what vote. That's going to be to the people on how to decide what votes is going to pass an alternative. Insofar as I can see it, if no more than three people voted for the alternative--two of them voted for one and one voted the other-- the one that got that two votes would pass.

MR. KEAN

In other words, it's your position then that if an alternative . . . if only three people voted on the alternative and a hundred thousand voted on the constitution, and the vote was two to one on the alternative that the alternative would pass even though a hundred thousand voted for the constitution?

MR. DE BLIEUX

That's correct. If . . . whichever alternative received the larger vote; that would be my opinion.

Further Discussion

MR. GRAVEL

Mr. Chairman and ladies and gentlemen of the convention, I support Mr. Burson's motion because I believe that we're talking only about the determination of a method and procedure whereby alternates will be placed on the ballot. One of the principal reasons why I support it is because there are at least eight or ten knowledgeable, competent people, delegates to this convention who have different ideas about how this should be accomplished. It may be that all or some substantial part of the suggestions that they make would be legally acceptable. All we're doing by adopting the motion suggested by Mr. Burson is to leave the method and procedure aspects with respect to an alternate on the ballot to a determination with the secretary of state with the attorney general after we know exactly what alternate or alternates we're going to propose. Therefore; I think, in the interest of proceeding orderly and effectively, that we should pretermitt as suggested by Mr. Burson and that his motion should be adopted.

Questions

MR. BURNS

Mr. Gravel, Senator De Blieux said something just now that kind of disturbed me. In these alternatives that are placed on the ballot, for instance, like Mr. Kean's, that refers to a certain section of the proposed constitution--say that the constitution itself is approved by a hundred thousand majority, but an alternative to the constitution which is contrary and in conflict with that particular section of the constitution only passes by two thousand majority. Does that mean that alternative would be adopted or does it have to receive a majority of the total votes cast?

MR. GRAVEL

I can't answer that on that score at all because I don't know . . .

MR. BURSON

Yes, but don't you see . . .

MR. GRAVEL

. . . Mr. Burson, because I don't know how the ballot will be constituted, and I think that's one of the things that we need to do. But, I think that any attorney or anybody knowledgeable about elections will agree that the best way to fashion an alternative is to decide just exactly what the proposal is and until we've done that I don't . . .

MR. WEISS

Delegate Gravel, aren't we just being expedient in deciding this matter at this time and later can always vote down the proposal on the final vote as decided by the convention and the committee who has neglected to resolve it?

MR. GRAVEL

In other words, I think that after we've determined which alternates we want on the ballot that then we should determine with respect to that alternate, or alternates, how it should be placed on the ballot. I do think we need to consult with the secretary of state and with the attorney general on that.

MR. FLORY

Mr. Gravel, could you explain to me, under Committee Resolution No. 13, how your motion or the motion of Mr. Burson could be applied without suspending the following language: "Such a proposal shall state specifically (1) the text of the alternative, (2) any deletions or presently adopted paragraphs or sections or the like, (3) the effect of the alternative if adopted by the people in terms of additions to and deletions from the body of the proposed constitution and (4) the text of the ballot proposition on the alternative"? Now, you tell me how we can adopt Mr. Burson's motion without a suspension of this rule.

MR. GRAVEL

Mr. Flory, I don't want to invade the province of the Chair. I suggest you direct that to the Chairman, who I think has already answered it.

MR. FLORY

Well, my second question to you, Mr. Gravel, is: how can I determine what goes in the body of a proposed alternative, if I don't know how it's going to appear on the ballot?

MR. GRAVEL

All that Mr. Burson's motion does is to leave the method of submission--method of submission--to future determination by this convention. It does not do violence to any concept that would be in any proposal at all.

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Point of Order

MR. KEAN

Is not Mr. Burson's motion, in effect, a motion to suspend the rules?

MR. HENRY

In the opinion of the Chair, it is not inasmuch as after having looked and the clerk having looked at the proposal introduced by Delegate Asseff, it is in compliance with the rule which this convention adopted the other day. The question that Mr. Burson has put before this body is that we pretermit the question of final styling and drafting as to the manner in which these propositions--if they are adopted--are going to be placed on the ballot, and the required number of votes for adoption of the same. Therefore, it is not a suspension of the rules.

Point of Order

MR. FLORY

Mr. Chairman, I refer you to page 2 of the Committee Resolution No. 13, item number four, where it says that "the alternative proposal shall contain the text of the ballot proposition on the alternative" and tell me how you can pretermit that issue without making that determination or a suspension of the rules.

MR. HENRY

There are a lot of ways that a proposal can contain the ballot proposal on the proposition. It just appears that perhaps they don't all contain the same style and form, Mr. Flory. It's just as simple as that.

[Motion to defer action on the style, form, and vote required on alternative proposals adopted: 92-17. Motion to reconsider tabled.]

Recess

[Quorum Call: 85 delegates present and a quorum.]

MR. HENRY

Mr. Kean. Is Mr. Kean in the. . . Mr. Kean, in view of the Burson motion, it would appear that your amendments, now, are out of order. So, do you desire to withdraw the same?

MR. KEAN

Mr. Chairman, I just thought it was going to float around up there somewhere until we got back to it. Do I have to withdraw it and then reoffer it? Is that. . .

MR. HENRY

Well, in view of the motion that was made by Mr. Burson and adopted by the delegates, I think your amendments are out of order, Mr. Kean.

MR. KEAN

I was going to suggest they be put on the calendar.

MR. HENRY

Well, you can't put amendments on the calendar. Do you want to withdraw the amendments?

MR. KEAN

I withdraw it with the clear understanding that I. . .

MR. HENRY

What I thought I'd do, Mr. Kean, is if the. . .with leave of the convention delegates, I will appoint a committee to work this afternoon and tomorrow with the secretary of state, the attorney general, the custodian of voting machines with respect to the problems that were to be taken up and we discussed in the Burson motion. I would appoint a committee of Mr. Dennery, Mr. Conroy, Mr. Pugh and you, Mr. Kean, to try to help resolve these problems.

MR. KEAN

Well, that--you know--I'll be happy to serve on the committee. I didn't intend, by worrying about my amendment, to get on it.

MR. HENRY

When you talked with me there before lunch. . .I think in all. . .

MR. KEAN

Well, my point is, Mr. Chairman, is that if we're going to adopt these matters--these proposals--or reject them, whatever may happen to them, I don't want to find myself in a position where we now come back and say you can't offer amendments because the thing has already been adopted. That's all.

MR. HENRY

We're coming back at some point and discuss the way these should be put on the ballot.

[Amendment withdrawn.]

Further Discussion

MR. O'NEILL

Mr. Chairman, delegates, I want to rise briefly to speak in favor of the proposal cosponsored by over fifty delegates and is relative to the Executive Article. You know, of the ten constitutions that have been put to the voters over the past fifteen years or so, the only constitutions that have passed have been constitutions that have had an alternative to offer the people in some area of some great interest. We had put on our desk, today, the ballot from the Illinois constitutional convention which was on the ballot at that time. On that ballot, there were questions of great interest insofar as the people were concerned. The death penalty was on the ballot. Those are the kinds of questions that draw voter support, and bring voters to the polls, and make them vote, and make them have the psychology of wanting to adopt the constitution so that the alternative they vote for is included in that constitution.

I ask you to look at the proposal in the light of what it does, but more importantly in the light of the votes that it could probably draw for this constitution. I would say without much hesitation that the overwhelming voter support will be to elect these officials. I think in keeping with that that the people will want this alternative in their constitution, and I think that they'll want to have that choice clearly stated by an overwhelming vote. The governor admitted as much the other day.

There are many other questions on alternatives that we can have before us and decide, but I think this one is one that could help draw votes to this constitution, help sell it over the next few months, and probably not be nearly as splitting up and losing support as any other alternative could be. This one would help gain support. I ask you to please help gain the sixty-seven votes necessary to put it on the ballot.

I'll be happy to answer any questions.

Point of Order

MR. KEAN

A point of order. In voting on this particular proposal, for or against it, what is the status of this Section I that relates to the manner in which it would be placed on the ballot?

MR. HENRY

According to the rule adopted by the convention on last week, or whenever it was, we vote on the whole proposal. If there is some question as to style and drafting or style of. . .the way it should be put on, we're going to determine that, Mr. Kean, as a result of what your committee is going to recommend to us.

[Previous Question ordered.]

Point of Order

MR. LEIGH

Rule 45 of our rules provides that when a proposal is up for third reading and final passage, "it shall be read, debated and acted upon separately by sections and each section shall be considered." I rise to ask: how can we consider Section 2 or adopt the Section 2 or adopt the proposal in the absence of Section 1 which is in abeyance at the present time? I don't follow that.

MR. HENRY

Mr. Leigh, we adopted a rule--I don't know whether you were here the other day--with respect to alternative propositions. I direct your attention to--I don't know what the number of the rule is that we've adopted--it's 37.1 which rule in Paragraph (A) states, and I read as follows: "All proposals setting forth proposed alternatives shall lie over for convention action on January 16, 1974. On that day, there shall be put to the convention the question of the final passage of each such proposal." That's what we're doing. That supersedes the rule of "section by section."

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MR. LEIGH

. . .Does that supersede Rule 45?

MR. HENRY

Yes, sir, it does.

MR. LEIGH

Well, then are we voting now on simply the alternative? What are we voting on? What is the vote on now?

MR. HENRY

Right now you are voting yes or no on committee. . .or the Delegate Proposal No. 97 which would propose an alternate with respect to elected statewide officials.

MR. LEIGH

Well, let me ask you one further question?

Section 2 relates to the adoption or nonadoption of proposition 2A which refers back to Section. . .they refer back to the Section 1, as I see it--to the procedure. What I'm getting at is I don't see how we're going to vote these. . .this proposal in the form it's in at the present time in the posture that we're in.

MR. HENRY

Well, Mr. Leigh, I think we are voting right now on the concept. . .Mr. Leigh, I think what we are doing now is voting on the concept as contained in Dr. Asseff's proposal--whether or not we want to place an alternative of this nature on the ballot, or whether we do not want to. If we do, then we've yet got to work out the mechanics by which and in which that alternative or any other alternative will be placed on the ballot. So, what we're voting on now is the concept. We're going to determine, later, the style and the manner in which and the vote required to adopt such alternative proposals.

MR. LEIGH

So, we are not voting on the precise language that's in here, just the concept?

MR. HENRY

You are voting on the precise concept that's in there.

Point of Information

MR. AVANT

Mr. Chairman, what time did you say that this committee that you appointed to confer with the attorney general and the secretary of state was going to report back to the. . .

MR. HENRY

I'm hoping that they will be able to report back to us tomorrow, Mr. Avant.

MR. AVANT

All right. Now, then after you said that, you said, of course, the rule provides that we're going to finally vote on all these alternatives today?

MR. HENRY

No, sir, it doesn't.

MR. AVANT

It doesn't?

MR. HENRY

No, sir, it doesn't. I think, under the rules, we could. . . if we don't. . .are not able to get to all of them today, we can complete the rest of them tomorrow or Friday.

MR. AVANT

Well, as I recall that--I may be wrong; I don't have it in front of me but you said something about Style and Drafting--and then as I recall that thing, Style and Drafting has got to be back in here by noon, tomorrow finished with all that business.

MR. HENRY

Well, it says that the Committee on Style and Drafting shall report not later than noon tomorrow on anything that's referred to it.

MR. AVANT

Oh! I see.

MR. HENRY

I think we understand one another, Mr. Avant.

MR. AVANT

Yes, I really think we do.

MR. HENRY

Mr. Avant, take your seat, please.

Point of Information

MR. WEISS

Just a point of information. As I appreciate this, there is room for reconsideration, is that right, when we reintroduce the proposal? For example, if this is accepted by the body today, then if the phraseology is not to the liking of the body of the convention, it can be voted out at the final passage. Is that correct?

MR. HENRY

No, sir. No, sir; you are not correct.

MR. WEISS

It is not correct?

MR. HENRY

What we're going to have to determine. . .we may not put any alternates at all on the ballot. If we do put some alternates on the ballot, then this convention is going to have to decide the form, the style, the manner in which these alternates are going to be placed on the ballot, Dr. Weiss.

MR. WEISS

Then, we are not voting on the delegate proposal per se, but rather the concept. Is that correct?

MR. HENRY

That's correct.

MR. WEISS

Would you define. . .

MR. HENRY

We're voting on the proposal, yes. But, this convention may determine to place whatever proposals are adopted in a different form on the ballot, sir.

Point of Information

MR. FLORY

Just a slight point of information, Mr. Chairman. I'd like to know just what rules of the convention we're operating under.

MR. HENRY

Operating under the rules that were adopted by the convention throughout the efforts that we've made here, Mr. Flory.

MR. FLORY

On what day?

MR. HENRY

Well, I would suppose on January 12, 1974.

MR. FLORY

I understand that you. . .in an answer, I think, to a question Mr. Leigh raised where under Rule 45 it says that each proposal shall be considered and voted on section by section, you said that was superseded by the rule adopted last Friday on 37.1. Is that correct?

MR. HENRY

I would rule that it is. Yes, sir.

MR. FLORY

Then you also, then, if that's true, then the only thing that applies to the adoption of an alternate proposal is 37.1?

MR. HENRY

In my opinion, by and large, yes.

MR. FLORY

Well, then would you tell me how you could draft an amendment to one of the alternate proposals? Do you draft it by section or just can you draft it to the whole article, the whole proposal?

MR. HENRY

I'd have to rule, Mr. Flory, as I saw each amendment presented, but I couldn't just give you a blanket rule. No, sir.

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MR. FLORY

Well, how do we know what to operate under then, Mr. Chairman.

MR. HENRY

Because I don't know what the amendments are, and we're going to just proceed step by step, Mr. Flory.

Point of Information

MR. HERNANDEZ

Did . . . I understood you to tell Mr. Kean, a few minutes ago, that he could offer an amendment after we got this information from the attorney general and the secretary of state. That being true, if we can offer amendments, we might be for a proposal at this time. It could be so amended we would not be for that.

MR. HENRY

I didn't state. . . I don't believe I did, Mr. Hernandez, that anyone could offer amendments after we have adopted this proposal. What I was trying to get across to Mr. Kean is that we're going to have to determine, number one, whether or not we're going to adopt any of these proposals which would require the placing of alternative propositions on the ballots. If we adopt one or all six of these, then we're going to have to decide the style and the form that these will be placed on the ballot. That's when we're going to discuss that, and that's when it will be discussed. But, as far as once Proposal No. 97 is adopted someone coming in and offering an amendment to it, no sir, that would not be possible without going through the mechanics of reconsideration, suspending the rules, etc.

MR. HERNANDEZ

Thank you, sir.

Point of Information

MR. AVANT

A point of information, Mr. Chairman. I have in my hand a document that I found on my desk, and it purports to be Committee Resolution No. 13 which I think we adopted the other day. Section (C) of that reads in part as follows: this thing that I have here says, "Each proposal"--speaking of these alternate proposals--"receiving a favorable vote of sixty-seven delegates shall be adopted and shall be referred to the Committee on Style and Drafting. Every proposal shall be subject to floor amendment. Not later than twelve noon"--and this is (D)--"January 17, 1974, the Committee on Style and Drafting shall report each proposal referred to it to the convention."

I just want to know: is that a rule that this convention adopted?

MR. HENRY

Certainly it is, Mr. Avant.

Point of Information

MR. KEAN

I am concerned because this proposal contains a Section 2. It seems to me that if we now vote on this proposal with Section 2 reading as it does, and it got sixty-seven votes--and I don't know whether it will or not, but assuming it did--then, how do we get that proposal back up for some reconsideration of Section 2 without suspending the rules? What my motion would be, if I were permitted to make it, would be that for the purpose of considering Delegate Proposal No. 97 we delete Section 2 awaiting further consideration of the question of how you put it on the ballot.

MR. HENRY

I would suggest to you, Mr. Kean, that we'll handle it just like we've handled everything else. That we'll leave the motion to reconsider the adoption of this proposal pending, or hanging, or whatever you will, and if there's overwhelming sentiment of this convention to come in and make such changes, then certainly we'll be able to.

Closing

MR. ASSEFF

Thanks, Mr. Chairman. I'm beginning to wonder if I know what we are going to vote upon. I want to remind the delegates that we are not voting on pretermittting, interdicting or recommitting, but rather on the proposal as to whether or not DP 97 will be

placed on the ballot as an alternate proposal. It's always my luck to get stuck with everything. The purpose of alternates is to gain friends by giving to the people a choice on crucial issues. If done properly, it can save the constitution as it has done in other states. It is the one alternate that will gain friends and not make enemies. All polls indicate that the people want to elect their public officials. This proposal lets the people decide whether they want to elect their public officials or whether or not they want to leave it to the legislature to make them appointive. It is said that let the representatives of the people decide. I am going the delegate who said that, one better. I want the sovereign people who are the source of all power to decide. Since this is a democracy, we should let the people decide, since it is their government, and it is crucial to them. This is one of the three times, delegates, that I am speaking as the representative of the people who elected me. Generally, I have voted as I thought best. Regardless of what I think personally, I have no mandate to impose my views upon the people and neither do you. I came to Baton Rouge some forty years ago, and I have spent the entire time writing about, teaching and working in government. I am considered a governmental expert. It isn't often that I feel strongly about anything, but I do about this. If I am willing to violate every governmental principle that I feel important to let the people decide what they want, surely you must realize the importance that I attach to this and the passage of the constitution. It isn't always easy to do your duty, but in this instance, I am doing it. It is my personal opinion that the alternate will strengthen the chances of the passage of the constitution. I am not speaking as a textbook or as a governmental expert, but as the representative of the sovereign people. It is their government and their decision to make. Neither I nor you have a mandate to impose our views upon them. I urge you to let the sovereign people decide. The governor said to do what will sell this constitution. I think this will. I knew the governor as a student and also as a Senator, and I think highly of him. I think he will agree that we ought to place alternates on the ballot which will strengthen the passage of this constitution. Believe me, delegates, it's in grave danger of defeat unless you submit sufficient alternates to satisfy the dissident groups in this convention, and I happen to be one of the dissident groups.

Thank you, Mr. Chairman. I'll be glad to answer any questions.

Question

MR. GRIER

Mr. Chairman, is this an automatic record vote?

MR. HENRY

Yes, sir. It would be an automatic record vote.

MR. GRIER

Thank you, Mr. Chairman.

Point of Information

MR. MCDANIEL

For some of us that are not constitutional lawyers, tell us what's red and what's green and what's maybe so that we're voting on.

MR. HENRY

Well, if you want to vote for this proposal, you vote green. If you want to vote against the proposal, you vote red. If you don't know how you want to vote, Mr. McDaniel, you just don't vote at all.

[Proposal rejected: 53-52. Motion to reconsider tabled.]

Reading of the Proposal

MR. POYNTER

The next proposal is Delegate Proposal No. 98 introduced by Delegatea Henry, Gravel, et al.

A proposal to provide with respect to an alternative provision relative to education.

Explanation

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MR. JUNEAU

Mr. Chairman and fellow delegates, the alternate proposal which is before you was briefly discussed by me in the opening comments. Let me reiterate what changes this proposal makes in Committee Proposal No. 7 which was adopted by this convention.

The basic two-board concept is retained with these exceptions. No. 1, with...regard to the board of lowering secondary education, we have taken from the Board of Regents those responsibilities relating to vocational and technical training, the thought there being is that those functions are more properly aligned with the lower board; that those functions have been historically administered by the department of education. Under the proposal as you now have it, the head of the department of education is the superintendent of education. To my knowledge, the overwhelming response from the representatives who were involved in heading up these institutions of vocational-technical and training feel that it should be under the lower board other than that one exception, or that one change, there has been no change, and I repeat, no change whatsoever, with regard to the lower board.

Secondarily, we have made a change, and this is, I think, very significant, in the composition...of the Board of Regents. Committee Proposal No. 7 provides that the composition of the board will be by fifteen appointed members. This proposal before you changes the composition of that board to eight elected and seven appointed. The intent here, of course, was to coincide with what I think was a strong feeling on this floor that some representation from elected standpoint is indicated, not only in the lower board, but also in the higher board.

Thirdly, and probably the one that receives the most attention, is that relating to the management boards. The proposal which you have before you has deleted from Committee Proposal No. 7, any and all reference to the establishment, positively, of management boards. I relate thereto to the LSU Board of Supervisors, the Board of Trustees, and to the Southern Board of Supervisors. There is nothing in the latitude as built into this alternate proposal that the legislature can establish management boards.

Ladies and gentlemen, very shortly, very briefly, these are the changes. There are no other changes in the act saving except one thing that someone mentioned to me awhile ago that I neglected to mention. In fairness I'll tell you this. In the Board of Regents as presented in Committee Proposal No. 7, it also referred to career education. In discussing this matter at length in detail over a long period of time with educators throughout this state, I've been advised that career education is not limited to secondary education; it is not limited to higher education, but, it goes through the spectrum of lower education through the doctors' degrees. Therefore, we left that matter, not specifically referred to one or the other, but could be assigned by legislative act as it would be appropriately put to the aspect of education being dealt with at the time.

Very simply, then, the entire proposal that you had adopted by this convention remains intact, save and except for the items I just mentioned to you. I will, of course, yield to any questions.

Questions

MR. KEAN

Mr. Juneau, did I understand you to say that this proposal leaves the legislature in the position of being able to create management boards if it wishes to?

MR. JUNEAU

That's my understanding, yes, sir.

MR. KEAN

Well, then, how do you arrive at that conclusion?

MR. JUNEAU

There's a no...if you'll notice there are provisions in here relating to the Board of Regents which are retained with regard to what mechanism you have to go through, Mr. Kean, to get a management board. That is, it has to go through the Board of Regents. They make their recommendations. Then, it's considered by two-thirds vote of the legislature. I retained... they can vote on it by two-thirds vote of the legislature to establish that...I retained those provisions as they appeared in Committee Proposal No. 7. There is no language in there to preclude the establishment of a management board. Therefore, by the preliminary power of the legislature they can do it. The mechanism by which they do it is provided in this proposal.

MR. KEAN

You are referring, I take it, to Paragraph (D) 3, on page 4. As I appreciate that, the legislature could not act with respect

to a management board unless it had a report from the Board of Regents, could it?

MR. JUNEAU

That's absolutely correct, Mr. Kean. That's the same language as you find in Committee Proposal No. 7.

MR. KEAN

But, it talks here about the creation of a new institution or a management board. In the old section, we've got management board, so we were simply talking about a device in the old section by which you create some more management boards. Here, you have no management boards so we now have a prohibition against management boards, unless it comes from the Board of Regents, doesn't it?

MR. JUNEAU

That's right, sir. I'm putting all schools...all schools... I stress, Mr. Kean, on the same level which was not true in Committee Proposal No. 7 because of the two-thirds provision in the mechanism you saw. I merely adopted the philosophy of Committee Proposal No. 7 as to how they wanted management boards established. Apparently, the committee felt that you have to go through the Board of Regents. I accede to that. They said that they ought to have to go to the legislature and get a two-thirds vote, I acceded to that.

MR. KEAN

But, my point is, Mr. Juneau, that the substantial difference between your proposal and Committee Proposal No. 7 is that in Committee Proposal No. 7, there was some management boards. The authority that was in (D) 3 was related to additional management boards.

Now, what you are saying is that in order to have any management board, it has to go through this process. It takes a two-thirds vote of the legislature to accomplish it.

MR. JUNEAU

That's exactly correct, Mr. Kean.

MR. KEAN

Now, what happens under those circumstances to the existing board of supervisors at LSU should this be adopted?

MR. JUNEAU

You would...under this proposal, you would have no management board.

MR. KEAN

Well, in effect, contrary to the provisions of Act II, you would terminate the terms of office with the board of supervisors?

MR. JUNEAU

Well, I think Act II says that you couldn't effect the present terms of those people in office, as I appreciate the terms of that act, Mr. Kean.

MR. KEAN

It refers both to elected and appointed, doesn't it?

MR. JUNEAU

Sir?

MR. KEAN

It refers both to elected and appointed, does it not?

MR. JUNEAU

That's correct, sir.

MR. KEAN

Well, my question is then, under your proposal, what happens to the board of supervisors?

MR. JUNEAU

That board would be phased out pursuant to the provisions of Act II established by the legislature.

MR. KEAN

In other words, if this passed, then the board of supervisors would continue in effect for some period of time until the last member of that board ended his term. It might continue with just one member under those circumstances?

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MR. JUNEAU

Those are the provisions of Act II. That's my appreciation. That's right, Mr. Kean.

MR. KEAN

Well, I was just trying to find out what your proposal does. So, we could end up with a one man board of supervisors at LSU until the last fellow served out his term?

MR. JUNEAU

As Act II reads, that is correct.

MR. CHAMPAGNE

Mr. Juneau, I just wanted to pose this question to you so that for the record....if we were to pass this deal, you agree with what was done this morning, or what the Chair said, that we are by no manner agreeing that Section 1 as stated, we are voting for that, sir?

MR. JUNEAU

Unquestionably correct. I agree with you.

MR. CHAMPAGNE

We are not voting for it as it is?

MR. JUNEAU

That's right. Absolutely correct.

Amendment

MR. POYNTER

Mr. Abraham, do you have a preference, sir?

All right. The gentleman sends up amendments, the first set affects page 2. Abraham amendments beginning on page 2. The amendment reads as follows:

Amendment 1, on page 2, line 29, after the words and punctuation "schools," delete the words "post secondary, vocational" and a portion of the word "technical." At the beginning of line 30, delete the words and punctuations, the rest of the word "technical schools," and insert in lieu thereof the word "and".

Explanation

MR. ABRAHAM

Ladies and gentlemen, I have two amendments. They are companion amendments. The effect of one is to delete the words "post secondary vocational-technical schools" out of one.... particularly on one page, and reinstate it in another. But, the net effect is to put vocational and technical schools back under the Board of Regents as proposed by Committee Proposal No. 7.

Let me tell you why I feel that vocational-technical training should be under the Board of Regents. My profession originally was as an engineer. I spent twenty years in the refining business. For some twelve or thirteen of those years I was chief engineer, or superintendent of maintenance instruction. I worked all these years with machinists, pipe fitters, electricians, mechanics who worked with their tools. Throughout all these years, I....in talking to these people, many of them would say that, "I don't want my child to have to grow up doing the same thing that I did. I want my boy to go to school to become this or that." My answer always was, what is wrong with the work that you're doing? It's an honorable profession. There is nothing wrong with it. But it seems that we have, through the years, have brainwashed our children that it is a disgrace to work with their hands. They must get a college degree. Whether they are qualified to do anything else or not, they must have a college degree. The results as I have observed, is that we've got a lot of children in college who really do not want to be there; who would much rather be out working with their hands....

....For years, I have been a strong advocate of vocational-technical training. But, I've been an advocate at a higher level than what it has been known as. I don't want them called "trade schools." To me, a person who goes through vocational-technical training should come out just as.... with just as much prestige and status as a person who has a college degree. I think that one of the best means that we can use to give this type of training the status that it should have, is by placing it at the college level. We not only will give it status, but I think, also, we will eliminate a lot of problems we've had with high school drop outs. A person will feel that after he's gotten his high school diploma, then he is able to go into something from there. He will feel like he has gained something.

I think it's only a matter of time that whether we have managing boards, or whatever we may have, there is going to have to be a certain board, or whatever you want to call it, to deal with this particular problem. For years, the trade school concept has been lumped in with other forms of education. It's been a step-child. I think we need to take it out from there. There are many colleges in this country that work on this concept. They have programs where you can go to the college, or the vocational school, you work a period of time, you receive courses which are along the.... at the college level. They may go one semester to school, and they may work in industry for one semester. If I remember correctly, Senator Williamson's study group, I don't know whether they actually recommended this type of thing, but this is one of the things that they found.

The committee that handled the education article, I feel, was strongly convinced of this. That's why they put vocational training under the Board of Regents, and at the higher educational level, because I think the time is coming when we are going to have to get this particular phase of our lives out of the trade school concept, and into a concept where it does have some significance, some status, and where an individual, when he gets out of high school, then, will be able to move on to a vocational school and feel like he is doing the same thing as going to a college. That is the effect of my amendment. I'm simply trying to take it out of one particular position where it's under the superintendent of education, the state board for elementary and secondary education, and the companion amendment will place it under the Board of Regents. I am not quarreling with the delegate proposal as such, as to whether we should accept it or reject it as an alternate on the ballot. I am saying that if it is going to be accepted, this is where vocational training should be.

I will yield to any questions.

Questions

MR. GINN

For my own benefit, does the state board of education favor this, or would they be opposed to it, or just....I don't know. Could you help me out there?

MR. ABRAHAM

I don't know how the state board feels on this particular thing. I'm sure that they have appeared before the Committee on Education that's made a study of this, but I don't have any feeling on their opinion on it.

MR. A. JACKSON

Mr. Abraham, aren't the children you are talking about oftentimes youngsters with deficiencies in the basic tool areas?

MR. ABRAHAM

Not necessarily, Mr. Jackson. Sometimes they may be. I agree with you there.

MR. A. JACKSON

Well, aren't the children you are talking about, youngsters who make up a large percentage of the drop out problem that we have?

MR. ABRAHAM

No, I don't agree with that. It's not a large percentage. There is a percentage.

But let....I know what you are leading up to, but let me say this. This could very well work for those students who did not want to go on and finish high school. Many of these places have provisions for these students to continue and get their high school diploma while they are doing this. But, they are still in an elevated status when they come out.

MR. A. JACKSON

Well, since they aren't interested in finishing high school, don't you think it would be better to have them receive their experiences, and have these experiences coordinated at the secondary level rather than at the post-secondary level?

MR. ABRAHAM

No, because I think this gives them something to work for.

MR. AERTKER

Mr. Abraham, under your proposal, it would represent a substantial decrease in the authority and the power of the present state board of education if you put it in the Board of Regents. Right?

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MR. ABRAHAM

Yes, it would. We have changed...completely changed the concept of the present state board of education...on either proposal.

MR. AERTKER

Well...your...wouldn't your knowledge and experience of various state boards of any kind indicate to you that they would be against having something taken away from them that would decrease their power and give it over to another board? Have you ever seen one that wanted to have their power lessened and some other one increased?

MR. ABRAHAM

That's correct. I've never seen one who in any way wanted to have his powers decreased. So, I would assume that that's probably why they are opposed to this.

MR. NEWTON

Mr. Abraham, did you know that all, or most of the vo-tech people were here yesterday and today, and they want to be under the board of supervisors? Did you know that most of the state board of education, and did you know that most of the college presidents have been here, and they are agreeable to that?

MR. ABRAHAM

Well, I don't know if most of them wanted it. But, I do know of one who feels the same as I do that they should be at the...at the level under the Board of Regents.

[Motion to limit debate to fifteen minutes adopted without objection.]

Further Discussion

MR. CHAMPAGNE

Fellow delegates, in accordance with the wishes of the convention, I will be very brief. I speak in opposition to this amendment. I simply think that vo-tech education should be under the department of education as it presently is. I feel that it is not higher education, and as such, should be under the department of education as it presently...the state board of education as it presently is. In fact, I feel that that's probably one of the faults with the committee proposal as submitted. I would hope that we could somehow leave vo-tech education under the people as it now stands. I feel that most of the people in that department want it that way. For that reason, I feel that higher education should deal with higher education, and elementary, secondary, and other schools should be together under the department of education. I urge your rejection of this amendment.

Further Discussion

MR. RAYBURN

Mr. Chairman and fellow delegates, I rise in opposition to the proposed amendment. I certainly feel that vocational training has a place under the state board of education, or under our educational department. It should not be injected into the college and university level. I can see, and I know, and I've always been for vocational education because that's about the only diploma I ever received. I know what it means to my community. I know what a fight we've had in the legislature having to buck the powerful college lobbies and university lobbies to get a little funds for vocational training. For that reason, I believe they need to be under the board of education. In my opinion, they can make more advancements, and prosper better. Certainly, if I'm on the board, a graduate of LSU, Southeastern, Northwestern or some other place, that's my first love. We might as well be honest. If you don't believe that's one's first love, you think back of all the people that's asked you how to vote on these proposals which we now have up for consideration. Every member of...every alumni member of LSU asked me to be for the LSU Board. Smaller colleges asked me to be for another board. But, I do not think that we should get vocational schools mixed up with our colleges. It'll be about like hooking a little donkey in the gates, to break out and run a race with a thoroughbred. There's just about that much difference in them in my opinion. You know who's going to get the best care and the best training--that thoroughbred, because he's going to be running the fastest. We've made a lot of progress in this state in vocational education. There's a lot more to be made. I hope we keep it under a board that will see that it gets its fair share of treatment when the budgets are made, and when the requests are met. For that reason, I'm against the amendment.

Questions

MR. DREW

Senator Rayburn, we have tried to put a little heavier saturation of vo-tech training in high school, have we not?

MR. RAYBURN

Yes, sir. We've just passed recently a fifty million dollar bond issue to really move forward in vocational training in this state.

MR. DREW

If we adopt this amendment and take the continuation of that study away from the board of education, then we've split the program in half, haven't we?

MR. RAYBURN

That's true. I have no quarrel with our universities. I've made that statement before, and I still believe it. Every university in this state is trying to get as big as LSU. LSU is going to make darn sure they don't catch them.

MRS. MILLER

Mr. "Sixty", isn't it true that the vocational schools in this state have no better friend than they've had in you in the legislature?

MR. RAYBURN

I've always been their friend because I feel like I understand their needs more. I'm a graduate of my local school. I was at the school the other day, Mrs. Miller, and looked at thirty students. Twenty-nine of them had never made over a dollar and a half an hour in their life. They finished, and twenty-eight of them were working for six to eight dollars an hour as welders right in this state.

MRS. MILLER

Well, you know, what I want to ask--really and truly don't you feel from the bottom of your heart that this amendment would put in jeopardy some of the things we've worked for very hard for the vocational schools?

MR. RAYBURN

I certainly feel that way, and that's why I oppose it.

Further Discussion

MR. A. JACKSON

Mr. Chairman, ladies and gentlemen of this convention, I strongly urge you to vote against this amendment because it is not in the interest of the concept of career education that we are trying to implement in this state. If we know anything about the vocational interest of youngsters, we know that it ought to begin very early. It's going to be virtually impossible to coordinate the experiences, and introduce youngsters to the world of work, and strengthen them in the basic tool areas so that they can take advantage of the highly technical areas that are now a part of the vocational enterprise in this country. If we do not have them under the state board of elementary and secondary education. I urge that you will vote against this because it is not consistent with what I know about what educational planning ought to be about. I do not believe that it's going to correct. I know that it will not correct the problem that we have in terms of turning out youngsters who are able to make a living for themselves, and will come out with salable skills.

It's a bad amendment, I would urge you to vote against it.

Further Discussion

MR. LEITHMAN

Mr. Chairman, fellow delegates, I, too, stand before you to ask you to reject this amendment. I wish I would have had an opportunity to speak with Mr. Abraham before he offered this amendment. Briefly, you know Superintendent Michot, and the state legislature, has set as a chief program, career education. We've directed our elementary and secondary children, and our program towards career education as Representative Jackson mentioned.

In career education, we are bringing in those special education children; the exceptional children, handicapped children, and...we will work them into the same program. So, what we have here is just an inconsistency in the millions and millions and millions of dollars that we have allocated and

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committed to career education and special education. The basic child that is being serviced in vo-tech schools, are maybe, perhaps, those that aren't interested in university work. In fact, I think all of you will agree, every child is not suited for university and post secondary work. He chooses vo-tech studies as an alternative course. We've spent fifty-five million dollars in the construction of vo-tech schools of which we hope to combine our special education. Now what we've, what...if we adopt this amendment, what we are saying here is his fifty-five million dollars of capital outlay, and a matching amount of monies for building up our vo-tech schools. At the same time, we're splitting our plan for the program in half because our handicapped children, and exceptional children, will be under a still separate, entire entity.

So, please, please, vote against this amendment.
Thank you.

[Record vote ordered. Amendment rejected: 2-106. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Mr. Dennery sends up amendments at this time.

Amendment No. 1, Page 2, line 11. At the end of the line, delete the word "for", and on line 12, delete the words "public elementary and secondary education."

Amendment No. 2, Page 2, line 16, immediately after the word "education" and before the word "shall", insert the following:

"and the Board of Regents."

Amendment No. 3, Page 2, line 18, after the word "Education," before the word "and," insert the words, "and the Board of Regents," and on line 20 after the word "and," and before the word "the," insert the word "the Board of Regents and". On line 20, after the word "under" and before the partical word, "jurisdiction," delete the word "its," and insert in lieu thereof the word "there".

Explanation

MR. DENNERY

Mr. Chairman, ladies and gentlemen of the convention, all of these amendments apply to Section 2 of Delegate Proposal 98 which is found on page 2. All of them are aimed at putting the state superintendent of education in the same position relatively speaking, as he presently is.

Since this delegate proposal contains two boards, the Board of Regents, and the state board of elementary and secondary education, and since the Board of Regents will cover all of the institutions which the present superintendent covers, plus LSU, now, there is a distinction there, it is felt that the superintendent should be put back in the same relative position that he presently is in. This will obviate the necessity of having a completely separate staff for the Board of Regents. The language which is proposed in the amendment provides that the superintendent will not only be the...well, we'll delete the distinction that is drawn in line 12, of making him the superintendent of education only for public elementary and secondary education, and delete that language so that he shall be a superintendent of education. If the office is appointive, since he's now in charge, or rather the administrator for both boards, he would be appointed by both boards jointly, by the state board of elementary and secondary education, and by the Board of Regents.

Then, after line 17, he will be the administrative head, not only of the department of education, but he shall implement the policies of the state board of elementary and secondary education, and of the Board of Regents. The laws effecting schools under their jurisdiction, so that the purpose of the amendment is to make the state superintendent of education the administrator for both of the educational boards which are set up in this proposal. It is believed that this will reduce the cost of the state of having two boards of this nature. Since the Department of Education and the superintendent presently administer the entire board of education as it presently exists, which covers all secondary...all public, elementary and secondary education, and all colleges with the exception of LSU.

I urge the adoption of the amendment. I'll be pleased to answer any questions, Mr. Chairman.

Questions

MRS. CORNE

Mr. Dennery, aside from the great savings in money that we

would have in having one staff and one superintendent for both boards, wouldn't we have also much better coordination of education between elementary, secondary, and post-secondary?

MR. DENNERY

...and vo-tech schools.

MRS. CORNE

...and vo-tech schools.

MR. DENNERY

I'm glad you mentioned that, Mrs. Corne. I think that's very definitely true that you would have a perfect means for coordinating all education within the state which I believe is the aim actually of both the original proposal and of this proposal.

MRS. CORNE

I was going to ask you just exactly that. Is that not the aim?

MR. DENNERY

I think that's definitely the aim.

MRS. CORNE

Thank you, sir.

MR. JENKINS

Mr. Dennery, I think you have a good proposal, but I am concerned about one aspect of it, and that is who would make the appointment for the superintendent if this job were made appointive? As I understand it, under your proposal the appointment would be made by the State Board for Elementary and Secondary Education, and the Board of Regents; is that correct?

MR. DENNERY

Yes, sir.

MR. JENKINS

Well, now, I think the reason that we specifically stated that the appointment would be made by the Board for Elementary and Secondary Education was that this would be primarily an elective board, and that we could justify making the superintendent, perhaps, appointive sometime in the future if he was still under the control of people who are elected. Don't you see some difficulty there, since there would be the large number of appointees on the Board of Regents?

MR. DENNERY

Well, the Board of Regents, of course, has eight elected members under this proposal, and seven appointed, and the Board of Elementary and Secondary Education has eight elected and three appointed. So, you have sixteen to ten. I think you would still have the same basic concept there.

MR. STINSON

Mr. Dennery, this would put the superintendent of education over all the colleges and universities?

MR. DENNERY

Well, he presently is there to the extent of administering the affairs of the Department of Education and the Board of Education with the exception, of course, of LSU. Now, all he would be doing as I appreciate this is the same type of work he's doing now except that he would be the administrative arm and the department would be the administrative arm of these two boards: the Board of Education and the Board of Regents.

MR. STINSON

Well, don't you think that would be more than any one person could really take care of, even if he would be qualified as ably as Mr. Michot?

MR. DENNERY

Well, I think this, Mr. Stinson: it is quite possible that what you say is true, but this office has with it a complete department. It has with it not only the ability to handle this by virtue of the department; it also has the ability that Mrs. Corne pointed out to very easily coordinate all of these activities so that our entire system of education in the state would be coordinated under one administrator, not under one board, but under one administrator.

MR. WILLIS

Mr. Dennery, the thrust of your amendment is to make the superintendent of education as the appellation is superintend education; isn't that correct?

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MR. DENNERY

Well, that's correct, sir, but I think what he would be doing would be carrying out duties encumbered upon him as the head of the department and as the administrator of the two boards which actually control education.

MR. WILLIS

...and thereby coordinate the education of all of the people from beginning to end.

MR. DENNERY

From the kindergarten all the way up. That's correct, sir.

MR. A. JACKSON

Delegate Dennery, isn't the thrust of your amendment to make available to the Board of Regents the vast resources technically of the State Board of Education and the state superintendent of education?

MR. DENNERY

Yea, sir. That's one of the thrusts. I think there are many thrusts. That is one of them.

MR. A. JACKSON

But, it makes available to the Board of Regents the vast resources in terms of expertise, in terms of research, in terms of personnel that could be utilized to do all of the things that are charged to the Board of Regents, right?

MR. DENNERY

That's absolutely correct, Delegate Jackson.

MR. A. JACKSON

Thank you.

MR. WEISS

Delegate Dennery, isn't this in keeping with the cabinet form of government that the governor requested in having department heads at the head of each of the twenty departments so that there will not be two heads at the educational department head. Is that correct?

MR. DENNERY

Yes. I think it would fit right in with that.

MR. DENNIS

Mr. Dennery, will this change have to be reflected on the ballot in the alternate, also, along with the other changes that are being made?

MR. DENNERY

Well, I would think, Judge, and of course, the committee which the Chairman recently appointed hasn't met with the state officers yet, but I would think that no matter what type of conclusion is reached, every alternate proposal would have to carry with it an explanation if not the entire article in a schedule of adoption or something to that effect. So, there would have to be an explanation of everything in this article.

MR. DENNIS

One criticism I've heard of the way the present law is that the State Board of Education has not had its own staff and has had to rely upon the superintendent too much. Would your amendment get us back into that sort of thing again?

MR. DENNERY

I don't believe so. I think he is the administrative head of the department and implements the policies of those boards. You have, particularly if he's an appointed officer, you certainly don't have that dichotomy. If he's an elected officer, no matter what you have, you're going to have some dichotomy between elected officials. But, it seems to me that what we're doing here is not putting them back in the same boat to that extent.

Further Discussion

MR. ABRAHAM

Ladies and gentlemen, I am concerned about this amendment. I'm in opposition to it, but I am more concerned about what seems to be going on on this floor where throughout the debate on the Education Article, I don't recall anyone voicing any opposition to the structure. I don't recall anyone coming up with an amendment which would make the superintendent of education—put him in this particular capacity that this amendment pretends to do, and I thought that the only issue that we had here with the Education Article was whether or not we were going to have the Board for Elementary and Secondary Education and the Board of Regents, plus the managing boards, or whether we would not have the managing

boards. Even in the amendment that I had proposed, I don't recall anyone getting up in the Education Article ever proposing that vocational training be under the superintendent of education, or the Elementary and Secondary Education. But, be that as it may, I'm not quarreling about my amendment or anything like that, but I'm concerned about what we are trying to do here with this alternate proposal. I thought that the alternate proposal, the intent of it was to keep it as close to the Education Article as we could, and that the only real issue was going to be the managing board, whether we would have the managing boards in the constitution or not. I think that we're going to be defeating our purpose in submitting these alternatives to the people; if we make too great a change in these alternate proposals, I don't think that we're going to do any good at all. We're simply going to confuse the people more. I think that it should be a simple issue on all the alternative proposal, whether we're going to have the article as presented in the body of the constitution, or whether it will simply be some minor changes in it. I would ask the rejection of this amendment.

Questions

MR. WEISS

Delegate Abraham, on your committee, did you envision one or two heads at the head of the Department of Education in the Executive Department setup for the governor?

MR. ABRAHAM

We had planned one elected superintendent...rather, one superintendent of education who would be concerned with Elementary and Secondary Education. There was never any discussion whatsoever of the superintendent of education having charge of all education, including higher education.

MR. STINSON

Mr. Abraham, don't you think that giving the superintendent all these additional powers and all, that maybe we shouldn't amend it, and say that the superintendent of education shall appoint the governor of the State of Louisiana in the future?

MR. ABRAHAM

Well, it's getting just about that close.

Further Discussion

MR. GOLDMAN

Mr. Chairman and fellow delegates, can I point out one thing to you? In our Executive Article we called for the election, and later on possibly by two-thirds vote of the legislature unless the voters change that, that being made an appointive position, of a state superintendent of education. It doesn't say "state superintendent of elementary and secondary education;" it says, "state superintendent of education." In this article, unless Mr. Dennery's amendment is passed, we will then have as an alternative, and also in the article that's passed on education, if that becomes part of the constitution, a state superintendent of elementary and secondary education. Now, what are we going to do about that state superintendent of education who shall be elected as a state officer in the Executive Article? We're going to have to elect two of them it seems to me, unless we make it the same, in addition to the fact that I think Mr. Dennery's arguments and the idea of having one man to coordinate all of that, with one board which has the expertise for both systems of education, is a good one.

[Previous Question ordered. Division of the Question ordered. Record vote ordered. Amendments Nos. 1 and 3 adopted: 81-28. Motion to reconsider tabled. Record vote ordered. Amendment No. 2 adopted: 65-45. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Kean sends up amendments that read as follows:
Add "Amendment No. 1" up there at the top. There's just one amendment.

On page 5, between lines 14 and 15, insert the following:
"(6) Powers of management over higher education are vested in

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management boards for the Louisiana State University and A & M College, and the Southern University A & M College, and the State University and College Commission, subject to the authority of the Board of Regents."

Explanation

MR. KEAN

Mr. Chairman, fellow delegates, if you'll give me your attention for just a moment, I'd like to make a few comments by way of background to this proposed amendment. I think we're dealing here with some other important areas of this constitution, and perhaps, questions which may decide the fate of the document. I would like to say at the outset that it's rather difficult for me to understand how the issue of higher education could have caused such a division in this convention, a division which will be perpetuated, in my opinion, statewide, if this alternative proposal is adopted as it now stands. No matter who wins as a result of an election under these circumstances, I think that the projection of this issue under the election process could cause deep and long lasting divisions among our citizens which is not in the best interest of this state in higher education as a whole. Despite my feelings in this regard, I've heard the whistles on the floor and seen the votes, and I accept the inevitable. I recognize that a fight to prevent this alternative cannot but further divide it. While I, at the same time, believe we are here on a divisive issue, I think all of us have the same goal, that of bringing about a new constitution for this state which will achieve quality higher education. I doubt seriously that a single Board of Regents, which in my opinion, will ultimately become bogged down in the minutia of management, constitutes the best possible solution to the problem of higher education. I believe that the provision previously adopted by this convention, and now enrolled in the Education Article, gives us the flexibility by which we can achieve that goal. I am certain that those provisions have been so misunderstood and misrepresented, and erroneously portrayed to the people of this state. In my view, those provisions provide the only two meaningful boards, and if you read the provisions, I think you see it, with management boards where necessary to handle the detail at the local university or college level. This makes sense to me. On the other hand, if we attempt to put too much in the hands of one board, I think we will ultimately work to the detriment of higher education rather than for its benefit. However, as I pointed out a moment ago, and by the attention which I have from the floor, I see it's evident, I think we're going to submit an alternative proposal. For that reason, I suggest to you first that the alternative proposal must be fairly presented. Secondly, it must be in a manner which would not raise legal questions concerning its validity, or that of the document as a whole. Thirdly, we must insure that any alternative receives a majority of the votes cast in the election for the constitution in order to be valid. Even if we satisfy these requirements, we would profit more in my opinion, in the remaining hours of this convention to work out a compromise so that we could present a united front on this important issue to the people of this state. It is for this reason that I have offered this amendment. It seems to me that we provide for management boards for the Louisiana State University, Southern University, and the remaining colleges and universities of this state, that we give the flexibility for management, leaving in the hands of the Board of Regents control over finances and budgets and for the coordination of higher education to which they can direct their full attention. I'll point out one significant difference between this proposal and that adopted by the convention as the Educational Article, one that Mr. Juneau did not mention, as I recall it, and that is that under the present proposal, funds allocated by the legislature go to the management board. Under this proposal, they go to the state board. I make no effort to change that. I simply have provided in this amendment for powers of local management to be vested in these boards subject to the authority of the Board of Regents which means control over finance and budget. I think with this type of coordination, with this type of structure with respect to higher education, that we could, perhaps, achieve a balance that we need. I would suggest to you under the circumstances that with such a provision, it might well be possible to take another look at what we've done and come up with a consensus that would permit us to present a united front on this issue.

Questions

MR. GINN

Mr. Kean, for my own benefit, I don't know what the commission is--the State University and College Commission; what is that?

MR. KEAN

That would be a commission that would have to be created under the authority of the Board of Regents for that purpose. It would take it out from under the provision which is presently in the proposal that would require two-thirds vote and approval of the Board of Regents before you created it. This would simply mean that it would be created by the Board of Regents.

MR. GINN

Well, would that have anything to do with the other colleges like Tech, Northeast, USL and all?

MR. KEAN

It would follow the same management provisions that we have at the present time. It would retain the provision that's in the proposal which would permit the Board of Regents and the two-thirds vote of the legislature to grant a separate management board for any other college that wanted to do so.

MR. GINN

I see LSU here and I see Southern here. I was just concerned about the other colleges, Tech, Northeast and all of those.

MR. KEAN

Well, they are in no different position under this than they are at the present time under the proposal because the proposal would require that they could only have it upon recommendation of the Board of Regents and two-thirds vote of the legislature.

MR. BURNS

Mr. Kean, did I understand you to say that your amendment would, or you hoped it would satisfy both factions or sides?

MR. KEAN

Mr. Burns, I can only speak for myself personally. I said I hoped it would.

MR. BURNS

I hope so, too.

MR. BERGERON

Mr. Kean, I'm trying to follow up on Mr. Ginn's question, and he mentioned the universities or colleges of Louisiana Tech and Northeast. You said they would more or less be under the same status as they are under Committee Proposal No. 7.

MR. KEAN

No, the same status that they're in under either proposal, Philip, because they don't have separate management boards at the present time, under either proposal. The proposal in both instances, the Education Article adopted by the convention and the alternative proposal would permit additional management boards upon a recommendation of the Board of Regents and a two-thirds vote of the legislature. My answer to Mr. Ginn's question was that Louisiana Tech does not have a separate board now under this alternative proposal; it doesn't have one under the present Education Article, the device by which they would get that board would be a recommendation by the Board of Regents and a two-thirds vote of the legislature, and that's the case in either situation and regardless of whether you accept this one or the other one.

Further Discussion

MR. KELLY

Mr. Chairman, ladies and gentlemen of the convention, I rise in opposition to this amendment. I think this is what this entire battle is about right here within this one amendment. You can call it anything you want to. You can talk about commissions. You can talk about certain management boards. You can phrase them all into one paragraph. You can do anything you want to. But, if this amendment passes, then, in effect, you've gutted the alternate provision. There would be no alternate because this amendment does nothing more than put it back just like it is conceptually in the original proposal that was passed. All we are asking in this alternate is to be able to give the people of this state a choice. We've got serious problems involved in education apparently. When the experts can't agree, the delegates can't agree; the original proposal passed, what, 71 votes, approximately four or five votes more than was necessary for the entire passage of it. We've been that far apart. Now, the only way as I see it, that we can come out of this thing with our heads held high is to give the voters a true alternate on the ballot. To add this amendment back into the alternate destroys it as an alternate. Think about this. Let's give them a real alternate, and I ask that you vote the amendment down.

Questions

MR. BERGERON

Don, in effect, if this amendment were adopted, you feel that we would not really be giving the people of the state an alternative. We'd have two proposals, but really no matter which way they voted, they'd end up with more or less the same thing. Am I correct?

MR. KELLY

As I see it, in other words, you would be putting back into the constitution, and naming within the constitution three management boards here.

MR. ANZALONE

Don, what is the function of the LSU Board as it now stands? What powers do they have?

MR. KELLY

Under the present constitution it's my understanding that they have complete control over that entire system. In other words, they have budgetary control, curricular control and everything. That's my understanding of it.

MR. ANZALONE

Do they not have the authority to present directly to the legislature their budget for the LSU system?

MR. KELLY

It's my understanding that they do.

MR. ANZALONE

Now, under this proposal, is it not stated with some degree of particularity that they are going to be subject to the authority of the Board of Regents?

MR. KELLY

Well, it says particularly there, that they would be...

MR. ANZALONE

Subject to the authority of the Board of Regents. So, they have no budgetary control anymore, and the only thing that they're talking about is management of one university in the state. Is that correct?

MR. KELLY

That's correct.

MR. ANZALONE

Now, how is that going to gut your alternative? Would you answer the question?

MR. KELLY

Because under the original proposal you've got the same setup. The LSU Board of Supervisors, as it's called in Committee Proposal No. 7, as I understand it, is nothing but a management board. The Board of Regents under that particular proposal has entirely the budgetary and curricular control over all higher education, and therefore, really what we're talking about, Joe, this whole thing is whether or not you're going to mention five boards or whether you're going to mention two boards within the constitution.

MR. ANZALONE

Are you not talking about the fight for the education dollar in this state?

MR. KELLY

I don't think we're talking about the fight for the educational dollar in this state. I'll tell you what I'm concerned with. I'm concerned with going home with something that we can take home to the people in Lafayette and every one of these towns where there's a state college located and possibly try and muster up some votes for this new constitution. That's what this whole thing is about.

MR. FLORY

Mr. Kelly, I'm not sure I understood you, but what I understood was you said that if you're for LSU and Southern and them having a board, you vote for this amendment. If you're against them having a management board, then you vote against the amendment?

MR. KELLY

No, Gordon, that's not it at all. In other words, this does not determine whether or not you're for or against LSU or any other university having a management board. The vote here is to determine whether or not you're going to make constitutional

such management boards. My position is that I don't want to see management boards made constitutional. The provisions are set forth in the alternates and in the committee proposal that was passed that in the future the legislature through the Board of Regents, and so forth, can create management boards. I'm not against management boards.

Further Discussion

MR. JUNEAU

Mr. Chairman and fellow delegates, I'll make the remarks very brief because I think Mr. Kelly covered most of the things I wanted to say. I just wanted to tell you this: if we're talking about alternates, let's put an alternate to the people. If you want to talk about window dressing and things of that nature, then you'd vote for this amendment because this amendment is doing nothing more than putting us in the same posture, basically, as we are in Committee Proposal No. 7. I just don't think it's right to present to the people an alternate that's really a farce or a sham on the face of the record. So, I tell you, if you are really sincere and you think as a lot of us think, and apparently a lot of public officials throughout this state think, that this is probably the biggest, most crucial, emotional issue in this convention. If you believe that, then vote against this alternate and... I mean, against this amendment and vote for this alternate so that we can give to the people the chance and let them, themselves, decide how they want the structure of higher education to be in the state.

I ask your rejection of this amendment.

Questions

MRS. ZERVIGON

Mr. Juneau, this convention voted by a pretty wide margin to put alternatives on the ballot, didn't we?

MR. JUNEAU

Absolutely.

MRS. ZERVIGON

So, if we are in good faith, it would be your opinion that we should make the alternatives so-called real alternatives and give the people a choice. Isn't that correct?

MR. JUNEAU

It's my impression if we're going to put something on the ballot, let it be a true alternative.

MR. AERTKER

Mr. Juneau, don't you think it's going to be just as difficult for those of who, say, live in Baton Rouge and areas like that to go back and sell to the people a constitution that guts L.S.U. out of the constitution that they're presently in as it is for you to have to go back to Lafayette and sell something that includes L.S.U. with reduced powers in it? Don't you think it's going to be just as difficult?

MR. JUNEAU

I think, Mr. Aertker, that both of us have a problem. I think the way to solve the problem and to solve and salvage the future of this state, so far as the new constitution, is to put an alternate on the ballot and allow me and others who advocate one position to advocate that to the people and say, "Please vote for this provision and vote for the basic document," and give the same right to you or anyone else to say vote for the basic document and vote for your alternative. Because if we do it any other way, Mr. Aertker, we're running too big of a risk, in my opinion.

MR. AERTKER

Did you know, Mr. Juneau, that if we adopted this amendment it would solve my problem?

MR. JUNEAU

Well, I think... it solves your problem as Committee Proposal No. 7 did, but you're not giving the people an alternative.

MR. JENKINS

Following Mr. Aertker's line, but in somewhat contradiction to it, Pat, don't you think that the supporters of an L.S.U. board will have to be for the new constitution because under the old constitution, they have nothing; they have the Superboard? Whereas by putting an alternative on the ballot, they will be in a position where, if they want the L.S.U. System, they will vote for the new

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constitution and for their alternative on the five board plan.

MR. JUNEAU

I agree with that one hundred percent, Mr. Jenkins.

MR. WILLIS

Mr. Juneau, L.S.U. doesn't vote, does it? I thought this was a constitution of "we, the people."

MR. JUNEAU

Well, I'd like the people to decide that issue as opposed to one university as opposed to another. I think there's a lot of people in this state who didn't even go to a university that would like to vote on that issue.

MR. WILLIS

Well, now, you would think that L.S.U. is the only pebble on the beach, but isn't it a fact that because there is so little difference between this amendment and what we already have that there is very little choice in rotten apples, now, for the people?

MR. JUNEAU

I think that's correct, sir.

[Motion to limit debate to ten minutes adopted without objection.]

Further Discussion

MR. GAUTHIER

Mr. Chairman and delegates, I rise very briefly to again point out something that I tried to point out when we first brought up rules dealing with alternates. I told you then, to allow a substantive amendment, you could possibly put us in a position to where we would not come up with an alternate, but rather two proposals. But, there wouldn't be an alternate, because they would, in essence, contain the same thing. That is the intent of this amendment. This is the yellow sheet and this is the blue-green. There's a difference. Merge them together and hold up a white one, though, and you don't offer an alternate. With this amendment we would not be offering the people of this state an alternate. We would be, in essence, preserving the present situation.

What is our problem in education? Why is there a problem in education? For some strange reason, I always thought that possibly it was caused because we had too many constitutionalized boards. I don't know where I got this from, but for some strange reason some of the people that are now fighting on each side relayed this to me that part of the problem was that we were dealing with too many constitutionalized boards. Then, to carry it a step further: Mr. Kean, Mr. Aertker, Jimmy Morris, Ralph Cowan--all very, very fine people--Ford Stinson---the dedication, the loyalty, the sincerity they feel for their university, they want to promote it; but, gentlemen, please try to understand I too feel that loyalty, that sincerity, and that dedication, but it so happens that I graduated from a little town in Lafayette, from Southwestern Louisiana, and I don't feel that you're giving us a fair alternative. You beat us on the floor; the proposal is your way; and, yet, it was a close vote each and every time. If you will remember when that proposal was finally adopted, we had a range of speakers coming up to this mike and saying, "You have done me an injustice." There was no compromise reached; there was no compromise at all. You ramrodded it through, and now you have it, live with it. It came back at you, and the people of this state said, "We don't want what you devise. We're not satisfied; take another direction; give us a choice." Again, I reiterate what I said a few days ago: I'm disappointed that the professional educators were not able to reach a compromise; I'm disappointed that the burden has been put on us. I say to you, let's not shoulder it completely. Let's give the people of this state two, clear alternatives. I beg of you to please act reasonably. The other side, please try to understand we're not out to gut L. S. U. That's not my intention. I don't believe any delegate in here wishes. . . We just want to be put on an equal basis. We want to allow education in the state to progress. Don't tie its hands constitutionally. I urge you to please defeat this amendment.

Thank you, Mr. Chairman.

[Previous Question ordered.]

Closing

MR. KEAN

Mr. Chairman, fellow delegates, I realize, of course, that I have a vast majority of you delegates with me and that my remarks are unnecessary, but I thought I'd like to make a few just to. . .

just for the fun of it. I'm not. . . I want to say to my friend Burt Willis and Wendell Gauthier that I'm not talking about L.S.U. as an institution; I'm talking about people, a lot of people who

feel very strongly that there is merit in a management board for L.S.U. I'm sure there are a lot of graduates of Southern University who feel equally strongly in that direction.

My main point in bringing this amendment to your attention was that I do not think that it's physically possible for one Board of Regents to manage the entire higher education system of this state. As long as you were able to restrict the management boards with respect to finance and budget and leave that solely in the hands of the Board of Regents and then have the Management Boards for the day to day local problems of the universities and colleges that this made a sensible solution and offered a sensible alternative, if not a possible compromise. I see here, however, that those who want to go forward with the two board proposal are determined to do so. Now, it's been suggested that this alternative of two boards, or that which we now have in the Education Article, will assist in passing this constitution. I disagree with that. I think this convention has a duty and an obligation, if at all possible within the means of our intelligence and our capacities, to come up with a consensus proposal which would permit us to say to the people of this state, "This is what we think is the best system for higher education in this state down through the years." When we simply throw it out to the people of this state to vote on an alternative proposal that clearly divides the state between the two board system and that which is in the present proposal of the Education Article, I say to you, we're going to have this same debate, the same division between the people of our state that we had in this convention. When we get that kind of division--when we get that kind of division--between the people of the state on this issue, I think we seriously jeopardize this constitution. That's the reason I offered my amendment, in order to try to come up with something that would enable us, together, to present something to the people of this state which says, "This is what we think is the best. . . in the best interest of higher education of this state," and not just throw it out there for them to pass on it subject to all the political factors that are going to come into play in connection with that issue before the people of this state. I think we do a disservice to the people of the state under those circumstances. I offered my amendment in order to avoid that possibility.

Questions

MR. GOLDMAN

Mr. Kean, if we had only one state university in this state, L.S.U., and it had branches of four-year colleges or universities in all the cities and towns where we have other universities--state universities--would you agree, then, that one state superintendent and one Board of Regents could manage them?

MR. KEAN

No.

MR. GOLDMAN

You wouldn't?

MR. KEAN

No. I think we're talking about management on one hand and coordination of higher education on the other. The coordination and development of the higher education system of this state has got nothing to do with the local management of those universities and colleges.

[Record vote ordered. Quorum Call: 114 delegates present and a quorum. Amendment rejected: 36-77. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Aertker is going to handle the other set of Kean amendments which read: (Should add "Amendment No. 1 up at the top.") On page 5, line 8, after the word "institution" and before the word "of" insert the following: "or existing systems".

Explanation

MR. AERTKER

Mr. Chairman, ladies and gentlemen of the convention, this is a relatively simple amendment. What the purpose of it is: is that we just feel that we would like to have clearly understood that the L.S.U. system will come in with its budget and that they will not be dissected by the Board of Regents and told--the branch

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in Shreveport, or the branch in Eunice, or Alexandria or wherever you have different branches throughout the state--to come in with their budget. All we're doing is consolidating this, and so we are requesting that the university system be recognized as a system and that the budget be submitted on that basis. I think all of us recognize the fact that in order for L.S.U. to prepare its budget, it's got to be cognizant of all of the different facets of its operation, and all of its programs, and all of the curriculum that it has, in order to come in with a comprehensive proposal. So, I recommend to you your favorable consideration of this amendment.

Further Discussion

MR. LEITHMAN

Mr. Chairman, members of the delegation, fellow delegates, we just don't see where this is necessary at all. Right now, the proposal states that "to require that every institution of higher education submit." I just, and the other members here, feel that adding the terminology "existing systems" has no bearing at all on what the institutions do. We just don't feel that it's necessary. We feel that the system, as it is now, will be taken care of. Certainly, we're not going to put anything in any jeopardy. So, we feel that this amendment is unnecessary, and we ask that you reject it.

Questions

MR. AERTKER

Mr. Leithman, I'm just a little curious. You say, "we feel." Who is "we"?

MR. LEITHMAN

The people I've spoken to from interested. . . in this proposal. Authors of the. . . You see, Mr. Aertker, we have a proposal here by a lot of coauthors.

MR. AERTKER

Yes, I've read it. I was just interested in who "we" were.

MR. BOLLINGER

Kenny, could you see this amendment in any way to construe that the existing boards now would be ratified by this, if this alternate was adopted?

MR. LEITHMAN

It's a strong possibility. The real impact is hard to determine on an instant notice. But, just. . . as we have it, we merely state that to require that every institution of higher education submit a budget. We certainly feel that is adequate to take care of the budgetary problem facing the legislature. We ask that you reject the amendment.

[Previous Question ordered. Amendment rejected: 36-74. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Haynes and Mr. Velazquez send up amendments at this time. Amendment No. 1. On page 3, line 8, after the words "law and" and before the word "members" delete the word "three" and insert in lieu thereof the word "seven".

Explanation

MR. HAYNES

Mr. Chairman and fellow delegates, our amendment is a very simple amendment, and I've talked with many of the delegates who see it as not objectionable. It makes for consistency. The only thing we are asking for is that in the Elementary-Secondary Board, or the board governing elementary-secondary education, that it would be consistent with the Board of Regents. We have, in the article, the Board of Regents calling for eight elected members from single-member districts and seven appointed by the governor. As I said a minute ago, the only thing that we are asking for is that you make these two boards consistent; that the board governing elementary-secondary education would parallel the board governing higher education: that is, that there would be eight elected from single-member districts and that there would be seven appointed. The large portion of the children and youth of this state are in elementary-secondary schools of Louisiana. I would submit to you

that we have come a long ways in the last half century, since 1921. I wouldn't suggest to you that we've come far enough.

The next point I'd like to make is that with a board having eight elected members from single-member districts, or any kind of districts, and three appointive. . . appointed, political reality would suggest to us that this board could not represent the population of this state. I would suggest further, that had the governor having the discretion of appointing seven members of the board, it would permit the governor to look out into the wide ranges of the state and appoint a board representative of the state. Then, I would suggest further, that the people from all parts of the country are looking at us with great scrutiny now. In higher education we are called on to integrate every phase of our education structure. We cannot do this with a large segment of our population having no representation at all. I would therefore ask you to support this simple amendment, because it does give the opportunity for people whose children are attending these schools to have. . . to render service in governing education in the state. Somebody has suggested that it would give the governor a larger opportunity for control or influence in such board. I've had the privilege of serving on several boards and commissions. Not in a single instance has any governor come to me to influence my vote or to influence my action on any issue coming before either of the boards or commissions. I would ask the 132 delegates at this historic convention that we would look ahead rather than looking backward, and in the name of justice and equity, we would approve this amendment. The passage of this constitution is going to depend upon all of the people--all of the people--black and white alike, coming from all segments. I would want that we would make this constitution such that it would be in the advantage of all of the people.

So, Mr. Chairman and members of this delegation, I would humbly ask--and I would apologize for consuming your time at this time; I have not done this during the more than a year's stay in this convention--I would humbly ask you to support this simple amendment simply changing one word from "three" to "seven" in the board governing elementary-secondary education. I should be glad to submit to any questions that anyone would like to ask.

Questions

MR. DE BLIEUX

Mr. Haynes, that would change the membership of the board from an eleven member board to a fifteen member board. Is that correct?

MR. HAYNES

That's correct. That's correct.

Further Discussion

MR. J. JACKSON

Mr. Chairman, delegates to the convention, I rise in support of Mr. Haynes and Mr. Velazquez's amendment. The speaker prior to me says that there were a couple of issues we ought to consider in proposing an alternative. One was that of the management board. I suggest to you that the other one is appointment, and election, and representation--is the other issue involved in a successful cross-range of the people of this state, supporting in my estimation, what an alternate ought to do. For those reasons, and the reasons that Mr. Haynes mentioned, I would suggest to you that the only issue involved in the alternate is not management boards. There are some delegates who feel that these ought to be elected positions. The other delegates feel that we ought to broaden the opportunity for a broad representation of people in education. I ask your favorable support.

Further Discussion

MR. JUNEAU

Mr. Chairman and fellow delegates, I again will make these remarks very brief. I ask you to reject this amendment. The reason again is very simply this: I don't want to do anything whatsoever to jeopardize affording the people of this state with a viable alternative. If you fool with this amendment, and any other amendments like it, and don't like the amendment we're just through, you've done that. So, I say, leave it alone. The flak has not been in the area with the board of lower and secondary education. So, I respectfully submit that you reject this amendment, and the amendment similar to it, and let's get on about this business of adopting a viable alternative.

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Questions

MR. J. JACKSON

Yeah. Under the present...constitution that we have adopted, proposed constitution, it calls for what is the procedure, what is the makeup under the proposed, the one that we are proposing?

MR. JUNEAU

For the lower board?

MR. J. JACKSON

For the lower board.

MR. JUNEAU

Eight elected and three appointed.

MR. J. JACKSON

Eight elected and three appointed.

MR. JUNEAU

Yes, sir.

MR. J. JACKSON

Do you feel that this amendment is not a viable alternative to the eight and three?

MR. JUNEAU

I'm telling you, Mr. Jackson, I'm going to lay it on the line with you. If we start tampering with that--you start with the eight/three provision in this convention, at this stage of where we are---I think we are running the risk, conceivably, of knocking out an alternative. I'm speaking very practically to you.

Further Discussion

MR. LANDRUM

Mr. Chairman and fellow delegates, I rise in support of the Haynes amendment. I rise further to state that it is my opinion, the very idea of alternate proposals, I believe is not in the best interest of the final passage of this document. I believe further that our governor did a disservice to this convention when he laid it on the line by stating that unless this particular area would be changed, the people would reject this constitution. Last night, before there was a change made, two of the delegates, in my opinion, did a very good job of selling the document to the people---Mr. Jenkins and Mr. "Monday" Lowe. I believe that if the officials, and when I say the governor, I have great respect for the governor because I believe he is a very fine and sincere man, as I believe about other officials. But now, what you are doing, everything in this document, something about it, every delegate in here, I believe, likes and dislike; we all have our likes and our dislikes. But, we should not just turn away because we don't like one particular area. Because I don't like my arm, I don't want to destroy my whole body; because I lose an eye, I'm not ready to die. I think what you are doing now, and what you've been doing most of the morning, with all of these last minute changes, are not in the best interest of the passage of this document. Let it be stated now, there are some other people who can defeat this constitution. Unless we do some things that will help everybody in this state, I will be one of those trying my best to defeat it. But, as long as I feel that we are doing something together, nobody will be any more a champion of selling it than I will.

Thank you.

[Previous Question ordered.]

Closing

MR. HAYNES

Mr. Chairman, and members of this delegation, the only significance that the amendment has is that provided the alternate is included on the ballot.

The other, the only point I would like to make, is that we do have political realities facing us for the next half century. Perhaps we won't have another constitutional convention for another half century. I cannot see us writing into the constitution something that will circumscribe so large a segment of our population for a half century. I have spoken to Mr. Juneau, and others of this delegation, about the amendment. I cannot see at this time any reason that there could be a single objection for the simple proposal that we have submitted to you in this amendment.

I would ask you again, in the name of justice and fair

play and honor for years and years to come. Like Mr. Willis, I'd like to quote from one of my favorite writers. I'd like to quote from Shakespeare when he had Mark Anthony to say "that the evil that men do lives after them; the good is often interred with their bones." I've heard people talk about the good Bill of Rights that we've written. I've heard them talking about the many other things. These aren't necessarily the things that people are going to write about. This won't be our epitaph. But our epitaph will be the evil that we put in this constitution to circumscribe any members of our population in the years ahead.

Humbly, I would like to ask your favorable support on this amendment.

Let me practical. Let me realistic. If we put three appointees in this constitution, there's no way a governor in the foreseeable future could appoint more than one black to a board. I think any one black would be stupid to serve on a board such as this governing elementary and secondary education in the state. If we put seven in there, it would give the governor--governors of this state in years to come--some leeway to make whatever we have governing education, representative of the people of this state. No longer can we deny any segment of our population the opportunity for representation and a voice in government.

Thank you, Mr. Chairman.

Questions

MR. BURNS

Mr. Haynes, I try to live an honorable life and everything. What has honor got to do with whether you believe in three appointments by the governor or seven appointments by the governor?

MR. HAYNES

Mr. Burns, I think the...I didn't mean any aspersion on any delegate here. But, I think whether we write a constitution that will be representative of all of the people, it to me, represents my honor. I certainly don't mean to cast any aspersion on any delegate, on any vote that he's cast in this constitution.

MR. J. JACKSON

Mr. Haynes, is it not a fact in the proposed constitution, the superintendent has one status, but to provide a viable alternate, we changed his status? Right?

MR. HAYNES

That's correct.

MR. J. JACKSON

Is it not a fact that one constitution has one proposed draft, has management boards? The alternate, as a variable, has no management board. Is that correct? Is it not a fact that the constitution is laid out in one way and if you want to provide a viable alternate it ought to be different in the alternate? Right?

MR. HAYNES

I think you must have, you must have, a difference there. I appreciate that suggestion.

MR. STOVALL

Mr. Haynes, do you feel that fifteen members of an elementary and secondary education board is too many people to manage the affairs of millions of young people and children in the state?

MR. HAYNES

I think it would be more representative, Reverend Stovall, than an eleven member board....

Thank you, Mr. Chairman.

[Record vote ordered. Amendment rejected: 46-65. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Reverend Alexander, did you still wish your amendments? Reverend Alexander sends up amendments which read as follows: Amendment No. 1. On page 4, line 6, after the word and punctuation "law.", add the following: "The composition of the board shall reflect as nearly as practical, the racial composition of the state."

Explanation

MR. ALEXANDER

Mr. Chairman, delegates, ladies and gentlemen, I think by now I have sensed your mood....

It appears to me at this time that you have concluded that you are going to oppose all amendments, especially along these lines. It just so happens that I'm a disciple of a God who walked this earth at one time, and who didn't even have a place to be born or to lay his weary head. He said to His disciples once, after noticing the desertion of all His friends, "Will ye also go away?" I don't know, having gone through these kinds of trials and tribulations all of my life, I have concluded that possibly one more defeat will not kill me. So, I come to you asking you to adopt this amendment. I come to you asking you to forget the traditions of the past. I come to you asking you to forget everything that has happened to leave in your mind the idea that there are different races in this state, and possibly one should be dominated by the other. Even though this amendment mentions the word "race," it simply states that the board should reflect the ethnic or the racial composition of the people of this state...no matter who they are. Indians, Chinese, Rhodesians, Ethiopians, anybody. So, I say to you that I make no threats at this time. The position I will take on the finished product of this convention will not be determined by your vote on this amendment. But, I do ask you in all sincerity to vote for this amendment because the position of many people will be based on what happens here, and with this amendment.

Mr. Chairman, I'll answer any questions.

[Previous Question ordered. Record vote ordered. Amendment rejected: 37-68. Motion to reconsider tabled.]

Point of Information

MR. KEAN

Mr. Chairman, I had a proposed amendment with respect to the style of the ballot. I assume the ruling of the chair on the previous amendment...proposal...is applicable....

MR. HENRY

Yes, sir. It would be.

Further Discussion

MR. A. JACKSON

Mr. Chairman, ladies and gentlemen of the convention, I rise in support of this proposal knowing full well that this is a very vital issue that is causing emotions to run very high in this deliberative body and across the state. But I do so because I believe that a new document for this state is in the interest of all of the people. I believe that a new document for this state will insure that we can have creative and informed government. I believe that a new document will enable us to bring efficiency to state government in a manner that we have not been able to do so. I believe that in the long run, education is going to make the difference. I believe that this proposal, as an alternate on the ballot, will insure that this constitution that will be presented to the people for ratification will receive the full attention of all of the people of this state. Now, I know there are those in this hall that are close to me who will have reservations about the proposal. They do so because it does not contain some of the provisions that they would like to see in it. I share their concern, and I share their feelings. But I say to you, that it is the overriding consideration... ..I believe the overriding consideration is how do we prepare, how do we ratify this new document?

Now, let me talk for a minute or two about the question of education. Twenty years from today, this state and this nation is going to be a vastly different place. None of us will be able to visualize what education is going to be like twenty years from now in our vivid...in our most vivid dreams or imagination. So, I believe that it is necessary that we are able to coordinate education in this state; that we are able to provide for long-range planning for education in this state. I believe that we will have to have flexibility to insure education with excellence for all of the children of all of the people. Therefore, I believe that it is necessary for us to have the kind of educational governance structure that will allow us to do this.

Finally, I believe that this will...that this proposal, placed on the ballot, will enable us to remove the jeopardy from the proposed constitution that is now present by way of the education article that

is claiming the attention of so many people.

Rightly, or wrongly, I know many people fail to understand the country. But the fact is that there is confusion; there is concern. I believe that this alternate will satisfy the kind of concern, and the kind of need that we have, and will insure that this document will be passed. So, I would urge that you will vote for the alternate proposal.

Further Discussion

Mr. J. Jackson

Mr. Chairman, delegates to the convention, I do not intend to sway you one way or the other because I think the decision has been made. Let me say that I agree basically in principle with Representative Alphonse Jackson, in terms of the possibilities of insuring this document passes. However, I just would like to make it very clear to the delegates here that when we talk about an alternate, we talk about alternate provisions other than the ones that we're adopting. I will definitely, as a delegate, with whatever energies that I can muster, will support very strongly this constitutional document. I think that I have won some, and I think that I've lost some. I suggest, and I would encourage that no matter what you do on this final proposal, that you do go out, in fact, and hustle, whether you hustle for the alternate or hustle for what we've got. But, I did not at any point want the convention to leave on a note, under no circumstances, other than the political considerations that are involved, that, in fact, there were many issues that deserved alternate consideration. Unlike we accommodated those issues like the superintendent of education, like the management board that we made alternates in this proposal, but when it came to what I declare now, and suggest to you very seriously was the need for another provision containing an alternate, we did not give that consideration. So, in fact, although I do believe that this is an alternate proposal, by no stretch of the imagination do I think it possesses the true ingredients of an alternate.

Further Discussion

MR. LEITHMAN

Mr. Chairman, fellow delegates, I'll just take just a couple of minutes of the remaining time. I certainly didn't anticipate back in 1972, when we began gathering information to draft our single board concept which was fifty-three, that it would carry so much emotion as it has. I...if I've caused any...I certainly apologize to each and everyone of you. The alternative being presented to the people is basically the fifty-three that we considered. We didn't feel that it should be brought to the convention floor. But, I feel when you return to your locale, you'll find the educators there behind you one hundred percent with this alternative. I think they've exemplified this fact to you all within the last week or so. Perhaps if the effort would have been exerted long in advance of...prior to this late hour, it may not have been so emotional. But, that is past history. But, what you're doing now is offering the people something that the university campuses have endorsed...the university people, your governor, your state superintendent of education, and virtually everyone in government involved in education.

So, in closing, I apologize for all the turmoil that perhaps myself and the other people that worked along with us on this... what we felt that was right and just. This is why we continue to pursue it.

If there are no other speakers, I move the previous question.

Further Discussion

MR. STOVALL

Mr. Chairman, fellow delegates, I have felt from the very beginning of our work as a convention that the greatest need in education is for us to have a unified, coordinated approach. Too long we have had provisions which fracture, divide, separate, and estrange the forces of education. Our great scandal of the past has not been the appropriation...misappropriation of monies at one of the institutions, but rather, it has been the proliferation of institutions and programs without coordination. I think this alternative provision will give a clear direction to coordinating and having a unified approach to education in our state. It means that there will be a clear line of administration from top to bottom, and responsibility from bottom to top, and I think this is what we need. If we have constitutional boards for all of the different institutions, the great qualification for being a member would be one's ability at infighting. But, if you have one Board of Regents for higher education, the qualification becomes one's ability to cooperate and provide quality education for all the young people of our state. This is not an

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alternative provision which is for LSU or against LSU. It means that we are for LSU, and we are for all of the colleges and institutions of the state. I'm interested in LSU maintaining its distinctive position in higher education in this state. But, the way this will be done, if the people adopt this alternative provision, will come not because of constitutional preference, but rather it will maintain its distinctive position because of its academic program and professional schools, and because of the service of its alumni to the state.

LSU will find its fulfillment by being in a family. It's true that LSU will be the big daddy. But, its fulfillment will be in being a part of this family. Therefore, I encourage your adoption and your approval of this alternative provision to be presented to the people of our state. Thank you.

Further Discussion

MR. KEAN

Mr. Chairman, fellow delegates, I've been up here too often already, except I want to make one final comment, to say that I share the view that Representative Johnny Jackson just stated from this podium. That is that we have made in this alternative proposal, so called, a significant new proposal. I don't know how much discussion and thought went into the change that has occurred in this proposal by which the superintendent of education now becomes the administrative head of the entire educational system of this state. But, under this provision, we have done away with the management boards on a local level and placed that authority of management, as I see it, in the hands of the superintendent of education. Now, that's a vastly different proposal than the one which was originally presented here as the alternative proposal to the educational article. As it started out, we were talking about whether or not we'd have two boards, and whether or not we'd have what the educational article provided in the way of two boards and management boards. We have ended up with an alternative proposal which now injects the superintendent of education in the management of our colleges, in the management of higher education to an extent never before possible in this state. I say to you, and I join with Johnny Jackson in suggesting to you, that we no longer have an alternative proposal to be considered by this convention. We've got a new proposal, and in a period of almost two hours, we've completely changed the entire higher educational system of this state, and I say to you, to the detriment of that system.

Further Discussion

MR. HAYES

Mr. Chairman, ladies and gentlemen of the convention, we have one minute, and that's a plenty time. I'm sorry to see that Education Article caught the blunt end of the entire constitution and, in effect, we don't have an alternative. We say we have two boards, now, as an alternative. We only had two boards to start with. The problem was we misnamed the boards. We only had two: the Board of Regents and the Board of Secondary Education. The other boards, probably, should have been called quarterback clubs or P.T.A. organization. They were named on an equal basis, and that confused the people. That was the problem with the Education Article. It never had but two in the beginning; it don't have but two now. But, we confused the people with it. Thank you.

MR. HENRY

The two hours are up.

[Record Quorum Call: 112 delegates present and a quorum.]

Point of Information

MR. BOLLINGER

Mr. Chairman, is there a possibility that something's wrong with the machine? This is the second or third time Mr. Riecke's light has been lit, and he's been missing the last few days. I was wondering if something was wrong with the machine--why his machine was automatically voting.

MR. HENRY

How is it voting?

MR. BOLLINGER

It voted no now, and it's been voting no when it does vote.

MR. HENRY

There's nothing wrong with it. No, I don't know. Mr. Clerk, look at his machine there.

The roll call shows him not voting at all.

[Proposal passed: 80-35. Motion to reconsider pending.]

Vice Chairman Casey in the Chair

Motion

MR. RAYBURN

Mr. Acting Chairman, I rise for the purpose of making a motion. My motion is to ask for a suspension of the rules to go back into C. P. No. 7--the article on education--for the sole and only purpose of considering and adopting this set of amendments that you now have, by myself and others, which will remove vocational-technical training and career education from under the control or the supervision of the Board of Regents, and place them under the control of the Board of Elementary and Secondary Education. I make that motion for that purpose, and that sole purpose only.

Point of Information

MS. ZERVIGON

Mr. Acting Chairman, I rise for a question. The rules under which we are operating now for alternative proposals--does it mean that we have to complete our consideration of all alternative proposals today, or that we have today and tomorrow for them?

MR. CASEY

Ms. Zervigon, I think the Chairman, who just left the witness stand, so to speak, indicated to the convention that we would have to go into tomorrow in order to handle all the alternatives under consideration.

Point of Information

MR. CHATELAIN

Mr. Acting Chairman, the purpose of this is to go into only, specifically, the purpose that he stated. Is that right?

MR. CASEY

That's the purpose of it, Mr. Chatelain.

[Motion to suspend the rules to discharge Committee Proposal No. 7 from the Committee on Style and Drafting adopted: 102-5. Motion to reconsider Committee Proposal No. 7.]

Point of Information

MR. SCHMITT

It was my understanding that we're supposed to go through each individual delegate proposal first; and I'm sure this is fine, if they want to suspend the rules, but we should file our original procedure that we had established. Then, at the end of this time, we could come back and accomplish Senator Rayburn's purpose.

MR. CASEY

Mr. Schmitt, the rules are already suspended. The committee proposal is before us. Right now, at this time, we're in that order of business.

Point of Information

MR. ABRAHAM

Is the motion debatable?

MR. CASEY

The motion to reconsider is debatable, sir.

Questions

MR. DE BLIEUX

Mr. Chairman, I'd just like to pose this question to Senator Rayburn. I think it might save us a little time if he would consent to it. What he wants to do is in this alternate proposal, and I would say this: that, if the alternate proposal is adopted, then you would have what you want to do with reference to the other proposal. It's only in the event the other proposal is not adopted where that would fail.

MR. RAYBURN

Senator De Blieux, in the event the alternate proposal is not adopted, I want to make sure that we get the vocational-technical training schools in this state out from under the Board of Regents. If we don't pass my amendments, they will be under the Board of Regents. That's my sole purpose. I've talked to the people of LSU and all the people interested in the Board of Regents,

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and they have no objection to this amendment and think, maybe, it might be a good amendment.

MR. DE BLIEUX

Personally, I'm not opposed to your amendment, because I voted for reconsideration on it, but I just thought that, possibly, we could accomplish that by the alternate proposal.

MR. RAYBURN

No, sir. I can't, and that's the purpose of this amendment, Senator De Blieux.

Further Discussion

MR. ABRAHAM

Ladies and gentlemen, the reason I rise in opposition to the motion to reconsider is that--I'm not in disfavor with what the Senator is trying to do--the only thing I'm saying is that let's finish our alternate proposals first; then, we can come back and do the thing that he's asking to do. So, I'm not arguing against his amendment or anything like that, but I think we ought to finish what we've started. Let's not just jump from one thing to the other because we're going to make a lot of mistakes when we start jumping hither and yon.

[Previous Question ordered.]

Closing

MR. RAYBURN

Mr. Acting Chairman and fellow delegates, I'm not trying to railroad anything, Mr. Abraham. We have our vocational people that's been here about two days; some of them are a long ways from home. I feel like that, while we are on this subject--although we have just completed the alternate--that now is the proper time to go ahead and act on this; and I think, by the recent vote--it was a hundred and something to two to place this same language in the alternate--I feel sure that a majority of these delegates want this same language in the educational proposal. That's why I ask you to go along, at this time, and consider it.

MR. AVANT

Senator Rayburn, I just want to make absolutely sure I understand the purpose of your amendment, because I don't have the proposal, you know, to check it. But, as the proposal now stands, vocational education--career education--is under the Board of Regents.

MR. RAYBURN

That is correct, Mr. Avant. I've checked the amendment. I even went so far as to submit this to Style and Drafting and have even made the suggested changes in the amendment that they suggested.

MR. AVANT

And, this will simply place it under the State Board for Elementary and Secondary Education?

MR. RAYBURN

That's exactly what it will do, Mr. Avant--other than one other thing, now. Under the present language, it does say "career education," and I'm leaving career education silent. I'm not putting it under any board, and the reason for that is something that's in its infancy in this state. I don't think anyone knows very much about it at this time. I think, at a later date, the legislature can assign it where it thinks it best needs to be.

Questions

MR. JENKINS

Mr. Chairman, I'm just wondering if we could recess for, maybe, about three minutes to make sure we check this language, because it's been very difficult to find a copy that's being amended.

MR. CASEY

Check the language on the amendments--is that what you're requesting?

Mr. Jenkins, look, we have a lot of steps to go through before we even get to a discussion on the amendment. Let's just go through the mechanics, and then we can check it out.

[Motion to reconsider adopted without objection.]

MR. POYNTER

Now, Senator Rayburn's amendment to affect, as I understand it, Senator, just that one single purpose that you have explained on the mike goes to three different sections. It affects Section 3--if my initial checking is correct--Section 5, Section 12. In that light, the gentleman now asks for a suspension of the rules for the purpose of calling from the table the motion to reconsider the vote by which these three sections were adopted and, further, with the view of being able to offer as this one set of amendments to three different sections and, then, subsequently, readopting all three of those sections--all in one global motion and vote. Is that correct, Senator?

MR. RAYBURN

That is correct.

[Motion to suspend the rules to reconsider Committee Proposal No. 7. Sections 3, 5, and 12 adopted without objection.]

Reconsideration Amendment

MR. POYNTER

Now, the amendments go to the so-called final enrollment--that is, the enrollment after the Style and Drafting amendments--which copies of have been distributed. I know that you've got tons of paper on your desk, but copies of it may be there if you've had them with you.

Amendment No. 1. On page 2, line 10, after the word "schools" and before the words "and special" insert the words and punctuation ", vocational-technical training,"

Amendment No. 2. On page 3, line 20, after the word "education" change the comma "," to a colon ":" and delete the remainder of the line and delete line 21 in its entirety.

Amendments Nos. 2 through 6, I believe, all affect on page 4, which is Section 5.

Amendment No. 3. On page 4, line 4, after the word "education" add a period ".".....

[Motion to waive reading of the Amendments adopted without objection.]

Explanation

MR. RAYBURN

Mr. Acting Chairman and fellow delegates, these amendments do exactly what I said a few moments ago. They do place vocational education back under the State Board of Elementary and Secondary Education. I personally feel that's where vocational education belongs, and I think a majority of the delegates feel that. I want to apologize for not catching this earlier and not trying to correct it before we got along in this late stage. I want to thank you for allowing me the opportunity to suspend the rules where this body can consider these amendments at this time. I'll be happy to yield to any questions, if there is any questions.

Mr. Chairman, as soon as that question is over, I'd like to be recognized to ask that you open the machine for coauthors. Several of them have asked me to do that, and I was about to forget it.

Question

MR. ABRAHAM

Sixty, I'm not speaking for or against the amendment. There's one thing that puzzles me. You know, we had the original draft of the proposal from the Education Committee way back in last July. They held hearings and everything for six months. We had this committee proposal on the floor, and we deliberated it at length. Throughout all of this, the vocational-technical training was under the Board of Regents. Why have not these people come up before now with this request that it be moved back to Elementary and Secondary Education? Why, all of a sudden, have we had a change in our thinking on it?

MR. RAYBURN

Mr. Abraham, I guess I'm partially guilty for not notifying my vocational people, which I did not. When they found out about it, they discussed it with me, and they were upset about it. That's why I'm here trying to correct it. I do not know why they waited this long to come. I've asked some of them, and they told me they really didn't understand where they were at; they didn't know what board they were under, because we have discussed it pro and con, as you know, for many, many weeks. The fact of the

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business, I wasn't here the day it was finally adopted, and I had to come back and check the bill to see where they finally put them. I didn't know myself that we'd had so many proposals and discussions on this particular proposal; so I was not familiar with the entire contents of it, and I guess it's my fault as much as it is anyone else's that I was not well enough aware on the final contents of the proposal to tell my vocational people exactly what board they were under. When I came back and checked it, I found out they were under the Board of Regents.

[Coauthors added.]

MR. RAYBURN

Mr. Acting Chairman, I think the vote is evident. If there's no more questions, I now move the adoption of the amendment.

[Previous Question ordered. Amendment adopted without objection. Sections 3, 5, 6, and 12 passed: 107-1. Motion to reconsider tabled. Proposal passed: 10J-4. Motion to reconsider pending. Motion to revert to other orders adopted without objection.]

REPORTS OF COMMITTEES [II Journal 1J21-1J22]

[Motion to suspend the rules to consider the Report of the Committee on Style and Drafting at this time adopted without objection.]

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING

Committee Proposal No. 26, Section 4

Amendment No. 1

MR. TATE

Mr. Chairman, fellow delegates, it's on your desks--the Henry, Pugh, et al, amendment to C. P. No. 26, Section 4 (F), about the State Board of Commerce and the exemption from ad valorem taxes of manufacturing establishments. This is your amendment, and your green copy and blue is here. The amendment is here. As you can see, it capitalized State Board of Industry because this is the first time it was mentioned. It states: "The exemption shall be for an initial term of no more" instead of "no exemption for a longer initial term than five years." The chief change which I should note to you, aside from the stylistic changes--Mr. Conroy was supposed to explain it, but he's over with the secretary of state--is that we say the terms "manufacturing establishment" and "addition." As it passed the floor it said "and addition or additions." Since we had not referred to "additions" up above, "additions" was omitted... was deleted. Otherwise, the language is the same; in the views of tax men it's exactly the same except for stylistic changes noted. Mr. Chairman, I respectfully move, subject to discussion, the adoption of this amendment.

[Amendment No. 1 adopted without objection.]

Report of the Secretary
[II Journal 1J22-1J29]

[Motion to revert to Reading of the Journal adopted without objection.]

READING AND ADOPTION OF THE JOURNAL

MR. POYNTER

By the way, a number of people have talked to me about getting one copy of a Journal that they're missing or this and that. I want you to know that under the specifications of the printing, you will all receive a copy of the final Journal and calendar as it comes out. Of course, you know that under your instructions that the secretary, and myself, and the Chairman have been correcting the Journals and whatnot. But, in similar fashion to the Legislative Journals and Calendar, you'll get one; and there is under consideration, in fact, requested by several delegates, and I think will eventually be brought up to the Executive Committee that those copies

for the delegates would be hardbound in fact. But, at any rate, you will certainly get a copy of the final Journal and the final calendar which will reflect all those corrections that we from time to time noted in here.

For those of you who've been requesting copies of the blotters, we've ordered a few more copies of the blotters, and they'll probably be enough of them that everybody at least can have one, maybe two, new, clean blotters here because I know a lot of you enjoyed having those for signature purposes, and whatnot.

Point of Information

MR. GOLDMAN

A question for Mr. Poynter.

You mentioned something about us signing our name a hundred and thirty-five times. What's happened to that? I thought we were supposed to do that.

MR. POYNTER

We did not get the final copy back, Mr. Goldman, as yet from the printer, and the reason is that I've been trying to check, and I still lack talking to about one or two people to confirm how they want their name to appear, and it particularly has reference to those people who commonly use a nickname, and whether they do or do not want it in there; and I certainly wanted everyone's name insofar as humanly possible to be styled on the final document in the way that they would consider most appropriate. I would hope to have those, Mr. Goldman, not later than sometime tomorrow so we can begin the signatures...the signing of your signatures.

Amendment

MR. POYNTER

Mr. Pugh in a minute...we don't have the distribution. He's going to ask you in a second to reconsider the adoption called from the committee in the usual motion No. 4, Committee Proposal No. 4, which is the Executive Branch with the view of offering an amendment there that deals with seeing that the governor faithfully executes the laws of the state. The amendment that he will be speaking about reads as follows:

Amendment No. 1. On page 2, at the end of line 27, change the period "." to a comma "," and insert the following: "and shall see that the laws are faithfully executed."

That's the amendment. The distribution copies are not here, but that is the amendment that his motion will relate to.

[Quorum Call: 78 delegates present and a quorum.]

Explanation

MR. PUGH

Mr. Chairman and fellow delegates, the purpose for opening the Executive Section is to provide as the present constitution provides relative to the faithful execution of the laws of this state. The present 1921 Constitution places the responsibility on the governor to see that the laws are faithfully executed. The way the article presently reads, it says that he shall support the laws and the constitution. As you all know, that language is contained in his oath. This will also provide for the 1921 language and shall see that the laws are faithfully executed, and I ask for your favorable consideration of this amendment.

[Motion to suspend the rules to discharge Committee Proposal No. 4 from the Committee on Style and Drafting adopted without objection. Motion to reconsider Committee Proposal No. 4 adopted without objection.]

MR. PUGH

Yes, but I have the authority to announce that the Executive Committee is one hundred percent in accordance with this provision.

[Rules suspend without objection. Motion to reconsider Section 5 for the limited purpose of offering the Pugh amendment adopted without objection. Amendment reread.]

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Explanation

MR. PUGH

Mr. Chairman, I have already indicated to the delegates the purpose of the amendment, and I ask your favorable consideration.

Questions

MR. SINGLETARY

Mr. Pugh, just as a technical amendment, shouldn't you state that "the laws of the state will be faithfully executed"?

MR. PUGH

I suggested that to the committee, but the committee felt that they wanted to use the very same language that was in the 1921 Constitution.

MR. SINGLETARY

Does the present constitution have the language about the laws of the state and the United States?

MR. PUGH

Yes, it does.

*[Amendment adopted without objection.
Section passed: 100-0. Motion to
reconsider tabled. Proposal passed:
101-0. Motion to reconsider pending.]*

Announcements

[II Journal 1331]

*[Adjournment to 9:00 o'clock a.m.,
Thursday, January 17, 1974.]*

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Thursday, January 17, 1974

ROLL CALL

[69 delegates present and a quorum.]

PRAYER

MR. STOVALL

Let us pray.

Eternal God, Father of us all, we give thanks to You this morning that You have set our feet in this good state, for its soil that produces grain and fruits for our sustenance, for the cattle on a thousand hills, for the manifold gifts of the seas and the rivers and streams, and for the minerals and oil beneath the good earth, for all of these things we give thanks to You. But, more than this, we give thanks to You for the great peoples of this state, peoples of different religions and races and nationalities, and our prayer today is that we might better use our great resources for the fulfillment of life for all people. As we come to the conclusion of this convention we give thanks to You for the deep concern and faithfulness of the delegates, for the patience, skill and good humor of our Chairman, and for the efficiency and dedication of all members of the staff and helpers. Be with us in these concluding days that we might make wise decisions for the future of our state for we offer our prayer in Your name, as the One who was and is and ever shall be. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADDPTION OF THE JOURNAL

Personal Privilege

MR. ASSEFF

Mr. Chairman, delegates, I think it is an experience in futility to speak to this convention because they do not pay you the courtesy of listening when all they do is talk. The delegates simply will not listen to anything. Later, they will blame someone else for why they voted as they did. Strange as it may seem, the chief criticisms that I have heard are the failure of the delegates to listen and their behavior on the floor and the fact that some are present who do not vote. Delegates, our poor public image and personalities and voting on the basis of whether we like or dislike a delegate, and whether he voted for our proposal, will defeat this constitution. I have not misled you at any time, and you know it. I have been perfectly honest with you. I will not support this constitution as it now stands, and I have made no bones about it. Several delegates were present when we voted on my proposal, DP97, but they did not vote. Had they voted, they would have had to vote yes, and they know it. So, they voted no by abstaining. Others told me that they would change their vote. For that reason, I will call it for reconsideration at the proper time. If you want to vote against the proposal, do so. But, it is your duty to vote so that your constituents can judge your voting record. When I call it up, I shall ask the Chairman to give three minutes for you to leave the floor of the convention because if you're here and do not vote, I shall read your name into the record so that your constituents will know that you did not do your duty. If you think I'm not going to do it, try me. We have been called the pawns of labor, the pawns of education, the pawns of LSU, and the pawns of the utility. Aren't we now being the pawns of the governor? One of the governor's leaders told some of the delegates this about my proposal: "Don't you know the governor just wants one alternate?" Well, ain't that fine. I think very highly of the governor, and I agree with him in many instances, as my statement in the Journal this morning proves. But, I urge you to be independent and to vote your convictions. I am checking your voting record, and there is a close coalition. I may not be smart in many areas, but I am a researcher with a national reputation, and I do know how to check. Again, delegates, I urge you to listen carefully, and select the four alternates which will give this constitution a fighting chance. The purpose of alternates is to make friends and we can with four. If we present only one as is the intention of some, it is my personal opinion that the constitution is dead and no one, I repeat, can save it. If we present four, we can breathe life into what is now dead, and remove the constitution from the coffin in which it now lies. I urge you, consider and hear the arguments. I don't care how you vote, but do vote for those alternates which you feel will save the constitution. I think four will. One, in my humble opinion, will not.

You could probably convert me if you put four on the ballot so that we would let the people decide. I am going to vote for some of the alternates, which, when they're on the ballot, I will vote against because I think they are crucial issues, and the people of this state should have the opportunity of deciding them. Remember, it's not a legislative act. We are freezing it into the constitution. So, before you freeze, please give the people a chance to make the decision. If you want to vote against DP97, do so, but at least vote no. I won't hold that against you. Nonvoting, I will. Thank you, Mr. Chairman.

REPORTS OF COMMITTEES [II Journal 1333-1334]

* * *

MR. POYNTER

Judge Tate sends up a further report at this time.

Directed by your Committee on Style and Drafting, send up the following supplemental report with respect to Committee Proposal No. 4, introduced by Delegate Stagg, and that particular proposal is returned with amendments.

Respectfully submitted by Judge Tate, Chairman of the committee.

At this time, Judge Tate asks for a suspension of the rules for the purpose of considering the single amendment contained in the report at this time.

[Rules Suspended to consider the amendment contained in the report at this time.]

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING

Committee Proposal No. 4

MR. POYNTER

All right. This is Committee Proposal No. 4, the Executive Committee proposal. I think it's a single amendment attached with a blue sheet; isn't that right, Judge Tate?

Amendment No. 1

MR. TATE

The amendment simply removes the comma as unnecessary. It's a coordinate clause with the same sentence as the beginning of the first coordinate clause, and our usual styling practice is that there's no comma. Subject to objection, Mr. Chairman, I move the adoption of the amendment. We delete a comma after the word "United States" and before the word "and." Paragraph 5(A), the amendment yesterday, the Pugh amendment added about four words and a comma; and the comma was what we didn't need. Now, Mr. Chairman, subject to any further debate, I move the adoption of that amendment.

[Amendment No. 1 adopted without objection.]

Delegate Proposal No. 98

MR. POYNTER

Judge Tate, Chairman on behalf of the Committee of Style and Drafting, sends up the third report at this time.

Directed by your Committee on Style and Drafting to report that Delegate Proposal No. 98, proposed by Delegate Henry and others and adopted on yesterday is returned with amendment.

Judge Tate would ask for a suspension of the rules at this time for the purpose of considering the adoption of that amendment.

[Rules Suspended to consider the amendment contained in the report at this time.]

Explanation

MR. TATE

Now, Mr. Chairman, in brief preliminary and while they're being distributed, I want to say, fellow delegates, the staff is doing a stupendous job trying to collate everything that's passed, recommending for your substantive consideration after the Style and Drafting consisted a rearrangement, a very minor, but a logical rearrangement of the content; and we are hopeful,

we are hopeful that if we don't have too many amendments that go back to final enrolled copy and have to start re-reenrolling it day after day after day, we're hopeful we can get you a clean copy to look at tomorrow. But, that's your business, of course, because it's more important that we have a constitution that we like than that we have a clean copy. But, it may be more important to have a constitution than still be putting amendments in at twelve noon next Saturday, but that's neither here nor there. Mr. Chairman, we're simply at this time, reporting on the Delegate Proposal No. 98 on the alternate. We are on the stylistic content. We are not at this time, pending the decision of the convention, reporting on the way it's going to be presented to the people. That's a matter for future study. The sole stylistic amendment is to Paragraph 5(B) which created the alternative Board of Regents, as you see on the left. It was inconsistent in arrangement with the Board of Elementary Education on the same page in Paragraph 3(B) because...which spoke about eight members first, elected members first, elected members first, and so on. So, it was just simply rearranged to be completely consistent with the boards created three paragraphs above it. Subject to objection or interrogation, Mr. Chairman, I move the adoption of this stylistic amendment.

[Amendment No. 1 adopted without objection.]

RESOLUTIONS ON SECOND READING AND REFERRAL
[II Journal 1334]

RECONSIDERATION
[II Journal 1334]

[Motion to reconsider adopted without objection. Returned to the Calendar under the rules.]

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Delegate Proposal No. 100

MR. POYNTER

On Unfinished Business are the four delegate proposals all dealing with alternatives, which time expired before the convention was able to consider them on yesterday.

So, Mr. McDaniel, the first resolution is Delegate Proposal No. 100, introduced by Delegate McDaniel, Elkins and many others.

A proposal to provide with respect to an alternative provision relative to the Executive Branch prohibiting a person elected as governor from being his own immediate successor.

Explanation

MR. McDANIEL

Mr. Chairman, fellow delegates, I fully realize that the rules that we operate under for the inclusion of alternates on the ballot, with a short house this morning, I know that my plea here is one of futility in terms of getting sixty-seven votes, barring the emergence of a lot of our fellow delegates. But, I do feel strongly that now that we do have a viable alternative on education to submit to the electorate, that there are other areas of broad, general, public concern that with the mechanism that we have should be offered to the electorate of this state for their consideration. I submit that there is not a more important issue, or one that more people have an opinion on than this matter of the highest executive office of this state, and how long it should be there. Why should we impose our opinion or our ideas when we have the mechanism in this constitution to let the people themselves decide one more time at very little or no additional cost just what they want when it comes to how long a governor can serve in elective office? I submit that this question does have wide interest. It does concern every one of us because the man that occupies this high office does set the tone, the political climate, that affects the economic climate, that affects every one of us. There are those that say that they support two terms. There are others that say they'd like to have one, and you'd be surprised at the comments, because I did get every one of those signatures the other day myself, that you got the reaction I had. It was some of the more interesting that I've contacted here. But, I do think

here you are talking about whether we're going to impose our opinion of what this office should be, or give those several hundred thousands and millions out there a right to express their opinion. I think we do have credibility among the electorate. I think this is a choice that's not backed up by pages and pages and pages of technical, complicated machinery, such as the alternative that we are submitting. You look at the alternative that's on the ballot, on the previous one, and this is hardly indicative of all the supporting material. Here is a simple, direct question that each of us has a knowledge of, and it's in operation. I think it, as I keep referring to, that people do have an opinion. I think it would be ridiculous to say to the people of this state that out of a year's work here that there is only one area, and only one segment of one particular article of this, that is of sufficient importance to require an affirmative vote of a majority of the people. This provision does not affect the present governor, and, certainly, a man that only has eighty-four percent of the people back of him, he might not have a lot to worry about anyway. But, this is basically what it is that's the same question that was submitted to the voters several years ago. We have the machinery, and I ask your favorable consideration for this alternative.

Amendment

MR. POYNTER

The amendment is Senator De Blieux's amendment, Mr. Chairman. Amendment No. 1. On page 2, delete lines 10 through 17, both inclusive, in their entirety.

Explanation

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, I think that Mr. McDaniel has a very good proposal except one provision of it. If we'll take that provision out of it, I think we ought to let it go on the ballot. The provision as he has it presently drawn with limits to govern it to one term, one term rather than two terms. That is the only statewide elected official which we have that we're limiting the terms of office which he can hold. If you will just recall—and I think that most of us here at least can remember a few governors that we have had—that usually when a governor cannot succeed himself, he goes out of office being very unpopular, and the reason for that is that he loses control of his administration. His department heads and others who support him in getting elected start shifting around trying to find out who's going to be the next governor so they can get with the next governor. As long as a governor has the ability to succeed himself, he has control of the situation. He can exercise his function, the administration of government, and therefore, he makes a much better governor. I think we've seen that in presidential elections in the past eight years. We had this situation in several of the states, and I might say this: at the present time, the only states in our United States that do not permit the governor to succeed himself after one term in office are located in the southern part of the United States. The more progressive states of our union don't have this situation. They don't have this provision in their constitution, and I certainly think that we ought to get into the main stream of government, and let a man, if he has the ability to govern and the popularity, we certainly ought not to cut him off from being able to succeed himself if he wants to do that. We ought to leave the control of who's going to be our governor in the hands of the electorate, and not in the hands of the constitution to determine when we're going to have a new officer and when we're not going to have one. At the time that this provision was placed in our constitution, of only one term for a governor, and it was before 1966, we didn't have civil service at that particular time, that is, prior to the time that that was placed into the constitution. We didn't have the investment of idle funds. We didn't have a lot of other restraints that we have to protect the powers of the office from being a political power. Therefore, we don't have to worry about that at it stands right now. The governor cannot have a political force behind him of all civil service workers, I mean those who are employed in government, by the fact that they are subject to his whims and fancies, if he should get elected or not get elected to office. We don't have that situation anymore, and I certainly feel like that if we're going to make any real progress in government, we certainly should allow a governor to succeed himself if he has the ability to do so. I might say this: in my opinion, when you have a two-term governor as we have it in our constitution, at this particular time, you've got four good years...four, or a little less, bad years of government for the same reason I indicated because just as soon as the governor's

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elected to his second term, everybody, knowing that he can't succeed himself, they start doing the same thing that they would do ordinarily if he only served one term. That is, they start looking around, who's going to be the next candidate. As the electorate would look at it, if he's up for reelection to the second term, if he's been a mediocre governor, they say, well, he can only serve four more years, so we'll let him be elected. While, on the other hand, if he's not a good governor, if he's a bad governor, they say let's get him out now and get somebody else while we can because we don't want to let him get set in office, or something of that sort. I certainly feel like that this is a good proposal, if you'll just strip from that the limitation of one year and let the voters decide whether or not they want a governor for one term or for unlimited two terms or unlimited terms. That's what it would amount to because then we would have a good provision in our constitution, and if we got a good man, we could keep him, and we wouldn't have to turn him out just because the constitution said he couldn't run again. I ask you to approve the amendment.

Questions

MR. STAGG

Senator De Blieux, would you look on page 2 at line 14, "However, this provision shall not apply to the governor in office, or something of that sort. I certainly feel like that this is a good proposal, if you'll just strip from that the limitation of one year and let the voters decide whether or not they want a governor for one term or for unlimited two terms or unlimited terms. That's what it would amount to because then we would have a good provision in our constitution, and if we got a good man, we could keep him, and we wouldn't have to turn him out just because the constitution said he couldn't run again. I ask you to approve the amendment."

MR. DE BLIEUX

Yes, he'd have to stay out for a full term before he could be a candidate for reelection.

MR. STAGG

But, he could come back for two additional terms later.

MR. DE BLIEUX

Yes. That's under the proposal as he is elected now. What I want to do is take out that language so that he or anybody else who is elected governor could run as many times as the people wanted them to serve.

MR. McDANIEL

Senator, actually what you're doing here would take any limitation off the governor, wouldn't it?

MR. DE BLIEUX

That's right. That's what I want to do. That's what I've been arguing for, Mr. McDaniel.

MR. McDANIEL

Isn't part of your argument actually arguing for the two-term deal instead of the merits of whether we ought to offer this and let the people decide what they want?

MR. DE BLIEUX

That's what I want, take it off and let the people decide whether or not they want a two-term, or they want an unlimited term.

MR. SCHMITT

Senator, how many governors in the State of Louisiana who have attempted to run for the second term have not been successful?

MR. DE BLIEUX

That attempted to run for the second term and have not been successful?

MR. SCHMITT

Yes, sir.

MR. DE BLIEUX

That is, after they've laid out one term?

MR. SCHMITT

No. How many governors who have attempted to run for a second consecutive term...

MR. DE BLIEUX

We've only had that provision in our law since 1966, and at that particular time...

MR. SCHMITT

Prior to that time, how many governors who attempted to run for a second term have ever been defeated?

MR. DE BLIEUX

That have been defeated for the second term?

MR. SCHMITT

Yes.

MR. DE BLIEUX

Only one. They have not been defeated because we've only had it in our law for one term--that he could succeed himself for an additional four years.

MR. SCHMITT

Going back in our history, even from the 1930's forward, how many governors who have attempted--I'm not saying whether the law was in effect at that time or not--how many governors who have attempted to run for a second term have not been successful in their attempt? Were there five? Two?

MR. DE BLIEUX

You mean after they've been out of office?

MR. SCHMITT

No. I mean the second time. They're in one term, and they attempt to run a second term.

MR. DE BLIEUX

Mr. Schmitt, the amendment allowing a governor to succeed himself was adopted in 1966.

MR. SCHMITT

I'm not asking you that question, Senator. I'm asking you how many--Huey Long. Was Huey Long in there for more than one term?

MR. DE BLIEUX

He could not succeed himself. There's no governor could succeed himself since 1921 Constitution up until Governor McKeithen was elected, and we passed a constitutional amendment in 1966.

MR. CHAMPAGNE

Senator De Blieux, would you mind telling me in a few words just what kind of alternate the people would have if you take this out?

MR. DE BLIEUX

What kind of alternate they would have, with reference to the governor?

MR. CHAMPAGNE

No. If you take this out like you want, just what kind of alternate would they have?

MR. DE BLIEUX

They'd have this alternate, Mr. Champagne: They'd either be able to limit the governor to two terms, or else they'd have an alternate of not limiting him to any number of terms. He could be elected as many times as he could get enough votes.

MR. CHAMPAGNE

In other words from here on out, if he could do it and entrench himself enough, well, he could go ahead and run forever. Right?

MR. DE BLIEUX

Yes. If he was popular enough, that's right. It'd be clearly up to the people as to whether or not that they wanted him or they didn't want him.

MR. CHAMPAGNE

Yes, sir. Well, do you know, sir, that I think, maybe, that the majority of the people--they wouldn't care for that kind of alternate.

MR. DE BLIEUX

Well, all they'd have to do is vote it down. That's what we're trying to determine now: what they want and what they don't want.

Further Discussion

MR. McDANIEL

Mr. Chairman, fellow delegates, I reluctantly rise to oppose this amendment. I think my alternative, for whatever merit it may or may not have in your mind, is altogether a different question than what the Senator has posed. We have had in the past, before we amended our constitution, two governors who have come back after being out of office--that I can think of in my memory. I don't think that, here, we're arguing the merits of either a four- or an eight-year term. I tried to avoid, very carefully, in getting into that. Everyone of us has got an opinion. This is essentially the thrust of the approach that I was trying to get here. The electorate back home has an opinion. Let's let

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them decide this basic issue. I would like for my proposal to be accepted or rejected on the merit that it was; and, for that reason, I ask that you oppose this amendment.

[Previous Question ordered.]

Closing

MR. DE BLIEUX

Mr. Chairman, ladies and gentlemen of the convention, I ask you to give serious consideration to this amendment. We have had the four-year provision in our constitution for a long time, and we have seen that it did not work properly, because you've seen the results of it. I think, as you well know, there's not a single governor that's served one term that, at that particular time, if he could have succeeded himself, could have been reelected. We have tried the two-term deal. Now, I ask you: Let's try the unlimited term. I certainly feel like if we can get this through, if it doesn't work, we can certainly go back with a new amendment and change it as we did in 1966 when we tried the two-term. I ask you: Let's try this and put the alternate on the ballot to see if the people want to try the unlimited term or they want to stick to the two-term. I ask you to do that: approve the amendment.

Questions

MR. GOLDMAN

Senator De Blieux, I'm not asking the question pertaining to your amendment; I'm asking this question. In the way this proposal is written, on lines 17, 18, 19, and 20, on page 1, I don't see how your amendment would, unless this other..... How would your amendment, unless this other language was changed, permit the voters to vote for unlimited terms? The way this reads, it says: (A) FOR permitting the governor to serve two consecutive terms--AGAINST permitting the governor to serve two consecutive terms.

MR. DE BLIEUX

Mr. Goldman, the amendment that it applies to is on page 2. That's actually which will be submitted to the voters. What's on page 1 is just a manner of submitting it to the voters, and that's going to be left up to Style and Drafting whenever we get ready to make the proposal. The language that will be submitted is on page 2. What's on page 1 has nothing to do with the provision that would go into the constitution.

MR. GOLDMAN

Senator De Blieux, if I were voting for one of these alternatives and I voted against permitting the governor to serve two consecutive terms, it would mean to me that I was voting that he could only serve one term.

MR. DE BLIEUX

That will not go on the ballot if this proposal is placed. What's on page 2 is merely style and drafting....page 1, rather. Page 2 is the amendment that would go before the voters.

[Record vote ordered. Amendment rejected: 10-85. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Since distribution copies haven't been run, Mr. Alario sends up an amendment deleting his name as coauthor.

[Amendment adopted without objection. Previous Question ordered. Proposal failed: 44-50. Motion to reconsider tabled.]

Reading of the Proposal

MR. POYNTER

Under Rule 37.1, automatically withdrawn from the files of the convention.

Next proposal is Delegate Proposal No. 101, introduced by Delegate Stagg, Roemer, and others:

A proposal to provide with respect to an alternative provision relating to or relative to revenue and finance.

Explanation

MR. STAGG

Mr. Chairman, fellow delegates, from now until two hours from now, or whatever time is consumed in this argument, you have it within your power to bring our year of labor to a successful conclusion. This delegate proposal is offered as an alternative so that there will be on the ballot, the mechanism by which the voters in parishes now having high valuation tax procedures can find the means of supporting the constitution without serious jeopardy to their parish tax base. I believe in the effectiveness of such alternatives as we have been considering today. In order to vote for Delegate Proposal No. 101, you do not have to violate your conscience or your previously held position; you merely have to be of the opinion that you need to be able to offer some of the voters in parts of this state an alternative means of taxation of ad valorem...property. Since 1966, nine states have held constitutional conventions that had no restrictions on their ability to rewrite their constitutions. In five of those conventions, no alternatives were offered; they were given as a single voting package. All five were rejected. The other four states offered their constitutional voters a package of different types of votes to be cast; and of those four, three of them were adopted by the citizens of those states. The Chairman of Illinois told us that, in his opinion, the four alternatives on their ballot were of crucial importance to the adoption of their constitution. Most of what I'm going to talk about while I'm here this morning is about jobs and about being honest with people. This is not a Republican campaign speech; it could be. But, there are some thoughts I want to share with you. If you don't wish to listen and want to tune me out, that's your prerogative, but let me try to convince you that we need to do something other than what we have done in Article IX. In his speech last week, the governor suggested that our tax article ought to be changed from ten and fifteen percent to twelve and a half. He gave some excellent reasons. But, in my opinion, he didn't go far enough to make any significant difference in the ad valorem tax problems created in Article IX. These taxes are, and have been, a critical, sticky, controversial problem from the date of the first hearings before Senator Rayburn's committee. We spent many hours in debate, and you already know how strong the feelings are on this subject. It is, to say the least, controversial. But, in addition to being controversial, we have made the new constitution a sitting duck for those opponents who don't want any new constitution because we've given a take-it-or-leave-it on the ad valorem taxes. If you'd listen to me one minute, I'd like to tell you about a problem in a single parish that may be mirrored in other parishes. The ad valorem tax result in your parish is largely unknown by the voters in your parish. Some of the delegates in ours spent three hours with our tax assessor, the Monday after Christmas, explaining the effects of C. C. /'73 on Caddo Parish. It was his conclusion that our parish would lose forty-two percent of its taxable base and that to yield the same funds out of the properties left on the roll even after their re-evaluation was done, would make those remaining properties subject to a seventy-three percent increase in the millage rate. What is the result in your parish? Do you know? When Mrs. Warren and the delegates from Orleans go to the meetings in that parish and they're asked the question "What is the new constitution going to cost me?" how will you answer that question? Let's be honest with people. Let's call them taxes and have the sheriff send out a bill for it at the end of each year. As C. C. /'73 is now written, only a few rich people will get a tax bill at the end of the year. The folks Senator Rayburn says he is worried about will pay their ad valorem taxes in a number of ways and on a number of different days all during the year. They're going to pay them with the gas bill; they're going to pay them with the electric bill; they're going to pay them at the gas station and at the discount house; and some will be able to see their ad valorem taxes from C. C. /'73 each week when the rent man comes around, because their taxes are going to be reflected in the rent they pay. We have not helped these people. As a matter of fact, we have hurt them. You're going to have to give an honest answer to these people-- "How much is the new constitution going to cost me?" --and those people deserve your thoughtful answer. Are we going to turn over to the courts the problems presented by these ad valorem tax articles? We have done it by our default in other areas. We've turned over to the courts problems of education; we've turned over to the courts problems of reapportionment by our default. Are we now going to continue to turn them over to the courts by having defaulted in the field of ad valorem taxation? Under the 1921 Constitution, we did; and Judge Doherty has ruled on it, and the court of appeal has ruled on it. In the 1921 Constitution, there wasn't any way of ever forcing that an assessor would do his job. He has an unpopular job. If he does it right, he must tax the people who must then reelect him. I don't believe he ought to be elected at all. Maybe

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he ought to be appointed for the same reasons that we appoint the legislative auditor—who has a tough job to do and, if he does it right, he's going to make a lot of people mad. I contend that it is within the realm of your interests that, if this constitution should fail to pass, then we're going to have Judge Doherty full-blown and the tax assessors are going to have to do the job for which they were elected. In my opinion, ladies and gentlemen, we're going to have some very, very tough problems to answer, and we need to start talking about them this morning, and we need to talk about them rather seriously. What are you going to tell the people in your parish that we did to them on taxes? You're going to tell them we let every thirty-thousand-dollar house in the state out from under taxes. And, if you happen to be a veteran or over sixty-five, we've let fifty-thousand-dollar houses out from under the payment for streets and for schools and for parish services. I think that's too much. I think that's more than the people have asked for. You have, by your passage of C. C./'73 Article IX, turned ninety-seven percent of the values of the homes in this state out of the tax-paying business, and you've put that much more tax-paying business on industry, who now bears seventy-seven percent of all of our property taxes.

The proposal that we have adopted, I think, shows a tremendous disregard for the problems of the younger people of this state and for the unemployed in this state because I think we're jeopardizing their future employment by saying to industry: You pay seventy-seven percent of the property taxes in our state now; and, when and if this constitution is adopted, you people in industry and business are going to be paying ninety-five to ninety-nine percent of the property taxes. I think that's an unhealthy situation for which there is no cure under C. C./'73's Article IX, as presently written. I suggest that we change that assessment ratio to fifteen percent on all forms of property taxation so that you don't discriminate against those taxpayers who vote and who live in these houses, and against those who don't vote—the corporations and the businesses. But, I would remind you that the same man you've let off from paying taxes at his house is going to find the taxes on his business to be doubled, or perhaps tripled, and he's going to turn you down. He knows what he's paying under the 1921 Constitution; he doesn't know what he's going to pay under the 1974 Constitution. I think we have, in this Article IX, helped the wrong people, and we have penalized the wrong people. The renters in this state—and that's forty percent of the population—will not be helped. The small homeowners whose homes are already exempt—and that's another thirty percent of the homeowners—will not be helped. They're already off the tax rolls. They would, in fact, be given the additional burden of paying higher prices for the stuff they buy from the businesses who are forced by C. C./'73 to pay all in all of the higher property taxes. Only the middle and upper class homeowners are those who will be helped by the proposal as it presently stands; and that is wrong, and you know it. I don't like the provision that we've adopted. It says a thirty-thousand-dollar house will be exempt. I think perhaps, if we adopt and put on the ballot the alternative that is in D. P. No. 101, we will be exempting a twenty-thousand-dollar house, and I think that strikes a fair balance between what was asked, on the one hand, and what is needed in this state, on the other hand.

I submit to you, fellow delegates, that there is a clear philosophical difference between Delegate Proposal No. 101 and Article IX that we have adopted. I think the voters ought to have the opportunity to consider these differences, other than on a take-it-or-leave-it basis. Let the people decide what the level of property taxation ought to be. On a more personal note, Mr. Chairman and delegates, I want very badly to hit the bricks, or—as Johnny Jackson said yesterday—to get out and hustle this document. In my home area, this will be quite difficult for me to do without an alternative to our property taxation proposal.

Vice Chairman Casey in the Chair

Questions

MR. BOLLINGER

Tom, during your remarks, two questions came to my mind, the first being this: When you proposed your alternative, a question arose as to the functionality and equalization of the property tax statewide, and you said that the floating homestead exemption would correct this; is this not true?

MR. STAGG

Yes, sir.

MR. BOLLINGER

My question, first, is this: In the Revenue, Finance, and Taxation Article, we adopted a provision where revenue sharing would be reimbursed, first, upon that amount of homestead exemption lost by the local governing authorities. When you fluctuate homestead exemption and fluctuate the percentages, do you not again create an unequal balance across the state and, thus, get back to the same situation we are in now?

MR. STAGG

I think what the Fourteenth Amendment to the United States Constitution demands, Boysis, is that property taxpayers be treated equally. That's what's the matter with our present system of taxation in Louisiana. That's what the courts have found to be wrong with it. If you give a local option for property taxation in parishes where high valuations have been traditionally used and give the same or opposite ability to parishes which have used a low valuation, something has to change to make it continue to be the equal enforcement of the laws commanded by the United States Constitution. The thing that is available to make it equal and the thing that, in the past, have made it unequal have been the homestead exemption and the old property tax relief fund. If you're going to vary one end of this equation, Boysis, you're going to have to vary the other end; and when you do, it is, in my opinion, the constitutional way to have a local option property taxation system.

MR. BOLLINGER

I agree with you on that fact, but I don't see how you accomplished it. In essence, we still have the property tax relief fund, but it is equal being we had established a uniform percentage of assessment and a uniform homestead exemption. With a local option, you might not call it a property tax relief fund, but we still have a reimbursement from the revenue sharing.

MR. STAGG

The distribution formula, under Article IX, simply says that the distribution will be based in each parish, in proportion to the population and the number of homesteads—nothing to do with the amount yielded or not yielded by any homestead exemption.

MR. BOLLINGER

That's the answer I wanted to get of you. My second question is this: In your explanation of the benefits of your alternate, you mentioned the percentage of tax as now being on industry. Could you explain to the convention how your alternative would change the burden of taxation, when you're going to fluctuate the homestead exemption with the percentage of assessment?

MR. STAGG

What, basically, it does is to begin with a twenty thousand dollar house being exempted from taxation because, under the homestead exemption that we have adopted of three thousand dollars, if you have a house that is valued at twenty thousand dollars—and it's subjected to being assessed at twenty percent—then that twenty thousand dollar house, assessed at fifteen percent, is assessed at three thousand dollars. The three thousand dollar homestead exemption would shield that house from property taxation. If you go above the fifteen percent set in D. P. No. 101—say you went to twenty percent—then, you have the right and the need, under this alternative, to raise the homestead exemption in that parish to four thousand dollars. If, in Jefferson Parish, they wanted to lower it from fifteen percent down to ten percent, then in Jefferson Parish the homestead exemption would not be worth three thousand dollars; it would become worth only two thousand dollars. That's what makes this a constitutional method of local option property taxation.

MR. ROEMER

Tom, on this matter of homestead exemption, you keep in the provision—don't you, in your proposal—that the legislature may raise that homestead exemption to five thousand dollars. Isn't that true?

MR. STAGG

That's still there, sir.

MR. ROEMER

So, if the need is for an increase in the homestead exemption, we have a provision to call for that; isn't that right?

MR. STAGG

That is correct.

MR. ROEMER

In addition, doesn't your proposal give the flexibility in

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the local taxing districts if what we pass: that is, either fifteen percent or the ten and fifteen percent is harmful, then they, by the local ordinance and in their own area, they can change that percentage to meet their historical needs. Is that not right?

MR. STAGG

That was the purpose of the alternative.

MR. BURNS

Mr. Stagg, I think we all agree there has to be uniformity in assessments. Will you explain this to me? Under your alternate giving the different governing bodies, if they see fit, the option of going to--if they happen to go to the legislature and get an act of the legislature passed increasing the maximum to twenty-five percent, and say Jefferson Parish did it--I'd get in my car in St. Tammany Parish and get over across the middle of the causeway to Lake Pontchartrain, and the minute I got in Jefferson Parish, I'd get out of the ten percent assessment and get into the twenty-five percent assessment. Now, where is the uniformity in that?

MR. STAGG

The same way you do when you drive from, say, De Soto Parish into Caddo Parish. If De Soto kept the fifteen percent and Caddo moved to the twenty-five percent, then De Soto Parish would have a homestead exemption of three thousand dollars to shield their property from taxes, and the Caddo taxpayer would have a five thousand dollar exemption.

MR. BURNS

I'm not talking about homestead exemption. Let's leave homestead exemption out of it. I'm talking about on open land that's not subject to homestead.

Amendment

MR. HARDIN

Delegate Stagg sends up a technical amendment.

Amendment No. 1. On page 4 at the end of line 26, delete the word "the", and at the beginning of 27, delete the words "full stead" and insert in lieu thereof "one homestead".

[Amendment adopted without objection.]

Further Discussion

MR. CHEHARDY

Mr. Chairman, fellow delegates, I believe that there's very little that I can say in opposition to this alternate proposal that you are not already aware of. I believe we could sum it up by saying that this particular proposal, suggested as an alternate, does absolute violence to our entire year of work. It offers a proposal as an alternate, which, if adopted.....would absolutely bring financial ruin to every citizen in this state. If all you have to do is apply the simple arithmetic of a plan, which starts off at fifteen percent, gives right to go up to twenty-five percent, fixes this right in the spending arm of government, and all you have to do is keep in mind that over, I'd say seventy-five to eighty percent of the parishes affected in this state, would absolutely be unable to collect the taxes that would result on a man's home. I have seen the cases where through error a man has failed to file a homestead exemption and has to come up with maybe two hundred dollars extra at the end of a year. They cannot find this two hundred dollars, when they talk so loosely about increasing the percentage of taxes on a man's home, which is his main investment in life. Ninety-five percent of our citizens, the one thing they can work to strive to own is their home. This is aimed at passing more of the burden to the home and removing it from those best able to pay. I would merely be repeating everything that I have told you over the past year, and that you yourselves have found wrong with those systems throughout the United States that have imposed reckless and high percentage rates all in the hope of raising more and more revenue. All of these schemes being promoted by the element contained, or the same type element that supports Public Affairs Research Council. All of this type of proposal is aimed by big industry who today already enjoys their industrial exemptions and have just again had it placed in our constitution for perpetuity, or at least until the next constitutional convention. Again, they want to still put more on the backs of the average man in this state. I'm not going to go into detail because I don't feel it's necessary. I only sincerely urge that all of you do all that you can to defeat this reoundingly, defeat any suggestion of an alternative on property tax, so that we could go out and sell this constitution without creating confusion among the people of this state. If there is anything that will cause the destruction of

our ability to sell the constitution, it would be the adoption of such an alternative. I sincerely urge that you reject it.

Further Discussion

MR. SLAY

Mr. Chairman, fellow delegates, we had a man in Rapides Parish once who ran for representative, and his number was 101. He said that you could take the 101, and any way you turned it, it was always the same. I took this Proposition 101 and every way I have turned it, it has been the same. That is bad. If our constitution is what we have said it is, and that it does something for everybody in the State of Louisiana, then this proposition does something to everybody in the State of Louisiana. I want you to look real carefully at this document, the reason I read it so carefully was because there are twenty lawyers who signed this. I wonder if they read carefully what they have signed. Let's start on page 2, on line 12. I believe all of you have a copy of this. It says that "the percentages shall be set at fifteen percent," but then, the governing authority and the legislature can change that down to ten or raise it to twenty-five percent. Now, you know what brought all of this about? This is what brought all of the court suits that we have. This was the Bussie versus the tax commission suit because we have percentages just like that. That is what we have worked on all year long with the change that to a uniform perform percentage for the whole state. We are going right back to what we had before we started, or before the Bussie suit. We haven't solved anything.

But, let's go on down a little further and see what this really does to the taxpayers. On line 22 of page 2, I'm going to read starting with line 21, "the correctness of the assessment by the assessor shall be subject to change". Now, in our original proposition, we say that this shall be subject to review by the governing authority, which is the police jury in most cases, or the man on the council in New Orleans. But now here. It says that this is subject to change by your police jury member. I'm going to ask you who in this group wants his police jury member to assess his property? I do not want my police jury member to assess my property. He is a mechanic. He is a good man. He runs a little body shop. But, he is not an assessor. He is not trained in the work.

We have another man up there who is a beautician. I certainly don't want him looking at the assessments of Rapides Parish. But that's what this act says. I want you to know, now, the lawyers that signed this, what you have put in here. But, let's go on a little further. Let's go down to line 28.

It said bona fide agriculture land and all of this shall be assessed at a percentage. It doesn't say at ten percent like we'd say. It doesn't say in fifteen, or it doesn't say at twenty-five. It can be set at any percentage in that. Not necessarily at the same. It says "According to Paragraph (B)." But it don't say it has to be assessed at the same percentage that other properties have to be assessed for. I'm telling you people who are farmers, or landowners, that it is doing something to you, also.

But, now, let's read on a little further to paragraph 2 where we get down to page 3, line 3. It says, "where you have a multiparish district." Now, let's look at that. We have the Red River Valley District which covers seven parishes from Rapides Parish to Caddo Parish. It says that the assessors in all seven parishes shall set the assessments. That means that I, as the assessor in Rapides, am going to be able to go up and assess Mr. Stagg's property in Caddo Parish, which is not what he wants. But, it's going to give me the privilege, along with the assessor in Grant Parish and a couple of more, of outvoting the man in Caddo. Do you think we're going to put it at twenty-five like he wants it? No. Not on my vote you're not. We're going to keep it down to ten percent. But, that's not what he wants. But, it says right here that that's what we can do.

Then, it goes on down to line twelve and what does it say? It says that these assessors, this board of assessors, can set the percentage. That's something that you don't let the police jury do by itself. The legislature must do it. But, here you are going to let this seven-member assessors' board set the percentage. As I read this saying, it is not too clear, I believe that the percentages that this governing authority of the Red River Valley District, can set the percentages of the school board and the police jury has to read. It doesn't say in here that they can't. You read that thing carefully, and you tell me where it says that.

Now, let's go on a little further. It says on page 3, on line 14, "The state treasurer shall disburse funds out of the state revenue sharing fund to the several local agencies." Now, what are they doing there? They are bypassing the sheriff. The sheriff is not going to get his commission out of this. So, we are going to have to have to go back and find some way to get a commission for the sheriffs in all sixty-four parishes. I'm telling you again that this does something to everybody. It has taken the percentage away from the sheriff. I don't believe you all meant to

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do that. But, that is what it is doing. In Rapides Parish, whenever you take this percentage away from the sheriff, you are going to wreck his office. Now, you better believe that. So, you look carefully at what he has put in here.

Now, we go on down to page 4.

Let's look on page 4, line 18. Now, here's where we get down to what he's done. It's telling about how the percentage of fair market value is changed, as for Section 1 of this Article, the value of the homestead exemption for all eligible home owners shall be adjusted to compensate for the change. Now, what is he saying here? He is saying that in Rapides Parish, if we use fifteen percent, we are going to get a three thousand dollar homestead exemption. But, if in Caddo they go to twenty-five percent, they are going to get a five thousand dollar exemption. The very people who hollered and said let's have a two thousand dollar exemption all the way through, are not going to change this so that in effect they are getting a five thousand dollar exemption, and they are going to pass more of the load on the business because there's going to be a given thousand dollar exemption on the homes under this article, and the businesses are going to be assessed at the flow of twenty-five percent.

Ladies and gentlemen, I had one other thing I was going to say, but it's been changed by an amendment. But, it was a sneaky little thing to set in there that in the case of a widow, that she was only to get the exemption to the full stead owned by the husband or the wife. You know what that could have easily meant? If the man had passed away and left a widow, that she was only going to get a half of a homestead exemption. But, thank goodness, they caught that and they changed it.

Mr. Chairman, that winds up my remarks. But, I want to take just a half a minute more to say, because I doubt that I will be back to this mike again, that this has been a wonderful year working with you people. I am going to support the document that we put out here. I don't think I could spend a whole year of my time, and then go back home and not work for it. We've got a good document. If this is put on as an alternate, I'm going to try every way in the world that I can to beat it. I urge you to defeat it right here because it is so bad. But again, let me say that this has been a good year working with you. I will remember it for a long, long time, and I will be out working to pass this constitution in District No. 27. Mr. Chairman I will now....

Questions

MR. WINCHESTER

Mr. Slay, do you know that I've been a good assessor in St. Mary Parish for a number of years, and my political parish is on the line right now? If we don't defeat this.....

MR. SLAY

I sure do, Mr. Winchester. I want you to know, and you know, too, that all of these provisions are now in the statutes against an assessor who doesn't do his job. The governor can remove him from office just like that. Is that not right?

MR. WINCHESTER

That's correct. Please don't do violence to my past.

MR. SLAY

We will treat you right, Mr.....

Further Discussion

MRS. WARREN

Mr. Acting Chairman, and delegates, Mr. Staggs came around and asked me if I would sign in order for him to be able to get his proposal brought before the audience. I said to him then, I will sign it to give you the opportunity to present it to the people. Personally, I was not in favor, just as an individual, I was not in favor of an alternative at all. I felt that many things in the constitution, to one person or the other, would be considered as an alternate. As much as some of the things in the constitution that I don't approve of, and probably some of the people in my district won't approve of, I put my name on that amendment to give him the opportunity to bring it before you. He has forty signatures on it, and mine is one. I'm not going to have my name taken off of the proposal because that would only leave thirty-nine. But I told him that would have no bearing on the way in which I voted. I'm going to vote the way that I feel that the people from District 102 would want me to vote. I have personally given some of them the identical language in our constitution concerning the property tax and other things. I've given it to them for their consideration. I've said to them, this is a package, you look in it, and you make your decisions as to whether you like it or not. I'm not going to force it on you because I was a part of the writing. So, I say to you, that if you

see my name on there, it is not an endorsement for it or against. But, I am going to vote the way the people in my district have said that they liked it.

Thank you.

Further Discussion

MRS. ZERVIGON

Mr. Acting Chairman, and ladies and gentlemen of the convention, not too many days ago, after long discussion, we decided by an overwhelming majority to give the people some alternatives, some options, so that the people could decide on things that they may be concerned about which are very controversial in this constitution. One of those things, insofar as many of the people in my city are concerned, is our treatment of the property tax. It seems to me that if we don't put this on the ballot as an alternative, we are very much underrating the people of the State of Louisiana. Don't forget that in recent years, most constitutional amendments have gone down to defeat, except those affecting the property tax. The people well understand those things that affect their pocketbooks. They study, they read, they put their time and attention to them; let us not assume that they won't understand. On what other assumption could you base a no-vote on this article? I think that perhaps Assessor Chehardy is correct; given the choice, the people will choose the language in Committee Proposal 26. But ladies and gentlemen, we don't really know unless we give the people the choice; unless we let them vote. There have been negative editorials in various papers on our treatment of the property tax. I submit to you that it will be very difficult--very difficult indeed, to pass this constitution with only our own voices and with the support of no papers, or very few.

Education is a complex area. The effect of two constitutional boards as opposed to five constitutional boards is complex and hard to understand. But, we trusted the people to the extent that we put that as an alternative on the ballot because we knew that they cared about the subject matter and would put the time and study into it that it needed. The same is true of the property tax, and it's more true of the property tax because that affects the pocketbooks of every voter in every municipality and parish in Louisiana. Ladies and gentlemen, that's everybody. Stump the state. Explain to the people the effects of these things, and let the people decide. Don't underrate them. They'll make wise decisions for themselves as they have in the past. If they can understand the constitution as a whole, as compared to the Constitution of 1921, they can surely understand this option and this one limited area.

Thank you very much.

Further Discussion

MR. MIRE

Thank you, Mr. Acting Chairman, fellow delegates, I rise, of course, in opposition of Delegate Proposal 101. I'd like just to point out two or three pertinent facts concerning this proposal. I don't--I hope that I'm not going to be repetitious. However, this is certainly most confusing; one of the main points is that it would be very near impossible to manage if it were constitutional. I have talked to numerous attorneys right here on the floor, possibly some that have signed this, that believe that it has serious constitutional problems. There was something mentioned about the 1921 Constitution. Let's just remember that the future of ad valorem taxes in the State of Louisiana does not rest with the 1921 Constitution, but with a court order that tells us specifically what we'll do if we don't have something in this document that will be accepted by the people. Now, also, alludes that industry is very much so disturbed about the proposal as we do have it presently in our document. Let me say that I come from the leading parish, or very near the leading parish in industrial development in the State of Louisiana. It is continually growing--growing today. I have a very good rapport with the people in industry. I have not had one--not one--come in and tell me that the proposal, as adopted by this constitution, says that represented an industry in my parish, said that they felt it was that unfair, or, in fact, asked me to change it in any respect. Therefore, I don't feel that it is that important, or just important as it was alluded to be.

One more thing that I'd like to point out to you. They speak of measuring the assessors' creditability with his voters. The reason he is elected is because nobody pays taxes. Ladies and gentlemen, then every municipality, every tax--every man has to pay taxes, with the exception of Orleans Parish, every assessor is gaged, and there are these municipalities as to how he, in fact, treats the taxpayers in these municipalities. Now, don't you think that they don't compare. They do compare. If you don't have an equitable tax system, you are going to fall by the wayside. But I think the fact that the assessors have been reelected time after time, many of them by no opposition at all, certainly tends to show that they are honorable, conscientious, public officials doing their duty, and responsive to the people. I urge you, I beg you, to not confuse the people of this state; not put a document that would not let them know at all what they may have to pay in the future; not let them know at all who will, in fact, actually

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have any authority over their assessments. It's at the whims--not whims--but it's at the wishes of the legislature, along with the wishes of the local taxing authority, based on this proposal that we have in front of us. Ladies and gentlemen, I think this is one area that the people want to know where they are going. They want to know what they are going to have to pay. We are going to be able to tell them what they are going to have to pay under our proposal. I urge you and beg you that you defeat this proposal.

Questions

MR. BURNS

Mr. Mire, do you believe, or do you think that any law that would permit twenty-five percent assessed in one parish, and ten percent in the adjoining parish represents uniform assessment practice?

MR. MIRE

No, sir, it doesn't. In parishes where you have multi-taxing districts, it would be a considerable problem, I can assure you.

MR. FULCO

Mr. Mire, with the fluctuation of the homestead exemption, along with the percentages, what effect would that have on city taxes? On your homes?

MR. MIRE

Thank you, very much, Mr. Fulco, for that question. I'd like to-- for a city tax, with the mandatory millage rollback, and adjustments as we have it, and they don't disturb that, that would remain--that would be a mute question because it would go up and down. But, I believe that the fluctuation of the percentages in various parishes would be the first blow to the death of homestead exemption. You could never have a meaningful reimbursement program on a statewide level based on various taxing percentages throughout the states, and throughout taxing districts. This, would be, of course, the first step in killing homestead exemption, which, in my personal opinion, is exactly what the people that are behind this proposal want to do--kill it, completely.

MR. FULCO

Just one more...question.
You say that you have an automatic adjusted millage for the city rates, too?

MR. MIRE

Yes, sir. We have an automatic....

MR. FULCO

I mean in Tom's proposal.

MR. MIRE

Yes, sir. But this won't disturb that in our proposal. If this is adopted, that portion of our proposal is not disturbed.
Thank you very much, Mr. Chairman.

Further Discussion

MR. SCHMITT

I served during the last year with the other members of the Revenue, Finance and Taxation Committee, and we listened to voluminous testimony with reference to problems which existed in the past in the area of ad valorem taxation. Apparently, one of the worst problems was that of getting uniformity throughout the State of Louisiana and to have just and equitable treatment at least within each taxing district. The reason that we had so many of these problems was that the 1921 Constitution required one hundred percent assessment. Later, the situations changed. At the time when the two thousand dollar exemption went into effect, the average value of a home in the State of Louisiana was six hundred and fifty dollars. Therefore, just about every home in the state was exempt, and this kept them...people from losing their property during a time when the depression so hurt our country and the homeowners throughout the United States. I don't know how it will be possible in order to mandate some type of enforcement. At the present time there are many or some statutory requirements. The problem with enforcement of these statutory requirements was that if an assessor ever attempted to enact them in the past, the political future of that man would have been ended because this thing was a gradual problem. They gradually progressed to the point where there was nothing that the assessors could do about it. However, I do feel that in the future it will be necessary for some type of an enforcement procedure. Whether or not the enforcement procedure recommended by Mr. Stagg is the proper one, I do not know. That enforcement procedure is on page 3. It has a lot of teeth in it, and it's probably one of

the strongest enforcement procedures which could be adopted. This one requires the cutoff of reimbursements for the homestead exemptions to the different parishes or taxing districts if there is a variation of more than ten percent in the assessment value. As an example, if in one parish the assessment should be one hundred million dollars and the assessor, through using the improper procedures, would put it on the rolls at fifty million dollars, unless the assessor brought this to within ten percent of the value within a three month period of time, that taxing district would lose the reimbursed funds. However, it would also apply in the situation where the assessor decides to make the assessment higher than what it should be. I think this is something, too, that we must take into consideration. Some parts of your state, at the present time, have a much higher ratio than other parts, and these assessors might have a tendency to keep the assessments high even though the constitution mandates that they be lowered. Therefore, this enforcement procedure would give justification for the assessors throughout the State of Louisiana either to raise or to lower the assessments in their individual districts and would remove the political cloud from being placed upon them by the enactment of these different procedures.

Now, whether or not this is the particular enforcement procedure which should be adopted, I do not know. However, I remember the words of the governor, and the governor indicated that some type of penalty should be issued against the assessor if he does not follow the new property tax regulations which we adopt. As of yet, I have not seen the administration's floor leaders come forth with the amendment to do this. I don't know whether they would want to co-endorse Mr. Stagg's enforcement procedures here, or they will come up with some alternative. However, I have not seen them as of the present time, and I am anxiously awaiting them. Thank you.

Amendments

MR. HARDIN

Delegate Landrum sends up an amendment, Mr. Chairman.
This is to amend the printed proposal.

Amendment No. 1. On page 2, delete lines 7 through 13, both inclusive in their entirety and insert in lieu thereof the following:

"(B) Classification. The classifications of property subject to ad valorem taxation and the percentage of fair market value applicable to each classification for the purpose of determining assessed valuation are as follows:

Classifications	Percentages
1. Land	15%
2. Improvements for residential purposes	15%
3. Other property	20%

However, upon adoption of an ordinance by the governing authority of any parish and with subsequent approval by the legislature, the percentage in any parish may be increased to twenty-five percent or decreased to ten percent of fair market value."

Amendment No. 2. On page 2, line 28, after the words "taxation at" and before the words "of use" delete the words "a percentage" and insert in lieu thereof the words "fifteen percent".

Explanation

MR. LANDRUM

Mr. Acting Chairman and fellow delegates, I wish to withdraw the amendment. It's not drawn to my liking, and therefore I wish to withdraw it.

I also wish to state this: that the proposal that was presented by Mr. Stagg, in my opinion, is not in the best interest of the people. I do believe that in...that the homeowners' taxation should be increased. I would like to see an increase, but I also would like to see a separation from that of homeowners and commercial properties. Mr. Stagg mentioned the fact that how much taxes the business people are paying in the communities in this state. But, they have so many ways--many ways--of getting part of it back, where the homeowners, whatever you put on them as taxation, they must pay without any course of recourse. They must pay their tax, now, even to the point of losing properties. I wish that he would change his proposal and make a distinction between the two. Thank you.

[Amendment withdrawn.]

Further Discussion

MR. ABRAHAM

Ladies and gentlemen, I rise in support of this alternate

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proposal because I think we do need an alternate on the ballot, and I don't know of any better thing that we could place as an alternate than this because in here we are giving the people a choice of saying just what assessment value they want to be placed on their property. The thing I like about this is that there is some flexibility in here.

Now, in the proposal that we have that's been adopted by this convention, we fixed these assessment ratios. No one, no one in this state knows exactly what the ultimate effect of this is going to be. We don't know how it's going to affect the cities; we don't know how it's going to affect the rural areas. There is a possibility, a very strong possibility, that we could be doing great damage to the taxing base of the rural areas. This particular alternate will give some relief. It gives some flexibility so that if we find out that one assessment ratio cannot work for the entire state, then the local governing authorities are in a position to change it. I don't think there's a local governing authority in this state that's going to change this ratio unless it pretty well feels that the people in that particular parish want it that way. So, I'm not concerned about anyone exceeding his authority there. But, this does build some flexibility into it. This is what I think we need to have. I think this. . . this is what I am after.

I can't see anything that objectionable to this. Here, we are putting it to the people; we're giving them a choice. Throughout this convention I've heard this time and time again: "Let the people decide." This is an issue I think they can decide on. I feel like Mrs. Zervigon, when you hit them in the pocketbook, they're really going to look real close at what they're going to decide upon. I've studied this proposal. I've studied the proposal that we've already adopted. There's one thing that stands out in my mind, and that is the first sentence reads that "the power of taxation shall be vested in the legislature." Then, we've come in and put all kinds of legislative material into the article that we've adopted to restrict the power of taxation of the legislature. I think this eases it off a little bit--this backs us off. If the local governing authority, subject to approval by the legislature, feels that it needs to change its assessment ratio, then I think we ought to give them that flexibility. Thank you.

Further Discussion

MR. BURNS

Mr. Chairman and fellow delegates, I'm not going to take up any more time, and I hope I don't repeat anything that anybody else said. But there's one point that hasn't been discussed or hasn't been brought to the attention of this convention which I think is very important in connection with discussing these alternatives, because as I understand it, the sole purpose of an alternative is to give the voter and in this instance the taxpayer an opportunity to vote one way or the other. Now, this alternative is four and a half pages of very confusing and complicated wording and verbiage. But, you know what the people are going to be called on to vote if this would pass as to what is going to be on the ballot? On page 1, it's 2(A): "For permitting local option property taxation assessment and homestead exemption," and 2 (B) against it. There would be no voter that went to the polls that would know as to what he was voting on. He would have no idea that he was increasing the rate of assessment from ten percent to fifteen percent or up to twenty-five percent. He would naturally think when you use the word "local option" that it was going to be left to the police juries of his parish in whom he's, in most instances, familiar with each member, or the city council and the mayor of the town or the city where he would happen to live. Now, when we speak of local option in connection with this, local option means to me the local governing agency of the parish or of the city. This is not real local option with reference to fixing the rate of assessments in the state for this reason: the governing authority doesn't have the right to fix these rates. They would have to go to the legislature and take their chances on getting an act of the legislature passed. They might be successful and they might not, all depending on the attitude and the whim of the legislature. So, this is not what I call "local option." But, to the average voter and taxpayer who would be called on to go vote on this particular alternate, he would naturally think that it meant that his police jury or his city was going to have that authority. So, I ask you, let's vote against this and get on with the convention.

Question

MR. SLAY

Mr. Burns, you raised something there that I hadn't even thought about before. You're saying that on the ballot, now, that it would just be whether or not we was for local option. So, then whenever

it comes out to putting the publicity on this thing, it would be Mr. Steimel with PAR on one side, and the chairman of our committee, Mr. Rayburn, on the other. Now, who do you think would control the news media--Mr. Rayburn or Mr. Steimel?

MR. CASEY

Senator De Blieux has a question, Mr. Burns.
You refuse to yield.
Senator De Blieux is now recognized for the floor.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, first I want to make this statement with reference to the alternates. I think it is absolutely necessary, which has been said by Mr. Stagg and others from this microphone, that we have to have some alternates on the ballot. I'd like to tell you this: we've done a lot of things in this convention which I've had questions asked to me. But, I haven't had near as many questions asked about any matter as I have about education and taxes-- the five board deal and the tax assessment. Of course, the tax is the most complicated and the least understood of what we have done up here. I might tell you this with reference to the statement that was made by Mr. Burns: the voters are going to be given a copy of this constitution, according to what I saw that the Public Relations Committee has adopted. They are going to be able to see it, and just as any constitutional amendment or anything else appears on the ballot, you're not going to have the whole thing. You're not going to have what we have in the present constitution on the ballot. You are going to have something with reference thereto. By the same token, you won't know any more about the alternate from looking at the ballot than you will about what's contained in the constitution by looking at the ballot. So, you've got to trust the knowledge and explanation which we delegates, which the news media and which other people who are interested in giving to the people so that they can understand what we are talking about. I would venture to say that Mr. Chehardy and the rest of the people will certainly be telling them what the differences are in these two proposals if we put them on the ballot.

Now, we ought to give the people an alternative as whether or not they're going to select what we've presently adopted or whether or not they're going to select something else. I trust the voters in being able to make up their mind and their decision of what they think is best. I have no fear from that. Now, some people have made remarks to the extent that maybe they don't trust the voters by saying that they wouldn't know what they are voting on. I believe they will before they vote on this particular constitution. Mr. Slay, let me say this: at the present time, the police juries must set the taxes. They do it every year. By a resolution, they have to adopt the millages, etc. Otherwise, it would not be legal for the collector of taxes to collect those taxes. They set it by resolution each year--each year. That's the law, and at the present time, in the law, the assessors. . . the tax millage percentage is supposed to be set by the governing body, but they don't do it according to the law. They just do it by what's been recommended to them by the assessors, that it be. I call your attention to Title 47, Section 1989 in the paragraph there which says, "The lawful authorities of each parish which is a police jury or other governing body shall fix valuations at less than actual cash value as they deem fit, provided that the local purposes and the percentage shall operate equally upon all property within the parish." That's your present law. This proposal that we have before us at the present time conforms as close to the present law as anything that we've had put before us. There's nothing wrong with the law; the courts have said there's nothing wrong with the law. The only thing wrong is that we haven't been following it. We are charting a new course here, and if we utilize what's already adopted and don't give the voters to take the chance, no telling what kind of a chaotic we are going to get into if we try to put into effect what we have already adopted.

At the present time, there's no percentages in the constitution, and actually, there shouldn't be. I would go for that. But, yet we are trying to put into this new constitution percentages, and I think we ought to have some local option and let the local governments determine what percentage that they want to operate upon. That's. . . presently, they have that right and privilege, but they just haven't been exercising it.

Delegate Tobias in the Chair

Further Discussion

MR. CASEY

Mr. Acting Chairman and delegates, I rise to urge your

support and your vote for the local option plan submitted by Mr. Stagg, in Delegate Proposal No. 101. As you know, during the debate on the committee proposal affecting ad valorem taxes, you know very well that I staunchly opposed that proposal and left no doubt in your mind where I stood on it and urged at the time when we discussed the possibility of local option that you adopt some form of local option in an effort, with the possibility, in the hope that we may better be able to solve the ad valorem tax problem on a local level rather than with a fixed inflexible type of percentage that is established in the constitution allowing, therefore, to local authority through Delegate Proposal No. 101 the flexibility that is necessary for local government to collect its taxes, to run its business and not the business of the state, as such, for which we raise revenues through taxation imposed by the legislature—but, to run local government. This is the basis that . . . this is the basis for the operation of local government—the ad valorem tax system. We have no state ad valorem taxes anymore under the new constitution, although they may be authorized in the future. At the time of the adoption of this constitution, we will not have state real estate taxes. Real estate taxes only will be used to conduct the operation, and the business, and the administration of government on the local level. So, local government should be able to have some flexibility to obtain the revenues that are necessary to conduct its own business. In the city of New Orleans, for instance, at this time a homeowner that owns a forty thousand dollar home is paying two hundred and forty dollars, average, in real estate taxes. A homeowner that owns a fifty thousand dollar home is paying annual taxes of two hundred and eighty dollars. If he owns a sixty thousand dollar home, he's paying annual taxes of four hundred dollars. Do you know what's going to happen under this new proposal? Those very people will have their taxes reduced, and today, those are the very people that are going to be against the real estate committee tax proposal that we have already adopted, because those people are the ones that want good services. They want a functional, efficient local government, and they want to pay their fair share of the taxes. Those are the ones that are complaining about the mystery proposal—and that's what I call it, the mystery proposal—that you have already adopted in the new constitution with the committee proposal because you really don't know the impact of it. You know very well that it isn't flexible, and you don't know what's going to happen in Shreveport, except you know pretty sure that the tax burden is going to shift from the homeowner to the owner of the small business and the renters. Do you know what's going to happen in the city of New Orleans? For instance, Number One Shell Square—a ridiculous situation—Number One Shell Square where the land value at this time is assessed at thirty-three and a third percent, the taxes are going to be reduced. The taxes are going to be reduced on the land under Number One Shell Square. Now, that's an absurd, ridiculous situation that we are causing through the committee proposal which we have already adopted. I can tell you right now that the people in New Orleans who are interested in their government, who are interested in obtaining services are extremely upset with the committee proposal. There are many of those very same people that may vote against the new constitution.

I think we ought to offer them this alternative, this possibility that they have some out, that they have something palatable that they can accept if we want them to vote for the new constitution. I can't urge you enough to adopt this delegate proposal to offer our people in the State of Louisiana the alternative. Thank you, Mr. Chairman.

Further Discussion

MR. ROEMER

Mr. Chairman and fellow delegates, I rise also to support the alternative as proposed by Delegate Stagg. I wonder if in our consideration the last two days, of alternatives, if we'd really thought what an alternative is supposed to be and what it is trying to do to the benefit of our new constitution. You know, there's some things we've done in this convention that are untried and perhaps will be proved not to be workable, not to be feasible. I can tell you, after sitting for one year with Senator Rayburn and the other members of our committee, that there's not a member of our committee that can get up and say flatly and positively that what we've passed already in this constitution is truly to the benefit either to the state or to the local governments of our state. The issue is that confused. If there is any issue in the constitution that needs alternatives, that needs to have both sides told, it's the question of property taxes. You have been literally barraged in the last twelve months with little people speeches, with speeches about

the homeowner. Well, we all care about those elements in our population. But, the same people that barrage you with that propaganda failed to point out to you that the very things we've passed in this convention might very well work to the detriment of the little people, because who are the little people? Well, some forty percent of them in this state rent their apartments or their homes. They don't own them at all, and the homestead exemption won't help them one iota. As a matter of fact, the homestead exemption, by being so high and in effect shifting the burden to the businessman in the state, and to the people with lots of property in this state, and the people that pay their fair share of taxes in this state are going to mean that the increase in the tax burden on these people is going to inevitably have to be passed to the renter—has to be, can't be any other thing.

So, I'm suggesting to you on the big question of alternatives that the place where we need alternatives are those places where there are two sides to the argument. There is no question, either if a tax assessor gets before you or a person like myself, there is no question from any party who studied this problem that there are at least two sides to this question. I'd like to congratulate Mr. Stagg for giving us a chance to present to the people an alternative which does present to them both sides of the issue, because what Mr. Stagg's alternative will do will say that, yes, we want a reasonable homestead exemption. Twenty thousand dollars seems to be a more reasonable figure than thirty. I'll tell you why: the average home in this state is less than twenty thousand. If we put it at the twenty thousand mark, we will have exempted more than half of the homes in this state. More than half of the homes in this state will be exempt under his plan. What will not be exempt? It will be the twenty-five, thirty, thirty-five, forty, fifty thousand dollar homes. Who lives in these kind of homes? People that can afford to pay property taxes because the property taxes in Louisiana are the lowest in the nation. But, what do those taxes go for? They go to support your local governments, schools, police jury, roads, sidewalks, fire protection, police protection, water, sewerage—the very things that the home costs in this state. Is it not right that a man in a thirty or a forty or a fifty thousand dollar home should pay a small percentage of the cost of that home to our society? I think that's what this alternative does for us. It puts clearly before us and before the people—and that's more important—the choice. Do they want to pay their fair share of taxes? Do they want to pay those few dollars in ad valorem taxes to support the institutions that make this state great? I hope that you consider carefully this alternative. It's got some problems. I think one of them would be corrected by the Bollinger amendment which puts to a vote of the people rather than to ratification of the legislature a change in these assessment practices.

You know, the final point I want to make is the very people who fight this alternative are the people that assure you carte blanche that the people want higher homestead exemptions. Well, if they're that dadgum sure about it, what's wrong with putting an alternative on the ballot, because surely the alternative will be beaten if what they tell you is true? I submit to you, however, just the contrary. That is that in many elements of this state the renter, the poor people, the people that live in parishes where the assessor has been utilizing a high assessment ratio, the people of New Orleans, the people of Shreveport, these are the people who are concerned about the constitution as we have presently written.

I suggest to you that this alternative will give them a choice and more important . . . will put their interest behind the constitution. I urge your adoption of the alternative.

Delegate Reeves in the Chair

Questions

MR. MIRE

Mr. Roemer, you said, and very rightly so, that nobody could definitively tell you the exact effect that Proposal No. 26 would have on the taxpayers of the state. But, you alluded that this particular proposal was an alternate to this and that you could definitively say what effect this would have on the people of the state. Can you in good conscience tell me kindly what this proposal is going to do to the people? I'm talking about the taxpayers of the state.

MR. ROEMER

No, I understand your point. I did not mean to convey that impression. The point I was trying to make, Peg, is that in an issue this complex perhaps the presentation of both sides will

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give the people affected a chance to make their own choice, knowing full well that the choice they make may or may not work either way they go, but at least they will understand what they've done to themselves and not what we've imposed on them. I want to further say that the proposal as we wrote it in our committee, and if we wrote it in this constitution proposed, in good conscience I think is a decent proposal; I do think that. All I'm suggesting to you is that the decency of the proposal can perhaps be best brought out in debate, debate that will stem from an alternative presentation on the constitution.

MR. FULCO

Buddy, I had asked you earlier what the proposal was by the group opposing the assessor's plan that might have affected....that brought about the compromise. May I ask you again that same question?

MR. ROEMER

Sure, Frank. Well, there were three or four original proposals, Frank—one from the assessor's prior committee called for a one hundred thousand homestead exemption and called for various rates. I forget what those rates were. We came down to probably a fifty thousand dollar homestead exemption with rates on the one hand of ten percent across the board and on the other hand of fifteen and twenty percent. The compromise was reached on this floor of ten and fifteen with an effect of a thirty thousand dollar homestead exemption. I thought at the time, and I think now, that it was a decent compromise. However, a compromise by its very nature leaves a lot of.....from both sides.

Amendment

MR. POYNTER

We have a Bollinger amendment now; it has been distributed. Amendment No. 1. On page 2, line 10, after the word "parish" delete the remainder of the line and at the beginning of line 11, delete the words and punctuation "by the legislature," and insert in lieu thereof the following: "and with approval by a majority of the electors of the parish voting on the question at an election held for that purpose,"

Explanation

MR. BOLLINGER

Mr. Acting Chairman and fellow delegates, I think regardless of all the other sections of Mr. Stagg's alternatives, when you look on page 2, Section 1, Paragraph (B) and read it in comparison to everything else we have talked about with regards to property taxes, you see that there is a tremendous change in the article on Local and Parochial Government, Committee Proposal No. 17, Section 27 which deals with finance says, and I quote, "Millage rates may be increased in any parish when approved by a majority of the electors voting thereon in an election held for that purpose." We are saying in Local and Parochial Government, that for the local governing authorities to raise local taxes, the people have to agree that it is necessary, and they have to agree that they want to back themselves. In Paragraph (B) of Section 1 it says, "however, upon adoption of an ordinance by the governing authority of any parish, and with subsequent approval by the legislature, the percentage in any parish may be increased to twenty-five percent or decreased to ten percent." In essence, what he is saying here is that with the local ordinance and a majority of votes of the legislature your local property taxes can be raised because by raising your percentage of assessment and not lowering your mills, in essence, you are raising your property tax. My amendment only deals with this part of the alternative. It deletes the approval of the legislature because there is really no reason for the legislature to approve a local tax. If the local people want to approve it, it is their prerogative and they should approve it. However, what it does require is the referendum of the people to say that if we are going to change the percentage of assessments, we are going to change it only with the approval of the people. I move the adoption of the amendment and will answer any questions.

Questions

MR. STINSON

Mr. Bollinger, but you're also letting people that may not be property owners vote to tax on....increase the tax on the property owners; aren't you?

MR. BOLLINGER

Mr. Stinson, I agree with you, of course, that is not my....if I had my druthers, I wouldn't have nonproperty owners voting. But,

the Supreme Court has ruled that all people, all electors can vote in property tax elections and that is not my wishes but it is the court's ruling.

MR. STINSON

Well, we still don't have to agree with the Supreme Court; do we?

MR. LANIER

Mr. Bollinger, as much as we would like, unfortunately this convention does not have the authority to overrule the United States Supreme Court, does it?

MR. BOLLINGER

That's correct, Judge Lanier.

MR. LANIER

Let me ask you this: don't you think, in view of the fact that the people have the right to vote on increases in millages, that it is only consistent if we provide that the people also have the right to select their own assessment ratio?

MR. BOLLINGER

That is definitely right and that is the purpose of the amendment.

MR. LANIER

And, this business about the legislature having the right to veto, particularly, in a home rule municipality or a home rule parish, this idea of the legislature having the right to veto would not be consistent with the policy of home rule would it?

MR. BOLLINGER

No, it wouldn't. Also, Mr. Lanier, I think it's just window-dressing because if the local governing authority passed an ordinance then that you could increase or decrease assessments, I think the legislature would automatically, as a formality, go along with them just like they do on most local bills that are offered. I think it's more of a formality in this thing. I don't think they should have the right to veto, as you say.

MR. LANIER

Wouldn't you agree, however, that the greatest danger in giving the legislature the veto power in this situation would be that the legislature, if it wished, could refuse to agree to any changes and that way, in effect, you would have no local option at all; isn't that correct?

MR. BOLLINGER

That is true.

Mr. Acting Chairman, so that the people of this state will know if their delegates wished them to be voting on increases in taxes, I request a record vote on this amendment.

Further Discussion

MR. CHATELAIN

Mr. Chairman and fellow delegates, I rise in support of this amendment. I think the amendment is good. I think that Delegate Proposal No. 101 of which we are speaking to, at the same time, is a very good deal for the people of this state. I think very definitely that an alternate is needed on the ballot. I think this amendment to this proposal is a very good amendment. I would certainly urge your support. If you do decide to go along with this amendment, I would like to, Mr. Chairman, speak later to the reason why we should have a proposal. I urge your support of the Bollinger amendment.

[Previous Question ordered. Record vote ordered. Amendment adopted: 86-22. Motion to reconsider tabled.]

Further Discussion

MR. HAYES

Mr. Acting Chairman and ladies and gentlemen of the convention, I guess you could count this against the proposal because: (1) I think we need an incentive to clear up the slums. I have been in the building business for a little while and I've found that the biggest problem we have to clearing up the slums is to get people to build new homes. You'll find people living in homes that are exempt making twenty-five, and thirty thousand dollars, and forty thousand dollars. You can't stop a person from living in a home exempt based on his salary. If you don't leave an incentive for a person to want to build a home, you will then force them to crowd

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up in the slums and this will add to crime. This would also force that nonprofit cooperations, the churches that you give the tax exempt status to to get the tax exemption on their apartments and the people were very low in the apartments and will not build a home. The young couples are the ones who get caught with the tax scuffle. A young couple now building a home, what you're thinking about building when I was out there for fifteen thousand dollars and sixteen costing forty-five thousand dollars, will even pay taxes now. My main objection is here, like automobiles, I found that in building homes they all had about the same thing in them--three bedrooms, two bathrooms, lot, and etc., etc.; they all have about the same things in them, they are a little larger. Now, you go out and you check your car; you can go from a Volkswagon to a Cadillac; they are basically the same. Then, I can't see why a person should suffer such high penalty because his house is just a little bigger. Now, remember this, everyone must live in some type of shelter. If he can't provide it for himself, then the government or some special agency will have to provide it for him. So, I'm asking you then to leave some type of incentive for him to do it for himself; they are already taxed to the hilt. It's the young people like you are putting this tax on, it's not the people already established; they are not going to be taxed. Again, you cannot tax the big man with all of the money; you're not going to ever get him. You are always going to get that person who is just starting out with a four hundred dollar note, forty-five thousand dollar house and they are just scuffling trying to clear up what I call a scuffle. Now, some people would rather do this through urban renewal and federal legislation. You can do it by simply giving a homestead exemption; what's the difference? Thank you.

Questions

MR. TOCA

Delegate Hayes, would you agree we are trying to sell a new constitution in this state?

MR. HAYES

Yes, sir. I agree with you, Mr. Toca, and I have....go ahead.

MR. TOCA

Would you also agree if we go around this state and tell the people we're going to raise their property taxes, what chances do we have of selling this constitution?

MR. HAYES

This is not telling anybody that you are going to raise any property taxes; I don't gather this at all as saying you're going to raise the property taxes. I've heard a lot of people get up to this podium and say....

MR. CHATELAIN

Delegate Hayes, aren't we discussing at this moment whether or not we are going to have an alternate on the ballot, sir? Isn't that what we are discussing?

MR. HAYES

Yes, sir.

MR. CHATELAIN

Well, it has nothing to do with raising the people's taxes; is that right?

MR. HAYES

I don't see where it would raise any taxes. The only thing I could see, Mr. Chatelain, usually when a person comes up or if they have an issue, they always decide what is going to.... I have heard more about what will pass and what will defeat the constitution up here than any other place---everybody who comes up here seems to know the answer; I have heard it so much. It looks like if we know that, somebody ought to just write it down and give it to somebody. I have never said what will pass or defeat this constitution, because I don't know.

Thank you.

Further Discussion

MR. CHATELAIN

Mr. Acting Chairman and fellow delegates, I just wish you would give me your attention for just a few minutes; I'll try not to take the five minutes. But, I urge you to stop and think a while. Think about what we are speaking about this morning. What is the topic of discussion this morning? We are discussing whether or not we are going to put another alternate on the ballot for the people of this state to have a choice. Since we came here on July 5 you, as well as I, have heard many, many discussions on the

vital issue of taxation as it relates to people's property in this state. You have heard many people come here. You in the committee meetings have heard people up here before the committee meetings and discuss the problem of taxation. You heard the governor saying before you last week and discuss a very serious problem as it relates to taxation on our homes and property in this state. We are here today to do what I think is justice in the final hours of drafting a constitution for all the people of this state. I would urge you to think a while before you cast your vote. I say that today, that this very hour, will reflect the labors of our work here for the last six months and a year--six months in this convention hall and for one year in committee meetings. We are discussing whether or not the people in Caddo Parish, Orleans Parish, and other parts of this state would have an option to raise their own taxes. They would have to go to the polls and do this. But, they wouldn't be limited to a certain percentage as set forth in the committee proposal. This is what we are discussing here this morning is an alternate on the ballot. We had a fight here for the last two or three days on whether or not there should be an alternate on the ballot as it relates to education in this state---a very vital issue, a very vital concern to many people in this state. This is no less serious than the idea of education or business of education. This deals with the very life blood, the political life blood and the economic life blood of the citizens of this state. It has to do with whether or not they can have better schools or better communities if they want that; this is what we are discussing, an alternate, whether to have an opportunity to vote for Mr. Stagg's idea or what we have already adopted in this convention. This is what we are talking about. I say to you, Mr. Chehardy and others, I say to you: Give those people a chance to vote as they wish, as we have given the people an opportunity to vote in the area of education. Let's give them this opportunity; this is not too much; it's not asking too much. This is what the people are entitled to. I urge that you would give them an opportunity to vote. I would urge that you support Delegate Proposal No. 101 as amended by the Bollinger amendment. I think it's good for the people. I think it's good for everyone in this state. I urge your support.

Question

MR. LANDRUM

Mr. Chatelain, do you know that I believe the committee proposal is harmful to New Orleans and to other cities? But, tell me, do you believe industry and residential property should be assessed at the same evaluation?

MR. CHATELAIN

No comment, sir.

MR. LANDRUM

No comment?

Further Discussion

MR. CHAMPAGNE

Mr. Acting Chairman, ladies and gentlemen, I feel compelled to come before you at this moment because some of you requested of me, "Was I in favor of this proposal?" When Mr. Stagg contacted me, I felt that I would sign it because, possibly, he had some difficulty getting sufficient names to bring it forth. But, at that time I advised him that, at this late hour, I was not in favor of this delegate proposal. As many of you are well aware that in committee I was at odds with Mr. Chehardy and the various other assessors for many, many months. I stood for what I thought was right. They stood for what they thought was right. But, in the end I feel what we came up with in this proposal and what the committee adopted in the committee proposal as presented and amended on this floor is the best proposal for all of the people of this State of Louisiana. I think that it provides adequate rollbacks and roll forwards, that it provides a real and substantial way that local government can get their homestead exemptions returned to them from the state treasurer. I think that it is one of the best proposals in this constitution. I suggest to you delegates, that now is not the time to come before these people and say, "Take this or take that", that I say it's time for us to get out and explain what we did. When we hear people referring in the newspaper or in the news media to falsifications about what we did, it's time for us to stand up and explain what we did--this convention. I think that we must take the positive approach because there are those who say, "Give them a choice." We gave them a choice. We submitted ourselves to the people and they chose us as what they thought was the best people to represent their wishes. Now, I tell you, ladies and gentlemen, that the only problem is that if you submit this as an alternate in my area there's going to be a lot of people vote "for" and "against" the constitution. They are going to walk out of that

polling places and that's the end of their hopes. I wouldn't want to take a possibility that ten percent of the people of this state might alter the wishes of what ninety percent of those voting want to do.

Questions

Question

MR. WEISS

Delegate Champagne, the proposal before us lists particularly permitting local option property taxation. Doesn't the present constitutional article allow just that by allowing the local people to vote a millage change? The millage change would do the same thing as this article, and it seems quite confusing to present to the public when, really, they have this option at local level at this time; is that not correct?

MR. CHAMPAGNE

That's correct.

Chairman Henry in the Chair

Further Discussion

MR. D'GEROLAMO

Mr. Chairman, fellow delegates, I rise in opposition to Delegate Proposal No. 101. I believe that contrary to a very, very few people in the State of Louisiana--and when I say a few, you can count them on one hand--we do have a salable constitution. Do you know why we have a salable constitution...because the delegates here, over the past year, have worked hard for what we believe in and for what we know the people back home want. In the various meetings we have had, we have satisfied the municipalities, the local officials in the home rule charters and protecting home rule government. In local and parochial government we have also satisfied these local officials and police jurors throughout the state. We have satisfied the assessors, district attorneys, sheriffs, clerks of court and many, many other elected officials who are elected and represent all of the people of the State of Louisiana and their thinking. We have now, at this time, just about satisfied the governor of Louisiana that we do have a good, good, good project here, and a salable document. But, I think it's about time that we do not forget to satisfy and protect the most important element of this state--the people of Louisiana and how we are going to protect the people of Louisiana... by their most cherished possessions--their homes. How do you protect their homes to assure a man who has worked from one day to thirty years for the purpose of paying for his home the protection that he will have his home and his home will not be taxed out of reach? I believe the men and ladies who worked on revenue and taxation and the proposal that was finally compromised by the ten, ten, and fifteen is an equitable program and it is salable to the people of Louisiana. The people of Louisiana want to know how much their taxes are going to be. Before they vote for this constitution, they want to know the percentage; they want to know what is their homestead exemption going to be, and how much their yearly taxes is going to be. How much that note that they owe to the bank or the homestead is going to be raised by what we do here in this convention. That is what the people in my district want to know and the people in your district want to know before they vote for or against this constitution. Mr. Bollinger's amendment is a good amendment. But, let me tell you this: This is like attaching a pirote to the Titanic as its life preserver. This is a bad, bad proposal because the people of the State of Louisiana, should they want to raise their taxes, they have a very, very good vehicle either in municipalities or parish government. All they have to do is go to their local governing authorities and put before the people bond issues for specific purposes and let the people vote on whether they want these specific purposes or not. The people do not want to give politicians, elected officials, a blank check and say "Raise my taxes or lower my taxes as you see fit and use the money as you see fit." They want to know where their money is going; how it's going to be spent, and they want to know whether the proposition that they are going to vote for is what they want. Now, I wonder, ladies and gentlemen, and I hope this is not true, my feeling is wrong, I hope my feeling is wrong. But, sometimes you get a little skeptical and you wonder maybe the proponents of a proposal such as this are trying to kill the entire portion of the constitution dealing with property taxes because I am sure, with the lawsuits that we now have, and certainly the ones that will come up later on, there is no way in the world of equalizing taxes statewide by local option. We're certainly going to have differences of percentages statewide. Now, if this is the case, well, I am sorry of the thinking of some of the people of this convention.

I urge the defeat of this proposal.

MR. STINSON

On this, isn't it automatically a raise or increase to fifteen percent whether your parish would vote against it or not, the rest of the state would automatically raise Bossier Parish, we'd say, by the passage of this alternate?

MR. D'GEROLAMO

Mr. Stinson, this would raise throughout the state from ten percent to fifteen percent. You're going back home and tell the people, "I changed my mind, instead of ten percent I'm going to raise you now five percent."

MR. STINSON

Also, then I would have to get the police jury to call an election . . . my people would, but on the . . . they say a majority vote of the taxpayers, but it doesn't set up the machinery for that election. Don't you think that's defective?

MR. D'GEROLAMO

That is exactly right.

MR. STINSON

Next thing is, it says that any parish may increase to twenty-five percent. Now, it doesn't say to twenty percent, or it doesn't say not over twenty-five. It has to go either from fifteen to twenty-five, the way it's drawn, isn't it?

MR. D'GEROLAMO

At the will of the local governing authority.

MR. STINSON

Also, it has to be reduced from fifteen to ten, not from fifteen to twelve or anything. They've got it tied in; it doesn't say not more or not less. Don't you think that's plainly defective?

MR. D'GEROLAMO

I interpret it exactly like that, Mr. Stinson.

Mr. Speaker, if there's no further speakers, I call for the previous question.

Further Discussion

MR. LOWE

Mr. Chairman, ladies and gentlemen of the convention, I really hadn't planned to speak on any alternatives, and I wouldn't be speaking on this alternative except that I really believe I have something to tell you. This particular provision says that "by approval of the local governing authority and by the voters." You can't hear? I can speak louder or else they can turn up the mike; I don't know which we prefer. You all make out like I'm Gordon Flory up here and see if you can let me be heard. Is that better, do I sound like Gordon Flory now? No. Make out like I'm Vic Bussie and see if you can help me out a little. Mr. Chairman and ladies and gentlemen of the convention, what I'm saying is that I didn't plan to speak on any of these alternates but I think that I have something I can let you think about and see if you agree with. We've just amended the proposal that said that we can raise from fifteen percent of fair market value up to twenty-five percent by a vote of the local governing authority and with approval of the voters in that district. Now, another section says that once we do that, that we will adjust homestead exemptions proportionately to take care of that adjustment. Now, let's take a hypothetical example. At fifteen percent we would be exempting a twenty thousand dollar home. Fifteen percent of twenty thousand is three thousand. Let's assume we raise the millage by fifty percent, from fifteen to twenty-two and half percent. Then that exempts a twenty thousand dollar . . . a forty-five thousand dollar homestead exemption would be in effect. We would have to provide twenty-two percent of twenty thousand . . . I mean fifty percent of twenty thousand and we would come up again and make the adjustment. So, we would end up with a forty-five hundred dollar homestead exemption. I see some people shaking their heads, they say and you read what we say in here and what it says is, "however, if the percentage of fair market value or use value is changed in any parish as authorized by Paragraph (B) of Section I of this article. The value of the homestead exemption for all eligible homeowners shall be adjusted to compensate for the change." How do you compensate for the change? The rates go up fifty percent, so the homestead exemption goes up fifty percent. So that raises the three thousand dollar homestead exemption to forty-five hundred dollars. Okay, so that offsets that increase for the homeowner, as I appreciate it. Now, but what happens for the

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business? I have heard it said that, "Well, you can't collect any more in that district than you did before because you have the rollup and the rollback provisions." Well, I'm not sure that's true because in the rollup and the rollback provisions, if I remember correctly, it says that you can't collect any more the first year after this is placed into effect. But, suppose we go five or ten years down the line and decide to raise it from fifteen percent to twenty-two and a half percent. Is the rollup and rollback applicable? I'd say that here I've had a concern in the past about shifting some taxes from industry to the homeowner. I have some fear here that we could very well shift all of this increase from the homeowner to industry. I don't think that's fair. I think that if you read this, you could tend to agree with me. Now, I haven't had much chance to look at it, but if anyone can tell me it doesn't say that, well, I would stand corrected, but at this moment I think it says just that. I ask you to defeat this proposal because of that.

Questions

MR. FLORY

Mr. Lowe, as I appreciate what you're saying, that figure of ten thousand angels we heard the other day, you'd have to raise it to twenty thousand angels to pass this if this proposal is adopted, right?

MR. LOWE

Well, Gordon, I think if this is a proposal that wants to accomplish one thing, I think it's doing something else and I think we would have to get us a better vanguard, yes, sir, of angels. I think we have one at the mike over here now.

MR. DE BLIEUX

Mr. Lowe, do you think . . . well, you know that revenue sharing is really the reimbursement to local government for what they lose with reference to homestead exemption; you know that?

MR. LOWE

Yes, sir. You've explained that to me.

MR. DE BLIEUX

Now, do you think that one political subdivision or one parish ought to be able to get more on a homestead exemption than another parish gets on it?

MR. LOWE

No, sir. I don't believe that. I think it ought to support . . .

MR. DE BLIEUX

Well, don't you think that if there is a variance in the local option for percentages that they ought to adjust their homestead accordingly?

MR. LOWE

I agree with that a thousand percent, Senator De Blieux, and I didn't . . . you're making a point that I have no quarrel with. The quarrel I had . . .

All right. The point that I made was that we're going to be shifting from the homeowner to industry with this proposal, if we do, in fact, raise it. That's the point I made, not about the point you questioned me, Senator.

[Motion to recess rejected: 46-56.
Previous Question ordered.]

[Previous Question ordered.]

Closing

MR. STAGG

Mr. Chairman, I have listened with great interest to the speakers who have been to the microphone this morning, who for reasons of their own have concluded that they don't believe that we need an alternative in the ad valorem tax field. That is their privilege. On yesterday, the convention decided that there shall be an alternative in another controversial area of this constitution-- that of the governance of education. I think the convention acted wisely in furnishing an alternative; whether I agree with the content of that alternative is not the question. As a matter of fact, I thought it missed the mark a bit, but there will be an alternative for education. It is my feeling that we need an alternative in the property tax field. Mr. Toca, I'm trying to talk to you and the

other delegates. I listened to you when you talked, now would you listen to me while I talk because I'm not going to be here very long and this convention is about to be over. I want to leave you with one small message. When the election is over and the result is known, and should our work be rejected, please consider whether or not your vote on this delegate proposal, however much you may disagree with it, whether your vote on this proposal may have contributed to that doleful result. This is the hundred and twentieth day of our deliberations and I've enjoyed them all. I've won some, and I've lost some, but I have enjoyed them. But, did we, on January the 17th, make the wrong decision about an alternative on property taxes? When you consider that prospect, I should hope that you would urge and vote that there shall be an alternative to the Property Tax Proposal. Mr. Chairman, I have no other remarks to say except that I have enjoyed the association with each and every one of you.

[Proposal failed to pass: 31-83.
Motion to reconsider tabled.]

Point of Information

MS. ZERVIGON

Mr. Chairman, just a question as to where we stand under the rules as to scheduling. There was some question back in this part of the room as to whether the other alternative proposals may be submitted. May they?

MR. HENRY

They have already been submitted. I think they can be considered, and we will consider them after lunch. Yes, ma'am.

MS. ZERVIGON

They may be considered. Thank you.

Recess

[Quorum Call: 67 delegates present
and a quorum.]

MR. POYNTER

I'd like to at this time. . . we're getting ready here in just a minute to set up on my left and your right a table containing the copy-- the signature pages for you to sign for the eventual document. Again, the purpose of it will be so that eventually each of you will have an original copy individually signed--not reproduced--that will be transmitted to you. Now, we're going to have chairs there available for you. It's going to take a lot of cooperation. First of all, please, so that other copies can be made, it's essential that all copies be signed in black ink. The printer has encouraged me about five different times to please make sure that you do sign it in black ink. I realize it's going to take some time for you to do it, but that's the only way everyone will have an individual copy, as you just sit there and go through the process. The pages will be there and try to turn pages for you and help. It's six pages; six of you can do it at a time.

Reading of the Proposal

MR. POYNTER

Next proposal is Delegate Proposal No. 102 introduced by Delegate Vick, Abraham and others.

A proposal to provide with respect to an alternative provision relative to the Judicial Branch.

Explanation

MR. VICK

Mr. Chairman, there are some technical amendments that are coming, I believe. During the course of this convention some months ago, in heated debate, my good friend-- or I should say, our good friend-- Camille Gravel, said from this microphone that "I've tried logic and that has failed, and perhaps this afternoon I'll attempt sympathy." Well, I can't believe that this body has rejected logic, the tenor of the times (including Watergate and all of its ramifications), and history -- primarily legal history-- but the history of this state as well. Mind you, I'm not rejecting any sympathy votes, and with only sixty-seven delegates in the house, I'll take any kind I can get. The power of the attorney general to initiate criminal prosecutions has been in either the

constitution of this state or the statutes since 1813, which was its inception as a state in this Union. Forty-four states in this Union allow the attorney general, their respective attorneys general to initiate local prosecutions and this would make, if this convention rejects this alternate and goes with the proposal that's currently in the constitution, we would drop from the list of states and that would make only forty-three. So, Louisiana would again be taking a step backward. Now, the American Law Institute and the American Bar Association and the President's Commission on Law Enforcement have said in study after study that the trend to increase the power of the attorney general on a state basis is absolutely essential in order to further the ends of good law enforcement, and the reasons for that are numerous. But, remember ladies and gentlemen, if you will, remember, because I'm going to repeat this over and over again, the attorney general of this state is not asking that his powers be increased, but remain the same. The President's Commission on Law Enforcement and the Administration of Justice, which was in a book entitled The Challenge of Crime in a Free Society, in 1967 said, and I quote, "at common law the attorney general had full authority over local prosecutions. The office of county or district attorney represented a division of the attorney general's powers. In those states where the local prosecutor is independently selected the attorney general should retain power to initiate prosecutions when, in his opinion, the interests of the state so require." That's exactly what we have in the Constitution of '21. The President's Commission went on to say, "experience demonstrates, that such authority when granted is used only infrequently." That is also the history of this state, ladies and gentlemen, that he has had the power and it has been used very infrequently. Further, the President's Commission said, and I quote, "in those rare instances where local prosecutors are unable or unwilling to prosecute, the attorney general should be able to enter the case and assist or direct the prosecutor. When such power exists, it is rarely exercised. But, it should be available to the attorney general and we have that power now." Again, ladies and gentlemen, these are the recommendations of the President's Commission on Law Enforcement. Louisiana fits that mold. This convention by its vote has seen fit, as the attorney general said in his memorandum to you the other day, to strip him of those two important functions. Where are we now? What do we have? Again, I refer to Dean Sullivan's letter to the attorney general of December 14th, wherein he says,--insofar as the power we're concerned with today, the power over criminal prosecutions, in commenting on his present powers in Section 56, of Article VII of the Constitution of '21--and I quote, "This can only be interpreted as a plain and clear grant of authority to the attorney general to institute, prosecute and intervene in any criminal prosecution brought in the name of the state in a court of criminal jurisdiction." Further, Article 62, of the Code of Criminal Procedure reinforces this grant in the following language: "The attorney general has authority to institute and prosecute or to intervene in any proceedings as he may deem necessary for the assertion or the protection of the rights and interests of the state." Now, on page 2, ladies and gentlemen, Dean Sullivan deals with a case that you have heard discussed from this microphone. It was decided in 1943 and dealt with a super-session by the then Attorney General Stanley, in a case involving Tangipahoa Parish and we have today, two of the descendants of the participants in that case. We have here, Chalin Perez, who represented the D.A. in Tangipahoa, and we have Sheriff Edwards, whose father was involved in that litigation. Ladies and gentlemen, the holding in this case has been so misstated, so confused, so obfuscated, and Dean Sullivan lays it to rest I think in some respects, but let me tell you what the attorney general considers to be the holding in Kemp v. Stanley. It's very simple, that if a district attorney is doing his job, the attorney general cannot intervene or supersede. There are those who agree with the attorney general. It may not be the District Attorneys' Association, but Dean Sullivan goes further, and I won't bother to read it all to you. But, he says, and I quote, "it should be pointed out that the power of the attorney general is a discretionary one, which he may exercise or not in the constitutional language quote, 'as he may deem necessary for the assertion or protection of the rights and interests of the state'." Certain language in Kemp would indicate that this discretionary power may be reviewed by the courts. Well, of course, ladies and gentlemen, there isn't a thing that we do that's not subject to judicial review. The work of this convention is subject to judicial review. Now, another point that the district attorneys find unacceptable, insofar as vagueness I believe, or perhaps it's just the concept, is the power of supervision. For example, Mr. Ware said to the attorney general, in my presence on at least two occasions, "What does that mean? What does the power to supervise mean?" Well, Dean Sullivan says and I quote--at the bottom of page 2, Section 56 of Article VII of the Constitution specifically empowers the attorney general to--quote, "exercise supervision over the several district attorneys throughout the state." This authority is restated in almost identical language in Article 62 of the Code of Criminal Procedure, "subject to the

supervision of the attorney general, the district attorney has entire charge and control of every criminal prosecution instituted or pending in his district and determines whom, when, and how he shall prosecute." Now, ladies and gentlemen, that is the broadest grant of power that the legislature has probably ever given to any single officeholder in the history of the state. Further, Dean Sullivan says, "It seems evident that the legislature has implemented the constitutional provision by making every act of the district attorney in a criminal case from decision to prosecution and the final disposition only vaguely subject to the supervision of the attorney general." He concedes to Mr. Ware and the others. This is obviously an area of potential difficulty since the term "supervision" is not subject to ready or easy interpretation, and it must also be kept in mind that the Supreme Court in Kemp stated, "we refrain from attempting to state generally in this opinion, the extent of the attorney general's powers. Each case must be decided as it is arising and is presented to us." Now, ladies and gentlemen, we get to the current proposal before you--and Dean Sullivan concludes in his opening statement by saying, and I quote, "clearly this reduces"--this proposal that's currently before us and I told you yesterday that Dean Sullivan has not changed one word of his letter to the attorney general even with the small changes that were made--"clearly this proposal reduces the power of the attorney general in criminal cases, removes entirely the authority to initiate criminal prosecutions, and reduces the possible participation of the attorney general in the prosecution of criminal cases to that of advising and assisting." Remember as today, we adopted the amendment to make it "written"...on written request from the district attorney." He concludes, "this represents a very significant change in the policy which has heretofore been the basic law of this state"--I might add, "Amen"--since 1913 in its present form and since 1813 when this state became a part of the Union. Now, the power of supervision, of course, in this current proposal before the convention has been removed entirely, and Dean Sullivan says of that, "The power of the attorney general to supervise the district attorneys is eliminated completely from the proposed constitutional revision." This again represents a very significant change in the policy which was expressed in the '21 Constitution. Should the revision become effective the district attorneys would have complete control over all criminal prosecutions and would be completely free of any control or direction by the attorney general. In my opinion, this would also require the repeal of Article 62 of the Code of Criminal Procedure and the elimination of the supervisory power of the attorney general from Article 61. Finally, the bete noire of this section, for cause--for cause. What does that mean? Dean Sullivan says as follows: "A new power is granted to the attorney general to supersede a district attorney in any criminal action of the proposed constitutional revision. Apparently, in keeping with the implication of Kemp v. Stanley, this authority has been limited to those situations where the supersession 'for cause' is further limited to those cases in which the supersession is authorized by a court of original jurisdiction in which the case is pending. The entire process is specifically made subject to judicial review. The very difficult task of defining 'for cause' is left either to the legislature or the Supreme Court acting on a case by case basis. In view of the limitations created it is my opinion that any attempted exercise of this power would produce such difficulty and such protracted litigation as to make it ineffective in any practical sense." Although outside the scope of this opinion, Dean Sullivan concludes, "It should be noted that any dispute arising over the attempted exercise of this power which would require protracted judicial review might well have an adverse affect on the right of a speedy trial of the defendant in a particular criminal proceeding, and thus be in violation of the rights guaranteed by the United States Constitution." Ladies and gentlemen, fellow delegates, I'll conclude on this note, by quoting from the governor's admonition of this convention, "The constitution--he said--must give the attorney general of our state subject to court approval, the independent right to institute and prosecute criminal proceedings. District attorneys who are violently opposed to this proposition in my judgment have no real basis for opposing it. They do, I understand, and I do not challenge their position. I merely say that I think it is in the interest of what is good for government, and the attorney general of our state should have that authority." Ladies and gentlemen, everything we do is subject to judicial review. The Constitution of '21 and the powers given to the attorney general were subject to judicial review: to wit, Kemp v. Stanley. The attorney general of this state is satisfied with the decision in Kemp v. Stanley because remember, if a district attorney is doing his job, the attorney general has no business there. That's what he has said repeatedly. In conclusion, I remind you that the attorney general is not asking that his powers be increased, but really remain the same, and let the people decide. I don't think that's a great deal to ask. Mr. Chairman, I'll attempt to answer any questions.

Vice Chairman Casey in the Chair

Questions

MR. DUVAL

Mr. Vick, what you have is exactly what's in the 1921 Constitution?

MR. VICK

Verbatim.

MR. DUVAL

It's not your intent to legislatively overrule Kemp v. Stanley, but let the courts decide in the future what this language means. Is that correct?

MR. VICK

On a case by case basis, Mr. Duval.

Further Discussion

MR. JONES

Mr. Chairman, fellow delegates, I am for alternatives. The call of this convention was people-oriented. There was no qualifying fee. There were candidates galore. Some of us ran in a primary with as many as from twenty-five to fifty opponents. There is no question that the legislature in establishing this convention wanted the people to participate in making the tough decisions. They so provided in the act for alternatives. I am for Alternative 102, which defines the powers of the attorney general of this state to include both civil and criminal jurisdiction. You know up to this point in the convention that I have been the delegate for industry. I replaced Mr. Lennox in the middle of December and have diligently tried to represent my appointment. As a lawyer, this was not difficult. In fact, it has been a lot of fun. I have represented industry positions in banking. Industry was against the concept of limiting multi-parish banking, and I represented the great big banks against the poor little rich banks. Public utilities--industry wanted a better break from the Public Service Commission, and I ate steak with the telephone company and crow on this convention floor, and poor Rev. Landrum, he missed his steak dinner. He wasn't feeling very well and only had a cup of beef soup and coffee. I just put that in there so Senator Rayburn would know that I got my steak. Revenue bonds--industry wanted the state to have the right to issue them, and I participated in this portion of the Revenue and Taxation Article. Tax exemption--industry wanted to keep its right to tax exemption, and I worked for this exemption. At this late stage in the convention, I have completed most of the work of industry. Now, I assume a different posture. Most of you know that I've been associated with the Department of Justice of this state since last September. But, in case any delegates do not know this fact, I wish to call this to their attention. I am associated with the attorney general in the Civil Division. It has been my appreciation and impression from the outset of the short time I've been in this convention that those delegates not associated with the district attorneys and the local sheriffs do not fully understand what is now provided in the proposed constitution in defining the duties and responsibilities of the attorney general. I will try to explain them and reason with you to the best of my ability in simple, plain language. Under the proposed constitution, the attorney general becomes for all practical purposes only the civil legal officer of this state. The district attorneys will have full control of the criminal work. The attorney general can only participate in criminal prosecution to assist the district attorney, and then only when he is so invited in writing. As you know, there are approximately thirty-four judicial districts, one district attorney for each judicial district. Now, the 1921 Constitution and the law of this state since 1813, which is over a hundred and sixty years ago, has provided that the attorney general shall have not only civil legal responsibility, but criminal responsibility. Further, he shall have supervision over the district attorneys of this state. The proposed constitution removes the supervisory powers of the attorney general over the district attorneys, thus resulting in making each one of the district attorneys autonomous in his own judicial district. Now, think of this, the attorney general is elected statewide. He is one of the four leading executive officials of this state. The D.A.'s are elected individually from their respective judicial district. Each of the elected delegates to this convention represents approximately 1/105 of the total population of this state. Now, this convention has, by a majority vote, cut in half the powers of the attorney general. You have eliminated his control over criminal prosecution and his supervisory powers over the thirty-four district attorneys. It is only fair and just that you place an alternative on the ballot of this people-oriented convention that will grant to the voters of this state

the opportunity to make this important decision for themselves, and that decision is: do they want an attorney general who is only a civil legal officer, or do they want an attorney general who has supervisory power over the thirty-four district attorneys and has primary responsibility to initiate criminal proceedings? This is the issue in plain and simple language: not to give to the citizens of this great state the alternative to choose their own fate is to disfranchise them without a vote. Let's don't have this happen. Let's don't have the attorney general campaigning in this state to defeat our constitution that we've worked so hard to complete. Now, let's consider the facts. First, I must congratulate the representatives of the district attorneys and the local sheriffs. They've done a good job of "belling the cat." Now, they're out from under the supervision of the attorney general and will have sole primary responsibility for criminal prosecution. Delegates, search your hearts. Is this good for the people of Louisiana? I know your hearts agree with me that we are wording a constitution, not only for ourselves, but for our children and for generations yet unborn. We should not change a basic legal concept that has existed for over a hundred and sixty years in this state without giving the people a chance to vote their choice. Now, under the proposed constitution, let's turn and see how it would work.

You have thirty-four D.A.'s that are solely autonomous in their own district, each with his own ideas, free of supervision by the attorney general, and you know what that means--"What Lola wants, Lola gets." We've already had a case, I'm told, recently where a D.A. is refusing to recognize the Sunday closing laws. The merchants in a large urban area are insisting that the D.A. close his shops in the rural adjoining area. This is only the beginning. Under the rule of law, what does the governor do? Who does he turn to to enforce the law? He won't be able to call upon the attorney general.

I'd like to conclude with this on your mind: Let's don't take away from the people of this state a hundred and sixty years of basic legal concept. I ask that you vote favorably to place this alternative on the ballot for the people to make the decision. I thank you.

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, this is a matter which we have debated, I suppose, four or five different times in this convention, and this convention has spoken overwhelmingly each time in favor of the general policy position, at first, that the attorney general should have no criminal jurisdiction at all. Then, secondly, as a result of a compromise suggested by the governor of this state, and which is the final article on the attorney general, that he should have the power to institute criminal cases, but should do so only for cause when authorized by the court which would have original jurisdiction, subject to full judicial review, so that if the district court didn't think that cause existed, then the attorney general could take his case directly to the Supreme Court of the State of Louisiana where such cases go. I would point out to you, I don't blame the attorney general's two assistants for trying to increase his power. But, the attorney general, contrary to their apparent belief has always been, and will still be a party to all criminal matters once they're on appeal. This has always been our law. This is not affected by what we do here. So, we're not talking about the appellate phase of criminal law; what we're talking about is the power to institute criminal prosecution. We're concerned, or should be concerned, not with what the district attorneys want, which is no criminal jurisdiction at all for the attorney general; or what the attorney general wants which is the power to come in and institute criminal prosecutions anytime he decides that he ought to; but, to protect the people, I think we've hit a good and a workable middle ground. I might point out to you that we have added here the power to supercede local district attorneys, which under no possible interpretation of the old constitution, did the attorney general have. But, again, he's got to show cause. He's got to show a reason. So, really I think we're taking basically the same position because Mr. Vick said again and again that if the local district attorney is doing his job, the attorney general has got no business going into the parish to attempt to prosecute crime. Well, we're saying the same thing. The only thing that we've done in this constitutional provision that we've adopted is we've set up a procedure and a mechanism whereby we have a mutual third party--the judiciary--the people that are supposed to decide such matters, to decide when the attorney general should come in and when and if the local district attorney is not doing his job. If you will recall, Mr. Duval asked Mr. Vick, "Well, how would you have this decided on the basis of Kemp v. Stanley?" Kemp v. Stanley, by the way--with all due respects to the good Dean Sullivan, whom I do not know;

I'm sure he's a good law professor--but I don't know a practicing criminal attorney in this state that wouldn't tell you that Kemp v. Stanley said that the second sentence of the old constitutional provision on the attorney general's power, which provided for supervision over district attorneys meant and qualified the first sentence which gave him the power to institute, meant they had to be read together and meant he couldn't institute anything unless the local D.A. was not doing his job. Well, if this is what Kemp v. Stanley says, then we are agreed. He said, "Let's decide it on a case by case basis." That's exactly how it will be decided under the provision that we've adopted here. In the proper case the court can provide in the benefit and for the welfare of the people of the State of Louisiana for the attorney general to act. I would remind you in closing that power is neutral. We've heard a lot here about the attorney general's power to come in and act in the interest of the state. But, if he's got the power to institute criminal proceedings, I submit to you, he can also act if that power is not subject to some control in the worst interest of the people of the state. I can suggest to you that there are certain times in our very recent past, very recent past, involving such things as voter registration, particularly in my parish, where the state attempted to come in and purge our voter registration rolls of about a third of the citizens of our parish where our local district attorney had to go into federal court and get an order to prevent them from doing it. So, think about that. Power is neutral. It can be used for good purposes, or it can be used for bad purposes, and I submit to you that what we've done here is insured the people of this state that they've got a remedy available if and when the local criminal prosecution breaks down. But, we've also protected them from an overambitious attorney general who may be exercising power when he shouldn't be exercising it. I submit to you, we should reject this alternative and maintain the viability of the very good provision we have adopted.

Questions

MR. GIARRUSSO

Jack, do you anticipate any infringement on the authority of locally elected officials, if this alternative is adopted?

MR. BURSON

Yes, I could definitely foresee such infringement because if you just say that the...and I might point out, that this alternative purports to include the language of the old constitution. But, the form that's suggested for the ballot suggests that it means much more because it would say that the attorney general would have the power to institute civil and criminal suits without limitation. It certainly implies that. I think that this power would be subject to abuse, and the best example I can use is, think in recent history in Louisiana. Who have been the people who have been prone to abuse the power of prosecution? Has it been the elected local district attorneys, or has it been some appointed prosecutors that we have operating in our state? I think if we'll ask that question, then we come up with the answer that applies here.

MR. GIARRUSSO

Jack, how often in the past has the attorney general invoked this authority, and if he has, you know, if you can think of a case, under what circumstances?

MR. BURSON

The only case that I know about in the books--and I looked at the annotations under this section--and Kemp v. Stanley and a couple of others seem to be the only ones that I can find. It hasn't been, to my knowledge, invoked in a very, very long time, or even attempted to be invoked. So, either the attorney general must have thought 1) that the local prosecutors were doing a good job or 2) he must have realized he didn't have that power at all under the holding of Kemp v. Stanley which I would think is the law.

MR. GIARRUSSO

Last question, Jack: Do you believe that the people's interests are best protected on what we've adopted, or if we submit this alternative to the people as well?

MR. BURSON

No, I don't. I think the best interests of the people are protected in the section that we have adopted, and I think we ought not to leave it susceptible to change because we provided there the ultimate safeguard. The courts are the ultimate residuum of individual liberties in this country anyway. That's what we provide.

MR. J. JACKSON

Mr. Chairman, ladies and gentlemen of the convention, I rise in support of Mr. Vick's proposal, not because I'm against the local D.A. or I'm against the attorney general, but it seems to me, very clearly, that we may not-- and not being familiar with that process--that we may not recognize the depths of what we're doing and what we may not be doing. I've heard some of the concerns about making the A.G. so autonomous, and so all-extensive in terms of his power. But, I can very well see that that could be the same on a local level, and at what point besides the judicial interpretation do you have the kinds of--for lack of better words--let me say, check and balance. I agree with you, Sheriff, that I don't think that if the mores of a parish says that chicken fights are in order that the A.G. ought to be coming up in there stirring up the people. But, at the same time, when there is corruption as such in government, as such, and because they are all elected officials, that it would seem to me that you might have a political problem there where a D.A. may be just not forced to prosecute. I think if we look at the history of the invocation of the A.G.'s power, it's not readily made clear to me that he has abused in any form nor manner. Secondly, I'm just sorry--and I know that there is some sentiments against the present A.G. personality--but I can't do anything about that. I'm just trying to talk on the substance of whether the A.G. ought to have some sorts of option when there is some breakdown--it may not be intentional on the part of local D.A.'s--but because of maybe political pressures that he may not be able to perform his duty. I say that particularly--again I rise in support--because I personally felt that some people had the various image that I was one, particularly in my debate about the juvenile proposal, one who favored protection of those who commit criminal offenses. From the arguments I've heard so far, in that we are providing an alternative, in that that questions there is ramifications on both ends of the spectrum, that we ought to allow such an alternative to be posed to the people. With the kinds of political muscles that I think D.A.'s have back home, if they seriously feel that this would jeopardize their position, I think that they could defeat the alternative. In addition, I just wonder very seriously, what if a certain segment of a local parish may want certain reforms and the powers that may not be, and the powers in the political structure says, "Well, no. You're treading on dangerous territory. You're not only affecting the mores; you're affecting, really, the political structure." If you're not in the "in crowd", I can very well see that some may very well have been used in argument against A.G. Some may very well be persecuted and prosecuted on the local level. I think that the question raised by Mr. Vick's proposal is the question of great concern to all the people of the state, great concern on the part of the D.A.'s on the local level, great concern to attorney general, and particularly, great concern of those people who feel that there ought to be a greater enforcement--and I repeat--a great enforcement without discretion of the law. I think that we ought to at least leave this question open for consideration, and hopefully after we're over, they'll be some discussion and moving for the adoption of this document; there will be some discussion and more time brought out whether I, as a voter, would vote for what we have in the present constitution, or vote for the alternative. I think it's that critical, and I just hope that we attempt to listen and attempt to understand that that is a two-edged sword, and that those of us who may be concerned about law enforcement and concerned about what's going on in government and going on and understand the political ramifications of it--the serious political ramifications of it--then I think that we would be very wise to offer this as an alternative as we did with some other very highly controversial issues. So, for that reason, I would ask that you would support the alternative proposal.

Further Discussion

MR. GUARISCO

Mr. Acting Chairman, ladies and gentlemen of the convention, I rise in support of the Vick alternate for several reasons. One reason is that I, myself--and I don't think many persons in this convention ran on a platform that the attorney general of this state had too much power, and that they were going to go up to Baton Rouge and see that we reduce some of this power. This all happened since you've gotten here, and since you've probably been lobbied by the district attorneys. Now, Mr. Burson stood up here and said during the debate on the Bill of Rights--when we were talking about the rights of the accused; we were talking about the rights of the poor and the blacks and the women as opposed to prosecution and the district attorneys--that we must trust our public officials. But, he was only speaking

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about the public officials that he was directly connected with: that is, the local district attorney's office. But, when it comes to the attorney general, we forget all about this public trust, and the district attorneys don't want to trust the attorney general. That's odd to me. They want to be trusted with far, far more power--the power to put people in jail, to put them away for good, and so forth, and to prosecute--but they don't want to be superceded or supervised by any other superior. I urge that you support this amendment.

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, I hate to rise against my friend Kendall Vick, but I feel that I rise in favor, for one time, of the district attorneys and the farmers of this state; and I'm going to tell you why. Right now, I'm defending a lawsuit brought by the attorney general's office to stop soybean farmers in Avoyelles Parish from growing soybeans because, allegedly, in Rapides Parish, it's affecting the bass fishing in a particular lake. Now, that, to me, is the worst thing that can happen when the attorney general has the broadest authority to take sides in a case that is between two groups: bass fishermen versus farmers. I don't know where you stand on it, but I know where I stand. But, that's not the point. The point is that under the present constitution, and as Mr. Vick would have it in the attorney general, the attorney general has unlimited power to intervene in any type suit that he wishes and to supersede a district attorney. Now, you know that I've had my quarrels with the D. A.'s here, but I'd much rather have the D. A. in a parish, subject to the vote of that parish, to determine whether a particular case will be brought to trial or not. The present provision, which we have passed, still allows the court--if it sees fit--to allow the attorney general to intervene in a criminal case. So, I urge you to vote against this particular proposal. Let's keep what we've got, and let's make it so that the attorney general has got to have a public necessity to come on in a case, and not allow some environmentalist attorney he's got with him to, at the whim of whoever he chooses, run around and try to file lawsuits to stop people from farming, and other things of that nature, in this state. Thank you.

Further Discussion

MR. STOVALL

Mr. Chairman, ladies and gentlemen of the convention, this is a very serious matter that is before us at this time. You will recall that yesterday Mr. Pugh presented an amendment. Where, previously, we had said the governor will support the laws of the state, it was necessary to change that to say the governor will execute the laws and enforce the laws of the state. The reason is quite evident: The people of our state want a system of government that will guarantee the enforcement of our laws. This question that is before us at the present time is not one as to whether or not we favor the attorney general or the district attorney; it is a question of whether or not we want law and order, of whether or not we want a system to provide justice. It is a question of whether or not we want a system that will correct injustices and abuses. It is a question of whether or not we want to maintain the historic American system of checks and balances. I submit to you that to present this alternative to our people is a means of guaranteeing this. The district attorneys have overplayed their hand. They're asking for too much power. Our historic system calls for a system of checks and balances, and I think it is a false fear that the district attorneys have. Mr. Burson said, a moment ago, that this provision has not been invoked. Why, then, would they have a fear of this provision? We have heard it said, on other occasions, that power corrupts and absolute power corrupts absolutely. I think this is a case where the district attorneys are seeking too much power and, therefore, they need this check and balance that is provided by this alternative provision. What we would be doing, in voting favorably for Mr. Vick's alternate provision, is not to make the final decision, but it is to leave it to the people. Therefore, I suggest and encourage you to give favorable support to this alternative provision that has been presented to us at this time.

Amendments

MR. POYNTER

Mr. Vick, at this time, sends up a set of amendments which are basically technical amendments. They're rather lengthy--be passed out right now. The basic purpose, I can tell you, of the amendments is to make the style of the proposal conform to the other proposals, relative to alternatives--and, in particular,

Section 3 (A) and the language of [Section] 3 (B). Rather than reciting in full the text of what's in the extant draft of the constitution, just substitute a simple paragraph, be in conformity with the others, and redo the other provisions consistent therewith.

[Previous Question ordered.]

Closing

MR. VICK

Thank you, Mr. Chairman and fellow delegates; this is the last hurrah and--as Judge Tate said some time ago--this will be my last time, I hope, before this convention. I just want you to remember that the attorney general is not asking that his powers be increased, but that they remain the same and only to let the people decide. With that, Mr. Chairman, I will attempt to answer any questions, if there are any.

Questions

MR. BURSON

Mr. Vick, would you agree that the United States Attorney General, or any of his deputies, cannot intervene in any parish in the State of Louisiana in a criminal matter until they have previously obtained an indictment from a federal grand jury?

MR. VICK

The United States. Yes.

MR. BURSON

In other words, they have to go through not just the judicial proceeding, but a grand jury proceeding, before they can move on a criminal matter in any parish in this state. Isn't that correct?

MR. VICK

I don't see the analogy, Mr. Burson, but I would concede your point.

[Quorum Call: 98 delegates present
and a quorum. Proposal failed:
36-67.]

Reading of the Proposal

MR. POYNTER

The next proposal is Delegate Proposal No. 103, introduced by Delegates Elkins, Grier, Toca, Flory, Asseff, and others:

A proposal to provide with respect to an alternative provision relative to the legislative branch.

Again, I might say, in light of some prior discussion in this convention, the printed copy does not have the requisite number of signatures on it due to the fact that the printer could not read many of the signatures. As introduced, there were more than sufficient number of persons, delegates, who did sign the proposal for it to be validly introduced under the rules.

A proposal to provide with respect to an alternative provision relative to the legislative branch.

Explanation

MR. AVANT

Mr. Chairman--Mr. Acting Chairman, I believe--and fellow delegates, I'm going to try to be as brief as possible because this is really a simple issue. It's not very complicated. The present constitution, as you know, provides that the legislature shall meet biannually, in the even number years, for sixty calendar days in a regular session--an open session--in which any and all types of legislation may be introduced. It then provides that, in the odd-numbered years, it will meet thirty days in a so-called fiscal session, in which there are certain restrictions on what the legislature can consider. It only can consider fiscal matters. Under the document, the Legislative Article that has been approved by this convention so far--and as it now stands--the legislature will meet annually for not more than sixty legislative days, but within an eighty-five day calendar period. As I explained to you the other day, there are many, many people who don't like that provision, who are very unhappy with it. I said, also, that I knew of no one who was out beating the bushes and really clamoring to increase the time during which the legislature would meet. The alternative proposal, which we are asking you to place on the ballot so that the people of the state may make this decision for themselves,

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would permit the legislature to meet annually, in a regular session, for not more than sixty calendar days. For those who feel that the present system is insufficient and that the legislature does not have sufficient time, within a sixty-calendar-day period every other year, to attend to the general legislation other than fiscal matters which they consider in these fiscal sessions--to those people, this would increase, substantially, the time during which the legislature would meet; but it would decrease, to some extent, the almost three-month period of time, every year, which the legislature would be permitted to meet in a general session under the proposal. I told you the other day, and I tell you again, in words of one syllable--and I hope not too many--that it's my belief that the present provision as it now stands, as you have adopted it, will generate substantial--substantial--opposition to this document. That's what I believe. I feel that, if this alternative is placed on the ballot, that it will materially reduce--or, possibly, maybe eliminate--some of that opposition. Those are things which I believe, which I can't prove to you. That's just a feeling that I have. For that reason, since I for one, as I said--day before yesterday, I believe--do not wish to see a year of my life, not to say millions of dollars of the state's money, and a year of your lives go down the drain, I ask you--I implore you--to give the people an opportunity to consider this question which, I think, is a reasonable attempt to reconcile these points of view.

Questions

MR. STAGG

Jack, were you not generally--before today--were you not against any alternatives on the ballot at all?

MR. AVANT

I was, but you have opened the door. Certain powers that we have seen fit to put alternatives on the ballot and see that the votes were there to get them on there; and I say that it's only fair, if you're going to do that, then some of the other people in this convention who are not satisfied--violently not satisfied--with some of the provisions of this document, to give them an alternative too.

MR. STAGG

Do you think that the length of the legislative session was a controversial decision by this convention?

MR. AVANT

I most certainly do.

MR. LANIER

Mr. Avant, in your remarks, you indicated that, if we don't put this alternative, we will generate substantial opposition. I've heard no hue and cry in my district. I was wondering if you could tell us who this substantial opposition is or from whence it might come.

MR. AVANT

It's people that I have discussed the matter with, Mr. Lanier.

MR. FAYARD

Mr. Avant, what are you actually talking about as an alternative here? Fifteen days leeway--is that your objection to the committee proposal?

MR. AVANT

Twenty-five days, Mr. Fayard. The difference between sixty and eighty-five is twenty-five.

MR. FAYARD

But, we're talking about twenty-five of what kind of days?

MR. AVANT

We're talking about twenty-five calendar days--or one month, for all practical purposes--out of the year that people who want to know what the legislature is doing and want to keep up with it on a rather detailed and intimate basis are going to be tied down to that specific project every year. That's what we're talking about.

MR. FAYARD

Well, then, it's your opinion that the people that you're talking about are of the opinion that the legislature does not need additional time for procedural mechanisms to do their job thoroughly, then. Is that correct?

MR. AVANT

They would get additional time, Mr. Fayard, under the alter-

native proposition. As you well know, they meet now annually for sixty calendar days--I mean biannually. Then every other year, they can only meet for thirty calendar days in a limited session. This would provide an annual sixty-day general session.

MR. FAYARD

But, your proposal would provide that the legislature would have to meet this actual sixty days; is that correct?

MR. AVANT

No. It says for not more than sixty calendar days.

MR. FAYARD

One other question, Mr. Avant. Did you know that our committee heard much testimony regarding the sessions of the legislature and that it was the general consensus of that testimony that the proposal that we finally came up with should be adopted by the new constitution--or put in the new constitution to be adopted by the people.

MR. AVANT

Well, Mr. Fayard, I assumed that your committee did that because you all submitted the proposal, and I wouldn't think you'd have submitted it if you didn't believe that. But, I just happen to think that you're wrong, and I know that many, many committee reports have come into this convention hall and been literally dissected and that very little, if anything, remained of them when the convention got through with it. That didn't happen in this particular instance; but all I am asking, and all we're asking, is an opportunity for the people to make a choice.

MR. JUNEAU

Jack, what I don't understand: I think, within the past three weeks, we adopted a delegate proposal by Representative Casey which mandated the legislature to provide for split sessions, which made Mr. Riecke very happy. Under the provision which you have, we couldn't do that. Is that right?

MR. AVANT

Why, sure, they could do that.

MR. JUNEAU

Within the sixty days?

MR. AVANT

Why, I don't see why not.

MR. JUNEAU

You're restricting the period in which they can do a split session, are you not?

MR. AVANT

They only got to do it for two years, and they can certainly do it. If it don't work, well, they can quit doing it.

Further Discussion

MR. WEISS

Mr. Chairman and fellow delegates, I know we're all busy signing our name. In fact, my nurse called me a moment ago for a semi-emergency, and the message was left with her that I had to sign my name a hundred and fifty times. When I went to the phone, she said: What did you do wrong? I hope that's not a bad omen for this constitution, but I do consider that these alternates will help a great deal, psychologically, to pass this document. The Education Article has now been passed on, in a Solomon's decision, to the people. I think we've made a very, very serious mistake, and I would like to reason with you in an attempt to correct this mistake, by placing another alternate on this ballot. First of all, I have not been persuaded, nor do I care to be labeled as a labor front in this situation. I think labeling is bad, but I do think it's necessary that we understand what this means. It's very important, and I'm sure the governor--had he felt that it was safe--would have asked you to reduce these sessions. At one time, the governor of Louisiana, Governor Long, said: "Louisiana has the finest legislature money can buy." To paraphrase it today, I think we can say: "Louisiana will have the most expensive legislature money can buy." The last legislative session cost 1.7 million dollars. At the present time, we can save the people of Louisiana--if twenty-five days are to be saved--three quarters of a million dollars. This is good government, and I'd like to reason with you a little more as to what these eighty-five extended days mean. From people who sit in the legislature, they tell me they hardly get warmed

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up before two weeks go by. We have seen in this body, frequently, procrastination and, only at this last moment, are we beginning to work real hard to get the super-legislative document completed as we would like to have it completed. If we do not change this, we will have a country club legislature--one who will be wined, who will be dined, and who will be padded on the weekends between work. This is the type of alternate proposal I suggest we give the people of Louisiana to show them that we delegates are interested in good government. The more laws--the more corruption; the more time--the more laws. It's just that simple. If we give the legislature all this time, there will be more and more legislation, more and more laws. I implore you to consider this seriously, and I ask you to vote in favor of this amendment. This is not a labor amendment, be sure; but, believe me, labor is interested; and you and delegates here have commended labor for their lobbying. I would rather see lobbying than cash exchanged in hands and minds of the future legislature of Louisiana. It's time we educate our legislators, and we will allow this by a continuous body operating at all times. This continuous body can educate itself in committee hearings. There is no excuse for the committees not bringing before the legislature sound proposals. They have time--they will have time to deliberate. It has been said by some of the congressional people that the legislative action itself is a facade; the real work goes on in committees. I think you can bear this out in this constitutional convention. The hard work, the sweat, the real thinking went into committee action, and this will be done in our new legislature, if the Constitutional Convention of '73 passes. But, please allow the people of Louisiana to vote upon reducing the time that will be spent in a country club atmosphere for a legislature that, I believe, can only do more harm than good if we pass this bad legislation, which we now have the time to correct by voting in favor of this alternate.

Questions

MR. RAYBURN

Doctor, I heard you make a statement that we was going to get paid for eighty-five days.

MR. WEISS

No, sir, I did not make that statement.

MR. RAYBURN

Well, I misunderstood you then, and I'm sorry. I mean you were saying so much about us so fast, I could have misunderstood you.

MR. WEISS

I said: Between sessions, you will enjoy the weekends--being wined, dined, and padded.

MR. RAYBURN

Doctor, then, would we enjoy it any more than you have enjoyed it since you've been here?

MR. WEISS

Believe me, sir, I have not enjoyed it. Every moment I had a chance, I had to go back to work.

MR. RAYBURN

Yes, sir. Well, about the best way I know for us to really enjoy it is to get another chiropractor bill in, and you doctors will be here.

MR. WEISS

You can't threaten me with that, sir. I think good legislation is in the hands of good legislators, and I appreciate the previous legislators.

You're included in those good legislators, Senator. I don't want to lose any friends.

MR. SHANNON

Dr. Weiss, you made the statement: more laws--more corruption. Will you explain that?

MR. WEISS

Would you repeat that please? I didn't understand the question.

MR. SHANNON

I said you made the statement: more laws--more corruption.

MR. WEISS

That was made by a famous Roman orator in the forum in Rome about two thousand years ago, sir....

MR. SHANNON

Well, this is 1973....

MR. WEISS

I don't think it's changed in two thousand years.

MR. SHANNON

....Four now. You got me off; I don't know where I am.

Further Discussion

MR. DUVAL

Mr. Acting Chairman, fellow delegates, I realize that talk now is generally in vain with the coefficient of attention here and the desire to get the convention over with. I might point out to those delegates who are signing their name that perhaps they ought to know what they are signing their name to, but that's neither here nor there. I rise here because I feel so strongly about this particular alternate, so strongly against it. What is so bad with having twenty-five days in order to intelligently deliberate? What are some of us so afraid of that in twenty-five days, perhaps, some bad legislature will be caught; perhaps some analytical process will be utilized; perhaps somebody will scrutinize what they have done; also, the public may have a voice, if we do have a split session. I think this very much negates the possibility of a split session. I think it's a bad alternate. I think it only pleases people who are specifically interested in lobbying legislation and don't wish to be up here the entire time. I certainly understand their point of view and I think in the best interest of the citizens of Louisiana. We have an opportunity for a split session, enough time to deliberate over legislation to analyze it, to hear from the public. Our system is only going to be as good as the people we elect, there is no doubt about that. But, please, let's set the framework so the good people can deliberate intelligently. I ask that you vote against this alternate.

Questions

MR. WEISS

Do you ever have any political aspirations for legislative office?

MR. DUVAL

Do I?

MR. WEISS

Yes, sir.

MR. DUVAL

No, no, sir.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, I want to explain my feelings about this particular proposal. As I spoke to you earlier when the first alternate came up, I thought it was a very bad alternate and, therefore, I voted against that particular proposal. But, the other alternates that have been before us I supported because I thought that they were alternates that should have gone on the ballot, and we needed a chance to make a choice; even though I might not have favored those particular alternates, I think it was very evident that I did not favor the proposal as submitted by Mr. McDaniel. But, nevertheless, it was an alternate, it was something that I thought that the people ought to have a chance to pass upon. We've only passed one alternate. I feel like our chances of passing the constitution are better with each alternate that we add to it. I really think it is a very, very bad proposal. I certainly feel like that we would have little difficulty in defeating it if it was placed upon the ballot. But, in view of the fact that we only have one alternate, I'm going to vote for it to go on the ballot. I tell you right now, that if it should pass and get on the ballot, it's going to be one of those I'm going to campaign against because I really feel like that the provisions we have at the present time are much, much better than this particular proposal and I speak from my vast experience in the legislature. That's the only reason I'm supporting it, so the people can have a choice.

Further Discussion

MR. FAYARD

Mr. Acting Chairman and fellow delegates, I rise in opposition to Delegate Proposal No. 103. I'll try to be brief in stating my reasons for this opposition. We have two issues to consider: One

is whether or not this matter before us right now deserves to be given the consideration of an alternative on the ballot. I say it does not. I say that I haven't heard from my constituents, the hue and cry that I heard on the educational proposal which determined in my own mind that we needed an alternative on that particular provision. I have heard no one oppose the proposal that our committee and this convention adopted finally after many days of debate and compromise, which I think is a true compromise and a true, valid, realistic approach to take in regard to the legislative sessions of this state. Let's look at what Delegate Proposal No. 103 says; it says that "The legislature shall meet in annual regular sessions for not more than sixty calendar days." The Committee Proposal No. 3 says "The legislature shall meet in annual regular sessions at the State Capital for not more than sixty legislative days." The only difference is that it says these legislative days must be held within a period of eighty-five calendar days. Now, we are not talking about fewer legislative days in this delegate proposal. The delegate proposal would only mean that the legislature would not have the additional twenty-five days which it needs to consider procedural matters to get its house in order, say, after every four years when the legislature is elected. It needs to meet maybe for one day to get sworn in, to take its office, and then adjourn for maybe ten days to get the committees appointed, the rules distributed, and the legislators familiar with the legislative process and then come back into session for an introduction of bills for maybe another five days; then, adjourn again for another ten or fifteen days; the committee proposal allows this. The delegate proposal before you is given to you in the form of an alternative is really no alternative at all; it limits the legislature within the time that it would have to meet. Now, I propose to you that a true alternate on the ballot would be to give the legislature an unlimited amount of time to meet. Let it meet every year for any time that it wants to meet, for any purpose, and let it continue as a continuous body. Now, if you want to place that as an alternative on the ballot, I could say to you that that would be a true alternative and you would overcome my first objection to this proposal. But, that is not what this proposal does. This proposal merely eliminates the twenty-five day leeway that the legislature would have to organize, to go home and talk to its constituents, to hold committee meetings, or to recess for the holidays. Looking at the merits of the delegate proposal, actually since I contend it is no alternate at all, no alternative, we would have to get into the merits of it. What does it do? It severely limits the legislature and it severely curtails and actually reinjects the problems that our committee tried to solve in giving the legislature more latitude in which to meet. The committee studied this long and hard. We heard testimony from pros and cons. We heard testimony from the Legislative Committee, from the Speaker of the House, from the President of the Senate. I would say almost every person that we heard told us that we needed more time, the legislature needs more time in which to do its job. They say we have a good legislature. We come down here for thirty days every other year and we have to cram in billions of dollars worth of appropriations and many, many technical statutes and laws and we just can't do it; we don't have enough time for committee meetings. Under our proposal, the Committee Proposal No. 3, we have eliminated that objection.

Also, another thing that this alternate proposal would do is eliminate even the possibility of having a split session which this convention adopted not more than two days ago.

So, I urge you to defeat this Delegate Proposal No. 103.

Treasurer Lowe in the Chair

Further Discussion

MR. RAYBURN

Mr. Acting Chairman and fellow delegates, I'm not going to take but just a moment....Dr. Weiss, I'm sorry I interrupted you so quickly a while ago that you forgot what you had heard when I mentioned the word chiropractor, I just done that to kind of let you know that there's a lot of people would like to keep us down here on the weekends and entertain us. I think we have a good proposal. I want to disagree with my good friend, Mr. Avant. I have not heard one of my constituents criticize that particular proposal that we adopted in reference to when and how the legislature would meet, maybe you have; you know; I have not heard the first one. Now, I stood here and agreed to have a split session, to vote for one. I intend to fulfill and carry that agreement out if I'm in the legislature when the time arises. I personally know that I can represent my people better if I have an opportunity to go home on a Saturday afternoon and spend Sunday and maybe come back here on Monday and talk to them about what we are doing, talk to them a little about what's been going on and keep them a little better informed. With the tremendous growth we have in this state, with the extra duties we have to do, it's going to be hard in the near

future for us to have much time off if we've got to meet sixty consecutive days and believe me, I know of what I am talking about. Just like you know here in this convention, maybe we could have shortened our time a lot but we didn't because we passed bills; we passed amendments; we reconsidered them. Certainly, we found out problems, we are finding out problems as time goes on that we didn't find out about last week. I think we've got a good schedule to meet. I think a lot of us are committed to try it and try a split session to see if it works. I hope you do not upset it. We argued for three or four weeks on the proposal before we adopted it. It finally was adopted by a good majority vote of these delegates, and I hope you don't upset it. Dr. Weiss, I just talked to Dr. Stephenson and he asked me to invite you for ham after dinner tonight.

Question

MR. WEISS

Delegate Rayburn, first, I want you to know I need all the friends I can get and that was the purpose of speaking before the group on this particular issue. Sometimes, we don't see eye to eye. If you recall, and don't you recall, that we did at least reduce it to sixty days in eighty-five when we worked originally on this article. But, my question primarily directs itself at: Do you think Louisiana needs full-time legislators, which you apparently represent, or can we continue to have the part-time legislators such as in my area?

MR. RAYBURN

Well, I think at this particular time we are getting along pretty good with part-time legislators. I think a lot of them are assigned to committees; and I think most of them serve. Some of them can't be there at every meeting, just like some delegates can't be here, Doctor, but most of the legislators I know are honest and sincere. Contrary to what you said about how you could buy them, and how you could get them, and how you could wine and dine them. Some of them wines a lot and dines a lot, but they come unwound a lot, you know. I don't mind telling you the telephone people, they wine me a little bit, but when it come time to vote, I unwound. They've done approached me since it was all over; they are ready to wine me again. I'll probably go with them, but I'm going to vote what I want to vote for when the time comes. I just don't think it's right to stand up here and say that a body, like your legislature of this state, just to keep them over here on weekends and wine them and dine them. I just hate for people to think that way about the legislature because after all is said and done, they are human beings; they are elected officials. There are people back home that know them best has placed their trust and confidence in them just like they have placed it in every delegate that ran and got elected that's serving here today.

Further Discussion

MR. LEITHMAN

Mr. Acting Chairman and members of the convention, I'll ask you to reject this amendment. Perhaps, if Bubba were here, he could probably express this better than I can but as the assistant speaker I see some things--and the pace that is kept at the desk--that the legislator out front may or may not have the advantages of seeing and reviewing. With the opportunity for us to take a break and spread these sixty days over eighty-five it's a tremendous advantage. Your bad bills are passed, and this has been said many, many times, your bad legislation and your bad bills are passed in haste; they are passed in confusion and they oftentimes are held to the ninth hour where they have a better shot at being passed. I feel that if we have an opportunity to spread this over eighty-five days, I think you will find those bad bills being dropped rather than being passed. Another, on a personal viewpoint, many times on Friday afternoon if I do have an opportunity to get home, on education matters, I routinely visit my superintendent; I routinely visit with members of my board and discuss some of these bills that are being considered in the line of education. I'm sure the other legislators that are interested and serve on other committees do likewise in those areas of interest. So, I think just by forcing sixty consecutive days, I don't think this is in the best interest of the people of the State of Louisiana. If there is an alternative, I would suggest it be considered for rather than the sixty in eighty-five days' period, I would think it would be better, as Mr. Fayard said, to go with an unlimited session. I'm certainly not, at this point, totally in favor of that. So, I do ask--the other legislators here may not have an opportunity to come before this mike because of time, but I feel certain that I can speak on nine out of ten of their opinions and speak on their behalf---so, I ask you to reject this amendment. Thank you.

Further Discussion

MR. CASEY

Mr. Acting Chairman and delegates, to me this is certainly a very important issue because as a member of the legislature I'm annually confronted with the problem of serving as a legislator and trying to, during that limited period of time that we have under the present law, to devote as much time as possible to a proper consideration and deliberation of the magnitude of bills and proposals that we have that are introduced in the regular legislative session. Now, during a regular sixty day annual session, Dr. Weiss, we have over--last time in 1972-- had three thousand five hundred pieces of legislation in the form of bills, constitutional amendments, resolutions, etc., that were introduced into the legislature that we only had sixty days within which to properly consider. That is really the heart of the problem. I think you might have been in error to some extent in thinking that in the legislature it's really the committee that does all of the work; that is not quite accurate. The problem is the time is so limited that the committees cannot properly do their work. Dr. Weiss, if we adopt this alternate measure and it's approved by the people, what you're doing through this alternate measure is taking away from the committee system that we have in the legislature those twenty-five valuable days when, as legislators, we cannot meet in general session; allowing, therefore, that valuable time to the committees to properly function. I might mention this, that in the last six years that I've been in the legislature and particularly the last two years, we have made more progress in legislative reform with...for our own housekeeping than I know of in the past thirty years because we have limited the number of our legislative committees. We will now have legislative, full-time staff year around with secretarial assistants so that our legislative committees can properly function. This will be even a more valuable asset when the legislature goes into regular session and for these eighty-five days we can give proper consideration and deliberations to the magnitude of bills that we have. Doctor Weiss, during the last thirty days of a regular legislative session the typical legislative session is spent by going into committee session around 8:00 or 8:30 in the morning, going into general session at 10:00, breaking for lunch between 12:00 to 1:00, going into general session again between 1:00 and 4:00, having committee meetings between 4:00 and 6:00, and then going into general session between 6:00 and 9:00; and we just barely finish. You can imagine that we cannot properly give proper consideration and deliberation to the magnitude of bills that we have and these are good legislators; they are not what you think; these are good legislators. I think they are pretty typical of the delegates that we have here. I think we have good delegates. We have some delegates that have expertise in certain areas and others that have expertise in other areas. There is a lot I don't know about on matters that we have touched here. But, I think I know what I'm doing in certain areas. I hope I have made my contribution and that's typical of the legislators. They are not out for gain for their own benefit at all. They are honest people doing an honest day's work and making their contribution to our state and our society. I cannot urge you enough. I highly recommend that you defeat this alternate proposal. I think the committee and this convention has come up with an excellent proposal. I think it is a real step toward legislative reform so that we can come away from the ranking that we have among the states now. We are ranked about thirty-third as a legislature among the states prior to many of the reforms that we just recently adopted. I think this is one of the steps which will raise the legislature of Louisiana to one of the finest in the nation. I urge the rejection of this alternative proposal.

Question

MR. WEISS

Delegate Casey, you said that if this proposal were to be accepted that the number of days of legislative action would be reduced. Do you mean that if this proposal is accepted the people of Louisiana will vote to see that the number of legislative days are reduced?

MR. CASEY

The end result of adopting the alternative measure, if adopted by the people, will have the effect of diminishing, of eliminating the effective number of legislative days that we have, Dr. Weiss, because so much of our time must be spent on committee hearings. If we are going to limit the number of actual days to calendar days only and not eighty-five legislative days, we are seriously limiting and hampering our legislative activities.

[Motion to limit debate to five minutes adopted without objection.]

[3444]

Further Discussion

MR. FLORY

Mr. Chairman and delegates, I hope you'll give me just a few minutes of your time to...if you would listen to a couple of remarks I have to make in regard to this delegate proposal. I share the view of many of the speakers that have come to this platform today on this particular issue, in that we are talking about a very serious issue. Some of the statements that have been made from this microphone I hope were in the heat of passion or whatever. I recognize that the legislature has to have adequate time in order to complete its labors and take care of the business of this state. Mr. Avant made a statement earlier that it was of a serious nature to a great number of people of this state. I say to you that I share that view. I call to your attention just a couple of years ago when several hundred thousand people of this state rejected extending the session of the legislature from the sixty day biannual and the thirty day special session to regular sixty day sessions. They said emphatically they were opposed to the extension of the legislative session. I say that one of the statements made that the committee that considered this matter, if my memory serves me correctly, their recommendation to the floor of the convention was for an annual forty-five day session and this convention, in its wisdom, changed that to what is now in the proposed new constitution. I know some of the rumors that have been floated on the floor of this convention as to what was the real purpose behind this delegate proposal. I think that I could safely represent to you the majority view of those people that signed this proposal that they were in good faith, sincerely felt that this was of such magnitude that it ought to be an alternative on the ballot. I think it's of serious nature. I know what is required, I think, in the legislature even though I've never been a member of the legislature. I have not missed a session of the legislature in over the last twenty years except two special sessions--one when I was out of the country, the other when I was in the hospital. So, I know a little bit about the mechanism of the legislature and what is required. I can only say to you that this proposal was put upon this floor in good faith. But, I must, in good conscience, tell you that I do not want to be any part of casting any aspersions toward the integrity of the members of the legislature; I know them too well; I know them individually. Regardless of what position they take on legislation, I don't want to be any party to casting anything toward the integrity or reflect upon the membership of the legislature of this state. Mr. Chairman, if I'm in order at this time, I now move that this proposal be withdrawn from the files of the convention.

Chairman Henry in the Chair

[Amendment withdrawn.]

[Quorum Call: 82 delegates present and a quorum.]

Personal Privilege

MR. DENNERY

Mr. Chairman and ladies and gentlemen of the convention, I was going to ask for a suspension of the rules for the purpose of asking the convention to adopt the amendment which is before you. But, in an effort to save the time of the convention, I do not propose to introduce this amendment, but I would like to get into the record my intention as the author of the amendments which were adopted yesterday in connection with the duties and powers of the superintendent of education. The purpose of the amendment yesterday was to set up the superintendent of education as the executive officer of the Department of Education and of the Board of Regents for the purpose of implementing the policies of those two boards. The state superintendent of education is not, himself, a policy maker, and the intention of this amendment was not to make him such. Furthermore, the intention was never to make him the administrative head of any of the institutions under the control of these two policymaking boards, but to serve merely in the same capacity that he presently serves with the Board of Education as its administrative or executive officer and its ex officio secretary.

The authors of the amendment which is before you now have authorized me to say that their intention in preparing this amendment was to make that crystal clear. But, we are satisfied that the intention is clear enough so that it is not necessary to offer the amendment.

For the purpose of the record, Mr. Chairman, I would like to dictate into the tape the amendment, because it will not be introduced.

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On page 2, line 17, in Delegate Proposal No. 98, first enrollment, after the words "education and" and before the word "the" there would have been inserted the following:

"ex officio secretary of".

So that the sentence would have read: "He shall be the administrative head of the Department of Education and the ex officio secretary of the Board of Regents."

Thank you, Mr. Chairman.

Point of Information

MR. FONTENOT

I don't know if what you can do was just done by a point of personal privilege, but I think that the intent of what was passed yesterday should not be debated on a subsequent day. I don't want to raise any questions as to what Mr. Dennery's intent was yesterday, but if what he just said was his intent, that was not my intent when I voted for his amendment yesterday.

MR. HENRY

All right, sir.

MR. FONTENOT

We're going to open up this whole section for debate, or are we going to just leave it as it was? I don't know. . .

MR. HENRY

The gentleman is not offering an amendment. If you would like the floor after I recognize Mr. Kean on personal privilege, then I'd recognize you to say what you want to say, Mr. Fontenot.
Mr. Kean.

Further Discussion

MR. KEAN

Mr. Chairman and fellow delegates, with all due respect to the authors of this amendment and the explanation by my good friend, Mr. Dennery, I rise to say that I do not share their view of this particular amendment adopted on yesterday which made the superintendent of education the administrative head of the Board of Regents. I made it plain in my closing remarks to the convention, with respect to the alternative proposal that was being considered, how I understood that amendment to apply, and the authority and jurisdiction that it vested in the superintendent of education with respect to higher education. I repeat again that that was my understanding of the amendment. I voted for the amendment because I understood it to be and to read as I understood it in the context that I explained it yesterday to the convention. I simply rise to say that I do not agree with the substantive or subjective intention that Mr. Dennery expresses today as being the meaning of the amendment adopted by the convention yesterday. As far as I'm concerned, it makes the superintendent of education the administrative head of the Board of Regents with whatever authority and jurisdiction that that would ordinarily connote.

[Motion to suspend the rules to allow Delegate Jenkins ten minutes to explain a proposed amendment to Committee Proposal No. 26.]

Amendment

MR. HARDIN

This amendment is offered by Delegates Pugh, Jenkins, Gravel, Kilbourne, Stinson, O'Neill, Cannon and Chatelain to Committee Proposal No. 26 by Delegates Rayburn, et al.

It's to amend the final enrollment as follows:

Amendment No. 1. On page 4, delete Subparagraph (10) of Paragraph (C) of Section 4 in its entirety and insert in lieu thereof the following:

"(10) Irrevocably dedicated places of burial held and used for no other purposes."

Point of Information

MR. ROEMER

Has he made his motion to suspend? Has that been made?

MR. HENRY

Well, he's going to ask for, I suppose, a suspension of the rules to allow himself ten minutes to explain why he wants the suspension to get into it. So, that will be his first motion.

MR. ROEMER

Well, if I'm in order, if it makes any difference, I object to his suspending the rules for that purpose.

[Motion to suspend the rules rejected:
53-36.]

MR. HENRY

Ladies and gentlemen, if you will give me your attention just a minute, the committee that was appointed yesterday composed of Mr. Dennery, Kean, Conroy and Pugh to discuss with the secretary of state and the attorney general the proposition of how these alternates should be placed on the ballots, etc., has a report that will be passed out right now. I think Mr. Dennery is going to briefly explain the report, not for the purpose of our taking any action because the appropriate resolution has not been drawn, but will be drawn and submitted to the delegates tomorrow together with other resolutions or a resolution necessary to the instruction of the secretary of state about the placing of the document before the people for the referendum vote. We have left for the consideration of the convention the proposal on transitional matters, which it is apparent that most people have not read. It is of the utmost of importance. I'm going to suggest that we don't get into the transitional proposition today, but we wait and allow you all to have some time this afternoon and evening to please look at that proposal because, as I say, it is very important to look at that. We will take it up, perhaps, the first thing in the morning. We have just about gotten to the point that we've worked ourselves out of work. . . So, if there is . . . with the exception of Delegate Proposal No. 102, No. 173, No. 116 and some other matters which probably will allow us to get out of here by about seven tonight. No, seriously, we are in a position right now where we can't go too much further today. We will take up the transitional report tomorrow together with the other necessary resolutions directing the secretary of state as to the ballot and the final style and drafting, hopefully. We will probably have a long day tomorrow. We will meet in the House chamber, but hopefully we'll be in such a posture once we get through tomorrow that we can have a rather short day on Saturday.
Mr. Goldman.

Point of Information

MR. GOLDMAN

Is that Transitional Committee Proposal No. 38? Is that the one?

MR. HENRY

That's correct. It's CP No. 38 by Mrs. Zervigon's committee. Mr. Dennery, if you will, give us your remarks relative to the report of the committee appointed yesterday.

Explanation

MR. DENNERY

Mr. Chairman and ladies and gentlemen of the convention, the committee which the Chairman appointed yesterday in connection with the language governing and the ballot provisions applicable to alternate proposals met with Mr. Martin, Mr. Fowler and two of the assistant attorneys general and spoke to the attorney general. I spoke to the attorney general yesterday and this morning. We have now received an opinion from the attorney general which is appended to this report.

The recommendation, basically, is that the delegate proposals or the only one we have adopted--there's only one, of course, alternate proposal--that the original language in the draft which we previously adopted be theoretically removed from the constitution and put on the ballot with the alternate proposal so that you may vote for and against the Constitution of 1974, except for that specific provision on education. Then, you can vote for either of the alternatives on that particular proposal. Now, anyone who votes for or against the constitution would have the right to vote for either alternate proposal. If the constitution is adopted by a majority of the total votes cast for and against, then that proposal, that alternate proposal which gets the greater number of votes will become a part of the body of the constitution. The committee report sets out what we recommend to place into the delegate proposal itself, which we didn't take up yesterday, and also recommends the configuration of the ballot itself. You will notice that appended to the report--Mr. Kean concurred but set out other ideas and Mr. Conroy also concurred and set out a slightly different idea for the configuration on the ballot. The report, I believe, otherwise is self-explanatory. It is now before you so you have an opportunity to read it. Thank you, Mr. Chairman.

MR. HENRY

Thank you, Mr. Dennery.

Further Discussion

MR. KEAN

Mr. Chairman and fellow delegates, I concur in the report of the committee in that the format that the committee recommends for purposes of considering an alternative does represent a means by which, in my opinion, an alternative proposal can be validly and legally and understandably presented to the people of this state. There are some questions that come up in connection with the implementation of the committee recommendations that I think we need to understand. I invite your attention so that you will understand what will be involved if we go forward with the committee recommendation. We discussed with the secretary of state and Mr. Fowler, various ways in which the alternative proposals could be placed on the ballot. One of the concerns expressed in that meeting was that since we had a requirement in Act 2 of 1972 for . . .

If Mr. Thompson and Mr. Tocs don't want to listen to this explanation, I would appreciate it, Mr. Chairman, if you'd ask them to go off to the side somewhere and have their shouting match.

We're dealing with something that is not only important so far as the proper presentation of these alternatives, or this alternative proposal, but a matter which could have a bearing upon the validity of not only the alternative proposal but the constitution itself. I think you ought to be vitally interested in what is being proposed here and the manner in which it can be resolved. As I pointed out, there was some concern expressed at the meeting that because Act 2 of 1972 makes reference to a for or against vote in dealing with the constitution itself, that it could be considered that a for or against vote was required in connection with any alternative. It becomes very difficult in presenting the alternative on a for or against basis. You almost have to do it in two parts. You could end up with a situation where both lose and the question arises as to what is the condition of the document under those circumstances. It was the general view of those in attendance at the meeting that if the attorney general held it to be valid that you could have an alternative proposal presented on what we would call a "for - for" vote, in which case the two opposite or opposing proposals would be, in a sense, running against each other. A voter would then be called upon to vote for the one that he wished to vote for. Under those circumstances, the one which received the most votes of those voting on the alternative would be the provision that would go into the constitution. Now, in order to accomplish that, we've got to pull out of the constitution, out of our proposed constitution, Article VII of the Education Article of the constitution. Now, I personally oppose taking out of the constitution those provisions which we have already placed in the constitution. I have suggested in light of the opinion of the attorney general that if you can have a "for - for" vote that then you can leave in the Education Article VII and simply have a "for" vote for the particular alternative that's being presented. Under those circumstances, it would require, in my opinion, a majority of those who vote in the election to approve the alternative because otherwise you would have a majority voting on the constitution with the proposal in it and less than a majority being able to approve the alternative under those particular circumstances. Now, Mr. Conroy and Mr. Pugh expressed some preference for not having any "for" at all on the ballot and simply doing what had been done in Illinois where you would have one item or another, and it would leave it up to the voters to pull the lever for which one they preferred. It was my feeling, I think shared by Mr. Dennery, that this would cause considerable confusion, might be construed as not offering an opportunity for the voters to vote for or to reject a particular proposal. Under the circumstances, as far as Mr. Dennery and myself were concerned, we felt if we had to eliminate the one "for" and go with the opposite opposing proposals running against each other, it was preferable for the "for - for" arrangement. I simply want to make that explanation so that you will understand that when we get to the question of how to posture this proposition on the ballot, the issue is going to arise as to whether or not you wish to take out of the present proposed constitution Article VII, which is now in that constitution, in order that it can run on the "for - for" basis. I didn't want my position to be misunderstood because when that effort is made I will oppose it and will reurge to you the amendment which I offered, first, yesterday, which would merely provide for a "for" vote on the alternative.

[Motion to suspend the rules to discharge Committee Proposal No. 26 from the Committee on Style and Drafting for reconsideration and a further suspension for the limited purpose of offering the Schmitt amendment.]

Amendment

MR. POYNTER

The amendment would read as follows. It would add a section.

On page 11, line 7, add the following new section: "Section 11. Enforcement.

Section 11. The legislature shall provide by law for the enforcement procedures for the implementation of this (There's a mistake on your copy. It shouldn't be "section"; it should be "article.") article and the penalties which result from their breach."

[Motion to suspend the rules rejected: 22-63.]

Personal Privilege

MR. MIRE

Thank you, Mr. Chairman. Fellow delegates, I'd appreciate very much if you would pay attention to me for just a little while. I'm not going to speak very long, but last Tuesday evening there was a program on Channel 9. This program was, I think, sponsored by the League of Women Voters of Louisiana. It was a four-man panel. We had two people from the universities here: one, Dr. Perkins from Southern University from the Political Science Department, and Dr. Carleton from the LSU Political Science Department. We had two of our delegates, Herman "Monday" Lowe and Louis "Woody" Jenkins. This was an audience participation program. It was a very excellent program. The panelists certainly outdid themselves in explaining the works of this convention. I had any number of people who saw it, and of course, being local and "9" being a station that's looked at plenty in my vicinity, that said, "Well, now, I really didn't understand it, but these people really explained different phases of it to me." The questions came from the audience. The explanations from both Monday and from Woody were excellent. They had done their homework very, very well, and I understand that the League of Women Voters of Louisiana are going to conduct such programs throughout the state, and I'll guarantee you that the attitude of the people towards the constitution is going to absolutely reverse and will certainly be in favor of this constitution if any of the other programs are anything like this, and I want to publicly congratulate both the League of Women Voters, the panelists and in particular, our two delegates. Thank you very much.

Personal Privilege

MR. WILLIS

Mr. Chairman and fellow delegates, as we approach the end of our convention, I regard myself highly honored and extremely grateful to be permitted to trespass on your precious time and tax a small percentage of your usual patience and politeness to proclaim an accolade to one of our members and appropriate the privilege to assess his bountiful and immeasurable personal assets. He enriches all with a constant smile, the greatest countersign of friendship, and will bid you good morning even if it is raining. He has a golden heart. His diligent employ is to mitigate misfortune with good counsel and a helping hand. He always has the antidote for trouble with saturating sincerity and can reconcile differences with clarity and alacrity. He would rather busy himself with the smallest things than to treat a minute as worthless because he has the joie de vivre. His fiber has the sensitive zeal and exuberance to pluck the joys of life. He is energetic and defatigable in the ordeal of sharp debate and neither recalls from it nor asks for greater advantage or more quarter than he will give, or his opponent will claim for himself. He has warm friends. He is a tender husband and a fond parent. He loves his enemies because he made them himself by being open and honest and taking pains to unmask the frivolous faults and hypocritical contention, and by boldly censoring the rogue or rascal without regard to station. He will exchange love for hatred which will be his lasting monument of affection of our people for whose love alone he joined this delegation, because he applies his innate knowledge that the best way to rid yourself of a foe is to make him a friend. By his uncommon

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cheerfulness, constancy, courage, charity, he pivots the hatred of a foe to affectionate and respectful friendship because he is as true when he professes friendship as when he professes enmity to a cause or question. He is firm in his final opinions. He believes that when government takes care of our pennies, our dollars will take care of themselves. He believes that there are two halves to the tax dollar: one half being how to levy it logically and the other half being how to disburse it discreetly. He believes that austerity is the best guardian of governmental virtue and consists as much in selection as in saving. He believes that if our government loses its ability to logically levy taxes and wishes more, it should tax the sun, the stars, and the season, and that if agents of government say in retort to this that there is not enough taxing area, these agents should make room for others who need less area. He believes that if our state does not have...he believes that our state should live within its means, and not, even if it has to borrow money, to do so. He believes that, while it is political fun to be prodigal with the public trust, it is more politics to be prudent and parsimonious. He believes that the constitution is the place to put impervious barricades to taxation of homesteads, just as you fence them in for physical protection, and further believes that there should be constitutional barricades to prevent the destruction of initiative in the production of income, and that to do otherwise would add another brick in the devil's workshop called idleness and discourage the taking of advantage of all idle hours for creative and productive labor. Above all, he believes in the fullest protection of the home which quarters the family, the best group, the crucible, and the last bastion of society, for which he has the highest respect and loyalty. So, Mr. Chairman and my fellow delegates, not because he is incapable of reading our honorable assessment of him, but because it is worthy of declaration, with your generous and gracious consent to that privilege, I read our tribute to a delegate who answered our state's hopeful expectations and has seen and does see and has the vision to foresee what makes not only for good government or better government, but also for the best government to foster domestic tranquility and the pursuit of happiness, and who hails from the parish named for the greatest constitutional scientist of them all. Finally, I assure you, Mr. Chairman, and all of you, my fellow delegates, that only prudent use may be and will be made of what we spontaneously say of our esteemed colleague in these cordial words.

We, the undersigned delegates to the Louisiana Constitutional Convention of 1973, do hereby declare and acknowledge our profound gratitude to the Honorable Lawrence A. Chehardy for his superlative contribution to our deliberations, particularly on revenue, finance and taxation. His guidance transferred the aspirations of our people to constitutional reality. His untiring efforts retained and increased the guardian angel of homestead exemption and barricade against higher income taxes in our document, and delineated the distinction between mine and thine pertaining to

our government and our people. By this exquisite form of courtesy and with profound thanks, we pronounce him the constant guardian of the poor, the homeowner, the breadwinner, the family, and our entire taxpaying citizenry. With this whereof we hereunto subscribe these presence in full convention on this seventeenth day of January, 1974.

Thank you, Mr. Chairman.

MR. HENRY

Mr. Willis, I'd have to say that your excellent vocabulary is exceeded only by your vast imagination.

Questions

MR. ANZALONE

Mr. Willis, does not this most sanctimonious among the sanctimonious have any faults at all?

MR. WILLIS

Indeed. Your tone and your visage do not indicate to me that your question is frivolous. I thought you were the most noble Roman of them all. If you are serious, however, my answer is in the words of Shakespeare about pagans who lived a third of a century before Christ, and I answer you in a series: "Et tu, Brute? This was the most unkindest cut of all. If he has grievous faults, grievously did he answer them." Lastly, "a friend should bear his friend's infirmities." Now, my dear sir, leaving Shakespeare, I answer you in my own way. The vices of my friends I write on ice and am deaf and mute about them. Their virtues I write in the best parchment of my mind, and I am as attentive and as loquacious about them as I have been here.

Report of the Secretary
[II Journal 1339-1352]

Personal Privilege

MRS. ZERVIGON

Mr. Chairman, for those delegates who are going to stay up all night and study as you suggested, I'd like to point out that the Committee on Legislative Liaison and Transitional Measures will hand out a list of titles of the sections to be transposed into statutes, recommended as being transposed into the statutes, so that you don't have to just fool around with all those numbers tomorrow morning. You'll get one tomorrow morning.

[Adjournment to 9:00 o'clock a.m.,
Friday, January 18, 1974.]

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Friday, January 18, 1974

ROLL CALL

[76 delegates present and a quorum.]

PRAYER

MISS WISHAM

Dear God, make us an instrument of Thy peace, where there is hatred, let us sow love; where there is injury, pardon; where there is doubt, faith. Where there is despair, hope. Where there is darkness, light; and where there is sadness, joy. Let us not be wearied in well-doing for in due season we shall reap if we faint not. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Committee Proposal No. 38

Reading of the Proposal

MR. POYNTER

Committee Proposal No. 38, introduced by Delegate Zervigon, Chairperson, on behalf of the Committee of Legislative Liaison and Transitional Measures, and other delegates, members of that committee, a proposal making provisions relative to transitional provisions.

Now, that proposal has been engrossed and passed to its third reading as introduced so the correct copy before you is the original white printed copy--the white printed copy.

Explanation

MRS. ZERVIGON

Mr. Chairman and delegates, I don't know how many of you all have had a chance to read this proposal, but I really wish you'd sit there and try and wade through it if you can, because we are going to have some important policy decisions to make at certain points during the day. It's very difficult when you are transposing former long constitution like the 1921 Constitution to a briefer document such as we have written already. To make sure that you've covered everything that needs to be covered, even in the constitution itself, or in the materials to be transposed into the statutes. So, some of the language in here is more flexible than some of the delegates would like, in order to allow us to cover situations in which we've lost sections, forgotten to consider them, forgotten to transpose them, or something of that nature. This article deals with a transition of government from the old government under the 1921 Constitution, to the new government which we will have established. You will find in here certain sections that are reiterated from the main body of the constitution, but they are in here in order to make people feel more comfortable that their concerns have been addressed. Having given those brief introductory remarks, I'm going to go into Section 1 unless there are questions in general.

Questions

MR. BURNS

I just wanted to ask Mrs. Zervigon in the transition of these different articles out of the old constitution, did the committee make any changes? Are we going to get them just like they were?

MRS. ZERVIGON

You are speaking just like they were in the reports from the substantive committees?

MR. BURNS

Yea.

MRS. ZERVIGON

There is a typographical error or two. But, aside from that, we are a procedural committee, so we transposed them just as they came from the committees. It's the feeling of the staff and the committee, as I understand it, that that means that they are still liable to amendment on the floor. But, we transposed them just as we received them.

A couple of more things, Mr. Chairman, that I'd like to say in order to explain one thing to my committee members in particular, there are four transitional measures that have been passed by the convention, finally styled, the styling has been passed, and they are in the stance of being in final enrollment. We originally reported those out because, of course, we intended to make no changes in it, and could make no changes. We didn't include them in this particular committee proposal because it was the opinion of the Clerk that that would leave them open to amendment. We figured that those battles had been fought already.

In addition to that, I'd like to say that many of the committee chairmen have gotten up here and said this has been under study for six months. We've heard all kinds of witnesses. We hope you won't fool with our document. That's not the case with my committee. There is very little literature on the subject, very few people that consider themselves experts, although many people have opinions, so that, by and large, most all amendments, as far as I'm concerned, I can't speak for the committee as a whole, are considered to be friendly amendments. What we are trying to do is set up mechanics, not protect anybody's sacred cow or jab somebody else's. So, I really hope that you...the number of amendments, of course, take up a whole lot of time, but I hope that you will realize that the committee knows that this is a difficult job to do, and that all the help that we can get will be welcome.

MR. O'NEILL

Mary, I have some questions on several different articles in this...proposal....

MRS. ZERVIGON

Excuse me, Mr. O'Neill. May I interrupt? Mr. Chairman, do you think it would be a good procedure to have specific questions on sections offered while we are considering those particular sections, rather than....

MR. HENRY

I think we should...restrict the questions to...as we go through section by section, to the specific sections, rather than as I understand it. I think I've been up here talking. I would... appreciate your opening remarks are general in nature as to the entire proposal.

MRS. ZERVIGON

Yes, sir.

MR. HENRY

When we get into Section 1, I would suggest that those who have questions on Section 1 begin the interrogation there rather than a blanket interrogation at this point. I think we are going to find ourselves going over the same material twice.

MR. O'NEILL

I'll ask my question then, Mr. Chairman.

MR. AVANT

Mrs. Zervigon, I have a general question, related generally to the entire article, but specifically, also, to Section 1. Now, this constitution, or this proposed constitution up to this point, and before anything in this article dealing with transitional provisions is inserted therein, has a certain meaning--each word, each section, each article, and the document as a whole has a meaning. We all have our ideas as to what it means. Someday, perhaps, the courts will tell us with finality what it means. But, my question is this, whatever that meaning is, any word, any sentence, any section, any paragraph, any article, or the whole thing put together, nothing in this article is intended to change that meaning, is it?

MRS. ZERVIGON

Yes, sir. I agree with you entirely. That's why we put the first section in there to make that perfectly clear. I don't know if this is the proper legal term, but this is an inferior article. You read the others first, and this is to help implement them.

MR. ABRAHAM

Mary, you may have already planned on doing this, but I might suggest, particularly when we get to Section 9 where there is going to have to be transitional articles and things like that, I assume the staff is going to be here so that if a question does come up as to what happened to a particular section or article in the old constitution, they'll be able to tell us where that particular thing goes. Will they not?

MRS. ZERVIGON

Yes, in addition to that, we've had a memo prepared outlining those sections specifically continued in Section 9 so that you can see what it was the committee did. Also, I've given a copy of the

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report several days before any of the rest of you got it to the chairman of substantive committees and asked them to hold themselves available, or one of the members of the committee available to answer just exactly that kind of question. Because, while we can look on the charts and see the what....the substantive committee....people would have to answer the why.

MR. DUVAL

Mary, I realize the monumental task that your committee had. I am wondering, the approach you took is to attempt to specifically itemize those provisions of the '21 Constitution which were deleted by this group, and it transposes items into statute. That's the approach you took. Is that not correct, basically?

MRS. ZERVIGON

In a limited number of instances. Everything else is repealed.

MR. DUVAL

I see.

Now, is this...the '21 Constitution as I understand it, didn't precisely handle it this way. It didn't mention statutory....that is, provisions of the old constitution that were deleted from it in its schedule. Now, can you tell me the thinking of your committee as to why you wanted to do it in this way, specifically? Because, I think that is the major po....one of the major policy decisions we will have to make here.

MRS. ZERVIGON

That's quite true. This was an argument that went over a long period of time as to whether the old constitution should be totally repealed, or whether it should be totally continued insofar as not in conflict, or whether we should try and combine the approaches. The problem that we ran into, and bear in mind that we are a procedural committee, was that certain of the substantive committees had meant to leave the status quo as far as the operations of government are concerned. But just to put processes in the constitution, as opposed to details. Other substantive committees had intended to substantially change the processes of government. Therefore, some committees wanted certain things continued in the statutes insofar as they weren't in there already, in order to say, "You'll just keep on doing what you've been doing until somebody stops you."

Others, the Judiciary Committee, for example, wanted certain sections repealed--didn't want them to exist anymore--wanted operations to change--we couldn't very well comment on that and say, "You'll are all wet. We're going to repeal everything," or "We're going to continue everything," since they, as the substantive committee had made that judgment. So, we tried to take this way of combining the approaches of two different sorts of committees, two different attitudes of committees, to try to make it work the best way we could together. It has happened in other states where the previous constitution is long, that there have been specific continuations into the statutes. It's not true when you're going from a short constitution to a short constitution, then you just repeal and supercede everything.

Reading of the Section

MR. HARDIN

"Section 1. Limitation of Transitional Provisions

Section 1. Nothing in this article shall be construed or applied in such a manner as to invalidate the foregoing articles of this constitution, but only to supplement and to provide for an orderly transition from the Constitution of 1921."

Explanation

MRS. ZERVIGON

This section was put first, and was put in specifically to clarify the sort of question Mr. Avant asked. This is only to implement the new constitution. As far as my committee was concerned, we had no intention of reopening questions already settled by this body. That's why this is in here. I am proposing two amendments to clarify the language, Mr. Chairman. I don't know whether you want to introduce those amendments first?

MR. HENRY

Yes, we'll....well, I think we have another amendment, I'm advised by the Clerk, just as a deletion of the whole section, Mr. Clerk? Then perhaps we should take that one first, Mrs. Zervigon, as we customarily do take the....

MRS. ZERVIGON

That's fine.

Amendment

MR. HARDIN

Delegate Conroy sends up this amendment. Amendment No. 1. On Page 1, delete lines 12 through 17, both inclusive, in their entirety. It has the effect of deleting the entire section.

Explanation

MR. CONROY

The purpose of this amendment, as explained by the Clerk, is to delete Section 1. In my opinion, Section 1 is totally inconsistent with the concept of what a schedule of transitional provision should be. By their very nature, transitional provisions conflict with the balance of the constitution; that is, there are certain parts, or certain functions which have to remain in effect even though inconsistent with the basic concepts of the constitution. The purpose of the transitional provision schedule is to allow those things to continue even though they are inconsistent with the present constitution. If you read the balance of this proposal, for example, Section 6 which says that "all taxes, penalties, fines, forfeitures, etc., shall continue in existence;" Section 7 which says, "no impairment of bonds and contracts", and so forth; Section 10 which continues certain governmental functions; all those things are continued in this schedule even though they conflict with the basic part of the constitution, so that it seems to me that you have an essential conflict in this schedule provision when you try to read Section 1 with Section 6, 7, 10, and some other parts. I think the way to handle the problem that's presented by Section 1, is in each section of this schedule as you come to them to be satisfied that there is nothing in it that conflicts with or disturbs the balance of what you may be interested in the basic part of the constitution. But I think to try to say that nothing in this schedule will interfere with the basic part of the constitution, is simply an inconsistency in terms and concepts about what a transitional provision is. I think that you will not find any provision comparable to this first sentence in any other state constitution. I don't believe that there is one in existence which would have a statement of that kind. I think it would virtually render meaningless the rest of the schedule.

I yield to any questions.

Question

MR. FLORY

Mr. Conroy, do I understand you, I haven't seen your amendment, but do I understand you correctly to say that the substance of the language in Section 1 ought to be applied or added to Sections 6, 7, 8, 9, and 10, also, rather....

MR. CONROY

What I say is that Section 1 is inconsistent with Sections 6, 7, and 10, because it renders Sections 6, 7, and 10 meaningless the way Section 1 is written.

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I strenuously urge you to reject Mr. Conroy's amendment because there are certain things in this article that, in my humble opinion, after studying them for many, many hours, and going back to the basic source of material that is referred to in the Constitution of 1921, that would change the need and completely undo many of the substantive provisions that you've adopted and placed in this constitution. Now, Mrs. Zervigon, if you will recall, stated, in response to my question, that nothing in this article dealing with transitional provisions was intended to in any way affect the substantive meaning of any single word, or clause, or sentence, or section, or paragraph, or article, of the constitution up to this point, either taken by itself or altogether. Whatever it means, it means. Nothing in this transitional provision is intended to change or disturb that in any way. Well, I respectfully submit to you, then, that you have to say that--you have to say that--because there are several places in this article, and we will get into more specific reference to that later on in connection with some amendments that I intend to offer, that would change the meaning and undo what you have done up to this point. I don't say that it was done by the committee designedly. I don't think it was. I think that they meant what they said in this first section, that this is intended only to supplement and provide for an orderly transition from the Constitution of 1921. But, we are all human beings. We do not always....

....I say that I don't mean to imply that any of those, what are rather obvious substantive changes to me, I don't say that any of those were done by the committee deliberately. But, I say that we are all human beings, and we are sitting here doing the best we can to deal with words and phrases and sentences in the English language, and we just don't always agree on what those things mean. We don't always actually

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get down the words that we...that adequately express what we intend to mean. So, unless...unless you have a provision in this transitional article, that nothing in it is intended to change the meaning of any of the work that you've done before, you're going to be in serious trouble. Because some of the specific provisions in this transitional schedule, in my humble opinion, and I've spent a good bit of time studying them and going back to the source of material it was referred to, definitely operate a substantive change if you don't make the specific statement that they are not intended to effect a substantive change. For that reason, I most strenuously urge that you reject Mr. Conroy's amendment.

Questions

MR. O'NEILL

Mr. Avant, if there were some language added to the first section which would say in a manner as to invalidate, limit, restrict, do you think that would change or alter? Do you think that would help clear up your problem?

MR. AVANT

Mr. O'Neill, I have an amendment which I intend to offer which will make this section read, "Nothing in this article shall be construed or apply in such a manner as to invalidate, limit, or change the meaning of the foregoing articles of this constitution, but only to supplement and to provide for an orderly transition from the Constitution of 1921." I have an amendment that will insert that language after the word "invalidate," the words, "limit, or change the meaning of".

MR. O'NEILL

If the committee is sincere in not wanting to change anything, then they should be happy with that language.

MR. AVANT

Well, I won't express what's going on in somebody else's mind, Mr. O'Neill, other than to say that I believe that the members of that committee are honorable people. They are not trying to sandbag us, or trick us in any way; that they did the best job that they could in a rather difficult area. I don't think that they accomplished their purpose, completely. But, whether or not they will agree to that amendment or not is something that they are going to have to decide.

MR. LANIER

Mr. Avant, with reference to Mr. Conroy's feeling that perhaps where we have interim continuance of present provisions until the legislature has an opportunity to act, so that there would not be an hiatus in the law, do you think that perhaps the best way to solve his problem would be to put the qualifying language on the interim measures rather than to strike out the general proposition stating the purpose of the transitional schedule?

MR. AVANT

I most certainly do, Walter.

MR. CONROY

In order that we can better understand which sections are which, Mr. Avant, I've mentioned some of the sections that would concern me--not all of them--cause Section 5 would fall in the same category, I believe. These are areas which are necessarily inconsistent with the rest of the constitution by their very nature. What we're doing is making exception for those. Could you tell us what parts of this schedule you feel might invalidate or become more consistent with the other provisions?

MR. AVANT

Mr. Conroy, we might as well just throw it out on the table. If you read Section 17, when you stick that in there, then you might as well, we might as well not have been here. I might as well have stayed home. For whatever good, or whatever purpose that I thought I might have been accomplishing here, you have stricken it all out of the constitution, and you've put the articles in the Constitution of 1921 back into this constitution by reference. That's exactly what you've done.

Further Discussion

MRS. ZERVIGON

Mr. Chairman, I rise just briefly to urge you to defeat the amendment. I think that there are sections here that could be read as to be in conflict with previous articles, perhaps. That was not our intention, and I could argue the question section by section with some of the delegates, but I just say to Mr. Conroy's objections because he was the one that offered the amendment, that Section 7, for example, that he thinks invalidates or supercedes previous articles, came word for word out of his article, or report of the Revenue, Finance and Taxation. It's one of the sections I referred to earlier that was

reiterated just to make people feel better. I think bond holders need to know that we're not after invalidating their bonds. That's the main thing. But, if you'll look in Committee Proposal No. 15, those words are there. The same is true, for example, of the second sentence of Section 6, which ratifies present taxes, presently levied or authorized. That also comes out of Committee Proposal No. 15 as it passed the floor and was then finally styled. How it could be construed or applied to be in conflict with the other articles of this constitution when it was taken word by word out of one of those articles, completely escapes me. So, I urge your rejection. I have no objection although I can't speak for the members of my committee to clarifying the language in Section 1. But, I do think it's an important section to retain.

[Previous Question ordered.]

Closing

MR. CONROY

I think that whichever way the vote goes on this amendment or on the section we have pointed out the problem that would be facing us throughout the consideration of Committee Proposal No. 38. There are, I think admittedly, some parts of this which are transitional in nature, and to that extent are inconsistent, by nature with the basic provisions of the constitution. There are other provisions such as Mr. Avant has pointed to only one that concerns him, Section 17, which probably should say, or be followed in with some remark about them not being inconsistent with anything else in the constitution. Perhaps, the problem is that we ought to have two schedules instead of one, in which you could specify some sections which are transitional, truly transitional in nature, and others which are not so transitional, but are a permanent retention of some parts of the constitution which will remain in effect. Perhaps that division is the better thing to do. I say that if that division is the thing to do, the way to accomplish that division is to eliminate this section at this time, and deal with those sections in which there's supposed to be a recitation that they do not invalidate any other part of the constitution. The basic problem I see is that we're dealing with an article that's entitled "Transitional Provisions." "Transitional Provisions" necessarily means going from one thing to another. Here, the purpose of this transition... is to retain, in effect, some of those things which may be inconsistent with the basic constitution to retain them in effect for the time that may be needed to retain them in effect. You cannot do that in the face of this Section 1. I repeat again, several sections in this article are simply unworkable and meaningless if you start off with Section 1 applicable to this entire proposal, and I therefore urge the adoption of the amendment. I'll answer any questions if there are any.

Questions

MR. ALEXANDER

Mr. Conroy, since Article I, since Section 1 provides for the orderly transition of government between the adoption of the constitution and the adjournment of this convention, I'm wondering, how do you, or how would we share in the state; for example, suppose after the constitution shall have been adopted by the people of the state, and then litigation develops, which by injunctive proceedings would temporarily prevented it from going into effect. Under the provisions of Article XXXVIII, everything would remain orderly, we would continue under the 1921 Constitution until that litigation possibly would have been adjudicated. But, how do you provide for that? What would happen?

MR. CONROY

No, I disagree with you. I think that in order for that to be accomplished we'd look at Section 10, but I don't believe that Section 10 can be validly applied in the face of...the language in Section 1 because Section 10 itself says that any provision which is inconsistent with this constitution, which is a necessary procedure of government, shall remain in effect. Well, that provision stating that "any provision which is inconsistent with this constitution which is a necessary procedure of government shall remain in effect" is completely at odds with this provision in Section 1 that says "nothing in this article shall be construed in such a manner as to invalidate the foregoing articles of the constitution" because Section 10 by its very terminology invalidates anything that's... a part of the constitution.

MR. ALEXANDER

But, all you do is delete...

MR. CONROY

All I'm doing is...That's correct. If you look at the 1954 Project of the constitution for this state, when they looked at this same problem, they recommended that there be no lead-in of this kind, that this is in effect, a preamble, or part of it should be considered as a preamble when it says that it's to supplement and provide for an orderly transition, and that that sort of language is simply unnecessary. That is the function of a transitional schedule, and that's all it's supposed to do, is to provide for the transition from the Constitution of 1921. The part of this section that I object to, that I object to is the invalidate sentence; the part that I feel is unnecessary is the second part. In other words, the reason I move to delete the whole thing instead of just the first part was that I thought the second part was unnecessary. I find the first part objectionable; the second part, unnecessary.

MR. ALEXANDER

Thank you.

Vice Chairman Casey in the Chair

MR. DUVAL

Mr. Conroy, as I understand your point, and as I read it, apparently, as I read the other sections following Section 1, a good deal many of them are in essence literally inconsistent with the provisions of the proposed constitution.

MR. CONROY

Precisely.

MR. DUVAL

Therefore, we'll have to say "notwithstanding any other provision herein" to make...or else we're not really accomplishing it; is that...

MR. CONROY

That's correct.

MR. DUVAL

You're saying we should deal with each one--any one that is in essence inconsistent, we should deal with it in the specific section.

MR. CONROY

I think we're going to have to face up to that problem. There may be some that present the problem Mr. Avant said, and in any event, we're going to have to deal with each one of these, as I said, whether this passes or not, we still are going to be faced with that problem on each one of these sections.

[Quorum Call: 91 delegates present and a quorum.]

Point of Information

MR. JENKINS

As I understand it, the Committee on Legislative Liaison and Transitional Measures is a procedural committee, not a substantive committee. I'm wondering how a procedural committee can propose a substantive part of the constitution.

MR. CASEY

Mr. Jenkins, they were assigned the matter of the problems of legislative liaison and transition, and some of their material and information is bound to have some substantive effect. The material contained in the schedule may have some temporary substantive effect, and maybe even some permanent substantive effect. It's based on the rules of the convention, Mr. Jenkins.

[Amendment rejected: 17-79. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mrs. Zervigon at this time aends up amendments.

Amendments read as follows:

Amendment No. 1. On page 1, line 14, after the words "as to" delete the remainder of the line and insert in lieu thereof the following: "supersede or invalidate any provision of the foregoing".

Explanation

MRS. ZERVIGON

Mr. Chairman and delegates, I am submitting this amendment in the same spirit as Mr. Avant's amendment, although I had it typed before he asked his question. More or less, at the request of Mr. Jenkins, who just wanted to tighten up the language and make sure it said exactly what I was trying to say. It makes two changes. Before the word "invalidate" on line 14, it inserts the word "supersede or" and before the phrase "the foregoing articles" would insert the phrase "any provision of" because it was Mr. Jenkins's concern that that could be construed by a court to say if you don't validate a whole article then this section doesn't count. It's just clarifying language in order to tighten it up and make it do exactly what I think you all wanted to do as shown by the vote in the defeat of the Conroy amendment. I urge your adoption of this amendment.

[Amendment adopted without objection.]

MR. CASEY

Mr. Avant is now recognized for his amendment, to explain his amendment.

Would you please give Mr. Avant the courtesy of your attention, please.

The Clerk will read the amendment first.

Amendment

MR. POYNTER

The amendment reads as follows:

We had to make a few changes in it to accommodate the adoption a moment ago of the Zervigon amendment.

It would read as follows:

On page 1, line 14, after the word "invalidate" you need to insert "contained in the text of Floor Amendment No. 1 proposed by Mrs. Zervigon and just adopted " insert a comma "," and add the following: "or limit or change the meaning" you need to add the word "of"; "or limit or change the meaning of". It would make that first sentence read as follows: "Nothing contained in this article shall be construed or applied in such a manner as to supersede or invalidate or limit or change the meaning of any provision of the foregoing articles of this constitution,"etc.

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, I think the amendment, the meaning of the amendment is rather obvious. I'm authorized by Mrs. Zervigon to state that she has no objection to the amendment. She didn't speak for the committee, but she tells me that she has no objection to it. It's simply to make it abundantly clear that none of the meaning of any of the work that we have done up to this point, no matter what it means, whatever the courts of this state ultimately say it means, if it has to go to court to find out what it means, whatever it is, it is; and it stays that way, and nothing that we put in this article is going to change it, invalidate it, supersede it, limit it, or affect it in any way. I ask your favorable adoption of the amendment.

Further Discussion

MR. PEREZ

Mr. Chairman, ladies and gentlemen of the convention, the reason that I asked to get your attention a little earlier--and I know all of us are anxious to have something to bring home with us as a memento of this convention--but the reason I did so is because of the fact that we do have some very, very serious problems facing us today. I want to explain to you in connection with Section 1, one of the big problems we have. As a member of the Committee on Style and Drafting, it has been suggested that certain provisions of the new constitution which we have adopted, be taken out of the main body of the document, and put into the transition provision because of the fact that they will have a limited period of time in which it would be anticipated that they would be in effect; for instance, provisions on tideland settlements and so forth, and the provisions in that particular section which talk about how the funds would be distributed and so forth. Now, if we put provisions which we have adopted into the transitional section and adopt something such as we now have here which would make that subservient to the remainder

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of the constitution, it could be violence to what we have already adopted. Now, I've been assured by Judge Tate that he would propose to have a Part I, which would come before this Part II, so that we would be sure to protect those parts of the constitution which we have adopted in its main body, but would remove back to the transitional provision. So, what I'm saying to you now is I don't object to the Avant amendment as it is presently . . . that is, provided that what Judge Tate proposes is adopted. But, if it is not adopted, then we're going to be in a mess; and I only want to call all of this to your attention because of the fact that we're all proceeding along, and I don't think we are paying enough attention to what we're doing, and I do hope that on the last deliberative day that we have that we don't undo an awful lot of the good that we have done all year long.

Questions

MR. DE BLIEUX

Mr. Perez, this particular provision, if it is inserted above the articles which we are transferring out of the constitution, that we have adopted, if it's inserted above that, wouldn't it have some of the effect of possibly invalidating or superseding some of those particular provisions? While, on the other hand, if it's inserted, you might say, between those articles which are transferred and the articles which we are taking out of the 1921 Constitution, that it would not have that effect?

MR. PEREZ

It depends naturally upon how it's worded. For instance, I have been shown by the Judge the fact that there are twelve different provisions which the Committee on Style and Drafting has proposed going into a transitional material: the Board of Regents, the Board of Supervisors of LSU, the State Board of Elementary and Secondary Education, other boards; is that correct, Judge? Are these things that I'm reading off mandatory: reorganization of state government, legislative sessions, civil service commissions, state and city civil service officers, offshore mineral revenues, tideland settlement, forfeitures prior to 1880, and effective date of property tax provisions?

MR. DE BLIEUX

Certainly, now those are provisions which we have adopted in the present constitution that we have no intentions of invalidating or superseding or anything else like that. So, certainly we don't want to do anything that would affect those particular provisions except just transfer them to a different article of the constitution.

MR. PEREZ

But, again, that's why I say that we have to be very careful about what we are doing here. That's the reason I had attempted to get the attention of the delegates to see to it that we knew what we were doing and didn't make any serious mistake. I'm not . . . if I may ask from the Chair, on line 13, has the word "article" been changed to "part"?

MR. POYNTER

On line 13, Mr. Perez? That has not been changed.

MR. PEREZ

Well, there again, if we don't do that, well, then we're in trouble. You see, we have to change. Apparently, you need an amendment which would say that "nothing in this part," and then have a Part I and a Part II.

MR. TATE

Mr. Perez, thank you so much for explaining. Style and Drafting considered the fact that we may have this problem, and if the convention so sees fit to order us, we will plan to handle it as Mr. Perez indicated by putting in a Part I, the transitional provisions we've already passed that should not necessarily be limited by the language in the present Section 1. Now, if this passes as . . . say it passed just as you wrote it, then we made this proposal and we recommend to you that this proposal be a Part II. Then, as a Style and Drafting amendment we would change this article to this part in order to clarify it with these provisions, only refer to the parts that are going to become a new part.

MR. PEREZ

No sir, Judge. That is strictly one hundred percent substantive and not procedural. If we're going to do it, we're going to do

it on the floor here and now or I'm going to seriously oppose this provision.

MR. TATE

Mr. Perez, if this passed as an article. . . of course, the floor has to approve anything we do, but the tentative plan was to recommend to the floor, when this comes back, we would recommend that instead of saying. . . this would be a Part II. This would be transposing the Part II of transitional provisions. There'd be a Style amendment to put a Part I. There'd be a Part II ahead of this, and there'd be the appropriate stylistic changes to indicate that as it pass the floor it only referred to these particular sections.

MR. PEREZ

Judge, I sure don't want to take those chances. I would much prefer let's see if we can't straighten this thing out now while we. . . we know what we want to do, let's do it.

MR. TATE

In other words, you would prefer, right now, that we have an amendment to this Part II to head this list and to amend "article" to "part"?

MR. PEREZ

Yes sir, I would.

MRS. ZERVIGON

Mr. Perez, you are speaking about amending the title of this article to read: "Article XIV. Transitional Provisions," and then insert there "Part II"?

MR. PEREZ

Yes. This is according to Judge Tate's suggestion, not mine. What Judge Tate has advised us is that he would take certain provisions out of what we have already adopted as the proposed constitution, put it in transitional provisions and make that Part I and make it clear that the Section 1 which we are now considering would not apply to Part I, but would only apply to Part II so that you would have to, on line 13, change "article" to "part." So, you'd say "nothing in this part shall be construed," etc.

MRS. ZERVIGON

Well, Mr. Perez, consider a situation in which the recommendations are made by Style and Drafting as to what sections of the constitution that we've already ratified should be in Part I, we don't like the concept, we vote it down and have a section saying "nothing in this part," but there is no Part I. Where. . .

MR. PEREZ

Well, it's very difficult. That's one of the problems with the haste in which we are dealing, Mrs. Zervigon. But, there are twelve different subject matters which are suggested to be put in Part I. I'm reasonably sure at least one or two of those will end up in transitional measures.

MRS. ZERVIGON

Mr. Perez, perhaps I've hung around with you too much this year, but aren't you asking us to buy a "pig in a poke"?

MR. PEREZ

Easy now.

MRS. ZERVIGON

Aren't you asking us to buy a "pig in a poke"?

MR. PEREZ

No. I think the best thing for us to do is if some of us would sit down and see if we can't work this thing out. But, unfortunately I don't think we are. . . I think that we are moving in such a way that we really don't know where we are headed.

MR. FLORY

Mr. Perez, probably I don't understand what you're talking about, but are you saying that in maybe Part II we're going to do something to undo what we've done in this convention in the constitution?

MR. PEREZ

No, Mr. Flory. What I'm saying to you is that Judge Tate and the Committee on Style and Drafting are suggesting that twelve different sections of the proposed constitution which we have adopted be put in the transition section. When you do that and say that "nothing in the transitional provisions

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shall be construed to apply in such a manner as to invalidate," etc., what we are doing is putting what we have already adopted in a secondary position, possibly, to other provisions which would be in the main body of the constitution. In other words, what we would be doing if we follow Judge Tate's plan is to take certain provisions out of the main body of the constitution and put them into the transitional section. When we do that, then it's limited. Then, it would be subjected to the provisions of Section 1, which would mean that that which we take out of the main body, put in the transition body then would be in a secondary position to what we have in the main body and therefore maybe change the meaning of something which we have already done in our deliberations. Do I make myself clear?

MR. FLORY

Part I, as I appreciate what you're talking about, would be on those articles we've adopted in the new constitution.

MR. PEREZ

That's correct.

MR. FLORY

All right. Part II, then, would be on those matters that would be transferred primarily to the statutes?

MR. PEREZ

That's correct; and repealed, etc.

MR. FLORY

Wouldn't this same principle apply that you couldn't or wouldn't want to do anything in transferring something to the statutes that would be in violation of what we have adopted in this constitution?

MR. PEREZ

You'd better repeat your question, I didn't understand it.

MR. FLORY

All right. If those matters transferred to the statutes are contained in Part II, wouldn't this same section have to apply there in order not to have something transmitted to the statutes that would be in conflict with the provisions of the twelve articles that we've adopted?

MR. PEREZ

We would not be transferring anything to the statutes as far as those provisions of the new constitution are concerned, because they are, in fact, a part of the constitution. We will be transferring many of the constitutional provisions of the '21 Constitution to statutory material, according to this proposal. So, I do not at all disagree with Section 1, provided that we have a separate part which deals with those provisions which are in the presently adopted, that is, our new proposed constitution, and have them in a different category and not subjected to the language of Section 1 because what we would transfer from the work that we have done to the transition provision would not be in a secondary position to what we've adopted otherwise. Do I make myself clear or not?

Further Discussion

MR. AVANT

Mr. Chairman and fellow delegates, I think that--and I stand to be corrected if I misunderstood what has taken place up here--but, I don't believe there is now any objection to adopting this amendment with the understanding that between lines 11 and 12 in this article we're going to immediately come back and break the article into Part I and Part II. Then, we're going to have the problem of deciding what's going to go in Part I and what's going to go in Part II. But, I think with that explanation we are now prepared to adopt the amendment. I've already explained it.

Questions

MR. KEAN

Mr. Avant, as I understand what you are saying, we would adopt Section 1 with the language of the Zervigon amendment and your amendment. . .

MR. AVANT

And not lay it on the table.

MR. KEAN

Then, somebody is then going to sit down and try and decide what sections that follow that right now are going to be lifted out of this--whether it'd be Part II, as I understand it--and put over into Part I. Is that correct?

MR. AVANT

The convention is going to decide that.

MR. KEAN

Well, on what kind of a basis are we going to make that decision?

MR. AVANT

Mr. Kean, I imagine we're going to make it by a vote of the delegates to this convention, and whoever prevails, that's what's going to go.

MR. KEAN

Well, I understand that, Mr. Avant, and I'm trying to find out is: what's going to determine whether you put it in Part I or Part II?

MR. AVANT

Well, as I understand it, Mr. Kean, it will be based upon whether it is a more or less permanent provision that's intended to be in the constitution and be given rank equal to the provisions in the constitution, or it's some merely temporary and strictly transitional provision that's going to fall of its own weight when certain things have occurred.

MRS. ZERVIGON

Mr. Chairman, I have no objection to the concept behind moving some of the things we've passed already. I've been talking to Judge Tate about it for several months. I understand that there is a list of suggested provisions to be moved. If that could be Xeroxed and handed around to us, I think maybe a lot of us would calm down when we see what the intentions are and see which ones we want to strike and put in Part II rather than in Part I, or which ones we want to leave in the main body of the constitution. Do you think that's a possibility?

MR. AVANT

Mary, are you talking about just kind of stopping until all that's Xeroxed, or are you talking about getting that, but proceeding right now on the amendment that's before the convention?

MRS. ZERVIGON

I have no objection to proceeding with your amendment, if that's what you are saying.

MR. ABRAHAM

Jack, I was going to suggest to you that you might want to do this: would not we be better off passing over this first section and going on with the rest of this thing to give us. . . all of you people time to work out this Section 1?

MR. AVANT

I do not think so, Mr. Abraham. If I thought so, I wouldn't have ever got up here in the first place.

MR. POYNTER

As I appreciate what Judge Tate and the Committee on Style and Drafting are going to do is to recommend to you to be included ahead of the provisions contained as presently set forth in this article a Part I that would contain twelve sections which would have constitutional status, but for one reason or another, perhaps, would have, if you will, somewhat limited in terms of time application. For example, mandatory reorganization of state government, particular provisions dealing with implementation of legislative sessions for the first few sessions following the adoption of this constitution, prescription dealing with the tidelands settlement, forfeitures of taxes prior to 1880 and the effective date of property tax provisions and similar provisions such as these that would have constitutional status, but their efficacy would be limited by, inevitably, some time frame. These would be Part I, a part of the constitution, but just be included in transitional measures in the view that ultimately they would have no real constitutional efficacy and their time limit of their efficacy would have expired. Then, he will propose to and will in fact offer an amendment momentarily that will make the transitional measures

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as it appears before you a Part II--a Part II--dealing strictly with transitional questions as opposed to permanent constitutional provisions that have a more limited time frame.

Judge Tate, is that a thorough statement of. . . I can at Mrs. Zervigon's request will run off a list of all twelve of those proposed sections which are sections which you have already adopted--already adopted--and that that committee will propose to you later this evening, hopefully, that would go into this Part I.

Point of Information

MR. FLORY

Mr. Poynter, as I appreciate what you're talking about reading from that list, you're talking about physically taking from what we have adopted, the specific, identical language from those articles or sections and putting it in Part I. Is that correct?

MR. POYNTER

That's my understanding exactly, Mr. Flory.

Further Discussion

MR. KEAN

Mr. Chairman, fellow delegates I quite well understand what Judge Tate and the Style and Drafting Committee is proposing as a part of what would be Part I, because we considered those items in Style and Drafting, and they are specifically listed. They would specifically provide, with respect to the items that they cover, language that this convention adopted. I don't have any problem with that, but if I understood Mr. Avant in his explanation of his amendment, that we were then going to come along and try to decide whether or not there are some items--which would then be in what we would call Part II--which ought to also be lifted and put over into Part I or put someplace else, because it's obvious, that if you look at some of the particular provisions in what would be then Part II, that if we say that in Section 1 that nothing in this article would be construed, etc., to supersede or invalidate or limit or change the meaning of any provision of the foregoing or what comes afterwards. It seems to me that what we then would have in Part II could just as well be left out, because no one would ever be able to interpret what the meaning of Section 10, for example, would be in light of that language. Section 10 of the committee proposal talks about something remaining in effect for three years after the effective date of this constitution. It's obvious that it relates back to something that's in the present constitution or in the proposed constitution. When you talk about nothing is going to supersede, or invalidate, or limit, or change the meaning of any of those provisions, then you might as well take Section 10 out of this transitional schedule; because I don't believe you could have the language in Section 1 and the language in Section 10 and have it any meaning. What we're being asked, again, to do here, in the interest of time, in my opinion, is to buy "a pig in a poke." We're going to add Mr. Avant's language, and then we're going to come along and try to figure out what sections are to come out of this Part II because with Mr. Avant's language, they're going to be meaningless. I think we're right back where we were with respect to what kind of a proposition we're going to put on an alternative ballot when we were being asked to vote on the alternative without knowing how it would be presented to the voters. Here, again, we're being asked to put some language in that has, in my opinion, substantive effect upon the remaining provisions of the transitional proposal. If we do that, we've then got to come along later and start deciding which ones we're going to take out and which ones we're going to leave in. For that reason, I oppose Mr. Avant's amendment until we know, in particularity, what's going to be in the Part I and what's going to be in Part II, or whatever else we're going to call it.

Questions

MR. FLORY

Gordon, I don't understand what you're saying, really, because as I appreciate what the committee said in the beginning explanation of this measure, that there was no intention, regardless of what is in this thing, to change or alter the meaning of what this convention has adopted in the way of the new constitution.

MR. KEAN

I think that's correct, Mr. Flory, but my point is--and I think I'm really making the same point that, in a way, that Mr. Conroy was trying to make with his amendment--there's simply an inconsistency with this language in Section 1 between some of

the provisions in the transitional section. Now, that's not true with respect to all of the parts of the transitional proposal. For example, Section 9 which continues certain items in force as a statute, I think they clearly remain in Part II subject to whatever kind of language you want to put in there, inconsistent with the constitution, subject to it, whatever you want to say--Mr. Avant's language or anybody else's. But, when you get to some of the other provisions, we talk about the items being in effect for three years, items with respect to all retroactive suits, etc. It raises a serious question in my mind--and I'm talking now about Section 5--that when you put Mr. Avant's language in, applicable to Section 5 and Section 10, what do you have, and what questions have you raised in the process? It seems to me if you put Mr. Avant's language in, you've got to raise out of this Part II some of these items which can't be consistent with that language.

MR. DE BLIEUX

Mr. Kean, I'd just like to ask this question: in what way would the language that Mr. Avant wants to insert in this Section 1 would hurt the provisional language that's in Section 5?

MR. KEAN

Well, Mr. De Blieux, we talk about all writs, etc., "existing on the effective date of this constitution shall continue unaffected." Now, we go over here and say in the first part that "nothing herein would be construed to change the meaning or supersede, invalidate," etc., something that's in the present proposed constitution. It seems to me, under those circumstances, you may have some provisions in the present constitution which would have a bearing on that section and the question then comes up: what happens under Section 5 in light of that language?

MR. DE BLIEUX

Well, you think that this language here is going to invalidate something?

MR. KEAN

In my opinion, a section such as Section 5 and Section 10 are truly transitional provisions and they ought not to be limited and have somebody trying to decide what they mean.

MR. DE BLIEUX

Well, does this provision. . . is this. . . Section 1 in any way limit them?

MR. KEAN

Senator De Blieux, I voted for Mr. Conroy's amendment because I felt they perhaps did.

MR. DENNIS

Well, Gordon, don't you agree that Mr. Avant's amendment would not hurt most of what's in this?

MR. KEAN

I think that's probably correct, Jim.

MR. DENNIS

Well, then why don't you go along and accept it and then when we get to those items that it's inconsistent with, let's take them out and put them somewhere else? Don't you think that would be more logical?

MR. KEAN

Well, all I'm suggesting, Judge Dennis, is we ought to find out what ones we're going to take out now.

MR. DENNIS

Well, we've got to do something, don't you agree, before we do the next thing?

MR. KEAN

I agree with that. I think we would have been better off to have adopted the suggestion that was made here about fifteen or twenty minutes ago to have a recess and let it go off to some. . . to one side and get this thing put down in writing so that we'd see what we were doing.

MR. BURNS

Mr. Kean, I didn't hear this last question, you know. . . the answer to it. But, anyway, isn't there some device or some procedure that we can adopt--this group--whereby we're not going to have to take up every one of these sections individually and specifically? I counted fifty-two and then had to stop to ask you this question. We'll never in the world finish.

MR. KEAN

I think the parts that Judge Tate is suggesting as being a Part I can clearly be brought over. They are transitional, really, in a technical sense, because you're giving them the same effect as if you would have left them in the constitution, and we might have been better off to have done that rather than to have to gotten into this argument. My own feeling is that outside of those, that we'd be better off coming up with a broad general provision which says that everything that's in conflict with this constitution terminates, in whatever language you want to say it, and everything that's not in conflict with it continues in full force and effect. Then, let the Law Institute or somebody else sit down and try to figure out what's obsolete and what needs to be revised or changed, and in the course of time, working with the legislature.

MR. BURNS

Do you agree that if we have to take up each one of these articles or sections, rather, individually in this Section 9 that there's no way that we could finish by tomorrow night?

MR. KEAN

If you want. . .if everybody in this convention asked one question as to what Article V, Section 2 is that's going to be put over into the statutes, we'll be here a long time, Mr. Burns.

Further Discussion

MR. TATE

Mr. Chairman and fellow delegates, I'm rising here primarily as a technician representing the Style and Drafting Committee which has attempted to serve you purely in a stylistic and non-substantive manner to help us organize a readable constitution as short and coherent as is possible within the limits of what we adopted from the floor. Now, I rise in support of the Avant amendment because it will clearly show--together with the next amendment which I understand there is no objection to among those who are most concerned--it will clearly show that that section limits only those sections that follow it--that follow it. One or two. . .there may be some thought that you don't need them in that section. When we get to those one or two, you could, at that time, delete them. I think that the language is necessary because remember our problem, gentlemen and ladies--remember our problem. We started with a nine hundred page constitution. There were, in that constitution, many sections that protected particular interests. Those interests were kind enough and decent enough, and you were generous enough and farsseeing enough to take them out of the constitution and to put them in the statutes--to put them in the statutes. Now, we need--when we do take those old things and put some of them in the statutes--we need that language Mr. Avant proposes here and that Mrs. Zervigon proposed simply to say you took those old statutes and you're putting them over to the technicians, but they are not to conflict with the decisions reached on this floor. Now, I say to you that. . .my friends, that if you will, right after this, adopt an amendment that clearly says this is a Part II and that these things refer only to this part, I suggest to you that the problems we are envisioning are going to disappear because, very plainly, you do not mean, in this procedural committee, to change anything that you adopted previously on the floor. This is going to clarify that intent. If there's any sort of objection to any particular section, you can raise it at the time. Now, just for example, I think the Zervigon committee had a far-reaching and far-visited and sensible approach. Instead of turning over nine hundred pages most of which is gobbledygook and garbage and obsolete--a lot of which, six hundred pages was--to technicians to weed out, we weeded it out. We took a judgment. Each substantive committee took a judgment on the general assumption that we can do more good by weeding out some of the ancient language and antiquated provisions, and perhaps overlook one or two that the legislature can put in, than to put in six hundred pages of gobbledygook into our statutes that we'll have to get out later. I think all of us now agree that had we worked instead of from the framework of the detailed '21 Constitution with all of those specific provisions, had we worked from a general outline and ideal outline, perhaps we could have done even better than we have. I think, gentlemen and ladies, ladies and gentlemen, persons, I think that we have done, in my own opinion, a tremendously fine job under the circumstances that we had. But, I say to you, for what it's worth, let's adopt the Avant amendment; let's have the Part II. Let's sensibly. . . so that this evening you will see, and in a very short time on your desks will be the proposals of Style and Drafting to reorganize what we've passed without changing the substance.

Questions

MR. LOWE

The only question I have, we keep talking about Part II, and I may have lost track, but we are on the amendment that says "or limit or change the meaning" and the Part II amendment comes up next; is that correct?

MR. TATE

Yes, and it will change 'articld' to 'part'...it will say Part II and then the first....

MR. LOWE

No, but the question is, we're not on the Part II amendment now, we are on the....all right, good, thank you.

MR. TATE

Yes, sir. But, it should be read, I think, in conjunction with the Part II amendment which I think the leading question, as agreed to, should be placed there.

MR. ABRAHAM

One question, Judge. We keep referring to Part II---Part II; what's going to be Part I?

MR. TATE

All right, there are twelve transitional provisions that have already passed; you remember the transitional on the Board of Regents--the transitional on the L. S. U. Board and the transitional on the school board; transitional on civil service. There are other provisions believed to be transitional, but you took out the substantive things---a page and a half about the tidelands settlement. Some day the tidelands settlement will be reached and then you will have, say, a page and a half they will read in 1991 that will say, "What in the world did those fellows put it up there in the body?" The transitory provisions we sort of regard as written in semi-disappearing ink; after a while nobody is going to look at them because they commend their existence like the tideland settlement that erases them.

Further Discussion

MR. RAYBURN

Mr. Acting Chairman, I can see where we are dealing with something here that if we don't do it right we can have a cause, in my opinion, of a tremendous amount of litigation in the future. I'm wondering if we could take a brief recess and maybe have a meeting of minds and work out something here that the majority of these delegates or the majority of us delegates could agree upon. I'm not an attorney but I can see that if this thing is not handled with every precaution that you could create litigation on top of litigation. I would just like to suggest that maybe we recess until 1:00, or 1:15, or 1:30, or any time that the staff thinks we need to come back and maybe have, say, a thirty minute meeting now of the people that are better qualified to put the proper language in here than I am and see if we could come up with something we could agree upon that would really do what we want to do.

MR. CASEY

Senator Rayburn, that was the purpose of the approximately half hour recess that we had. I think most of the people that participated in that up at the rostrum there was pretty much of a consensus with, of course, a couple of exceptions. I would suggest that we go ahead and vote on this. There is general agreement that we will not lay on the table, I think, Section 1 first of all. I was hoping to suggest to Mrs. Zervigon, the Chairman of the Legislative Liaison Committee, that during the lunch hour those who are interested in this particular measure I would hope that we could have a meeting or a get-together, Mrs. Zervigon, during the lunch hour to try to resolve some of the problems in advance if you are willing. But, you and I can discuss that before we recess for lunch.

MR. ROY

I said, I think that we've heard about as much discussion as we can on this subject without getting totally confused; that is, those who don't understand it. I think Justice Tate had a good suggestion, and we ought to move forward, adopt the amendment, and then proceed on as he suggested. With that, if there are no other speakers, I move the previous question on it.

[Previous Question ordered. Amendment rejected: 95-6. Motion to reconsider tabled.]

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Amendments

MR. POYNTER

Yes. Judge Tate at this time sends up amendments which read as follows:

Amendment No. 1. On page 1, between lines 11 and 12, insert the following:
"PART II."

Amendment No. 2. On page 1, line 13, after the word "this" and before the word "shall" delete the word "Article" and insert in lieu thereof the word "Part".

Explanation

MR. TATE

Mr. Chairman, before you have the amendment. Article XIV on this page, Part I, are the twelve transitional provisions you previously passed which we are going to recommend to you that you take them out of the body and put them in this Part I section of the transitional provisions because they are limited in duration and time. Later generations will not have to read about something that happened a long time ago and passed out of existence. This amendment is simply--in order to carry out the intention that we have previously noted--to put a Part II in front of the Zervigon transitional provisions so that you'll know from now on that these we are talking about are subject to the Section 1. We amend Section 1 to say, as you know, that it just...this part shall not limit what we previously adopted in the substantive portions of the constitution. Mr. Chairman, I'll yield to questions.

Questions

MRS. ZERVIGON

Mr. Chairman, I don't know what that sound was but I thought it was supposed to be a train the other day.

Justice Tate, you substituted the word "Part", you're not saying "this Part of this article," but stricken the word "article" and substituted the word "Part"? This is a rude question, but does that make any sense?

MR. TATE

Yes.

MRS. ZERVIGON

So long as you capitalize the "P" it makes sense?

MR. TATE

Yes, ma'am.

MRS. ZERVIGON

What will happen in the unlikely possibility that this convention decides that all of the things we have already passed in the way of transition--the Board of Regents transition and the alternatives thereto, the civil service transition, and that sort of thing--ought to be subject to the provisions of the rest of the constitution and, therefore, there is no necessity for a Part I?

MR. TATE

Well, if that should happen, then, Mrs. Zervigon, we can reach that if that should happen as a, first of all, a policy decision of this convention; second of all, as a stylistic matter if everything above is put underneath here and everything disappears above the line, then we won't need that.

MRS. ZERVIGON

So, what you're trying to say is that to stick in Part II would have been a substantive change but to take it out, won't?

MR. TATE

I'm saying that to put Part II in clarifies that these are procedural changes only. Mrs. Zervigon, I do not believe, for instance, most of what's above the line...some of...at least above the line could possibly be made subject to this provision; for instance, the constitution provides that taxes claimed by the state shall be prescribed in three years. There is a special provision that says, however, in the tidelands settlement area we're not going to make them pay their taxes until we find out if they owe them, so prescription suspends until the settlement, that we have three years after the settlement to collect them. So, I know there are some provisions that have to stay in Part I.

MR. LANIER

Mr. Justice, do I understand what you are proposing that the

Part I transitional provisions will be of equal status with the constitution and the Part II provisions will be subservient to the Part I provisions in the rest of the constitution?

MR. TATE

Well, I would say that roughly speaking, that's correct. Part I, transitional provisions are provisions that were already passed in the substantive articles. In line with the intent to produce a shorter, more coherent constitution and in line with the function of Style and Drafting to recommend an orderly re-arrangement, we thought in the interest of the long range coherence of the constitution that some of the provisions that are of constitutional dignity and not procedural or substantive should be put in Part I of the transitional provisions, thinking that in thirty years from now, fifteen years from now, whatever it is they will be written in disappearing ink, so to speak, because the condition that we asked...conditions that existed has passed, for instance, the reevaluation of taxes...assessments and so on. So, generally speaking in an incoherent way, Judge Lanier, my answer is yes.

MR. LANIER

But, what I'm getting to is like on this thing about ceasing to have effect, we may have things in both schedules that may ultimately cease to have effect; isn't that true?

MR. TATE

Yes, sure, sure.

MR. LANIER

And, isn't the ordinary theory of a transitional schedule that the entire schedule is subservient to the constitution? Isn't that the ordinary procedure?

MR. TATE

Well, I would say, of course, it is. But, I would say, for instance, the transitional measures we are talking about...we have an unusual constitution, as you know. There are a lot of provisions in there that wouldn't have to be in there if we didn't have the major provision in the constitution, you know, when taxes prescribe, for example. Then, you need a page and a half to explain that tidelands people between this and there don't prescribe until after the settlement and that's the sort of thing that we think...we hope and we think you will agree with this, should not clutter the body of the constitution but needs constitutional protection as an exception until the tidelands settlement is over.

MR. LANIER

Accordingly, it would be your opinion that because of our situation with the tremendous amount of transitional measures we need to improvise here rather than follow traditional lines in order to properly do the job?

MR. TATE

Yes, sir, Walt. We have a unique constitution; we have unique problems; I think we are handling them uniquely and future generations may be thankful to us should they approve our work, the present generation, that we have eliminated so much detail from the constitution.

MR. J. JACKSON

Judge, I have prepared an amendment to the transitional provision which dealt with--and it was an oversight, it's really a technical amendment saying within certain times the Board for Southern would be appointed as the same provision that we have as it relates to the Board of Trustees and the Board of Regents. I'm just trying to determine practically. I understand that we are talking about provisions that have been adopted already. Is there some way in terms of cutting down time and not really circumventing the process because it is, in effect, a technical amendment? Would you care to suggest how I should proceed in light of what is being proposed to do with this article?

MR. TATE

All right. Representative Jackson, we are aware that a transitional thing about how to appoint a Board of Governors to the Southern system has not been provided for. So, we have just called...there would be between...should that pass, should the convention adopt that, we are reserving a place for it up in the Section 3 as a Section 4 between the L.S.U. and the State Board of Elementary Education, Board of Trustees, a place to put that and it would, of course, be a transitional measure of the nature we are talking about. You need to put it in to direct the present appointment; it could be either place actually. But, in line with the organization we've made, we would probably recommend it be placed up in Section 4 along with the other provisions, and that's

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the sort of thing, once they are appointed, it passes out; there is no use putting it up above in the main constitution.

MR. J. JACKSON

Justice, my point is I'm asking is will you give a clue as to when you feel that that ought to come up?

MR. TATE

The sooner the better, Representative Jackson, the sooner the better. As you say, it's of a technical nature; I hope they have styled and drafted it already; I think it was an oversight; the sooner the better so they can put it on the MTST, whatever they call it, if the convention approves it.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Mr. Duval, you do wish this amendment; don't you, sir?
Amendment sent up by Mr. Duval reads as follows:
Amendment No. 1. On page 1, line 15, after the words "only to" and before the word "and" delete the word "supplement" and insert in lieu thereof the word "implement".

Explanation

MR. DUVAL

Mr. Acting Chairman and fellow delegates, first I would like to say that the task of this committee is quite immense. I know the Chairperson did a very excellent job in attempting to formulate all of these provisions and to transpose them properly. I think my understanding of what a schedule is is that a schedule is to implement the provisions of the proposed new constitution. I merely suggest in this amendment that we change the word "supplement" to "implement" as I think that is really what a schedule is supposed to do. I might read you the definitions of the two words as contained in Webster's Dictionary. Supplement is defined--if I can find it--is something that completes or makes an addition; supplementary is additional. I don't think we intend to add additional provisions to the constitution. I think we intend to implement the constitution. Implement is defined as to give practical effect and to ensure actual fulfillment by concrete measures. I think that's what this schedule is supposed to do; that's how transitional matters should be dealt with. We don't want to give the effect of adding to the constitution, merely implementing the constitution. I think that best sets forth the intent of what a schedule should be and what this schedule is designed to do and would succinctly provide to the intent of this convention as to what we are intending to do in this schedule; therefore, I move the adoption of the amendment.

Questions

MRS. ZERVIGON

Mr. Duval, have you read the memo that I handed you that will be distributed to all the delegates later outlining the provisions of the '21 Constitution meant to be transposed into statute?

MR. DUVAL

I have looked at it, I don't want to say that I have digested it completely.

MRS. ZERVIGON

Well, for sure because you can't have read every section. The reason I asked this; do you think that those implement sections of this constitution?

MR. DUVAL

However we ultimately end up handling this matter, whether we specifically designate these things or not, I think certainly it's implementing... what we intend to do is to implement the intent of this convention and by deleting these from the '21 Constitution, certainly, we did not intend to abolish them from statute, and I think we would be implementing the committee report. I do not think we would be supplementing the proposed new constitution by doing it.

MR. WILLIS

Stan, I don't have the benefit of the fountain of wisdom, the dictionary. But, I understand that your argument is that by so

implementing the constitution it is necessary to do so to compliment it.

MR. DUVAL

Yes.

MR. WILLIS

And, that to supplement it would not be the complimenting of it as is contemplated by the schedule, the transition.

MR. DUVAL

I wish I would have said that.

Further Discussion

MRS. ZERVIGON

Mr. Acting Chairman and delegates, I rise in opposition to this amendment. I think there is a considerable difference between supplement and implement. I am losing my grasp on the English language. I think I would have no objection to the word "compliment", as being stuck in as Mr. Willis suggests, but there is a considerable difference between compliment and implement, as I understand it. Some of the measures in this section, especially those transposed into statutes, implement the will of the committees but do not implement the constitution. As I read these English words, "to implement the constitution" would mean that anything within the schedule that would not be considered invalid because this is an inferior article would have to be something to which you could refer to a constitutional authority for it in the form of "the legislature shall." If I can try to put that a little bit better, we are not trying to add additional subject matter to the constitution. We can supplement the constitution by law, ordinance, regulation, or just actions of citizens. But, to implement the constitution means to act pursuant to a specific mandate within that constitution and not everything contained in this article is an implementation. Perhaps, we should seriously consider using Mr. Willis' suggestion of the word "compliment." But, this is a change, fellow delegates, and I hope if you haven't read the succeeding section, that you will read them because some of them are implementations, but some of them supplement; not on the same plane; not an incorporation by reference and that's the whole point of this Section 1 to make them inferior to other articles, but they supplement rather than implement.

Questions

MR. LEIGH

Mrs. Zervigon, I'm wondering if the words "to supplement and" are necessary at all--either "supplement, implement, or compliment"? Wouldn't it be desirable to simply delete those three words "to supplement and" and leave it that it provides an orderly transition?

MRS. ZERVIGON

Mr. Leigh, I would have no objection to that; just off the top of my head, I can see no objection to it personally.

MR. LEIGH

Because, actually here we are not implementing anything, supplementing anything, or complimenting, so...

MRS. ZERVIGON

Mr. Leigh, I wish I had had your help earlier.

MR. LEIGH

I would like to, if I had time to prepare an amendment, to delete the three words altogether.

MR. DUVAL

Mr. Acting Chairman, I've been advised that an amendment will be introduced deleting the words completely, which is fine with me. So, therefore, in lieu, I will withdraw it on the condition that that amendment will be offered.

[Amendment withdrawn.]

Amendment

MR. POYNTER

All right. Delegate Perez sends up amendments, which I think have been mentioned previously.

Amendment No. 1. On page 1, line 15, delete the words "to supplement and" after the word "only". Again,

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on page 1, line 15, delete the words "to supplement and"
those three words appear after the word "only" on line 15.

Explanation

MR. PEREZ

Mr. Chairman and ladies and gentlemen, in order to avoid the problem as to whether we should use the word "supplement," "implement," or whatever. If you will read the language after the deletion of the words "to supplement and" it would read "but, only to provide for an orderly transition from the Constitution of '21," and I believe that that's sufficient. If there are no questions, I move the adoption of the amendment.

[Amendment adopted without objection.
Previous Question ordered on the
Section.]

Closing

MS. ZERVIGON

Mr. Chairman, I just want to reiterate that as I understand it, it's our agreement that we will pass this, but not lay it on the table.

[Section passed: 109-2. Motion to
reconsider pending.]

Personal Privilege

MR. GRAVEL

Mr. Acting Chairman and ladies and gentlemen of the convention, it had been my intention in connection with this proposal to offer some amendments-- I think there needs to be at least two-- to provide, if adopted by this convention, that the effective date of the proposed new constitution would be January 1, 1976, in lieu January 1, 1975, as recommended by the committee. I've asked for the opportunity on personal privilege to make this statement to you because I intend after the noon recess to ask for a suspension of the rules so that we can consider Section 25 out of order which fixes a January 1, 1975 effective date. I believe it would be appropriate for us to give consideration to the proposed change, because if instead of January 1, '75, the effective date of the constitution is going to be January 1, '76, a number of the problems that seem to be surfacing may either be resolved or can be pretermitted. Now, I want to say that this idea was not mine although since it came to me--a number of delegates have discussed this with me --had one or two that were opposed to it and one or two that are for it-- and I think it needs to be considered very carefully. Governor Edwards has authorized me to state in his behalf that he strongly recommends for many reasons--some of which I'll state to you immediately after lunch-- that we give consideration to making the effective date one year later than as provided in this committee proposal. I don't know whether it would be appropriate at this time to do it because there might be a great deal of discussion on it. But, I do believe that we should consider, regardless of what the result may be, the effective date of the proposed new constitution as the very next order of business, so to speak, with respect to this proposal because that determination can make a lot of difference as to what we do with respect to other sections of the proposal. I wanted to make that statement to you now and tell you that I do intend to make that request to the convention. I'm again saying to you, I'm doing so at the special and particular request of the governor. Thank you very much.

Announcements
[II Journal 1354-1355]

Motion

MR. GRAVEL

I move for a suspension of the rules so that immediately upon reconvening after the luncheon recess that we consider Section 25 of the proposal before you, in order to determine the sense of this convention with respect to the effective date of the proposed new constitution and at that time, I would have before the convention a proposed amendment which would make the effective date 12:01 a.m., January 1, 1976.

MR. CASEY

Mr. Gravel, it's my understanding all you need is really

a motion to pass over rather than a suspension of the rules.
Mr. Drew, you have a question?

MR. GRAVEL

Well, I'm willing to present it that way. I thought it might require a suspension of the rules that we pass over everything except Section 25 for the purpose of considering the proposed amendment that I wish to offer in regard to the effective date of the constitution.

Questions

MR. DREW

Mr. Gravel, you stated that this may resolve some of the other problems, but in effect, wouldn't by moving this effective date a year later be indicative of the fact that we would want an election next November rather than an earlier election to adopt this constitution?

MR. GRAVEL

No, sir, it would not.

MR. DREW

It would certainly allow it though, wouldn't it?

MR. GRAVEL

It would allow it, yes, sir. I think the election, as I recall, the statute says that unless the governor calls a special election prior thereto, then the election on the proposed new constitution will be held in November of this year.

MR. DREW

But, you don't agree that if we move the date back a year or a year forward that there would be an indication that there would be no necessity for an earlier election to vote on this constitution?

MR. GRAVEL

No, sir. It's my belief and understanding, Mr. Drew, that as of this time the governor probably intends to call the election for some time in April, irrespective of whether this change is made or not.

Point of Order

MR. DENNIS

Mr. Chairman, it sounds to me as if we're discussing the merits of the amendment Mr. Gravel plans to offer. As I understand, all he's moving for now is to make this special order of business immediately after the noon recess.

MR. CASEY

That's correct, Judge Dennis. You're absolutely correct. Mr. Schmitt.

MR. SCHMITT

With that reference to the Revenue, Finance and Taxation Section, in order to comply with that federal court ruling for equalization we put a section in there that stated that this new procedure of the ten percent and the fifteen percent would not go in effect for three years after the effective date of this constitution. Do you mean that this would not go into effect until 1979? Then, if that is the case, would we be mandated to have the hundred percent assessment in the meantime?

MR. CASEY

Gentlemen, let's . . . the motion is to pass over and go to Section 25. Let's restrict your questions to that.

MR. PEREZ

I move to recess for lunch, but if you want to dispose of this motion first, then I'll be glad to wait until when it's disposed of.

MS. ZERVIGON

Mr. Gravel, some of the questions that are being raised to you will be taken up in the sections that apply to them, for example, the one on assessment practices. The reason for taking up the final section first will be because the answers to those questions would be different depending on the effective date of the constitution; isn't that correct?

MR. GRAVEL

That's correct.

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MS. ZERVIGON

But, it's an entirely different question than what's going to happen in the interim because of these delayed effective dates that we've atuck in various places in the constitution, as apply to other articles; isn't that correct?

MR. GRAVEL

I think that's correct too, Ms. Zervigon. All I'm saying is that if this convention decides that the effective date will be January 1, 1976, they would. . . the convention may well have reason to evaluate this proposal and other matters in a different light. I think it is important for us to make that determination before we go into other matters.

MR. RAYBURN

Mr. Gravel, are you outlining the specific dates? Suppose we wanted to cut it six months; in the place of January we wanted it to go in effect in August. Then the only thing we can discuss is the January 1st?

MR. GRAVEL

No.

MR. RAYBURN

Any date, or we can discuss any date--the effective date, period.

MR. GRAVEL

Sure, the effective date of the constitution, yes sir. I just mentioned. . . I'm glad you mentioned that. I just mentioned what my proposed amendment would do.

MR. LANIER

Mr. Gravel, as I understand part of the reason that you're requesting this is to give the legislature an appropriate period of time within which to prepare implementing legislation to cure up, as I understand it, some of the transitional problems that we have. Is that part of the thought behind this?

MR. GRAVEL

That would be part of it, yes sir. Although there is some provision in this article for a seventy-five day legislative session, as I recall it, but that's only part of the reason. There're several reasons that I think the convention should consider; that's one of them.

MR. LANIER

With reference to that particular part, has any research been done to your knowledge as to whether or not the legislature can prospectively pass legislation which would be unconstitutional at the time that it's adopted, but would be constitutional under the new constitution?

MR. GRAVEL

Well, I don't know whether research has been done along that line or not, sir. I haven't done any, but it's certainly an area in which some research could be conducted depending upon what we do here with the whole proposal.

Point of Information

MR. ALEXANDER

The question is to the Chairman. How did you rule on the suggestion of Judge Dennis relative to discussing the merits of the anticipated amendment? We don't know exactly. . .

MR. CASEY

Reverend Alexander, what I suggested is that some of the questions were out of order. People began discussing the merits of it and really the discussion or the question should hinge on whether we're going to go with Section 25 or not. That's the whole question. . .

MR. ALEXANDER

How do you rule? Are you ruling anyone out of order who discuss the merits?

MR. CASEY

Well, let's hear the merits and then we'll rule. Okay, Reverend Alexander.

Mr. Jack, did you have a question?

MR. JACK

Mr. Gravel, what I wanted to ask in that little booklet I handed you --someone handed to me-- is that Act of 1972, I believe its Act 2 that sets up the convention that has the

clause, reading it quickly, that states the effective date of the convention. . . of the new constitution would be thirty days after the promulgation of the election results?

MR. GRAVEL

That's correct.

MR. JACK

Well, then how are we going to choose another effective date?

MR. GRAVEL

Because we can fix the official date of promulgation.

MR. JACK

Oh, we can?

MR. GRAVEL

Yes, sir.

[Motion adopted without objection.]

Point of Information

MR. AVANT

Mr. Chairman, I know the staff has much work to do. But, in view of the very important nature of the material that we're working on at this time, if it is possible without disrupting what they have to do, could we have an enrollment or engrossment or whatever you want to call it of these provisions incorporating therein such amendments as we have put on them up to this point when we come back here after lunch?

MR. CASEY

Mr. Avant, you're requesting on the transitional proposal, whatever amendments we have adopted?

MR. AVANT

Yes.

MR. CASEY

All it is is on Section 1, you want to. . .

MR. AVANT

I think I'm reasonably sure I know what it says, but I want. . .

MR. CASEY

I want to be reasonably sure that I know what. . .

MR. AVANT

I want to make sure that everybody knows what it says.

MR. POYNTER

You're just asking for a typed copy of Section 1?

MR. AVANT

That's right and for every delegate to have one if we. . .

MR. POYNTER

That's no problem.

Recess

Chairman Henry in the Chair

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

Personal Privilege

MR. GRAVEL

Mr. Chairman, ladies and gentlemen of the convention, over the noon recess, I found out that there was some misunderstanding and a lot of downright opposition to the idea of an amendment that would make the proposed constitution effective on January 1, 1976; so I want to relinquish the right, of course, that you were kind enough to accord me to go forward with an amendment, and I'm going to withdraw the amendment at this time. Thank you.

Amendment

MR. POYNTER

Delegate Perez sends up an amendment, the purpose of which we explained.

Amendment No. 1. (The copies of this, well, have just arrived up here; but this is a pretty self-explanatory amendment.)

On page 1, between lines 17 and 18, insert the following: "Part III".

Explanation

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, during the lunch hour break, there was a meeting among several of the delegates and, hopefully, we have arrived at a tentative solution to the problems as to how to handle these transitional provisions. As you know, earlier, we agreed that we would have Part I, which would be those provisions which would be bodily lifted from what we have already adopted as part of the constitution and placed into Transitional Provisions because of the fact that these provisions have only an expected limited life and will go out of existence, so to speak, in a few years. So, Part I would be those provisions which we bodily lift out of the constitution, which we have already adopted. Part II would be those provisions which would be subjected to the limitations contained in Section 1 which we have already adopted. Part III would be those provisions which would not be subjected to the limiting language of Section 1 and would be truly transitional in nature, so that the amendment that I am offering now would make, as part of Part III--that is, material which is not subjected to the limiting language of Section 1--would make it the first section of Part III. We would propose that Sections 2, Sections 3, Sections 5, Sections 6, and Sections 7, at least, would be contained in this Part III and, possibly, other sections. So, I'd be glad to answer any questions and move for the adoption of the amendment.

[Amendment adopted without objection.]

Reading of the Section

MR. POYNTER

"Section 2. References to 1921 Constitution
Section 2. Whenever reference is made in this constitution to the Constitution of 1921, it shall mean the Louisiana Constitution of 1921, as amended."

Explanation

MS. ZERVIGON

Mr. Chairman, fellow delegates, this will be a Part III section. That is to say it will not be subject to Section 1, which we've passed already. It's really only a grammatical thing so that we don't have to proofread the whole document and make sure that, every place we said Constitution of 1921, we also said as amended. It's just to clarify it for the courts. Most people believe that this will be the case, whether we set it in the constitution or not. The committee felt that it's always better to put things down in writing so that everybody knows exactly what you're trying to do. I yield to any questions, Mr. Chairman.

Questions

MR. LEIGH

Ms. Zervigon, would that become, then, Section 1 of Part III?

MS. ZERVIGON

Mr. Leigh, as I understand, what they're going to do is number the sections consecutively through 1, through 2, and through 3. So, I'm not sure what the section number will be, but it will be the first section in Part III, yes.

MR. LEIGH

I see. It will be numbered separately from those in Part II or in Part I.

MS. ZERVIGON

Well, that's a Style and Drafting matter, Mr. Leigh. I'm not exactly certain how that will be handled. But, since that doesn't have any great effect on the interpretation of the document as I understand it, it's not one of those things I found out about before I got up here, to tell you the truth.

[Previous Question ordered. Section passed: 107-0. Motion to reconsider pending.]

Reading of the Section

MR. POYNTER

The next section, Mr. Chairman, is:
"Section 3. Effect of Titles

Section 3. No title or sub-title, heading or sub-heading, marginal note, index, or table printed in or with this constitution shall be considered or construed to be a part of this constitution, but to be inserted only for convenience in reference."

Explanation

MS. ZERVIGON

Mr. Chairman and delegates, this will also be a Part III section, which means it will not be subject to the limitations that we passed in Section 1 this morning. You may well have had discussions in your committee, when you thought titles were inaccurate, about whether or not titles had the effect of law. We've said over and over again, in committees and on the floor, that titles don't have the effect of law. We're now putting it in the constitution in the same manner as the section we just passed--a kind of put-your-cards-on-the-table-and-say-exactly-what-you-mean section. I'll yield to any questions.

Let me add one additional remark. This is also going to apply, in the future, to any annotations put in by the West Publishing Co. or whoever.

Questions

MR. DUVAL

Mary, I notice you had...one question: The word "table" in here--what tables are in the proposed constitution?

MS. ZERVIGON

That's the whole point, Stan; there aren't any. So, if someone inserts one for convenience--as to we've set up the revenue sharing fund where the monies went or something like that--it wouldn't have the effect of law, but would just be to illustrate something. There are no tables in there.

MR. DUVAL

Now, this certainly doesn't refer to the, for instance, the percentages on property tax or anything like that?

MS. ZERVIGON

By no means.

Amendment

MR. POYNTER

Mr. O'Neill has sent up an amendment at this time.

On page 1, line 24, immediately after the word "or" and before the word "table" insert the word "reference".

Explanation

MR. O'NEILL

Ladies and gentlemen of the convention, I regard this as a very technical amendment. In the Revenue, Finance, and Taxation Article, in the area of property taxation, there are some percentage tables that are in that section. If you'll remember, we used numerical notations of five percent, ten percent, fifteen percent, what have you. I don't want this section to be interpreted in any way as meaning that those sections do not apply. Therefore, by suggestion of the research staff, we decided to insert "reference tables" so that there would be no way to misinterpret that those numbers are in any way not going to be part of the constitution. I simply regard this as a technical amendment. I'd appreciate your adoption.

Questions

MR. DE BLIEUX

Mr. O'Neill, I don't know whether you're acquainted with style and drafting, but I believe this would be a word that, ordinarily, they would delete, if you inserted it, because it would really have no particular significance insofar as the words. Since Ms. Zervigon said there are no tables, it would only be a table as compiled by somebody as a matter of convenience, or reference, to the constitution anyway. I think it would be

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something that, if we put it in now, they'd probably delete it if they got to it.

MR. O'NEILL

If the committee is willing to stipulate that this in no way affects those percentage tables in Revenue, Finance, and Taxation, I'd be very happy to withdraw the amendment; but there was some concern on that point.

MR. DE BLIEUX

Mr. O'Neill, Ms. Zervigon clearly stated--and I think you can recognize the fact--that this has no reference to that whatsoever. For the matter of record, there aren't any tables in the constitution.

MR. O'NEILL

Well, Senator, then I will withdraw the amendment if Ms. Zervigon said that. I didn't hear her, and I ask that the amendment be withdrawn with the stipulation that this in no way is interpreted to mean those percentage figures used in Revenue, Finance, and Taxation.

[Amendment withdrawn.]

MR. JACK

Ms. Zervigon, I don't know whether its correct--something Senator De Blieux, as I understood, said there were no tables in the constitution. So, if there are not, why do we even have the word "or table"?

MS. ZERVIGON

That's the point, Mr. Jack. If someone chooses to insert one later on, to help you in reference with your constitution, it won't have the effect of law, but will just be considered as a convenience. The same is true of an index. We haven't really compiled an index yet. There'll probably be an index one of these days, but the index won't have the force of law. That's the point.

MR. WINCHESTER

Ms. Zervigon, in your explanation, you report to laying your cards on the table. Does that cover the sixth floor of the Jefferson Parish delegation?

MS. ZERVIGON

The sixth floor? The only time I laid my cards on the table up there, I won eleven dollars; so I can't complain about that.

[Previous question ordered. Section passed: 102-0. Motion to reconsider pending.]

Reading of the Section

MR. POYNTER

Next section:

"Section 4. Inherent Power of Legislature

Section 4. The legislature shall have all powers not prohibited or denied by this constitution or by or under the constitution and laws of the United States and the absence in this constitution of a grant of power contained in the constitution hereby superseded shall not be construed as a limitation of the powers of state government."

Amendment

MR. POYNTER

Yes. I have an amendment offered by Mr. Kean, Perez, Ms. Zervigon, Mr. Conroy, and others.

The amendment reads: On page 1, delete lines 28 through 32, both inclusive, in their entirety and on page 2, delete lines 1 and 2 in their entirety.

Explanation

MS. ZERVIGON

Mr. Chairman, this section was intended to ratify the Tenth Amendment to the federal constitution--which it doesn't really need doing--because it would stand, whether we did it or not, and to say that, in the absence of a grant of power to the legislature, the legislature had the lawmaking power. But, Article III, as we adopted it, said that lawmaking power is vested in the legis-

lature, and there was some question as to what this did to the unenumerated rights of the people; so we're going to delete it. We don't think it will change the status quo at all, but rather leave things, more or less, as we've all understood them to be up to now. I yield to any questions.

[Amendment adopted without objection.]

Reading of the Section

MR. POYNTER

Next section:

"Section 5. Continuation of Actions and Rights

Section 5. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, rights or causes of action, contracts, obligations, claims, demands, titles, and rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with this constitution. All sentences as punishment for crime shall be executed according to their terms."

Explanation

MS. ZERVIGON

Mr. Chairman and fellow delegates, this section is taken out of the Florida Constitution and is standard transitional material. It will go in the Part III section and will not be subject to the limitations of Section 1. I'll yield to any questions, Mr. Chairman.

Questions

MR. DUVAL

Mary, I just want to understand your intent. I assume this is to preserve rights that are vested at the time the new constitution is adopted. Is that basically right?

MS. ZERVIGON

That's correct. "Except as modified in accordance with this constitution."

MR. DUVAL

Now, that's what I mean. That's the little phrase that I'm asking you about: "except as modified in accordance with this constitution." Does that mean that we, by this constitution, can, in your opinion, take away vested rights that were vested before the adoption of the constitution?

MS. ZERVIGON

No, sir, and the reason those words are in there is some of these are vested rights; some of them are not. For example, as I understand it, we couldn't abrogate contracts, but that we'd change certain other things that could easily not be vested rights, be rights that are not yet vested.

MR. DUVAL

So, to express your committee's intent, then, the "except as modified" only applies to those things which would not be vested rights, then?

MS. ZERVIGON

Well, we didn't intend to, nor do we think we are able to, overturn the federal constitution, no--or the jurisprudence thereunder.

MR. DUVAL

I'm talking about rights vested in under the '21 Constitution that are modified by the new constitution. If those rights are vested rights, the new constitution would not prevail, would it?

MS. ZERVIGON

You're going to have to give me an example, Stan.

MR. DUVAL

I hate to belabor the point. I'm merely wondering: if someone was granted a certain right under the '21 Constitution, and this right is now vested in that individual, and under the new constitution they would not have this right, would the right be taken away or would it remain in effect? Retirement, for example.

MS. ZERVIGON

There's an amendment coming to knock those words out, Stan.

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MR. DUVAL

Thank you. Thank you.

MR. PUGH

May I ask you whether or not, in your opinion, lines 10 and 11 of this section would mean that one could not be either be pardoned or paroled for a crime which occurred during the time of the '21 Constitution?

MS. ZERVIGON

Mr. Pugh, you're the attorney; I'm not. But, I assumed, when I read this in the Florida Constitution, that it was the term of all sentences for punishment of a crime that they were subject to the laws under which the guy was sentenced, and those laws include the laws on pardon and parole.

MR. PUGH

I'll fix an amendment.

MR. RAYBURN

Thank you, Mary. Mary, where you say there that "rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with this constitution," did the committee elaborate any on just how far-reaching that could be? In other words, if you have some rights today, and then the new constitution language modifies them, would that supersede the new constitution?

MS. ZERVIGON

No, it's not intended to.

MR. RAYBURN

Well, do you follow what I mean...

MS. ZERVIGON

I understand that there is an amendment drawn to knock it out in any case, Senator.

MR. RAYBURN

You're going to knock all of it out?

MS. ZERVIGON

No, sir. "Except as modified in accordance with this constitution" will be...there's an amendment to be offered to knock it out. In addition to that, Mr. Pugh informs me that he has an amendment drawn to lines 10 and 11. I'm not certain what his amendment does.

MR. SCHMITT

Under the new constitution, the International Trade Mart Building, specifically, will be placed upon the tax rolls. There's no specific provision for this. In the 1921 Constitution, there was a specific provision which exempted it, so they paid no ad valorem property taxes for that building or the parking garage. On your transitional matters, would this building remain ~~not~~ taxed?

MS. ZERVIGON

Jay, I think you have to read this section in concert with all the other sections. The section that continues that exemption is repealed by the first sentence of Section 10, so I don't believe that that's one of the vested rights that we're worried about protecting here. As I understand it, this mostly has to do with your rights to action in court.

MR. SCHMITT

So, you're saying it would not apply, and they would not get the exemption in the future, in your opinion?

MS. ZERVIGON

In my opinion--you're the attorney--but, in my opinion, when you read the two things together, and all other sections of the constitution are repealed, that's repealed. It's no longer the law, so you no longer have that right.

Amendment

MR. POYNTER

An amendment sent up by Delegate Conroy, joined by Delegate Duval. The amendment reads as follows:

Amendment No. 1. On page 2, line 9, after the partial word "fected" delete the remainder of the line and on line 10, delete the partial word "tion".

Explanation

MR. DUVAL

Mr. Chairman and fellow delegates, I just think this clarifies... By deleting this language, it makes the provision a lot clearer, I think. By having this phrase in there could cause a lot of problems. I think, deleting it, the purpose of the section could be accomplished with a lot more clarity. I move for the adoption of the amendment.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, I want to call your attention to a few things. We might be taking something out of here we don't want to take out. We have made a number of changes in this constitution. Do not forget that. Every-one of them modifies somebody's right, somebody's action. For instance, we've made some tax changes in this constitution that didn't exist prior to that time. We've made some changes insofar as prescriptions are concerned--for and against the state. We have waived the immunity of the state insofar as tort actions are concerned. Local government has a number of changes in it, and I'm just wondering if we might not be treading upon serious territory and have somebody stating that they still have the rights that they had under the old constitution, rather than under this new constitution, as a result of our having taken that out and inserting this particular clause as it has here now. If you're not going to delete the whole section, I certainly do not feel that you ought to delete this particular phrase out of that section. I'll just tell you that right now because that's the whole purpose of this constitution is to make some changes. You might not be making the change where you think you made them, if you delete this particular phrase. That's to tell you to check it over; then, think it over very carefully before you delete that particular phrase.

[Previous Question ordered.]

Closing

MR. DUVAL

Let me explain, briefly, what the purpose of this amendment is. Anyone having rights which the courts would declare to be vested rights, under the '21 Constitution, their rights would not be taken away--if these rights vest prior to the adoption of this constitution--is all it's saying. I don't think you'll have any problem in taxes or anything like that. I think that's handled further on here. I think it'll just protect those people who relied on the '21 Constitution and their rights that are vested prior to that time. After the new constitution, other changes, in my opinion, will come into play.

Questions

MR. DE BLIEUX

Mr. Duval, if this constitution did not change any of those rights, how could they be affected?

MR. DUVAL

It changes all vested rights, Senator De Blieux, which accrue after the adoption of this constitution--would be governed by the new constitution. I'm merely saying those rights which are determined as vested rights--such as rights of contract--would not be abrogated if they accrue prior to the adoption of the new constitution.

MR. DE BLIEUX

I just think you're getting on serious territory there.

MR. DUVAL

Well, I think it's real serious territory if you leave this in there.

MR. AVANT

Stanwood, this thing refers to suits and proceedings and prosecutions and judgments and sentences and all those type of things. If you leave this language in here that you want to take out, isn't it a fact that any kind of judicial proceeding or an appeal or a suit or a criminal prosecution that was in effect and going on at the time the constitution became effective--the new constitution became effective--you have to go back and start all over again with all of those procedures? Isn't that right?

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MR. DUVAL
That's the whole point of the amendment.

[Amendment adopted viva voce.]

Amendment

MR. POYNTER
The amendment sent up reads as follows:
On page 2, at the end of line 11 delete the period and add a comma and the following: "Subject, however, to the provisions relative to pardon, parole, and commutation of sentence existing at the time this section becomes effective."

Explanation

MR. PUGH
Mr. Chairman, fellow delegates, this is in response to the inquiry I made of the author of this section of this committee proposal earlier. I'm of the opinion that unless we are going to adopt an amendment of this nature, that it would be impossible for one to get a pardon, a parole, or a commutation of sentence after the effective date of this constitution. I ask your consideration and that you vote favorably on the amendment.

Questions

MR. DENNIS
My question was directed to the Clerk. Did I understand you to put a semicolon in there somewhere; it didn't sound like it ought to be one?

MR. POYNTER
I think you're right. My last grammar course would put me... instead it seemed like to me that the semicolon probably should go after "terms", and it should be semicolon "subject" comma "however". I think that's probably.... Do you want me to make that change, Mr. Pugh?

MR. PUGH
Yes, may I withdraw it and have you make the change, and then refile it?

MR. POYNTER
All right. I believe that Style and Drafting, I know, is looking over all of this anyway so--this, I guess, is what Judge Tate is going to mention--so if we miss a few of these, they can pick them up.

MR. ABRAHAM
If I remember the language correctly, it says "subject to the provisions of this section?" Would you explain to me what you mean by saying "section", or do you mean subject to the provisions of this new constitution?

MR. PUGH
It should say "constitution." I'm sorry, Mack, you're absolutely correct.

MR. TATE
Mr. Chairman, if Mr. Pugh--who missed the discussion early this morning--Section 1...this shall no longer be limited, I guess, by Section 1 which says in effect "subject to the preceding portions of the constitution." But I was there when the transitional people were discussing this, and the thing is it's automatically subject to the new provisions that have to do with pardon and parole. That was why they did not think you needed a clarifying amendment, for what it's worth.

MR. AVANT
Bob, I'm going to tell you something, and then I'm going to ask you a question. My question is going to be: Point out to me where I'm wrong. I think that your amendment is doing just exactly what we don't want to do and what you don't want to do and the reason you said you offered the amendment. I'll tell you why. You say "subject, however, to the provisions relating to commutation, pardon, and parole in effect at the time this constitution becomes effective." That's the way your amendment reads.

MR. PUGH
My amendment was when this proposal becomes effective.

MR. AVANT
Well, this proposal or whatever you want to call it. We've got a man that's sitting in the penitentiary serving a life sentence for murder. When this constitution becomes effective, he hasn't been up there but just two days; he just started serving his sentence. He won't become eligible for parole until the new parole procedures and the new board has been appointed and all of that. There's not going to be any machinery to give him a pardon or parole in accordance with the procedures that were in effect at the time this constitution became effective, so you're really going to be fixing him where he can never be pardoned or paroled. Now, tell me why I'm wrong.

MR. PUGH
Well, I don't know how he would not be entitled to the rights relative to pardon, parole, and commutation of sentence, which were in existence at the time that he was sentenced. I don't know how you can avoid that now.

MR. AVANT
Well, I really hate to get up here and talk about something when I haven't seen it, but I thought your amendment said "subject to the procedures..."

MR. PUGH
Provisions is what I said.

MR. AVANT
Provisions, well, the provisions are, to me, mean: how is the Parole Board constituted? Who sits on it? And all of that. The ones that were in effect at the time this constitution becomes effective is going to be dead and gone and forgot about by the time he becomes eligible for pardon, parole, commutation of sentence; so how's he ever going to get one?

MR. PUGH
How is he going to be deprived of any greater right he may have had in existence at the time he was sentenced? Are you telling me all his rights are going to be greater under the new constitution than they would have been...

MR. AVANT
Well, I'm telling you this that I don't think your amendment is necessary. I think that anybody with ordinary common sense would interpret this to mean that if a man's in the penitentiary and he went there before these provisions in the new constitution became effective and he became eligible for parole at a later date after the new Parole Board was in, that the new Parole Board could pardon him in accordance with the procedures that exist at the time he becomes eligible. That's what I think.

MR. PUGH
Well, I protest to falling in whatever category you just put me in because to me it's explicitly clear that he must serve in accordance with his time--period, and that the new laws won't be applicable to him because he's got to serve based on what he was given. But, in the interest of saving time for the convention, I withdraw the amendment.

[Amendment withdrawn. Previous Question ordered. Section passed: 104-2. Motion to reconsider pending.]

Reading of the Section

MR. POYNTER
"Section 6. Protection of Existing Taxes
Section 6. All taxes, penalties, fines, and forfeitures owing to the state or any political subdivision levied and collectible under the Constitution of 1921 and valid laws enacted thereunder shall inure to the entity entitled thereto. The provisions of this constitution shall not be construed or applied in such a manner as to invalidate taxes levied or authorized under the Constitution of 1921."

Explanation

MRS. ZERVIGON
The first sentence of this Section 6 which will be in Part III was taken from the Florida Constitution and says in essence if there is a lien on your property or you have back taxes due, just because we have a new constitution, don't think you're forgiven that debt. The second sentence came...are combined wordings of similar sections in the local government provision and in the

revenue, finance and taxation provision just to make certain that everyone knew that validly authorized or levied taxes will continue to be authorized under this constitution. If you'll recall what we've done in the way of taxes in this constitution, as far as levying or authorizing them, if you'll think over them in your mind, we really haven't made any changes. The problem is that there are some scholars who think that under a new constitution you really have a new government, and everything under the prior constitution, which is the prior government, lapses. This just makes it clear to bond attorneys, bondholders that would be serviced by certain taxes, local governmental authorities that used to be able to levy certain taxes, and to the state that they are entitled to levy the taxes they are now entitled to levy. You'll notice we put "levied or authorized" because in certain other sections we continued authority to levy taxes not yet levied. There are certain blanket authorities to levy up to a certain number of mills, for example. Some subdivisions have taken advantage of it all the way up to the hilt, and others--partly because of the difference in assessment practices from locality to locality--have not. We intended to continue a valid levy as well as a valid authorization. Let me say one more thing to quiet a fear that someone raised to me. Maintenance millages, for example, that are levied under certain terms, for ten years, and to serve as a certain particular plant or property would be continued to be levied under those terms. It says so in prior articles of the constitution, and this does not contradict that. I yield to any questions, Mr. Chairman.

Questions

MR. ROEMER

Are you referring to the type of taxes--whether it be ad valorem or whatever--levied in the local manner? Is that what that sentence addresses itself to? I really don't understand the sentence, and I'm trying to find a meaning for it in your explanation. What happens if we didn't have the sentence there, for example?

MRS. ZERVIGON

What happens if we didn't have the sentence there, for example, is the millages such as the three mills that is constitutionally authorized to be levied in New Orleans to pay special bonuses at the end of the year to fire and police would not have a constitutional authority, while we've continued all special taxes earlier on. What this does is to reiterate that so that anyone who's worried about how those taxes are going to be levied in the interim may look here and find it here as well. In my personal opinion, if you withdrew it, it wouldn't have a whole lot of legal effect but the problem is it might have some psychological effect on the people who want to be reassured that they have the same rights that they used to have to levy and collect taxes.

MR. ROEMER

Well, I'm worried about its legal effect, however. What about some of these taxes that we might not have ratified in this new constitution specifically? This sentence to my mind takes all of the tax authorization and levying powers under the old 1921 Constitution and just continues them.

MRS. ZERVIGON

Mr. Roemer, I can't think of one that we have reduced. So, what's the need for this. To say that they haven't been reduced, to say that that isn't what we meant, to say that what we meant to do is not to cut anybody's financial base in any way, shape, or form, that they may continue to have the same operating and capital funds as they have had up to now. Every time we specifically continued a tax, we specifically continued the authorizations for its levy and imposition in case there was not one that we continued specifically. This is a general authorization for their continuance. If you can think of a case in which we really meant to cut the tax base some place, in which we really meant to discontinue a levy or an authorization for a tax, I would accept an amendment for that particular tax. What I'm concerned about is the reverse case. If we really meant to continue them as they are, which is what I understood from the floor debate on revenue, finance and taxation, and local and parochial government and the Educational Article, then I think we ought to say so, so that those people don't get all uptight and excited about what the new constitution will do to their finances.

MR. ROEMER

Well, I don't know how much research your committee did on

this problem. It seems to be a very important problem, and you can't give me any examples, nor I you, of what you're trying to correct here. But, what about the case where the authorization might be in the '21 Constitution and the authorization in this constitution, and the authorization might be for different amounts. You say that nothing done here is going to invalidate the authorization in 1921. I mean, I can just see all kinds of problems with that sort of thing where you don't know any specifics.

MRS. ZERVIGON

I'm talking about the authority to levy, not specific amounts, but the authority to levy a particular kind of tax. For example, school boards all over the state are authorized to levy sales taxes. Some of them have levied them and some of them have not. We're not trying to tell the school boards that they must now go to a vote of the people for that sales tax because they're already authorized to levy them. We want to continue the authority for those school boards to levy those taxes. This does that.

MR. ROEMER

What about the alimony tax situation? Did we change that at all?

MRS. ZERVIGON

What we did is in our article mention the four and seven mills and five for Jackson Parish, and in your article say that you may roll it up to take care of the amount of money you used to receive, plus you may roll up your authorization. It was an amendment by you, as I understand it, in order to continue the same authorization... authority but unlevied as you had had in the past--the same proportionment.

MR. ROEMER

Mary, just for the record on this debate, the thing that bothers me in particular are the alimony taxes wherein they have specific millages mentioned in the 1921 Constitution. You know we mentioned specific millages in our proposed constitution but we made them subject to the roll forward and rollback provisions of the amendment that I drew and the convention adopted. What bothers me is that where you have a specific millage in 1921 and a rollback in, say, 1976 and the rollback puts the millage below the 1921 alimony amount, then these bodies might point to the 1921 Constitution in this sentence and claim they still have the right to levy all of those mills, and that's what bothers me.

MRS. ZERVIGON

This was not intended to increase or decrease revenues, but to keep things stable so that it wasn't intended that that four mills be stuck in there in such a way that they would get either less or more in the way of revenue. When the committee adopted this section, remember it was all subject to Section 1. We are now setting up a new Part III, and it will be in that Part III to make sure that the taxes, penalties, fines, owing, and all that sort of thing is a continuation of the past and is not subject to everything else because those penalties, fines, forfeitures, and all that sort of thing could be in conflict to a certain extent in that they're not mentioned earlier in the constitution. This was Mr. Conroy's, I believe...

MR. ROEMER

Well, are you telling me that my fears are unfounded here?

MRS. ZERVIGON

I'm telling you that the intention... your fears are unfounded because the intention of the committee was for this to be read in concert with your report. In fact it was my recollection that it was taken directly out of Committee Proposal No. 26. If the words have been changed, then that's my error, but I thought I had taken it directly out of Committee Proposal No. 26. I meant it to carry on exactly your intention in your committee--in your report as adopted by the floor.

MR. JENKINS

Mary, if you look at Section 11, I think you'll see the general rule with regard to laws which are in effect now and which we think may or may not be in effect after the effective date of this constitution. The rule is that laws which were constitutional when enacted and are not inconsistent with this constitution remain in effect. But, isn't what the second sentence in Section 6 says is: that a law levying a tax which was constitutional when enacted and which is unconstitutional now stays in effect. Isn't that what that says?

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MRS. ZERVIGON

Mr. Jenkins, I think you're misreading it entirely.

MR. JENKINS

Doesn't it say that this constitution shall not be construed in such a manner to invalidate taxes which were levied validly under the 1921 Constitution? Isn't the only way that could be held...

MRS. ZERVIGON

The word "validly" is not in there. It was my understanding that either you or Mr. Avant was going to draw an amendment to stick the word "validly" in there just to cover a case in which something was unconstitutionally levied.

MR. JENKINS

Well, forget I said that word, but what I'm saying is the only way that a tax could be ruled invalid, which was in effect before the effective date of this constitution, is if it was inconsistent with this new constitution; isn't it?

MRS. ZERVIGON

No. That's not so because what we're doing is continuing certain sections, if you'll remember, in Section 9 of this Article, repealing everything else. It is not our intention to repeal certain levies which may be the sources of revenue for certain districts, localities for the state, for its political subdivisions, for its agencies; that was not our intention when we went to repeal everything else. One of the reasons that not every single one of those sections is continued in Section 9 in the committee reports, is that those taxes are being ratified here.

Amendment

MR. POYNTER

Mr. Jenkins sends up amendments. We don't have distribution copies but it's similar to the one that Mr. Avant had which copies were passed out but just phrased a little bit differently--same effect.

On page 2, at the end of line 16, delete the words "The provi-" and delete lines 17 through 19, both inclusive, in their entirety. Take out the last sentence.

Explanation

MR. JENKINS

Delegates, as the Clerk just said, this simply deletes the second sentence in Section 6. That's the only thing that it does. The general rule with regard to the effectiveness of laws, which are now valid, is that they continue in effect and continue to be valid if they're not inconsistent with the new constitution. Now, that view is expressed in Section 11--11 (A)--where it says "laws in force on the effective date of this constitution which were constitutional when enacted and are not inconsistent with this constitution shall remain in effect." However, that's not what the second sentence in Section 6 says. That sentence says that a law levying a tax which was constitutional when levied, when enacted, but which is now unconstitutional under the new constitution would continue in effect anyway. Well, that's clearly inconsistent with Section 11. Certainly, any tax levied ought to be consistent with the new constitution so that's why I ask that this sentence be deleted.

Questions

MRS. ZERVIGON

Mr. Jenkins, it's not your idea to repeal any taxes or cut the tax base; it's just your idea that this particular problem is taken care of in other places in the constitution; is that correct?

MR. JENKINS

That's correct.

MRS. ZERVIGON

Thank you very much.

MR. AVANT

Mr. Jenkins, I guess this is more or less just for the record. I agree with you, generally speaking, only one exception that disturbs me--and this is for the record. I'm thinking of a tax that was validly levied under the Constitution of 1921 and has been pledged or whatever you want to call it as security for some specific obligation or bond of a local governmental subdivision or somebody else. I wouldn't want to do anything that would come along and, if for some reason that we're not even aware of right

now, maybe that tax wouldn't be a valid tax under this new document. Now, I wouldn't want to do anything that would jeopardize those bonds because those people bought those bonds based upon the promise that they would be secured by that particular tax. Now, if you take that out that we're fixing to take out, wouldn't it still be the intent of the whole document that under Section 7 nevertheless if that tax had been pledged to secure some specific obligation, it would have to stay in effect until that obligation had been discharged?

MR. JENKINS

Well, first I don't know of any such case, and I don't think we have any taxes that are valid now that will be invalid under the new constitution. I think that under Section 7 clearly any bondholder would be entitled to compensation for those bonds, but I can't tell you unequivocally that some court might not find that some tax now in effect is not unconstitutional under the new constitution. I don't know of any; I can't contemplate any, but I can't unequivocally tell you that. I think that if there is such a tax unconstitutional under the new constitution just as any other law which is unconstitutional under the new constitution, it has got to be declared unconstitutional.

MR. AVANT

Even though it had been pledged to secure a specific obligation?

MR. JENKINS

I don't think that would be relevant to the constitutionality of it.

MR. ROEMER

Woody, I agree with the amendment. I think it's particularly apropos if one were to study the provisions of the roll forward and rollback section of this new constitution wherein even constitutionally dedicated or set millages are going to have to be changed at some time in the future as a result of reappraisal. I think this sentence would really tie us up in litigation for a long time so I support this amendment.

MR. JENKINS

I think it could lead to tax increases because of that rollback and roll forward...

MR. ROEMER

Exactly. I can see the local government sticking with the high millage and not want to roll it back at all.

MR. SCHMITT

Mr. Jenkins, would this take care of the problem with reference to a parish which has a fifteen mill tax and because of the rollback it would only be necessary to have a five mill tax to take care of the same or to create the same amount of revenues, and that the parish subsequent to that time would not have the automatic right to increase it to fifteen mills without a vote of the people? Would your amendment take care of that problem?

MR. JENKINS

Well, Jay, frankly I don't know that it would take care of every aspect of it, but I feel that this sentence...if we don't take this sentence out, it could certainly contribute to that injustice that you're talking about; so I want to be sure that we take that out. We still may have left the door open somewhere else, I don't know, but I think that by taking it out will help alleviate the chances of that.

MR. RAYBURN

Mr. Jenkins, under the question that Mr. Avant asked you, wouldn't that be covered in Section 5 where it says..."civil or criminal liability, prosecutions, judgments, sentence... obligations, claims or existing contracts"? Wouldn't that take care of any prior bond obligation? I'm a little concerned like Mr. Avant is, but I think that language is plain enough to take care of any obligations or contracts.

MR. JENKINS

I think that under 5 and 7 also that clearly any person that was due a debt by the state would not in any way have his rights divested or harmed.

MR. RAYBURN

Now, let me ask you one more question. Under...we have a lot of taxes that are today levied under the 1921 Constitution. In the event that the assessments would go up and you would want to roll back some, with this particular language in here, could

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you roll back the millage? I guess you could roll the millage back, but the existing tax would remain in effect whether you needed all that amount or not.

[Motion adopted without objection.]

MR. JENKINS

Well, that's what we fear and that's why we need to take it out.

MR. RAYBURN

Well, what about where some bond issues are passed and you levy additional millages to service the bonds and sometimes you have to increase it or decrease it; could you do that with this provision left in here?

MR. JENKINS

I just don't know, Senator. I'm not sure what effect that would have in that circumstance.

Further Discussion

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, because of all of the questions that have been raised with regard to the second sentence of this particular section, I would concur in the amendment by Mr. Jenkins. I believe that what we've done in our Local Government Article and also our Revenue Article was to ratify those various taxes. I think that this is just unnecessary verbiage and makes real problems in people's minds. So, therefore, if there are no other questions, I'd move the question on the amendment and urge your adoption.

MR. LANIER

Mr. Perez, for primarily the sake of the record, if this language were deleted, what effect, if any, would be had upon taxes which are authorized, but not imposed, i.e.-- suppose a district had authorized a five mill maintenance tax but was only using three or say the police jury was authorized to levy two mills inside of a municipality for road maintenance but was only utilizing one?

MR. PEREZ

Well, it's my appreciation in the Local Government Article that we ratified all taxes, not those just being imposed. Unfortunately, I don't have it with me, but I'm reasonably well satisfied that what we did in Local Government would give you the authority to impose those additional taxes if you had that authority.

[Previous Question ordered. Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 111-0. Motion to reconsider pending.]

Reading of the Section

MR. POYNTER

"Section 7. Impairment of Debt Obligations Prohibited
Section 7. Nothing in this constitution shall be construed or applied in such a manner as to impair the obligation, validity, or security of any bonds or other debt obligations authorized under the Constitution of 1921."

Explanation

MS. ZERVIGON

Mr. Chairman, it says clearly in Act 2 which created us that we may not impair debts. This just says constitutionally that we have not intended to impair any debts, . . . have not impaired any debts and nothing may be construed or applied in that manner. Since I understand Mr. Duval has no questions, I urge your adoption of this section.

[Previous Question ordered. Section passed: 111-0. Motion to reconsider pending.]

Motion

MS. ZERVIGON

Mr. Chairman, at this point I'd like to move that we pass over all sections until Section 12 . . . and consider Section 12 next.

Reading of the Section

MR. POYNTER

"Section 12. Constitution Not Retroactive
Section 12. Except as otherwise specifically provided in this constitution, this constitution shall not be retroactive and shall not create any right or liability which did not exist under the Constitution of 1921 based upon actions or matters occurring prior to the effective date of this constitution."
There is an amendment to go in immediately prior to line 8, between lines 7 and 8 which would make this a portion of Part III.

Explanation

MS. ZERVIGON

Mr. Chairman and delegates, this is a standard provision from all transition schedules that I've read except for one provision and that is, the first line "except as otherwise specifically provided in this constitution." We put that in to cover the case, if you'll remember, we've authorized survivors' benefits to the widows of certain people who had not been authorized to receive them before. It covered about seventeen people as I understand from the author of the amendment, Mr. Velazquez. One of them was the widow of the cadet shot by the Howard Johnson's sniper who had not been eligible for benefits because her husband had not been a policeman at the time, but a cadet. Other than that, it's absolutely standard language and we intend for this to go in Part III of the schedule.

Amendment

MR. POYNTER

I have an amendment sent up by Mr. Casey, Lanier, Tate, Flory, Avant, and many others.

On page 5, between lines 7 and 8 insert the language: "PART III".

I asked them not to run the distribution copies. What it does is between lines 7 and 8 insert the language, "PART III," which would then have the effect, of course, of putting that said Section 12 in Part III as Mr. Perez has previously explained.

[Amendment adopted without objection.]

Questions

MR. DENNERY

Mary, what happens to the waiver of immunity provision? Suppose the cause of action . . . suppose somebody had a right of action against the State of Louisiana that occurred before the effective date of the constitution; could they then file a suit without getting a special waiver from the legislature since you say there's nothing retroactive here?

MS. ZERVIGON

Mr. Dennery, I'm not sure I fully understand your question, but I believe we've taken care of it in two other places. If Section 5 doesn't cover it, we've specifically said later on in Section 23 of this, Mr. Dennery . . . in Section 23 of this we've specifically said that those procedures that you operated under before for suits against the state remain active.

MR. DENNERY

In other words, it's clear that it is not retroactive then?

MR. HENRY

Any other questions?

MR. DENNERY

Because it shall apply only to a cause of action arising after the effective date of this constitution. Now, is that the intention?

MS. ZERVIGON

Maybe, I'm not understanding your question.

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MR. DENNERY

Well, my question is, suppose you have a contract with the state that's in effect on the date on which the constitution becomes effective?

MS. ZERVIGON

A contract.

MR. DENNERY

Either a contract or the state's run into your automobile. Now, at the present time you have to get permission to sue. You're not going to have to get permission to sue after the constitution becomes effective. Now, apparently, or based upon this present section plus Section 23, it's the committee's idea that that right to sue does not change by virtue of the adoption of the constitution for anything that occurred before the constitution was adopted. I just want to be sure what it means.

MS. ZERVIGON

Mr. Dennery, may I tell you what we did intend to do and perhaps our inference you can figure out what it doesn't do because I believe you're getting over my head on this. What we intended is that we have a rather more extensive Bill of Rights for example than we had in the '21 Constitution. We have an equal protection clause, for example. What we intended was that you may not say someone violated equal protection of the laws section to the '73 Constitution as it applied for me in 1955, and I may therefore sue. We're saying things like that begin again, that the Bill of Rights becomes effective when it becomes effective and only for acts occurring after it becomes effective. Does that answer your question, Mr. Dennery?

[Previous Question ordered. Section passed: 112-0. Motion to reconsider pending.]

Reading of the Section

MR. POYNTER

"Section 13. Legislative Provisions

Section 13. (A) President of the Senate. The lieutenant governor in office on the effective date of this constitution shall continue to serve as president of the Senate until his term expires in 1976.

(B) First Session. The provisions of Article III of this constitution shall become effective for the first session of the legislature to be held in 1975. However, in 1976, the legislature shall convene in regular session at twelve o'clock noon on the second Monday in May, at which time the members elected at the statewide election in 1976 shall take office; otherwise the legislature shall conduct that session as provided in Article III of this constitution."

[Motion to waive reading of the Section adopted without objection.]

Explanation

MS. ZERVIGON

Now, can I explain it?

This was to effectuate the provisions of Article III, the Legislative Section. By in large it was reported out of the Committee on Legislative Powers and Functions to the Committee on which I am Chairman, and we stuck it in here as reported out although we did a little bit of styling. So, if there are questions to be answered or defenses to be made, I've asked each substantive committee chairman to either speak on the section or appoint someone to speak in his place. I haven't asked Senator Blair who that person is, but I yield to that person whoever it is.

Questions

MR. ABRAHAM

Mary, if I understood, now we put this Part III, I believe, above Section 12; is that right? Now, is Section 13 going to still be in Part III?

MS. ZERVIGON

Yes, it is.

MR. ABRAHAM

. . . or does that go back in one of the other parts?

MS. ZERVIGON

No. It's going to be in Section 3--- Part III, excuse me.

MR. ABRAHAM

You say that the Committee on the Legislative Branch--- that these various dates and things like that are as recommended by that committee, is that right?

MS. ZERVIGON

That's correct.

MR. DENNERY

Mary, merely in order to let the Style and Drafting people get at this, is there any reason why you did not say the Constitution of '21 as amended?

MS. ZERVIGON

No, Mr. Dennery, we stuck that as amended section in Section 2 of this article if you'll remember, just so we didn't have to proofread everything; we were getting kind of tired. One further note to the Style and Drafting Committee, I had an amendment, but apparently it hasn't been drawn yet. The Section (8) was intended to apply to the first session of the legislature to be held in 1975 and each session thereafter. The exception for the '76 session of the legislature was only on date of convening, so as not to show it in the terms of the legislators in that session.

Amendment

MR. POYNTER

Amendment reads as follows: On page 5, line 22, delete the period "." and add the following: "and each session thereafter."

Explanation

MS. ZERVIGON

Just to do what I just told you.

[Amendment adopted without objection.]

Questions

MR. CASEY

Mary, just for the record and to clarify the reason for Paragraph (D) on the bottom of page 5, Legislative Reapportionment, that paragraph was included merely to indicate that the legislature has already been reapportioned subsequent to the decennial census taken in 1970, that no further reapportionment is necessary until after the returns are promulgated resulting from the 1980 census. Is that correct?

MS. ZERVIGON

That's correct, Mr. Casey.

MR. CASEY

That's the intention of that paragraph?

MS. ZERVIGON

Just to clarify that point.

MR. CANNON

Ms. Zervigon, the question I have would be related to a power which would be granted under the constitution if approved by the voters. Let's assume the election is held in April, as was alluded to this morning, and the legislature should meet in its May session of 1974 and pass a law granting a power to become effective at this future date coinciding with the effective date of this Constitution, January 1, 1975. Was this taken into consideration as being legal and proper that they could do this in the granting of a power, particularly one which they may not

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have the power to do under the Constitution of 1921, that they could possibly do this in the May, '74 legislature?

MS. ZERVIGON

It's always hard to answer an "iffy" question like that, Mr. Cannon, but let me put it to you this way. As I understand it, we'll be operating under the 1921 Constitution until the minute the 1973 Constitution takes effect.

MR. POYNTER

One minute after midnight.

MS. ZERVIGON

So that if the legislature wanted to grant a power that they're not now empowered to grant, I can't understand exactly what that power would be, but supposing there were such an animal, it seems to me that they would have to put a delayed effective date in that law . . .

MR. CANNON

. . . in the law . . .

MS. ZERVIGON

. . . to coincide with the delayed effective date in this constitution. Or, they could put off acting and not do it until the constitution was in effect. That's what, if I were a legislator I'd do, because it sure is easier to understand that way.

MR. CANNON

Right. But, they could do this with legal effect, put it postdated effect -- to the law.

MS. ZERVIGON

As I understand it in the same way that they can pass laws contingent on a constitutional amendment-- then put that constitutional amendment on the ballot, and if that constitutional amendment is ratified, that enabling legislation goes into effect. They could do it in the same way because after all a new constitution is the biggest constitutional amendment of them all.

MR. CANNON

Right. Thank you.

MS. ZERVIGON

Okay.

MR. CANNON

Bless you, Mary Z.

MR. DENNERY

Mary, how does that answer gee with Section 11, which says laws enforced on the effective date which were constitutional when enacted and are not inconsistent shall remain valid? In other words, it would seem to me that the two theories are inconsistent; are they not?

MS. ZERVIGON

I think not, Mr. Dennery, because I think that law with the delayed effective date in it would not be enforced at that time, and would become enforced on ratification by the people, and then the going into effect of this constitution. But, aside from that, Mr. Dennery, I can't conceive of a case in which the legislature has the power to grant something that they don't have the power to grant now.

[Previous Question ordered. Section passed: 113-0. Motion to reconsider pending.]

Reading of the Section

[Motion to waive reading of the Section adopted without objection.]

MR. POYNTER

Next section:
"Section 14. Deletion of Obsolete Schedule Items
Section 14. The legislature by law may delete . . ."

Amendment

MR. POYNTER

Mr. Kean, Jenkins, Casey, Lanier, Tate, Flory and others send an amendment which reads as follows:
Amendment No. 1. On page 6, delete lines 5 through 11, both inclusive, in their entirety.

Explanation

MS. ZERVIGON

Yes. There was some concern about this sort of judgment being exercised by the legislature over this document. I think it has no particular effect that these things remain in the printed constitution even after they have been implemented, so I have no objection to the amendment; as you can see, I'm a co-author.

[Amendment adopted without objection.]

Reading of the Section

MR. POYNTER

Next section:
"Section 15. Judiciary Commission

Section 15. The members of the judiciary commission in office on the effective date of this constitution shall serve until the expiration of their terms. Within thirty days after the effective date of this constitution, the additional two citizen members shall be selected as required by Article V, Section 24. A lawyer member, as thereby required, shall be selected to succeed the judge of a court of record other than a court of appeal whose term as a member of the commission first expires. Thereafter, when a vacancy occurs, the successor to the position shall be selected in accordance with Article V, Section 24."

Explanation

MS. ZERVIGON

Yea. This was inserted at the request of the Judiciary Committee in order to provide an orderly transition between the Judiciary Commission, as composed in the past, and as it would be composed in the future after the effective date of this constitution. I'll yield to Judge Dennis, if he'd like to explain it further. It will be a Part III Section. I move the adoption of the section, Mr. Chairman.

[Previous Question ordered. Section passed: 109-0. Motion to reconsider pending. Motion to take Section 19 out of its regular order adopted without objection.]

Reading of the Section

MR. POYNTER

The next section is Section 19 on Statewide Elected Officials.
"Section 19. Officials elected statewide in 1976 under terms of the new constitution shall take office in May of that year. Thereafter, statewide elected officials shall take office in March as provided in the new constitution."

Explanation

MRS. ZERVIGON

We've passed over Sections 16, 17 and 18 because hopefully it will go in the Part II section that will be subject to the Section 1 we passed earlier today. This Section 19 is to provide for the orderly transition in such a manner as not to cut short the terms of any statewide elected incumbent, but to provide that the people elected for the following terms will be sworn in at the old date of the swearing in, and then from then on the new date in March that we have provided earlier in the constitution we'll obtain.

Questions

MR. ABRAHAM

Mary, I know the intent is to take office on the same date that they have been taking office, but here we only say "in May." Do we need to be a little bit more specific there?

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MRS. ZERVIGON

I have an amendment prepared for that, I understand.

Amendment

MR. POYNTER

The first one's sent up by Delegates Lanier, Tate, Flory, Avant, Conroy, Perez and others.

On page 17, lines 12 and 13, insert the following:

"PART III"

Add "PART III" immediately before this section.

Explanation

MR. LANIER

Mr. Chairman, fellow delegates, the purpose of this amendment is to show that this section is designed to be in the Part III that we previously discussed, and unless there are any questions about this, I'd move the adoption of the amendment.

Questions

MR. DE BLIEUX

Yes, I thought we had inserted "PART III" previously, to go ahead of those other sections that we had on page 1.

MR. LANIER

We've got some potential PART II's in between the other PART III, so this is to specifically designate that this is going to be a PART III section, so that Style and Drafting will consolidate them all under one heading later on.

MR. DE BLIEUX

The reason I asked that question, Mr. Lanier, I just thought it might be better that if we leave the exact placing of these parts to Style and Drafting when they give this back to us.

MR. LANIER

Well, they'll have to consolidate them under one heading. I think we've already got two PART III's already, and this is to show that this is intended to go in PART III because we've had three other sections that we've passed over that will probably be PART II sections. So, this is to make that absolutely clear.

Further Discussion

MRS. ZERVIGON

In amplification of that answer, Senator De Blieux, the distinction between the PART II sections and the PART III sections is the PART II sections are subject to Section 1 that says "nothing is construed or applied to invalidate earlier sections of the constitution." This date of swearing in clearly invalidates an earlier section of the constitution which says "all statewide elected officials will be sworn in in March." We're saying for this one particular set the date is May, and then, we go to March.

[Amendment adopted without objection.]

Questions

MR. RAYBURN

Mary, I know this was brought out as a part legislative. I'm just, for the record, was anything mentioned about the retirement for statewide elected officials? I think we can take care of that with an act. But, under these provisions, our present retirement systems are set up on twelve, sixteen, and twenty years. Well, a person with twelve years service... I mean with eight years service, when he got... if he stayed there long enough and got sixteen, he'd have fifteen years and ten months service under this because he's going in March in the place of May, which would cut the existing fellow's time two months, for statewide officers.

MRS. ZERVIGON

This was discussed at length in the committee. We felt

we had to have this section in because Act 2 forbids us from shortening anyone's term, and the legislators who were on the committee felt certain that they could pass an act that would say that for only for these officials that would be sworn in on that particular day and would be lacking a couple of months of investing in a retirement system or something like that, they've got a ten-month year that was the first year of their term, could be considered as a full year for the purposes of a retirement system. The legislators could see nothing in conflict with the constitution and no political problems involved in such an act.

Amendment

MR. POYNTER

I don't have distribution copies, but I do have the amendment.

It's sent up by Mrs. Zervigon, Avant, Conroy, Perez, Kean, and others.

The amendment reads as follows:

On page 7, delete lines 13 through 17, both inclusive in their entirety and insert in lieu thereof the following:

"Section 19. Statewide Elected Officials

Section 19. Officials elected statewide in 1976 under the provisions of this constitution shall take office on the second Monday in May of that year. Thereafter, statewide elected officials shall take office on the second Monday in March as provided in this constitution."

Explanation

MRS. ZERVIGON

Mr. Chairman, this just clarifies the language as I assured Mr. Abraham we would. It changes the word "terms" in line 14 to "provisions" and specified exactly when in May they're going to take office. I move its adoption.

[Amendment adopted without objection. Previous Question ordered. Section passed: 113-0. Motion to reconsider pending. Motion to pass over Section 20 adopted without objection.]

Reading of the Section

MR. POYNTER

"Section 21. Pardon Board

Section 21. Until a pardon board is appointed under the terms of this constitution, the lieutenant governor, attorney general, and presiding judge of the sentencing court shall continue to serve as a board of pardons."

Vice Chairman Roy in the Chair

Explanation

MRS. ZERVIGON

If you'll remember in the Executive Department Article, we established a pardon board of five citizens, not members of the Pardon Board by virtue of their office. Until that is set up, and those people are appointed by the governor, this continues the present Pardon Board in office so that their work can continue to be done. I'll yield to any questions, Mr. Chairman.

[Previous Question ordered. Section passed: 109-0. Motion to reconsider pending.]

Reading of the Section

MR. POYNTER

"Section 22. Levee Districts; Compensation for Property

Section 22. The provisions of Article XVI, Section 6 of the Constitution of 1921 shall be continued as a statute, subject to change by the legislature, and the amount of compensation therein required to be paid for property used or destroyed for levee or levee drainage purposes shall be paid as provided in Section 6 of Article XVI of the Constitution of 1921 until the legislature enacts a law to effectuate Article VI, Section 43 of this constitution."

Delegate Reeves in the Chair

Explanation

MR. LANIER

Mr. Chairman and fellow delegates, if you refer to Section 43 as adopted by local government, you will see that we made a major change in the law with reference to the compensation paid for the exercise of the riparian servitude. The present law is that you're paid the assessed value for the last preceding year. What we have done is provided that in the future, after the effective date of this constitution, that the legislature shall have the right to determine what compensation should be paid. Because of the fact that the present provisions for compensation are constitutional rather than statutory, the Committee on Local and Parochial Government felt that a special transitional schedule provision was necessary to insure and make certain that we did not have an hiatus in our law during the period of time between the effective date of the new constitution and such time as the legislature in its wisdom may act in fixing the amount of compensation. So, we provided this provision that says that the present law as stated in the 1921 Constitution, that is, that the landowner would be paid the assessed evaluation for the last preceding year, will remain in effect until such time as the legislature acts. Now, if we did not have such a provision, it is the feeling of the Committee on Local and Parochial Government that an argument could be made that since the constitution provides that the compensation will be as provided by the legislature, and that since here in this convention we are physically lifting the provisions of Article XVI, Section 6 out and transporting them to the statutes, that this is not in fact a legislature fixing the compensation and therefore, such a provision would not be valid without a special schedule provision showing our intention to do this. This is the reason to do this so that no one will be unnecessarily hurt during the transitional period between such time as the constitution goes into effect and the legislature acts. Now, if there is a special session of the legislature that does enact such a law prior to the time that we had the effective date, then, of course, that law will take effect on the effective date, and there would be no necessity for such a transitional provision as this. But, in the absence of such action if we do not provide this, it is the feeling of many of us that we will have an hiatus in the law, and persons whose property is exercised by the riparian servitude, if the servitude is used on their property, may be in a position where they cannot get anything for the use of their land; and this is a situation we thought should be avoided. If there are any questions, Mr. Chairman, I'd be glad to try and answer them.

Questions

MR. JENKINS

Mr. Lanier, Article XVI, Section 6 of the 1921 Constitution provides, does it not, that land appropriated for levee or levee drainage purposes shall be paid for at the assessed value?

MR. LANIER

"Lands actually used or destroyed for levees or levee drainage purposes" I believe, are about the words.

MR. JENKINS

So, in other words, if a person has a tract of land and it's assessed under the new constitution properly he would be paid about ten percent of its fair market value; is that not correct?

MR. LANIER

I'm told from the floor by one of the members of Revenue, Finance and Taxation that that will not go into effect for three years, that the present law...of course, as you know, Mr. Jenkins, the riparian servitude is a servitude in favor of the state and its political subdivisions that attaches at the time that the land is separated from the sovereign, and without a constitutional provision providing for some type of compensation, then no compensation would be due because the compensation has been interpreted by both the United States and state Supreme Courts as being a gratuity and unless there was constitutional authority, you would be in violation of the present Article IV, Section 12.

MR. JENKINS

But, did we not provide in Article VI, Section 43 of this constitution that the legislature could provide for...

MR. LANIER

They could have full compensation if they wish, and I think

your point is well taken on that since the taxation thing will go in, in three years it will behoove the legislature to act within that period of time if they feel that additional compensation is due to these people under the circumstances. As you will recall in the debate, one of the reasons we left it up to the legislature is because there are very serious problems with reference to the ability that some of these levee districts could pay, and they may need some type of state funding which only the legislature could provide in order to take care of this type of a thing.

MR. JENKINS

Did we not provide at that time, though, that the persons whose property would be appropriated would be paid at least the amount presently provided in the old constitution?

MR. LANIER

I do not believe so. It says this, Mr. Jenkins.

The present provision...I had the first enrollment. This isn't the way it came out of Style and Drafting, but it says, "Notwithstanding any other provision of this constitution," which of course was to negate the Article IV, Section 12 "lands and improvements thereon and hereafter actually used or destroyed for levees, for levee drainage purposes, shall be paid for as provided by law," and provided clearly nothing contained in this paragraph with respect to compensation for lands and improvements shall apply to bature or to property the control of which is vested in the state or any political subdivision thereof for the purpose of commerce. Now, I don't have it as it was styled. This is the first enrolled version but it's in substance, that provision.

If there are no further questions, Mr. Chairman, I would move the adoption of the section.

[Previous Question ordered on the Section. Section passed: 116-0. Motion to reconsider pending. Motion to consider Section 20 previously passed over adopted without objection.]

Chairman Henry in the Chair

Reading of the Section

MR. POYNTER

"Section 20. Commissioner of Elections

Section 20. The commissioner of elections, as provided by Article IV, first elected under this constitution shall be elected to take office in 1976. The custodian of voting machines in office on the effective date of this constitution shall continue to exercise the functions of that office, without change, until the expiration of his term."

Explanation

MRS. ZERVIGON

Mr. Chairman and delegates, if you'll remember, in the immediately preceding section, Section 19, we took care of the problem that we couldn't shorten the term of any incumbents. But, with the custodian of voting machines, we had a dual problem. We couldn't shorten his term, but we had abolished the office in favor of the commissioner of elections. Section 20 makes certain that the present custodian of voting machines serves the full extent of his term, and that the commissioner of elections is then sworn in with the new duties assigned to him by the article on the Executive Department. I'll yield to any questions.

Questions

MR. ABRAHAM

Mary, would this let the custodian of voting machines take on the additional duties that have been assigned to the commissioner of elections, or would his duties remain essentially as they are now?

MRS. ZERVIGON

They will remain as they are now, as I understand it. The reason for that being that when the people elected a custodian of voting machines, they elected him for the duties of the office of custodian of voting machines. The people will then have a

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field of candidates who are running for the office of commissioner of elections with the additional duties, and may judge the candidates on that basis. We don't have to do it that way, as I understand it, pursuant to Act 2, this was a policy decision by the committee. But, it was decided to continue to offer it as is because the people voted on the candidates on that basis.

MR. ABRAHAM

On line 23, when we refer to the function of that office, that office means the officer of custodian of voting machines and not commissioner of elections. Is that correct?

MRS. ZERVIGON

That's correct. Out of all this, it accomplishes this purpose without change.

MR. DE BLIEUX

Mrs. Zervigon, didn't the commissioner of elections have a duty and responsibility as given to him under the Election Code which we mandate the legislature to enact?

MRS. ZERVIGON

If memory serves me correctly, he does to some extent, but he has one additional function. I don't know what it is. Oh, that's right. It's to administer that code which hasn't yet been enacted. But, that wasn't the reason we did it that way. The reason we did it that way was because the people had judged the candidates for a certain office on the basis of the duties of the office as described at that time.

MR. HENRY

Any other questions?
Mr. Clerk, do we have amendments?

MR. POYNTER

I don't have any at the desk, but...Mr. Kelly...
Mr. Kelly, do you have more amendments?
I just wanted to make sure.

[Previous Question ordered. Section passed: 112-1. Motion to reconsider pending. Motion to take Section 24 out of its regular order adopted without objection.]

Reading of the Section

MR. POYNTER

"Section 23. Suits Against the State; Effective Date
Section 23. Provisions of Article III, Section 14. . .
I'm sorry. You want to skip and go to Section 24.
"Section 24. Tax Schedule.
Section 24. (A) Property Taxes. The provisions of Article X of the Constitution of 1921 relating to ad valorem property taxes shall remain in effect until the provisions on that subject contained in Article XI of this constitution take effect as provided in said Article XI.
(B) The provisions of Article XI of the Constitution of 1921 shall be continued as a statute until the legislature enacts the law required by Article XI, Section 1 (contained in Delegate Proposal No. 16) of this constitution, but the amount of the exemption shall be fifteen thousand dollars in value until otherwise fixed by law."

Explanation

MRS. ZERVIGON

Mr. Chairman and delegates, Section (A) is to tell us what to do between the here and the there because of the delayed effective date contained in Committee Proposal No. 26 with regard to implementation of the property tax provisions. If we don't say what happens between the effective date of the constitution and the effective date of the new provisions of that article, we don't really know what sort of rules we're operating under. This is to tell us as the '21 Constitution obtains in the interim.
Section (B) relates to Mr. Alario's proposal of the other day on the homestead exemptions from seizure. With other statutes that we wanted to remain in effect, we just said this statute shall continue. The present statute on the subject of homestead exemptions from seizure contains the figure of four thousand dollars in it. It was the feeling of the committee that it was the clear consensus of the convention that the figure be at least fifteen

thousand dollars. So, this continues the procedures, but makes the amount at least fifteen thousand dollars, pursuant to the will of the convention.

I yield to any questions, Mr. Chairman.

Questions

MR. STAGG

. . .do with article. . .Section (B) has to do with Article IX, Section 1, which is. . .has to do with the ad valorem taxes, not the exemptions from seizure.

MRS. ZERVIGON

Mr. Stagg, if you will look, you've got two Article IX, Section 1's, because there was an entirely separate delegate proposal in there. Style and Drafting, I imagine, will renumber those sections after awhile, and at that time we'll delete the reference to the Delegate Proposal No. 16.

MR. DUVAL

Mary, first off, I've got a Roman numeral XI, Article XI, in mine. Is that what you're referring to?

MRS. ZERVIGON

You're right; I just don't read pretty good.

MR. DUVAL

Now, the other question: lines 23 and 24 of Section 24, "the exemption shall be fifteen thousand dollars in value unless otherwise provided by law," that, of course, means at least fifteen thousand dollars, does it not?

MRS. ZERVIGON

That's right.

MR. DUVAL

Thank you.

MRS. ZERVIGON

In further explanation, Mr. Duval, let me say that they couldn't set another figure, except by law, and they would have to go up.

[Previous Question ordered. Section passed: 110-1. Motion to reconsider pending.]

Reading of the Section

MR. POYNTER

"Section 25. Effective Date
Section 25. This constitution shall become effective at twelve o'clock midnight on January 1, 1975. The secretary of state shall promulgate the results of the election on the thirtieth day prior thereto; however, he shall announce the results of the election within thirty days after the date of election at which the constitution is submitted to the people."

Explanation

MRS. ZERVIGON

Mr. Chairman and delegates, this is the delayed effective date of which Mr. Gravel spoke earlier. It was the feeling of the committee that it might take several months for the people, once they had passed this constitution, to get accustomed to what the provisions are and what the effects would be on them, especially elected or appointed officials and public bodies. So, we put this delayed effective date in here. There is, in Act 2, an effective date of a sort saying that the constitution will become effective thirty days after the secretary of state promulgates the returns. The secretary of state wanted some sort of direction as to when he should promulgate the returns. That's a difficult date to set, exactly, because we don't know when the governor is going to call the election. So, what we have asked in this section is that he announce the results early and promulgate the returns before thirty days before midnight, January 1, 1975. But, the main purpose of this section is to have a delayed effective date. If you will recall, we have delayed effective dates throughout the constitution-- the property tax is the one that immediately comes to mind--for certain sections, and therefore, we were certain that we could do it for the whole constitution. What would happen is that this section would come into effect, first, setting

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the date at which the rest of the constitution would come into effect.

Questions

MR. AVANT

Mrs. Zervigon, to me the phrase "twelve o'clock midnight on January 1, 1975" means that all of January 1, 1975 has elapsed and you are now moving into the second of January, 1975.

MRS. ZERVIGON

That's correct.

MR. AVANT

Is that the intent that all of New Year's Day will not be covered by this constitution, but beginning with the first moment on the second of January it will be covered? Is that the intent?

MRS. ZERVIGON

Yes sir, that's the intent. It was our feeling that there isn't a whole lot of business of government that's conducted on that day, in any case. But, Mr. Gravel, I understand, is going to introduce an amendment that will give the delegates a choice between New Year's Eve and New Year's Night.

MR. AVANT

I just wanted to know what it meant. I really don't care what it means other than wanting to know what it means.

MR. O'NEILL

Mary, we've provided that there are going to be five public service commissioners when this constitution takes effect. If it takes effect on December 31 or January 1, 1975, then the election will only be for three public service commissioners. It will remain as three until probably what--1980? Have you dealt with that or thought about that?

MRS. ZERVIGON

Well, those commissioners have overlapping terms so that you're really only going to have one election this fall. It was our feeling that there was no way that an election could be called, the results promulgated, the districts drawn and then the election for a public service commissioner called all in the same summer. If you will remember, the last time we were in this chamber Mr. Jenkins computed the very first date at which the constitution could possibly come into effect, and it was the middle of the legislative session of '74 which made it confusing in the extreme. So, if we have a section in here-- I can't find it right now, Mr. O'Neill, but I'm certain that you can--that deals with the legislature setting up the up to two districts and saying how the election shall be called and when and what will be the length of the first two terms since that board is made up of members with overlapping terms--Section 18, I'm informed.

MR. TATE

Mr. Chairman, Mrs. Zervigon, as I understand your Section 18 in the transitional measures, it provides that in the next session right after the effective date, be it extraordinary or regular, the legislature will divide the state into five single-member districts. I guess you mean "by law," as a Style and Drafting problem. But, anyway, and that in other words, the five-man Public Service Commission will come in right after the effective date of the new constitution, but that the three members elected under the old constitution will just serve for their terms. But, that won't prevent the immediate creation of the new five-man Public Service Commission as required by this constitution. Is that right, if that's a question?

MRS. ZERVIGON

That's correct, as I understand you. The only thing I'll point out is that we haven't passed that section yet, so that if Mr. O'Neill feels strongly enough that it's out of kilter with what he wants, he could draw an amendment at this time.

MR. DUVAL

Mrs. Zervigon, I'm just trying to get something straight, here. Do you think that in any way the delayed time for the constitution coming into effect could be in violation of Act 2?

MRS. ZERVIGON

I think not, Mr. Duval. The act sets out in Section 4 three specific prohibitions. The other parts of the act, as

I understand it, are not prohibitions, but just a suggestion for mechanics for us. Mr. Tobias has drawn an amendment to the entire article, which I assume he still intends to submit, which says, "Nothing shall be construed to be in violation of Act 2 except for that Section 4 of Act 2 with its specific prohibitions." Those would still stand. His concern was that our working in committee in the six months when recess as a full body was mandated in Act 2 might be considered much farther on as an abrogation of Act 2. So, it's been done in other states. Ordinarily the way the section reads is to say: "Nothing in this constitution may be read as an abrogation of anything in the act." We decided to keep in the prohibitions against us just so that the elected officials incumbent in office right now would know we're not out to get them.

MR. DUVAL

Well, the point I bring out is that the election, or Act 2 provides--I'm looking on page 10 of the printed copy--"the election shall be held and the results shall be promulgated under the general election laws of the state." What I'm wondering is: that isn't it so that under the general election laws of the state a law becomes effective so many days after promulgation? Isn't that right?

MRS. ZERVIGON

I'm really not certain. We drew this up at the secretary of state's request and more or less in his language. To tell you the truth, being a trusting person, it never occurred to me to go and read the election code to find out if the secretary of state knew what was in it or not.

MR. DUVAL

But, in essence, though, you're telling me that these things have been checked out and the officials have rendered opinions to you that this would be in conformance with the election laws and Act 2?

MRS. ZERVIGON

Yes sir. Yes.

MR. TATE

Mrs. Zervigon, I thought I understood the Secretary of State, Wade Martin's, law saying that the general election law doesn't require a particular time in which this type of election would be promulgated--the returns--and therefore, I think I understand it to say that what this convention decides when the secretary of state shall promulgate the election returns will be governing. You don't have to. . . Is that correct, Mrs. Zervigon, and don't be too honest?

MRS. ZERVIGON

Judge Tate, all I can tell you is that we put this in at the request of the secretary of state. I've never heard a word of criticism of his knowing his job, and we assumed that he knew what he was talking about.

MR. TATE

Did you know that on everybody's desk is a letter of January 18, 1974 from the secretary of state to the attorney general that tells his opinion?

MRS. ZERVIGON

I think most everybody in this chamber knows that I don't know what's on my desk, and I can't understand your question. If it invalidates this section, I suggest you draw an amendment to it.

MR. TATE

No, Mrs. Zervigon, those were two friendly questions.

MRS. ZERVIGON

I couldn't understand you.

MR. SCHMITT

Would it be possible for us to pass over this, based upon the letter which we've just received, I guess within the last hour or so, from the secretary of state and see whether or not what we're doing right now is in conformity with his request?

Have you read the letter?

MRS. ZERVIGON

I think the most efficacious thing to do will be to pass this section and leave it pending as we have the others. If we find that we've done violence to the secretary of state's wishes--it was our intention to carry out the secretary of state's wishes--

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we will redraw it so that we carry out the secretary of state's wishes and pass it again.

MR. SCHMITT

It's not so much a question of wishes as what is legal. I think he raises the question, the same question that was raised back here, that perhaps it does have to go into effect thirty days after the date of the election or promulgation. . .

MRS. ZERVIGON

As I've said before, I don't think the secretary of state has any illegal wishes.

MR. FONTENOT

I have just one question, Mr. Chairman.

Mary, as I read this section, this "twelve o'clock midnight on January 1, 1975," that would have the effect, if we adopt this, of stretching a previous section that we had adopted in the Revenue, Finance and Taxation Article concerning the reassessment of property. We have the effective date of this reassessment procedure effective January 1 of the year following the end of three years after the effective date of this constitution. Well, that one day we're playing with right now has the effect of shifting this reassessment procedure a whole year. Now, was that the intent of this Section 25?

MRS. ZERVIGON

Mr. Fontenot, I imagine that's the reason Mr. Gravel has drawn his amendment to change it to December 31, 1974.

MR. FONTENOT

Okay. I just wanted that clarified.

Amendments

MR. POYNTER

Yes. Mr. Gravel sends up amendments.

Amendment No. 1. On page 8, line 27, after the word "on" and before the period "." delete "January 1, 1975" and insert in lieu thereof "December 31, 1974".

Amendment No. 2. On page 8, line 28, after the word "election" and before the word "on" insert "by publication in the official state journal".

Explanation

MR. GRAVEL

Mr. Chairman and ladies and gentlemen of the convention, Act 2, under which we've been operating, specifically provides in Section 9 (C) that the constitution shall become effective at "twelve o'clock midnight on the thirtieth day after the date on which the secretary of state promulgates the results of the election." I think this poses two problems, one of which should be easy, I think, to resolve, and the other one might be attended by some difficulty. I think not only in view of this statute, but also because of what the secretary of state, himself, has indicated, it's going to be up to us to make sure that we provide for an effective date of the constitution by designating when and how the promulgation shall be officially made with respect to the results of the election. I don't know if the proposed amendment that I have--there are two amendments--has yet reached your desk, but Amendment No. 2, in effect, would say that the secretary of state shall publish in the official state journal thirty days before midnight, December 31, 1974, the result of the elections. By the adoption of Amendment No. 2, then, you would be providing for promulgation. If the first amendment that I propose is also adopted, you would make the effective date of the constitution at midnight, December 31, 1974. Now, I realize that some problem exists as to whether or not we make the effective date midnight, December 31, 1974, or midnight, January 1, 1975. If we exercise the latter. . .

Mr. Chairman, that's all I have to say except that the governor has authorized me to say that the administration block can vote its conscience on Amendment No. 1.

Questions

MR. CONROY

Mr. Gravel, earlier, a question was raised about the effect of the effective date on the provision on ad valorem taxes. Presently, that provides that the change in ad valorem taxes would take effect January 1 of the year following the end of three years after the effective date of this constitution." Now, as I understand it, one of the purposes and effects of

your amendment would be to insure that the changeover in ad valorem tax procedures would become effective January 1, 1978. Is that correct?

MR. GRAVEL

That's correct; yes sir.

MR. TOBIAS

Mr. Gravel--take a look over this direction--what I want to know is: what is the definition of midnight? In other words, is midnight tonight on January 18 or January 19?

MR. GRAVEL

I'm not sure that I know, but I think midnight is the last moment of one day and the first moment of the other, if he can. . . I'm just not sure. I can't give you that definition.

MR. TOBIAS

Well, if that's the. . . assuming that it was, if midnight tonight is January 18, then why is it most airplanes leave at either 11:59 or 12:01 a.m.?

MR. GRAVEL

I really don't know, Mr. Tobias.

MR. BOLLINGER

I don't necessarily understand the purpose of your second amendment. Why, or is it normal, that the secretary of state promulgate the returns of an election in the official journal?

MR. GRAVEL

No, not necessarily, but I think it is important that we designate when and how the official promulgation takes place because it's the only way that I believe we can establish an effective date, under the language of Act 2. Unfortunately, that language says that the effective date of the constitution shall be "at midnight on the thirtieth day after promulgation." So, I think we have to do it this way in order to insure a certainty as to the effective date. That's the purpose of it.

MR. GOLDMAN

Mr. Chairman, I hope you don't bowl me out for wasting time, but you know, we could resolve this midnight thing very easily by acceding to the Jewish way of determining the next day. It's after sundown, the day before becomes the next day.

MR. GRAVEL

Mr. Goldman should have been around when we wrote the statute. We might could have handled it at that time, but we can't do it now--that's the problem--at least without being contrary to the provisions of the statute, Mr. Schmitt.

MR. CASEY

We're over here, Mr. Gravel.

I guess this question is more or less for the record. I have some difficulty with Amendment No. 1 in that certain elective offices--which you and I know we've already discussed--I have some hesitation about voting for Amendment No. 1 because certain elective offices, I think, take effect and people will run for election prior to, let's say, January 1, 1975. They'll go through the democratic primaries and the final election and what not, and will take office on that particular day. The problem that I see that can arise and probably will cause some litigation is: do they take office under the new constitution or statutes--if they are removed from the constitution to the statute--or is that office recognized and acknowledged or still in effect under the old constitution? Do they take office under the old constitution? You see the problem that we have.

MR. GRAVEL

Well, I think it's the purpose and intent and the hope of this amendment--and I realize that there are some problems--to make sure that the new constitution goes into effect at the very, very first moment of January 1, 1975. I think we are responding, here, to the mandate of the statute, and I think it would be clear that if Amendment No. 1 was so adopted with that statement that the effective date would then be so interpreted. I realize, Mr. Casey, whichever way we go we have some problem. But the purpose of this amendment is to make this constitution go into effect at the very first moment of January 1, 1975.

MR. CASEY

Don't you agree, Mr. Gravel, that if people run for office,

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are elected, and then must take office on January 1, that legally, under a legal interpretation, I think there would be no question that they would take office on January 1. If Amendment No. 1 was not adopted, under the old constitution there'd be no legal question about it. What would happen, though, if your Amendment No. 1 is adopted, what do they take office under--the new constitution or the old constitution?

MR. GRAVEL

Well, the only way I can answer that is that the purpose and intent of this amendment is to make this document effective at the very first moment of January 1, 1975 and would depend upon, you know, the wording of the old constitution as to whether or not that date was significant or not. I just don't know.

MR. CASEY

Well, is it more important that the document go into effect at midnight on the thirty-first, or midnight on the first?

MR. GRAVEL

Well, I think it's more important to me, and I think it would be more correct to make it midnight on the thirty-first.

Mr. Chairman, I think that the amendment is divisible--that is, the proposal is divisible--and that we should vote on the amendments separately because I do think that we're talking about two different things there. Some people do have a problem with Amendment No. 1, and I don't think too many people have any objection to the idea of . . .

MR. HENRY

All right. The amendment is divisible.

Further Discussion

MR. DE BLIEUX

Mr. Chairman, and ladies and gentlemen of the convention, I rise in support of Mr. Gravel's amendment, and I'm sure that when you go back home and you start talking to your business people, other people who make tax returns, ad valorem taxes and so forth, you're going to find out that there's one day--adding one day on to a year, because that's what you're doing, and taking off a day--that's going to make a tremendous amount of difference. Usually, we conduct our affairs on a fiscal year basis or a calendar year basis. The calendar year begins at midnight on January 1...that is, it begins midnight of December 31, right after that of 12:01. That's when it begins. So, I just would like to suggest to you that you adopt this amendment because I think, otherwise, you're going to create some mighty chaotic conditions for a while until we get this straightened out for that particular year in which this constitution goes into effect. I think we'll have a whole lot less advantage; and if there's a some problem that we ought to correct, let's put an exception for that particular problem. Let's don't mess up everybody else by trying to protect that one particular problem.

[Previous Question ordered.]

Closing

MR. GRAVEL

I'll just take one moment to say that it's very heartening to come to this stage of the convention and find out that the administration bloc has stuck together. Both of us are going to vote for Amendment No. 1. Thank you.

[Division of the Question ordered.
Amendment No. 1 adopted: 101-8.
Motion to reconsider tabled. Amend-
ment No. 2 reread and adopted:
109-2. Motion to reconsider tabled.
Previous Question ordered. Section
passed: 113-0. Motion to reconsider
pending. Motion to waive reading
of Section 26 adopted without objec-
tion.]

Amendment

MR. POYNTER

Mr. Flory, Avant, Conroy and others.

Amendment No. 1. On page 9, delete lines 1 through 6, both inclusive in their entirety.

Explanation

MRS. ZERVIGON

It deletes the section. The only purpose for the section was to allow the extraordinary session of the legislature to last for a longer period than extraordinary sessions may ordinarily last. What we've decided is to allow the governor to call the legislature into session more than once if it's necessary, but not to mandate a special session should they be able to dispose of their business at a regular session or in one ordinary...extraordinary session of ordinary length.

[Amendment adopted without objection.
Motion to revert to Section 8 adopted
without objection.]

Reading of the Section

MR. POYNTER

"Section 8. Existing Officials " I might say there is an amendment to provide on page 2, between lines 24 and 25, to insert "PART II"; there'll be an amendment to do that just before this section.

"Section 8. Existing Officials.

A person holding an office by election shall continue to exercise his powers and duties until his office is abolished, his successor takes office, or the office is vacated, as provided by law. A person holding an office by appointment shall continue to exercise his powers and duties until his office is abolished, his term ends, or he is removed or replaced under the provisions of this constitution or by law. Each public body shall continue to exercise its powers and duties until changed as provided by this constitution or by law."

Explanation

MRS. ZERVIGON

Mr. Chairman and delegates, we've finished the easy, quick part of our work for today, and now we're starting to get into the tough stuff. I urge you to read 8, 9, and 10 together, although we have a very substantive amendment coming to 10, it's very important that you read 8 and 9 together. The committee had a rather difficult problem to approach, and several different ways it could go. We could either say that everything not specifically retained in the old constitution was repealed. We could say that everything not specifically repealed in the old constitution was continued. We could say that certain ones were continued or certain ones were repealed. We chose the approach of continuing as statutes certain sections as recommended by the substantive committees that appear in Section 9, repealing everything else. But, in order to assure continuity, and in order to conform with that part of Act 2 that says we may not shorten the terms of any elected or appointed officials, we drew Section 8 from the Michigan Transitional Schedule. In essence, what it says is, "you all keep on doing what you've been doing till somebody stops you." This is not meant to contravene anything in the other articles. We are now beginning the consideration of the Section 2 sections...excuse me, PART II, that will all be subservient to the articles that we've debated so long on the floor. So, if an elected official, appointive official, or public body springs into your mind whose duties we've changed in the main body of the constitution, that change will remain in effect. It's not our intention to affect that in any way, but only to continue those duties not mentioned in the constitution. There's quite a bit of detail on the duties of various public bodies that's been repealed, and therefore, we took this section from the Michigan Constitution to make clear that these people could continue to act as they had been acting pursuant to present law if it wasn't specifically changed by the old constitution. I'll yield to any question, Mr. Chairman.

Amendment

MR. POYNTER

I have that amendment I mentioned sent up by Judge Tate, Flory and others.

On page 2 between line 24 and 25 insert the following:

"PART II"

It comes just before 8.

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Explanation

MRS. ZERVIGON

This is, as I mentioned, to make Section 8 follow the limitations of Section 1, which we passed earlier in the day, to make certain that we're not reopening substantive issues in this schedule provision. I'll yield to any questions.

[Amendment adopted without objection. Previous Question ordered. Section passed: 112-0. Motion to reconsider pending.]

Reading of the Section

MR. POYNTER

"Section 9. Provisions of 1921 Constitution Made Statutory Section 9. (A) Provisions Continued as Statutes. Subject to change by law or as otherwise provided in this constitution, and except as any of them conflicts with this constitution, the following provisions of the Constitution of 1921 are continued as statutes, but restricted to the same effect as on the effective date of this constitution:

Now, it begins to enumerate in a series here ...

MR. HENRY

Mr. Flory moves to dispense with the further reading of the section because of all the numbers.

What we'll do if it meets with your approval, we'll take these things sort of item by item and let the Clerk read Item No. 1 and give you an idea of what's in there. We'll discuss, after, any amendments and so forth. I think it'd be more orderly to approach it in that manner. So, if you will, proceed, Mr. Clerk.

MR. POYNTER

First item under (A) is Article V, Sections 2, 7, 18, 20, and 21. As you can tell if you've got your sheet there before you from the staff memorandum, this affects Section 2, governor, lieutenant governor, executive power, terms of elections; the salary of the acting governor; constitutional officers, election terms, vacancy, etc.; salaries of constitutional officers, fees and expenses; and commissions and formalities.

The next one affects..the next item is Item No. 2, affecting various sections in present Article VI, including the Wildlife and Fisheries Commission, the Forestry Commission, Department of Conservation, etc.; 11.1, Mosquito Abatement District; 19, State Highways and Bridges Construction and Maintenance; 19.2, Board of Highways, Director, Powers, Duties, and Functions; 19.3, Beautification of Highways; 19.4, Board of Highways; 26, Department of Revenue, the Auditor and State Printing Board; 27, Lake Pontchartrain; 28, Liquefied Petroleum Gas Commission; 31, Ouachita Port Commission. Also, 32, both, Caddo, Bossier Parishes Port Commission; 33, Lake Providence Port Commission; a series of other port commissions, Avoyelle, Rapides; and finally, 39, Authority of the Governor to Obtain Reports and Information. All of that contained in Item No. 2.

Amendment

MR. POYNTER

...Sent up by Miss Perkins and Mr. Conroy. We have one, I believe; only Mr. Conroy on 2; none on 3, so far.

At this time, Mr. Conroy is going to move to revert back to Item No. 1 of this enumeration. He does have an amendment that's been passed out.

Vice Chairman Casey in the Chair

[Motion to revert to Item No. 1 adopted without objection.]

MR. POYNTER

Yes. Now, we're back to Item No. 1.

Amendment No. 1. On page 3, delete line 11 and insert in lieu thereof the following:--I'm sorry. This is the Conroy-Perez-Zervigon-Kean, etc. Amendment--page 3, delete line 11 and insert in lieu thereof the following:

"1. Article V, Sections 2, 7, 9, 18, 20, and 21."

[Amendment reread.]

Explanation

MR. CONROY

This is probably not the best one to start off with in an area that's bound to be confusing. But, during the lunch recess there were a number of us who got together and, working with the staff, have tried to get the numbers coordinated. I've worked with Mrs. Zervigon also to try to get...to be sure that we got all of the numbers in here that anyone suggested was important to continue in effect as a statute. In that process, there was one committee---I think it was the Executive Committee---which at some point or another had suggested that Article V, Section 9 should be continued in effect as a statute. In looking at Article V, Section 9, I must confess that I'm not quite sure why, but that was picked up from the tabulations we ran. The only effect of this amendment is to add Article V, Section 9 in the list.

Questions

MR. D'GEROLAMO

David, what is Section 9? What does it cover?

MR. CONROY

Well, as a matter of fact, what it says in full, Mr. D'Gerolamo--and that's why I said I don't know why it was picked up and suggested that it be carried forward---it says, "in the event of a vacancy in the office of the lieutenant governor for any cause, the president pro tem of the Senate shall discharge the duties of the lieutenant governor and receive the emoluments of that office." Now, I assume that the Executive Branch Committee recommended this, but if they didn't, I wish that they would say so, one way or another on this point.

MR. ABRAHAM

I'm just trying to check, but if I remember correctly, Section 9 is, in effect, superseded by the new Article IV, Section 15. I'm looking at my reference chart here. But, it is not intended that this be continued as a statute.

MR. CONROY

If that is the case, then I would ask leave to withdraw this amendment, because that's the only ...

[Amendment withdrawn.]

Questions

MR. BOLLINGER

Mary, it would seem to me that Article V, Sections 18 and 20 are rather obsolete in that Section 18 refers to the comptroller and the register of state lands which was deleted. Section 20 refers to the compensation which as in that section says "it shall be five thousand dollars per annum," which I think everyone agrees is obsolete. What was the intention of including this from the scheduled provisions?

MRS. ZERVIGON

Mr. Bollinger, as you know, we were a procedural committee and didn't change the recommendations as they came from the Substantive Committee. Mr. Abraham, as I understand, was the Chairman of the Subcommittee on Transition of the Executive Department Committee, and I yield to him for an explanation. Mack, you want to explain why you stuck all of those in?

MR. ABRAHAM

.....contains the office of the register of the land office, we felt that that had to be continued by statute. Section 18 also refers to the register of the state land office. If I remember correctly, that was the primary reason why we had to keep these in effect as statutes.

MR. BOLLINGER

Mack, if we are going to adopt this as a scheduled provision, then the legislature is going to have to go back and reword these articles to bring them up-to-date; is that correct, as far as the state comptroller, for instance?

MR. ABRAHAM

That's right, the statutes will have to be amended.

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MRS. ZERVIGON

May I amplify and answer that's only partially true because if you will look at lines 9 and 10 on page 3, they are continued as statutes but restricted to the same effect as on the effective date of this constitution. So, insofar as they have salaries which have been subject to change by the legislature and the legislature has changed those salaries, the new salaries are in effect. But, insofar as they contain an office which would not exist if they weren't transposed into the statutes and that is not in conflict with the new constitution, then that part of the statute would stand.

MR. AVANT

But, that's the question I was going to ask, because it would appear to me that if you reenacted this thing as a statute and the people voted and approved the constitution with this schedule in it and said that this provision here is a statute that then you could cut them back to five thousand dollars because their salary has been changed under other provisions of the '21 Constitution. My specific question is: It was the intent of the language when you say "but restricted to the same effect as on the effective date of this constitution," that that not happen and if there is any other statutory or other material that varied this language in any way in the present law that then that's what it will be; is that right?

MRS. ZERVIGON

That's correct; it was worded very carefully just to take care of that case because we had a problem in that we didn't feel we could pick sections... sentences from sections and say we are going to continue the first sentence but not the second sentence or something like that, we had to do the whole section but only insofar as it is in effect on the effective date of the constitution.

MR. JENKINS

Mary, I know I've asked you this a number of times in private before and I just want to ask you one more time for the record. Can't we leave all of this to the legislature and allow the legislature to come back in the upcoming session and enact the same materials so that time can be devoted and study can be devoted to making sure that what we are doing is up-to-date and correct other than trying to enact literally scores of statutes in a matter of a couple of hours.

MRS. ZERVIGON

Well, Mr. Jenkins, to some extent you are saying that we are trying to enact scores of statutes in a matter of hours as if we are going to change the status quo to some extent is inaccurate. What we are trying to do is continue agencies that need to be continued that are not authorized presently in the statutes or only partially described in the statutes. The legislature can then, at its leisure, comb through, delete, amend, change, repeal. But, with these particular statutes, we thought we needed to continue them, in effect, in the same extent to which they are in effect on the effective date of the constitution. We've repealed by Section 10 a heck of a lot more than we have continued in Section 9, asked the committees to select what was to be continued as statutory material. But, for example, there should be an office of register of state lands; it used to be provided in the constitution; not going to be provided any more. We are carrying over that office, that's no revolutionary change. If the legislature wants to change the title of it or abolish or merge the office, or something like that, then the legislature may do that. But, in the meantime, what we are doing is trying to preserve the status quo as it was described to us on the floor of the convention. In addition to that, we could shorten their terms so we must carry over at least until '76, otherwise our actions of repealing in Section 10 would shorten their term.

MR. JENKINS

Let me ask you this question. If we put these provisions, these constitutional matters that are to be retained as statutes in the new constitution, doesn't that mean that if the legislature later this year comes in and attempts to act to clarify and correct these same provisions that all they do will be for naught because when the new constitution is adopted, the language in the old constitution will automatically become statute, superseding anything the 1974 legislature would have done during its regular session; isn't that true?

MRS. ZERVIGON

There are two ways to...if that troubles you greatly, there are two ways to move on that. One, is to put a delayed effective date in the act that you pass in the legislature and make it contingent on passage of the constitution or make it come into effect on the effective date of the constitution. We specify

that the effective date...the way I remember Legislative Powers and Functions Committee report where the legislative act shall come into effect within a certain number of days unless specifically provided otherwise therein. You could do it that way in the section of the legislature that you prescribe or perhaps you could change the effective date in line 10 to date of adoption. So, this language was pretty carefully drawn to make for an orderly transition to allow that there be no disruption. I hope that it would stay that way because we are all kind of tired and I would really hate to change that language in lines 9 and 10.

Further Discussion

MR. PEREZ

Mr. Chairman, ladies and gentlemen of the convention, I thought that this might be a good time to clear the air a little bit on what it is that we are doing, and particularly with respect to local government. What we must realize is that we have taken from the constitution scores, and scores, and scores of very, very important governmental agencies. If we do not continue their existence, then they would automatically go out of existence and hope that the legislature would put them back into existence again. For instance, let me just run down a few of these. What happens to the Port Commission of Baton Rouge and the New Orleans Dock Board? What happens to the Pontchartrain Levee District and the Orleans Levee District? What happens to the East Baton Rouge Park and Recreation Commission? What happens to all of these various other port commissions which are constitutionally organized and created? I just want to impress upon you the importance that we must have a provision which continues all of these various agencies in existence until the legislature deals with them in the future. But, if we don't do that, they just automatically go out of existence, cease to exist and you can imagine how many votes you would get for this constitution under those circumstances and also the details with respect to their operations. That's why we so badly need this provision. I just hope we can move as rapidly as possible because remember that we are putting this; and let's call it a Part II, where we will have these very restrictive terms that "nothing in this Part shall be construed or applied in such a manner so as to supersede, or invalidate, or limit a change in any other provision of the foregoing articles in the constitution" and so forth. So, we've wrapped this up with all sort of limitations realizing that we would have some duplication but that what's in the new constitution completely controls, that there is so much other material which is not in the new constitution which must be carried on as statutes that it's necessary for us to list all of these various details.

Amendment

MR. POYNTER

We're going to Item No. 2 then, Mr. Vice Chairman, which I had previously enumerated, and kind of go through the list that the staff has there before you.

Mr. Conroy sends up an amendment at this time; Conroy, Perez, Zervigon, Kean, Jenkins, and others.

Amendment No. 1. On page 3, delete lines 12 and 13 in their entirety, and insert in lieu thereof the following:

"2. Article VI, Section 1,"--and here's a correction to the Conroy amendment and after Section 1 insert--"1(A-1), 11.1, 19, 19.2, 19.3, 19.4, 22(4), 23 except any dedications contained therein, 23.1, 26, 28, 31, 32, 33, 35, 36.1, and 39."

Explanation

MR. CONROY

This amendment does three or four things. The first two things it does is it changes the reference that presently appears on line 12 as 1(A), it changes it to Section 1 and to Section 1(A-1) which are two separate sections in the present constitution. Section 1 consists of provisions which were regarded as statutory affecting the Wildlife and Fisheries Commission, the Forestry Commission, the Department of Conservation and general provision. Section 1(A-1) deals with certain jurisdiction of the district courts that are on the Gulf of Mexico also related to Wildlife and other matters arising in those jurisdictions. The next thing which this amendment does is to delete Section 27, Section 27 related to the power of the governor to sell certain property, and islands, or make islands in Lake Pontchartrain to the extent that that had any significance, it's been done with the building of the causeway and, otherwise, it would be inconsistent with the rest of the constitution; so, that was taken out. The other additions in there are Section 22 (L), Section 23, and Section 23.1 involve moving up from Paragraph 15 which appears on page 4, certain other references contained there.

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The reason this was done is that Paragraph 15 as it presently appears in this proposal or the two-thirds vote provisions, we felt that it was actually unnecessary and confusing to isolate those provisions in a separate paragraph. Part of these series of amendments will be to delete lines 2 through 9 on page 4, inasmuch as the provisions of Section 1 of this proposal now prohibit any change from the basic constitution when we say on line 6 that "these statutes can be changed by law" necessarily, that means subject to the restrictions contained in the constitution regarding two-thirds votes on certain items. So, I think it will simplify the handling of this and limit more clearly the two-thirds vote requirements to those parts of these statutes which are listed in Paragraph 15 which contain the two-thirds vote restrictions, that is, specifically in most cases, taxes and exemptions from taxes. I'll yield to any questions.

Questions

MR. AVANT

Mr. Conroy, I have an amendment that would delete on lines 5 and 6 of this section any reference to Article XIV, Section 15.1 except Paragraph 34, that language. Now, are you telling me that this amendment that you have now is deleting all of this Paragraph 15?

MR. CONROY

This present amendment does. One of the amendments in this series of amendments will delete all of Paragraph 15. There are certain of the provisions in [Paragraph] 15 that will be moved up above but the particular one that you referred to will not be inserted in any of the other paragraphs; so, it would just ultimately be deleted under these series of amendments.

MR. AVANT

All right. Then, I wanted to just make this point for the record and ask you if this isn't correct. You talked about a two-thirds vote but actually when you go back to the Substantive Article it said that Article XIV, Section 15.1 was continued. There are certain aspects of that that the legislature can't change even by a two-thirds vote. So, this representation here is actually inaccurate, is it not?

MR. CONROY

Well, we found a lot of problems in Paragraph 15; that's why we decided to rearrange it altogether and do away with the way it was set up.

MR. AVANT

But, you are not doing that right now? You are going to come back....

MR. CONROY

That's not in this amendment, that will be in a subsequent amendment.

MR. BOLLINGER

David, apparently the drafters of this amendment did a lot of research into all of the sections affected in Article VI. My question is this: Article VI, Section 34 deals with the Concordia Parish Port Commission, why did you all—I guess I'll ask you all because you all did the research on it—leave it out? I said the committee had left it out or the substantive committee had left it out and your amendment also leaves it out.

MR. CONROY

I will yield to anybody that can answer it....anything that deals with the original proposal; I'm not that familiar with it.

MR. REEVES

Mr. Bollinger, I was Chairman of that subcommittee. The Concordia Parish Port Commission comes under the realm of a deep-water port and it is included in our present proposal as a deep-water port; so, consequently, it didn't need to be transitionalized.

MR. JENKINS

Mr. Conroy, with regard to the sections of this item that deal with property rights and expropriations and so forth, in particular with regard to those sections, but in general with regard to all of these points, is it not true that there has been little or no examination of the constitutionality under the new constitution of these proposed statutes?

MR. CONROY

You're speaking of the parts of the constitution? The parts of the 1921 Constitution that are being continued as statutes?

MR. JENKINS

Yea.

MR. CONROY

Are you asking about those?

MR. JENKINS

The constitutionality under the new constitution.

MR. CONROY

Mr. Jenkins, I wouldn't be in a position to answer that question. I, personally, have not done that research, but I have gone over a great deal of material that the chairman of this committee put together. I think that a great deal more time could have been spent on the project. But, I think considering the time limitations and everything else, they have assembled a great deal of data. If you have any specific questions about it, I'll yield to Mrs. Zervigon to answer those questions.

MR. JENKINS

My point is that the listing of these sections here is not to be interpreted by the courts; it is not our intent to vouch for their constitutionality under the new constitution whatsoever.

MR. CONROY

No, no. As a matter of fact, the Section 1 that's been adopted I think clarifies the intent with regard to these sections. I think, Mr. Jenkins, in further response to that question I would have to refer to another one of the amendments in this series which is designed to delete Paragraphs (B) and (C) on the next page and more or less make it clear that a great deal may still have to be done with regard to straightening out the statutes, straightening these parts of the constitution that are carried into the statutes and reviewing them for possible deletions, and additions, and so forth. These are the ones that stood out based on the reports back from the substantive committees. All that this committee, as I would understand it from talking to the chairman of the committee, the only function of this committee was to get data fed into it from the substantive committees and then to compile this chart; then, we compile it and review it as we've done today.

MR. JENKINS

One more point for the record and particularly with regard to property rights. The Bill of Rights Committee did not examine these sections with regard to property rights even though it was assigned these provisions in the old constitution.

MR. CONROY

I see.

MR. JENKINS

So, I do want to further ask you, for the record, no court should interpret the inclusion in this document of these old provisions of the constitution as any statement on our behalf that we believe these to be consistent with the new constitution.

MR. CONROY

I think that's correct. As a matter of fact, I think that anybody examining these would have to take them with the full understanding that we have put them in a section where we've said to the extent they are not consistent, they won't be effective. I think that's the whole purpose of the format that this committee has used.

MR. FLORY

Mr. Conroy, let me see if I'm following you correctly. When you mentioned earlier about deleting on page 4, lines 2 through 9, and that those things that are required a two-thirds vote of the legislature to change, etc. Now, when you add, for example, in this amendment [Section] 23 and 23.1, I believe which is contained in that on lines 2 through 9...

MR. CONROY

Yea.

MR. FLORY

All right. By what vehicle do you then intend to require the two-thirds vote, by a later amendment?

MR. CONROY

No, to the extent that the body of this constitution requires a two-thirds vote to change any provisions of a statute that would be applicable to these statutes as well by virtue of Section 1 of this part as we have adopted it so that it would operate automatically

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insofar as the body of the constitution requires a two-thirds vote, it would apply to those parts of these statutes.

MR. FLORY

I don't apologize; but, I don't follow your statement there, Mr. Conroy, in regards to Section 1. I don't find where we have provided for the required vote of the legislature.

MR. CONROY

We've provided that in the main part of the constitution that we have adopted here, the Constitution of '74.

MR. AVANT

Mr. Conroy, you have also, in fact, required it in this very section; have you not when you say "subject to change by law or as otherwise provided in this constitution"? Then, it says the provision somewhere else in the constitution says it can be only by a two-thirds vote; that's what that "as otherwise provided in this constitution"?

MR. CONROY

Well, both would have that effect because "as by law" would have to be read in conjunction with the earlier part of the constitution which says certain things can only be by law enacted by a two-thirds vote.

MR. AVANT

And, then--just for the record--in line with what Mr. Jenkins was asking you, the language "and except as any of them conflict with this constitution" is intended to mean and does mean that if any of these provisions that we are making into statutes are contrary to any provision in the first thirteen articles of this constitution, then they are void; isn't that right?

MR. CONROY

Positively, Mr. Avant, and we've recited it as clearly as we felt we could.

MR. TATE

My question is along the same lines, a kind of friendly clarifying question. In other words, Mr. Conroy, when these things are transposed to the statutes then to amend them will require the constitutional two-thirds where appropriate just as the present, for instance, the taxes that just appear in the statutes of the taxes so much, but it takes a two-thirds vote to change it. So, it will be no problem to administer; is that right, Mr. Conroy?

MR. CONROY

I would hope not; that's right, no, that's correct; that's the intent.

[Previous Question ordered. Amendment adopted without objection.]

MR. POYNTER

Item No. 3 applies to Article VI-A and as you can tell on page 2 of your enumeration prepared for you by the staff, deals with Section 1, Paragraph 8, [Section] 1, Paragraph 9....I'm sorry, Sections 1 through 14, except any dedications therein contained, Sections 1 through 14--that's additional motor fuel tax; dealer's liability; importer's payment of tax; disposition of collections, purpose and intent; supervisor of public accounts and his powers and duties; penalties for delinquency; failure to report; falsification; cost and receipts; enforcement expenses; self-operative provision; exemptions; retirement.

I don't have any amendments to Item No. 3.

Item No. 4 contains various sections contained in Article VII and particularly those enumerated sections there. Unless someone wants me to run through these, these are enumerated on pages 3 and 4 and the beginning of 5 of the staff report.

Amendment

MR. POYNTER

The Dennis amendment has had to be altered. It has the effect of our adding Sections 7 and 9.

On page 3, line 16,--it's been revised since it's been passed out--strike out the number and punctuation "8," and insert in lieu thereof: "7, 8, 9".

[3478]

Explanation

MR. DENNIS

Mr. Acting Chairman, fellow delegates, this amendment places in this section and continues as statutes two provisions of the present constitution, Section 7 of Article VII which spells out the expiration dates of the justices of the Supreme Courts terms and Section 9 which spells out the districts of the Supreme Court justices. This...The Judiciary Committee recommended that these be continued in statute and the Transitional Committee in its first draft, I believe, did place it in there. But, for some reason I think there was some mix-up, I think at one point they were going to place some material in a two-thirds vote category instead of plain statutory and some way or another these two sections got left out; so, we are asking that you put these back in because they would be a hiatus; there would not be any law saying when these justices' terms expired or what their districts were. The legislature could, of course, repair that, but we feel that this should be continued as statute until it is changed by the legislature.

[Amendment adopted without objection.]

Questions

MR. BOLLINGER

Judge Dennis, I was wondering why you all had included Section 21, the courts of appeal and then decided the number of judges when we took care of that in the constitution and enumerated how many districts and terms of represented judges; yet, you adopted a provision in the 1921 statute which will be in conflict with the proposed constitution. Why was this recommended that we carry it over?

MR. DENNIS

Section 21? Well, Section 21 spells out the districts within the courts of appeal and says what parishes are covered; it says what parishes are in each circuit, which parishes are in each district from which a judge is elected, etc., etc. Now, this can be changed by a two-thirds vote of the legislature under the new constitution. But, in order to avoid a gap, we want to continue this in statutory law so that the legislature will not have to act in haste to fill in this gap.

MR. TATE

Well, in other words, Judge Dennis, we continued the existing districts but didn't specify them in the constitution so as to avoid having a constitutional amendment every time or to avoid having in the constitution parishes that could be taken out by a two-thirds vote. So, in other words, however, on repealing the former districts since they were nowhere else in the statute, this will provide the vehicle to transfer into the statutes those districts which from now on could be changed by the legislature by a two-thirds vote; is that right, Judge Dennis?

MR. DENNIS

Yes. In short, Judge, we are continuing the districts in statute and not in the constitution.

MR. POYNTER

Item No. 5 deals with Article IX, contains a single section--being Section 4 of said Article IX--which deals with the Judiciary Commission, would remove the involuntary retirement of judges and justices.

MR. AVANT

Judge Dennis, we've got a provision in the proposed constitution about the Judiciary Commission....I don't know if he's listening.

MR. DENNIS

Mr. Avant, I believe the answer to your question is that...

MR. AVANT

How're you going to answer my question, Jim, when I ain't asked it yet?

MR. DENNIS

Go ahead and ask it.

MR. AVANT

I say we've got a provision in the proposed constitution about the Judiciary Commission; we've got a provision in this thing about how you're going to get the extra people on there; so what is there in the old constitution to continue the statute?

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MR. DENNIS

Mr. Avant, there are some sections in old Article IX, Section 4, which spell out the procedure under which the commission operates, that we did not put in the new constitution; so we're continuing this whole thing as statutory material. Of course, the part of it that's inconsistent will be ruled out by the new constitution, but there will be left a little piece of it as procedural.

MR. POYNTER

Item No. 6 deals with various provisions of Article X of the 1921 Constitution, particularly Section 1(8), 1(9), 2; Section 2 (1), 2(2), 6, 10(A), 15, and 23.

Amendment

MR. POYNTER

Mr. Conroy, Perez, Zervigon, Kean, and many others send up amendments. These amendments have been distributed. Conroy amendments affecting Item No. 6 would simply read:

"Article X, Sections 1, 2, 6, 7, 9, 10(A), 15, 16, and 23; except any dedications contained therein."

Explanation

MR. CONROY

In line with what has been done previously, this amendment does two things. The first thing it does is with regard to Sections 1 and 2. Instead of referring to nonexistent subparagraphs, it just refers to the whole sections. In other words, there is no Paragraph 8. There are a number of paragraphs in Section 1. There are no Paragraphs 1 and 2 in Section 2, although it is in fact in two paragraphs. Again, in line with the theory that anything that's adopted here that's inconsistent with this constitution would be inoperative, it was felt that it'd be clearer, again--rather than making references to paragraphs which didn't exist--simply to refer to Sections 1 and 2. The other change is to bring up, from Paragraph 15, references to Sections 7, 9, and 16. Those are the only changes in this paragraph other than correcting the punctuation on Section 10(A). I'd be happy to yield to any questions.

[Amendment adopted without objection.]

MR. POYNTER

Item No. 7 deals with present constitutional Article X-A and, in particular, Section 3 and Section 4, the first of which is paying the confederate pensions from the general fund; Section 4--annual payment to L.S.U.

Questions

MR. DE BLIEUX

Mr. Chairman, if I'm not mistaken, those were the dedications of the five and three-quarter mill tax. Since that has been repealed, I'm just wondering why it is necessary to transfer that over to the...

MS. ZERVIGON

Senator De Blieux, if you can wait for just a second, we're going to see who recommended that.

MR. VELAZQUEZ

Ms. Zervigon, did you know I have an old lady in my district who told me that she was one of the few remaining people who still gets a pension under the Confederate Widows Act?

MS. ZERVIGON

Mr. Velazquez, I knew you had an old lady in your district.

MR. CASEY

Do you all want to pass over that, Ms. Zervigon? Is that it? Do you want to go to Item No. 8?

MS. ZERVIGON

Senator De Blieux, have you strong objection?

MR. DE BLIEUX

Ms. Zervigon, I don't have any objection to it. I have checked into it. So, that just means that those funds previously paid out of that five and three-quarter mill tax are paid out of the general fund. That's all it provided for. That's the only

purpose. I just asked the question: Why continue it when we no longer have that? Of course, I guess it's necessary in the sense we made a dedication from the general fund for those two until the legislature takes care of it.

MR. POYNTER

Item No. 8 deals with provisions of present constitutional Article XII, which, of course, deals with education. In particular, it retains Sections 18, 19 through 22, 25, and 26--those dealing respectively of Sixteenth Section lands, free school funds. There is a seminary fund, an agricultural and mechanical college fund. Section 22 deals with separation or segregation of funds; [Section] 25, with the metropolitan branch of L.S.U.; [Section] 26, with the New Orleans' branch of Southern University and Agricultural and Mechanical College.

Item No. 9 deals with constitutional provisions relating to Article XIV. Of course, [Article] XIV is the Local Government Article. They're very lengthy. They contain, in your sheet from the staff, pages 6, 7, and 8--mostly, of 8. Set forth various things--io particular, commissions, special taxes that have been established, presently, under that article.

Amendment

MR. POYNTER

Yes, there is one amendment---copies have been distributed--- which is sent up by Delegates Conroy, Perez, Zervigon, Kean, Jenkins, Casey, Lanier, and others.

Amendment No. 1. On page 3, line 25, after the number and punctuation "21," and before "23" delete the number and punctuation "22(A)"--which, as you can see on page 6, deals with the Vieux Carre Commission.

Explanation

MR. CONROY

It was felt, in view of the wording of the body of the constitution, it would be inappropriate to continue this forward as a statute; therefore, it was considered best...Mr. Derbes was consulted about this, and he thought it was more appropriate simply to delete reference to it at this point.

Questions

MR. TOBIAS

David, I'm reading the amendment, and it says: delete the number and punctuation "22(A)". You forgot to put the comma inside the quotation marks.

MR. CONROY

I hope you'll watch that in Style and Drafting, Mr. Tobias.

MR. POYNTER

We'll just kind of withdraw and put it back so we won't have to make a style and drafting amendment, if that's all right, Mr. Conroy.

MR. CONROY

O. K. You want to take out a comma; is that it?

[Amendment withdrawn and resubmitted with correction. Amendment adopted without objection.]

MR. POYNTER

Next item is Item No. 10, which deals with the provisions of the present Article XV, and that's set out on your memo--on page 8 of that memo. In particular, it deals with Sections 1, 3, and 4: drainage district authorizations, the Bayou Lafourche Fresh-Water District, and the Lake Water Conservation District.

Item No. 11 deals with present constitutional Article XVI; would retain Sections 1, 4, 6, 7, 8, and 8(A), which deal with levee system, general maintenance, state tax; 4, interstate districts; 6, compensation, property used or destroyed; 7, the Orleans Levee District; 8, Pontchartrain Levee District; 8(A), Pontchartrain Levee District additional bond issue.

Item No. 11 deals...We're on Item... You're correct, Mr. Vice-Chairman; we're on Article XVI, dealing with levee

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districts. Again, we have no amendments on that item, being Item No. 11 dealing with.....

MR. POYNTER

Next item is Item No. 12, which deals with provisions of Article XVIII--in particular, Sections 3 and 4, dealing with the adjutant general and preservation of records, banners, and relics respectively.

No amendments, Mr. Vice-Chairman.

The next item is Item No. 13, dealing with two provisions of present Article XVIII of the constitution, dealing with [Section] 4--civil war; memorial hall for relics; battlefield markers; and the like--and [Section] 8, with the Confederate Memorial Medical Center; correctional and charitable and penal institutions; bonds and taxes.

Amendment

MR. POYNTER

The amendment is sent up by Mr. Conroy, Perez, Zervigon, Kean, Jenkins, Casey, and others. Amendment reads as follows: "Item No. 13. Article XVIII, Sections 4, 8, and 13".

Explanation

MR. CONROY

The only purpose of this amendment is to add Section 13 of Article XVIII to the list. This section deals with Viet Nam bonus bonds, and it was felt that there was some statutory material in there that had to be retained until all those bonuses that are provided by that section could be paid.

[Amendment adopted without objection.]

MR. POYNTER

Item No. 14 deals with present Article XIX and retains Provisions 6, 18, 19, 19(A), 20, and 27. These deal: 6, performance of duties until successor elected; the police power under 18; 19 dealing with immovable property, recordation of mortgages, and the like; 19(A)--I'm not sure what that is. Is that a paragraph, Mr. Conroy, or is that another section?

MR. CONROY

It's a separate section. There is a 19(A) in my copy.

MR. POYNTER

Mr. Conroy says that deals with prescription on the tidelands area; and then 20, dealing with the New Basin Canal, Shell Road, and New Orleans Union Railroad passenger facility.

Questions

MR. AVANT

Mr. Conroy, I see that the committee recommends transferring Article XIX, Section 18, of the present constitution into the statutes.

MR. CONROY

It's pretty tough to answer his question because there are some of us up here who had exactly the same question with regard to whether Article XIX, Section 18, belonged in here. However, it was recommended, as I understand it, by the Executive Branch Committee. If they don't have any reason why they want this continued in there, I think that it would be appropriate to submit an amendment to delete 18.

MR. AVANT

I just wanted to know what the reason was.

Amendment

MR. POYNTER

Delegate Perez has sent up amendment:

On page 4, line 1, immediately after "Section 6," strike out "18,"

Explanation

MR. PEREZ

In line with the suggestion, the police power's been deleted

quietly taken care of in Bill of Rights and should have been deleted and, apparently, was recommended by some committee that it stay in; but I now move that it be deleted and move the question.

[Amendment adopted without objection.]

Reading of the Section

MR. POYNTER

Item No. 15 is set out on pages 9 and 10. These are two-thirds provisions, and Mr. Conroy will explain it. Item No. 15--it's set out in the memo on 9 and 10.

Amendment

MR. POYNTER

Mr. Conroy sends up an amendment which reads as follows:

On page 4, delete lines 2 through 9, both inclusive, in their entirety.

Explanation

MR. CONROY

As previously explained, the purpose of this amendment is to delete those things which have been moved up above, and have been moved up above by amendment, into the other listing. It also deletes--as Mr. Avant had an amendment to delete the reference to Article XIV, Section 15.1. In other cases, they were just duplications down below, as I recall.

[Amendment adopted without objection.]

Amendments

MR. POYNTER

That completes the amendment and items in Paragraph A; however, Miss Perkins was nice enough--she withdrew her previous amendment, which would have inserted new items, earlier and has an amendment... Has this been passed out? This amendment was passed out earlier--Miss Perkins' amendment passed out earlier. Now, we're going to change the instructions; and, rather than coming in at various places in here, she'd just now make them Items Nos. 16 and 17. It was contained in her Amendments Nos. 1 and 3 of her previous amendment. If you'll look at the Perkins amendments--old Amendments Nos. 1 and 3--that's what she'll be presenting, save for the fact that we're making them now Items Nos. 16 and 17 as opposed to whatever they were where she had previously inserted them. I'll read it.

Amendment No. 1....

Now, I believe the retyped version of the Perkins amendments has been passed out. Mr. Bollinger, you got a copy of it? O. K. Good. Amendments will read as follows:

Amendment No. 1. On page 4, between lines 9 and 10, insert the following: --and since we deleted 15, let's make that 15-- "Item No. 15. Article IV, Sections 2(C), 12(B), and 12(C)."

Amendment No. 2. On page 4, between lines 9 and 10, insert the following: "Item No. 16. Article XIII, Section 6."

Explanation

MISS PERKINS

Basically, these amendments are additional transitional measures of the Natural Resources Committee. Section 2(C) refers to mineral revenues: that is, the payment into the general fund--highway fund--after deductions for dedications, as well as expenses of the Mineral Board. [Section] 12(B) refers to the State Market Commission's power to guarantee loans. [Section] 12(C) refers to the commissioner of agriculture's authority to guarantee loans of youth. Some of this material is contained in the statutes; but, since it was deleted from the constitution and we weren't sure everything currently in the statutes was covered, we went on and suggested and we recommend that these be handled through transitional measures. Section 17, Article VIII, Section 6, refers to canal and hydroelectric development and use of waters and state ownership in the coastal areas. This, again, we weren't sure was covered; therefore, suggested it be handled through transitional measures. I'll answer any questions.

Question

MR. JENKINS

I have several questions. Lynn, one: your Article IV, Section 2(C), deals with the dedication of twelve and a half million dollars to the highway fund. Now, we tried to do away with dedications in general. Shouldn't we leave this to the legislature and let them act on it, without going ahead and putting it into the law and making them come back and repeal it?

MISS PERKINS

Not necessarily. First of all, the legislature can come back and change this. This is strictly a transitional measure between now and the effective date of the constitution. Since we had deleted it, we felt that it should be covered in transitional measures. In other words, I don't think that would be a limitation. You can go back with reference to the amount specified.

Further Discussion

MR. BOLLINGER

Mr. Chairman, fellow delegates, I rise in favor of Amendment No. 1, but opposed to Amendment No. 2. Article XIII, Section 6, deals with canal and hydroelectric developments, use of state waters, and state ownership. The provision mainly deals with a provision saying that, if canals are dug for hydroelectric plants, that after seventy years the waterways will become the property of the state, as well as the plants. My main reason for opposing this is that it's obsolete. Louisiana's terrain doesn't provide for any hydroelectric plants, and I don't think it ever will. If it ever did, I don't see why we should have a statute saying that after seventy years the plant ownership, reverts to the state. I opposed this in committee, but was overridden; and I think it should not be a schedule provision; it should not be a statute. Nothing in this constitution would prevent a statute from being reenacted if all the proper committee hearings were had and the legislature felt the need to do so. So, I move the adoption of Amendment No. 1 and the rejection of Amendment No. 2.

Motion

MISS PERKINS

Mr. Chairman, I'd like to move to suspend the rules in order to withdraw Amendment No. 2.

[Motion to suspend the rules adopted without objection. Amendment No. 2 withdrawn. Amendment No. 1 adopted without objection.]

Amendment

MR. POYNTER

Just read the amendment? Mr. Conroy, Perez, Zervigon, Kean, Jenkins, and others send up amendments which read as follows: Amendment No. 1. On page 4, delete lines 10 through 16, both inclusive, in their entirety and insert in lieu thereof the following: "(B) Arrangement. The provisions made statutory in this Article shall be arranged in proper statutory form and recommendations made for additional laws and modifications as provided in R.S.24:201 through 256, or as otherwise provided by law."

Explanation

MR. CONROY

This amendment does two basic things: one, it removes the Paragraph (B) --the former Paragraph (B) regarding judicial review because it was felt that it was really unnecessary and perhaps somewhat confusing to refer to judicial review. Obviously, that is the last source on which problems can be resolved, and it was unnecessary to say that. As far as (C), we felt (C) was a little bit restricting because there are presently statutory provisions regarding how statutes can be arranged by the Louisiana State Law Institute. Those statutes also ask the Louisiana Law Institute to make recommendations regarding new statutes that are needed, so it was felt that it was appropriate in this regard to suggest that those provisions be implemented. Obviously, if they are not, the legislature would have to carry out the intent of this convention as far as arrangement of these constitutional provisions which would now be statutes appropriately in the revised statutes.

Questions

MR. TOBIAS

I'm trying to save us time in Style and Drafting tonight, so we won't be here until all hours. We don't have a title for this paragraph. Would you add a title to it and withdraw the amendment?

MR. BOLLINGER

David, I hate to keep asking you questions like this, but you deviate from the committee proposal in that you refer to Revised Statutes 24:201-256, and the committee proposal does not. My question is this, if the Revised Statutes were added to and changed substantively some way the procedure for titling statutes, then this provision would rather be obsolete. What is the point in referring to the numbers in the Revised Statutes so that, if additional statutes were passed and affected this, they would not in my opinion concur with the language used in your Paragraph (B) ordinarily?

MS. ZERVIGON

Well, I'd like to answer that at least partially. What the committee had always intended to do was to make the Law Institute responsible for this numbering, not make it all take legislative act. When you read the sentence the way we wrote it, it sounds like the legislature has to do it all by act, but we didn't want to make the Law Institute a constitutional agency. So, this rewords it so that it refers to the statute that refers to the Law Institute without making the Law Institute a constitutional agency. It would only be enforced for the duration of the time that it took them to insert all of this junk in the statutes in any case, so I don't think that your objection... I don't think you'll find any objection to it when you think about it.

MR. POYNTER

Mr. Conroy does need to withdraw it, so he can reoffer it and put the paragraph title in as Mr. Tobias . . .

[Amendment withdrawn and resubmitted with correction. Amendment adopted without objection. Previous Question ordered. Section passed: 106-1. Motion to reconsider pending.]

Point of Information

MR. AVANT

Mr. Casey, to make a request that I made earlier. But, before we vote on the adoption of this proposal, finally and irrevocably, and lay it on the table, are we going to be able to see it as it is amended and as it stands? That's one thing I want to be sure of.

MR. POYNTER

You mean the entire proposal?

MR. AVANT

The entire proposal.

MR. POYNTER

There just wouldn't be any possible way to -- you know, unless you want to stay here real late to get it to you before you take the final vote. But, of course, heretofore you all haven't tabled any -- you're talking about tabling-- you all have not. . . It's got to go to Style and Drafting and come back to you and that sort of thing, and I presume you would use your usual procedure and would not table the vote by which a proposal was adopted.

MR. AVANT

Okay.

Point of Information

MR. J. JACKSON

Mr. Chairman, we still have another Part to add to the proposal, right--Part 1?

MR. POYNTER

Oh, yes, sir, Style and Drafting, that's correct. You're absolutely right.

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Point of Information

MR. TATE

Mr. Chairman, I happen to know the background of Representative Jackson's question, so I want to ask this in the form of a parliamentary inquiry. If he wants to add something to this provision that would go in the Part I we outlined, he has to submit the amendment before we leave today. We'll put it back into Part I in Style and Drafting, but all the other provisions of Part I have already been adopted. Is that correct, Mr. . .

MR. CASEY

That's correct, Judge Tate. Any additions will have to be made before this proposal leaves the floor.

[Motion to waive reading of Section 10 adopted without objection.]

Chairman Henry in the Chair

MR. HENRY

Proceed, Ms. Zervigon, explain this section.

Take your seats, please, gentlemen. I'll ask that you folks in the back -- I ask that you people have your seats. Several of you have asked about what the schedule was going to be-- or the work schedule-- we have a lot of work to do and we're probably going to be here late tonight unless you all just revolt. I hate to, but this is the last day we've got with the exception of tomorrow, and I've got a feeling that everybody is going to be wanting to get home as soon as we can tomorrow. Since this is just the last night let's lay with it and don't let the attendance fall off too severely, please. We'll go ahead and try to wrap up everything that we possibly can tonight.

All right, Ms. Zervigon, if you will.

MS. ZERVIGON

Mr. Chairman, did you say we're going to stay here until the delegates are revolting?

MR. HENRY

No ma'am, I've never called these delegates revolting. That was just something that somebody else said. Proceed.

MS. ZERVIGON

Mr. Chairman, we've waived the reading of Section 10 because we have an amendment that changes it considerably. I would request that that amendment be read and explain that.

Amendments

MR. POYNTER

All right. The amendment will read as follows-- there are a set of three amendments sent up by Delegates Perez, Zervigon, Kean and others-- set of three amendments -- beginning:

Amendment No. 1. On page 4, line 18, after the word "as" and before the word "retained" insert the following: "provided in this Article and except as".

Amendment No. 2. On page 4, line 19, after the word and punctuation, "constitution," and before the word "provisions" delete the words "all other" and insert in lieu thereof the word "the".

Amendment No. 3. On page 4, line 20 immediately after the word "repealed" change the comma "," to a period "." and delete the remainder of the line and delete lines 21 through 25, both inclusive, in their entirety.

Explanation

MS. ZERVIGON

Mr. Chairman, this explains what happens to everything else. In Section 9, which we've just finished, we've continued a lot of sections as statutes. It's apparent that there's a lot of other stuff that's not covered in the revision that we've made of the constitution that we haven't transposed into the statutes. What happens to that? We are repealing it. The "except as otherwise provided" in this article-- I believe that it's phrased-- refers to the things retained as statutes in the paragraph immediately above in Section 9. We have to make sure that those are exceptions. So, Mr. Clerk, would you read the section as it would now stand?

[Reading of the Section with proposed Amendment.]

MR. POYNTER

Yes. If your amendment was adopted--if the Zervigon-Perez amendment is adopted--Section 10 would read as follows: "Section 10. Except as provided in this Article and except as retained in Articles I through XIII of this constitution, the provisions of the Constitution of 1921 are repealed."

MS. ZERVIGON

I'll yield to any questions, Mr. Chairman.

Questions

MR. JENKINS

Ms. Zervigon, when we discussed this matter in the meeting we had at noon, I don't believe there was any discussion of that exception for the provisions of this article, was there?

MS. ZERVIGON

Mr. Jenkins, I really don't remember. Mr. Perez and I discussed it quite a number of days ago. The purpose of it is to retain as statutes those things we just said were retained as statutes in Section 9.

MR. JENKINS

My understanding was that except as provided in Articles I through III all other provisions of this constitution were to be repealed so that they were no longer a part of the constitution of the state. Now, where we have expressly otherwise provided that they'll be continued as statutes they are, nevertheless, repealed insofar as this constitution is concerned, was that not our understanding?

MS. ZERVIGON

Well, Mr. Jenkins, they repealed this section of the constitution, but not repealed and gone bye bye you might say-- they're continued in effect. So we had to make provisions for the effect of them. Now, the question is on the definition of the word "repeal"? What we wanted to make certain was that it was perfectly clear that while they were repealed as constitutional provisions, they did not go out of effect.

MR. JENKINS

So, then your intention is that unless a provision has been particularly retained from the 1921 Constitution then it is repealed as a part of the constitution of this state although it may be retained as a statute. That is your intention, is that correct?

MS. ZERVIGON

Well, except for the other exceptions, those retained in Articles I through XIII of this Constitution.

MR. JENKINS

But, those have been specifically referred to in those articles, have they not?

MS. ZERVIGON

That's right, I wasn't sure you had made that exception. I thought you were speaking only of Section 9 above. Yes, that's the intention of the committee.

MR. TOBIAS

Mary, in the first amendment you do mean "Article" and not "Part"?

MS. ZERVIGON

Yes, we do, because if you'll remember there's the split session of the legislature. There are certain mentions of boards, agencies and things like that.

MR. FLORY

Ms. Zervigon, could you really tell me what the necessity of Amendments No. 1 and 2 are, inasmuch as . . . in light of the discussion in the committee at noon? I really don't see any need for it. What worries me is the division of this article in Parts I, II and III.

MS. ZERVIGON

This was at the suggestion of Mr. Perez much earlier, and I'm going to yield to Mr. Perez to answer your question.

MR. PEREZ

The very obvious reason for putting "except as provided" in this article, the provisions of this constitution are repealed. When you repeal something it is "doid", dead, dead and you've

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got, when you continue it as statutory material, you have to put the exception in. So what we mean by the words "except as provided in this article" we are referring back to Section 9 which says we're continuing these things in effect as statutes. If you don't say that then you have an inconsistency between Section 9 and other sections which say these things continue in effect, and Section 10 which would say that all of this is repealed, and the other sections as well.

MR. FLORY

Mr. Perez, that's exactly what bothers me because it was my understanding that what you were talking about here being repealed was constitutional provisions, not things that we're talking about transferring to the statutes, and when you say-- let me finish-- it was my understanding at noon that what we were talking about Parts I and III would be in effect-- parts of the new constitution--whereas Part II would be subject to Section 1, and would be transitional measures.

MR. PEREZ

The word "repeal" means that it is completely, entirely, and totally done away with, and to the extent that these are continued in Section 9 and in other sections of the constitution we do not repeal them. That's why all you have is "as except as provided in this article," and then you go back to the other part of the articles and it tells you what you do with them. But, if you do not put the exception, then you totally, completely do away with those sections.

MR. FLORY

Well, I thought that was what we wanted to do is to do away with them as constitutional provisions, but by the Part II lift them and carry them to the statutes and make them statutory material, but what you're doing here is continuing them as constitutional provisions.

MR. PEREZ

No, we're not. All we're saying is "except as provided in this article." Then, when you go into the various parts of the article it says, for instance, in Section 9 that "these are continued as statutes;" it says with regard to the property tax that it continues for a certain . . . for a three year period. So that if you had a . . . it's just a flat statement just saying "except as retained in Article I through XIII of this Constitution, all other provisions of the Constitution of '21 are repealed." Then what you're saying is that everything else we've said here means nothing, so what you're saying is that when you use the word "repeal" --repeal means that you're absolutely, totally, completely, doing away with these provisions. That's the whole purpose of the schedule is to retain these provisions in some form.

MR. FLORY

Wouldn't it be better though to say that "except as provided in Parts I and III of this Article?"

MR. PEREZ

No, because in Part II you are retaining as statutory material all of these varied details we have gone through. If you don't say "except as provided" throughout the entire article, then what you're doing is saying that all of these provisions are dead; and we've just gone through the lengthy process of saying that these things shall continue in effect as statutory material. If you say they're repealed, they're repealed; they're dead; they're finished; they're gone; and we've got to make an exception for that.

Amendment

MR. POYNTER

Yes, sir.

The only amendment that's been changed is Amendment No. 1, which reads, as corrected.

On page 4, line 18, after the word "Except" and before the word "as" insert the following: " to the extent provided in this Article and except", so it would read: "Except to the extent provided in this Article and except as retained in Article I through XIII of this Constitution the provisions of the Constitution of 1921 are repealed."

Explanation

MR. PEREZ

I just hope now that we've straightened the language out to satisfy just about everybody. I would move the adoption of the amendment.

[Amendment adopted without objection. Previous Question ordered. Section passed: 91-1. Motion to reconsider pending.]

Reading of the Section

MR. POYNTER

"Section 11. Existing Laws
Section 11. (A) . . .

[Motion to waive reading of the Section adopted without objection.]

Explanation

MS. ZERVIGON

Mr. Chairman and delegates, as above in Section 10, we have amendments which change this considerably. The result of which will be that with some drafting changes Section (A) stands relatively unchanged, but, the major change will be that in Section (B) the final sentence will be deleted. In every schedule provision . . . in every constitution that I've read the schedule provisions-- there is a provision for what happens to existing law because of the question that's been raised earlier in discussion as to whether the government under the new constitution is an entirely new government. What we've done is retain the old law to the extent that it is not in conflict with this constitution. We've retained it so that it can be repealed or altered or it can expire by its own limitation. In other words, it's not our intention to incorporate it by reference into the constitution and provided that inconsistent laws shall cease upon the effective date of this constitution.

Questions

MR. JENKINS

I'd just like for you to take my name off this amendment because these amendments keep coming up not in the form that we agreed to in our discussions earlier.

MR. HENRY

Scratch Jenkins on the amendment.
Are there any further questions?

MS. ZERVIGON

Mr. Chairman, as a point of clarification because I don't think there's any evil intent involved, we didn't really agree to a precise form; we agree to concepts and if . . . when you go to put a concept in words, of course, you always run into trouble as whether the words mean the same thing to me as they mean to you. So, I have no objection to Mr. Jenkins removing his name. It's just that we really didn't agree to a precise form and, therefore, I don't think that we're renegeing on any agreement, as such.

[Section read with proposed amendment.]

MR. POYNTER

Okay. It would read with the four sets of amendments-- Ms. Zervigon you might follow me, I think I've got them all-- as follows:

"Section 11. (A) Retention. Laws in force on the effective date of this constitution, which were constitutional when enacted and are not in conflict with this constitution, shall remain in effect until altered or repealed or--pick up on line 31-- until altered or repealed or until they expire by their own limitation.

(B) Expiration of Inconsistent Laws. Laws which are in conflict with this constitution shall cease upon its effective date."

MS. ZERVIGON

By way of explanation, let me say that I had no idea what an unclear word "inconsistent" was until we began to discuss it. We decided that "in conflict" was a much clearer, more crystalized way of saying what it was we wanted to say. In addition to that, because of changes we've made in the constitution, the laws that are in effect may be repealed in some way other than by the authority which enacted them. Then, in addition to that, you see we've changed "inconsistent" and deleted the last sentence as I pointed out before. This language was taken from the project and there is similar language in most schedules.

Questions

MR. ABRAHAM

Mary, I understand that the purpose of the last sentence in Paragraph (B) was sort of a grace period, so that if a law is in conflict, it would give the legislature time to repeal it, or amend it, or whatever may need to be done. You don't foresee any problem here if you do not have a grace period?

MS. ZERVIGON

We have a delayed effective date. We feel certain that there will be legislative sessions in between now and then. The point of it in the project was that if there needed to be enabling legislation for any section of the new constitution and there was already a law on the books but it was in conflict with the new constitution, this would continue them. Mack, as you think about it, you can see that that's a very confusing thing as to how they could be proper enabling legislation for the new constitution and at the same time in conflict. We just decided that rather than try and have the courts figure out exactly what it meant we would delete it. I think I would venture to guess that the scheduled provisions of the project weren't written with the same care as the rest of the project. It's when you are starting an effective date in the face and begin to think exactly what's going to happen to each and every section of the old constitution and each and every old law that you begin to be very, very careful with your words in this area.

MR. FLORY

Ms. Zervigon, would you be kind enough to give me the definition of the word "inconsistent" and then tell me what difference there is in the words "in conflict with"?

MS. ZERVIGON

I'm not. . . it's not the intention of the authors of this amendment to make any real change. It's just that I think, what "in conflict" does as opposed to "inconsistent" makes it in direct conflict with something that's stated, rather than just generally inconsistent with something that might be implied. For example, as we came to sections of the old constitution that says, "the legislature shall enact the following laws," if we retained laws that were old laws that had been enacted in the past tense where "shall" is a future tense verb, that might be considered inconsistent with that segment in the constitution, but it's certainly not in conflict with it in that it's not the intention of the law on the books to overturn that provision of the constitution.

MR. POYNTER

Mr. Chairman, I believe they are going to want to withdraw it. They overlooked changing the title of Paragraph (B), and I think the lady and gentleman would like to withdraw this amendment and offer another one so that they could correct that at this time.

MR. PEREZ

Only for the purpose of deleting the word "inconsistent" and inserting in lieu thereof, the word, "conflicting," so the title would read "Expiration of Conflicting Law."

[Amendment withdrawn and resubmitted with correction.]

[Amendment adopted without objection. Previous Question ordered. Section passed: 96-1. Motion to reconsider pending.]

Reading of the Section

MR. POYNTER

"Section 16. Ports; Transition to Statutes
Section 16. All provisions of Article VI, Sections 16, 16.1, 16.2, 16.3, 16.4, 16.5, 16.6, 17, 29, 29.1, 29.2, 29.3, 29.4, 33.1, 34 and Article XIV. . .

[Motion to waive reading of the Section adopted without objection.]

Explanation

MR. LANIER

Mr. Chairman and fellow delegates, if you refer to Section 50 of Local Government as originally enrolled, I think it's now Section 44

on the final enrollment--I'm not positive about that number--you'll notice that with reference to the deep-water ports we provided that they were ratified and confirmed, that the legislature could change their powers and jurisdiction and things like that with a two-thirds vote. However, as part of a compromise on this article, in Sub-section (C), we provided as follows: "The legislature shall make provisions with respect to the membership of the herein provided commissions." Once the membership is established, it may be changed only upon a two-thirds vote of the elected members of each house of the legislature. So, in other words, with reference to these deep-water ports, you have two ways of modifying them after they are transposed into the statutes. With reference to the initial change of the membership, it's by a majority vote; thereafter, with reference to membership and all other aspects of ports, it's by a two-thirds vote. For this reason, we felt that we needed a special transitional provision to key somebody into this position that we have taken with reference to the deep-water ports. So, we have specifically provided in here that they are subject to amendment or repeal only as provided in this specific article which requires a two-thirds vote on everything except the initial reorganization of the board. That way, somebody going through this transitional schedule would know that this is not the ordinary type of statute that you have to look to this particular provision to determine the manner in which it can be changed by the legislature. We felt that this was necessary for this particular section because we did have a combination procedure here where two different types of votes of the legislature were required.

If there are any questions, I'll be happy to try and answer them, Mr. Chairman. If there are none, Mr. Chairman, I move the adoption of the section.

Amendment

MR. POYNTER

We have an amendment coming in sent up by Mr. Jenkins, Casey, et al, to add between lines 15 and 16 immediately prior to this period of time, "Part II". . . between lines 23 and 24.

On page 6, between lines 23 and 24, insert "Part II".

Explanation

MRS. ZERVIGON

This is as we have been doing before, sticking in the reference to what part of the schedule it will be in. This keeps these sections--this section and the couple succeeding it--subject to the other articles of the constitution pursuant to Section 1, which was the first thing that we adopted today.

Yield to any questions, Mr. Chairman.

[Amendment adopted without objection. Previous Question ordered. Section passed: 100-0. Motion to reconsider pending. Motion to waive reading of Section 17 adopted without objection.]

Explanation

MRS. ZERVIGON

Mr. Chairman, the Local Government Committee had recommended that this section be in here in an abundance of caution. We've now, in conference with other delegates, decided that it's really unnecessary, as the charters being ratified in the Local Government Article implies, certainly, that the communities that have those home rule charters have the authority to have those home rule charters. Therefore, we have no objection to the amendment to delete.

Amendment

MR. POYNTER

Mr. Avant and Gravel send up the following amendment:
Amendment No. 1. On page 6, delete lines 31 and 32 in their entirety and on page 7, delete lines 1 through 4, both inclusive, in their entirety.

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, this amendment, as Mrs.

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Zervigon stated, simply deletes Section 17 from this proposal, completely and in its entirety. There is no objection to it, as I understand it. So, I ask your favorable vote on the amendment. Move the previous question.

passed: 98-0. Motion to reconsider pending.]

[Previous Question ordered. Amendment adopted without objection.]

MR. POYNTER That deletes the section, Mr. Chairman. We can go on, I believe.

Reading of the Section

MR. POYNTER Section 23, sent up, reads as follows: "Section 23. Suits Against the State; Effective Date Section 23. The provisions of Article III, Section 14 waiving the immunity of the state, its agencies, or political subdivisions from suit and liability in contract or for injury to person or property only shall apply to a cause of action arising after the effective date of this constitution."

Reading of the Section

MR. POYNTER Section 18. I might point out at this time there will be an amendment coming up--Mr. Perez, I guess will handle it--to make this "Part III."

[Motion to waive reading of the Section adopted without objection.]

"Section 18. Public Service Commission Section 18. At its next extraordinary or regular session, the legislature shall divide the state into five single-member districts as required by Article VIII, Section 14 (A) and shall provide for a special election at which the two additional members of the commission shall be elected, the initial term to be served by each, and other matters necessary to effectuate said Section 14 (A)."

Explanation

MRS. ZERVIGON You will remember that after the considerable discussion over the several days when we were on the Legislative Article, we changed the procedure for suit against the state to the extent that we said the legislature shall provide for an act that would provide a uniform method for suit against the state rather than each person having to come and get. . .

Explanation

MRS. ZERVIGON Mr. Chairman and delegates, as you will recall, we've expanded the membership of the Public Service Commission from three members to five members. This just specifies how you get there from here, which is that the legislature shall provide it in its next extraordinary or regular session." I yield to any questions.

This is just to make clear that the actions that the convention took shall apply only to cause of action arising after the effective date of this constitution so that we will know exactly when the provisions of Article III, Section 14 come into effect. Mr. Lanier will yield to any questions on this section.

[Previous Question ordered. Section passed: 96-0. Motion to reconsider pending.]

Questions

MR. ABRAHAM Since the style and drafting and since the vote of the convention where the Public Service Commission will be in the Executive Branch, I just wanted to point out, is that going to stay in--that particular article--or is it going to have a different article number? Will it stay in Article VIII or it will go back to Article IV, or where?

Amendment

MR. POYNTER Mr. Jackson, are you ready to go? All right. The Johnny Jackson amendment. On page 1, in Part 1, between lines 11 and 12, insert a new section as follows: (Mrs. Zervigon, isn't Section 26 a Part III amendment? Section 26, isn't it Part III? It's the last one. It's been deleted. What about 25? All right. I need to add that in, then. Need to add, just for clarity to Style and Drafting, Part I, here.)

MRS. ZERVIGON This has nothing to do with that, as I understand it, Mr. Abraham. Excuse me; in answer to Mr. Abraham's question, Style and Drafting will change the article number if the reference is wrong. But, I think that it's clear that our intention is to refer to the Public Service Commission. Thank you.

"Section 27. Board of Supervisors of Southern University Section 27. At the next session of the legislature following the effective date of this constitution, the governor shall submit to the Senate for its consent the names of his appointees to the Board of Supervisors of Southern University and Agricultural and Mechanical College in accordance with and to effectuate Article IX, Section 7."

Explanation

MR. FLORY Mrs. Zervigon, it's been called to my attention, perhaps it. . . On line 9 where we say, "provide for a special election," could a regular election. . . could they. . . if there was a regular election after the effective date of this which would coincide with the reapportionment of the public service district, could it be held at that time, or should we say "shall provide for the election at which"?

MR. J. JACKSON Mr. Chairman, delegates to the convention, there exists in the present constitution as it relates to other colleges, the board and the manner and the time by which the governor will appoint it is spelled out in our proposed constitution. What we are attempting to do right here is to try to kill two birds with one stone. We want to apply, and we forgot when we were amending the Education Article to provide for the transition to set the same time limits of the same provision that we had done for the Board of Supervisors for L.S.U. and the time line for the appointment to the Board of Trustees. Basically, this is a technical amendment. I talked with the Transition Committee and I've talked to the Committee on Style and Drafting, and they have no objection whatsoever.

MRS. ZERVIGON Well, Mr. Flory, the reason that word was used was because for these two members it will be a special election in that they won't serve--more than likely won't serve--the full terms, in order to keep the membership of the board with overlapping terms. But, the special election could be called at the same time, on the same date, in the same polling places that a regular election is held.

Question

Amendment

MR. POYNTER We have an amendment which makes this "Part III." On page 17, between lines 12 and 13, insert the following: "PART III".

MR. NEWTON Mr. Jackson, I just got this and I'm not familiar with it, but what would be the effect if. . . will there be a conflict if we adopt this, depending on which article of the Education Article was adopted?

[Amendment adopted without objection. Previous Question ordered. Section

MR. J. JACKSON No. There is no conflict whatsoever, Mr. Newton. In fact, there is a similar provision in the proposed constitution that's being transferred to the transitional proposal which has basically the same language for the appointment to the L.S.U. Board of Supervisors.

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[Previous Question ordered. Amendment adopted: 89-2. Motion to reconsider tabled. Previous Question ordered. Section passed: 91-1. Motion to reconsider pending.]

Amendment

MR. POYNTER

Mr. Tobias, Mr. Pugh, Derbes, Zervigon and Denny send up amendments adding a proposed new section. In this case, Mr. Tobias, we're going to have to change it to 28.

....reads as follows:

Amendment No. 1. On page 9,---forget the rest of the instructions---after Convention Floor Amendment No. 1 proposed by Mr. Jackson and just adopted by the convention, insert the following:

"PART III

Section 28. Effect of Adoption

Section 28. Notwithstanding any contrary provisions of law or the prior constitution, this constitution when approved in accordance with Delegate Resolution Number 52 of the Constitutional Convention established by Act 2 of 1972 of the Louisiana Legislature, as amended....."

[Motion to waive reading of the Section adopted without objection.]

Explanation

MR. TOBIAS

Mr. Chairman, fellow delegates, the purpose of this amendment is to guarantee that, first of all, the three prohibitions contained in Act 2 of 1972 which restrict us....to insure that there is nothing in the constitution that we would affect by our actions; that's the first part. Now, there's been a lot of problems.... lot of question about how the constitution would be submitted to the voters and that will be Delegate Resolution Number 52. Now, we will eventually adopt something on this matter. We don't know exactly what it contains, but this is to guarantee that anything we do in accordance with that resolution and in accordance with those prohibitions contained in Act 2, in other words, to guarantee that the constitution when ratified by the people is the Constitution of the State of Louisiana.

Questions

MR. ALEXANDER

Mr. Clerk, I'm looking at Subsection 2, line 4, is that a misprint where you say, let me see, the terms of office of the members of the legislature....or elected, or any of the appointed officials of the state, or any political subdivisions thereof shall be reduced or shortened prior to the expiration of the term; do you mean shall not be reduced or....

MR. TOBIAS

As I appreciate it, Reverend Alexander, the first sentence that says, "Nothing in this constitution shall be construed as containing any provision whereby the terms of office" etc., so it would mean not, but I want to get a copy of it. This language contained in Paragraphs 1, 2, and 3 is verbatim....should be, the prohibitions contained in Section 4 of Act 2 of 1972; we'll check that.

MR. ALEXANDER

It should be negative.

MR. TOBIAS

I believe it is, but we are going to check it right now.

MR. ALEXANDER

Well, it's not written here.

MR. TOBIAS

I believe you are correct.

It's verbatim the language of the act.

MR. O'NEILL

Max, is there any doubt that this constitution would be the constitution we have without this language?

MR. TOBIAS

I want to guarantee that it is. I also want to guarantee

that the election procedures which we follow would be ratified by our actions.

MR. RAYBURN

Max, I just hurriedly read this. You just get these things, and about two minutes later, you got to vote on them. What does this do that we haven't already done; would you just tell me that? I mean we've done it; we've took care of the bonded indebtedness the way I see it; we've said you could remove no man from the office he had--even appointed, elected, or otherwise-- unless his office was abolished. I'm just trying to find out what this does that we haven't already done.

MR. TOBIAS

Well, first of all, Paragraph 3, I don't know how....although they could never remove the....it would be very difficult to move this building outside of Baton Rouge, that is one prohibition, but that's really minor. As far as Paragraph 2 is concerned, I am going to offer an amendment to this that would take care of a problem that involves what happens when an individual is, say, elected in the general election of 1974 for a four year term and he was supposed to take office on January 1, 1975. The question is, what happens to that individual? Does he take....say, we increase that office term to six years; would he take office for a six year term on January 1, 1975 or would he take office on a....for the four year term as provided under the 1921 Constitution? What I would do in the next amendment which I....to this amendment is say that he would take office for the term allowed in the 1921 Constitution, and that's the reason for this. The other reasons for putting this provision in the constitution is to guarantee that the ratification process, the submission of the constitution to the voters as contained in Delegate Resolution Number 52, which we will be considering later tonight, will be the method of ratifying the constitution and to guarantee that once ratified in accordance with Delegate Resolution Number 52 it will be the Constitution of 1974.

MR. RAYBURN

Well, does this just apply to only offices that you qualify and run for, or does it cover appointments....appointed offices? Supposing that you appoint people now for four years and you decide later on you want to make it six or you want to make it three, what's going to happen if we adopt this language?

MR. TOBIAS

This is purely a transitional measure; it would apply to all officers as far as the term; it just applies to those that, in effect, would take office after '75.

MR. RAYBURN

It says....I'm reading "any state or any of its political subdivisions." I think it could apply to a constable or a justice of peace. If the legislature wanted to give him an extra two years or take two away from him, I think it would apply to any political subdivision or state; now, maybe I'm wrong.

MR. TOBIAS

What I'm saying is that nothing in....this is a prohibition contained in Act 2 of 1972; this is verbatim the prohibition. What I am trying to do is prohibit, guarantee, so no one can ever question that we have violated the provisions of Act 2 of 1972.

MR. WILLIS

Max, reading your amendment in context it states that "nothing in this constitution shall be construed of containing any provision whereby the terms of office of any elected official"--stop here-- Now, via-a-vis the terms of district judges which were equalized, what is the effect on that?

MR. TOBIAS

A judge who would be elected...now, as it presently stands, it would be open for interpretation. I have an amendment coming to this amendment to add a short phrase; it reads "or to which elected." I added that on line 18 which would clarify that and this would be for us to decide. The point is that, as it presently stands, it is not clear what happens under which constitution the individual....how long his term would be for if elected prior to January 1, 1975.

MR. WILLIS

Well, now, do you propose that this amendment is on equal footing with the provisions in the Judiciary?

MR. TOBIAS

It is; in the sense that these are prohibitions contained in Act 2 of 1972 which we cannot act upon.

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MR. WILLIS

Well, we have not acted upon; that was the thrust of Senator Rayburn's questions.

MR. TOBIAS

Correct. I'm just guaranteeing and reinsuring that we haven't. In other words, to make sure that they can never question whether we have; this provision would get around it.

MR. WILLIS

You are guaranteeing a warranty, but one guarantee is sufficient; don't you think?

MR. WEISS

Delegate Tobias, isn't it true that Sections 1 and 3 are already included in our new constitution? Furthermore, how can we act upon a section which is contingent upon a Resolution Number 52 which we have not yet even acted upon?

MR. TOBIAS

We will have acted upon it; otherwise, Style and Drafting could take that out. As far as Section 1, I would hope that when we get back to Style and Drafting later this evening, that we would be able to delete Section 1--Subparagraph 1--in accordance with the...there is an earlier section in the schedule that we've already acted upon. As far as Section 3 is concerned, I don't know what...I believe the legislature meant by "c-a-p-i-t-o-l, c-a-p-i-t-a-l," and there is a slight difference and I don't know what would happen; it's an irrational statement as taken verbatim. But, I'm just continuing and guaranteeing that no one can ever question anything we have done under Act 2 of 1972 as far as those prohibitions contained in the Act.

MR. FLORY

Mr. Tobias, are you saying that no judge can declare anything we've done unconstitutional?

MR. TOBIAS

No.

MR. RAYBURN

Max, I'm noticing here....in my opinion, this does apply to all appointed officials; am I correct?

MR. TOBIAS

Correct.

MR. RAYBURN

Do you mean to tell me that we can't even reduce his salary? If somebody gets appointed at the beginning of a four year term and you think he's making too much and you would want to reduce him a little bit, and you say here you cannot even reduce their salaries?

MR. TOBIAS

I'm not arguing with the reasoning of the legislature in Act 2 of 1972; this is what they enacted. I'm just saying that there is nothing that we can do about it because it's a prohibitive to us in the act that created us.

MR. RAYBURN

If there's a legislative act though, we can go back and change it if we think we've gone too far. I'm on the question, the appointed officials; I'm not talking about elected officials. But, under this language the way I read it, you cannot even reduce an appointed official's salary if you so decide and it will be in the constitution that the legislature can't. If we decide we've made a mistake and we are paying somebody forty thousand dollars a year and later we think they need to make thirty-five or thirty-seven fifty, we can not even reduce it. Now, we can because it's an act. But, if you adopt this amendment, you cannot; it's in the constitution; he's got to stay there and draw it for four years.

MR. TOBIAS

Senator Rayburn, I can't argue with what Act 2 of 1972... If by some chance we have prohibited the legislature from raising a salary or reducing a salary, I think we were prohibited from the start from doing that. I think that we have to continue that act as the restriction contained in that act.

Further Discussion

MR. RAYBURN

Mr. Chairman and fellow delegates, I can see where this language could cause the legislature a lot of problems, if I

read it right. We've got to do a lot of consolidation. We can't have but twenty departments, and during that time we might reduce some of these appointed officials' duties. We could reduce a lot of them in the future. But, even though we reduce their duties if you adopt this amendment, in my opinion, you cannot reduce their salaries during that time they were appointed for, regardless of whether you reduce their duties by thirty, forty, or fifty percent; their salaries if I read this amendment right will be in the constitution, and they shall remain the same as long as they hold that office or for the expiration of the time they were appointed. I think that could get us in a lot of trouble. I'm not willing to reduce no elected official's salary. But, when you include appointed people with the task that we're going to be faced with if this constitution is adopted, we are going to have to do a lot of consolidating. We might find we've got a lot of officials that we can reduce their duties by combining them and putting them with some other agency. We might want to reduce their salaries likewise, but if you adopt this language you can't do it, and that's why I think it's bad.

Vice Chairman Casey in the Chair

Questions

MR. WILLIS

Senator, do you realize that this is constitutionalizing an act of the legislature thereby disabling the legislature from undoing that act?

MR. RAYBURN

That's exactly what I'm concerned about, Mr. Willis; it's saying to us, if we made a mistake by establishing a salary, that we can't come back and correct it.

MR. WILLIS

Yes, but this thing covers a multitude of sins; it doesn't stop at salaries; it says "elected officials," too, and it affects terms if you project it between now and the time this constitution is adopted.

MR. RAYBURN

Well, that don't concern me as much, Mr. Willis, as the salary part of appointed officials because you know if you want to reduce a salary because you've reduced their duties, the legislature can't do it; you will have to amend the constitution to do it if I read this particular language right.

MR. WOMACK

Senator Rayburn, I'll go a little further under this. I don't believe you could abolish one of these appointed jobs even if consolidation got to the point that you didn't even have a desk for him; could you?

MR. RAYBURN

I'm doubtful whether you could or not, Representative Womack. I don't know, I think we might get in court if we tried to....if we find out when we consolidate that we've got somebody up here with a big fat job and we've put all the duties somewhere else, I think he might take us to court and draw his salary whether he's done his work or not for the remainder of the time he was appointed. If I read this particular language right--I know it was put in here for some elected officials, but I think they've gone a little too far with it; I have got my own ideas why it's here. I don't care to discuss them. I'm not against any elected officials. But, I just don't think you ought to bring everybody in the state in here, and I see you laughing, Judge, and you keep on laughing. There's some other people kind of looking here, too, you know in this convention.

MR. DERBES

Senator, as I read the amendment, it's a limitation on the constitution rather than a limitation on the legislature? In other words--and I think that's an important distinction--it says that "Nothing in this constitution shall be construed as containing any provision whereby;" it does not say, "No law shall be enacted whereby."

MR. RAYBURN

It goes on to refer to Act 2 of '72, I think, Mr. Derbes, if I read it right. It's pretty hard to analyze these things when you just see them and about two minutes later you have to vote on them.

MR. DERBES

Well, for example, it says....

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MR. RAYBURN
I'm not that smart.

MR. DERBES
Well, I can see the source of the difference but it does say, I think, rather clearly that "nothing in this constitution shall be construed as containing any provision whereby the terms of office, of the members of the legislature, or of any other elected, or of any appointed official of the state," etc., "shall be reduced or shortened." In other words, it does not purport to be a restriction on the legislature; it is only a restriction on the call and acope of the constitutional convention.

MR. RAYBURN
Maybe I read it wrong; I don't think I did.

Further Discussion

MRS. ZERVIGON
Mr. Chairman, I rise to speak in support of the amendment, as you'll notice, I'm a coauthor. Mr. Duval, Mr. Tobias and several other people were worried that there might be parts of Act 2 other than the parts contained in Section 4 of Act 2 which are stated as prohibitions which could be interpreted as prohibitions. For example, many of us when we were elected or appointed really thought we would be home between January and July of 1973 because the Act reads that way. Now, did we violate a prohibition of that Act by working in committee during that time? If this is ratified by the people, it will be clear that we didn't; up to now it isn't clear. There is a method for determining the effective date in Act 2; it's really only a procedure; it's not a prohibition for setting a delayed effective date on any article or on the entire constitution. This makes it clear that that is not to be read as a prohibition. The only reason these three subparagraphs are in there is to continue the things that were intended by the legislature to be prohibitions not against themselves, but against us saying, the constitution doesn't do these things. If it were a prohibition against the legislature, it would read "no law shall be enacted", or it will read "district, or other political subdivision, or authority of the state may be impaired," not "shall be." So, please keep in mind exactly what we are trying to do. We are trying to avoid lawsuits or in the procedures that we have followed as set up in our rules. Mr. Chairman, I'll yield to any questions?

Questions

MR. SCHMITT
Are you saying that these prohibitions in (1), (2), and (3) were those within the Act 2, in other words, the call for the convention?

MRS. ZERVIGON
Word by word.

MR. SCHMITT
If we would have acted outside of the call from the convention, whatever we would have done would have been unconstitutional any how; isn't that correct?

MRS. ZERVIGON
That's certainly true as it applied to those prohibitions, Mr. Schmitt. The problem is does the rest of the Act constitute a prohibition or only a mechanism and procedure?

MR. SCHMITT
So, nothing that we can do right now. If it's unconstitutional because it goes outside the act, we can't constitutionalize the act subsequent to that time and perfect it.

MRS. ZERVIGON
We aren't constitutionalizing the act, Mr. Schmitt.

MR. SCHMITT
You are constitutionalizing, I believe, that you are constitutionalizing the call which was...if you act outside the call, the rules or the guidelines for having the convention, then aren't you, by doing that, performing unconstitutionally, and nothing we can do now can perfect that; it's too late?

MRS. ZERVIGON
By no means, Mr. Schmitt.

MR. SCHMITT
This is meaningless; this is just a waste of paper and a waste of time.

MRS. ZERVIGON
Are you asking the question?

MR. SCHMITT
I think you're wasting the time of the convention; aren't you? What are you accomplishing by doing this?

MRS. ZERVIGON
Sit down, Mr. Schmitt, and I'll explain it to you slowly one more time.

MR. SCHMITT
I don't think....

MRS. ZERVIGON
Sit down, Mr. Schmitt, and I'll explain it to you slowly one more time.

MR. SCHMITT
What are you doing that was not done in the call; could you answer me that? If the call is a restriction by which we can act, what are you accomplishing outside of that if this only contains what is in a call?

MRS. ZERVIGON
Are you ready?

MR. CASEY
Just a minute. Mrs. Zervigon and Mr. Schmitt, maybe we can solve the problem; I think Mr. Tobias has a motion. So, let me recognize Mr. Tobias at this time, first.

Motion

MR. TOBIAS
Mr. Chairman, to clarify this amendment and to take care of those objections and to guarantee the ratification of the concept... to guarantee that the constitution, if ratified in accordance with Delegate Resolution No. 52 which Mr. Pugh had introduced very shortly, I would move to withdraw the amendment and delete every thing below the part of the paragraph which says, the sentence that begins "nothing in this constitution shall be construed as containing any provision whereby."

[Amendment withdrawn.]

Amendment

MR. POYNTER
The gentleman resubmits it as indicated; constituting deleting everything from line 8 on--everything from line 8 of the text on is deleted--picking up with "Nothing in this constitution" all the way through the end is deleted; leaves just the first sentence.

Explanation

MR. TOBIAS
Mr. Chairman, all this does is say that once the amendment.... once our constitution is presented to the people in accordance with the delegate resolution and approved by the people with the alternatives, it will be the constitution of the State of Louisiana; that's all it says.

Questions

MR. PLANCHARD
I'm in agreement with what you're trying to do here. But, don't you feel that we are a bit premature? You're saying in effect that Delegate Resolution No. 52 will be passed, and it hasn't been presented; I think it's premature.

MR. TOBIAS
Mr. Planchard, there will be...there will have to be a delegate resolution passed, otherwise, there's no method by which we can present this. Now, if there isn't, then Style and Drafting can take this section out, and it would be totally irrelevant.

MR. PLANCHARD
Well, what I'm saying in effect is why don't we get the Delegate Resolution No. 52, and then we will take up these items later?

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MR. TOBIAS

Because, Mr. Planchard, we are trying to style and draft it...we are running out of time, and as soon as we do this, it will clarify that.

MRS. ZERVIGON

If I may respond to Mr. Schmitt's question because I never got a chance to do it. What we are doing is saying the vote of the people ratifies our actions as saying they are not in conflict with Act 2; that's all.

MR. O'NEILL

Mr. Tobias, do you still intend to offer the other amendment you are supposed to have prior to this?

MR. TOBIAS

No.

MR. WILLIS

I want to be sure, Max, on what I'm voting. It is solely on the first sentence ending with "State of Louisiana;" is that correct?

MR. TOBIAS

Correct.

MR. WILLIS

Of course, Mr. Planchard, preempted my question which was that we are presupposing that Delegate Resolution No. 52 would be adopted or amended because.....

MR. TOBIAS

It will be adopted or amended, I'm pretty sure of that because we need some method to submit this to the voters, and this is the way we planned to do it in accordance with this.

MR. WILLIS

I understand.

MR. WOMACK

Mr. Chairman, I don't know whether I have a question or whether I ought to raise a point of order. We've gone all through this, and I want to raise a question. I think the worst thing I've ever seen come up in this legislature is the last night. We are here with a high-priced research staff of what I call professional people, not one of them have I heard on this. We've got some very brilliant, aged, experienced attorneys; none of them are sanctioning this. What I would like to know now is, let's just stop and take a second look for a minute or two, and let's get one or two professionals in here to look at this without just taking one of these words that it looks to me like it would be so and so.

MR. CASEY

Mr. Womack, this amendment is under debate now, and it's up to the convention to dispose of it one way or the other.

MR. TOBIAS

Mr. Womack, I resent personally...

MR. ALEXANDER

Mr. Tobias, Act 52 does prohibit this convention from reducing any term or salary. Now, will that be automatic if this amendment passes as rearranged?

MR. TOBIAS

If we, under the constitution....if in our constitution we have reduced any terms, salaries, or anything, then that particular provision would be unconstitutional as contained, as we would be exceeding the powers granted to this convention as contained in Act 2 of 1972.

MR. AVANT

Mr. Tobias, I have studied Act 2 for the better part of this week, with one particular thing in mind, and that's trying to ascertain by what vote an alternate proposal to this constitution is required to be adopted. I have certain very definite opinions as to what vote is required to adopt an alternate proposition. If we. . .

Point of Order

MR. VELAZQUEZ

A point of order, Mr. Chairman. This isn't relevant to the

point under discussion. We're discussing the amendment of Mr. Tobias. We're not discussing the vote needed for an alternative.

MR. CASEY

I believe Mr. Velazquez is correct, Mr. Avant.

MR. AVANT

. . . finish the question, you would find out that it's relevant.

MR. CASEY

Okay, Mr. Avant, finish your question, sir.

MR. AVANT

Now, Mr. Tobias, if Act 2 does have a provision in it which does require that an alternative proposition be adopted by a certain vote, if we then adopt this resolution, and if we then further adopt a resolution which specifies a vote by which an alternative may be adopted which is different from that which is required by Act 2, then under your resolution whatever we put in there and say is what it takes is what it's going to take. Isn't that right?

MR. TOBIAS

Mr. Avant, first of all, Delegate Resolution No. 52 has to provide a procedure. That's the method that it provides by which the constitution will be ratified by the people. As far as the vote requirement, I don't know what. . . precisely. It's my impression that it doesn't restrict that, but I'm saying that delegate resolution, with respect to procedures under the act, is what is going to have to govern us. In other words, there's no procedure; there's no law on point.

MR. AVANT

Well, my question is, Mr. Tobias, though, we haven't adopted any such delegate resolution. If they put one in here and they say in it that an alternate--this alternate--will be considered the constitution of Louisiana if a majority of the people voting on the alternate, vote favorably for it, and then, if we put this in the constitution, too, then that alternate is going to become part of the constitution, irrespective of how small that number of people may be. Isn't that a fact?

MR. TOBIAS

Mr. Avant, I think we can rely on a little bit of good faith in this constitution and not resort to sorts of. . . feel that we're going to say that if ten percent of the people vote for the alternate and ninety percent vote against it that the alternate will be adopted. That's what it sounds like you are saying. There is going to be a resolution saying what is going to happen to the majority of those voting.

MR. AVANT

That's not what I'm saying at all, Mr. Tobias. But, what I'm saying is if a million people vote on this basic constitution and only fifty thousand happen to vote on this alternate, and we say that twenty-five thousand and one of them will pass the alternate, and we put this in the constitution, then that's what it's going to take to pass the alternate, no matter how many people vote on the basic question of the constitution. Isn't that correct?

MR. TOBIAS

Mr. Avant, it's my appreciation of Act 2 of 1972 that it is silent upon that subject matter. . .

MR. AVANT

But, that's just your appreciation. Suppose it isn't silent. . .

MR. TOBIAS

Won't you read it?

MR. AVANT

I have read it, many, many times.

[Previous Question ordered.]

Closing

MR. TOBIAS

Mr. Chairman, fellow delegates, we are going to have to decide something, and that is the procedures by which the constitution which we adopt is going to be submitted to the people. We are going to have to set that forth. If we do not set that forth, it would. . . the delegate resolution would have no force and effect of law unless we ratify it in this constitution. It would have no force or effect, I can assure you of that. There's no procedure provided in the

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Louisiana Statutes. That's the whole purpose of Delegate Resolution No. 52. All this does is just say that we are ratifying the method once the constitution has been approved by the people, and say that the constitution, once approved, is the Constitution of the State of Louisiana thereby superseding the Constitution of 1921.

Questions

MR. VELAZQUEZ

Mr. Tobias, isn't it true that if we ran for this office or we accepted appointment, we either ran or accepted appointment under the stipulations given in Act 2?

MR. TOBIAS

That is correct.

MR. VELAZQUEZ

Then, if we said we'd obey the rules when we started the game and when they ended the game they just are asking us. . .we're just saying that we did obey the rules. That's all your amendment is saying that. . .

MR. TOBIAS

That is my appreciation of it.

MR. PUGH

Mr. Tobias, isn't it a fact that the 1913 Constitution had seriously the question raised relative to it on account of the manner of the call?

MR. TOBIAS

Absolutely.

MR. PUGH

Mr. Tobias, isn't it a matter of fact that there must be a resolution adopted by this convention to set forth the form and manner in which this constitution and alternates must be submitted, and that in addition thereto, instructions must be given to the appropriate authorities relative to this election?

MR. TOBIAS

Absolutely.

MR. PUGH

Do you view Delegate Resolution No. 52 as anything other than a vehicle for accomplishing that purpose?

MR. TOBIAS

Act 2 and Delegate Resolution No. 52 will only set forth the procedures.

MR. PUGH

Is it not a matter of fact what you are trying to do is set the stage in that once we do set forth the resolution, in view of the fact to put it in its kindest light, Act 2 leaves something to be desired, that ultimately if there is a contest concerning the validity of the constitution, the provisions that you now suggest may well be the ones on which this will be determined by the courts to be constitutionally adopted? Now, isn't that a matter of fact?

MR. TOBIAS

That is my impression of it. You asked and answered your own question. It's true.

MR. PUGH

Did you and I not discuss these at the time you came over to the other building to ask me about them?

MR. TOBIAS

Yes.

MR. PUGH

I told you that I thought that they should be done?

MR. TOBIAS

Absolutely.

MR. PUGH

Thank you.

MR. RAYBURN

Mr. Tobias, we are proposing, here, that everything in Delegate Resolution No. 52 is in order and it's in good shape, because we are ratifying it here by this language prior to the time we act on it. Am I correct?

MR. TOBIAS

There will be a delegate resolution to . . .

MR. RAYBURN

Well, aren't we more or less approving it--anything that's in it or as amended? Then, it shall be the constitution of the State of Louisiana. Is that what we're doing with this language, proposing prior to the time we even have a chance to deliberate Delegate Resolution No. 52?

MR. TOBIAS

Senator Rayburn, since there is no law on submission, I keep repeating this and I can't understand why some people--not you, personally--but some people may not be able to.

MR. RAYBURN

Well, just put me in the crowd with them 'cause we. . .

MR. TOBIAS

All I'm saying is that there's got to be a procedure somewhere in the law. There is no law on submission of this type of document to the people. So, therefore, in order to make sure that there is, I am making sure that Delegate Resolution No. 52 on submission is law. In other words, to say that we have complied with the law.

MR. RAYBURN

Why, Mr. Tobias. . .

MR. CASEY

Mr. Tobias, the gentleman has now exceeded his time.

Point of Information

MRS. WARREN

Mr. Acting Chairman, I was sitting and listening after the debate and I was hearing different things and getting ready to vote on this. This is a long resolution, and it said. . .in this, would we be accepting what is in here? I'm not familiar with how many votes it's going to take on the alternate and how many it's going to take on the other. So, we're going to be saying. . .are we saying if we vote for his amendment that we're going to accept everything in this resolution?

MR. CASEY

Mrs. Warren, the amendment is not long any longer; it's been changed.

MRS. WARREN

This is not what I'm saying. I'm a little bit confused.

MR. POYNTER

Mrs. Warren, if I understand your question, you're talking about Resolution No. 52. Right? All right. It would be my understanding that you are correct to the extent that this would ratify and adopt delegate. . .or give authority to Delegate Resolution No. 52. However, you may ultimately decide to amend or change and adopt that delegate resolution. In other words, Delegate Resolution No. 52 may not be passed like you have it there. I can assure you there are going to be some amendments offered, at any rate. But, however it ultimately comes out, yes ma'am, you would be giving sanction to it.

Point of Information

MR. WEISS

A point of information. If this section is adopted, it will be placed pending, is that correct, and therefore can be rescinded at any later time if the convention so desires?

MR. CASEY

That is true, Dr. Weiss.

[Amendment rejected: 45-53. Motion to reconsider tabled.]

Amendment

MR. POYNTER

Mr. Leithman and Mr. Juneau send up an amendment. On page 9, line 7, add the following:

"PART 1

Section. . .

(All right. Let's make this line 11, Mr. Leithman. It needs to be line 11. It really. . .just. . .)

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On page 9 and following the Johnny Jackson amendment, add the following:

Section _____. Transition to Board of Regents and State Board of Elementary and Secondary Education."

[Motion to waive reading of the amendment adopted without objection.]

Explanation

MR. LEITHMAN

Mr. Acting Chairman and members of the convention, this is a relatively simple amendment to follow. What it does is this: the Coordinating Council for Higher Education and the L.S.U. Board of Supervisors, those two memberships go to completing the Board of Regents for Higher Education. The State Board of Education which now exists, which is as you know it, the eleven members there who have a choice—either going to the Board of Regents or the Board for Elementary and Secondary Education. Now, basically, that is all that happens. The legislature will and must intervene because of expiring terms. If you're interested in the terms, I have each expiration of each member's term for all of the three boards. In 1974, the State Board loses three people. The Louisiana Coordinating Council, in 1974, will lose four people. The L.S.U. Board of Supervisors, in 1974, will lose two people. So, as these terms expire, these members either run for reelection or just drop out. I think it would be better if I would answer any questions because the amendment, as you see it, is real simple, and there's not a heck of a lot to explain. It's pretty closely parallel to our Act 712 which we passed in the session in '72.

I yield to questions.

Questions

MR. CHAMPAGNE

As I read the first paragraph, "If Alternate Proposition No. 2 (A) concerning". . . Now, what is Alternate Proposition No. 2 (A)?

MR. LEITHMAN

Well, I don't think we really ascertained that. I feel it's the alternative proposition for education relating to the Board of Regents.

MR. CHAMPAGNE

Well, I think. . .

MR. LEITHMAN

The Board of Regents for Higher Education--the single board.

MR. CHAMPAGNE

Without the management boards or what is that?

MR. LEITHMAN

Yes. That's the single board for higher education.

MR. CHAMPAGNE

In other words, if we adopt this at this time, then we're locking in how this is going to read on the ballot; right?

MR. LEITHMAN

It says no. . . this is a transition. This only takes place if your. . . if it's adopted. This is after the election.

MR. CHAMPAGNE

My next question is: how do we know what 2 (A) is until such time as we establish what 2 (A) is going to be? In other words, you're saying that if Alternate Proposition No. 2 (A) concerning education boards is approved, then the sections are null and void. Why don't you just leave that 2 (A) blank right now, and then we'll talk about the proposal?

MR. LEITHMAN

You know, you bring up a perfectly valid point, and I have no opposition to that at all. But, it is intended, the 2 (A) is intended to reflect the single board, the one board for higher education, regardless how we. . . what terminology we use to identify it.

MR. KEAN

Mr. Leithman, as I appreciate it, there was nothing in the Delegate Proposal No. 98 which contained this particular language, was there?

MR. LEITHMAN

Not. . . I don't think it. . . this parallel language? No sir, I don't think we had anything that provided for the transition.

MR. KEAN

So, when we adopted Delegate Proposal No. 98, we made no provision in Delegate Proposal No. 98 for the make-up of these boards which would include some people from the Louisiana State University Board and other sources?

MR. LEITHMAN

I stand to be corrected, but I don't think we did, Mr. Kean. This is strictly to transition.

MR. KEAN

If you had a number of the L.S.U. Board and members of the Louisiana Coordinating Council that went on to the Board of Regents, you'd start off with a Board of Regents that would have more members than is provided for in the alternative proposal, would you not?

MR. LEITHMAN

Slightly more for a period of less than a year.

MR. KEAN

Would they constitute the appointive, or how would you work from the appointive--the eight appointive--or eight elected and seven appointed? How . . .

MR. LEITHMAN

The legislature shall provide by law the procedure to effect the transition of the board.

MR. KEAN

It's not intended by this that the legislature could provide by law to eliminate the term of office of any of the people that you have here?

MR. LEITHMAN

No sir. What we have--and this may help, and of course, you all don't have the advantage of seeing the dates--for instance, on the Louisiana Coordinating Council you have one, two, three, four, you have roughly six seats that are null and void during the year of '74. So, it's reduced considerably during this calendar year that we are now in.

MR. KEAN

I see.

MR. LEITHMAN

So that reduces that fifteen member board extensively during '74. Then, in '76, you have five people on the Coordinating Council that phase out. On the State Board of Education in '76 we have three.

MR. KEAN

My point is: as I understand Act 2 of 1972, we can do nothing in this convention to shorten the terms of any elected or appointed official.

MR. LEITHMAN

That's correct, sir.

MR. KEAN

My question is: could the legislature by reason of this provision by which it could provide by law for a procedure to effectuate the transition, by that process shorten the terms of any of these officials?

MR. LEITHMAN

No sir. I'd say absolutely no. I don't think any elected official's term can be or is intended to be reduced by anyone, and certainly not by the legislature.

Delegate Reeves in the Chair

MR. LEITHMAN

Yes.

MR. PLANCHARD

Mr. Acting Chairman, my question has been answered, I think. Kenny, did you say that you were going to withdraw it and take out Alternative Proposition No. 2 (A), or the number 2 (A)?

MR. LEITHMAN

Well, I have no objection. I would like to confer with those persons who have drafted . . .

MR. PLANCHARD

Otherwise, I think it's premature.

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MR. LEITHMAN

But, the 2 (A) relates to the Board of Regents. But, I would like to confer with the staff people who . . . just one moment.

Here, I think this answers the question, Mr. Smith and the staff. The 2 (A) relates to the 2 (A) Paragraph which was passed in the Proposal No. 98. That 2 (A) is for the Education Article creating only a Board of Regents to govern higher education. So, in essence, we have identified 2 (A) relating to the Alternative Proposal No. 98 in which we relate in detail 2 (A) to the single board.

MR. FLORY

Mr. Leithman, first, my question is, as it relates to the Alternative Proposition No. 2 (A), you, in the first two instances you put the 2 (A) in. Then, in the third paragraph you left it blank. Your reasons for that?

MR. LEITHMAN

The staff tells me it's a style and drafting, totally style and drafting situation.

MR. FLORY

There's not much style, but it needs a lot of drafting; is that it?

MR. LEITHMAN

That depends on which street you're going down, Mr. Flory.

MR. FLORY

Okay, two way. The second question: as I appreciate it, there are fifteen men on the . . . fifteen members on the Coordinating Council, some seventeen on the L.S.U. Board of Supervisors; there's eleven members of the State Board of Education?

MR. LEITHMAN

No sir.

You have fifteen members on the Coordinating Council, of which two of these people are . . . serve also on the L.S.U. Board and the State Board. Then, of that same fifteen--now you're down to thirteen--you have four whose term expires in the year 1974. So, you're down to thirteen with those two duplications. You reduce it by another four, so, in essence, you're down to nine people--the figures that we would be dealing with if this proposition passes on the Coordinating Council.

MR. FLORY

But, I look down there where you provide that the members of the State Board can select either direction they want to go in. So, you have to include that eleven, possibly, of going on the Board of Regents, plus the eight that you require that be elected, 'cause if my figures are correct, you've got somewhere above forty members on the Board of Regents for what period of time?

MR. LEITHMAN

No sir. That's not so at all. If you'd jot these figures down, I'll give them to you again. On the State Board of Education you presently have eleven people--eleven people. Three of those people go off in 1974. So, in essence, we're only naming eight people. We're dealing with eight persons, because they're non-existent at the end of 1974 when this constitution goes into effect.

So, you see, we're only fooling with eight people there, Gordon, because their term would have expired before we even considered what we're going to do with them. Then, on your Coordinating Council, you have fifteen persons there, two of which serve; one from the LSU Board, and one from the State Board of Education. So, right off the bat, you're fooling with thirteen persons there, of which four persons expire--the terms expire in your calendar year of 1974. So, we're dealing with nine persons there. On the LSU Board, two of them expire in 1974. So, you're not...you're fooling with just a shade around twenty...

MR. FLORY

I won't argue mathematics with you right now, Mr. Leithman. But, tell me then...

MR. LEITHMAN

Well, you told me you had forty numbers. I'm trying to add two and two.

MR. FLORY

Well, tell me, then, how many people will be on the Board of Regents under your proposal.

MR. LEITHMAN

You know that until we phase out...this is a transitional period.

MR. FLORY

Right.

MR. LEITHMAN

I can't tell you because I can't tell you which way these persons would go. They have an option. They may go to this board; or they may go to that board. I can't ...

MR. FLORY

My last question, then, is: in your last paragraph, or Paragraph 4--I've got two here; I don't know one you're going with--but, the one I have...

MR. LEITHMAN

The one the Clerk read out, Mr. Flory.

MR. FLORY

Higher education, you say that "on the effective date all functions of the State Board," tell me, in that subparagraph where vocational education fits...

MR. LEITHMAN

This has no bearing with vo-tech whatsoever.

MR. WILLIS

Mr. Leithman, irrespective of the composition of the boards, on the Education Article which we have and the alternative which was proposed, is not your amendment a simple corollary to the amendment by Rep. Johnny Jackson to give the mechanics whereby, and transitional mechanism whereby, we can either implement, compliment, supplement, or suggest the provision of the alternative article, if it is adopted?

MR. LEITHMAN

The situation is that simple.

MR. WILLIS

Does not the first word in your amendment commence with a conditional word, "if"?

MR. LEITHMAN

Absolutely.

MR. HERNANDEZ

Mr. Leithman, where did you get this 2(A) that you refer to in your proposal?

MR. LEITHMAN

As I mentioned before, Mr. Hernandez, this relates to the Alternative Proposition No. 98, and on 98, there's a paragraph on the Proposition 2(A) relates to the Education Article creating only a Board of Regents to govern higher education, no management boards.

MR. HERNANDEZ

Thank you, sir.

MR. CHAMPAGNE

Mr. Leithman, do you know that when Delegate Proposal No. 98 was presented to this convention, that I inquired of the Chair and requested that in no way was I voting on Section 1 or Section 2? Ultimately, I voted for the proposal, but do you know that now you are coming back and, in effect, establishing, if we pass this section, that the provision, the position on the ballot will be determined before we even discuss it, and for that reason, I object to the words "2(A)" being in the proposal in any way, sir, just like you left the others blank, I would object to 2(A), the word being in the proposal?

MR. LEITHMAN

It's not any...I don't see any real problem with the figure 2(A) on it.

MR. HAYES

Mr. Leithman, I understand, I believe you when you answered

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Mr. Kean's question; we're not supposed to reduce a term. Is that right?

[Amendment withdrawn.]

Amendment

MR. LEITHMAN
That's it brother...either.

MR. HAYES
..terms he's in office...
Would you say a term, then—if you abolish a board at LSU, this board doesn't any longer exist; isn't that correct at LSU?

MR. LEITHMAN
That's right.

MR. HAYES
Then, transferring them to another board, you have abolished that. Is transferring them to another board, is that an equal board that you're transferring them to? Isn't it in fact... that's what I'm trying to say. What about this trans...do you get the point?

MR. LEITHMAN
I think I follow your point. If a man has three years remaining in his elected term, and he is transferred by a constitutional act to a board comparable for a period of three years remaining, he will continue to serve for his three years, and his term will not be shortened at all.

MR. HAYES
That wasn't the term that he was appointed to originally. You're transferring him to something different. I'm trying to bear this out and you don't have anything to back that up with in your act, do you? In other words, it looks like it would be something fair to do, but it isn't, in fact, backed up by anything.

Recess

Chairman Henry in the Chair

MR. HENRY
Ladies and gentlemen, I know that you are all tired, and you've worked awfully hard and been most cooperative today. I'd like to...for Mr. Poynter to explain to you why it's sort of necessary that we get every possible lick in tonight that we can; we're up in Style and Drafting and so forth. Mr. Poynter, if you would. Please give the Clerk your attention, ladies and gentlemen.

MR. POYNTER
The ultimate problem is the fact that when Style and Drafting is through, of course, it's going to have to return primarily the alternative proposition, or rather, the transitional proposition to either be appropriately styled in accordance with whatever you determine. But, thereafter, you're going to have to decide on an ultimate organization, and they're going to propose a whole group of amendments they've been working for a while to provide for the ultimate arrangement of all the sections and the articles and whatnot. If you should decide to change very substantially what they do on the floor, there's going to be a long gap between the time you adopt those Style and Drafting amendments and the time we can have a document for you to sign and get to the governor at least by midnight tomorrow night. I think you all would like to go a little bit earlier than that. So, if we can get that far tonight, we can assure ourselves whatever you do or however you resolve the final organization of this thing, we can have it for you to sign it and get it in accordance with the law, present it to the governor tomorrow. Without that safeguard, we could be in trouble, in my opinion.

MR. HENRY
I know that you're real glad to hear that, and I've tried to convince Mr. Poynter otherwise, but he seems determined. So, I want you all to know that while he's not, I'm on your side.
All right, Mr. Clerk. I believe we're going to try to finish up with Mr. Leithman's business here. We're going to have to sort of prune it, I think, before we go. But, if you will, Mr. Clerk, let us know where we are, please.

MR. POYNTER
Mr. Leithman, first of all at this time is going to move to withdraw the present amendment to make certain changes, in particular, the one Mr. Champagne has mentioned on the floor.

MR. POYNTER
Yes, the gentleman resubmits the amendment now.
I just can note the changes.
First of all, the primary change is up in Paragraph (A), where it has "if Alternative Proposition No. 2(A), concerning," and so forth, the gentleman strikes...wishes to strike out of his amendment "No. 2(A)" and just insert a blank, so that it says, "if Alternative Proposition _____, concerning education boards" and so forth. That same change needs to be made in the last sentence of Paragraph (A), so that it would there read "if Alternative Proposition _____ is not approved, this section shall be null, void, and of no effect." Of course, Style and Drafting could put in the appropriate thing depending on what you all do on the next resolution. One other thing which was an omission caused by the deletion of Paragraph 5, after on --- Subparagraph 3 --line 2 of Subparagraph 3 of Paragraph B, "on the effective date of this constitution, the Louisiana Coordinating Council for Higher Education"—need to add "and the Board of Supervisors, Louisiana State University and Agricultural and Mechanical College." With those changes, he resubmits the amendment.

Explanation

MR. LEITHMAN
Mr. Chairman and fellow delegates, we have the alternate proposal up with Paragraph 5, Vote of the...we're in the process of compromising, and it's an awkward thing at this stage but you have another amendment by myself and Juneau with Paragraph 5 in it. Now, we've agreed I would like to withdraw...yes, I know it's involved....

MR. POYNTER
All right, you want the one with the Paragraph 5 in it?

MR. LEITHMAN
Yes, sir.

MR. POYNTER
The one Mr. Abraham said that he was going to save in case you changed your mind?

MR. LEITHMAN
That's exactly it.

MR. POYNTER
On that, you're going to make that same change and take out...

MR. LEITHMAN
Make the same change; take out 2(A), all reference to 2(A)...

MR. POYNTER
...and just leave a blank.

MR. LEITHMAN
... and make the same change in Paragraph 3; we've got to make that same change in 3.

MR. POYNTER
No, you don't want to do that.

MR. LEITHMAN
You're right; you're right.

MR. POYNTER
So, the only change then...does anyone have the other Leithman amendment that has Subparagraph 5 of Paragraph (B)? The only change would be up in Paragraph (A) in the two places, line 2 in the second to last line of that would be to delete that "No. 2(A)" and put a blank.

Explanation continued

MR. LEITHMAN
So, what we have done, gentlemen, when we ...
What we have done, ladies and gentlemen, in adding Paragraph 5, in withdrawing that amendment that we discussed--the other amendment is identical to it with one exception--and at the very bottom we have another Section 5, and this does, in fact, provide for a management board of daily operations of the LSU

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system. This is in a compromised vein of a compromise, and we think it's fair and just. So, that is the only change that we make. So, number 1, you have no reference to "2(A)", which some people balked at. Again, let me mention one thing that was pointed out during the break. This is the same transition that we made in 30, paralleling Article VII. So, there's no real problem. It was done in 30 for VII, and we're doing it here for our proposition, No. 98. So, if there's no other questions...

Questions

MR. J. JACKSON
Mr. Leithman, you mentioned Paragraph 5 as a compromise. Could you go over that again for me, please?

MR. LEITHMAN
All right. This is what has happened: LSU Board of Supervisors now has a board in the constitution, Johnny. There also, if we could provide by a...provide for a management board for Louisiana State, so we're replacing in the constitution the LSU Board of Supervisors with a management board, and I know what's in your mind, and I say this: we have provided in the basic document of the alternative for those...all universities that desire to have a management board, they may do so under the same conditions so that's all. If there's no further questions...

MR. ABRAHAM
Kenny, Article XII, Section 7 contains the Board of Supervisors for LSU, the State Board of Education, and the Coordinating Council. Now, you didn't mean for the entire Section 7 to be continued as a statute, did you?

MR. LEITHMAN
We have to draw it out.

MR. A. JACKSON
Mr. Leithman, how can you transpose a management board for the Board of Regents when there is no such structure now in existence?

MR. LEITHMAN
Alphonse, I didn't hear the beginning of your question. Say it again, please.

MR. A. JACKSON
As I appreciate your amendment, it is a proposition to transpose the existing governor's structures into either the Board of Regents or the Elementary and Secondary Board as prescribed in your alternate; correct?

MR. LEITHMAN
You're referring to the LSU Board, or the coordinating...

MR. A. JACKSON
I'm asking you, is not your transition measure, is designed to place the present people that now occupy either the...now either are on the LSU Board of Supervisors, or on the Coordinating Council, or on the Elementary and Secondary Education Article, on either the Board of Regents or the Elementary Secondary Education Board? Well, now, how is it that you now say to us that you are now including a management board which is now not in existence? I don't understand that. I mean, how can you transpose something that's not in existence?

MR. LEITHMAN
Well, this is going to...the management board would be continued as in statute.

MR. A. JACKSON
What management board, Mr. Leithman?

MR. LEITHMAN
The board that LSU now has at the LSU University.

MR. A. JACKSON
They have an LSU Board of Supervisors.

MR. LEITHMAN
This would be provided for by law with new personnel as a management board at the LSU system. It's not the same personnel.

MR. A. JACKSON
Now, Mr. Leithman, I want to understand what you're saying, so I can vote intelligently. You said that you compromised by

adding a Board of Management for LSU to be transposed by way of this vehicle; did you not?

MR. LEITHMAN
No, let me back up and say it again. We would provide in statute for a management board which will handle the daily operations at the Louisiana State University. It has no affiliation or connection with the LSU Board of Supervisors that now exist—none whatsoever.

MR. J. JACKSON
Mr. Chairman, for the legislative record at this convention, I would like for Mr. Leithman or Mr. Juneau, for the legislative record, to indicate the purpose of Subsection 5.

MR. LEITHMAN
Well, I'm going to ask either Mr. Kelly or Mr. Juneau because they were involved in the conversation, Johnny, and I'm not being evasive.

Further Discussion

MR. JUNEAU
Mr. Chairman and fellow delegates, let me, if I can, put this thing in perspective for you and tell you how this document was drafted. As you will note, there are two amendments for you, and I'll tell you very candidly what has transpired. Number 1; the first amendment that was drafted is the amendment that is now before you which includes Section 5, which has a transition provision retaining as a legislative board, the LSU Board of Supervisors. That was drafted for this reason: We do have, and we can't ignore it; it's there; let's face it; you do have the 1921 Constitution with the amendment which was tacked thereon which created the LSU Board of Supervisors. There are fifteen members of that board. It is a constitutionally-created board; whereby the members who serve on that board serve in a constitutional status. When Act 2 was passed--and I didn't draft it, and I don't know...very few here did--I doubt that many of these problems that we're having now we contemplated at that time. It said that you cannot affect the terms of those people who serve in constitutionally-created boards, or constitutionally-created offices. So, we had the problem, we had the problem of a two-board concept as contrasted with a five-board concept. More specifically, we have fifteen extra people. What do you do with them? Well, number 1, they said transfer them to the Board of Regents. Let's go to a twenty-nine or thirty-nine member board and that that will eventually phase out. Well, the decision was made--I say decision--the proposition was made for the orderly transition of the management of a university and of a board. The proper place would be to retain it as a legislative board, which I say is drastically different, and which has to be the big issue, that what we would do was maintain that board as a legislative board and leave those fifteen members in that position. Then, it could be changed or expired by legislative act. That's what occurred. Now, the next question I imagine in your mind that would arise would be, well, then we were handed another amendment which is substantially the same with this exception: Subparagraph 5 is out, and it merges it into the other boards. I'll be very candid with you. I don't particularly think that that's an orderly transition. But, we're getting ready to get our heads clobbered on a ballot; we're getting ready to tie this convention up; we've got to finish, and we've got a document I think all of us can support. I think we can end up with a ballot provision. I sincerely believe that it's legal, that a ballot that will give to the people a true choice in alternatives, and for that reason that I think that, for orderly transition, that this legislative board would be properly created. Now, the objection was raised when we originally discussed this, well, are you creating a discrepancy or a difference between colleges and universities because they have to go through the Board of Regents and to a two-thirds vote of the legislature under Committee Proposal No. 7 to get it? Well, that's true, but it's a legislative board, and again, I say this coming from a town, I guess, that's fought as hard as anybody in this convention, that I'm willing to take the chances of our university at Lafayette, La...we're willing to take our chances to get a legislative board, but I insist as I have since the institution of this convention, that what I am interested in and what I think a lot of schools are interested in is equality to the extent that we want to be placed on the same level. If it's on a constitutional basis, put us all in the constitution. If it's legislative, put us all in the legislature; the difference being that USL is not now in the constitution, so, we do not have the same problem. That is the reason for why this is proposed, and I think it is a reasonable transitional provision.

Questions

MR. PUGH

I may have gotten my answer already. How does this tie in with 712? Wasn't that 712, or something, of the legislature, of 72; don't that have something to do with what we're talking about?

MR. JUNEAU

My understanding, Mr. Pugh, is that Act 712 was a merger provision, merging all of these boards together as a legislative act under a constitutional provision which allows for merger of boards which has been deleted by this convention. I don't think that 712, though, since it's being a legislative act plays in what we're talking about here today as a transitional measure. No, sir; I don't think so.

MR. VELAZQUEZ

Merely for the record, this board that you speak of in Subsection 5, this board limited to the management of daily operations, you envisioned this board as merely having the duties of cutting the grass and making dormitory regulations and this type of stuff?

MR. JUNEAU

I think it's concerned with the day to day policy decisions that are made of management boards in the university. What the intent there, Mr. Velazquez, was to make specifically clear in this transitional provision that the LSU Board of Supervisors which is now in the constitution would be subjected to the authority, control, and supervision of the Board of Regents, and that's why it was phrased like that.

MR. VELAZQUEZ

Your definite statement, then, is that this is not a way to hide the LSU Board of Supervisors under another name?

MR. JUNEAU

I'll put it to you this way, Mr. Velazquez: The position I've taken in this convention would be totally inconsistent with that concept. So, the answer is definitely not.

MR. VELAZQUEZ

Thank you.

MR. KELLY

Pat, would you not agree that there are two things that can be done in accordance with--as I read Act 2--in other words, we've got appointed officials here. That's what we're dealing with. It says that we can't shorten their term and there's a number of other things it says. We have two choices-- is this not correct--in the manner in which to handle this? You could have either run fourteen or fifteen more LSU-oriented people onto a fifteen man Board of Regents, and made it, say, a thirty man, and then phased it back down, or else you could have gone on with just the Statutory Management Board and let the legislature, after these people's terms have expired and so forth, if they desire to do away with it, they can. Is that correct?

MR. JUNEAU

That's absolutely correct, and I think the point is well taken. It's a policy decision you have to make, and it seems to me that the authority's vested in a Board of Regents, and I don't think that the other state schools and universities in this state are willing to increase a majority of fifteen people who represent one university to get an overwhelming majority on a board which can change curriculum and so forth. In essence, you could strip the entire university system by that transitional period within a period of two years on a Board of Regents.

Further Discussion

MR. J. JACKSON

Mr. Chairman and ladies and gentlemen of the convention, I have no doubt to at last agree that what Mr. Juneau and Mr. Kelly have said is somewhat correct. The problems that I had personally with it is that: (1) When I introduced my amendment, it was the understanding that I needed to introduce it under a section that had at least comparable effects and comparable status as to the constitution...provisions of the constitution. To bring that closer in mind, we took the transitional proposal and we divided up in PART III, PART II, and PART I, and, I think, PART IV and each part...one was just the statute. I think one part had the....

one part had, as I appreciate the explanation, was comparable status to the provisions of the constitution, but need not be in the constitution itself. For my question and my concern is that in light of Act 712, I wonder even though it does say relegated to the statutes, it does have a constitution of dates and depending on what part of this transitional measures that we put it into. My other concern is that and maybe I'm...I don't mean to cast any inference on delegates who got their heads together and then come up with this. But, I am concerned at the point that are we--and the question raised in my mind--are we, in effect, saying that one...that where other colleges may have to go through the process of going to the Boards of Regents for Southern...I mean, Board of Regents and get two-thirds votes to get a management board, that I understand that we won't have...that the L.S.U. Board of Supervisors would automatically under...if we adopt this, would be it and then, at the same time, have the opportunity for representation on the Board of Regents, also; right? Well, those are the kinds of questions, even with my conversation here with the members here discussing it, that were partially answered but to some degree have not been totally clarified. I'm just kind of concerned at this point that--although I recognize the time and I'm here because, you know, I recognized that we got to put in the time--I just don't want to have an alternative that: (1) Constitutionalize one Board of Management and, on the other hand, sends us through the whole process and, at the same time, affords representation on the Board of Regents. At the same time, I don't know what kind of effect it's going to have on Act 712, provided that this is relegated to the statutes and Act 712 is already a statute. What kind of effects does that have and because these questions to my satisfaction---and it's not because I've got a closed mind and it's not because I'm emotional--but because these things haven't been clearly clarified to my benefit, particularly with the effects of Act 712, I've got to seriously oppose it. Now, I don't know what that does here in terms of this convention; you might go ahead and adopt it. But, I wanted it to be stated for the legislative record so that, if that alternative passed and let's say that Act 712 was initiated or that the court make some decision in the interim, I want to make it very clear that...there apparently seems in my estimation that some kind of conflict--I didn't want to say "conspiracy"--but, some kind of conflict going on here. Those are my concerns because they haven't, in this short period of time, have been answered. So, I would ask delegates who are not very sure about it that we ought to get at least some more discussion on it, other than what's being presented here.

[Previous Question ordered. Amendment adopted: 84-21. Motion to reconsider tabled. Quorum Call: 107 delegates present and a quorum. Previous Question ordered. Section passed: 82-17. Motion to reconsider pending.]

Amendment

MR. POYNTER

Mr. Lanier, Pugh, Roy, and Stovall have an amendment. On page 9, line--this has been distributed--On page 9, line 8, following the amendment adopted this date, proposed by Delegates Leithman, et al., add the following:

"Section 29. Severability Clause

Section 29. If any provision or section of this constitution is found by the United States Department of Justice, acting under the authority granted to it by the United States Congress, to be in violation of the Voting Rights Act of 1965 as amended, and its decision is not successfully challenged in the federal courts provided by law, that provision or section shall be null, void and shall not affect the validity of the entire constitution or any of its other provisions or sections."

Explanation

MR. LANIER

Mr. Chairman and fellow delegates, it's my understanding of the Voting Rights Act of 1965 that we will be required to submit our new constitution to the attorney general of the United States for his review, since what we have done will affect voting districts, and we also have a provision on registration and voting. While I think it is improbable that any fault will be found with what we have done, should the instance arise that there was some defect that needed remedial action, I don't think we would want to be in the position where the entire new constitution would be jeopardized because of the deficiency of some small part. For this reason, I think out of an abundance of caution we should provide a severability clause so that, should this circumstance arise, we could nevertheless proceed with the new constitution and just declare null and void that portion which was found deficient by

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the attorney general of the United States. Now, the argument could be made here that, well, perhaps, if the attorney general determines that it's not valid that this would occur anyway. Rather than get into that argument, since this is a transitional schedule, I feel that the most prudent way to proceed here would be to set down specifically the language to cover this particular problem. I might further add that we would have another alternate as a solution to this problem if we adopt a resolution that you have on your desk by Mr. Pugh, which also provides that at some later date, after we adjourn sine die, that we could nevertheless be called into session, without per diem, to take certain actions. It may well be that we could be called back to take action to proceed to delete the improper section from the new constitution and proceed on the ballot that way. But, in any event, to make it clear that this type of a circumstance will not jeopardize our new document, I feel and my coauthors feel that a severability clause of this type is in order. If there are any questions, Mr. Chairman, I'll be glad to try and answer them.

Questions

MRS. ZERVIGON

Mr. Lanier, as you are aware, we considered briefly in committee a section like this. We had fears about it which I would like to explain to you and see if you can lay these fears to rest. Suppose there were sections of the constitution that were found to be invalid through some other means than the actions of the federal attorney general's office. Would that mean that then the whole constitution would go? You limit it to that one circumstance. What I'm asking, by inference, does it all go should any other instance make it invalid?

MR. LANIER

Of course, that would depend on what the defect was. There could be defects that would invalidate the whole document. There may well be some defects that do not do that. I think the circumstance that you are referring to would be the one where the portion of the constitution would be challenged in a court of law, rather than the specific procedure provided for in the Voting Rights Act of 1965. It's my understanding of the Voting Rights Act that we can't even go to the people until this determination has been made by the attorney general. If that is true, I don't think we would want to be in the position where his challenge of one of our provisions would keep us from going forward. I think that this would make it absolutely clear that we can do so. The other way, if the people adopt it and then there is a challenge in the court, then the constitution is adopted and it's on the books.

MRS. ZERVIGON

Well, what I'm asking you, really, is why did you draw it in such a limited way? Why didn't you draw up general severability clause?

MR. LANIER

This is intended to apply in the limited circumstance where we have to have a review by the attorney general of the United States. To me, that's an entirely different problem than the problem of going through a court procedure after the adoption of the constitution. Now, if someone would like to come along with a general severability clause, this is a very common thing in the statutes that a severability clause is attached to a statute. Out of an abundance of caution, I would have no objection to that. I think these are the type of things that can be contained in a transitional schedule.

MRS. ZERVIGON

But, speaking as the author of this amendment, this is the only circumstance in which you can envision having a severability clause really be necessary is what I'm saying.

MR. LANIER

This is the thing that I'm specifically concerned about this particular procedure that is authorized by the 1965 Voting Rights Act. I would not want to see our document jeopardized because of some infirmity that we could cure with a severability clause of this type.

MR. ALEXANDER

Mr. Lanier, my question revolves around the same subject and the same question raised by Mrs. Zervigon. However, I have reference to other acts of Congress, especially in the field of civil rights. The Congress has passed many acts that the courts may find to be in conflict with some section of our constitution. I think I can go a little further and ask you if you would object... or do you think that your amendment should be withdrawn to include

a general clause that would possibly remedy the whole situation so we wouldn't have to debate this question twice?

MR. LANIER

I think, Reverend, that what, perhaps, you may wish to do would be to draft a general severability clause because--I'm no expert in this field and I don't claim to be--but, this is the only procedure that I know of where you are required before submission of the proposition to get the clearance of the attorney general. Now, maybe there are some other ones, but this is the only one that I know of.

That's why I drew it this way.

MR. ALEXANDER

Well, you are eminently correct, and I have no quarrel with that. But, I have reference to someone who may institute litigation involved in some other section of the constitution on some general civil rights issue, and that's all I'm concerned with. I wouldn't like to see the whole constitution go down the drain on the basis of a single suit or something of that sort.

MR. LANIER

I think that circumstance was, as you pointed out, the circumstance that I got into with Mrs. Zervigon where we are talking about an attack made on a provision or an article or something after the adoption by the people.

MR. ALEXANDER

Right.

MR. LANIER

What concerns me in this situation is that this is a procedure required prior to the submission to the people, and this could jeopardize the whole going forward of this process. That's why I feel we need some type of a provision in this area to make sure that this doesn't happen or, if it does happen, it will not jeopardize the whole document.

MR. STINSON

Well, in the 1921 Constitution there is no severability clause in there; is there?

MR. LANIER

I really don't know, Mr. Stinson.

MR. STINSON

We're looking it up; I'm almost certain it's not. Next thing, as to getting the approval of the United States Attorney General anyone connected with this convention considered how we are going to get their approval prior to the voting on of the constitution by the people, that you know of?

MR. LANIER

I don't know whether anyone has or not, Mr. Stinson. My general recollection is that he's got sixty days or something like that to act on it.

MR. STINSON

The reason I asked that, I brought it up a number of times in the Bill of Rights Committee and everybody says "Well, somebody is going to do it, but everybody's business is nobody's." I think we should, by resolution or something, see that the Louisiana Attorney General or whoever the proper person is, as soon as possible after we complete our duties tomorrow, do that. Are you in a committee that has anything to do with that?

MR. LANIER

I don't think so, Mr. Stinson.

MR. STINSON

Well, would you recommend it?

MR. LANIER

I would tell you this: I think your concern is certainly well founded because this is the law of our land and we must be in compliance.

MR. STINSON

Being you're going to be a judge, would you tell the Chairman to be sure and do that?

MR. LANIER

I'll do my best, Mr. Stinson.

Further Discussion

MR. PEREZ

Mr. Chairman, ladies and gentlemen of the convention, I know we're all tired and I hope my thinking is straight, but the experience that I've had with respect to these matters is that the attorney general's office will not even look at this thing until after it has been adopted. In our particular case, I don't believe that this particular document means anything until after it has been voted on by the people. In other words, like with our local government situation, when we reapportion, we can't go to them and say that we plan to reapportion. We have to actually reapportion, then submit it to them. I'm not quite sure how the Lanier amendment fits into that situation.

Questions

MR. STINSON

It's my understanding and appreciation in the past that, before you can introduce a statutory provision and consider it and deliberate it, that you have to get their permission before you can do it; we are enjoined from introducing it.

MR. PEREZ

No, that is not correct, Mr. Stinson. What you do is you adopt your...you enact your law and, once you enact it, then you go to them and you say to them: Will you approve it or not?

MR. STINSON

Well, we've been advised wrong all in the sessions of the legislature then, Mr. Perez.

MR. PEREZ

That's not correct.

MR. ABRAHAM

Chalin, I would like someone to enlighten me, and maybe you can help me on this. Do you mean to tell me that, if we were to submit this constitution to the attorney general and a one provision was in conflict with the Voting Rights Act, that the attorney general has the authority to invalidate the whole constitution, or would he simply declare this one provision as being.....

MR. PEREZ

No, he would only declare those provisions to be invalid which might violate the Civil Rights Act. The point I'm trying to make is that my impression from the experience that I've had with them--I think we ought to have a good chance to take a look at it--is that I don't believe that they can reappoint anything until such time as it is effective.

MR. ABRAHAM

Well, the point I'm trying to make, also, here: even if this thing did go to court, a suit were filed, the court would not invalidate the whole constitution, would it? It would only invalidate that one provision, so why do we need a severability clause then?

MR. PEREZ

No, of course not. I really don't...I'm very much concerned about whether we need this.

MR. AVANT

Mr. Perez, in that eventuality--say that did happen, and the attorney general ruled that some provision didn't comply with the Voting Rights Act, and we weren't successful in getting it upset in court and so forth, and that provision was stricken--what I'm wondering is what would be the net effect of all of that? Then, that provision simply wouldn't be in the constitution, and the legislature would be able, by appropriate legislation, to provide in that particular area; would they not?

MR. PEREZ

Yes, it's the same as we have had happen in the past where that we have had provisions of our 1921 Constitution which has been declared to be unconstitutional by the courts and then, subsequently, the legislature has enacted with respect thereto--such as reapportionment.

MR. LANIER

Mr. Perez, if this body votes to submit a document in its entirety that includes material that is thereafter determined to be unconstitutional, if in the absence of a severability clause of this type, what authority would anyone have to delete that material prior to the submission to the voters?

MR. PEREZ

They wouldn't have any authority whatsoever to delete it; all it would mean is it just would not have any effect, just as with respect to our existing 1921 Constitution, when the federal courts knock it out. It's just there as far as the writing is concerned, but it's not valid.

If I can just suggest, I just don't think we need these provisions.

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, I just don't understand Mr. Perez's position on this matter. I think that there are two ways to look at this. There is a way to look at it that we are bound by the 1965 Civil Rights Act, which says that "any type of legislation that involves voters of the franchise" and what have you "of any state and municipality" whatever's got to be cleared by the United States Attorney General's office. Now we have got that ahead of us, and all we say is that, for that event and for that specific purpose, we ask that this severability clause be placed in this new constitution. That's a totally different animal from what Mr. Zervigon and Reverend Alexander are talking about. They are talking about a suit brought in a court to declare a portion of this constitution unconstitutional. Now, unless, in my judgment, a suit is brought that dealt with the guts of this constitution, that is, the way that the call was made or that we were operating illegally all along, no judgment of any court would declare our whole document unconstitutional. Although certain sections of it, certain articles, may be declared unconstitutional for specific reasons, the rest of the constitution would stand. But, Mr. Lanier and the rest of us are not talking about that animal. We are talking about complying with the Civil Rights Act. Now, when I was town attorney for the little town of Mansura, when they thought about incorporating another portion of that town, they had to get clearance from the attorney general's office of the United States to make sure that they were not in some way or another disenfranchising and/or changing the worded vote of any citizens. All we are saying is--and it makes no difference one way or the other in a sense--that is, if we are premature with this particular thing, then it's not going to hurt anybody; but, if we are not premature, if it is necessary and if we could obviate some hellacious argument being raised against the new constitution because the Attorney General of the United States would say some portion of it is unconstitutional; I think we are saving time and we are saving some money. It's kind of, you know, the old saying that "An ounce of prevention is worth a pound of cure." That's all we are trying to do. If you want to get involved in some type of theoretical argument, you may do so. I just think it's a good thing to do.

Question

MR. PUGH

Mr. Roy, I understood the thrust of Mr. Perez's question, or part of it, was when it might have to be submitted before or after the election. As I appreciate this amendment--and it so reads--it's really not contingent upon when they may do it. They may do it five years from now or five days from now, and it still wouldn't have any bearing on the validity of this amendment; is that not correct?

MR. ROY

That's correct, Mr. Pugh.

[Previous Question ordered. Amendment rejected: 59-35.]

Personal Privilege

MR. TATE

Mr. Chairman and fellow delegates, I rise to a point of slight personal privilege to say--to explain--that on your desk, right now, is going to be placed the proposed form of the Constitution of 1974 up through Article XIII, which is the constitutional revision amendments. We have not been able, of course, yet to renumber the transitional provisions that passed this evening. As you notice in the outline today, the first twelve Part I transitional provisions are... It's contemplated we'll recommend that you put them in the Transitional Provisions Article. It's being passed out for your inspection and with the hope that, should you approve our recommendations, this is the way the first thirteen articles will read in final form.

Amendment

MR. HARDIN

Delegates Kean, Conroy, and Pugh send up the following amendment:

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Amendment No. 1. On page 9, line 7, insert the following:
"Section 28. Effect of Adoption

Section 28. Notwithstanding any contrary provision of any law or the prior constitution, this constitution when approved by the electors of this state shall be the Constitution of the State of Louisiana upon the effective date as provided in Section 25 of this article."

Explanation

MR. PUGH

Mr. Chairman and fellow delegates, this proposed Section 28 relates to the model that Mr. Tobias presented for your consideration earlier. At that time, of course, he had reference to a resolution which, even though we'd all seen, had not been formally acted upon by this body. This amendment deletes any reference to that resolution, but would, in my opinion, have the same effect of the Tobias amendment--just without a reference to a resolution. I'd be glad to answer any questions.

Questions

MR. SCHMITT

This accomplishes our purpose which we attempted to get before, doesn't it?

MR. PUGH

Yes, sir, it does. I might suggest to you I deem it very vital to have this in our constitution.

MR. STINSON

Mr. Pugh, would you explain your thought as what would result if we did not include this?

MR. PUGH

Well, Ford, it's like so many things. In the event that this constitution might be challenged in the court, I think, in my humble opinion, a provision of this nature may well be the saving factor in relation to that challenge, frankly.

[Previous Question ordered. Amendment adopted: 89-2. Motion to reconsider tabled. Previous Question ordered. Section passed: 95-2. Motion to reconsider pending.]

Amendment

MR. POYNTER

Mr. Jenkins has an amendment. Mr. Velazquez is going to ask to go back and reconsider something and add an amendment.

Has the effect of adding a new section after the Pugh amendment just adopted. Becomes:

"Section 30. Severability Clause

Section 30. If any provision of this constitution is declared invalid for any reason, that provision shall not affect the validity of the entire constitution or any other provision thereof."

Explanation

MR. JENKINS

Mr. Chairman, really, if this is going to be controversial, I'll just withdraw it because it doesn't make any difference to me; but it's a response to the problem Mr. Lanier raised. It's a very simple and standard severability clause; it doesn't relate to any particular act, like the Voting Rights Act. Let me read it for you one more time: "If any provision of this constitution is declared invalid for any reason, that provision shall not affect the validity of the entire constitution or any other provision thereof." So, I urge the adoption of it.

Vice Chairman Casey in the Chair

[Previous Question ordered. Amendment adopted: 90-2. Motion to reconsider tabled.]

Point of Information

MS. ZERVIGON

Just a point of information, Mr. Chairman. I was wondering

if the author of that last amendment could declare what Part of the transitional material he meant to go into. Parts I and III are not subject to the rest of the constitution; Part II is subject to the rest of the constitution. I assume he wants it to go in Part III, but we've identified all the others in that respect.

MR. POYNTER

Mr. Jenkins, don't you think that ought to be in Part III? Mr. Jenkins thinks it ought to be in Part III.

MS. ZERVIGON

Thank you, Mr. Jenkins.

Point of Information

MR. TATE

Now, Mr. Chairman, I assume when we vote on the entire subject matter--meaning the entire article--we're not precluding the inclusion of the alternative proposal in that transition article.

MR. CASEY

That's correct, Judge Tate.

[Previous question ordered on the entire subject matter. Section passed: 92-1. Motion to reconsider pending. Proposal passed: 93-3. Motion to reconsider pending.]

Chairman Henry in the Chair

Report of the Secretary
[II Journal 1376-1379]

Report of the Committee on Style and Drafting
[II Journal 1379-1384]

[Adjournment to 12:01 a.m., Saturday,
January 19, 1974.]

Saturday, January 19, 1974
12:01 a.m.

ROLL CALL

[68 delegates present and a quorum.]

PRAYER

MR. TOBIAS

Lord, God, please guide us on this last day of the work of this Convention. Amen.

PLEDGE OF ALLEGIANCE

[Motion to pass over READING AND ADOPTION OF THE JOURNAL adopted without objection.]

STYLE AND DRAFTING AMENDMENTS
PROPOSED TO THE FINAL DOCUMENT
[II Journal 1385-1392]

Amendment No. 1

MR. POYNTER

All right. Judge Tate has before you a set of amendments.

The first amendment constitutes and sets forth a proposed organization. In addition to that, he has before you--which has been done by the enrolling room pursuant to the amendments contained in here--a draft of what the constitution would look like--double spaced and printed on one side--as the Constitution would look, if these amendments are adopted. Now, this does contemplate, of course, the inclusion at the particular time of Article XIV dealing with transitional provisions.

Judge Tate, are there other particular . . . are these the only documents? I think there are another set of green amendments there or something.

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MR. TATE
Mr. Clerk, may I, in my usual incoherent way, explain . . .

MR. POYNTER
Surely.

Explanation

MR. TATE
What you have before you . . . what you will be technically working from is this set of amendments which says . . . a set of amendments which includes in only two instances these blue copies . . . the green copies where it involved a substantial amount of renumbering for your ready check and for the check of those concerned with Civil Service who have already checked it. That is what we'll be working with. It starts Amendment No. 1. Reordering. This is for your ready reference to where if, should you approve it, the provisions and all of the delegate proposals will end up as thus article and section numbered. You do not have here only the Article XIV, Transitional Provisions, that were taken out. . . that we mentioned occasionally during the day that will be Part I. Presumably, those will come back tomorrow with a final report on the things you adopted today in the Transitional Article only. In other words, at the end of the day, hopefully, we'll reach final approval on Articles I through Articles XIII leaving -- though, tentatively, transfer some things into Article XIV, Transitional Provisions, leaving the final arrangement of that article until tomorrow. All right. As one correction sheet to the amendments that we'll hit as we go along to forty-six, etc. All right. Now, earlier this morning we passed out a table of contents, which . . . yesterday we passed out a table of contents and also a table showing how the committee proposals and the delegate proposals adopted in numerical sequence and where their present provisions are found. That's for your cross-check. Now, the series of amendments we have will do the following: First, we will ask your approval of the reorganization into the fourteen articles listed in Amendment No. 1. Then, we will ask your approval of . . . the first three or four are transferring sections from one article to another. Then, finally we will just ask your approval to the renumbering and rearrangement. We will hope that a quorum remains present because, occasionally, when a Section (B) becomes a new section, under the interpretation of some, it needs sixty-seven votes. Now, with that explanation, should I yield to any questions on the general organization, Mr. Chairman, or . . .

Mr. Chairman, I move the adoption of Amendment No. 1, which provides for the organization of the Constitution of 1974 as noted there in the fourteen articles listed. Once that is approved, as from time to time we will go and transfer into each one of those articles the various delegate proposals and committee proposals.

Point of Order

MR. KEAN
Mr. Chairman, would it be possible to suspend the rules and adopt these amendments in globo?

MR. HENRY
Why don't we just proceed without doing it like that-- in globo-- Mr. Kean, for a little bit, if you don't mind? I know everybody is anxious to leave, but let's not proceed too fast.

MR. TATE
All right. Mr. Chairman, the first three may take a little--not much--explanation. We added about three or four words and the staff, with its zealous approach, included the whole re-typing; but I don't think it's going to take much explanation if you will bear with me for about ten minutes.

Questions

MR. DENNERY
Yes. Judge, I'm not quite sure where you're putting the alternate provision on. Is that going to stand as scheduled or what?

MR. TATE
Mr. Dennery, I know that my recommendation to the Style and Drafting Committee will be . . . the alternate will be in the Article XIV, Transitional Provisions, under whatever wording you adopt to it as a section of it, which will say, "shall be submitted to the people," ect; and, if it's adopted, then the other articles will be null. If not, it's of null, and no effect.

MR. FLORY
Judge, are we on this heavy set of white amendments here that's Amendment No. 1 on this?

MR. TATE
Yes, sir, that starts with Amendment No. 1. "The organization of the constitution shall be as follows:" It's just to set up the skeleton upon which we would transfer the committee and delegate proposals-- mostly keeping them in the title to which they were passed, but using this set of numbers.

MR. SINGLETARY
Judge, it says, "the Constitution of the State of Louisiana of 1974" Is that technically correct, or would it actually be 1975?

MR. TATE
Mr. Singletary, my understanding from the staff is that, since it will be adopted by the people in 1974, even though it is . . . as a matter of fact, under its present terms, it will become effective on December 31, '74, if that's the correct appellation. Yes, sir.

MR. JENKINS
In that regard, Judge, wouldn't it really be confusing for people, inasmuch as nothing can occur during the year 1974 which will be covered by this constitution, inasmuch as it becomes effective at midnight on the 31st day of 1974? Won't it be confusing, for instance, in cases and things like that to see a date 1974 and the Constitution of 1974 when, in fact, it was not in effect at any time during 1974?

MR. TATE
Well, Mr. Jenkins, . . . Representative Jenkins, you may have a point, although I have no strong views. However, I understand that it's . . . for instance, Act so-and-so of 1974 is title Act so-and-so of 1974, if it's adopted during 1974, even though it be not effective until '75. Understand; that's the technical reason why we're calling the Constitution of 1974; the people and the year 1974, Lord willing, adopted it in '74.

[Amendment adopted without objection.]

Amendment No. 2

MR. TATE
Amendment No. 2 is in the nature of a technical amendment-- a Style and Drafting amendment-- the Section 18 . . . the former Section 18 in the new thing will become Section 16. But, at the time it was adopted in the legislative proposal it said: no money shall be withdrawn except through specific appropriation. But, subsequently, the Civil Service Article was adopted. So, in order to make it accurate, it says "except as otherwise provided by this constitution," and that is the change in wording . . . that is the change of wording that is here before you--"except as otherwise provided . . ." it said, "no money shall be withdrawn." You just add it in front of "Except as otherwise provided by this constitution, no money shall be withdrawn from the state treasury except through specific appropriation." That's the . . .

Questions

MR. AVANT
Judge Tate, could you tell us, when you go through these amendments, where in this bound document that we have here this appears and where you propose to move it to?

MR. TATE
Well, this is simply a renumbering proposition. It will be found in Article III-- the Legislative Branch. . . Legislative Branch. . . Article III--Legislative Branch, at . . .

MR. POYNTER
Page 16.

MR. TATE
. . . at page 16. It was formerly Section 18, but due to what . . . it's going to be recommended as removing a couple of prior sections into general provisions, it would be Section 16.

[Amendment No. 2 adopted without objection.]

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Amendment No. 3

MR. TATE

Now, Amendment No. 3 is to the Executive Branch, and it represents combining Paragraphs (D) and (E) of the Section 5 of the Executive Branch Proposal, which had a separate paragraph about the operating budget and the capital budget, which were found word for word and are found word for word in Article VII, which is Revenue and Finance, Section 11, of your . . . and so, rather than repeat the same word, word for word, word for word, the recommended changes to delete those two and combine them into the paragraph noted "The governor shall submit to the legislature an operating budget and a capital budget, as provided by Article VII, Section 11, of this constitution."

[Amendment No. 3 adopted without objection.]

Amendment No. 3 (A)

MR. TATE

All right. Amendment No. 3 (A), which is . . . Executive Branch -- it was the former Section 18 -- which as passed by the floor said, "A vacancy, as used in this constitution," it said, "shall occur in the event of death, resignation, removal by any means, or failure to take office for any cause." When we restyled the Executive Branch, we -- because we hadn't yet got to this point -- recommended that you put it "Article" -- as used in this Article -- referring to the Executive Branch. We're now recommending you go back to "constitution" -- and this thing will be, in line with Mr. Duval's question at the time, transferred into General Provisions by a subsequent amendment. It will apply . . . definition through out the constitution what a definition makes. In other words, "a vacancy as used in this," we're going to say, "Constitution," as the floor originally said, "shall occur in the event of death, resignation, removal by any means, or failure to take office for any reason." In other words, that applies not only to the Executive Branch, but throughout the state and local government. It was the appropriate amendment to put it in Article X: Public Officials and Employees.

Questions

MR. ABRAHAM

If I understand you correctly, Judge, this was Section 18 of Article IV, but now it has been taken out. I'm looking at Section 18 of Article IV, and it has to do with the determination of inability of statewide elected officials.

MR. TATE

Yes. This Section 18 will become -- and if you look at your table -- it will become Section 28 of Article X and that list of tables, if you approve that amendment subsequently. It's a matter of general definition throughout the constitution. It would seem more appropriate to put it there rather than to leave it in the Executive Branch.

[Amendment No. 3 (A) adopted without objection.]

Amendment No. 4

MR. TATE

All right. Amendment No. 4 is to Section 29 in Part III of Article X. Article X is your public officials and employees. The sole change there -- and it was retyped, but it shouldn't have been, -- was that in Section (B) they refer to other officials. . . other officers as we passed it -- we didn't catch that styling change in the retirement -- and it says, "providing for retirement of officers." The sole change is just to make the word "officers" into "officials" as we've used throughout this constitution. The '21 Constitution used "officers" for "elected officers" and other people, or whatever "officer" means. The present Constitution used the word "officials", and that's the sole change.

[Amendment No. 4 adopted without objection.]

Amendment No. 5

MR. TATE

All right. Mr. Chairman, now this is the first of the ones we're putting into the Part I of the Transitional Provisions.

Now, it technically takes the Subparagraph (B) and makes it a section. The Section 12 -- while we put it in there, we may come back tomorrow and give you another number. . . recommend to you another number, but that is the sole change is that it takes Paragraph (B), which has to do with adjudications prior to 1880, and puts it in the Transitional Provisions with the hope that, by the next constitution at least, we will not have to talk in this much detail about forfeitures prior to 1880.

[Previous Question ordered. Amendment No. 5 adopted: 83-0. Motion to reconsider tabled.]

Amendment No. 6

MR. TATE

All right. Amendment No. 6 -- and this is, I believe, the last one of this nature we have for you tonight -- is strictly to take Paragraph 15 (B) of -- we may have one more like this -- of Section 16 of Tax and Finance, C.P. 15 -- which had to do with the tidelands settlement, and there's no prescription on taxes -- to take it out without any change at all in text, but to make it a Section 11, entitled "Prescription, Tidelands Taxes," to place it as one of those that will be in the Transitional Measures, tentatively placed there as Section 11 -- the thought being that when the tidelands settlement is over, when our grandchildren can enjoy the proceeds of those wells out there, that this will fade out of the constitution and we shouldn't put it up in the body.

[Previous Question ordered. Amendment No. 6 adopted: 79-0. Motion to reconsider tabled.]

Amendment No. 7

MR. TATE

All right. Amendment No. 7, Mr. Chairman, simply adds a subtitle -- Compensation -- to the subsection. What used to be Section 43 will be Section 42 of Committee Proposal No. 17 having to do, I believe, with something in Plaquemines Parish -- I forget what. No, levee districts. Everywhere. That's a joke.

[Amendment No. 7 adopted without objection.]

Amendment No. 8

MR. TATE

All right. Amendment No. 8 simply adds the words "by law" in line with . . . we didn't catch this in the early stylizing when it says "the legislature may abolish or merge" -- "by law" may do it. On about the 5th line, then -- "the legislature by law may establish trial courts." -- we just said the legislature "may", and the intention, of course, was to "by act", and in line with the stylizing through the rest of the constitution . . .

[Amendment No. 8 adopted without objection.]

Amendment No. 9

MR. TATE

All right. Amendment No. 9, Mr. Chairman, takes out of Committee Proposal No. 26 the tax measure. . . the property taxation measure, the transition measure on the effective date of the property tax, being Sections 18 to 2 -- the former Sections 1 to 3 of C.P. 26 become Sections 18-20 of Article VII. It tells when they shall become effective.

[Amendment No. 9 adopted without objection.]

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Amendment No. 10

MR. TATE

Mr. Chairman, Amendment No. 10 simply--all it does is shortens the title.

[Amendment No. 10 adopted without objection.]

Amendments Nos. 11 and 12

MR. TATE

Mr. Chairman, I do not know if the court wishes . . . if the Chief Justice-- I mean if the Speaker wants to look . . . let me bring up amendments 11, 12, 13, 14, and 15--wait a minute-- Mr. Chairman, I'll just move the adoption of Amendments Nos. 11 and 12, as just simply changes of title.

[Amendments Nos. 11 and 12 adopted without objection.]

Amendments Nos. 13, 14, and 15

MR. TATE

All right. On Section 13, Mr. Chairman, again is simply.. 13, 14 and 15 are all simply changes of title of measure . . . of sections that remain in the same committee proposal or delegate proposal as adopted.

[Amendments Nos. 13, 14, and 15 adopted without objection.]

Amendment No. 16

MR. TATE

All right. Amendment No. 16, as a change of reference to be accurate under the newly numbering of a certain section of Paragraph (B) of Section 1 of C.P. No. 4.

[Amendment No. 16 adopted without objection.]

Amendments Nos. 17 through 24

MR. TATE

All right. Mr. Chairman, Amendments Nos. 17-24, at least, are self-explanatory changes of reference that will fall into shape in order to change the reference from the former numbering to the new numbering recommended.

[Amendments Nos. 17 through 24 adopted without objection.]

Amendments Nos. 25 and 26

MR. TATE

No. 25 in the Transitional Measure, it . . . because it simply changes the references again 5, 6, 7 to the renumbered article of the Education Article, Article VIII. It's again . . . and Amendment No. 26, again, is a change of reference.

Amendment No. 24 is a change of reference.

Amendment No. 25 is a change of reference-- in other words, it used to be Sections. . . other numbers of Article VIII. I'll look them up if you want, but we're now renumbering them in accordance with the new numbering, and Section No. 26 again changes the reference from Section 9 to Section 8.

MR. HENRY

All right, so we're really on Amendment No. 25, I believe. Judge, are you going to try to take both of them at once?

MR. TATE

Yes, sir.

[Amendments Nos. 25 and 26 adopted without objection.]

Amendment No. 27

MR. TATE

All right. Amendment No. 27 is one of your green amendments . . . it's blue. Now, this is checked by Mr. Avant

and Mr. Flory, and I hope they'll . . . it simply takes that long firemen and policemen thing that they were generous enough to take out of the constitution and just keep for statutory reference; and, instead of having subparagraphs, it has section numbers. As it passed the floor, as shown on the front and back in green, the changes made-- I believe some people who are color blind might say blue--the changes made . . . and the alphabetical numbers being changed to sections as shown in ink on it and there in the amendment is the final text as it will appear in the new constitution. Instead of one long paragraph with a bunch of numbered -- I mean, alphabetized--subparagraphs, it's separate sections as is the rest of the constitution and as will be state and city civil service, should you approve.

[Amendment No. 27 adopted without objection.]

Amendment No. 28

MR. TATE

Mr. Chairman, 28 is the other green amendment. I believe that's the only other one that's for tonight. It is a similar re-arrangement of state and city civil service from those long . . . one section that . . . with subparagraphs going to Paragraph (O) or (P) or something into sections in line with the organization and the rest of the constitution.

[Amendment No. 28 adopted without objection.]

Amendments Nos. 29 through 62

MR. TATE

Now, Mr. Chairman, 29 through 62--through 61--and on the correction sheet a 62, are simply renumbering amendments. In a few instances, they may transfer something from another article into Article XIV, although I believe we've . . . I've explained those. Article XIV, as we mentioned, we may come with the renumbering tomorrow. But, all the rest of these, Mr. Chairman, are simply renumbering in line with the organization that you've adopted by Amendment No. 1 of the proposals that have been passed. . .

[Amendments Nos. 29 through 62 adopted without objection.]

Further Discussion

MR. TATE

Well, Mr. Chairman, I've got good news for you. Sixty-two, we just did, too, Senator De Blieux. We snuck it by when you weren't looking on the other sheet.

Mr. Chairman, I have good news for you. What you have done tonight, you now have as . . . subject to your final ratification, the reorganization of everything that you . . . through today--that has passed up until today, permanently, we trust, and are up through Article XIII, with the twelve other measures in transitional provisions that will come back tomorrow with what you passed tonight, and you'll have your final document.

Questions

MR. CASEY

Judge, you have a lot of admirers here for the fine work that you've done. But, some of us were sitting here, we don't know if you've forgotten one amendment in your left pocket. Is that a bacon sandwich, Judge?

MR. TATE

Around my house we don't mention that word anymore.

MR. HENRY

You just bring it home, huh, Judge?

Would you yield to a question from Senator De Blieux?

MR. DE BLIEUX

Mr. Chairman, Judge Tate, just for the matter of the records, I want you to understand we're not going to meet tomorrow, I don't believe. We're meeting today, and all these things are going to be thrashed out today, just for the matter of the record.

MR. TATE

I stand corrected.

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MR. HENRY

All right. Judge Tate, has that concluded your part of the program? It was certainly good to have had you again.

MR. TATE

Thank you, Mr. Chairman.

MR. HENRY

Justice Tate has gotten up. . .he's already torn up two microphones talking to the. . .Looks like a karate expert up there with his hands going.

[Motion to suspend the rules to allow Committee on Style and Drafting to meet at 8:00 o'clock a.m. adopted without objection.]

MR. LANDRUM

Dear brother. . .

MR. HENRY

I see you there. . .

MR. LANDRUM

I just think that Judge Tate and his group have done such a great job. . .

MR. HENRY

Well, they're not through yet.

MR. LANDRUM

. . .and have a lot more work to do, that I would like to also take the privilege of saying to the staff I believe they have done an extremely great job. Thank you.

MR. LEITHMAN

Mr. Speaker, I wonder if it would be in order to ask for a suspension of the rules to reconsider the entire education proposal, the Article on Education. I think we could do a better job if we'd open it up tonight and get into it.

MR. HENRY

Mr. Leithman, I would have to say that you are living proof we could do a lot better with education in this state than we've done.

[Motion to recess to 9:30 a.m. adopted without objection.]

122nd Days Proceedings—January 19, 1974

Saturday, January 19, 1974

ROLL CALL

[103 delegates present and a quorum.]

PRAYER

MRS. MAYBUCE

I'm a little hoarse this morning, but I'll do my best.
May we pray.

(Singing) Our Father, which art in Heaven, hallowed be Thy name. Thy Kingdom come, Thy will be done, on earth as it is in Heaven. Give us this day our daily bread, and forgive us our debts as we forgive our debtors. Lead us not into temptation, but deliver us from evil. For Thine is the Kingdom, and the power, and the glory forever. Amen.

PRAYER

MR. A. LANDRY

As we bow our heads:
We pray, O Lord, that we be forever reminded that there's a time to part, and a time to meet, there's a time to sleep, and a time to eat. There's a time to work, and a time to play, there's a time to sing, and a time to pray. There's a time to plan, and a time to do. There's a time to grin, and a time to show your grit. But there never was a time to quit.

As we approach the completion of our work, and we return to our homes, we ask You, oh, Lord, to please grant us the fortitude not to call it quits. And we also ask that You grant us the strength, the health, and the ability to explain our work to our constituents with the hope and the expectation that they will ultimately accept the new constitution written by Your servants, through Your guidance. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

Personal Privilege

MR. FOWLER

Mr. Chairman and fellow delegates, this has truly been a great experience for me this year. It's one that I hope that I will never experience again in my lifetime. Really, the association with you, and working with you here in the convention has been tremendous. Today, as each of us part and go our separate ways, I hope and pray that each of us will go with the thought and the idea that we have done a good job, and that we have, and will, bring a document to the people that they can buy. I believe that with each of us going back to our respective districts, that we will be able to sell this document without any trouble whatsoever. It's so far superior to the one that we are operating under now. It's not by any means a perfect document. We all know that. But so far superior to what we are operating under at the present time.

Before I leave this podium, I would like to say to each of you, I think that we, as delegates to this convention, owe a great debt of gratitude to the Chairman of this convention, E. L. "Bubba" Henry, and how he stood up under the pressure that has been thrown around his shoulders for the past year, is beyond me. So, I would like for you to join with me in giving "Bubba" a standing ovation.

MR. HENRY

Please, please, take your seats.

MR. FOWLER

Second in command, and the man that keeps "Bubba" straight is the little man right behind my back, David Poynter. David, we owe you a great hand, too.

To the tremendous staff that we have had that has worked literally day and night for the past year in keeping up, and keeping us up with our work as we go along, we owe a great deal of thanks to them.

To the Styling and Drafting Committee, this is one of the greatest. I would like to know just how many man-hours the Styling and Drafting Committee has put in. They have done a tremendous job. They are to be commended for their work.

Next is Mrs. Zervigon and the Transition Committee. You did a tremendous job in yours, too. You worked many an hour, too. Thank you a lot, Mary.

To all other committees, you did a great job; to the Chairmen, duly respected, as you served in your respective places, you did a tremendous job in holding the line on the committees and keeping as much legislation out of this constitution as you have. We want to thank you for that.

So, as we leave here today, and as I leave here, I would like to say this:

As the road rises up to meet you
And the wind is at your back,
May the Good Lord hold you in the palm of His hand.
God bless all of you.

INTRODUCTION OF RESOLUTIONS

[II Journal 1393-1394]

Reading of the Resolution

MR. POYNTER

Next resolution sent up by Delegate Pugh, becomes Delegate Resolution No. 52. I believe a copy of this on yesterday was placed on each of your desks.

Resolution to provide (A) for the form and manner of submission to the electors of the state of the new proposed constitution, together with alternative proposals relating to education, and the delegation of authority relating thereto, to the appropriate officers of the convention.

(B) For the use of the facilities and services of boards, commissions, departments, and agencies of the state, and of the political subdivisions of the state.

(C) With respect to the disbursement of funds appropriated to the convention.

(D) A method of reconvening the constitution without per diem for any purpose consistent with law, and

(E) For the supremacy of this resolution over other actions of the convention.

Explanation

MR. PUGH

Mr. Chairman, fellow delegates, as I commence to speak on this resolution, I call your attention to three things. I had the staff make these corrections, and copies were to be delivered to you. Let me give them to you at this time. I have numbered the resolution fifty-two on the first page.

On the third page...all right, if you will, on page 3, on line 13, it had been drafted, or typed by the staff with the conjunction "and" appearing after the word "practical" when it should appear before the word "insofar". That is on page 3, line 13. No commas.

Page 4, line 20, your copy may start off with the words, "the requirements". They had failed to put in there "as to R.S.18:567." I'll explain that to you in a minute.

Line 24, I went ahead and put the date in you agreed on yesterday. As I appreciate it, if the Secretary of State will promulgate this constitution on December 2, 1974, then it shall become effective on January 1, 1975.

I now address myself to the resolution.

If I may have your attention...

In my humble opinion, I believe that having finished substantially, if not all of the document, the most important problem that addresses itself to our attention is that Act 2 of 1972 calls upon us to specify the form and manner in which this is to be submitted to the people. I have taken into consideration in this resolution the five things mentioned by the Clerk; that is its purposes are set forth to provide the form and manner as he so described. It also calls upon the various boards and commissions of not only the state, but of the political subdivisions, to grant the assistance which the law, in Act 2 of 1972, compelled them to do. It also refers to the disbursement of funds in relation to the work that must be done by the Secretary of State. It also provides a method for reconvening the convention. This, perhaps, caused the most contention yesterday. I am of the opinion that although we may not be paid a per diem after today, that we do have the authority to have ourselves called back in for the purpose of making such changes as may be necessary to the form and manner of the election. I do not believe we can do anything insofar as the document is concerned. Last is the obvious need for a supremacy of this resolution insofar as our other rules and provisions may be.

If you will turn to page 2, having passed the "whereas", we get to the "therefores". I have started off by tracking the language of Act 2 in the first paragraph verbatim as it appears in the statute. Then, as suggested to you, language which I think would adequately describe what is to be done by the electors at the time they cast their ballot or ballots.

In that connection, you'll notice that I have called upon this to be done at public expense, all in accordance with the statutes. I believe it to be the Constitution of 1974. This provision as it appears here would provide for the constitution with the exception of any article relating to education to be voted for or against by the electors.

As to the alternative provisions relating to education which butts them up against each other, and this provides that a majority of those voting on either of the alternatives relative to education shall be determinative of which article shall be placed in the constitution if adopted. As I pass on, I'll come back to that in a minute.

But, as I pass on, insofar as the resolution is concerned, I call your attention to the fact that unfortunately, the election laws of Louisiana do not fit hand in glove with Act 2 for nowhere is there provision for the things that would have to be done in connection with the adoption of a constitution.

As Paragraph 2, of page 3, I have provided that there will be three commissioners and one clerk; I have provided that there will not be watchers. As you know, under the law, each political party selects watchers. As this act is drafted, we're not dealing with parties, we're dealing with people. I do not believe it to be practical to provide for watchers. However, in view of the fact that we do not know whether or not, at this point in time, the governor will have this election at either a general or a special election, I have provided that in the event that it is in a general election, then, and in that event, the commissioners, clerks and watchers who would otherwise be appointed for that general election would suffice for these purposes.

In view of the fact there is nothing in the election laws relating to the necessity of the use of voting machines or booths, as it's used in the statutes, I provide that they shall be used, and I also have provided that insofar as practical, the provisions of R.S. 18:1161 and 1198....

I had just mentioned that we will be using voting booths or machines as they are used in the statutes. Next, I provide for absentee voting, because unless there is such a provision specifically provided for, there would not be absentee voting. Again, I say insofar as practical, that the provisions of R.S. 18:1161 and 1198 will control.

Now, one of the most difficult problems that might confront us from a time standpoint, from the lack of pay standpoint, we may well have some things that will occur between now and the time that this constitution is voted on, which must address themselves to responsible people, and must be immediately acted upon. I have, therefore, provided a method by which the Chairman and the Secretary of this convention, or either of them jointly or severally, have the full power of this convention to do all things necessary, subject only to judicial review insofar as the manner of the election is concerned.

Please give me your attention to this fact. First of all, we must specify both the form and the manner of the election. You will note that we here today will determine the form of the election; we here today will determine the manner of the election; however, should there be any problems, then these two individuals have the right to make a determination relative to the manner of the election.

Again, in view of the fact that getting us all back together again would be very difficult, I have provided that these people's interpretations of this resolution shall be final only subject to review by the courts. It may be asked, "Why didn't you provide for the Executive Committee?" You've got a mechanical problem of calling any more than two people together. I assure you from my experience yesterday morning at 3 o'clock, until I finished this resolution at 11 o'clock, having during that time trying to digest all the election laws of Louisiana, and make them fit this matter, I came to the conclusion that a provision of this nature was almost mandatory, and certainly foolish not to provide for.

Moving on to 6, I made a method for the cost of the printing of the tally sheets, the cards of instruction, etc., to be paid for by state expense, and also, that those expenses normally occurring in a parish, to which the state by warrant, or the parish by warrant, draws against the state treasury, that also those provisions be made. Now, somebody said, "Well, the state auditor is not the one." All I can tell you is the law says the state auditor is the one. I have done nothing but follow the law insofar as this resolution is concerned. Not custom, but the law.

Next, insofar as the polls are concerned, I provide what is customary; that is that they open from six and that they close at eight. That's a.m. and p.m. respectively. Also, that those persons within the barrier, or within the building where the voting is being done, may continue to vote until 12 o'clock midnight. I specified before, during, and after these hours the

commissioners and the clerks and all other parties mentioned in any of these election provisions shall have the powers and duties granted in these provisions. Also, shall be subject to the obligations and the penalties provided for in these provisions. You do appreciate that there are some criminal sanctions relative to elections. In my opinion, they must be provided for.

I have picked out those statutes which I deem applicable, or at least usable in connection with this election. I have by numerical designation, made reference to each and every one of them. I have also given us the provision of a general statement that all other pertinent provisions of Title 18 may be applicable.

Now, insofar as the one change that I mentioned earlier, one particular--one particular--statute relates to votes for candidates. It, in my opinion, comes as close as any of the statutes to help us. Therefore, I have indicated that insofar as that statute is concerned, that when the word "candidate" is used, it shall be presumed to mean the constitution and the alternative. This statutory reference is 18:567. I also, subject to your will yesterday, have provided that the Secretary of State will promulgate the election on December 2, 1974. Nowhere in the act does it say that he will promulgate this election. Now, if you use December 2 and figure your thirty days, in my opinion, that means this constitution would be effective on January 1, 1975.

Now, I call your attention to what I think to be a very serious problem. Yesterday, Mr. Gravel mentioned right before lunch about '76 instead of '75. I did not take the rostrum, but I would be remiss.....as a lawyer if I did not point out to you that if the election is called by the governor, say in April, and if there is an election contest relative to that, it may well be that that matter will not be finally adjudicated in time to trigger this to start off on January 1, 1975. I make no suggestions, I make no recommendations, I merely call that to your attention.

Next resolution calls upon every instrumentality of this state, and its political subdivisions, including by specification that of the Secretary of State and the Custodian of Voting Machines, to cooperate with this body and these designated officials in the fullest. I've tracked the language which calls upon them to furnish services, facilities, employees, and in all ways to cooperate with this body and its designated officials insofar as this election is concerned.

The next resolution provides for the amount of money that Wade Martin advised me that he would need, \$45,000.00. I call your attention to the fact (Mr. Chairman, could I have some order, please?)....

I do not appear before you with any pride of authorship as to the contents of this resolution. But, I do address to your attention, the contents thereof, insofar as the fact that without this, we have nothing.

The resolution relating to the Secretary of State authorizes expenditure of forty-five thousand dollars insofar... up to that sum, insofar as it may be necessary and usual, subject, however, to the applicable provisions of the law, 'cause there is some problem about whether or not we can use the funds that are allocated to us for the Secretary of State for this purpose. I have also called upon the Secretary of State to give appropriate and comprehensive instructions as to each of (A) through (I) of things relating to the election.

Now, insofar as the cost of the election is concerned, I want to commend Mr. Fowler, the custodian of voting machines, who not only was extremely helpful to me, he has provided that he has all the funds that may be necessary for this election. So, what was a problem relating to finances for us to grope or contend with, has now been resolved in that connection.

Now, moving on to Paragraph 5, on page 5, I'm sorry, line 20, (excuse me, could I have your attention, please?). At this point I have called upon the Chairman, or a majority of the officers of this convention, either one of them may call this body back into session if for any reason there's a need to do so. I reiterate that we must serve without per diem, in my opinion. I do, however, believe that all that the act requires us to do is to deliver the document to the governor before midnight tonight. That insofar as our being available for recall for any purpose except redrafting, or changing part of the document, that that may occur, and can occur. Again, as a precautionary measure, I tell you it can be the Chairman, or a majority of the officers.

I've also provided that this resolution shall take preference and priority over all the rules of this body which might otherwise conflict with it. I have been asked by the Public Information about the possibility of a provision relating to not only the advertisement of the document, which we have already otherwise provided for, but not only the advisement of the document, but for its distribution. I await their suggestions and recommendations insofar as such a resolution might be.

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Questions

MR. FONTENOT

Mr. Pugh, along with what you just said concerning the Public Information Committee, in our rules--I know your resolution is going to override our rules---but, at the present time, the Public Information Committee has the job of distributing the constitution in the manner and form that the Public Information Committee decides. There's a lot of work left to do in this particular committee. I think we ought to add a section to your resolution, perhaps, giving the power or the authority of this committee, or the officers of this committee, to act. I talked to you about it this morning. Have you planned anything on that?

MR. PUGH

I'll be glad to help you draft one, or if you would draft it, I'd certainly be interested in having it. I just, from the time standpoint, haven't had a chance to. I think the point's well-taken, and.....

MR. FONTENOT

I'll get with Mr. Juneau, and we'll try to come up with some additional section.

MR. HERNANDEZ

Mr. Pugh
...on page 2 of your resolution, on the question of adoption of one of the two alternative provisions relating to education, it's my understanding there is one alternate. I don't see how you could provide for two alternative provisions when we only have one alternate, and the other one is embodied in the proposed constitution.

MR. PUGH

Well, when you say an alternate, it necessarily implies it's an alternate to something. Whatever that something is is the other alternate that I had reference to.

MR. HERNANDEZ

Well, I don't see how it could be an alternate if it is a provision. It's not an alternate. I don't see how you can consider it as such since it is in the body of the proposed constitution. That's.....so I contend there is only one alternate. I hope that you will recognize that and make provisions for one alternate.

MR. PUGH

Well, you may make any amendments you want to make, Mr. Hernandez.

MR. AVANT

Mr. Pugh, as I understand your resolution, it, in effect lifts the provisions with respect to the governance of higher education out of the body of the proposed constitution and sets it over on the side in juxtaposition with this alternative proposition, does it not?

MR. PUGH

Well, they didn't put it to the side. I put it below it. But, other than that, you are absolutely correct.

MR. AVANT

Now, there is no need for you and me to engage in a legal debate at this point. We've discussed this for several days. But, you are operating on the assumption that it is legal and in compliance with Act 2, and not in violation of any other law, to tell the voters that a majority of the people who vote on the alternative proposition will be a sufficient vote to adopt that proposition and to replace in the constitution the provisions which the convention has so far included in the main body of the document.

Now, my question is this....

MR. PUGH

Do you want me to answer that first as to whether or not we agree to that premise?

MR. AVANT

You are operating on that assumption, are you not, that that's legal?

MR. PUGH

Not the way you phrased it, no, sir.

MR. AVANT

Well, you give an admonition to the voters in your resolution. "A majority of those casting votes on the following alternative provisions shall be determinative of which alternative proposition shall be a part of the Constitution of 1974, if adopted."

MR. PUGH

That is correct.

MR. AVANT

So, you are operating on the assumption that the alternative can be adopted by a majority vote of those voting on the alternative without reference to those who vote on the basic document. Are you not, sir?

MR. PUGH

I have submitted this on the premise that under Act 2 of 1972 that this honorable body may determine the form and the manner of the election. I buttress that fact with an opinion from the attorney general which shows it exactly as I have it here.

MR. AVANT

All right. That is the assumption on which you operate. Now my question....

MR. PUGH

Let me tell you one other thing so we can get all the floor laid out.

MR. AVANT

All right.

MR. PUGH

From the day I came to this convention, I have been told, "Look at the Illinois constitution that's got some stuff in it." I believe you will find this pretty well follows that type thing, also.

MR. AVANT

All right. You're making your legal argument.

MR. PUGH

No, I'm trying to answer your question.

MR. AVANT

Well, my question is this.

Suppose you are wrong, and suppose this thing goes to the voters the way you have it set up, and the majority of the people voting on the alternative, but far from a majority of those voting on the constitution, vote in favor of the alternative, and a lawsuit is filed and the court says, "Mr. Pugh, you were wrong."

MR. PUGH

All right.

MR. AVANT

What are going to be the provisions in the constitution with respect to the governance of higher education?

MR. PUGH

None.

MR. AVANT

None.

MR. PUGH

That's right.

MR. AVANT

Be absolutely left up to the legislature by a majority vote, will it not?

MR. PUGH

That is right. No question about it....yes, I guess it is a majority of the legislature.

MR. AVANT

It is also possible, is it not, sir, if you were wrong, that in view of the erroneous instructions on this ballot, that there is a possibility the whole document may fall.

MR. PUGH

Well, now, of course, I'm not going to tell you what the courts might do. They can do most anything, I've learned, in twenty-five years of practice. I will tell you that if you

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follow the suggestion of Mr. Hernandez, that is to put an education article in the body of the constitution, and then to put this off by itself, you run into the same dangers that you are pointing out right now, in that a court might also determine that as not being effective and constitutional. In my opinion, you must rely on the manner and form authorization as set forth in the act. That's why I told you on yesterday that the amendment of Mr. Tobias' was almost sacramental it was so necessary.

MR. AVANT

But, you do agree that if you are wrong, that then at least ...the least consequence of your erroneous judgment will be that there will be no provision in the constitution relating to the governance of higher education.

MR. PUGH

There is that possibility relating to any one of the suggestions that I've seen.

I take that back. There was one suggestion that somebody said to use the 1921 Constitution which would give you a third alternate.

MR. LANIER

Mr. Pugh, I'm looking at your provision giving authority to the Chairman of the convention, and the Secretary of the convention. I'm wondering, don't you feel that perhaps we might want to add a third person in this group to cover the situation, although it is probably improbable, that Mr. Dennery and the Chairman would not agree as to which was the proper course of action? We would have the third person as a tie breaker in that situation.

MR. PUGH

I have no quarrel with that. Quite frankly, I thought of the treasurer at the time I was drafting this. It was more important to me at the time to be sure that if anyone of them went home, as the Baptists say, that at least there would be one survivor who in turn could handle this for us. I have no objections to it being three. I suggest to you that keep the number small on account of the mechanics. Other than that, I have no pride of authorship insofar as that is concerned.

MR. LANIER

Well, did you know....

MR. PUGH

I don't know that it has to be an officer. I don't really care.

MR. LANIER

Did you know that I discussed this with Mr. Dennery, and he said that although he felt the Chairman was bigger, he felt that he was craftier.

MR. PUGH

I have no quarrel with your suggestion, Mr. Lanier.

MR. STOVALL

Mr. Pugh, do you know that I think this is a fine resolution that you have prepared for this convention at a late time? I am deeply grateful to you for the time that you put in on it. I think I speak for the entire convention in saying that, did you know?

MR. PUGH

Thank you.

It came about by an unusual set of circumstances that would not necessarily benefit any of us.

MR. CONROY

Mr. Pugh, yesterday this convention amended Section 25 of Proposal 38 to make the effective date December...midnight December 31, 1974. That being the case, don't we have to change your date to December 1, 1974?

MR. PUGH

Well, the problem is, I don't know how you can change it to one and make it....I don't know how you can ever get it midnight, frankly.

MR. CONROY

Well, that's what the act says, also, is that it becomes effective at midnight on the 30th day...effective at 12 o'clock midnight on the 30th day after the date on which the Secretary of State promulgates the results of the election.

MR. PUGH

I had "one" in there yesterday, and changed it to "two" because I counted the thirty days. But....

MR. CONROY

But, you were counting to January 1 last time, weren't you?

MR. PUGH

Yes. That's right.

MR. CONROY

So. O.K.....

MR. PUGH

I have no objection to the "one" being in there. I don't care.

MR. CONROY

Thank you.

MR. PUGH

As lawyers, we always have problems counting days.

MR. ALEXANDER

Mr. Pugh, you make several references to the effect that the supremacy of this resolution over other actions of the convention. You make two references. Isn't that rather far-reaching and all-inclusive?

MR. PUGH

Yes, sir. I intended it to be because I think that ultimately, if this...if there's any challenge on the election--you know, sometimes those things happen--that language will be extremely necessary.

MR. ALEXANDER

What do you mean when you say that other actions inconsistent with the provisions of this resolution must be suspended? Could we not suspend some vital actions of this convention as a result of this resolution?

MR. PUGH

Only those that might be inconsistent with this. I'll tell you that yesterday morning about 3:30 I was groping for words. Those are the ones I thought that would be applicable; having to go over all the election laws was enough of a problem without having to go over all the rules and provisions that had been adopted to date by this body. I certainly don't intend--if you've got some other language, I've got no quarrel with it.

MR. ALEXANDER

Now, on the question of commissioners. The watch...the fact that watchers are permitted in our election laws arose from the fact that some candidates were not fortunate enough to draw commissioners at times at some polls. Now, there may be factions that will develop, I hope not, God forbid, but it's possible. If they're not represented at the polls, the system of watchers permits everybody to be represented if they want to, even though they're not paid. Isn't that a little danger? Could you not say in the event a faction is not represented at the polls, then, watchers may be permitted if that individual wants to supply them?

MR. PUGH

I can't think of anything that might get us in greater trouble than that kind of language in this resolution. I gave a lot of thought to watchers. But, the difficulty with watchers are, they are appointed by a political party. Now, I gave some thought to this convention. Each appoints so many watchers. Then the question was raised, "Well, do they get paid?" and "Are we taking care of our friends?" I don't think insofar as the constitution is concerned, that we need watchers. It's not something that I lightly considered. The practicalities of it rule it out in my opinion.

MR. ALEXANDER

You know they're not paid.

MR. PUGH

Yea, I understand that. But, the public don't know it.

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MR. ALEXANDER

Well, and you know they don't necessarily represent parties. They represent factions or groups.

MR. PUGH

I merely said they were picked by parties. I didn't say they were representatives of the parties they were picked by.

MR. SMITH

Mr. Pugh
.....on page 5 in the paragraph, line 20 to line 28, that concerns me about the Chairman calling the convention back. The legislature in its act, extended the convention until January 19.

MR. PUGH

Yes, sir.

MR. SMITH

Say tonight...today, if we adjourn sine die, how can we legally be called back into session? I mean, I'd just like to know what mechanics need to be used.

MR. PUGH

My interpretation of the act is that we were called upon to deliver to the governor of this state a document no later than that date. Nothing that I find in the act provides that we can't be recalled in. I think our function on that day--would have been on or before that day--but at this time, on that day is to deliver to the Honorable Governor of this state the document. Beyond that, I think we may legally be recalled. Unfortunately, under the terms of the act, we can't be paid for it. Be that as it may, I'm satisfied that people of this body, if it was deemed necessary to do so, would be willing to be recalled without pay.

MR. SMITH

Well, I wasn't sure. I just wanted to be sure we could legally be called back.

MR. PUGH

It is my opinion that you may be legally called back. You may want to discuss that with some other lawyers.

MR. BURNS

Mr. Pugh, I join with the other delegates in commending you on work that you put in on this resolution and other documents in connection with this constitution. But, the ballot on the bottom of page 2 gives me a lot of concern. I'm not going into it because it was discussed by that...what I wanted to ask you was, would you have any opposition to the...either one of the amendments to be offered by Delegate Burson, or Delegate Kean?

MR. PUGH

Well, I haven't seen any of these amendments. I put this out yesterday at noon.

MR. BURNS

Well, it looked like it could be presented to the people in a much simpler form without taking the present article or section of the constitution out of the constitution.

MR. PUGH

The only proposed amendment that I saw that had Mr. Kean's name...the only proposed amendment that I saw that had Mr. Kean's name on it was one that said something about voting for or against, and one that had reference to the fact that there was no geographic distribution requirement as to appointed members. I would object to that if that's what he's doing. I don't know what to do, though. I haven't seen it.

I will tell you that there are these problems insofar as the language is concerned. There's always a problem when you submit on a ballot whether or not there is enough information thereon to call the voters' attention to the facts. I would believe that the issue of five boards for governance, versus two boards for governance, will be the watchwords of this election. For that reason, I use that language. If there's anything else more descriptive, again I have no pride of authorship. It's a question of submitting that to you...you know, put commas, or change. It doesn't make any difference to me. I'm going home tonight, win, lose, or draw.

MR. GRAVEL

Mr. Pugh, on line 17, page 1, would you have any objection

to deleting the words "consistent with" and in lieu thereof inserting "not prohibited by" to make the sentence read, "a method of reconvening the convention without per diem for any purpose not prohibited by law."

MR. PUGH

I have no objection to that. That's just a provision going into it.

I'd have taken help from anybody, I'll tell you that. I'm still....

MR. LEIGH

Mr. Pugh, the Act 2 of 1972 as I read it provides for the calling of an election, or have a special election, for the purpose of submitting the proposed draft to the people for their adoption or rejection. Now, as I understand the draft that we have prepared here, it contains an education article. Your proposal, as I understand it, proposes to submit that draft to the people without an education article. Am I correct?

MR. PUGH

That is absolutely correct.

MR. LEIGH

And if, as I believe, in answer to Mr. Avant's, if for any reason your submission should be wrong, and the alternative should not be accepted, then you would not have submitted a draft of our constitution to the people. Wouldn't that be correct?

MR. PUGH

I think we could submit as much of a constitution as we want. As the governor said, we could have quit, in fact, I think he might have said we should have quit, at the time we got through with the three branches of government and the Bill of Rights. So, how much we have in the constitution, I don't think has anything to do with the draft aspect of it. I will suggest to you that I used what I have here because in my opinion, my humble opinion, this particular method of doing it, pretermits and defines this question which I think is there--this method in my opinion, is the one that has the greatest possibility of not endangering the constitution from the validity of an election suit.

MR. LEIGH

But, Mr. Pugh, I'll ask you this question, the column which you have to vote for or against the constitution in your proposal, does not contain a draft of the constitution as we have adopted it, does it?

MR. PUGH

That's correct.

MR. LEIGH

I recognize that we might have submitted any draft that... we could quit at any time as you said....

MR. PUGH

That's right.

MR. LEIGH

...but we would have had to submit whatever draft we had. Wouldn't that be correct?

MR. PUGH

That's correct.

MR. LEIGH

This does not submit the entire draft...

...For or against.

MR. PUGH

I was of the opinion that unless and until we delivered the document to the governor, we weren't through with this constitution. If we are through with it, I'm ready to go home. If we aren't through with it, then I think what's outlined here is not only feasible and practical, but more important, is legal.

MR. DUVAL

Mr. Pugh, I'll be redundant in complimenting you on the job that you've done, and I'd like to get a couple of things straight.

Don't you think, sir, that notwithstanding the legal vagaries of the alternate, that certainly the body of the

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constitution would be valid in any event, because of the severability of it?

MR. PUGH

There's no question about that.

MR. DUVAL

O.K.

The second thing I wanted to ask you, Mr. Pugh, is it your opinion that this constitution is still--constitutional convention, in essence, is still alive--is alive until such time as the document is completely and finally ratified and all legal questions are cured? Basically, is that your intent?

MR. PUGH

Except for redrafting the document. I don't think after midnight tonight we can redraft the document. Other than that, I think we can do anything.

MR. DUVAL

In other words, your position is that, of course, we can't make any....we present it to the governor, after today. But, we can come back until...how long do we stay alive is what I'm asking you?

MR. PUGH

As far as I'm concerned, until such time as somebody makes a resolution saying we are through. I don't mean necessarily sine die. I mean one hundred percent through.

MR. CASEY

Mr. Pugh, the question I have treats the...evolves around the legal problem brought up by Mr. Avant earlier.

MR. PUGH

All right.

MR. CASEY

If you've answered it in full, and discussed it in full, I apologize in advance.

MR. PUGH

Not at all.

MR. CASEY

The suggestion...question I would have in the form of a suggestion, in order to cure the problem is, would it not be possible to include in the schedule, and, therefore, be voted on by the people, the method that we are finally going to arrive at in adopting the constitution itself and the alternatives, so that if there is any legal question about the method of adoption of either the constitution or the alternatives, the people would ratify that method and possibly eliminate in advance the legal questions of the method of adoption; for instance, the number of votes by which the alternative is adopted. Would not that be safer to have that method included within the schedule?

MR. PUGH

Yes, I don't know where you were yesterday, but there was an amendment; Tobias' amendment did it, in my opinion. It didn't pass. Then, the amendment that was practically like Tobias' did pass, and does, I think, what you suggest. I said from this microphone, as I discussed it yesterday, I thought it was of paramount importance that it be adopted. I'm pleased that it was adopted by all but two votes.

MR. CASEY

From that viewpoint, specifically, probably, the question I have, is it better to have specificity in that? I know you had...I know Max Tobias' was defeated; I know your's was adopted. But, I question the specificity of it. Whether there was adequate detail included within that particular new section... I think it was a new section, in order to resolve the problem. Or would it be safer, once we adopt this resolution, with specifics included within this resolution, then go back and reinstate these specifics in that particular schedule?

MR. PUGH

I don't think there was any question that Max Tobias had about as fine an amendment as I have heard from these floors. There's no doubt in my mind that that's the best amendment to adopt. The difficulty was one of posture yesterday. Somebody thought a hog was hidden in there somewhere. For that reason, the body decided not to vote for it. But, I tell you that in my opinion, you are right; that that's the kind of amendment

that if I were defending this matter, I'd like to pull out of my brief case.

MR. SUTHERLAND

Mr. Pugh, Mr. Avant questioned you quite extensively this morning about the guessing wrong on this proposition.

MR. PUGH

I'd rather you'd not use the word "guess." But, it's all right if you want to.

MR. SUTHERLAND

Well, I'm going to try and explain that.

As an attorney, all of us are familiar with the opinions of the attorney general. But, there are a lot of people in the convention who are not attorneys. For their benefit, I'd like to say this to you, or ask you this question. Either way we go we could be wrong in our judgment on this particular proposal. Either way we go we could be wrong. Now, because that is a fact, we have two ways of going to try to get a decision. We can go to the attorney general and get an opinion, which is not necessarily binding on the court, but which certainly is persuasive. Or, we can ask the Supreme Court for declaratory judgment. Now, as a matter of time this is impossible to follow the latter procedure. So, the only thing open to you at this time is to seek an attorney general's opinion, which you have done, and which you have indicated is in order. In other words, he has approved what you have said. Isn't this the only possible legal thing that you can do now to at least determine that what we are trying to do is going to have some legal effect?

MR. PUGH

Yes, and in answer to your question I will tell you that Thursday, or Wednesday night, I took the position that this--that a declaratory judgment suit should be filed in the district court of this state--it was Wednesday night because I knew that the Supreme Court met in conference on Thursday, and that it'd be immediately taken to them. Once I had the concurrence--not the word--once Mr. Conroy, in whom I have a great deal of respect, Mr. Denney, in whom I have a great deal of respect, and Mr. Kean, had at least concurred that I was of the opinion that what might--you know that if we shook up the voters by rushing into court to get something done--would not be outweighed by the judgment of these fine lawyers.

MR. KEAN

Mr. Pugh, as I appreciate the attorney general's opinion, that opinion related merely to the method of putting the alternative on the ballot, did it not?

MR. PUGH

Yes, that's my recollection.

MR. KEAN

And, the attorney general, in effect, tells you could have a "for, for" alternative if you wished to do so; did he not?

MR. PUGH

Let me look at his opinion. He did not suggest a "for, for," no, sir.

MR. KEAN

Well, he approved of an "or" which, in effect, is a "for, for," did he not?

MR. PUGH

He said a majority of those casting votes on the following alternative provision shall be determined to which article on education shall be a part of the constitution if adopted. You may only vote for one of these alternatives. I took his comma out because I didn't want to emphasize "if adopted."

MR. KEAN

The question of whether or not you would, in effect, pull out of the constitution a particular article that had been adopted by this convention during the course of its deliberations and shut that over in a separate proposal that was not considered; was it?

MR. PUGH

I don't know what he considered. I could tell you the results of his letter because I have it before me. I don't know what he considered, that's the subject in question.

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MR. KEAN

Well, the mechanics of your proposal with respect to the form of the ballot would require that he now go back and take from the table Article VII, the Education Article, which was deliberated and adopted by this body and then physically, I guesa, remove it from the proposed draft of the constitution; would he not?

MR. PUGH

Well, sir, whatever you mean by physically, of course, you know, we will have to take it out; yes.

MR. KEAN

If that wasn't adopted, you would have to have sixty-seven votes to remove Article VII from the table or whatever it is and then take it out of the draft of the constitution?

MR. PUGH

You'll have to have sixty-seven votes to do anything this resolution calls for.

MR. KEAN

And, then it's your proposal then that we would offer to the people a constitution which did not contain an Education Article?

MR. PUGH

That is correct.

MR. KEAN

And, that would be left over to one side as something that the public would take one or the other?

MR. PUGH

No, sir, it would be below.

MR. KEAN

Well, below, one side, wherever you put it. So, that we do not, then, have an alternate to a provision in the constitution under your plan; do we?

MR. PUGH

An alternate on what?

MR. KEAN

An alternate on education to a provision in the constitution that we are proposing?

MR. PUGH

No, sir. I might suggest to you I considered one other possibility, Mr. Kean, which I think is legally feasible. You could have three columns. You could have a constitution with Education Article (A) in it. You could have a constitution with Education Article (B) in it, and you could have against the constitution. In my opinion, if you've got two votes, and three votes, and four votes we lose the constitution and that is the reason I didn't suggest that possibility. I think that's a fair way of presenting the two issues insofar as education is concerned than putting it up above completely.

MR. HENRY

All right. Mr. Pugh, I believe if there are no other questions then we have some amendment here. So, Mr. Clerk, will you read the first set of amendments?

Mr. Ambrose Landry, do you have a question?

MR. A. LANDRY

Mr. Pugh, is it also possible in alternates if we could get sixty-seven votes to include on the ballot on alternates one big alternate, Article VII, Delegate Proposal No. 98 and also Article XII of the 1921 Constitution?

MR. PUGH

No problem.

MR. A. LANDRY

Wouldn't that eliminate the possibility that if we have...if we would remove Committee Proposal No. 7 from the constitution and we vote on those two alternates only, wouldn't it be a possibility that I would be able to go and vote against the constitution and have no choice to decide whether or not I would like to have Article XII of 1921 instead of the two alternates?

MR. PUGH

The biggest problem that I was confronted with, in my opinion, under this act was that very same thing. I feel that an instance where you have a constitution and you can vote against the constitution and then you can turn right around even though you are opposed to the constitution and vote on a proposition relative to a

part of that constitution...that is nutty. However, the conjunction "and" appears in this act and Mr. Conroy, and Mr. Denney, and I took the position that it was better to go in that fashion; it's a real problem....

MR. WILLIS

Mr. Pugh, does not your resolution synchronize the opinion... or opinions of the attorney general and fully satisfy the inquiries of the secretary of state?

MR. PUGH

Well, I will say that it does synchronize on the attorney general. I'm not in the position to discuss one way or the other the present thinking of the secretary of state.

MR. WILLIS

Does it precisely direct the custodian of voting machines?

MR. PUGH

Yes, sir, it precisely does that.

MR. WILLIS

Now, the question I stood up for was this: Isn't it a fact that the present Education Article and the alternative, which we adopted, are considered in your resolution on equal status?

MR. PUGH

Absolutely.

MR. WILLIS

And, that to do otherwise, would not give them equal status?

MR. PUGH

No question about it.

MR. DERBES

Mr. Pugh, what would be the legality or perhaps the legal possibility of having the legislature confirm--I don't know when the election on this constitution will be called--but of having the legislature confirm whatever process we choose here taking into consideration the ambiguity of Act 2?

MR. PUGH

Well, I think they might be able to legislate relative to Act 2. Once the people adopt this constitution, if it's presented to them in a proper form and manner, well I think it will speak for itself. I disagree with some people that say you couldn't even move the capital but premitting that question, I think that the people when they vote on it, they are voting on it, and they can do as they wish, and they have done what they wish. However, if the legislature meets between now and the time it's presented to the people and is in the remedial legislation, then I will be for it.

Amendment

MR. POYNTER

The first amendment would go to, in effect, the title of the resolution sent up by Delegate Gravel, reads as follows:
Amendment No. 1. On page 1, line 17, after the word "purpose" and before the word "law" delete the words "consistent with" and insert in lieu thereof the words "not prohibited by".

Explanation

MR. GRAVEL

Mr. Chairman, ladies and gentleman of the convention, I had asked Mr. Pugh whether he had objection to this proposed change. I think it just makes it clear that this convention in the event it does act hereafter, that it can act in any manner that's not specifically prohibited by law rather than that we have to act in a manner consistent with some law that may have been enacted. I believe this would give us the latitude we may need in the event it's necessary to take some procedural action in the future. I don't know of any reason why we should have any....

Questions

MR. SCHMITT

Mr. Gravel, I don't understand what you are trying to do. But, it seems to me what you're adopting is worse than what we have right now.

MR. GRAVEL

I think it's absolutely essential for us to say that we have

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the right to come back into session and act in any manner that's not prohibited by law. There is no law that I know of that provides for us to come back into session. Thank you, Mr. Schmitt.

I move the previous question.

MR. LANIER

Mr. Gravel, if we acted consistent with law, then our action would not be prohibited by law; would it?

MR. GRAVEL

To that extent you are correct.

MR. LANIER

What is your feeling that the definition of the word "consistent" is?

MR. GRAVEL

Mr. Lanier, maybe I can better answer your question by simply saying this: That my belief with respect to this language is that we would have to come in and act pursuant to some specific provision of law. I don't think that that is the case insofar as our future operations, if any, may be concerned because there's no law that I know of that specifically says that we can act in the future. But, there is no law that says that we cannot. So, we wouldn't be acting consistent with law. We would be acting in a manner where there is no legal prohibition, in my judgment; I think there is a difference.

MR. LANIER

Well, what I'm thinking of is if we have no limitation on our actions, then if we did act, we would be consistent; would we not?

MR. GRAVEL

I would hope what we do would not be prohibited by law. My feeling is, I can't say it any other way, Judge Lanier, "consistent with law" means to me that you are acting in conformity of a provision that was written down, that you can see; whereas, you might be able to act in some manner that does not involve any law that is spelled out defining a course of conduct. There is to me a difference between acting in a manner not prohibited by law and acting in a manner consistent with law; I felt that everybody on the Local Government Committee understood the difference.

MR. LANIER

Well, I think, perhaps, we are getting to a problem of semantics here and that's why I asked you for your definition of consistent. What is your definition of consistent?

MR. GRAVEL

In this context here?

MR. LANIER

Yes.

MR. GRAVEL

It's "in accordance with the law."

MR. LANIER

Now, if our enabling act says we're only prohibited from acting in three ways, which I believe Act 2 of 1972 says; is that not correct?

MR. GRAVEL

No, I think it goes beyond that. I don't think that we can do anything after today with respect to the substance of the document. I think that the enabling act in those three instances refer to what's to be done with regard to the substance of the document. I do think that the act permits us to act procedurally, or with respect to matters of form, or with respect to housekeeping matters after today, and I think there is a difference.

MR. LANIER

Well, as a matter of fact, there is no prohibition from us acting after today in that manner; is that correct?

MR. GRAVEL

As far as I know, there isn't.

MR. LANIER

And, if there is no prohibition, then our conduct would be consistent with law since there is no prohibition on what we are doing; would you agree with that?

MR. GRAVEL

Mr. Lanier, I do have a difference of opinion as far as I think your opinion may be as to what this means. I think there's

a difference between what is not prohibited by law and what is consistent with law. I can't explain it any other way than I already have.

[Amendment adopted without objection.]

MR. POYNTER

Mr. Chairman, there are two amendments now at the desk would come next in order, dealing with a different manner, if you will, and set out in a resolution for constructing the ballot proposition. Mr. Kean has sent up an amendment to that effect, as has, Mr. Burson.

MR. HENRY

Pick one, let's go. Go with the Kean amendment.

Now, gentlemen, we are fixing to...the Clerk is fixing to read this Kean amendment. I'm sure some of you have words of wisdom that you will want to let us have on this amendment. Now, I would ask that you give the Clerk and the speaker your attention so that we can dispose of all this business as soon as possible.

Amendments

MR. POYNTER

Amendment No. 1. On page 2, line 13--this is the Kean, Sandoz, Cowen amendment and others--delete the words "one of two" and insert in lieu thereof the word "and" and delete the word "provisions" and insert in lieu thereof the word "provision".

Amendment No. 2. On page 2, line 19, delete the words "and exclusive of either" and delete line 20, in its entirety.

Amendment No. 3. On page 2, line 22, delete the words "and exclusive of" and delete line 23 in its entirety.

Amendment No. 4. On page 2, delete lines 24 through 35 inclusive in their entirety. On page 3, delete lines 1 and 2 in their entirety and insert in lieu thereof the following:

"The proposed constitution will include a provision for the creation of a single coordinating board for higher education with appointed members and creation of three boards for the management of state colleges and universities unless a majority of those voting in favor of a constitution vote for the following alternates; therefore, those electors who vote for the constitution may also vote on the following: To have a single board for higher education with both elected and appointed members." Of course, set to the right is the appropriate ballot slot.

Amendment No. 5. On page 4, line 22, delete the abbreviative word "sions" and insert in lieu thereof the abbreviative word "sion"

Amendment No. 6. On page 4, between lines 33 and 34, add the following:

"The custodian of voting machines shall arrange the ballot and the voting machines in such a manner that those electors who vote against the constitution will not be permitted to vote on the alternative proposal set forth in this resolution."

Explanation

MR. KEAN

Mr. Chairman, fellow delegates, I would like to try and outline by way of background the problem that I think that confronts us in dealing with this question of the alternative proposal. Those of you who were listening the other day may recall that I raised the issue as to what vote would be required in order to adopt the alternative. Frankly, there are about four approaches to this problem. I would readily admit that in my opinion as a lawyer, such as I am, that there is only one approach that I think would safely avoid any question. That approach would be to have and remain in the constitution the present Article VII which we adopted by a vote of sixty-seven members of this convention and more, which is a part and parcel of the constitution that was given to you last night. Then, have the alternative proposal and provide that a majority of those who vote for the constitution and for the alternative proposal, a majority of those voting in the election would carry those particular items. Now, there is understandably concern about that approach. Mr. Pugh has come up with an approach which would involve taking out of the constitution the provisions of Article VII which we have enacted and, in my opinion, not providing an alternative but merely two options for the voters of this state which could result in not only no Educational Article in the constitution, but create serious questions as I did as to the validity of the action taken on what was left of the constitution in that same election. Another approach would be to leave Article VII in the constitution and then provide that on the alternative only a majority of those who vote on the alternative would be required to pass it. Now, as I view that alternative, it would permit less than a majority of those who voted in the election to override what a majority have done in adopting the constitution, assuming the constitution is

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adopted in that same election. I think that's not the democratic way in the first place, but I think it raises a very serious, serious legal question in the second place. Now, my amendment was drafted in an effort to try and raise between these shows that I've just outlined for you. My amendment is predicated upon the idea that only those who vote for the constitution ought to vote on the alternative proposition. Now, I think this can be legally done. I think it can be done within the framework of the authorization for this convention by Act 2 of 1972. It seems to me to be inconsistent the more you look at it and contrary to good logic to say that a person who votes against the constitution may, at the same time, exercise his preference with respect to an alternate that he has, in effect, already turned down. I think the amendment which I have drafted and which I can say, I believe, has the approval of those on the other side of the fence, including Mr. Juneau, would simply permit, would simply provide that in order for the alternate to pass and then supercede what is in Article VII of the present proposed constitution it would take a majority of those voting in favor of the constitution to adopt that alternate. In order to carry that out, it would be necessary to lock out, so to speak, those "no" votes once they had voted no; otherwise, it would be difficult, if not impossible, to determine whether or not you have, in fact, gotten a majority of those who voted in favor of the constitution. So, I think my amendment is a fairly simple approach to the problem. It simply says that those persons who vote for the constitution then have the right to exercise the additional vote to determine whether or not they prefer the alternate. If a majority of those then voting for the constitution vote for the alternate, then the alternate then becomes the Educational Article instead of the article which was contained in the constitution. I don't see any other reasonable approach to the problem. We've given a lot of time and study to it in an effort to otherwise resolve the difficulties that exist in trying to utilize the other alternatives that have been suggested. I believe that it can be done legally. If the Act 2 in Section IX said that "we will afford the voters the right to vote for or against the constitution and on the question of the adoption of such alternative proposals as may be proposed." It further provides that "we may submit the proposal of acceptance or rejection of the constitution or any alternative proposal in such form and manner as it may determine." I don't think there would be any question at all. I don't think there would be any legal question at all that could be raised with respect to this proposal that Act 2 of 1972 had provided.

Vice Chairman Miller in the Chair

I will finish my remarks briefly by reiterating. I don't think there would be any question if Act 2 had specifically provided that in the election to be held on this occasion that those who voted for the constitution would be authorized to vote for any alternate that might be submitted. I think the broad general language of this Act 2 of 1972 would clearly permit what the legislature could have specified if it had desired to do so. I think it left with us the flexibility of making that decision. I think under the circumstances that what we have here proposed does carry out the purpose and the intent of the Act--I think it does permit us to get the matter before the voters in a fair manner. I suggest your approval of it.

Questions

MR. DUVAL

Mr. Kean, at the outset, of course, I want you to know that I have great respect for your ability as an attorney.

MR. KEAN

Let me say at the outset, Mr. Duval, I'm not warranting anything.

MR. DUVAL

Well, yes, sir. Well, I was hoping you... I think there is definitely a prohibitory defect in Amendment No. 6. I want you to know....don't you know, Mr. Kean, that I have no strong feelings as to how this goes on the ballot? I do have very strong feelings about the new constitution. Don't you think, Mr. Kean, that the other legal questions that have been raised are frivolous compared to the very, very serious legal question in my mind that's raised by Amendment No. 6?

Well, my question was rather lengthy. Perhaps I can be a little more succinct. I would love nothing better, Mr. Kean, than to have any vehicle which would attempt to compel people to vote for the constitution. I'm all for it; I think we need it desperately. But, I just think, Mr. Kean--or don't you think... obviously, you don't--but have you thought about the fact that it would be certainly a disenfranchisement of those who voted against the constitution because then their right to say, in the

event it passes, what type of educational system they want would be obviated? Don't you think that presents a serious legal question?

MR. KEAN

I have considered that at great length, Mr. Duval, and I admit that it raises a legal question just as Mr. Pugh did with respect to his. I think, however, that you can certainly take the position that a person who votes no on the constitution under those circumstances has, in effect, cast a ballot against the alternative proposal, and that therefore, you leave to those who vote for the constitution to make the decision as between them.

MR. DUVAL

Well, Mr. Kean, in any event, don't you think there should be some language saying that a vote "no" against the constitution is also tantamount to a vote "no" against the alternative?

MR. KEAN

That's correct.

MR. PUGH

Mr. Kean, is it not a fact that you were of the opinion about two days ago that everybody who voted had to have the right to vote on the alternatives?

MR. KEAN

Yes, sir.

MR. PUGH

You have changed your opinion since then?

MR. KEAN

After further discussion and review of it, I have concluded that you could do it in this manner. I don't warrant any legal opinion with respect to it, Mr. Pugh.

MR. PUGH

As I understand, you were also of the opinion that the majority of those who voted for the alternative provision would have to control. Have you changed that opinion?

MR. KEAN

No. I said at the outset. Mr. Pugh, that my preference, both from a practical and legal standpoint, would be to provide that the alternative would have to be adopted by a majority of those who cast votes in the election, and I still stand on that. I have another amendment prepared to offer in the event that this fails which would just do that. I simply say that in this case I think you could take the position under the language of Act 2 that you can count the votes for the constitution and take a majority of those who vote on the alternative under this....

MR. PUGH

Buttering the bread, is it not true, then, what you're saying is that if a fellow votes against the constitution, and he can't vote on the other, and only those who favor the two vote...if you will, the two board, will be voting below, that that's not giving the five board and the two board an even shake; is it?

MR. KEAN

I would think this would give him an even shake; yes.

MR. PUGH

You're telling me now, first of all, that you have an opportunity if you vote above the line, you may vote for or against the five-board, but when you get below the line, you can't vote for or against that in view of the fact that you voted against the constitution; therefore, you don't have that privilege; isn't that right.

MR. KEAN

My amendment would limit the vote on the alternative to those who vote in the election for the constitution.

Further Discussion

MR. KOY

Madam Chairman, it appears to me--and I just wish we'd meet the issue head on here--everybody knows what this is all about. What I want to address to the Chair is: Is there any way that we can get the proponents of the Kean side and the proponents of the Juneau side to get before us the basic issues so that we can cut out all this legal hodgepodge argument that whether what we're doing is right or not right--and if he loses one point, then he brings up another amendment--and get this issue

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to this convention before we find ourselves in a position that we have nothing to submit to the governor of the State of Louisiana? Now, we've been arguing this since the other day at the White House Inn, and now we just have a response made that if this is defeated, I've got another amendment to say that it takes a majority of those voting on the entire document to be overridden by the people who vote on the alternate. I just think we ought to get to the meat of the coconut and get going. I'd like to ask if there's no rule or no point of order that can be raised if we do that.

MRS. MILLER

Mr. Roy, we can do what we've been doing in the past. We can entertain a motion, if it would be satisfactory with the delegates, to limit debate to a length of time. Do you make that motion, Mr. Roy?

Motion

MR. ROY

Yes, I make the motion that we limit debate on this matter for thirty minutes on each side.

MRS. MILLER

You move to suspend the rules that we could limit debate... what, thirty minutes on each side?

MR. ROY

Yes, ma'am.

[Substitute motion to limit debate to fifteen minutes for proponents and fifteen minutes for opponents adopted: 69-51.]

Point of Order

MR. ROEMER

For a point of order, Madam Chairman. I didn't hear anything in the motion that precluded people who are on the list for questions of the introducer of this particular proposal to be cut off. Mr. Pugh was in the midst of asking questions, and I know several people on the list to ask questions. Are they going to be summarily cut off?

MRS. MILLER

Mr. Roemer, we extended Mr. Kean's time ten minutes. He went twelve minutes beyond the extension. There was no other motion. We couldn't possibly get to the fifteen people for questions in twelve minutes.

Point of Order

MR. CHATELAIN

Madam Chairman, I certainly share Delegate Roemer's opinion on this. Many of us thought we were going to continue to ask Mr. Kean questions. If you'll remember, Madam Chairman, it was only a couple of minutes before he had extended his time, and he was still speaking. I would certainly appreciate it if you would check the time, Madam Chairman, and see if we couldn't continue to ask a few more questions. I think it's vitally important.

MRS. MILLER

Mr. Chatelain, Mr. Kean exceeded his time on his first five minutes; he exceeded his time on the extension. There was no motion before we made this other motion to extend this.

Now, we have voted on this other motion to limit debate. There was no other motion to suspend the rules to give him additional time.

MR. CHATELAIN

Madam Chairman, would it be in order for a motion at this time that to limit the proponents and the opponents to three minutes apiece to give more people a chance to speak? Would it be in order to make a motion of that type?

MRS. MILLER

That motion would be in order, Mr. Chatelain.

MR. CHATELAIN

I move that we limit the proponents and the opponents each three minutes.

[Motion adopted: 80-40.]

Motion

MR. CHAMPAGNE

Mrs. Miller, I don't know if it's in order, but in order to determine the wishes of the convention, it seems that a motion to have no debate would be in order. It seems that we really want to cut off debate. In order to determine if that's the will of the convention, I think maybe I'd make that motion-- that we have no debate whatsoever.

MRS. MILLER

Mr. Chatelain, the situation as it exists right now is we have one motion that has been adopted to limit debate to fifteen minutes for each side. We've also had a second motion adopted to limit debate of each speaker to three minutes. So, this would give five speakers time to speak on each side.

MR. POYNTER

Your motion is [...] to the previous question on that amendment, if you wish to make it, sir.

MR. CHAMPAGNE

I withdraw the motion.

Chairman Henry in the Chair

Point of Order

MR. STOVALL

Mr. Chairman, Mr. Pugh was in the middle of asking a question, and he was stopped from asking the question because the tape had to be changed. I would respectfully request that Mr. Pugh be permitted to conclude his question to Mr. Kean before we continue with the speaker.

MR. HENRY

Reverend Stovall, as happens so many times in the convention, the gentleman had...the time had been extended for the man, as I appreciate it, more than once, and time ran out. Now, you all have limited debate on this amendment, and there's nothing we can do because all I can do is run the convention as a result of the motions that you all make and do adopt.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of this convention, I hope you will pay attention to me for during this short period of time to see if I can get something over. But, I'd like to say this: the proposals in this Kean amendment are the most ingenious method I've ever seen to deprive a voter of his legal constitutional rights to vote on an issue. You are inviting opposition to this constitution which should not be because those people who want the two boards have got to go to that-- two boards instead of five--have got to go to the constitutional election and vote against the constitution or else they won't get a choice to make their position known on the two-board issue. It makes no difference to me whether you want five boards or two boards, but let's don't deprive the voters of their legal constitutional rights because you're making a voter vote against himself before he can cast one for himself. Now, what kind of an election is that? I'll tell you this: if that resolution is adopted, I'll guarantee you this, it will be upset in the courts because it's just as unfair as it can possibly be. You've got to give the voter an alternative, and if he votes for the constitution or against the constitution, he has a right to decide, if the constitution is adopted, whether he wants five boards or two boards. It's as plain and simple as that. I tell you this: please don't adopt something, which I feel quite certain as a lawyer the courts are going to knock down as being an unconstitutional deprivation of a voter's right to this. You are jeopardizing the constitution in that particular matter. Now, if you adopt the resolution as originally adopted, it provides the alternative which Act 2 calls for. At the present time, you have but one board. The Board of Regents is the only board you have because the Board of Supervisors, the Board of Education, and the Coordinating Council were abolished by the legislature in 1972 when they set up the Board of Regents. This is the way to put back into the constitution all of those boards, and I think the electors ought to have a right to decide one way or the other. Let's don't jeopardize the constitution by forcing people to go to the constitutional election and vote against the constitution in order to try and preserve the one board or the two board idea. Let's give them a choice. Let them vote on the constitution, and then vote whether they want five boards or two boards. That's the way we should do it.

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I ask you in all good graces: let's defeat this Kean amendment, and at least do it legally so we won't have that threat in the courts because it's just as unconstitutional--in my opinion as a lawyer, and I've tried a few cases--as you can possibly write one. It's an ingenious method to be sure that you, the voters, will not have a chance to vote on the alternative or the two-board issue. Now, I'll answer questions if my time allows it.

Questions

MR. FAYARD

...In fact the Kean amendment requires a person who favored the three...at least the one board concept to have to vote for the three board concept in order to get a chance to actually express what he truly desired to be in the constitution?

MR. DE BLIEUX

That's right. So, he's got to vote against himself to start with before he can vote for himself.

MR. FAYARD

Would you say this is actually giving the voters a choice?

MR. DE BLIEUX

There's no choice in this, not in accordance with Act 2, which gives the right to set up alternatives on the ballot.

Further Discussion

MR. DUVAL

Mr. Chairman, fellow delegates, there are many ways which we can constitutionally put this alternate on the ballot. Some of them you're already seen on other ballots in other states. I realize that political considerations have gone into the formulation of this particular provision of which I certainly see no objection. But, unfortunately, these considerations have jeopardized the entire article because the way it is submitted--especially the Amendment No. 6--it is patently unconstitutional. So, don't please, merely for the sake of expediency, to get this over with, because certain forces have agreed, don't vote for this--especially Amendment No. 6--because it's going to create...what you're going to have is you're going to have your entire educational article declared unconstitutional because it sets up many, many constitutional problems. I can almost guarantee you'll have a suit, and that the plaintiff will probably win. I urge you to vote against Amendment No. 6, especially.

Questions

MR. ANZALONE

Mr. Duval, insofar as this amendment is concerned, bringing the problem down to numbers, if one hundred thousand people were to vote for or against this constitution and sixty thousand of those people voted in favor, forty thousand against, would not five-sixths of the people who voted for adoption of the constitution have to vote before this alternative would be acceptable?

MR. DUVAL

I think that's correct.

MR. ANZALONE

See, you're not talking about a simple majority; you're talking about getting five-sixths of the people who are entitled to vote, which is over eighty percent?

MR. DUVAL

I think that's right. Yes, sir.

MR. BERGERON

Stan, I'm reading to you from Act 2 which set up the constitutional convention. "The constitution as drafted by the convention, together with any alternative provisions proposed for submission, shall be submitted to the people for their adoption or rejection." Now, if someone doesn't vote for the constitution--they vote against it--and they're not allowed to vote for the alternative, is that in accordance with Act 2?

MR. DUVAL

I don't think it is. I don't think it's in accordance with the Federal Constitution, actually, although I have no particular feeling on how we present it. I'm not emotionally involved with

the educational provision. I merely want to see it put to the people fairly so the people can make an intelligent decision, rather than put to the people to...

Further Discussion

MR. CONROY

I rise in strong opposition to this amendment. I sincerely hope that we will not allow the fight between LSU and USL supporters, that has permeated this convention at the various times we have discussed this issue, to endanger a whole year's work. I feel very strongly that this amendment does exactly that because I don't think this process will just endanger the education article; I think that a court will readily throw out the entire election procedure as depriving the voters of this state of an appropriate opportunity to voice their opinion on the issues that ought to be presented to them in this constitutional ratification vote. For example, if I have no desire to cast a vote and I have no axes to grind one way or another on the election issue, I am forced to vote, to take sides on that issue the way this is cast. I have to vote. I have to vote somewhat in opposition to myself if I want to vote for the two-board system because I have to vote first for it and then against it. I think that this is patently an unfair system for us to ask the voters in this state to go into a voting booth and to make decisions on. I beg you to defeat this amendment. I think the Pugh proposal was well worked out. It had been discussed. At that time I think that those that had considered it thought it was a fair approach. There may be other fair approaches, but certainly, this is not one of them. This is most unfair, and I urge you to put aside your personal prejudices, put aside your views about LSU or USL, and vote this amendment down.

Questions

MR. FONTENOT

Mr. Conroy, you said that Mr. Pugh's resolution would be more acceptable to you, but wouldn't that in fact pull out what the convention by majority vote has already approved insofar as CP 7 is concerned?

MR. CONROY

That's...

MR. FONTENOT

It would have to actually pull it out of the present document and offer the people the unfinished...an incomplete document; is that correct?

MR. CONROY

At this time this convention has decided on two educational proposals, an original and an alternative. That's why I say there may be other ways to present it. I think Mr. Burson has presented some...that may achieve the objective you want.

Further Discussion

MR. ROEMER

Mr. Chairman and fellow delegates, to make it quite clear, I am an opponent to this particular proposal, particularly the Amendment No. 6. I'm not going to try to argue the vicissitudes of the law with you; I don't think I'm capable of that. I'm just going to argue on what I think is right and what, as an average citizen, the people might want to do in this regard. I think it's a phony and fallacious argument to say that if a man in his due process of thought, thinks that the document we present to him is not capable of his support and votes no, that that same man, therefore, does not have the right to decide in case the constitution does pass what's going to be in it in regard to education. My goodness, doesn't your kids that need to be educated, doesn't his stake in this world depend on the education of his children? Even though he might think this document does not warrant his support, at least he has the right, I believe, to decide what the educational system ought to be in case the constitution passes. Now, we're not left here with no alternative in case this proposal fails. I think that the Burson amendment that I have on my desk states the issue simply and clearly: that is, that everyone who's an eligible voter has the right to vote on the constitution. Those same voters, whether they vote yea or nay, in turn have the right to vote on these alternatives, and the majority should rule in each case. I think that makes good, common sense, and according to the legal opinions that I have been able to garner, I think we're under the protection of a law and the vicissitudes of Act 2 if we do that. I urge you: don't get involved in this LSU-USL business, and you can't see

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the forest because of the trees. I personally don't care; I'm not an educational expert. I think both systems are untried and unproven and might have to be changed in the future. I think we make a mountain out of a mole hill here. But, I further believe that we cannot deny—we should not deny the people who vote on this constitution, whether they vote yes or no, the right to go down and vote on these alternatives as they see fit. I urge you to defeat this particular proposal.

Question

MR. A. LANDRY

Buddy, I'm sure you're familiar with the fact that if this election is held at the general election in November, that the Louisiana law will not prevail, that it will be under the Voting Rights Act of the United States government, and therefore, it is a great possibility that it will be unconstitutional?

MR. ROEMER

No question about it in my mind, Ambrose. I think...

MR. HENRY

You have exceeded your time.

Further Discussion

MR. WEISS

Mr. Chairman, fellow delegates, in three minutes I'd like to make three points with you. The first has been eloquently made by the attorneys here already. But, when we in Madison reach a complex problem, and differ professionally, we turn to the patient for their decision. The attorneys, I believe, do likewise. They turn to the courts. I believe one famous judge in the Supreme Court said "The courts are the people's forum." I can tell you that the proposal of Mr. Kean, although simple and fair in his mind, is totally wrong. The courts, if I had anything to do...or say anything about it, would rule against such a proposal.

I would like to speak with you momentarily about the impracticality of this simple and fair legal conception. It is totally impractical. I sat on the Elections...Bill of Rights and Elections Committee. The amount of money that would be involved is sometimes quite extensive to put an "on" and "off" switch on these ballots. This is a very, very serious thing. Way back two hundred years ago, James Madison made the statement that most of our political evils are traced to commercial ones as most of our moral may be to political. This is another hooker in this amendment. The economic aspect of this may be prohibitive, and we do not know the cost of this. I urge you to vote against this amendment. This is dangerous politics. As so many of you have said before, there is no sense in throwing out the baby with the bathwater. Let's not throw out the constitution with this type of alternate amendment.

Questions

MR. FONTENOT

Dr. Weiss, have you ever voted in elections where you were forced to vote for a certain number of candidates--say you have to vote for five candidates, and if you voted for four, your vote didn't count, or if you voted for six, your vote didn't count? Have you ever been forced in that position?

MR. WEISS

I have had the option of voting for several candidates, Mr. Fontenot.

MR. FONTENOT

I mean, though, didn't you ever vote in an election where if you didn't vote for five, your vote didn't count at all?

MR. WEISS

No, I voted for one of the five, I thought, or two of the five, or three of the five, depending on the number that are running.

MR. FONTENOT

But, you never voted in an election where you had to vote for all five numbers, or your vote wouldn't count?

MR. WEISS

Not that I'm familiar with, although sometimes only one candidate, may....

MR. FONTENOT

Well, in the past, there have been elections where if you wanted to vote, you had to vote for five people. If you went in there and made a mistake and only voted for four, your vote was canceled.

Now, don't you think this would be the same thing? If you vote against the whole constitution, your vote is canceled. You don't have the right to vote for alternatives. This is the same logic.

[Amendment withdrawn.]

Recess

[Quorum Call: 120 delegates present and a quorum.]

Amendment

MR. POYNTER

All right. Mr. Buraon at this time sends up amendments. Now the amendment that he's going with--he had two amendments passed out. One of them has the number 2 on it. It's the one without the number 2. That has no number appearing on it.

The caption, Provision, in addition to the one he's going with is boxed in, if you will--bold faced.

Amendment No. 1. Page 2, delete lines 16 through 35, both inclusive in their entirety. On page 3 delete lines 1 through... and 2 in their entirety and insert in lieu thereof the following:

"Official ballot. The full text of the proposed constitution and the alternative proposition is available for inspection at your polling place. If the proposed constitution fails to receive a majority of the votes cast, alternative issues also fail. Please vote on both issues 1 and 2. One: vote for one. The ballot spot for the proposed constitution, 1974 Constitution, ballot spot against the proposed 1974 Constitution. Bold faced and blocked off, the proposed constitution will include one Board of Regents with appointed members and three management boards for governance of higher education. Unless a majority of those voting (he strikes out the word "in this election," the words "in this election." Take those words out) unless a majority of those voting on the alternative, vote for alternative 2 (B). Two: vote for one. Ballot slot 2 (A). Four, one Board of Regents to higher education with appointed members and three management boards, or ballot slot 2 (B), for one board of regents for higher education with appointed and elected members and no management boards."

Explanation

MR. BURSON

Mr. Chairman, fellow delegates, we have reached a moment of truth in this convention. Just so there will be no misunderstanding about where I personally stand on the issue involved, I voted on both sides of it. I intend, when I say I voted on both sides of it, those of you that have been teasing me, I have various nicknames, "Super Fly" is probably the best one that I've heard so far.

I voted in favor of the committee proposal when it was proposed. But, I voted to put an alternative on the ballot. I intend to campaign in my district for the committee proposal which is not too hard to figure out if you figure that LSU-E is in my district. However, I think I can understand the position of the other aide since I am a graduate of USL. But, I'm for the committee proposal. So, let's not make any mistake about that. I'm going to campaign for it. I know Walter Champagne is going to want that transcribed in the record. But, the problem that we've got here, and the reason I had two amendments prepared is we've reached a stage where the basic issue between the two contending parties is, as I understand it, the people who are for adoption of the alternative say the issue on education should be decided only by a majority of those voting on the alternative, because to require a majority of the total vote means that all those who fail to vote on the alternative at all, have, in effect, cast a vote against the alternative, just as if one of us elects to walk out of here, we have, in effect voted against 67 votes needed on a particular proposition. So, the amendment without the number would espouse that position, and make it plain if you'll look at the boxed in material, that the proposed constitution will include the committee proposal with the three management boards, unless a majority of those voting on the alternative vote for alternative 2 (B).

The second amendment I have prepared, which I state here and now, I will not withdraw, and is available to anyone on either

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side, use instead the language that the majority has to be a majority of those voting in the election, which as I understand it, is the position of the proponents of the LSU Board on this particular subject. So, the choice is there for you to make. If you want a majority of those voting on the election, including those who don't vote on the education proposal or alternative at all, to decide that issue, then you will vote against the amendment that is now on the floor. If you feel, however, that this subject should be decided by a majority of those voting on the alternative, because a lot of people will skip voting on the alternative altogether, as I understand the basic position of the proponents of what we with shorthand purposes call the "USL side" contend, then you will vote for the amendment that's now on the floor. I think that otherwise this is a legal ballot form because I tried to copy it as exactly and appropriately as I could....

Point of Information

MR. KEAN

I understood Mr. Poynter to say that the proposal we were considering did delete the words "in this election" from it. There seems to be some confusion on the floor, however, and I'm wondering if we couldn't have the Clerk, or somebody, go ahead and make a corrected copy of this and pass it out so there won't be any confusion. There are people looking at an amendment which says, "in this election," and Mr. Poynter announced that that language had been taken out. I'm afraid a lot of people didn't hear that comment. I'd like to get the corrected amendment before them so everybody intelligently votes on them.

MR. HENRY

Well, now, Mr. Kean, Mr. Clerk, that wording has been deleted, has it not?

Mr. Kean, don't you think it would be much faster, and just as simple for everyone to take their amendment and scratch out the words, "in this election"? It takes one fountain pen to draw through three lines.

Explanation continued

MR. BURSON

Let me explain again, now. The purpose of this amendment is to place squarely before you what seems to be the issue of contention between the parties that have fought this issue so hard. That is otherwise, the ballot would be identical, but the issue here is whether or not you want the education proposal to be approved by a majority of those voting in the election, or whether you would be content to permit that issue to be decided by a majority of those voting on Proposal No. 2 on the alternative. That is the difference in the box that's in the middle between No. 1 and No. 2, so that if I went into the voting machine theoretically I would walk in and I would read at the top that the full text of the proposed constitution, and the alternate proposition, is available for inspection at your polling place.

If the proposed constitution fails to receive a majority of the votes cast, alternate issues also fail. So, if the voter would be apprised at the outset that it does him no good to vote just on the alternate, if the constitution fails because there would be nothing for the alternate to go in, then he proceeds, and is asked--now, this is a request; it's not mandatory--he is asked, please vote on both issues 1 and 2. There's been some discussion of whether or not you could require it. But, the opinion seems to be that this would mess up the voting terribly as far as the mechanics of the voting machines are concerned. So, we simply request them. We are calling their attention again at this point as the Montana ballot did, to the fact that there are two separate issues to vote on.

They proceed down, then, and they vote for or against the proposed constitution. That box, which is again from the Montana ballot, just to be sure again that they don't get confused at this point, tells them that the proposed constitution will include one Board of Regents with appointed members and three management boards for governance of higher education, unless a majority of those voting on the alternative, vote for alternative 2 (B) which is the single board for higher education, with appointed and elected members. If they understand that unless proposition 2 (B) gets a majority of those voting on No. 2 out of the total vote, but of those voting on No. 2, then, at that point, what is contained in the committee proposal is the education article of this convention. That, I think, states it clearly as it can be stated under the circumstances right now. Certainly I have no pride of authorship about the language. That can be dressed up. But, I think this gives you a workable form to follow, and one that would be understandable and comprehensible

by the voters. As I say, I want to emphasize again in an attempt to be as fair as I know how, that there are those that feel here very strongly that it ought to be a majority of the total voting in the election on that question to determine the education issue. I'll answer any questions.

Questions

MR. FONTENOT

All right.

Mr. Burson, under these...under your proposal, suppose, I'm going to use numbers, now. Suppose a hundred thousand people vote for the constitution. Sixty thousand people vote for it, and forty thousand people vote against it. Now, under the alternate, if ten thousand people vote for 2 (A), and ten thousand and one vote for 2 (B), then what passes? 2 (B)?

MR. BURSON

Under your hypothetical question, 2 (B) would pass....

MR. FONTENOT

Now, if the whole constitution passes by sixty thousand votes, then you're going to...assuming only ten thousand and one people vote for alternative 2 (B), 2 (B) would override the whole sixty thousand votes. Is that correct?

MR. BURSON

That is correct.

MR. FONTENOT

Now, another thing. Doesn't this force the LSU people--I mean I'm not so sure which, I mean these die-hards--doesn't it force the LSU people to vote against the constitution and then for 2 (A)?

MR. BURSON

It may lead to that result in a particular instance if someone is totally concerned with that issue. I don't deny that. However, it seems to me that that's...you have to balance that possibility as over against the serious legal questions raised by some very good lawyers in here this morning, on the other scheme, which I will confess, I participated in putting together last night.

MR. FONTENOT

Now, doesn't this also force the proponents of the one board system to vote against the constitution and for that alternative?

MR. BURSON

No, they wouldn't have anything for the alternative to go in, then. It wouldn't do them any good at all.

MR. FONTENOT

Well, wouldn't they have Act 712 if the whole constitution fails?

MR. BURSON

Well, of course that's....

MR. FONTENOT

Act 712 is one board. So, if the constitution fails, they've got their one board. Isn't that correct?

MR. BURSON

That is presuming that Act 712 is not declared unconstitutional, which is a very great presumption.

MR. FONTENOT

Well, at the present time, it's constitutional, isn't it? It hasn't been declared unconstitutional, so you've got to presume it's constitutional.

MR. BURSON

That is correct.

MR. FONTENOT

Now, isn't it right....so, therefore, you're going to... make the LSU supporters, and the other one vote supporters vote against the constitution and for their alternative and jeopardize the whole constitution for the alternative. Isn't that correct?

MR. BURSON

No, Mr. Fontenot, I don't agree with that. I think that obviously proponents of both sides must feel that they are gaining something here one way or the other as this issue is decided.

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MR. HENRY

Mr. Fontenot, you are going to have to quit arguing because there are other people that want to ask questions.

MR. FONTENOT

One more....

MR. BURSON

Let me say this. We can't fix the ballot to predispose the result either way. All we can do is let the people choose. I think this does that. It may incidentally have adverse effects one way or the other. But, we can't determine that. I expect that's up to the individual.

MR. FONTENOT

Now, one last question. You said that you think your proposal was similar to the Montana proposal.

MR. BURSON

Yes, sir.

MR. FONTENOT

Isn't it a fact that your proposal is a lot different than the Montana proposal in regards to the total number of votes required to pass one of these alternatives. Isn't that correct?

MR. BURSON

All right, Mr...Yes, sir. The Montana proposal did require that a majority of the total votes cast would approve the alternative...there is that difference. However, the form is substantially the same.

MR. ROEMER

Jack, as I understand your amendment, you would adhere to the principle of this amendment that everyone who had...was able to vote on the constitution--for or against--and did so, would have the same eligibility to vote in these alternatives. Is that correct?

MR. BURSON

Yes, sir.

MR. ROEMER

But, you would, in effect, have two majorities here--the majority in the first question, constitution, yes or no, and a majority in the second question, 2 (A) or 2 (B).

MR. BURSON

Yes, sir.

MR. ROEMER

So, we could have the possibility that a million people voted for or against the constitution....

MR. BURSON

Yes, sir.

MR. ROEMER

....and it passed by whatever margin. But, only a thousand people voted for the alternatives and still 2 (A) and 2 (B) would win whether it would be 501 to 499, or whatever the vote.

MR. BURSON

Yes, sir. But, we could, also, and of course, when I say we could also, it's with full realization that as a practical matter people usually start from the top down. But, it is theoretically, at least, possible, to have more votes cast on the alternative than on the constitution as well, because we are leaving that choice free to the people who vote.

MR. ROEMER

Well, I'm glad you make a point because I didn't mean by my question I was opposed to your amendment. I am very much in favor of it. I just think we ought to give the people that right. If only a thousand people wanted to vote on education, then a thousand people decide how it was determined. Of course that won't happen. It could very well be the opposite of that.

Finally, I want to make the point, it seems to me, don't you agree, that under your amendment there's only three things that can happen. Really, just three things. No. 1, the constitution could fail; No. 2, it could pass with 2 (A) in its provisions; No. 3, it could pass with 2 (B) in its provisions.

MR. BURSON

That's correct.

MR. ROEMER

That's it.

MR. BURSON

That's the alternative.

MR. HENRY

Will you yield to a question from Mr. Pugh?

Passes.

Mr. Guarisco.

MR. GUARISCO

Mr. Burson, to someone like myself who does not carry the brief for LSU or for north, by Northwest, or south by Southeast, and all those other fine universities, all I'm interested in is possibly passing the constitution and let education fall where it may. How do I vote, and do you take care of people who are admired?

MR. BURSON

Then the only thing you've got to do when you walk into the polling place is vote on the constitution. You can walk right out again, and your vote counts. There's no problem there. I might point out, that as far as the legal question of whether or not it would be legally valid for a majority voting only on proposition 2 to carry the day on that proposition, the only comparison I can think of, and it is not an entirely valid comparison, but, it is a comparison, is the vote that we take on constitutional amendments when we have multiple amendments, and we do go by plurality there. However, I'm....

[Motion to limit debate on the Amendment to ten minutes for the proponents and ten minutes for the opponents adopted: 64-46.]

Further Discussion

MR. CHAMPAGNE

Mr. Chairman, fellow delegates, I rise before you today as humbly as I may, not to speak words of wisdom as so many of you have often done, but merely to touch upon things we already know to be the truth. How unfortunate it is at this late hour, when we must form battle lines in our deliberations. How simple it would have been at the outset of this convention to resolve the method and the means of providing for alternatives; a procedure different from that agreed upon by a majority of the delegates. If we could have done so without the handicap of having our minds fixed and cemented on the issue to be resolved by a majority of the people in the early days of this convention and in the meetings prior to this convention sponsored by the League of Women Voters and others when very able speakers from other states, Illinois, and others, spoke of the merits of alternates, I dare say to you in good conscience that I, and a majority of you, never once thought that to do so would do anything else but express the will of the majority. But, that was more than a year ago and we all know that hindsight is so much easier than foresight. Let us hope that future conventions shall profit by our mistakes. Legal matters I know not, but God willing, justice I understand. As I traveled the highways and byways of my mind I remember places far and near when often I championed the cause of the minority, but on the date on which those issues were voted upon and settled just as in this convention, majority prevailed. This constitution and its provisions must rise and be adopted or changed if it is the will of the majority of the voters of this great state, otherwise it fails. But, let us no longer speak of failure, but let's speak in a positive manner, and let us all join with our governor and officials and lead to a new constitution adopted by a majority of the people. Then, indeed, we the people of this great state shall have reached our finest hour. I urge you to reject this amendment and to consider the next Amendment No. 2 (A). I think that we must have the will of the majority of the people of this state and a majority in my mind does not mean less than the majority.

Thank you.

Questions

MR. ROEMER

Walter, we've worked together for a long time on Revenue and Finance and I respect you highly. You use a phrase though that bothers me and that's "a majority of the people".

MR. CHAMPAGNE

That's right, sir.

MR. ROEMER

I guess you mean every person in the state because I

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frankly think that a majority of all the people living in Louisiana won't even vote on this constitution at all.

MR. CHAMPAGNE

I mean a majority of those voting for . . .

MR. ROEMER

Well, you didn't say that and I think we ought to clear it by terms, because don't you agree with me that chances are that a majority of the people won't even go to the polls to vote on a proposition?

MR. CHAMPAGNE

I assume that if you have your way, Mr. Roemer, that a much less of a majority of the people will decide what education principles we get in this constitution.

MR. ROEMER

Well, Mr. Champagne, how can you be so sure that the one portion of this constitution that's the most controversial, that is, education, won't draw even more votes than the document as a whole? It will certainly be the most highly publicized.

MR. CHAMPAGNE

If it does, Mr. Roemer, it will draw some negative votes, sir, for the constitution.

MR. FONTENOT

Mr. Champagne, isn't the effect of this amendment overall the same effect as the Pugh resolution?

MR. CHAMPAGNE

Yes, sir.

MR. FONTENOT

I mean doesn't it, in fact, it doesn't exactly say the same thing, but the effect of it is the same, it's pulling out what we have already decided by requiring a majority of those voting on the alternative to vote for the . . . for one or the other; it's pulling out what we've already decided and leaving it up to the majority of those people voting on the alternative, isn't that correct?

MR. CHAMPAGNE

In all conscience I think it's better than the Pugh amendment, but it's not nearly good enough for me, sir.

Further Discussion

MR. ARNETTE

Ladies and gentlemen, I know you've thought about this quite a bit as I, myself, last night sat down and for about four or five hours worked out all the different ways that I could think of to put this proposition on the ballot. As far as I could see, the only constitutional way I could put the thing on the ballot would be unfair to one side or the other. I'll agree Mr. Burson's idea is fair, but I don't think it's constitutional. I think we have some slight constitutional problems in it. It might be that we would end up with no Educational Article at all in the new constitution under Mr. Burson's concept. Now, listen very carefully, suppose the . . . Mr. Bollinger says it might be a good idea not to have an Educational Article. Well, he might be right at this point-- but, the possibility I can see with this particular way of phrasing it is, suppose you have sixty votes for the constitution, forty against the constitution and the most either alternative we've got we'll say thirty-five, the only opportunity someone had to vote against both alternatives was to vote "No" on the constitution so, therefore, the forty votes against the constitution would be equal to voting against both the alternatives, so, neither alternative would pass. I see this is a distinct possibility in Mr. Burson's amendment. So, therefore, you might end up with neither alternate in the constitution. Now, the way Montana did it, the way Illinois did it, and the way Mr. Burson's amendment was originally drawn and had "in this election" in it to me would be constitutional because that way the people would have a clear choice and to have one alternate or the other. But, the problem with this is I don't think it is quite totally fair, but this is the best thing I could come up with as Mr. Burson's original amendment "without any selection" deleted from it. The others, I think, do have some . . . this one, I think, and many others do have some constitutional questions; or, if not constitutional questions, then you might end up with no Education Article at all, and that's all I want to point out to you. I don't know for sure that I am correct; I have no court decisions to back me up; I'm just telling you what I think my opinions are. Yes, I will answer questions.

Questions

MR. ARNETTE

Even though I know he'll probably pin me to the wall, but I'll yield to his question anyhow.

MR. CONROY

I just am confused by your analysis of this. It seems to me that this box makes clear one possible problem that may have existed in the Pugh Proposal because it says that "the proposed constitution will include one Board of Regents with appointed members and three management boards for governance of higher education unless a majority of those voting on the alternative vote for alternate (2) (B)." I don't see how you could wind up then without anything.

MR. ARNETTE

Well, okay, Mr. Conroy let me show you my analogy again. Sixty votes for the constitution, forty against; thirty-five for (2) (A), thirty for (2) (B). The majority voted for (2) (A), but yet, (2) (A) did not get more votes than there were against the constitution.

MR. CONROY

But, under that situation; under the box the proposition contained in (2) (A) would be in the constitution. That's what this says.

MR. ARNETTE

Okay, suppose the other way then (2) (B) gets thirty-five and (2) (A) gets thirty; what happens in that particular case?

MR. CONROY

It would have received . . . (2) (B) would have then received the majority of those cast on that proposition and would be the one in the constitution.

MR. ARNETTE

Okay, but how could somebody vote against both of these?

MR. CONROY

Well, you can't vote against everything that's . . .

MR. ARNETTE

I can vote against both them . . .

Further Discussion

MR. PUGH

Mr. Chairman, fellow delegates, I rise in support of this Burson amendment assuming that the amendment we're talking about is the Burson amendment without the Number (2) on it, and assuming that the words "in this election" had been excluded from the box in the center of a proposed amendment. If that's presently before the floor then I support it. I do so because I think it's a distinction without a difference as to what I propose within the original resolution. I indicated to you initially that I had no pride in authorship, it was just a question of the constitutional provisions of the law as I understood them and as to be applied. I really quite frankly think that you're telling the people more when you're honest with them, and tell them that you're excluding Education in the top because that's absolutely what you're doing. The net result of this amendment, as I appreciate it, is one, regardless of how many people vote on the first proposition, the majority will determine whether or not we have a constitution. Then regardless of how many people vote on the second proposition the majority of those voting on the second proposition will determine which of the Educational Articles we shall have. I reiterate, the difference between the resolution and this is a distinction without a difference; it's a question of terminology--Mr. Jenkins had an amendment whose terminology perhaps may or may not be more acceptable-- I think that gets down. . . terminology gets down to a choice of phrases of words as distinguished from the legal issues involved. I'm authorized to say that Mr. Conroy joins me in this statement that I'm making that this in effect is what was in the original resolution. I'll yield to questions.

Questions

MR. BERGERON

Mr. Pugh, in other words, so everyone will understand this -- and I clarify my own mind-- regardless of how many people vote for or against the constitution, we're only concerned with the alternate. In other words, with a hundred people voting for the constitution and only fifty people vote for either alternate

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and the alternate passes, we're just looking at the majority of those voting on either alternate will pass. Am I correct?

MR. PUGH
Absolutely.

MR. BERGERON
Thank you.

MR. PUGH
I might add in response to that I think this will get the votes out just like the other one will because obviously, anybody votes for the constitution is going to run down there and vote for those others. It's going to give us a lot of attention, I'll tell you that.

MR. WINCHESTER
Mr. Pugh, so this will be clear in my mind, if everybody that went to the poll did not vote for an alternate. . . if no one voted for an alternate, but the majority voted for the constitution what would then be the status of the legal . . . I mean of the Education Boards?

MR. PUGH
Well, first of all, that ain't going to happen. But, in my opinion, when you say whatever is in the constitution and its five-boards in the constitution then that's it because nobody voted on the other one.

MR. WINCHESTER
I take that back, that may not be the case because you said unless a majority of them.
I'm still confused. Does a vote for the constitution include the (2) (A)?

MR. PUGH
No, sir.

MR. WINCHESTER
Well, then I think the language in the box is misleading.

MR. PUGH
Well, it may be.

MR. ROEMER
Mr. Pugh, some of these questions remind me of what would happen to mankind if he could travel at the speed of light; it will never happen. It's never going to happen, is it, that we're going to have a million votes for a constitution not a single vote for an alternate, is it?

MR. PUGH
I certainly don't think so.

MR. ROEMER
Are you capable of telling us how many people are going to vote for this constitution?

MR. PUGH
Don't have the furthestest notion.

MR. ROEMER
No way of us knowing, so we don't know what the majority is, this figure we keep talking about, do we?

MR. PUGH
All I know it's more than one.

MR. ROEMER
Exactly . . .

MR. PUGH
Right.

MR. ROEMER
Don't you think that Education is important enough to have the people to vote on it to have a choice and let the majority of those people decide what we're going to have in the constitution in that regard?

MR. PUGH
No question in my mind the two issues ought to butt up against each other and I so said earlier.

MR. KEAN

Mr. Pugh, I'm a little confused by this ballot and I understand you don't necessarily agree with the language or style, or what have you, but at the top it says, "Please vote on both issues 1 and 2." Now, does that mean that if I didn't vote for both issues that I've got a spoiled ballot?

MR. PUGH
Not because you've been asked just like we'll go in there and I'll speak to a group and I'll say, "Please go and vote," and that's all I say, "Please go and vote." I can't make them go vote. You can't make them vote both ways. I think you've been courteous with the electors and that's all when you say, "Please vote on both of them."

MR. KEAN

It follows then exactly what Mr. Winchester was pointing out. If the person who goes and votes for the proposed constitution and does say under the erroneous impression that he's then approving Article VII, the Education Article, and then forgets to vote or doesn't think he needs to vote for (2) (A) in order to make sure it stays in, the net result of that is you're simply giving to the people who are voting for (2) (B) the result of the election, aren't you?

MR. PUGH
I indicated I thought Jenkins' language was a little clearer, frankly.

MRS. WARREN

Mr. Pugh, did I understand you to say that in voting on the alternatives that the proposition in the constitution was not there any more? In other words. . . .

MR. PUGH
That's right.

MRS. WARREN

All right. Now, in the event that we have a tie vote, what happens?

MR. PUGH
In event of a tie?

MRS. WARREN
It's highly likely.

MR. PUGH

All right, if there's a tie then there's not a majority. If there's not a majority then we take whatever we've said at the top, and I assume that this . . . at this instance it's five boards.

MRS. WARREN

That's what I wanted to know.

Further Discussion

MR. DERBES

Ladies and gentlemen, I rise because I frankly feel that there is a serious point that has been overlooked here. I rise in support of this amendment. The point which I feel has been overlooked, the point which has been raised to suggest that this amendment is somehow violative of the democratic process is that the history of constitutional revision in this state and particularly those constitutional revision provisions which we have enunciated in the main body of our document merely indicate that a constitutional amendment, for example, which receives a majority of the votes cast on that amendment becomes a part of the constitution. I'm referring, of course, to the history of constitutional amendments in Louisiana where multiple amendments may be submitted to the voters. An interest may develop . . . may develop specifically along the lines of one amendment or two amendments and may be minimal for other amendments, yet the majority of the votes cast on each amendment dictates whether or not the amendment is approved. We have never had in this state the requirement that in order for a constitutional amendment to be approved it must receive a majority of the votes cast. . . it must receive a majority of the votes cast by all the electors voting in that election. We have only required in the event of multiple choices on the ballot that in order for success of the particular amendment it must receive a majority of the votes cast for it alone. That is a provision which we have enunciated in our constitution and I think it is one that is clearly applicable here. We cannot necessarily expect that the same number of people voting

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on the entire constitution will exactly vote on the alternates, but I think it is consonant with our history and consonant with the policies that we've enunciated in our constitution . . . our proposed constitution if we say that when a majority of votes cast on the alternate approves the alternate it becomes a part of the constitution. Therefore, I think that the criticism of this amendment that it is somehow violative of the democratic process and does not permit government by a majority, to me is unfounded when considered in terms of our history. That's basically all I have to say, and I yield to any questions.

Questions

MR. ARNETTE

Jim,

. . . how can I vote against both these alternatives?

MR. DERBES

All you need to do is vote against the constitution.

MR. ARNETTE

If I vote against the constitution I'm voting against both of them, correct?

MR. DERBES

That's correct.

MR. ARNETTE

Okay. If there are more votes against the constitution than there are for either alternative, they both fail, correct?

MR. DERBES

Well, . . .

MR. ARNETTE

That's the point I was bringing out earlier, isn't that correct? The only way I can vote against them is to vote "no" on the constitution. If I vote "no" on the constitution and I've got more votes than I want for either alternative, both fail.

MR. DERBES

That's basically correct, yes.

MR. ARNETTE

So, in other words, we might end up with neither one of them, is that correct?

MR. DERBES

But, I really don't think that's a real problem, Gregg, because I frankly think that the disproportionate amount of votes that have been cast about the floor here hypothetically on these issues is basically misleading. I expect a real interest on the part of all the voters in both the alternates and the constitution as a whole.

MR. ARNETTE

Well, Jim, in other words you do see a problem if more people voted against the constitution than voted for either alternative, and that is a distinct possibility, is it not?

MR. DERBES

Yes, that's a possibility, yes.

Closing

MR. BURSON

Mr. Chairman, fellow delegates, I want to stress again that the objective of framing the two amendments was to bring clearly before the convention at a moment when we were running out of time what seemed to be the basic conflict in two positions which have had many conflicts in this convention. Those of you who feel, as Mr. Arnette did, that a total majority should be required for adoption of an alternate which was the situation on the Montana ballot, then you would vote against the amendment that is now proposed. If on the other hand, you feel that it should be decided that the alternate question--the question of Education--should be decided only by a majority of those who vote on the alternative itself, then you would vote for the amendment on the floor because the No. 2 amendment that you still have on your desk has only one difference with the one we're voting on now and that is that it would require a majority of those voting in this election to approve the alternate. Now, I would say that legally,

in my opinion--and there are many here whose opinion is worthy of more weight than mine--but in my opinion either way would be legally defensible requiring a majority of the total vote cast on the election is unquestionably legally defensible from anybody's point of view. It is the majority rule it's what we're talking about. Secondly, as pointed out by Mr. Derbes, I think, the position recommended in the amendment you are now considering is legally defensible because we have traditionally in Louisiana adopted constitutional amendments on the basis of a majority of those who voted on the particular amendment even when we had fifty-two amendments in a row. So, this would be entirely consonant with our prior practice in this respect. As to the objection raised by Mr. Arnette about giving those who didn't like either alternate their option, I would submit to you that Act 2 requires us only to give the voters a chance to vote "for" or "against" the alternates that we proposed and not to have a third option for the best of all possible worlds which we certainly can't give them. I think if they vote against the constitution, they have effectively been given a choice to vote against both of them. As far as any clarity of language that subsequent amendments may work I certainly have no problems with that. My only objective in proposing these amendments was to decide the basic bone of contention between the parties and permit some time for the remainder of the day to work out the niceties of the language and to take care of problems such as those raised by Mr. Kean if, in fact, they do exist in the language I have proposed. I'll attempt to answer any questions.

Questions

MS. ZERVIGON

Mr. Burson, in relation to Mr. Arnette's reservations about this particular amendment let's compare it to the ordinary amendments in Louisiana. Suppose in the latest race for district attorney in New Orleans I didn't like any of the candidates. How could I vote against them all?

MR. BURSON

Ms. Zervigon, I think this is a situation that probably a lot of the people that voted for some of us that are at this convention find themselves in. But, if they wanted to vote at all they had to vote either for us or our opponent; they didn't have any choice in the second primary.

MS. ZERVIGON

In the case of constitutional amendments, ordinarily, suppose I don't like the language in the '21 Constitution and I don't like the language that's being offered as an amendment either. How do I vote against them both?

MR. BURSON

Then you'll either have to decide, in my view, whether what we've done is better or whether you want to wait another fifty years and try for something the next time.

MS. ZERVIGON

No, sir, that's not my example. I'm saying the last time amendments were put on the ballot . . .

MR. BURSON

There's no way you can do it, practically speaking.

MS. ZERVIGON

It's the rarest thing that we give the voters an option of voting none of the above. In fact, I can't conceive of that.

MR. BURSON

Well, in fact, we couldn't do it under Act 2, it speaks in terms of "for" or "against" an alternative. . . and an alternative, I think, requires us to give them an "either or" choice.

MS. ZERVIGON

Thank you.

[Record vote ordered. Amendment adopted: 68-56. Motion to reconsider tabled.]

Personal Privilege

MR. BURSON

I don't want to get in the way of any improvements on the language of the form that was improved. I just want to state plainly and simply for the record to correct them is understanding that many delegates told me they had on the amendment that was adopted. Where it says, "please vote on both issues 1 and 2," this does not mandate or require the voter to vote on both 1 and

2. I copied this from the Montana version. It simply alerts the voter to the fact that he's being requested to vote on both propositions so that he doesn't ignore the second.

or

(B) governance of higher education solely by a Board of Regents.....[]'

MR. HENRY

Thank you, Mr. Burson. Before we proceed any further, I had hoped that we would wait till a little later on to be able to do this, but we have a very distinguished guest with us today, who I'm going to introduce at this time. We have Mr. Joe O. Fernandez. Mr. Fernandez, if you will, stand up. Mr. Fernandez was a delegate to the Constitution of 1921. We're certainly proud to have you with us today, sir. He also has his wife, Mrs. Fernandez, with him, and we're certainly glad to have you all here. I hope you all didn't have as much problem on the last day you all met, as we're having, Mr. Fernandez.

Amendment

MR. POYNTER

Mr. Jenkins, at this time, sends up an amendment. It says, "the Jenkins ballot amendment" that's been previously passed out. Mr. Jenkins has had to make some changes in it, and I want to indicate those carefully to you. I'm going to try for those that I know there's a great deal of concern--to try to get some more copies run off in time for you to consider them and look at it. But, if you follow me, I think we can follow most of the changes. It reads as follows:

Amendment No. 1. On page 2, delete lines 16 through 35, both inclusive in their entirety, and on page 2, delete lines 1 and 2 in their entirety and insert in lieu thereof the following: --of course, and delete the Burson amendment just adopted.

"OFFICIAL BALLOT

(Instructions)--this is the first change--strike out the word "of" and insert in lieu thereof the word "to". "Instructions to voters: Place an 'X' in the boxes which express your preferences. The full text of the proposed constitution and the alternative propositions are available for inspection at the polling place. If the proposed constitution receives a majority of the votes cast thereon"--this is the second change--insert this language: "it shall become the Constitution of Louisiana and"--picking up--"the alternative proposition which receives the higher number of votes shall be included in the new constitution. If the proposed constitution fails to receive a majority of the votes cast thereon,"--this is the next change. Strike out the word "the"; insert "both"; "both alternative propositions" insert the words "shall fail". "If the proposed constitution fails to receive a majority of the votes cast thereon, both alternative propositions shall fail.)"

1. Do you favor or oppose the adoption of the 1974 Constitution?

(Vote for one)

FOR adoption of the proposed 1974 Constitution.....[]

or

AGAINST adoption of the proposed 1974 Constitution.....[]

Then, the words, immediately above 2, this is the last change, immediately above the word "2" on the left-hand side in all caps, Mr. Jenkins has inserted "ALTERNATIVE PROPOSITIONS" in all caps. Right below the line, and before the number "2" and situated to the left-hand side, he has inserted the words in all caps "ALTERNATIVE PROPOSITIONS ". Then, we pick up and there are no further changes.

2. If the proposed 1974 Constitution is adopted, do you prefer inclusion of

(A) the governance of higher education by a Board of Regents and management boards for the LSU system, the Southern University system, and all other state colleges and universities, or (B) the governance of higher education solely by a Board of Regents?

(Vote for one)

(A) governance of higher education by a Board of Regents and management boards for the LSU system, the Southern University system, and all other state colleges and universities.....[]

Explanation

MR. JENKINS

Mr. Chairman, delegates, this in essence is exactly the same concept that Mr. Burson put forth earlier. It's only an attempt to hopefully improve the language and make it a little bit clearer to the voters. All of the changes that the Clerk just read are technical changes with one exception, and that is on the fourth line after the word "thereon" where the words are inserted "it shall become the Constitution of Louisiana and". That is simply to make it clear to people the effect of their vote for or against this constitution. That's the only substantive change, and it's really for purposes of clarity. Really, I'd like to answer questions. I'm going to move that this is adopted, that this be referred to Style and Drafting for a few moments so that they can go over it according to the same form and style that we've been going through in this convention. They may want to consider, for example, whether or not to number these boxes. We traditionally number candidates' names on the ballot, and it may be advisable for us to number them 1, 2, 3, 4. There are a few things like that that may need to be done. You may need to put a "for" in front of the "A" and "B" on the Education Alternative. But, I'd like to ask if we do adopt it, that we refer it to Style and Drafting for their consideration. I'd like to answer any questions you have. Mr. LeBlou asked if we had deleted Mr. Burson's with this amendment, and the Clerk did read it in such a way that it would.

Vice Chairman Miller in the Chair

Questions

MR. CHAMPAGNE

Mr. Jenkins, do you know that I believe that instead of saying "A" and "B", if you said "1" and "2" that it would be clearer to the people of this state in choosing it because some people have a difficulty in picking letters, but less trouble picking numbers, sir?

MR. JENKINS

I think maybe you're right. What we could do is we could say, just leave out the number 1, there, on the before "Do you favor or oppose the adoption of the constitution?" and put next to the box on "For the adoption" the number 1; next to the box "Against the constitution", number 2. Then, where we have "A" and "B" in the text, under "Alternatives" you could call that "3" and "4". I'd like to leave that to Style and Drafting, if possible.

MR. PUGH

This, Woody, also addresses itself to Style and Drafting perhaps, but since we may be working in different directions, I want to point it up. As you have now said that "if the proposed constitution receives a majority of the votes cast thereon, it will become the constitution." I don't have that language. "And the alternate proposal which receives a higher number of votes shall be included in the new constitution." We seem to be having a great deal of trouble about which article to put in there. I think there's a good possibility on this language we might be putting both of them in there if the so-called two board concept should be favorably voted on in the second paragraph. It gets us back to the original problem of the original resolution excluded education, so there wasn't any question about it. Then, the vote on the articles on education then became part of that original constitution with the excluded language.

MR. JENKINS

I think probably what we need to do is where we say, "it shall become the Constitution of Louisiana," we need to probably say, "exclusive of the Education Article" similar to that language that you had in yours. I think if Style and Drafting did that it might be clearer then.

[Motion to limit debate on the Amendment to five minutes for the proponents and five minutes for the opponents adopted without objection.]

MR. KEAN

Mr. Jenkins, I have the same problem with yours that I've

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had with the others. As I appreciate it, you would leave in the proposed constitution the present Article VII on Education, and the voter, who then went to vote on item 1, would in effect vote for adoption of the proposed '74 Constitution which includes that article; would they not?

MR. JENKINS

Frankly, no; I don't think that's exactly it, Gordon. I think that when a person votes for the adoption of the proposed constitution under number 1, he is voting for it with the understanding that that constitution is going to include whether either "A" or "B" under the Alternatives because it clearly says under Alternatives, that if the proposed constitution is adopted, you're to choose one of those two systems for the Education Article.

MR. KEAN

Well, that's my next question. If I read your alternative, you're going to have to...for passage, you're going to have to then move to delete the Education Article from the constitution that this body has adopted, won't you; because otherwise when they vote on your number 1, they will also be voting on that article if they don't take it out; won't you?

MR. JENKINS

Well, really, I think the number 1, the "for," includes the contingency with regard to "A" and "B", and I think that they are not adopting truly a specific document until you have the results on "A" and "B", and I think...

MR. KEAN

Well, if this convention adopts this document that was passed out to us last night or has adopted it, and that document includes an article on education, we now tell the voters that you vote for the adoption of the proposed 1974 Constitution; wouldn't that vote include the article on education?

MR. JENKINS

No, sir; I don't think that the way you've stated it's exactly right because we have also adopted a delegate proposal which is of equal rank to that document you saw last night, and that delegate proposal provides that there will be an alternative on the ballot and if that alternative passes that the thing in the other document will be deleted. I don't see that there's any difference in stature between those two documents that we've passed.

MR. KEAN

So, it's your intention in connection with this proposal that when you say "for" adoption of the proposed 1974 Constitution," the person who votes there is voting for the constitution without regard to an education article?

MR. JENKINS

No, I would say that he is voting for the constitution, which constitution he is for regardless of the outcome with regard to the alternative provisions. He is voting for the constitution with whichever article on education receives the highest vote under number 2. That's precisely, I believe, what it says in the instructions to the voters.

Further Discussion

MR. PUGH

I think we have almost come three hundred and sixty degrees in that what the original resolution said was to use the word "exclusion" and that's because you're honest with them because you actually are excluding it. You don't put the fellow in the posture of voting for, say, five boards when they don't want five boards, and then turning around and amending the constitution that he just voted for. What Jenkins has insofar as the language relative to the alternate proposal, it's just... again I get back to the fact that it's the question of how best to present the fact that you're looking at five boards or two boards. But, in the final analysis you're getting back to the original resolution before you get to the alternate provision.

Questions

MR. FULCO

Isn't there a possibility of overlooking the top portion of this ballot and choosing the alternate down below, and by that never voting for the constitution above?

MR. PUGH

Well, there's always the possibility...

MR. FULCO

What I mean is, since it says below "ALTERNATE PROPOSITIONS".

MR. PUGH

It's not the best language in the world relating to the constitution. It may well be better language than what I suggested insofar as the alternates are concerned. That's what I tried to say awhile ago.

[Record vote ordered. Amendment adopted:
88-21. Motion to reconsider tabled.]

Point of Information

MR. AVANT

To inquire a point of information. As I understand it, Mr. Jenkins's amendment did not delete Mr. Burson's amendment; did it? It did?

MRS. MILLER

Mr. Clerk...just a minute, Mr. Avant.
Why do you rise, Mr. Burson?

Motion

MR. BURSON

Madam Chairman, in view of the fact that Mr. Jenkins' amendment embraced the same general theory as mine, and since I felt many subsequent amendments will probably be involved with the language, I would like to move that we recess for approximately fifteen minutes to permit Style and Drafting to go over the language of Mr. Jenkins' amendment, and report back to the convention a suggested language.

MRS. MILLER

Just a minute, Mr. Burson.

MR. POYNTER

Mr. Burson, of course it's up to this convention...I see Judge Tate sitting here waving at me back and forth...there are still a large number of amendments not even affecting ballot procedures that do need to be resolved in this resolution. I'll just point that out.

Motion

MR. O'NEILL

Madam Chairman, I'd like to suggest that we have a huddle for about five minutes to see if some of these things just can't be resolved.

MRS. MILLER

This was what Mr. Burson was trying to get at, Mr. O'Neill. Just a minute, please. We have a lot of people that want to say something.
Mr. Burson.

MR. BURSON

In that vein, I withdraw my motion in favor of Mr. O'Neill's motion.

MRS. MILLER

That's a good idea. Thank you.

[Burson amendment withdrawn.]

Point of Information

MR. ALEXANDER

Madam Chairman, I have an amendment that does not affect either one of these amendments, and it could be disposed of during these five minutes that we're going to lose.

MRS. MILLER

Just a minute. Let me look at this with the Clerk.

MR. POYNTER

We've got a whole bunch of conflicting amendments. It really might be well, Reverend, if everyone that has an amendment kind of came up and kind of resolved some things and see how many of these people want to go with and don't want to go with and whatnot; a lot of them maybe are dead. So, maybe we could do some good at just kind of clearing out the stacks.

MRS. MILLER

We'll take a five-minute huddle here. Will all of you who

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have amendments up here please come forward and meet with us up here?

Recess

Amendment

MR. POYNTER

So, Mr. Kean sends up the first amendment; would read as follows:

Amendment No. 1. On page 2, delete lines 13 through 15, in their entirety, and at the top of page 3, delete lines 1 and 2, and of course delete the Jenkins amendment, and insert in lieu thereof the following: " one of two alternative propositions relating to education, on official ballots, printed and distributed at public expense, to read as follows:

"The Constitution of 1974 shall be adopted if a majority of those casting votes on the proposition is in favor thereof."

[] FOR the Constitution of 1974, as drafted by the Constitutional Convention.

[] AGAINST the Constitution of 1974, as drafted by the Constitutional Convention.

The proposed Constitution includes a provision for the creation of a single coordinating board for higher education with appointed members, and creation of three boards for the management of state colleges and universities unless a majority of those voting in this section vote for Alternative 2A.

2A. To have a single board for higher education, with both elected and appointed members and with no geographic distribution requirements as to appointive members.

FOR []
AGAINST []

Explanation

MR. KEAN

Madam Chairman, fellow delegates, I recognize the votes that have been cast on the two prior proposals by Mr. Jenkins and by Mr. Burson, but I thought it only proper that I bring this particular amendment for your consideration because I think I can say that if we had pursued the original proposal or the amendment that I offered this morning dealing with the method of voting, which did not permit those who voted no to act on the alternative, I think we could have gotten votes to pass that amendment. I withdrew that amendment because in light of some of the discussion that took place here on the floor, particularly comments by Delegate Conroy or Delegate Pugh, and what I understood was the view of Delegate Denny with respect to that proposal, and then serious reservations on my own with respect to that proposal, I withdrew it. I think that what we have done subsequent to that has created as much legal controversy for the adoption of this constitution as that particular amendment would have itself done. I'm not too sure that I would, if I had my druthers, I would have preferred to go with the original amendment I offered so far as the literature is concerned, than those which have now been previously adopted. I say this because I don't find anything in any of these particular provisions that speak in the terms of options, or giving to the voters a chance to vote on two different things, neither of which are contained in the constitution which this convention adopted. As I view Act 2 of 1972, it anticipated that we would adopt a constitution which would contain articles dealing with the various aspects of that constitution, and if there was some item in which we wanted to have an alternative proposal for consideration by the voters, that alternative proposal would then be provided for, and in that context where the constitution itself contained a provision with respect to that same subject matter of that alternative proposal, that it would be grossly unfair to have a majority of the people vote on the constitution with that particular material in it and pass it, and then be defeated in their efforts to accomplish that by less than a majority of those voting in that election by reason of their right to vote on the alternative and having the alternative that gets the most votes pass. Secondly, I think the way we have postured these particular so-called alternatives where you vote one or the other, and then take which one of them... whichever one gets the most votes, is not postured in the sense of an alternative proposition. I think the only fair way that we can offer to the people of this state a true alternative proposition and guarantee to ourselves and to the people of this state that if it's adopted, the constitution and the alternative proposal both are legal, is to do what this amendment does. First, it would require that the alternative proposal receive a majority of the votes cast in the election. Secondly, it would offer the people who voted in that election an opportunity to vote for or against the alternative. I think if we can accomplish those two things, we will have done what is legal and fair, and I submit to

you, contrary to the amendments that have previously been adopted, that this offers the only possibility we have of being certain in our own minds that if we're going to have an alternative proposal that the result of the election would be valid and legal. I say to you that what we have adopted heretofore raises a serious legal question, and if we pursue that as we have in the past, then I think we've got a cloud over this constitution any way we jump. I submit to you under the circumstances that this amendment deserves your honest, sincere consideration, despite the votes which have previously occurred, and I urge your adoption of this amendment.

Questions

MR. PUGH

Mr. Kean, have you made "FOR" and "AGAINST" because you think there's something in Act 2 that requires that language?

MR. KEAN

I think there's a good possibility that the wording of Act 2 of 1972 which requires a "For and Against" vote on the constitution could be construed to require a "For and Against" vote on any alternative.

MR. PUGH

The last amendment did not have a "For and Against"; did it?

MR. KEAN

No, sir; it didn't.

MR. PUGH

Are you at reference to the language that says that you will for or against the adoption of the constitution, aimed on the question or questions of adoption of such alternate provisions?

MR. KEAN

Yes.

MR. PUGH

Do you not think after the word "conjunction" it relates back to the word "vote"?

MR. KEAN

Where are you reading from? I'm lost.

MR. PUGH

From Act 2.

MR. KEAN

I don't have it in front of me.

MR. PUGH

I'll read it. It says, "to vote on the proposition for or against adoption of the constitution and on the question or questions of adoption of such alternate provisions as may be proposed by the convention."

MR. KEAN

It's a legal question, Mr. Pugh, as to whether or not that "or" means we can treat the propositions differently from the "For and Against" requirement with respect to the constitution. I simply say to you that the only way I know to be certain we've complied with Act 2 would be to have "For" and "Against" in both instances.

MR. PUGH

Then, I'll ask you this: What would be your feelings if you had "For and Against the constitution," "For and Against Proposal A" relating to education, and "For and Against" a proposal 2 relating to education?

MR. KEAN

Do you mean two "For and Against"?

MR. PUGH

Yes, sir.

MR. KEAN

What?

MR. PUGH

I'm excluding from the constitution either one of those provisions.

MR. KEAN

The only problem with that, Mr. Pugh, is we discussed when we met with Mr. Martin and the others the other day, is you've

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got a real problem in trying to decide which one wins and whether or not either one wins. I question then what happens if you don't have something in the constitution relating to education, you end up with nothing.

MR. PUGH

All right. Now, let me ask you this third question, if I may: (perhaps, it's the fourth) isn't it a fact now, if I am interested in, say, a five-board concept, I vote for the constitution, and then I get another chance to take a look at the two-vote proposition by voting against down in 2A. Is that not correct?

MR. KEAN

That's right, and by the same token, if you were for the single board, you could vote for the constitution and come down and vote for the single board. I don't see why anybody's placed at a disadvantage by that.

MR. PUGH

You don't think that weights that in favor of the so-called five-board proposition?

MR. KEAN

I do not. I think it'd be just the same as the other. I don't care whether you put the "For and Against" or "For", as long as you require a majority of voters who vote in the election to vote for the alternative.

MR. PUGH

Well, what you're saying though...

Further Discussion

MR. DE BLIEUX

Madam Chairman and ladies and gentlemen of the convention, I rise in opposition to the . . . amendment and I think it can be stated very simply, this matter. Act No. 2 of 1972, and I'll read therefrom, says "the election shall be held and the results shall be promulgated under general election laws of the state. All electors duly qualified to vote in this state at the time of the election shall be entitled to vote without regard to party affiliation in their respective precincts on the proposition for or against adoption of the constitution and on the question or questions of adoption of such alternative provisions as may be proposed by the convention. It doesn't say anything about voting for or against any alternative proposition. It only states that they will be able to make a selection. Therefore, this amendment of Mr. Kean's is not in accordance with Act No. 2. Another thing is, that under the Kean amendment, if it is adopted, you'd have to vote for the five board proposition before you could determine whether or not you want to make up your mind on the other board proposition. It's not clear-cut; it's not simple as the Jenkins amendment which we have previously adopted. Now, how do you determine what a majority is on the voting of these particular proposals? Are you going to take all the votes that are cast for the constitution, since the original five board concept would be in the constitution, and say those votes were for that particular proposition and then consider the "no" votes or the "yes" votes on Proposition No. 2, as he's outlined. That you can simply see is not a fair way to put the proposition before the people. I ask you, regardless of how you feel, whether you're for the five board concept or whether you're for the two board concept, let's give the voters a clear choice so they can make up their minds which way they want this constitution drafted. That's all I ask you to do. Therefore, I ask you since the Kean amendment does not do that, let's vote down the Kean amendment and stick with the idea and philosophy, even if you want to amend it and dress it up, the Jenkins amendment. I think that's the only way the voters can properly understand the matter when it's presented to them. Now, Madam Chairman, I'll be glad to answer any questions that may be put. . . if there are any.

Questions

MR. LANDRY

I'm over here. . . I'm the Clerk, Okay. Let me ask you this, if we are successful in passing this would you consider passing this type of legislation for the election of Clerks of Court next election? Because that's the best way I know how to get elected.

MR. DE BLIEUX

Mr. Landry, I'm thinking the same thing. I wish I could get that sort of a setup if I was running for election and wanted to exclude my opposition in the same matter.

MR. LANDRY

You feel this would give a fair shake to both proposals or only to one?

MR. DE BLIEUX

Not in the least, Mr. Landry. That's the reason I'm opposed to it, because I just don't believe in the unfairness in the way the matter is presented.

MR. LANDRY

Senator, I want you to understand that I did not graduate from any of the colleges. I graduated from the school of hard knocks.

MR. DE BLIEUX

Well, I think you understand fairness and justice though, Mr. Landry.

[Motion to limit debate in the Amendment to ten minutes for the proponents and ten minutes for the opponents adopted without objection.]

Further Discussion

MR. AVANT

I'm going to hurry, Mr. Stagg. Madam Chairperson, fellow delegates, I don't think anybody in this hall has any doubts about where I stand insofar as the merits of these propositions are concerned. But, I assure you that if I stood on the other side that what I would be saying to you is exactly what I'm going to say to you now. I think that when we came here we came under a moral responsibility to submit to the people of this state a proposed constitution in such a fashion and in such a manner that if they approved it that it was going to stand up, that it was going to be the constitution. Now, you heard the questions that I asked of Mr. Pugh this morning and you heard the questions . . . or heard the remarks that were made by Mr. Burson this morning. I think that you have to agree and you have to believe as I do-- you don't have to -- but I think that if you disassociate yourselves from the political or the emotional aspect of this problem, if you are a lawyer, if you were considering this not in the light of a new constitution and dealing with Act No. 2, but you are considering it in the light of a corporate charter and some provisions in the bylaws and you're preparing a document in connection with the corporate charter and you had to operate under the same language that you're operating here, you must come to the conclusion that there is only one way that you can submit these alternatives to the people of this state and be absolutely sure that you have not placed the entire constitution in jeopardy, and that is doing it the way Mr. Kean proposes in his amendment. Mr. Burson this morning said, if I recall correctly, that there was no question -- there was no question -- whatsoever that if you required the alternative proposition to be adopted by a majority of the votes cast in the election that that would be in compliance with law and would cast no cloud or doubt whatsoever on the fate of the constitution itself. You heard Mr. Pugh in response to some of the questions that I asked him, admit that if you did it his way and he had guessed wrong that then there was a possibility that the entire document itself--not just the alternative provisions relating to education, but the entire document might go down the drain. Now, I ask you to consider that. I care not where you stand on the merits or demerits of the issue, but I really believe, and as I told you the other day in convention hall, when you get into this question of alternatives and how you're going to put them on the ballot you have engaged in a guessing game and you better doggone sure be sure that you guess right. I think that you must agree that's the only way you can present this alternative and be sure that you have not jeopardized the document in this way. I believe, and you are certainly free to disagree with me, that we are under a moral obligation to make sure that what we submit to the people, if they approve it, that it's not going to be thrown out by the courts if it's attacked. That's all I have to say.

Questions

MR. GRAVEL

Mr. Avant, do you know of any provision at all in the statute under which we're operating that authorizes or directs an against vote with respect to an alternate?

MR. AVANT

Yes, I think, Mr. Gravel, that when you read that sentence that says "to vote for or against adoption of the constitution and on the question or questions of adoption of such alternative propositions as may be proposed by the convention" that the for or against applies to both.

MR. GRAVEL

But, that's just not what it says, is it?

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MR. AVANT
That's just what it does say, Mr. Gravel.

MR. GRAVEL
Mr. Avant, it says that you vote on the question of adoption of alternative provisions and not for or against the adoption.

MR. AVANT
Don't just read part of it, Camille, read the whole sentence.

MR. GRAVEL
I have it before me. "The right of each voter to vote. . .

MR. AVANT
All right. "On the proposition for or against adoption of the constitution and on the question or questions of adoption of such alternative propositions as may be proposed by the convention." If you tell me that the for or against most assuredly don't apply to both, then I say you are blessed with an omniscience that I do not possess.

MR. GRAVEL
Thank you. I think perhaps in this instance I do.

Further Discussion

MR. CONROY
I again rise in opposition to Mr. Kean's amendment. This is a slightly different amendment, but it still has the same....I feel the same unfairness inherent in it that was involved in the first Kean amendment, and that is that in this state as far as I know, there are no instances in which the vote to determine one issue is decided by how many people vote on another issue and that is what the Kean amendment would attempt to do. It says that you have to get a majority of those voting on the basic. . . on the first issue, who vote on the constitution in order to determine whether the second issue would pass or fail. I think it's inherently unfair and inappropriate. I think throughout this state in all elections we're accustomed to the idea that the majority voting on a particular issue decide which way that issue is to be resolved. I think also that it is inappropriate in light of the other amendments which deferred the deal with the Jenkins amendment, for Mr. Kean to suggest that certain language changes might be necessary in the Jenkins amendment. Additionally, I think that criticism was unfair because Delegate Proposal No. 98, which is the part of the constitution which actually deals with this question is yet in fact, to be passed on by this convention, that Delegate Proposal No. 98, which contains the alternate also contains the language which describes the effect of the adoption of the alternate on the constitution. So, I think that the Kean amendment should be rejected. I think that there may be some further cleaning up of language which would be needed in the Jenkins proposal and I'm sure that Mr. Kean, once this amendment is rejected, will join with us in attempting to be sure that we are presenting to the people of the state appropriately the issues for them to decide. So, again, I urge you to defeat the Kean amendment.

Questions

MR. DENNIS
Mr. Conroy, I appreciate there's some merit in what you're saying, but don't you agree, in order to be fair, that Mr. Kean's amendment is the only one that's been offered which would prevent the possibility of a minority of the voters voting in the election writing the . . . in effect writing the Education Article?

MR. CONROY
No, quite the contrary. I have exactly the opposite view of it because the decision is to be made on the issues separately, and the vote is determined below on the majority of those voting in this election. Look at Mr. Kean's amendment--interestingly enough, the vote on the issue of whether the constitution is adopted or not is based on the vote on that proposition, not on the total vote cast in the election; it's only when you get down to the alternative that you have to add them all up. So, conceivably if more people voted on the alternatives you could have a minority of the people, under your suggestion, adopting the constitution--in the way this is worded. I'm sure that's not his intent, but that's what gets you into what I think is fallacious reasoning, when the reason why each of these propositions, as has always been done in this state as far as I know--each proposition submitted to the voters is determined on its own base, which proposition gets the most votes.

MR. DENNIS
Well, don't you agree though that the other amendments do present the possibility of a minority of the people voting in the election writing the Education Article and this one doesn't. This one may present the possibility of a minority of the people voting in the election adopting the basic constitution.

MR. CONROY
Judge, I just couldn't disagree with you more because that's not the problem. The same thing is true of any election where you have a whole series of candidates; you don't determine which candidate is elected by how many votes are cast by the other candidates or how many votes are cast totally in the election, and you wouldn't here either. You'd determine each proposition separately on its own base.

MR. DENNIS
Well, Mr. Conroy, you do agree I hope, that we're writing one constitution; we're not voting on two candidates here?

MR. CONROY
We are writing one constitution and we're submitting to the voters two propositions: one, whether they want the constitution and two, the alternates. There are two separate propositions that are being submitted to the voters.

MR. DENNIS
Well, I disagree on that. I'd like to ask you just one more question though. Don't you think that . . .

Further Discussion

MR. LOWE
Yes, ma'am. Madam Vice-Chairlady, ladies and gentlemen of the convention, for the last few days I've remained relatively quiet on the issues that have been before us. I've remained relatively quiet on this particular issue, and I think it is an emotional issue. There's no doubt that by now we all agree that there are two sides to this particular issue. We've seen learned attorneys come before us and expound on one view and other learned attorneys come before us and expound on another view; attorneys on both sides that you and I have learned a great deal of respect for; attorneys that if they had not been here, those of us that are not attorneys would not on occasion have been able in this deliberative process to learn how we should have voted. So,....the issue is clear--there is clearly two sides. I'm here not to speak as an attorney, but to speak to you as how I think the average voter is viewing our work at this convention. When I came to this convention I came with the thought that we would write a constitution, a whole constitution. I believe that the voters back home feel that we've come here to write a constitution, and that when they go to vote at the polls for or against they feel that after they vote they will have voted yes or no against a whole constitution. I believe that that's the way we should give it to the voter. Regardless of how hard we work to inform the voters, ballot placement is difficult. You know and I know that in the various districts when we ran as delegates to this Constitutional Convention, we came here by virtue of the fact that maybe there was one-tenth of the people that voted in the entire election that may have voted on the delegate race, and that's unfortunate. I don't believe we should place the voters in the State of Louisiana in that unfortunate position again, or the citizens in that unfortunate position of having them in the position that a slight number of voters can decide on how the Education Article in this constitution will be drafted. Now, wouldn't it be unfortunate if a million voters went to the polls and voted for this constitution and voted for it overwhelmingly and because of some hard-sell issues or some hard-sell program that there be a hundred thousand votes for the alternative proposition and maybe fifty thousand against the alternative proposition. So, we find ourselves in the position where one-tenth of the total people that went to the polls would have, in effect, decided how this Educational Article should be written. I just don't believe that we should place ourselves in that position. I believe that when a voter leaves the polls he should feel that he has voted on the entire article. Unfortunate as it is I can't stand here and deny to you, those of you who are opponents to this particular amendment that we have before us, that maybe there isn't some sort of prop....the proposition as offered favors the people that want the proposition the way it is in the constitution right now. But, by the same token, if we do it any other way, the other side is favored. There's no way to present this to the voters in a manner that's going to be fair to all parties that are involved. So, at least, let's present it to the voters in a manner that the majority of the people that are voting in this election will in fact decide what's in the constitution.

Questions

MR. DENNERY
....Lowe, I now ask you a question because you're a CPA and know figures. If a million people vote in this election and six hundred thousand vote for the constitution and then in the alternate proposal a total of six hundred thousand vote and four hundred of those vote for the alternate, how many of the six hundred thousand who voted for the constitution would have voted for the alternate, presumably?

MR. LOWE

Well, I'm sure you've had a chance to sit down and work out the ratio, so why don't you tell us, Mr. Dennery.

MR. DENNERY

Well, wouldn't you agree under those circumstances that you would then have under this theory a minority of the people who voted voting for the five board concept?

MR. LOWE

No, sir, I don't agree with that. I don't understand your logic. I guess maybe.....

MR. DENNERY

If I vote for the alternate, and I had to vote for the constitution if I wanted it, I must have been against the five board concept if I voted for the two board concept, correct?

MR. LOWE

Well, you make some presumptions though, Mr. Dennery. There could be some people that would feel strongly enough about the proposition that perhaps they'd vote for the alternate without voting on the constitution.

MR. DENNERY

Mathematically, Mr. Lowe, don't you.....

MR. LOWE

But, mathematically we can take and do almost anything we want to with numbers, Mr. Dennery.

Further Discussion

MR. PUGH

Madam Chairman and fellow delegates, I tried to honestly answer Avant's questions as he propounded them to me without adding anything to them. Obviously, that wasn't totally expressive of my opinion. And indication that this was political--my biggest problem in trying to get a little rest over there at the White House Inn is about every time I go to bed that red light flashes on downstairs because I thought I had heard from the children or something and I ran and I get a letter from one of my old classmates who I hadn't seen in twenty-five years and he tells me what a great job I'm doing on this education issue and so forth and so on. So, it's not totally political in nature. Now, what's happened here is that Johnny Jackson one day got up and he made an amendment for five boards. Now, the amendment that was proposed awhile ago, and was withdrawn.....do you know that of eight authors on there that five of them voted against that amendment, and one of them wasn't even there? So, here we are today talking about Johnny Jackson's amendment and here we are having an amendment styled with eight authors, five of whom voted against it. As a practical matter, we put the two board concept in because we were told that the people wanted an expression on education other than what we had in there; I mean it's cut and dry. We are talking about this issue because somebody perhaps, other than us, suggested the people ought to have a choice. Well, if we buy that concept, and obviously we did because by one means or another we're going to give them a choice. Now, with a choice, what is more fair than something like the Jenkins amendment that passed 88 to 20 or 22--something along that nature--I think that's beginning to be expressive of this body as to what its feelings are. Now, we're not denying anyone any rights. We're not dealing in politics. We're not playing games. We're saying specifically vote for or against the constitution. I think the present instructions are exclusive of the Education Article which relates to what I said earlier. It tells the people, "Now look, in addition to the constitution or in connection with the constitution or in or out of it or anyway you want to cut it, you're going to decide what education board you want." It's as simple as that. Once you make that premise, what's so basically wrong with having two propositions. Do you want two boards, call them whatever else you want, add all kinds of expressive language short of the total size of the voting booths, anything that you want to say that's responsive to what we did. On the other hand, turn right around and say five boards and use any kind of language not misleading that will adequately express the issue. Then we present to the people of Louisiana a constitution without an Article on Education. So what? We tell them, "Now, look we couldn't make up our mind; you make it up for us." That's what they go into the voting booth for; there's nothing wrong with that. That's what we do every time we have a constitutional amendment--all fifty-five or whatever there were, that failed. You decide whether or not, in the old constitution, you want garbage collection, you want this or do you want that. In an attempt to get away from that, we culled this thing substantially. We did leave the issue of education yet to be decided. Now, I came down here opposed to alternates--I really was--because I thought that anything good enough to be an alternate was good enough to be there in

the first place. The convention in a deliberative manner decided we were going to present two issues to the people. Now, I say to you before it gets to be midnight, let's just present the two issues to the people. If we can't make up our mind on English language, just let the voters decide.

Believe it or not, they've got a lot of sense. Thank you.

Closing

MR. KEAN

Madam Chairman and fellow delegates, I will only speak very briefly because I....apparently act under a misapprehension that this convention had adopted an Article on Education which it included in the constitution that we propose to offer to the people of this state. As I understand, the opponents of this particular amendment, they take a different position. They take a position that we have not adopted an Educational Article which we offer as a part of the constitution of this state. They take the position that what we've done is simply set out here two options that we leave up to the people to vote on, and I simply have a contrary version of what this body has done. I want to point out to you one final point for your consideration--not that it's going to change any votes--but I think it's something we ought to think about. If we take out of the constitution, as the opponents of this amendment suggest we have done, we're not only placing in jeopardy the higher education boards of this state, we're placing in jeopardy the entirety of the Educational Article, which deals with many other things beside higher educational boards. Now, when you say you take the Educational Article out of this constitution--as Mr. Pugh says he has done--or what Mr. Jenkins' amendment accomplishes, then I say to you we've taken out the foundation. We've taken out the millages for the New Orleans School Board. We've taken out the other provisions of that particular article that we've put in as a part of this constitution. If for some reason, this particular alternative option proposition that they propose to offer the people is declared invalid because it didn't get a majority of the votes of the people of this state, we have no educational provisions in this constitution or in any other constitution. You know what they did in Illinois to avoid that horrible result? They said that if it didn't pass you went back to the old constitution. We haven't even said that. So, I say to you when you vote against this amendment--and I'm sure many of you will--you ought to consider that as a result of that the possibility is that we put at issue not boards, we put at issue the whole Educational Article that we've labored so long and so hard to put together for some several weeks during the course of this convention. I think that ought to have some consideration. One final word, Mr. Gravel asked the question whether or not there was any law which required a for or against vote in connection with a question submitted to the people of this state? I suggest that you look, those of you who have got some interest in this matter, at R.S. 18:761 which is a part of the general election law of this state which Act No. 2 of 1972 said, "shall be applicable in connection with this election," and you'll find that under Subsection (C) it requires that the ballot designate so that the voter may, by his approval or disapproval, cast a vote on any constitutional amendment or any question submitted. I say to you that what is now before you that has been considered and approved by this body does not conform to that particular section, does not conform to the requirements of Act No. 2 of 1972. If you want to put this matter behind a cloud of legality, why just proceed to vote this amendment down and let the Educational Article hang out there for whatever someone wants to take a knap at it. Thank you.

Chairman Henry in the Chair

[Amendment rejected: 61-61. Record vote ordered on the motion to table reconsideration. Motion to table reconsideration adopted: 67-57.]

Personal Privilege

MR. J. JACKSON

Mr. Chairman, fellow delegates to the convention, I have cautiously attempted, except for that little moment last night, to come up before you again before this convention was over. My good friend and probably the most person that had provided the greatest of assistance to me, unknowingly, made a blanket statement that an amendment that I introduced was the creation for all this confusion that we're going to at point. For those who...and I believe...and I understood it in the context he meant it. But, for those who really want to know, and don't know, the facts of the matter, the amendment that we introduced was an amendment creating one additional

board to the four boards that were created, an amendment that was designed to bring equity to another system within this state and, particularly....I've heard the discussion for the last two days, and I have cautiously and unemotionally sit in that seat and hear only discussions again, and it's apparent that we still have not recognized that there does exist another system of higher education in this state. Now, whether we want to recognize it in our discussions or whatever manner you want to put it on the ballot, I'll take my chances. But, I would like you to leave this deliberate body, leave this chambers with the feeling--at least the understanding--that there is, in fact, another system of higher education in this state and that the Southern system can no longer--regardless if you put this proposition on the ballot that may be favorable to the ultimate or favorite to the committee proposal--that we cannot continue to believe in fear and forget that Southern is a very viable system and, whether you, I, or anybody likes it, it is a reality and that I, as being a graduate of that university and a graduate of that system, want to, at no more, impress upon you right here to recognize that we do exist.

MR. STAGG

Mr. Chairman, it is twelve minutes to three. We have barely nine hours to go. If there is some way that we can cut off some of these amendments by shortening the time for their discussion, if we can let Style and Drafting get back to the floor, if we can finally adopt this constitution--and, in the nine hours remaining, we barely can do it--I would suggest to the delegates that we get after it.

Amendment

MR. POYNTER

Mr. Drew sends up amendments at this time.

Amendment No. 1. On page 2, delete lines 16 through 35, both inclusive, in their entirety and on page 3, delete lines 1 and 2 in their entirety and, of course, delete the last adopted amendment, which was the Jenkins amendment, and insert in lieu thereof the following: "OFFICIAL BALLOT. The text of the proposed constitution and the alternative proposition is available for inspection at your polling place. If the proposed constitution fails to receive a majority of the votes cast, alternative issues also fail."

[Motion to waive reading the amendment adopted without objection.]

Point of Order

MR. DE BLIEUX

At least--if not a point of order--at least a plea to Mr. Drew. This is identically, you might say, almost the amendment that Mr. Kean had. I think, as a result of that and the showing of this convention, we should certainly not consider it because we're just prolonging our time in agony.

MR. DREW

May I answer, Mr. Chairman? May I answer, Mr. De Blieux?

MR. HENRY

Well, I think, in explaining it, you going to answer his problem because I think he can show you where you're in error, Senator De Blieux.

MR. DREW

Mr. Chairman, I would like to withdraw the amendment to add a technical amendment on the last line of the paragraph under "OFFICIAL BALLOT" where it says "majority of votes cast, insert "thereon"--"majority of votes cast thereon"--and then we should offer the amendment.

[Amendment withdrawn and resubmitted with correction. Motion to limit debate on all amendments to ballot provisions to ten minutes for the proponents and ten minutes for the opponents. Substitute motion to limit debate to five minutes for the proponents and five minutes for the opponents. Substitute motion adopted without objection.]

Explanation

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, let me start with my technical amendment, and I think it does, possibly,

cure something that would cause a terrific hiatus in our proposal here. As it now reads, it says: "If the proposed constitution fails to receive a majority of the votes cast, ("comma (,)") and I can see the possibility of the alternative receiving more votes in the constitution. It may very well be interpreted that, thereby, the constitution had failed was the reason I inserted the word "thereon", and I think that is important. Now, let me make this statement in the beginning. I have no strong feelings, as my voting record on education shows, on either the constitutional provision that we have adopted that's to be offered to the people or on the alternative. But, I do disagree with the fact that we have put them on an equal basis. Had it been the will of this convention for the alternative provisions, they would have been in the constitution. We adopted the constitution with the present education provision in it, and then, later on, we decided that the people--if they were not satisfied with that--should be given an alternative, as the out provides, as was read to you up here: "The constitution as drafted by the convention, together with any alternative provisions proposed for submission, shall be submitted to the people for their adoption or rejection." I am trying to track that, and I think it is very important. That's the reason I had drawn this amendment before the key amendment was drawn, I think. It is very important that this be placed on the ballot in a "for" or "against" status. I think it complies with Act 2. I think it complies with what we have all, throughout the State of Louisiana, been used to. When you submit two or three positive propositions, you have done the electorate a disfavor. I disagree with the fact that we reached a point to where we said we can't make up our minds. We've made up our minds very emphatically as to what this convention would propose, and that is the provision that is included in the constitution that we are offering to the people. Nowhere, nowhere, ladies and gentlemen, in the constitution or in the alternative proposal does it say that we have taken their provision out of this convention proposal. I have drawn this because I think it is much simpler; I think it is much easier to understand than the Jenkins amendment; and I think that anyone could go in a voting booth and, in a very short time, read the ballot, as here proposed, and know exactly how they were voting. But, as it is now proposed, you have a "for" or "against" the constitution; then you have two positive propositions on your alternatives. There is no way, ladies and gentlemen, no way that you could interpret this thing to say that the provision we adopted and placed in the constitution is on the identical status of the alternate proposal. We have said, by adopting it and placing it in this proposal: this is the desire of the majority of this convention; if you disagree with the desire of the majority of this convention, we are giving you a choice to vote for something else. And that is what an alternative proposal is. I do not like the word, and I think it is doing a disservice to people on either side. As I say, I have no strong feelings either way. On any type of instructions where you use the words "vote for" or use the words "vote against," I think you are making a suggestion--at least, to the subconscious mind--as to how the voter may vote. That is the reason that, instead of using "voting for" or "voting against," I have used the word "adopt," which I think is a much more neutral position, although not completely neutral. I think that, if we follow the Act, put this thing on the ballot--this proposition on the ballot--as it was intended to be: To the people of Louisiana, we have offered you a constitution. If you do not like the education proposal, we have offered you an alternate to what we are submitting to you. That is the only way you can interpret the actions of this convention. To say that anywhere in that alternate proposition--the proposal that was adopted--that it deleted the education proposal from our Constitutional Convention proposal, you cannot find it. It says that this will be awkward as an alternative, and that's what I'm trying to do. Here, you have a "for" or "against" the constitution; you have a "for" or "against" the alternative; and I think that is the proper manner. I will say this much: I do seriously disagree with the vote of the convention on the requirement of a vote of the majority of those voting in the election, because I do think it raises a serious constitutional question. But, the convention has shown, by three votes, that they will not go with that. For that reason, I am coming with a very simple way of placing this matter on the vote on the ballot, which, I think, is as neutral as it can possibly be. I hope you will adopt the proposal. I will yield to questions, Mr. Chairman.

Questions

MR. BURSON

Mr. Drew, isn't it true that your amendment follows the general Montana ballot format that was in the amendment that I'd proposed earlier today?

MR. DREW

Very similar, Mr. Burson, and it also complies with the general election laws which Mr. Kean brought out up here.

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MR. BURSON

It complies with those general election laws because it provides for a "for" or "against" vote. Isn't that true?

MR. DREW

It complies with those laws and then complies with Act 2 when it says "it shall be submitted for adoption or rejection." That cannot be anything but "for" or "against."

MR. BURSON

Isn't it true that it retains the principle that you said the convention had already voted on today that the majority voting on the alternative would prevail on that question?

MR. DREW

The majority voting on the alternative prevail--I disagree with the concept. It is the will of the convention, and I submit to their will.

MR. BURSON

Would you have any objection if--subsequent to the adoption of your amendment which I hope passes--that we propose additional language to go in that little box which would say something to the effect that, if the alternative passes, in that event, the alternative article on education shall be substituted for the Education Article in the proposed constitution, to make plain what the legal consequences would be in that event?

MR. DREW

If the convention thinks it's necessary, I wouldn't oppose it; however, where it says that "the constitution will include unless," it seems to be clear to me, but I would have no objections.

MR. DE BLIEUX

Mr. Drew, the vote on the alternative does not depend upon the vote on the constitution, then?

MR. DREW

Absolutely not.

MR. DE BLIEUX

Suppose that the vote here on the constitution--we'll say it's the proposal for the adoption of the constitution--should be one million votes, and the votes against the constitution, we'll say, is eight hundred thousand. Now, suppose--on the alternative proposal for--we see five hundred thousand against four hundred thousand, will it be adopted?

MR. DREW

No, sir, not if....

MR. DE BLIEUX

Whatever receives the majority of votes cast for...

MR. DREW

Mr. De Blieux, I think where it says "is adopted by a majority" could be interpreted no way except meaning a yes vote.

MR. DE BLIEUX

Well, now, you mean that more people have got to vote for the alternative than voted in the constitution for its adoption?

MR. DREW

No. Absolutely not.

MR. DE BLIEUX

Well, what you're saying, that's the point I'm trying to clear up. You say, if the "for" was more than the "against," that it would not be adopted.

MR. DREW

It says: "unless the alternative is adopted by a majority of those voting on it." How could that be interpreted any other way than the vote on the alternative?

MR. DE BLIEUX

Well, that's what I'm talking about. Now, if the majority of those that vote for the alternative--that is, more vote for it than vote against it--would it become a part of the constitution?

MR. DREW

If more voted for it, yes, sir. While ago, you had the....

MR. DE BLIEUX

Regardless of what might be vote on the....

MR. DREW

Regardless of the vote on the constitution. The majority would rule separately on each vote, if that's the point you're trying to make.

MR. DE BLIEUX

If what you say would be true, that sounds like a good alternative to me, but I just don't think it's....

MR. DREW

I don't see how it can be interpreted any other way than alternative.

MR. HENRY

Mr. Drew, turn around here and give the Clerk your attention a minute there, please, sir.

MR. DREW

It has been called to my attention--I'm sorry I didn't catch it--and with the permission of the convention, where it says, "against one Board of Regents for higher education with appointed and elected members," it has left out the word "no." I would like to withdraw it to insert "no" there to where both are....

[Amendment withdrawn.]

Amendment

MR. POYNTER

He just makes the against proposition conform, word for word, with the for proposition; so it would read: "against one Board of Regents for higher education with appointed and elected members and no (inserted) management boards."

Questions

MR. CASEY

Mr. Drew, I apologize in advance for asking this question again because it's already been hit upon, and I know you disagree with the question. But, there are a lot of people who will have to vote on this particular amendment who feel--and I am one of them--that the language in the box is not adequately clear as to what vote is necessary in order to adopt the alternative, and it could be read--and I have read it myself, for whatever opinion that's worth, two ways--that either you're governed by the vote on the proposed constitution or, maybe, the "it" could refer to a majority of those voting on the alternative. I merely suggest to you that it might be well to clarify that language because there are quite a few people on the floor of the convention who feel there is some confusion, and that it is not adequately clear. Do you know that, sir?

MR. DREW

Tom, I had originally intended to make that "by a majority of those voting thereon." Would that clarify it to any extent or not?

MR. CASEY

I merely suggest to Mr. Drew, on the technicality of language, that "thereon" may be as confusing as "it," whereas, in the Burson amendment and others, I think it has been adequately spelled out.

[Amendment withdrawn.]

Amendment

MR. POYNTER

The next set conforms with the amendment as previously submitted, with two changes--technical changes--and these additions. Both of them are contained inside the box provisions talking about the alternative. It will now read: "The proposed constitution will include one Board of Regents with"--insert this word: "all"--appointed members and three management boards for governance of higher education unless the alternative is adopted by a majority of those voting on the alternative--instead of "it". "Voting on the alternative". There is one further change. I'm sorry I misled you there. Immediately after "2." and the language "The alternative is:" insert parentheses "(Vote for One)". Those are the only changes.

Explanation

MR. DREW

Ladies and gentlemen, we made three technical changes, which the Clerk has read, which several people thought would make it very clear as to what we were submitting and how the votes would be determined. I move for the adoption of the floor amendment.

Questions

MR. CHATELAIN

Delegate Drew, just to make it abundantly clear, your amendment provides that if I walked into a voting machine that I have an option to vote for or against the new constitution. Is that right, sir?

MR. DREW

Right.

MR. CHATELAIN

And, if I stop right there, as far as I'm concerned, I don't have to vote on whether or not I want an alternate--for or against the alternate. Is that right?

MR. DREW

You do no requirement, no, sir.

MR. CHATELAIN

Supposing there are six hundred thousand votes cast--I mean, sixty thousand votes cast for and forty thousand against. Supposing, again, there was--for the alternate--there was forty thousand votes cast for the alternate and twenty-nine against. The alternate would carry, sir, and so would the constitution?

MR. DREW

That's the way it reads, yes, sir.

MR. CHATELAIN

In other words, the top part doesn't bear on the bottom part?

MR. DREW

No connection. They both stand on their own majorities.

MR. CHATELAIN

Thank you.

MR. DREW

I move the adoption of the amendment.

MR. PUGH

Mr. Drew, if Style and Drafting figures that "said amendment" is better than "it," do you have any objection to that?

MR. DREW

You mean in the box?

MR. PUGH

Yes.

MR. DREW

I have changed that--deleted "it" and changed it to "the alternative."

MR. PUGH

I understand that, but when you refer to "it," I think you're still in problems with that, by what you mean.

MR. DREW

I don't have "it"; I had to take it out, and it reads: "those voting on the alternative." It was just amended, Bob, to delete "it" and add "on the alternative" to clarify that.

MR. PUGH

Can I ask you one other thing?

MR. DREW

Certainly.

MR. PUGH

Did you put "vote for one" down there, as you told me you would?

MR. DREW

"Vote for one" is inserted.

Point of Information

MR. WEISS

This perhaps is a point of information, but, on the sheet I just received, Burson floor amendment.....

Well, the important thing is that all are appointed. That's what I'd like to see included in that. Is that correct in the present.....?

MR. POYNTER

That's correct, Dr. Weiss.

MR. JENKINS

Harmon, my question is with regard to what appears to me to be an ambiguity in the usage of the word "alternative." I refer you to the last three words in the box: "on the alternative." You say it must be adopted by a majority of those voting on the "alternative."

MR. DREW

The only way to adopt an amendment is to vote for it, Woody. I don't think there could be any question there.

MR. JENKINS

When you say "on the alternative"--"the majority of those voting on the alternative"--you're meaning, say, if there's sixty for and forty against, a majority would be one over fifty?

MR. DREW

Right.

MR. JENKINS

But, earlier, you say "unless the alternative is adopted." In that sense, you mean "alternative" only in the sense of the "for"; isn't that correct?

MR. DREW

I don't know how you could say "unless it's rejected," Woody.

MR. JENKINS

Well, couldn't you say "unless Alternative 2A is adopted by a majority of those voting on the alternatives"?

MR. DREW

"Unless the alternative is adopted by a majority of those voting on the alternative"--is that your suggestion? That's the way it reads, Woody. This simplifies the thing on the ballot, and I think it...

Further Discussion

MR. BURSON

Mr. Chairman, fellow delegates, I've just been solemnly assured by two of the most vociferous proponents of the Van Camps, who I will not name, that this amendment does grave damage to their side. That being the case, it is bound to be, and must be at long last, the acceptable way to set up the ballot because it will satisfy neither one. I'd like to close by quoting to you something Harry Truman said one time which, as I recall, goes something like this: that it's better to do the second best thing when it's time to do something than to wait too long to do the best. So, let's vote for this amendment and get on.

Further Discussion

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen of the convention, I just want to point out to you that this particular amendment is weighted in the other direction from the Kean amendment. The only thing that I like to be is for in this election. Now, as it stands right now, those people who are going to favor a two board education system are going to go to the polls and vote on this alternative. Those others who are not interested in that will overlook this. As a result of that, I think that you have a weighted-in position insofar as the two board concept is concerned. I'm opposed to this one for the same reason that I opposed the Kean amendment. You can vote it as you please, but I just want to be fair and square and put it on the ballot where people can understand what they're doing. I just let that go for what it might be worth.

Questions

MR. WILLIS

Senator, I quite applaud your keen observation of this amendment. Does not this amendment reduce the alternative proposal we adopted to subordinate status when mathematics and algebra are called into play?

MR. DE BLIEUX

It certainly does, and gives those who favored it a decided advantage over those who disfavor it.

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MR. WILLIS

Let me illustrate how it can occur, and would you agree with it? Put a question mark to this. If I go in that voting machine, and my people go in that voting machine, and they pull only a trigger for the constitution, and this education article is in that constitution, they can simply ignore the alternative. So, they have no alternative at all. Isn't that correct?

MR. DE BLIEUX

That's exactly right. They are figuring for the.... five man concept, and ignore this, and those that are for this will go vote for it, and you won't have any five board concept.

MR. ROEMER

Well, your point, then Senator, I think is well taken. That is placed in this form--we don't require the people to consider the education provision at all, do we?

MR. DE BLIEUX

That's....correct.

MR. ROEMER

They can completely ignore it.

MR. DE BLIEUX

That's right.

MR. CHAMPAGNE

Senator De Blieux, do you know that I agree with you completely that I think that this is one of the worst amendments ever offered to this convention?

Further Discussion

MR. JACK

Mr. Chairman, I've witnessed a miracle, since we put in that five minutes for each side, my watch shows thirty-eight minutes.

Now, what I'm going to tell you is by that, fat as I am, if you could use that time, I could run the hundred yard dash in three seconds.

Now, I'm going to ask, since they voted my motion substitute, five minutes to each side, that if you all don't have a watch up there, get one. Unless they're going to reverse it, let's follow this five minutes because time is getting by in spite of the way it's being kept.

MR. HENRY

Well....well, Mr. Jack. Let me say this. We took a lot of that just listening to you ask questions, and for a little recess, etc. We're trying to get things going along here just as fast as we can.

[Previous Question ordered.]

Closing

MR. DREW

I'll be very brief. I've been asked to state for the record again that the vote on the alternative will stand on the majority of votes cast on the alternative as this thing reads. There is one correction that Style and Drafting can make. On the desk copy, there is no 2 (A) before the for or against. On some of your copies, there is a 2 (A) before each of them, which I'm sure can be deleted by Style and Drafting. It's not on the official desk copy, so there's nothing to be concerned about there. I think it simplifies the matter. But, as it's placed on the ballot, I hope that as a compromise we....you will accept and we can live with. I ask for the adoption of this amendment.

Questions

MR. NUNEZ

Mr. Drew, I'll ask you this question because I think it should be on the record somewhere. Did you know that Mr. Martin said in his opinion, this is the most legal way that we can handle this situation?

MR. DREW

Thank you, Mr. Nunez.
Yes, sir.

MR. FONTENOT

Mr. Pugh....I mean Mr. Drew, your amendment at the bottom--the alternative is vote for one; you asked for one board of regents for higher education with appointed and elected members and no managing boards--in effect has switched it and put the so-called one board on top and the five board on the bottom. Isn't that correct?

MR. DREW

No, the against reads the same thing, Clyde. It's for or against the identical words.

MR. ROY

Harmon, I disagree with my good friend, Burt Willis. Your vote on No. 2 will be the deciding vote on whether we have an alternative, or whether CP-7 is adopted by the people. Isn't that true?

MR. DREW

That is provided in CP-98, I believe....that if the alternative is adopted, the constitution provision now in there will be null and void and shall be substituted for.

MR. ROY

Simply stated, if we happen to get a tie vote on No. 2 where ten thousand voted for and ten thousand voted against, then the CP-7 that is presently in the body of the constitution that we've already adopted--that's the old education article--would be the education proposal in the new constitution: that is, a five-man board concept; would it not?

MR. DREW

That would be my opinion. It would neither....

MR. ROY

Or, if nobody voted at all on Article....on No. 2, then CP-7 and what we've previously adopted in the present body of the constitution would be the constitutional article on education, would it not?

MR. DREW

I don't know any way to require them. If you required them to vote on the constitution, and on the alternative, you may as well leave in a majority of those voting in this election, if you required both.

MR. BERGERON

Harmon, let me just straighten this up, just for clarification. In other words, if I'm a citizen, I go to the voting booth. First of all, I vote on the proposition of for or against the constitution.

MR. DREW

Correct.

MR. BERGERON

All right. Let's say I vote for the constitution. Then I go down, whether I favor the five board or the two board plan, I go down and vote for or against alternative two.

MR. DREW

Right.

MR. BERGERON

So, whether I'm for the five boards, or against the.... for the two boards, I vote yes or no for the constitution. That is, I vote on the constitution and then the alternatives.

MR. DREW

There are two separate votes that are governed by the majority in each. There is no connection between the majority in either vote on the constitution or the alternative. I think that's clear.

MR. BERGERON

Right. I just wanted to straighten it up.
Thank you, Harmon.

MR. DERBES

Mr. Drew, as you have phrased the amendment, am I correct in stating that the only way in which a vote on the constitution is related to a vote on the alternatives is one, in the event that there are no votes cast on the alternatives; and two, in

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the event that there is a tie with respect to the votes cast on the alternatives.

MR. DREW

You could go a little further, Jim, and say that if the alternative--had I not put "thereon" in there, and I think that clarified it--had the alternative received more votes cast in that poll than for the constitution, I think the constitution would fail.

MR. DERBES

So, that would be still a third...that would still be a third eventuality that you have provided for, but with the exception of those three eventualities....

MR. DREW

I have deleted one of them. That's what I'm saying, Jim.

MR. DERBES

I see.

But, with respect to those eventualities, there is no relationship between the alternatives and the constitution....

[Record vote ordered. Amendment rejected:
62-63. Motion to reconsider tabled.]

Amendment

MR. POYNTER

The next set of amendments sent up by Delegate Avant.

Amendment No. 1. On page 2, line 16, in Floor Amendment No. 1 proposed by Delegate Jenkins and adopted by the convention on January 19, 1974, on line 25, after the language added by said amendment, add the following:

"With the superintendent of education as its administrative head", add this, "who shall implement the policies of the board... the Board of Regents."

Explanation

MR. AVANT

Mr. Chairman and fellow delegates, this amendment is simply to add very briefly some more descriptive language which will inform the electorate of the nature of the alternative proposition upon which they are voting. One of the salient and most significant features of the alternative proposition which was adopted by this convention is contained in Section 2 relating to the superintendent of education which provides that the superintendent, with respect to the superintendent of education, that he shall be the administrative head of the department of education and the Board of Regents, and shall implement the policies of the state board of elementary and secondary education, and the Board of Regents, and the laws affecting schools under their jurisdiction. So, it seems only fit and proper, since we can do it in just a very few words, to inform the electorate of the state, in voting on this alternative proposition, that their state university will be under the jurisdiction of a Board of Regents, and that the administrative head of that board will be the elected superintendent of education who shall implement the policies of that board. I think that that is such a significant and salient feature of the plan that that information should be imparted to the voters on the ballot so that they will have the benefit of that knowledge, and in that way, the passage of the alternative will...or the question of the passage of the alternative will be based upon a properly informed electorate.

For that reason, I ask you to vote favorably for this amendment.

Questions

MR. GOLDMAN

Mr. Avant, in keeping with your desire to inform the public completely on what they are voting on, would you agree to another amendment which would also say that management boards are permissible through the legislature?

MR. AVANT

If that's a correct statement, which I am not sure whether it is or not, I would have no objection to fully informing the voters as to the alternative proposition that they are asked to accept in simple, plain language.

MRS. WARREN

Mr. Avant, is it not a fact that the electors of this

state is going to get a constitution that they can read? Won't this be in the constitution?

MR. AVANT

...They're going to get a constitution that they can read. Yes, ma'am.

Now, what was the second part of the question?

MRS. WARREN

Will this provision you have here already be in the constitution?

MR. AVANT

Well, the point, Mrs. Warren, is this: that the alternative proposition, which we are being asked to vote upon, provides that the superintendent of education will be the administrative head of the Board of Regents, and will implement the policies of the Board of Regents. Now, that...if the alternative is adopted, then that will be the constitution. Now, the only reason for making this amendment is to place on the ballot, in that little block that you see, where it will be on the voting machine when the people go in, that little bit of information, so that they will be aware of that when they vote.

MRS. WARREN

Mr. Avant, do you know that whether they have an alternative or not is not important to me? What I'm worried about, is all this verbiage that's going to go on the ballot to confuse the people. I mean, I just can't see the necessity of putting it on there when you're going to give them a constitution to read. So, when they get to that, they will automatically know this is connected with that alternative.

MR. AVANT

Well, Mrs. Warren, if you think that very many voters are going to go walking around in the voting booth, or in the polling place there, and get this constitution and the alternative proposition and sit down and read it word for word, I think you are going to be in for a big shock.

MRS. WARREN

Well, I sure wish they could put it all on there so they could read it when they get there.

Thank you.

MR. A. JACKSON

Mr. Avant, in adding this verbiage to the proposition, is this...part of the issue that the voters must decide?

MR. AVANT

Is this part of the issue?

MR. A. JACKSON

Yes, that language that you are adding there, is that part of the issue....?

MR. AVANT

Oh, yes. That is part of the issue because, as I recall, the main document which we adopted with respect to the Board of Regents that the elected superintendent of education is separated from the Board of Regents, and he has no duties with respect to the Board of Regents.

MR. A. JACKSON

But, is it not true that the powers and the duties of the superintendent is not before the voters, and this proposition. But, what is clearly before the voters is whether or not you want a governor's structure with five boards, or one with two boards. Isn't that the proposition that's before....

MR. AVANT

No, that is not the proposition. The proposition is whether you want to adopt an alternative proposition in lieu of what's in the basic document which....put higher education....

MR. HENRY

You've exceeded your time.

Mr. Roy.

I know it doesn't make any difference because we've got more amendment drafters in here than I've ever seen. But, we're sure running out of time.

Further Discussion

MR. ROY

Mr. Chairman, ladies and gentlemen of the convention, I hate to rise and say what I'm going to say, but I am fed up with LSU right now. I'm a graduate of LSU; I went there all my college term. I dare say I'm the only person here,--it doesn't make a darn, I guess,--who knows the Alma Mater in French. I was ready to sing the darn thing. But, I have never seen a convention stymied by such a group. Now, this is nothing more than overloading this particular section so that we can't get sixty-seven votes on end, because it has about as much place on the ballot as me flying out of here without a plane.

I came here today, ready this morning, to vote for the first Kean amendment, although I disagreed with it, because I felt that I had voted for an alternative. The only way that alternative can be fairly presented to the people is for the people to have an option to vote for or against it, and not to count against the people who don't vote on the alternative, the hundreds of thousands who are going to vote on the constitution as a whole. I was ready to vote for it, holding my nose, to some extent. Then, Mr. Kean pulled it. Then later, he came with another one that made it impossible for me, as a citizen of this state, to face any constituent and say to him fairly, I gave you an alternative. Now, we are either going to face this issue now, and the people who are for LSU like I am, and who've contributed every year to the Century Club and everything else, are going to stand up for what's right and what's fair or we're not going to have a constitution. It's just time that you faced the issue, LSU. The people have spoken. They want an alternative. They want it to be fairly presented to them. They don't want a stuffed ballot box on it.

That's all I have to say. I'm sorry. I'm sorry that I have to get up and say it. I hope you kill this amendment.

Point of Information

MR. GOLDMAN

A question of the chairman.

Is there any procedural way that we can get back to Resolution No. 52 with the original Pugh language on there? ...for the alternative?

MR. HENRY

You're talking about you want to get off the ballot business?

MR. GOLDMAN

No, I want to get back on the original way the ballot is on there as opposed....

MR. HENRY

You'd have to do it by amendments, sir.

[Previous Question ordered.]

Closing

MR. AVANT

Mr. Chairman and fellow delegates, all I ask is for you to let the voters know what they are being asked to accept. If that offends Mr. Roy, or anybody else, I make no apologies for it.

[Amendment rejected: 38-81. Motion to reconsider tabled.]

Personal Privilege

MR. RAYBURN

Mr. Chairman and fellow delegates, I have had a lots of ups and downs in my life. I've been in a lot of tight places. I've been in this building when, late at night, the master switch was pulled, and the lights went out. I've been here when a bill was passed in this chamber and got lost before we could get it in the Senate chamber. I'm afraid that the way we're acting, that the trend of this convention, that I might see something like that again. I hope I don't. We've got a problem here today, and the educated people, I think, should take a few moments and use their common sense and try to get together. I've voted so many ways today that I don't really know how I've voted. I thought Mr. Kean's amendment went too far one way. I voted against it thinking that one would come along after while that I could vote for--here

comes another one, and it went too far in another direction. For our colleges and universities and for the people that has their interest uppermost in their heart, I think that there's some way that this could be solved by both sides giving a little. All I want to do, and I try to help them all; I got Southeastern over there, my neighbor; I got LSU here with a lot of my constituents and their children that go there. I've always went out of my way to try to help them--all of them--because I'm for the cause of education. But, I believe we've reached the point where they're not really trying to help themselves. I have never seen a fight like this over something that should be by intelligent people, worked out and submitted to the people of this state, in the language they can understand it, and let them vote the way they please. There are moments that I've been looking at here lately, in my opinion, there's a little bit of disguise in there trying to mislead someone, or trying to get a little edge on what the people want. I stand here trying to represent the people that I know needs to have the opportunity to vote their will. I call on you, educators; I call on you smart people. Come up with something that will be fair to both sides. Let's adopt it, and let the people decide this issue. It looks like we are going to fail to decide it ourselves. So, let the people decide it with some language that they can read and understand. That's all I'm going to ask you to do. I think it's time that we done that. I think the people that are here can do it if they'll give a little and take a little, and let's go on with our work.

Motion

MR. BOLLINGER

Mr. Chairman, fellow delegates, I think it's obvious that the time has arisen where we should stop this foolishness. Therefore, I move for a suspension of the rules for the purpose of precluding any further amendments, with that part of the resolution dealing with the ballot.

Point of Information

MR. RAYBURN

Would that apply to my amendment that's already been introduced and that's on the desk at this time?

MR. HENRY

It would apply to any amendments, yes, sir, that had been up here or not, Senator. I'm assuming.

Substitute Motion

MR. AERTKER

I'd like to make a substitute motion that we recess for five minutes. I really believe that we could come up with something. If we don't, then we would go with the motion. I believe that we can come up with something.

MR. HENRY

All right, now. I'm going to tell you what we are going to do, if you all will just roll with me a minute. We'll give them five minutes. But, we've about five minutes ourselves right out of business. But, when it...I don't want any lobbyist coming in the rail. I want the delegates to this convention to try to work out this problem. You've got five minutes.

Amendment

MR. POYNTER

Mr. Jenkins has sent an amendment for redrafting in essence his amendment.

On page 2, delete lines 16 through 35, both inclusive in their entirety, and on page 2, delete lines 1 and 2 in their entirety, and all floor amendments thereto, and insert in lieu thereof the following:--need some quotes, Mr. Jenkins--"official ballot".

[Motion to waive reading of the amendment adopted without objection.]

Explanation

MR. JENKINS

Mr. Chairman, this is essentially the same amendment we approved before except it makes a change to resolve a legal question that Mr. Kean had raised with regard to the deletion from the proposed constitution of the article on education in case alternative 2(B)

were approved. That's what this language at the top does under "Instructions to Voters." One thing that you...it's this one right here; you've had it for, I guess, an hour or so...one thing to remember is that these instructions to voters at the top undoubtedly would be printed just as this sort of thing normally is, in smaller type on the ballot, so that the main thing on the ballot would be the "Do you favor or oppose the adoption of the proposed constitution," and the "for" and "against" and the same thing with regard to the alternatives. Now, I've checked around to Judge Tate and a number of the other lawyers in the convention, and no one has raised any objections to the legality of this. I think just about everyone agrees that this will do it from a legal standpoint. It's just a question of whether or not you want this particular wording. So, I'd like to urge the adoption of this amendment.

Questions

MRS. ZERVIGON

Mr. Jenkins, in your opinion, do very many people make up their mind on a question because of the wording on the ballot, in the booth; or do you think most voters have made up their minds before they go into the booth?

MR. JENKINS

Well, I think it depends on what the issue is. In this case, I think most people are going to make up their mind before they go into the booth. The purpose for the language, for most of the language under "Instructions to Voters", is not really for instructing voters. The purpose of the language primarily is to cure the legal questions involved, to make sure about what the legal effect is of the adoption or rejection of the constitution, the adoption or rejection of the various alternatives. That's the real purpose of the top paragraph, so that it is possible for a voter to ascertain what the effect of his votes will be so that he can cast an intelligent vote, and because that is available to him to make this reasonable and lawful. So, that's the purpose of it.

MRS. ZERVIGON

The main question before us is, insofar as ballot provisions are concerned, is whether the alternative would take a majority of those voting on the constitution or a majority of those voting on the alternative itself, in order to pass; isn't that correct?

MR. JENKINS

That's correct, and that's what the amendment I had adopted earlier I think that made a statement at that time on that question, and I'm not submitting this again on that issue. I'm submitting it simply because of the technical changes in the top paragraph to cure some of the legal questions that have been raised. So, that's the only difference between what we now have and what I'm offering now.

MRS. ZERVIGON

Would it be your feeling that the convention having decided that about three times, perhaps we could adopt these technical changes that you are making and go on to the next question before the bartering?

MR. JENKINS

Well, I would think so, Mrs. Zervigon, but we've shown no propensity to do that so far.

[Amendment adopted without objection.]

Amendments

MR. POYNTER

Amendment sent up by Mr. Anzalone, Fayard, and Rayburn read as follows:

Amendment No. 1. On page 15, lines 2 and 3, insert the following paragraph:
 "(2) Secretary of state shall designate in numerical sequence each "for" and "against" item to be voted on in order that each appears on the ballot."

Amendments 2-7, just renumber the following paragraphs or subparagraphs thereafter.

Explanation

MR. ANZALONE

Mr. Chairman and delegates, the primary function of this amendment is that regardless of how we come up with a ballot, we're going to have some "for" provisions and we're going to

have some "against" provisions on the ballot. As has been pointed out, you're not going to get too much information from what appears within the machine itself. There's little question about that. But, as has been in the past, and I'm sure that it will be in the future, with the assistance of numbers placed on the side of your proposals, you are going to enable a great deal many more people to avail themselves to vote on the constitution. Right now I would submit to you that across this state that the people are thinking that the vote on this constitution is going to be the most complex thing that they've ever done in their life; and for that reason I think a great number of them are not going to vote on the constitution, which is something that we don't want. If we place numbers by the propositions, whether it be "for" or "against", but a number that can be identified, I think it would lend great assistance to these people. You would get greater participation, and in doing so, you would get more of the will of the people of this state whether or not they do want or don't want this constitution.

Questions

MR. DE BLIEUX

Mr. Anzalone, let me see if I understand you correctly. Of course, at the present time we have only adopted the Jenkins amendment. Now, the Jenkins amendment will have "for the constitution," "against the constitution." One of those, the "for" would probably be numbered "1" and "against" would be numbered "2"; is that it?

MR. ANZALONE

Yes, sir.

MR. DE BLIEUX

Now, then you go down to the alternates, and you'd have alternates 2(A)...

MR. ANZALONE

That'd be 3 and 4.

MR. DE BLIEUX

What's that?

MR. ANZALONE

My intention would be 3 and 4. Senator, the reason that we didn't put the tentative numbers in here was because we don't know when this thing is going to be called for approval by the voters. It may be at the bottom of the ballot; it may be on the top. But, my intention is simply to say that you're going to vote, for instance, in Woody's amendment, it would be 1, 2, 3, and 4. Just that simple.

MR. DE BLIEUX

In other words, you just wanted to number the various items on the ballot?

MR. ANZALONE

Right. Just like you do the candidates.

MR. FAYARD

Mr. Anzalone, do you know that I've spoken with Mr. Pugh, the author of that proposal, and he has no objection to this amendment?

MR. ANZALONE

No, sir; I didn't know that. Oh, well, that's good.

[Amendment adopted without objection.]

Amendments

MR. POYNTER

This amendment is sent up by Mr. Gravel and Mr. De Blieux. It goes to page 4, line 24. After the word "on" delete the date December 2, 1974, and insert in lieu thereof the following, "the thirtieth day prior to twelve o'clock midnight on December 31, 1974, by publishing such results out in the Baton Rouge Sunday Advocate or the Baton Rouge State Times."

Amendment No. 2. On page 4, line 23 after the word "be" before the word "promulgated" insert "officially".

Explanation

MR. DE BLIEUX

Mr. Chairman and ladies and gentlemen, this is really a

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technical amendment because the Act 2 requires that the constitution go into effect thirty days after the promulgation to vote. We have already adopted the effective date of the constitution as being midnight, December 31, 1974. Therefore, the promulgation must take place thirty days prior to that time, and that's all this amendment does. I move for favorable adoption of the amendment, Mr. Chairman.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Reverend Alexander, you ready for yours, sir?

Amendment No. 1. On page 3, line 7, at the end of the line delete the words "if the" and delete line 8 in its entirety and on line 9, at the beginning of the line, delete the word and punctuation "use."

Explanation

MR. ALEXANDER

Mr. Chairman, delegates, ladies and gentlemen, I come to you in support of this amendment which, in my way of thinking, solves many of our problems. I believe the language contained here on lines 8 and 9 would, in effect, create enemies for this constitution that we don't need. The words to be deleted here are those words which stipulate that there would be no watchers at the polls. Now, that may not be a very serious problem, but if I were against this document, I don't think I would have very much difficulty convincing those people who would listen to me that somebody has conspired to deprive them of their rights at the polls. They'll think that you're trying to put something over on them, or trying to have them unrepresented. For example, suppose one...it may be one little group in a community. It could be a large community or an isolated community. If this question is raised and the general population of the state gets the idea that somebody is trying to put something over on them by not permitting them to have representatives at the polls, then I think we're in trouble. Now, as I conclude, this idea of the watchman developed some years ago when there were some candidates running for office, and during the process of drawing for commissioners, some candidates were not represented at the polls. This would only permit each faction or group to be represented through a watchman, or a watcher, rather. This watcher has access to the polls. He has access to the information. He can do nothing. He is not paid. He is designated by the owner represented only to watch, and I ask that you vote for the amendment. Thank you.

Questions

MR. DERBES

Reverend Alexander, I realize that you're trying to remove the prohibition against watchers, but how would the watchers be selected?

MR. ALEXANDER

It is my opinion, Mr. Derbes, that if this election were held under the regular election laws of the state, it would be better for us because those election laws have already stood the test of litigation, and there's no problem, and I think it would be better.

MR. DERBES

Are you saying then that the election laws of the state as they are presently enacted and enforced provide for the selection of watchers at such an election?

MR. ALEXANDER

That is correct.

Further Discussion

MR. PUGH

Mr. Chairman, fellow delegates, I mentioned this to you earlier this morning. There is a provision in the law for watchers in special elections. Unfortunately, the watchers are appointed by their respective political parties. This is not a political party election. This is an election where the people themselves rather than political parties are related to or concerned with the constitution. I deleted it for the obvious purpose; there is no way for it to fit. That was what I had to do in all of the election provisions that didn't fit

and there's no way to appoint them. If we appoint them, we're appointing them for the constitution, I guess. Who's going to appoint them against the constitution? It's just something that I respect what you're saying, Rev., but you just don't fit this procedure. I would hope that you would consider the judgment decision made that there's no provision for them, and therefore, you can't have them.

Questions

MR. WILLIS

Is not this election be for a thing instead of persons, and that therefore you don't need watchers?

MR. PUGH

That's correct.

MR. DE BLIEUX

Mr. Pugh, if I'm not mistaken in my experience in elections and as a member of the Democratic State Central Committee trying to conduct them and so forth, I believe watchers are only provided for in the primary election law. I don't think they are acquired in general elections. No one selects them in general elections, but the candidates themselves have the privilege of having somebody there if they see fit for him. Did you know that?

MR. PUGH

I not only know that, I know that my language says that if the election is held as a special election, there'll be no watchers. There's nothing to do at a general election.

MR. DE BLIEUX

Well, in this particular case, I don't know whether you realize it or not, but there'd be no harm done in deleting this particular language because they're not required.

MR. PUGH

They're not required in special elections?

MR. DE BLIEUX

I may be in error, but that's the way I read the language...

MRS. WARREN

Mr. Pugh, to quote Mr. Willis, he said, "this is a thing."

MR. PUGH

Yes, ma'am.

MRS. WARREN

Would you agree that this is one of the hottest things we have had yet?

MR. PUGH

No question about that.

MRS. WARREN

It just might bear some watching.

MR. PUGH

Well, if there was just some way we could figure out how to appoint them, that's the only problem. I tell you, trying to figure out how to appoint watchers in here is going to be an awful lot worse than this education problem we've got.

MR. BEL

Mr. Pugh, what provisions could be made in this election for official watchers?

MR. PUGH

Well, I guess each one of us could pick some out. I don't know who else would pick them out.

MR. BEL

You mean there's no provision in law for this to do that?

MR. PUGH

None; that's what I'm saying. You've got to exclude them because the special election calls for them. Ordinarily, see, when you have constitutional amendments, they're on general elections, and watchers are there for the parties and those were used. That's why I said that if it's a general election, we'll use the watchers that are provided for in the general election. That's taken care of. But, the problem then in a special election--and I really believe they're required for special elections--there's just no mechanics, that's all.

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MR. BEL
They do require them in special elections.

MR. PUGH
Thank you, Mr. Bel. That's what I...

MR. A. LANDRY
Mr. Pugh, that you say that thirty days prior to the election, the board of supervisors are elected in each parish, shall appoint three commissioners and one clerk to preside over the election?

MR. PUGH -
Yes, sir.

MR. A. LANDRY
It does not provide anywhere in a regular general election the fourth part is submit commissioners, and because of the fact that you only have three commissioners and a clerk, you have some left over as submitted by the party, and therefore, you have watchers. But, in this particular election you specifically state whether we take this out or not doesn't make any difference because the board of supervisors are not going to appoint watchers anyway. They're going to put two clerks...one clerk and three commissioners, too.

MR. PUGH
The reason I excluded that...

[Previous Question ordered.]

Closing

MR. ALEXANDER
Mr. Chairman and delegates, the proposal simply states, simply prohibits watchers, and I don't think that language should be included. Now, there's nothing in the amendment that I have submitted to include watchers. The only thing it says that if any faction or any group or anyone, wants a watcher that there would be no prohibition against it. Now, once you say that, the psychological effect of stipulating that there would be no watchers, and I'm of the firm belief that some small faction could go to court and cause a lot of trouble. That's the only thing I'm trying to prevent. I'm asking you, and then, may I also state that the persons who will be selecting these commissioners are democrats. Remember, they're democrats, and there are two other parties in this state. I want you to keep that under consideration--two other legal parties, political parties in this state. I ask that you vote for the amendment.

Questions

MR. PUGH
Reverend, I have no objection if you want to use the word "need" instead of "shall" and I think that will satisfy your requirements. What worried me was the converse of what you were talking about, is if somebody files a suit to contest the validity of the election because there were no watchers. We had the right to exclude them; you understand? If we say they need not be done, then we're all right. I'll use the word "need" instead of "shall", but I would be worried about somebody filing a suit and tying us up on an absurd issue about the fact that there were no watchers. That's all.

MR. ALEXANDER
Would you be willing to change then your proposal, and use the word..

MR. PUGH
I'd be happy to change the word "shall" to "need" if they'll allow me to open it up for that purpose.

MR. HENRY
Can't you do that with this amendment, Mr. Clerk?
Are we pushing you too far?

MR. POYNTER
No, we can do alright. I just want to make sure I'm with Mr. Pugh and Rev. Alexander.

MR. ALEXANDER
"Shall" to "need" and that will solve the whole problem.

[Motion to suspend the rules to withdraw amendment adopted without objection.]

Amendment

MR. POYNTER
Mr. Alexander now sends up the following amendment:
Amendment No. 1. Page 3, line 8, immediately after the word "watchers" strike out the word "shall" and insert in lieu thereof the words "need not".

MR. HENRY
Let's get it right, Mr. Clerk.

MR. POYNTER
All right. I'm with you. "No watchers need be used," right? Just insert the word "need".

MR. ALEXANDER
Mr. Chairman and delegates, that solved the problem, and I ask you to vote for the amendment. I don't think we have any more controversy.

[Amendment adopted without objection.]

Amendment

MR. POYNTER
Mr. Flory, Gravel, Pugh, Fulco and others send up amendments.

Amendment No. 1. On page 3, delete lines 18 through 33 both inclusive in their entirety, and insert in lieu thereof the following: "5. The Executive Committee of the convention is hereby granted the full authority, power and authority to do all things which they may deem necessary to carry out the provisions of this resolution, and they shall have the convention's unlimited authority to call upon any instrumentality of the state or its political subdivisions to cooperate in the furnishing of services, facilities, and employees for the purpose of carrying out the responsibilities of the convention and providing for the manner of the election;"

Explanation

MR. FLORY
Mr. Chairman and delegates, what the amendment does, briefly, is--if you recall earlier when Mr. Pugh gave his explanation of the resolution, he delegated to the Chairman and to the Secretary the authority to carry out and to implement the effects of this resolution--this changes that and gives it to the Executive Committee, which is given the authority under the House Concurrent Resolution passed last year to continue in effect and operate until the day of the election, and allows them to fully implement this resolution. That's all it does, Mr. Chairman.

Questions

MR. DENNERY
Mr. Clerk, haven't we changed the number? Shouldn't this now be 6 rather than 5, by virtue of Mr. Anzalone's....

MR. POYNTER
I think you're correct.

MR. DENNERY
Mr. Flory, I think this is a good idea. The only problem is: Are you going to have to call the Executive Committee into session, or can this be done by telephone, by mail ballot, or what?

MR. FLORY
I think the rules set up in the convention as to the operation of committees would apply, Mr. Dennery, insofar as a majority constitute a quorum--the majority taking care of the business of the Executive Committee.

[Amendment adopted without objection.]

Amendment

MR. POYNTER
Amendment sent up by Delegate Jones reads as follows:
Amendment No. 1. On page 1, between lines 4 and 5, insert the following: "PART I".
Amendment No. 2. On page 1, delete lines 18 and 19 in their entirety.
Amendment No. 3. On page 1, between lines 19 and 20, insert the following: "PART II".

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Amendment No. 4. On page 5, delete lines 29 through 33, both inclusive, in their entirety and insert in lieu thereof the following: "BE IT FURTHER RESOLVED that the provisions of this resolution shall take preference and priority over and shall be paramount to any rule, provision, or resolution heretofore adopted or taken by the convention relating to the matters in PART I of this resolution."

Explanation

MR. JONES

Mr. Chairman, ladies and gentlemen, Amendment No. 1 is merely an effort--and Amendment No. 3--to divide the resolution so we could better express ourselves in regard to the real meat of these amendments in regard to Amendment No. 4 and Amendment No. 2. Amendment No. 1 merely describes a preamble of a resolution and inserts it as PART I between lines 4 and 5. Amendment No. 2 deletes lines 18 and 19, which read, in the preamble of the resolution: "which provides for the supremacy of this resolution over other actions of the convention." I'd requested that that be deleted. The third amendment is the one I previously referred to, which refers to the "WHEREAS" provision of the resolution and describes it as "PART II." Then, the saving clause--the last part of the resolution on page 5--the primary change is leaving out the words "or other action" and describing it by using the provisions set forth in PART I. As it reads now, it provides that "any rule, provision, or resolution or other action heretofore adopted or taken by the convention relating to the matters covered hereby." It seems to me that we're granting, in this resolution, just broad powers to vitiate anything that you ladies and gentlemen have done since last January. It looks as though they could change just about anything, particularly using the provision (E), which is lines 18 and 19: "which provides for the supremacy of this resolution over other actions of the convention." It seems to me like they could change just about anything they wanted; so that's why I have deleted that and deleted the words "or other action" on page 5. I ask your favorable adoption of this amendment.

Questions

MR. DENNERY

Mr. Jones, my question has to do with the fact that Delegate Resolution No. 98, presumably, has some provisions in it with regard to the ballot. Now, under your setup, those ballot provisions would govern over whatever we put in this resolution--the way you have it divided into PART I and PART II.

MR. JONES

How do you explain that, Mr. Dennery?

MR. DENNERY

Well, you have the official ballot provisions in the resolution....

MR. JONES

As Proposal No. 98?

MR. DENNERY

...will be in PART II of this resolution, as you have it worded. Since your Amendment No. 4 refers only to priority of PART I over any other action of the convention, if 98 contains ballot provisions, they would preempt what we've been arguing about all day, and it seems.....

MR. JONES

In the ballot provisions? Not insofar as PART I is concerned, I wouldn't.....

MR. DENNERY

No, but they're not in PART I; they're in PART II. That's my point.

MR. JONES

That's right; we're not preempting anything in PART II.

MR. DENNERY

Well, the point is that 98 has something in it about ballot provisions, Louis, and you say that what's in PART II will not preempt what's in the....

MR. JONES

I don't think PART II is affected. It's merely to define the rest of the resolution after you define it in PART I. It just makes the language easier. I could leave out PART I and PART II and refer to lines 6 through 17, for example.

MR. DENNERY

Well, I think that would necessarily imply, then, that the

provisions of Resolution No. 98 take precedence over this resolution. That's what we're trying to avoid. It seems to me you're killing the effect of this resolution when you do that.

MR. JONES

Well, I'm sorry, but I really don't understand it that way.

MR. PUGH

Mr. Jones, I assumed that a resolution of a body of this type necessarily required a "to provide" paragraph at the beginning of it. Am I in error as to that?

MR. JONES

Well, that's what you have in this resolution. Correct?

MR. PUGH

I'm saying: Am I in error as to that assumption?

MR. JONES

That's what it says. I agree.

MR. PUGH

Well, do you think it's necessary to have a reference at the beginning of the resolution to what the resolution contains?

MR. JONES

I think it does, but I don't think this resolution should have the right to vitiate anything else this convention's done over the last year.

MR. PUGH

Well, as I understand, the "to provide" language merely keys you in to the specific language that occurs in the resolution.

MR. JONES

Yes. That's why I think you've covered everything adequately in provisions (A) through (D).

MR. PUGH

Well....O. K.

MR. JONES

I just think you've gone too far.

MR. FLORY

Mr. Jones, perhaps, along that same line--I'm a little bit confused too, as Mr. Dennery--on line 3 of the "FURTHER RESOLVED" provision, you used the word "provision or resolution heretofore adopted." Now, what are you talking about? Provision of what? Rules, regulations, proposals?

MR. JONES

I was trying not to upset the resolution, as much as they had it, and then take out the catchall provisions--the real basin of it. The word "provision" is not my choice of language. I was trying to leave it as closely as I could with taking out the words "or other action," and my feeling was that provision was not proposal; so I just left it in there. I didn't want to gut it too much. That was my main idea. I don't think provision means proposal.

MR. FLORY

Well, then, you'd be agreeable to withdrawing it and say "provision...."

Would you be agreeable to withdrawing it and resubmitting it with the language "provision of any resolution heretofore adopted"?

MR. JONES

Be happy to.

MR. DE BLIEUX

Mr. Jones, in addition to the statements contained by Mr. Flory, you'll notice that the first part--that is, from lines, you might say, 5 through 19--are onto the title of the resolution. Now, I notice in your amendment that you have deleted lines 18 and 19. Now, if you may, look on page 2 of the resolution. Lines 5, 6, and 7 relate to 18 and 19 on page 1; so, if you're going to delete the lines on page 1, shouldn't you also delete the lines on page 2? because I believe the Amendment No. 4 would take care of that proposition.

MR. JONES

I'm not sure what you have in mind, Senator, but I'll withdraw

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the resolution, Mr. Speaker, and get together with Mr. Flory, and I'll also ask Mr. Denny to help me out and see if we can't get....

MR. HENRY

Before you all draw it, Mr. Jones, if you'd consult with the Clark too, I'd appreciate it. We've got some problem with this we'd like to discuss with you.

[Amendment withdrawn.]

Amendment

MR. HARDIN

Amendments sent up by Delegates Perez, Gravel, Stovall, and Carmouche:

Amendment No. 1. On page 2, line 16, delete Amendment No. 1 proposed by Delegate Jenkins and adopted by the convention on January 19, 1974, and insert in lieu thereof the following:

"OFFICIAL BALLOT. The full text of the proposed constitution, including the alternative proposal on education, is available for inspection at your polling place. (Vote for one)

1. [] For the proposed Constitution of 1974 including the education proposal with one Board of Regents with appointed members and three management boards for governance of higher education.
2. [] For the proposed 1974 Constitution with one Board of Regents for higher education with appointed and elected members and no management boards.
3. [] Against the proposed 1974 Constitution."

In the box: "The votes cast in favor of propositions 1 and 2 shall be added together, and if such total constitutes the majority of the votes cast in the election on the constitution, the constitution shall be adopted. Whichever proposition receives the greater number of votes shall become the Constitution of the State of Louisiana."

Motion

MR. GRAVEL

After Delegate Perez has explained the amendment, I would move that debate be limited to thirty minutes--fifteen minutes on each side of the motion.

MR. HENRY

We have a motion in effect...or a rule that put limit on debate already in effect, as a result of the Jack motions an hour or two ago, to limit all debate on all amendments with reference to the ballots to five minutes for proponents and five minutes for opponents.

MR. GRAVEL

O. K. I withdraw my motion, then.

Motion

MR. DUVAL

Mr. Chairman, this amendment is so important that I suggest that we move now to go along with Mr. Gravel's motion to at least make it fifteen minutes for proponents and fifteen for opponents.

MR. HENRY

I personally think your point is well taken; but, anyway, is there any objection to that, Mr. Jack?

[Motion to limit debate on the Amendment to fifteen minutes for the proponents and fifteen minutes for the opponents adopted without objection.]

Explanation

MR. PEREZ

Mr. Chairman and ladies and gentlemen of the convention, I hoped that I could have everybody's attention because I know that we've been locked up on this particular problem all day long. I hope that this is a solution to the problem which will give each side in this education situation a fair and equal opportunity to have their particular proposal on the ballot. I might say, from the beginning, that it is difficult to try to show in regular type what a ballot should look like, and I know that there are those who feel that the way that propositions 1 and 2 would be proposed appear to be the tail wagging the dog. But, if you could visualize what a ballot would look like and if the words "for the proposed '74 Constitution," in each case, and "against the proposed '74 Consti-

tion" were in larger print so that they would stand out and then the words "including," etc., and then (1) and (2) "with one Board of Regents", etc., were in smaller print, then you would be putting the proposition to the people, I think, in the proper context. That is, for the constitution with one approach: that is, with the so-called LSU approach; for the proposition with the alternate approach; and against the proposition. Now, as far as the legality of this matter is concerned, I have discussed this situation with some attorneys who are very well versed in the election laws of this state, and they find no problems with it because of the fact that you would be in a position to vote either for or against the constitution. You would be in a position to vote for or against any alternate proposal because, if you vote for the constitution, you'll be voting for number one; against it, number three. You'd be voting for the alternate if you voted for two, and against the alternate and against the constitution if you voted for three. The only problem that presents itself, which I do not think is a major problem, was if a person wanted to vote against the constitution, but for one of the particular alternates: that is, for one board against the five-board. But, in my judgment, if a person votes against the entire constitution, he's voting against any of them ever being adopted; so he has no particular legal right to be in a position to complain that he wants to vote against the constitution and for any particular alternative. I believe that this is the solution to the problem. The way the votes would be totaled would be that you would total the votes cast for (1) and (2). If that total exceeds (3)--that is, the against votes--then, the constitution would be adopted. Then, in determining which proposal would be adopted, with respect to education, the proposal (1) or proposal (2), whichever would receive the greatest number of votes, would be the new constitution. So, it would either be the one-board or the five-board, depending upon whether number one or number two got the majority of votes. It appears to me to be as good a solution as we can ever work out. I'd be glad to yield to questions.

Questions

MR. JENKINS

Two questions, Mr. Perez. First of all, what is wrong with what we now have?

MR. PEREZ

In my judgment, from what I can understand, Mr. Jenkins, if there are enough delegates who want to adopt what you have now, it's fine with me. I was only trying to seek some alternative solution which would put the education proposals in a position of an equal footing, so that people could vote for or against the constitution... so that for the constitution would either be proposal (1) or proposal (2). I think it's a better arrangement, and I think it's something which, more thoroughly, puts on the ballot the proposition. It's my understanding that we are still locked up, even with the amendment that's been adopted. Now, if the majority of delegates want to go with what was adopted under your amendment, it's fine with me.

MR. JENKINS

My second question is with regard to the legality of what you propose. You say in your box that the votes cast in favor of propositions one and two shall be added together. It appears to me that, if a person votes for number one, he's voting for a certain kind of constitution: namely, one with the four boards for higher education. If he votes for number two, he's voting for a different constitution: one with one board for higher education. If a court were to allow you to do that, wouldn't the court be allowing you, in effect, to add up apples and oranges?

MR. PEREZ

No, Mr. Jenkins, because I think it's the same thing as if you have "for the constitution" and a person votes for it, and then goes down and votes, beneath it, for an alternative. He has voted for the constitution, and then he has come down lower, below, and voted for an alternate which would change that which he has voted for above. So, I don't believe that there are apples and oranges. I don't think that, either way you do it, you're doing the same thing. That is, you're voting for the constitution--if you do it the way I understand your amendment is--for the constitution with the so-called LSU Board; then, you turn right around and vote for the one-board you, in essence, have voted out as an orange, or so to speak, and there's no way to tell how many people voted for the constitution, who stuck with the five-member board, and how many of them voted for it and went down and voted for the one-member. So, I don't see a bit of difference between, from a legal standpoint, from your proposal and what's here.

MR. JENKINS

Isn't the difference that, under the way the section stands

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now, people are voting for a constitution with the understanding that the board is to be decided in the alternative proposition. They're not voting....

MR. PEREZ

You're not voting for the constitution until you vote for the whole document, and part of that document is the Education Article. So, then, I'd see no difference between what you're talking about and what's here.

MR. JENKINS

Isn't it also true that, under the way the section stands now, those who vote against the constitution have a right to help determine what the educational setup will be if the constitution is adopted?

MR. PEREZ

No, that's in PART I and PART II.

No, that's the part I went into fairly carefully, and I do not agree with you on that. I don't believe that a person who votes against the whole constitution could then turn around and have a right to say that he wants to be able to determine how the Education Article is going to be determined, if he has voted against the whole constitution to begin with.

MR. JENKINS

But, that is how we've established it in the section as it stands now; isn't that correct?

MR. PEREZ

Yes.

MR. ROEMER

Mr. Perez, I just want to follow up on those questions by saying that I'm sure you realize your amendment substantially changes what we've done here today; is that not true?

MR. PEREZ

Well, Mr. Roemer, if there are sixty-seven votes to pass what you've already done here today, I'm perfectly happy. All I was trying to do was to find something where we could get enough of the delegates together that we could move forward. Hopefully, this was a solution.

MR. ROEMER

Well, of course, and you also realize that, under the rules of politeness and the rules that we work under in this body, that everybody has a right to put in as many amendments as they want to keep debating this issue over and over. It seems fairly obvious to me--perhaps, you might not know that--that, in looking at this, this is the most confusing of all the issues we've had before us and that you've got one, two, three here. A man can vote one time, two times, or three times, if he's not well informed here.

MR. PEREZ

No, sir, because of the way the machine would be set up, he could only vote for one or two, but he would not be able to vote for both. The machine would be set up so that he would only vote for number one, for number two, or three. You can only pull one time, and if you.... just a minute, please; you asked me.....

If you'll look up top, it says: vote for one.

Further Discussion

MR. DUVAL

Mr. Chairman, fellow delegates, this is one of the most important issues to come before this constitutional convention since our inception. Now, I'm not....I haven't heard anything wrong with the Jenkins' amendment yet. The Jenkins' amendment seems to be a very palatable, simple, good amendment that most people can go for. Now, if you recall when Mr. Kean had his original amendment this morning, he had an Amendment 6 in there which locked out certain persons voting against the constitution from voting on the one....on the alternates. This, as everyone will admit, has the same effect. It has a lock, it's tantamount to a lock-out provision. Therefore, if it is federally unconstitutional, because you, in essence, had locked out the right of the voter whose voting against the constitution to vote for one of the two alternates--if that is federally constitutional....unconstitutional....and several lawyers came up here and said it was today, and others say, well, it's a question of judgment--let me tell you what you're doing now, and this is a point I want to make. I would really appreciate it if you pay attention.

The way this is drafted, the entire constitution will fail if any of these lawyers happens to be right. The entire constitution

will go down--not just the education article. This is a torpedo writing the entire constitution. What I'm saying is, if you isolate the education article, there will be some problem there, some constitutional problem. Then, very well, perhaps, only the educational article would be tainted with unconstitutionality. But, this way, to vote on the entire constitution would be tainted, and the entire document might fall. I'm not willing to gamble on the wonderful work we've done here, to impale it on the horns of this amendment. I suggest to you very adamantly, that you vote this amendment down. There hasn't been one thing said that something is wrong with the Jenkins amendment. He has some technical amendments that he can cure it with. We should not risk this entire constitution. Many, many lawyers have said it's a question of judgment. It's a constitutional question. But they're willing to gamble all our year's work on this and I think that's foolish. I suggest to you, read this, think about it, and vote it down.

Questions

MR. ROEMER

Stanwood, don't you think that the beauty of the Jenkins' amendment was in that it did separate the question of the alternative from the full body of the constitution, and allowed the person the right, regardless of how he voted on one issue, to have the right to vote on another. Isn't that true? This negates that completely. Yes, sir. Didn't that Jenkins' amendment pass 88 to 20 something?

MR. DUVAL

It sure did.

MR. CHAMPAGNE

Mr. Duval, I don't know anything about it, but one attorney told me that since we had adopted the severability clause, that in the event some judge did decide this unconstitutional, the only thing we'd lose would be the education article.

MR. DUVAL

Mr. Champagne, the point I make is that may well be true when you vote on the education alternate separate. But, when you vote on the entire constitution by one vote, it may well, perhaps, negate your vote on the entire constitution, and the severability clause may not apply. This is the problem I had with this amendment.

MR. RAYBURN

Stan, I kind of like this in a way. I can see where I think it will help the document as a whole. But as a citizen, and I'm asking you this as an attorney, I'm of the opinion that an alternate is something to give you a choice. Am I correct in your legal opinion?

MR. DUVAL

That's my understanding. Yes, sir.

MR. RAYBURN

If I say, well, I don't like either board. I think we should have it a little different. I like the rest of the document. But, under this language, I've got to vote for one or the two alternates, or vote against the whole outfit. Am I correct?

MR. DUVAL

Mr....Senator Rayburn, that's a very good point. Yes, sir.

MR. RAYBURN

But, I really like it, and I think it will help pass the document, but I'm wondering whether we are depriving the people of a choice or not. Now, that's the only thing that's got me disturbed.

MR. DUVAL

That's the same concern I have. I like it myself, but I like the constitution better.

Further Discussion

MR. BOLLINGER

I think Mr. Duval brought out some good technical and legal points why we should reject this amendment. But, I think we ought to look at the practical aspects. I hear a lot of people hollering out that they think that this amendment would help pass the constitution because people have a chance to vote for it twice. I disagree with that, strongly, and I'll tell you why. Our main motive here, I think, is to pass this constitution. But we're putting first and foremost in our minds an alternative.

Traditionally, the people of Louisiana have rejected...rejected when going to vote on propositions they do not understand. Many, many individuals in this state are going to go into that voting booth with the idea of voting for or against the constitution. They're not concerned about the educational board. They're going to get to the ballot and find out they have to make a choice for one type of board, for another type of board, very possibly not understanding what's the difference. Consequently, they're going to vote against the constitution—not for it. You're confusing them with this amendment. By establishing a ballot with two fors, and two different boards in each for, you confuse the electors and force many of them to vote against the constitution. Practically speaking, this is a bad amendment. It does not enhance the passage of this constitution. It deters from it. I move, please, please, I beg of you, vote down this amendment. At least with the Jenkins' amendment, they can vote for or against a clear-cut question. No possible way they can interpret the boards being involved in the main question. They can either vote for or against, or not vote at all on the alternatives. It can stand on its own merits. But, it will not jeopardize the passage of the entire document.

I yield to any questions.

Questions

MR. FULCO

Mr. Bollinger, in comparing the two, Mr. Jenkins' and Mr. Perez's amendments, we are trying to get something that is simpler, very simple for the people to vote on, aren't we?

MR. BOLLINGER

That is correct.

MR. FULCO

That is the primary concern.

Now, in Mr. Perez's amendment, we have three paragraphs; one, two, and three. Wouldn't it be very easy for you to tell your constituents if you wanted, or he or she wanted to vote like you wanted them to vote, to tell them to go in and vote for No. 1, and that would simplify it because it's altogether? On the other hand, wouldn't it be confusing and frustrating for you to ...for that same person to vote on Mr. Jenkins' amendment where you had to look up at the top and see what it said? Then, go down below on the bottom of the line, where it says alternative proposition and think, as a result of that, that you had to vote for either one or the other.

MR. BOLLINGER

Frank, I think some of both.

I think simplicity is the least of our worries here. I think first, we have to get something that's legal, that's going to allow the constitution, if ratified, to be put into effect, and the alternate, if ratified, or either alternate, to be placed into the document. First and foremost, legal.

Second, I think we have to establish something that's going to be fair. That when the voters see it, they understand it and realize what they're voting on—not try to deceive them in any way. I think that's our second objective.

Possibly third, make it simple.

MR. FULCO

But, Bollinger, in the Perez amendment, you've got everything in one paragraph.

MR. BOLLINGER

I think...

MR. FULCO

The same thing the Jenkins' amendment calls for in two separate paragraphs.

MR. BOLLINGER

Not at all. It's not at all the same thing that the Jenkins amendment calls for. Mr. Duval, I think, quite eloquently expressed there's a very, very grave question of the legality of the Perez amendment.

Further Discussion

MR. ARNETTE

Ladies and gentlemen, I agree that Mr. Perez's amendment is fair. The only thing I have is like the previous speakers. I don't think—or, I think it raises some very serious constitutional questions, mainly, can you add apples and oranges; can you add a vote for one kind of constitution to a vote for another kind of a constitution? You have two totally different constitutions there in one and two. I don't think you can add them both

together to overcome the "no" vote. This is what my objection is. Unless one of the first two would get a majority, there would be a constitutional question as to whether it's validly adopted. I don't think we need to risk our work for over a year on this document, on this kind of constitutional question. I hope you realize the problem that I'm putting before you. You can't add one kind of a vote to another kind of a vote against a vote against both.

Questions

MR. BURSON

Mr. Arnette, I would love to think that this solved all our problems. But, the thing that bothers me the most is, it looks to me like if we're talking about being fair, that we've got to be fair to those who are against the constitution as well as those that are for. Aren't they, in effect, running two candidates against one and letting the two candidates add their votes up?

MR. ARNETTE

That's exactly right, Mr. Burson. You're running two entirely different things and allowing them to add their votes up. That's why I think it raises a very, very serious question.

Now, I have an amendment prepared that would be relatively like Mr. Perez's...would be just as fair. But, would allow a voter to vote against both constitutions if he so wished. If either would pass, it would be the constitution. To me, it presents no constitutional problems, it would be fair to both sides. I'll present it as soon as it is prepared and run off. But, this particular amendment, I think, is very, very, very dangerous. I would hate to risk an entire year's work on this kind of election.

MR. LANIER

Greg, this convention voted to place an alternate proposal on the ballot. Is that not correct?

MR. ARNETTE

That is correct.

MR. LANIER

Now, that, then, raises the legal issue of do all voters in this state have a right to vote on that alternate proposal, doesn't it?

MR. ARNETTE

That is true. This is another problem with Mr. Perez's amendment is that it is a de facto lock-out of people who want to vote against both. Or, you're not giving them a choice.

MR. LANIER

Well, if you wish to have the right to vote on the alternate the way this ballot is arranged, then you would have to vote for the new constitution even though you may be opposed to it. Is that correct?

MR. ARNETTE

That is correct. That's the problem I was trying to point out. I might not have done it very well. But, this is the big problem. You're not giving the person who votes against the constitution a choice on the alternate at all. It's not a lock-out done by the machine, but it is, in effect, a lock-out just the same. You're disenfranchising those persons from voting on the alternate. This is the problem that I see with Mr. Perez's amendment, besides the fact that you're adding two different votes to beat one.

MR. FAYARD

Greg, taking the other side of the coin, suppose you got a guy that goes into the voting booth, a typical voter, says I've never been to LSU. I've never been to Southern. I've never been to USL. But, I want to vote for this constitution. But, I don't know anything about education. What are you forcing that guy to do?

MR. ARNETTE

Well, you're forcing him to make a choice as to which alternate he wants.

MR. FAYARD

Do you think that's fair under this amendment?

Further Discussion

MR. STOVALL

Mr. Chairman, fellow delegates. Would you look right this way for just a moment, please. I have in my hand here Act II of

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1972, relating to the constitutional convention. I want to read to you from page 10. It says: "The convention may submit to the electors of the state the proposal of acceptance or rejection of the constitution, or any alternative proposals in such form and manner as it may determine, and may direct the proper election officials to take the necessary steps to effectuate the determination of the convention, etc. It seems to me that this provision that I have just read to you negates the statements that Mr. Aroette and Mr. Duval, and others have made concerning the constitutionality of what we seek to do. Now, from my point of view, looking at it not so much from the legal point of view as from what of how it will be received by the people, it seems that this form of presentation is very simple; it's fair; it's reasonable.

In answer to Mr. Fayard's question, it will encourage the people of the state to become aware of what's in the constitution. Also, it will encourage different interested groups to inform and educate their constituents so that they will go to the polls and vote for the constitution; that is, to vote either for Proposition 1, or Proposition 2. I think this will encourage a healthy discussion throughout all the state of the issues involved in the educational proposal, as well as other issues related thereto. It presents a very definite choice. It's a simple presentation. It's clear. I encourage your favorable support of this in order that we might get on with completing other business.

Thank you.

Questions

MR. O'NEILL

Reverend Stovall, would you address yourself to the question of what's wrong with what we have adopted right at the moment?

MR. STOVALL

Mr. O'Neill, I think this is the determination each delegate will make. We came to an impasse a few moments ago. We had a recess. We reached what we thought was a consensus in this kind of presentation at this point.

MR. O'NEILL

Do you think the problem with what we have right now is that it doesn't give an unfair advantage to either side? You think that might be the problem with it?

MR. STOVALL

I don't think this gives any points to either side. I think it's reasonable and fair. I'm not saying that it's only...the only approach, Mr. O'Neill. But, this is the one that we are concerned with at the present time.

MR. HENRY

Will you yield to a question from Mr. Willis...Mr. De Blieux?

MR. DE BLIEUX

Reverend Stovall, can you visualize that there might be some voters that might be opposed to the constitution--that if it is adopted they would have a definite choice as to which alternate they'd want to go into the constitution?

MR. STOVALL

Mr. De Blieux, I think we realize that we can't make this completely simple.

MR. DE BLIEUX

Yes. Don't you think there's a possibility that we might have some voters in that category?

MR. STOVALL

That's a possibility.

MR. DE BLIEUX

Now, how is he going to express his opinion under your... under this proposal?

MR. STOVALL

I think that on the basis of what we've done, we've decided on an alternative provision of education. I think it's our business to educate and inform the people so that they will know how to vote.

MR. DE BLIEUX

Now, if you deny him of his right and privilege, don't you think you might invalidate the whole election?

MR. STOVALL

No, I don't think we are denying anyone the right to vote.

We've got two ways here whereby they could vote for the constitution.

MR. HENRY

Mr. Jack, are you speaking for it or against it?
Mr. Jack. Are you a proponent of the amendment?
Well, it depends...for the opponents, the time is out.
For the proponents.

MR. JACK

I'm for the...
I can speak on either side.

MR. HENRY

Well, I've heard that you talk...

There are a lot of people that have told me that you talked out of both sides of your mouth. Is that what you're saying, Mr. Jack?

Further Discussion

MR. JACK

Each side....
We have been told the technicalities, and I rise in favor of this amendment. Now, of course, if I was on the other side, I would say this is the most ridiculous, misleading I've ever seen.

MR. HENRY

Wait just a minute, now.

All right, Mr. Jack, you've exceeded...Mr. Jack, now, I'm serious. We don't have time for a lot of hot polloi this late. Now...all right, Mr....I'll ask the Sergeant-at-Arms... to give the man...get out the hook...or get out the net, either one.

Further Discussion

MR. PUGH

Mr. Chairman, this is the one I mentioned in my opening conversation this morning at which time I expressed my opinion. Therefore, I will not speak on it.

Further Discussion

MR. GRAVEL

Mr. Chairman, ladies and gentlemen of the convention, in view of the time...short period of time for the proponents, I'm not going to answer any questions. I want to make a very brief statement that I think is very important to all of us.

I fully support this proposal. I hope we adopt it. Almost every person in this Chamber who is a lawyer can have some concerns about the constitutionality of anything that we do with regard to the construction of the proposed ballot, and the method of submission. I think that the lawyers in this convention, in good faith, can differ on the constitutional questions that might arise. But, we're not here to decide constitutional questions that are not susceptible of definitive conclusion today. What this proposal will do is clearly, succinctly, and in response to the provisions of Act II, lay before the voter the opportunity to intelligently cast his ballot. That's all that the courts of this state have ever required with respect to the election procedures, and that is that there be a clear opportunity for the electorate to express its will. I suggest to you, ladies and gentlemen of the convention, that above all others, this proposal will accomplish that purpose.

Thank you very much.

Further Discussion

MR. REEVES

Well, I approach this mike with people sitting around me saying, "Get him, get him. He's one of them dumb boys." Well, that's right. I'm not an attorney. But, at the same time, I do come before you as one of these simple people that's going to have to vote on this constitution, realizing that there are some problems... possible problems, in reference to the court system. Now, as I've heard many times over from a number of you attorneys, we can take either side and probably win anyway in any battle, in any particular part of this constitution that we've gone over.

First of all, I'd like to say that you are...I would like to address myself to a few particular provisions that were brought up. One of these has been said that you're going down one, two, and three, and that these individuals would not have the opportunity to, or they would be disenfranchised--that some people would be disenfranchised. However, I feel otherwise, that they would not

for the simple reason that on proposition three when you would vote against the proposed 1974 Constitution, you are speaking out. You are saying something. You are saying you don't like the 1974 Constitution, and you are in favor of the 1921 Constitution. At the same time, we also have heard that there are some people in this state that don't have any recollection or any knowledge at all of the educational system throughout this state, and that they are not interested in it. Well, first of all, there may be some individuals...but I feel very strongly that the State of Louisiana, or the citizenry thereof, are very interested in the educational system. If they are not, they definitely should be. At the same time, I feel very strongly that you do have... that any individual would have particular references to portions thereof, being at least elected versus appointed members of the Board of Regents. Now, again, I'm not a constitutional attorney and do not intend to ever be because I probably couldn't pass the bar exam, as some people have said, because I'm too dumb. I'm from up in the north Louisiana country woods. But, I'll tell you what. This is a good, succinct, equalized ability of individuals to express their opinions for or against the constitution of the State of Louisiana as we have proposed it--either of two alternative bases. I think it's the simplest way you could have done it. I think Mr. Perez--and I'd like to say, "Thank you, Chalin," because you have done us a favor, I hope--because we have been deep in mire today. Mr. Perez and I have differed many times over, but today, we do agree on this. I hope that you will at least approve this particular thing and we'll get off dead center.

Questions

MR. JUNEAU
Terry, this is not a legal question. As you said, you wanted a simple question.
We do have, in this country, do we not, if nothing else, we do have precedent from other states within the past ten years for a ballot such as proposed by the Jenkins' amendment? Isn't that correct? I'm referring to...to Montana.

MR. REEVES
To Montana.

MR. JUNEAU
Do you know of any state anywhere, any time, any place, that has a ballot similar to that that you advocate that's before you now?

MR. REEVES
To the best of my knowledge, no. But, that doesn't necessarily mean that it couldn't be had. I...

MR. JUNEAU
Don't you think from a layman's standpoint that that makes sense? That's kind of a safe thing to do?

MR. REEVES
I guess we could have had that opinion when we created this country because there was no democracy anywhere in 1776 when we created this nation.

MR. JUNEAU
All right. Second question, Terry. Do you think that the ballot as stated is an alternate in the Jenkins' amendment, is a fair statement of the alternate to both sides of this issue?

MR. REEVES
I think there's a problem in getting it passed. I do feel that there are some technical problems within the Jenkins' amendment.

MR. JUNEAU
I said is it fairly stated to both sides? The language.

MR. REEVES
I think, probably, it is fairly stated to both sides.

Further Discussion

MR. TOBIAS
Mr. Chairman, fellow delegates, I rise in support of this particular amendment. I, as an attorney, could argue either side of the case. But, I would suggest to you this: that if we go with this compromise, or if we go with this amendment, it is still at some point, possible, after further study, for the governor to call a special session of the legislature, bring us back in, extend our time. The legislature could also provide procedures for ratification. It's possible.

Questions

MR. STAGG
Max, are you willing to have worked as hard as you have worked from January 5 of last year, to this hour of this day, and rest all of that work on the legal sufficiency of the ballot provision in the Flory...I mean in the Perez amendment?

MR. TOBIAS
I personally believe that it is valid, and that it is a proper procedure.

MR. STAGG
What if you are wrong? Do you think the people are going to look on us as anything other than a pack of thieves if we have to ask the legislature to get a special session to pass the law to bring us back into office in order to cure what we might do in a hasty moment on this afternoon of all days?

MR. TOBIAS
Mr. Stagg, anybody can make a mistake. That's why they put rubber mats around spittoons.

MRS. ZERVIGON
Max, you referred to this as a compromise. It has, in common with the Kean amendment defeated this morning, the lock-out provision in that you cannot vote for or against an education proposal if you oppose the constitution. Isn't that correct?

MR. TOBIAS
No. You can vote against the education proposal by voting for Paragraph 3...No. 3.

MRS. ZERVIGON
I'm saying if you are opposed to the constitution as a whole, and, therefore, vote "no," you may not choose between the two education proposals which, as a citizen of the state you may have to live under, if the constitution passes as the objection. Isn't that correct? It has that in common with the Kean amendment.

MR. TOBIAS
In my opinion, and I must be honest, that is a possibility.

MRS. ZERVIGON
In addition to that, it also has in common with the Kean amendment, a presumption in favor of CP-7 in that anyone who has not...

Closing

MR. PEREZ
Mr. Chairman, ladies and gentlemen of the convention, first, let me apologize to you from the standpoint that I did not intend to take up so much time. I thought that we had come to what, I thought, was a compromise, or something which would satisfy most of both sides. But, I do have to call this to your attention because of the fact that there have been those lawyers who have gotten up and have questioned the legality of the proposal as I have submitted.

On the other hand, let me call to your attention to the facts that the...to the fact that the Jenkins' proposal, in my judgment, has very serious possibilities of a violation of the act under which we are operating because it says that you vote for or against adoption of the constitution and on the question or questions of adoption of such alternative provisions as may be proposed by the convention. In the Jenkins' amendment, you vote only for and not against, so that if we're going to raise questions of legality, the first thing we have to do is get past the legality of the act itself before we worry about constitutional problems. I've discussed this with lawyers, but...and I don't want to call names because of the fact that they are in official positions and do not want to be repeated as such. But, their interpretation was that you must--- that you must provide a vote for or against each proposition. In the Jenkins' proposal, you are providing only with regard to the education alternative votes for and not against. So, what I'm saying to you is that I'm satisfied from a legal standpoint. After discussing this with people whom I believe to be the most qualified in the state on this subject matter, that that which comes closest to completely complying with the act under which we're operating and being constitutional, is that which I have proposed. I don't believe that we're going to settle this matter here. It may be that somebody may have to settle it before the courts.

But, let me call to your attention, as far as the law under

which we are operating is concerned, it says that "the convention may submit to the electors of the state the proposal of acceptance or rejection of the constitution, or any alternative proposals in such form and manner as it may determine." The only limitation on that is in the paragraph above which requires votes for and against.

So, I submit to you again that this is the simplest of the proposals. That it completely complies with the act under which we are operating. It gives the people a good, clear alternative --- a good clear approach to it. I don't want to take up any more of your time. I don't think it'll do any good to answer any questions.

So, I therefore submit to you the amendment and hope that you'll vote for it.

[Record vote ordered. Amendment adopted: 64-59. Record vote ordered on the motion to table reconsideration. Motion to reconsider tabled: 63-59. Motion for the Previous Question on the Resolution rejected: 47-73.]

Amendment

MR. POYNTER

Mr. Jones and Pugh send up an amendment that reads as follows:

Amendment No. 1. On page 1, line 18, after the word "over" delete the word "other" and insert in lieu thereof: "inconsistent"

Amendment No. 2. On page 5, line 32, after the word "convention" delete the remainder of the line and delete line 33 in its entirety and insert in lieu thereof the following: ", but only insofar as the same may be in conflict with the particular provisions of this resolution."

Vice Chairman Casey in the Chair

Explanation

MR. JONES

We have eliminated the other amendments in the original Jones amendment. I've gotten together with Mr. Pugh and we have taken into consideration what Mr. Denney said and also, Senator De Blieux. It's a technical nature but it limits these particular phrases to this alternative proposal without giving the resolution broad overall effect. I urge your adoption.

[Amendment adopted without objection.]

Amendment

MR. POYNTER

Mr. Burson, Kean, Faysrd, and others send up amendments.

Amendment No. 1. On page 2, delete lines 16 through 35, both inclusive, in their entirety and on page 3, delete lines 1 and 2 in their entirety, including all amendments adopted thereto and insert in lieu thereof the following:

"Official ballot. The full text of the proposed constitution, the alternate proposition, is available for inspection at your polling place. If the proposed constitution fails to receive a majority of the votes cast, alternate issues also fail. Please vote on both issues (1) and (2).

(1) Vote for one: For the proposed 1974 Constitution....

The proposed constitution includes one Board of Regents with all appointed members and three management boards for governance of higher education. If the following alternative is adopted by a vote which is at least a majority of those voting in favor of the constitution, it shall replace the Education Article on the proposed constitution.

(2) The alternative is: One Board of Regents for higher education of elected and appointed members and no management boards. For or against.

Explanation

MR. BURSON

Mr. Chairman, fellow delegates, I ask your close attention because there is a difference from this amendment and those which Mr. Drew and myself have previously offered although the form is very similar. The form is similar and almost exactly the same in the top part, that is, the vote on the constitution. I think there is no question that insofar as the ballot extends to the vote on the

constitution, you get away from any legal problems whatsoever. The alternative is set out in a simple statement. You vote for it or against it. Now, if you will look at the box, the box tells you that the proposed constitution includes one Board of Regents with all appointed members and three management boards for governance of higher education. Then, in the next sentence, it tells you that if the following....

This second sentence is the key because it says that "If the following alternative is adopted by a vote which is at least a majority of those voting in favor of the constitution, it shall replace the Education Article in the proposed constitution." Now, follow me, if you will, and I'll explain why I feel that this splits the difference between those that say you ought to have a majority of the total vote and those that say you only need a majority of those voting on the alternate which then leads to the objection. Well, let's suppose you have only a small number of people voting on the alternate and there be deciding the Education Article in the constitution because what this says is, that by whatever vote if the alternate receives more for votes than it receives against, it is not necessarily at that point accepted. Let me give you a hypothetical example by which you will understand what I am talking about. Let's take a hundred thousand votes cast on the proposed constitution, sixty thousand vote for it, forty thousand vote against it. Let's take a vote on the alternative which is thirty-five thousand votes for the alternate and twenty-five thousand votes against the alternate. At that point, the alternate would become part of the constitution because not only has it received more votes for it than against it, but it has received a clear majority of the sixty thousand votes cast in favor of the constitution. Now, I submit to you before anybody asks the question that I doubt very seriously if you will find a ballot like this that's ever been proposed in any state. It is proposed purely and simply as the last-ditch attempt to split the difference on what has been, in my view as I said at the outset this morning, the two basic conflicting philosophies on the alternative that we have had at work here today. It does meet the objection raised by Mr. Kean earlier in the day that our general election law would seem to require a vote for or against any proposition that we offer; I think it comes very close. If you look at it in this light, it is very, very close indeed to what Mr. Drew offered except Mr. Drew offered a vote on the alternative which would be determined simply by who got the most votes for or against on the alternative, whereas, this would add an additional factor into the computation. I'll answer any questions. I would also point out that this is susceptible as the earlier ones today to amendment to change the words in the box if you want to. But, we keep those two propositions separate and we do not endanger a defeat of the whole constitution or having the whole constitution declared illegal because of the form of our ballot.

Questions

MR. HERNANDEZ

Mr. Burson, you know out in this state there are a lot of people that are more interested in a Board of Elementary and Secondary Education than there is interested in boards of higher education, that is, especially true over in my part of the state, I think, you will find it other places equally interested in the Board of Elementary and Secondary Education. You have not mentioned in your box here a Board of Elementary and Secondary Education. Would you object to including in that, for instance, on the second line after "members" strike out the "and" and put in place a comma ", three management boards for governance of higher education" and change the period "." to "and a Board of Elementary and Secondary Education." Would you care to include those in your box there?

MR. BURSON

Mr. Hernandez, of course, the three management boards are in the constitution; this is the alternative. I would have no objection to adding "and board for elementary and secondary education" to the language of the alternative because that....

MR. HERNANDEZ

No, it says the proposed constitution includes, at the present time, a Board of Regents and three management boards.

MR. BURSON

Oh, I see, you mean add that in the box. No, that's fine.

MR. HERNANDEZ

I think you would improve an already good proposal here if you could include in that "and a Board of Elementary and Secondary Education." Out in the rural sections they are especially interested in this Board of Elementary and Secondary Education.

MR. BURSON

I would have no problems at all with such an amendment.

MR. HERNANDEZ

Thank you very much, sir.
Would you include that or should we offer an amendment?

MR. BURSON

Well, I'm afraid if we get back and forth up here we may get confused. I would just certainly think that such an amendment would be entirely in order. I would like to try and get the form passed as it is to split those issues of the constitution in the alternative because I think it's essential to do it. I'm not saying that this completely eliminates, I believe it was Mr. Gravel that pointed out that probably nothing we can do will completely eliminate legal questions because I went up to the Law Library up on the twenty-fourth floor last night and looked and West has got a fine key number that leads you into where the cases should be on this topic and there aren't any cases. But, the point is, it seems to me that we need to separate these two issues so in this battle over education we don't sink the whole ship in case something is found to miss in what we do. I would emphasize again the formula for deciding whether the alternative goes into the constitution splits the middle between those that say you ought to have a majority of all of it and those that say that you ought to have just a majority voting on the alternative.

MR. ANZALONE

Jack, if your amendment is successfully adopted, would you have any objection to what may amount to a technical amendment rather than have your blocks on the left for Issue No. 1 and on the right for Issue No. 2 to drop down below your alternative proposal and put your blocks on the left and say one would be for the alternative and the other one would be against the alternative?

MR. BURSON

Absolutely not, that would be a more rational setup.

MR. CONROY

Mr. Burson, in the box where you say the alternate has to be approved by at least a majority of those voting in favor of the constitution. Now, you didn't intent to restrict the vote on the alternate to those who voted in favor of the constitution, did you?

MR. BURSON

No, sir, Mr. Conroy. We are simply using that as a gauge for determining who is successful, which is the theory advanced earlier this morning by Mr. Kean in his original proposition which would have prevented those voting against the constitution from voting on the alternative. This doesn't prevent them from voting on it, but it relates the results of the alternate to the total number of votes cast for the constitution.

MR. CONROY

Let me make sure I understand it. A person could vote for either one or the other proposal....

MR. BURSON

Absolutely. You could go in the voting booth and vote on Proposition No. 1; you could vote on Proposition No. 2; you could vote on both; that's up to you.

MR. CONROY

And, each one would pass according to whether they received more "for" votes or "against" votes on that particular proposition except that in the case of the alternative, it would have a certain minimum....

MR. BURSON

It must also receive at least half of the favorable votes cast for the constitution.

Further Discussion

MR. ABRAHAM

Ladies and gentlemen, I've sat here all day long and listened to all this talk that's been going on. I've been amazed. I've been dismayed at the number of people that have got up before this microphone and how we've beat this dog from one end of this chamber to the other, how we've talked ourselves in circles. I've been dismayed to hear attorneys sit up here and say, "I can argue either side of it." If the legality of anything that we do here is that shaky whether he can argue either side of it and thinks he can win, then I think we ought to get off of that particular issue. But, I am very disheartened

at the way we are going about this on this last day where we've got a good constitution and we're going to hang it all on this one Education Article because some of us just don't want to give anywhere; some of us don't want to give an inch. Now, I have already made up my mind I'm going to go out, sell this constitution, even though there may be some things in here that I don't like. I'm going to argue for the things that I don't like as well as the things I do like because I think we do have a good document. But, we've argued and you've argued ballots and we've given examples. I have here a sample ballot from Montana and it's set up for the proposed constitution against the proposed constitution and a block that says, "The proposed constitution will include a bicameral legislature unless a majority of those voting in this election vote for a unicameral legislature." and then it says vote for one and down before there are two places to vote--for an unicameral legislature or for a bicameral legislature. Then, on the same ballot there is the proposition for allowing the people of the legislature to authorize gambling, against allowing people of the legislature to authorize gambling. So, you've got a proposition with "for" for two different propositions; you've also got another one that's "for and against." The Illinois ballot does the same thing.

Point of Information

MR. ANZALONE

Mr. Chairman, what is going to happen to this resolution after it's finally adopted?

MR. CASEY

Mr. Anzalone, now I don't think that was appropriate.....

MR. ANZALONE

No, sir, the reason I'm asking you, Mr. Chairman, is because it's after six; we have a midnight deadline, and I would like to know how much work is going to be necessary to get done before we can actually, finally adjourn?

MR. CASEY

The Clerk just said ten minutes ago, three hours of work between the time it's adopted and the time that we can adjourn, Mr. Anzalone. The Clerk can correct me if he wishes.

Mr. Abraham, you have two minutes left for all proponents.

Further Discussion

MR. ABRAHAM

All right. The Illinois ballot is set up the same way where you've got to vote for or against the constitution. Then, there are the alternatives there where you vote either for one or the other; it's an "or" proposition on the other two. Then, on the same ballot, there is a "yes" and "no" proposition. The point I'm trying to make is that in both cases the people were given a chance to vote for or against the constitution itself, notwithstanding the alternates. Then, they were given a chance to vote for either one alternate, or the other, or to vote for or against the alternate. So, I tell you it matters not what this language at the bottom says whether it's for or against, for, for or how anyway you want to set it up. But, it does matter that the people are given a chance to vote either for or against the constitution. As we have it set up now, we are not giving the people a chance to vote for or against the constitution as we have adopted it. The Perez amendment disallows this. So, I think we need to get back to the type of language that we have here with the Burson amendment and give the people a chance to vote for or against the constitution. Then, we can debate the issue or the people can decide the issue of just what type of alternative educational setup they may want to have. Any way you cut it, we're not telling the people the full story on the two Educational Articles. There are many differences in these two educational proposals, but the one thing that they are going to look at is the number of boards. They are not going to be worried about the duties of the superintendent of education. They are not going to be worried about the geographic distribution of the members, or the difference in the way of selecting the Board of Regents. But, they are going to be looking at whether you have the three management boards or not; I think this is going to be the whole issue. So, I think as we have it set up here, it's far better than what we have in the Perez amendment. I would have preferred the Jenkins amendment, but.....

MR. CASEY

You have exceeded your time, Mr. Abraham; I'm sorry, sir.

MR. ABRAHAM

I urge the adoption of the amendment.

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[Previous Question ordered. Amendment adopted: 102-17. Motion to reconsider tabled.]

Chairman Henry in the Chair

Amendment

MR. POYNTER

Mr. Pugh sends up amendment that reads as follows:
On page 4, line 17--it's on your desk--immediately after the figures and punctuation "591," and before "and 593" insert "671 (C)"

Explanation

MR. PUGH

Mr. Chairman and fellow delegates, this is an amendment I proposed earlier when the question arose on the "for" and "against." In my opinion, there's no provision in Act 2 for a "for" and "against" vote as was just passed. By adopting this amendment we make specific reference to the statutory provisions which would allow such a vote. I think it's absolutely essential that it now be in the resolution.

[Amendment adopted without objection.]

Motion

MR. SHANNON

Mr. Chairman, I would like to make a motion that this convention limit itself to a consideration of any further amendments after this next amendment coming up.

MR. HENRY

You move that we don't consider any other amendments? Is that....

MR. SHANNON

We do not consider any other amendments.

MR. HENRY

On this proposal?

MR. SHANNON

On this resolution.

Point of Information

MR. PEREZ

Point of information. Will this resolution have to go to Style and Drafting? If it does, we'll have a problem.

MR. HENRY

Yes, sir. Are you...you're not referring to Style and Drafting amendment.....Mr. Shannon.

MR. SHANNON

No, sir....

MR. HENRY

All right.

MR. SHANNON

Not to Style and Drafting; no.

Point of Information

MR. NEWTON

Suppose this resolution fails to pass? Wouldn't it be.... what will we have to do, suspend the rules again before we would be able to offer an amendment?

MR. HENRY

Well, you know, you can undo what you do. I think what he was trying to do was just speed along the process. Let's just see what happens with the Hernandez amendment, Mr. Shannon, if you will.
Read the Hernandez amendment.

Amendment

MR. POYNTER

Maybe I can explain it better than reading all of the directions

to you. Take out the text of the language contained in the box there "for the alternative" and insert in lieu thereof: "The proposed constitution includes one Board of Regents with all appointed members, three management boards for governance of higher education, and a Board of Elementary and Secondary Education. If the following alternative is adopted by a vote which is at least a majority of those in favor of the constitution, it shall replace the Education Article in the proposed constitution." It just adds "in a Board of Elementary and Secondary Education."

Point of Information

MR. SUTHERLAND

Isn't the elementary and state board of elementary education in both the original proposal and in the alternative proposal?

MR. HENRY

It's my appreciation that it is, sir.

MR. SUTHERLAND

Then, why does that have to appear on this....

MR. HENRY

Well, the gentleman can offer it in a form of an amendment; it's up to the delegates to determine, Mr. Sutherland.
Proceed, Mr. Hernandez, and explain it.

Explanation

MR. HERNANDEZ

Mr. Chairman and ladies and gentlemen of the convention, the only purpose of this is to add in there that the proposed constitution also includes a "Board of Elementary and Secondary Education," that's all it does. There is no need of my taking up more of your time, that's all there is to it. The reason I do this, ladies and gentlemen, is because there are so many people--now, especially in the rural sections of this state--that are more interested in a Board of Elementary and Secondary Education than they are in any of the other boards. This will just let them know there is a Board of Elementary and Secondary Education there. Thank you very much.

Questions

MR. JUNEAU

Mr. Hernandez, I'm at a complete loss to understand this. As I appreciate it, the reason for putting things on the ballot is for simplification; isn't that right, the language you want to put in there?

MR. HERNANDEZ

Yes, sir.

MR. JUNEAU

How come, Mr. Hernandez, that you want to put in the proposed constitution that you have one board for the Board of Regents, then one for the lower board? Then, when you get down to the alternate, you're going to indicate to the people that we're just going to have a Board for Regents and make no indication that there's going to be a lower board. Wouldn't that be indicating to the people that they won't have a lower board if they vote for the alternate?

MR. HERNANDEZ

Mr. Juneau, I have no objection to your putting one in down there. I thought about this, you mentioned all the other boards here. If you're going to mention all the others, why not say a Board of Elementary and Secondary Education? But, I have no objection to your putting in this same phrase down there.

MR. JUNEAU

I didn't draft the amendments. You did. I wonder why you didn't put it in like that?

MR. HERNANDEZ

Well, I didn't even think about that. I was just trying to get one in this box here.

MRS. CORNE

Mr. Hernandez, I have just about the same kind of question that Mr. Juneau had; in fact, he did ask my question. I will go further and ask you this: Do you know that there is a prohibition now against any other amendment coming after yours? Therefore, I don't believe it would be possible to amend your amendment in order to include elementary and secondary education in the

alternative. Did you know that I would, therefore, have to vote against your amendment and ask the people to vote against it because it's definitely not fair?

MR. HERNANDEZ

Mrs. Corne, I had no idea that you couldn't offer another amendment when I placed this in there. It just went in there in a hurry to try to get this ready, to make it as short as possible, to get this so that they'd know the other boards are listed--Board of Regents, all appointed members; three management boards of governance of higher education; and a Board of Elementary and Secondary Education--because the people in my area were definitely interested in that. I have no knowledge that there would be such a motion offered to preclude any other amendments.

MRS. CORNE

And, of course, Mr. Hernandez, I know you to be a very fair man and one that would be concerned with all of the people, not only the people in your district. Do you know that the people in my district are also very much interested in the boards, say, elementary and secondary education?

MR. HERNANDEZ

No, ma'am, I didn't know how your people felt, I just....

MR. WEISS

Delegate Hernandez, in an attempt to straighten out this inequity, would you withdraw your amendment and simply add to it the same phrase at the end of the alternate? Then, we can vote on it one way or the other. I think that's what you had intended to include, the expression "a Board of Secondary and Elementary Education" in both the box and in the alternate. Would you withdraw and do that and then let us vote on it and get it to?

MR. HERNANDEZ

I would be delighted to do that, if that's acceptable to the Chairman, to withdraw it temporarily to add on the alternate the same phrase exactly.

MR. STINSON

If he withdraws it, he can't reintroduce it, can he?

MR. HENRY

Well, Mr. Shannon withdrew his motion there, sir. You withdraw your amendment, Mr. Hernandez?

MR. HERNANDEZ

Mr. Chairman, if it's agreeable with you, I will be happy to withdraw this for the purpose of adding this same expression in the alternative proposal.

[Amendment withdrawn.]

Point of Information

MR. THOMPSON

Did they withdraw that after this more could be amended?

MR. HENRY

Yes, sir.

MR. THOMPSON

Well, would it be in order that after this is straightened out to keep us from being here until midnight trying to rush something through at the last minute to make such a motion then?

MR. HENRY

Mr. Thompson, we may take about a five minute recess to kind of find out where we are here in a minute because every time we look around somebody's coming up with some different concept on how we are going to put this confounded thing on the ballot. I would ask the delegates, I would ask you for goodness sake, if you are interested in the thirteen months we put in to quit drawing these amendments without rhyme or reason unless you are certain that you know what you're talking about. I know we are working under a difficult, difficult schedule, but we are going to make a very serious mistake if we're not careful.

Point of Information

MR. BURNS

Mr. Chairman, didn't we pass a motion just now on this

particular proposal that we would accept no more amendments other than the ones already in?

MR. HENRY

No, sir. The gentleman withdrew that motion, sir.

Amendment

MR. POYNTER

All right. In brief what it does, immediately after the words "the alternative is" at the bottom of the Burson amendment--in addition to what it's already done--it strikes out that sentence and inserts "one Board of Regents for higher education, elected and appointed members and no management boards, and a Board of Elementary and Secondary Education."

MR. HERNANDEZ

Mr. Chairman, this puts exactly the same words in each side, as wanted. The sole purpose of it is to let people know when they vote on this that they are including in this then...either one they vote for a Board of Elementary and Secondary Education, which is of prime importance to most of the people in this state--that is the only change. They both have this...exactly the same wording now; I ask for your consideration. Thank you.

Personal Privilege

MR. WOMACK

Mr. Chairman, who is out of the chair, I would like for you... I've saved my ten minutes until tonight, and I've been saving it three weeks. I don't care whether you like the final document submitted or not. There are some parts of it I like; there are some parts of it I don't like. You may say that we ought to put this off for ten years and supposed let's come up with a better document and that sounds real good, except ten years from now, twenty years from now you're still going to have a L.S.U. You're going to still have the other institutions either under one board, or under school boards, or under five boards, or under something else and the others aren't going to particularly like L.S.U. because they are not as large and old L.S.U. is going to try to keep them from beating L.S.U. We're still going to have elementary and secondary education; there will be some unhappy spots there. We're still going to have agriculture that's got this special selfish interest. You're going to still have the Public Service Commission's institutions that's under them, and they are going to have their special interest. You're still going to have local government. You're still going to have taxes. We're still going to have natural resources. I would hope that ten, fifteen, or twenty years from now we'll still have this similar three branch government as we have now; namely, the Executive, Judiciary, and the Legislative. I feel certain we'll still have electors throughout. I'm of the opinion that they would still have their peculiar ideas of what they want. We're still going to have big industry. We're going to have PAR; they're going to have their selfish interest as to what they want. We're still going to have banks. If we don't adopt this, you're still going to have the 1921 Constitution and it will be just as bunglesome and out of date as it is today plus another ten, twenty, or thirty years. If you have a new convention, you're still going to have some lawyers and going to have some attorneys. You're still going to have Channel 2, 4, 5, 7, 8, 9, 10, and 12; the Associated Press, UPI, and all the local newspapers in the respective parishes. You'll still have the churches. You'll still have the institutions. We're going to have every special interest that you've got today. You're going to have every sacred cow you've got today. I don't know that you will have as good a staff working on another convention as you have now. I have no assurance that you will have a more dedicated group of people to try to put together another proposed constitution as you have now. I seriously doubt that you could get a better cross section anywhere in the State of Louisiana; you have every kind in the world here today. I respect every person here today, their dedication. Once in a while I question their judgment; I'm sure you have questioned mine. Back at home we are still going to have the uninformed, the misinformed, the disinterested, those that misunderstand it. You're going to have a combination, then, among all of those items. We'll just have a group of people that's going to try to save the country with us. You'll have another group who want to save the country from us. We'll have a few people that want this, and we'll have a few people going to call their neighbor to see if he has gone fishing--all of these are still going to be around. What I'm trying to say here now, we've got to admit whether it altogether suits me or whether it doesn't altogether suit me. Ten, twenty years from now, five years from now if a document is put together in this state, we're going to have every special interest group that you've got here today with every pressure that you've got here today and none of them are going to change. When

they come together with their document, by far and large the document they propose is going to be darn close to what's proposed today unless massive changes have been made on the entire governmental or economic structure or both of them. The point I'm trying to get over now is this, it's easy to be against, very easy; it's a little bit harder to be for. To be for it they are going to ask you why and someone came over a while ago, a very fine gentleman in this crowd, and told Mr. Munson; he said, "I'm for this." Bob asked him "Why?" and that's where the conversation really stopped; it's a little bit hard to say why. It's not too hard to be against; it requires no intelligence, no knowledge, no character, no work, absolutely no anything. I'm just against it; I don't understand it; it could be unconstitutional. Who knows how far it's going to lead us, how far it's going to mislead us? But, I think in general when we leave here, I think we need to recognize that any document you put together in the State of Louisiana-- and I've made this statement since the first day the constitutional convention was called--has got a problem because Louisiana has had the longest constitution in the nation of any state. By the same token, it's had the most complex and probably has more sacred cows than all other constitutions in the nation put together. Everybody is for good government as long as it's for somebody else and let me have mine like I want it. I think when you go back home they will be for or against. I think these are some of the things that you need to keep. But, while I'm here, and I don't know how long I'll stay; maybe I'll stay till twelve, one, or two with everybody or maybe I'll leave fifteen minutes early. But, I will take this time to tell you that during this convention I've developed a very, very healthy respect--although I had no disrespect to start with--for every delegate in this convention. I appreciate the fact that these heartfelt items, like this one we are on now, he's done it because he was trying to represent, not necessarily a selfish interest, but what somebody wanted; he just done it because he felt like it was in the best interest of the state. But, somewhere down the line those people you were closest to keep telling you how good the position they want you to take is. Again, I won't be back up here for anything; I'm going to listen, I've done that for three weeks. But, I hope the best of everything for the delegates of this convention. I hope that each of you has a bright future and many, many years of it. I appreciate your courtesy and kindness and the attentive manner in which you've sat at your seat tonight. If I can help any of you as we go through legislative circles, I'd appreciate you coming by. Thank you.

Closing

MR. HERNANDEZ

I had completed my remarks and it has been amended to put the same phrase in both propositions; it's exactly the same. If I have a right to close, I'll waive that right.

[Previous Question ordered. Amendment rejected: 48-79. Motion to reconsider tabled.]

Amendments

MR. POYNTER

Mr. Jenkins and Mr. Drew at this time send up amendments. This amendment is, in essence, identical to the amendment that has been passed out to you and was, in fact, previously adopted by this convention. Mr. Jenkins, it is necessary--I didn't have a chance to mention this to you, but I did talk to your other cosuthor--to add an Amendment No. 2 to delete the Pugh amendment because if this amendment should be adopted that section that Mr. Pugh had adopted relative to the "for" or "against" propositions concerning that particular revised statute needs now to come out. So, it has Amendment No. 1 setting forth the text of a last Jenkins amendment previously adopted. Amendment No. 2 would delete the Pugh amendment just adopted. Now, if anyone does not have--in fact, I think we've got enough distribution copies of this one, again the pages are passing them out--certainly if you don't have a copy of that amendment still at your desk, raise your hand. This deletes all prior...maybe I didn't make myself clear. This amendment as offered by Mr. Jenkins would delete all prior amendments affecting the ballot construction and that, of course, includes the last amendment by Mr. Burson that was just adopted. In addition to the copies just passed out, it would have the effect of striking out Convention Floor No. 1 proposed by Mr. Pugh to page 4, line 17 just adopted, as I understand that provision needs to come out if this amendment is adopted.

Explanation

MR. JENKINS

Mr. Chairman, there's really not too much I can say on the

merits of these issues. The only thing I can say with regard to this amendment is that it seems to be about the only thing that everyone can tolerate. The purpose of having an alternative on this ballot is to get us votes for this constitution. But, it seems like what we have now and most of the things that have been discussed tend to lose us votes. That's why this is being offered because I assure you that in our discussions everyone was not happy with this, but it was a sort of compromise that everybody felt like they could live with and tolerate. With regard to the length, I want to remind you that on the ballot you have different sizes of print. Undoubtedly, the instructions and the discussion around Point 2 would be in much smaller type so that the thing that would stand out to the voter would be the two propositions that they would be voting on. So, I urge the adoption of this amendment.

Questions

MR. FONTENOT

Woody, this past couple of minutes did you vote for the Burson other amendment that just passed by 102-19?

MR. JENKINS

I sure did because I thought that the amendment before that that was pending at that time did serious violence to this constitution. I think that if we had let that stay in, that we would have been subject to very serious court challenges if the voters had approved it. That's why I voted against it because I think most anything I would have been....

MR. FONTENOT

You voted against it; you said?

MR. JENKINS

I mean that's why I voted against it when it was enacted, and I voted to repeal it and put in the Burson amendment because I thought that most anything would have been better than that.

MR. A. LANDRY

Mr. Jenkins, would you mind having some more coauthors on this amendment with you? Would it be all right to open the machines for coauthors?

MR. JENKINS

I'd be happy to accept you, Mr. Landry.

Further Discussion

MR. DREW

Mr. Chairman, ladies and gentlemen of the convention, our whole thirteen months work hinges on the action that we take, and we don't have too much time in which to take action. I offered an amendment which was very similar to the Jenkins' amendment except mine was a "for" or "against" proposition. The amendment he's offered was adopted earlier today by, I believe, eighty-eight votes. The only change there is is that you vote for the alternative or for the provision in the present proposal. I think it's time that we get off of high center. We've got to; we don't have the time that we've had in the past. I think this is an amendment that creates no injustice. I don't think it does or creates a favor in favor of one side or the other. I think it is as neutral as you can get, and certainly, that's what we want. I think everyone wants that or should want that placed on the ballot. I urge your adoption of this amendment, and let's move on with the business of the convention.

I'll yield, Mr. Fontenot.

Questions

MR. FONTENOT

Mr. Drew, doesn't this have the same constitutional question that the original Jenkins proposal had this afternoon or this morning: that is, the fact that a majority of the people voting for or against the constitution won't necessarily control the minority who might vote on the alternative; isn't that correct? Isn't there a constitutional question that might be...

MR. DREW

You mean that either alternative would have to get the same majority as the constitution?

MR. FONTENOT

Right.

MR. DREW

I don't think that's a constitutional question there. I don't think it's serious at all, if any question there.

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I ask for the adoption of the amendment, and let's move on with our business.

Further Discussion

MR. KEAN

Mr. Chairman, fellow delegates, I'm going to be very brief. I rise only because I didn't want Mr. Jenkins' comments about the consensus on this amendment to be misunderstood. I did attend a meeting in the Speaker's Office concerning this matter, and I did not agree with the Jenkins amendment being reoffered. I make my position plain. I have fought here all day because I felt it imperative that the alternative proposal not be in a posture where it could be adopted by a minimum number of voters contrary to the will of the large majority who might vote for the constitution with the other provision in it. It seems to me that this does violence to that position, and therefore, I can't support it. It further seems to me that, when I worked with Mr. Burson on the amendment which he offered and which got about 102 or 107 votes just a few minutes ago, that that was a half way between proposition. It avoided the question of the possibility of a small number of voters approving the alternative. It put a floor, so to speak, on what it would take to adopt the alternative proposal, and under those circumstances, I fully supported Mr. Burson's amendment. As a matter of fact, I suggested it; we drew it before Mr. Perez ever came forward with his proposal. It's a little bit unfair in my opinion to say that the only reason the Burson amendment was adopted was because of the Perez amendment which had preceded it. I think the Burson amendment represents a reasonable basis for a solution to this matter, and for that reason, I oppose the Jenkins amendment.

Questions

MR. WEISS

Delegate Kean, could you explain to me what the significance of the majority vote in either of the two amendments that we are now discussing and the significance of this majority vote in the alternate proposal that the public would select from?

MR. KEAN

The difference as I see it, Doctor, is that if we require, and certainly we have to require, a majority of those who vote on the constitution to pass it, and then we say that it only takes a majority of those who vote on the alternative to pass the alternative, you simply end up, in my opinion, with a situation where a minority interest could pass the alternative even though a large majority had adopted the constitution. That's the reason I supported the Burson amendment because at least it tied into the two together and would have required fifty percent of those who voted for the constitution in order for the alternative to pass.

MR. DE BLIEUX

Mr. Kean, do you realize that we might have a lot of voters who would be interested in adopting the constitution but would not be near as interested in which board that we had, and therefore, would not cast a vote either way?

MR. KEAN

Well, they've got a right to vote under the Burson amendment for the constitution and against it and walk out of the polling booth if they want to.

MR. DE BLIEUX

Well, that's the reason under this particular proposal we have here--the Jenkins' proposal--wouldn't that give those people the right to go in and vote for or against the constitution without having to make a decision on the boards?

MR. KEAN

Sure; so would this one.

MR. DE BLIEUX

Now, isn't that their constitutional right to do so?

MR. KEAN

I don't deny them that right. We didn't deny them under the Burson amendment that right.

MR. DE BLIEUX

Now, haven't we had a number of constitutional amendments submitted where that we'd have maybe five or six times as many votes cast upon one as the other, but it would not invalidate those who had a majority?

MR. KEAN

Senator, there's no use you and I arguing this matter back and

forth. You've been at difference with me all day on this subject. The constitutional amendment is different from this alternative proposal, as I see it.

[Record vote ordered. Amendment adopted: 96-22. Motion to reconsider tabled.]

Point of Information

MR. CANNON

Question of the chair, Mr. Chairman.

This did not undo the Anzalone-Rayburn amendment that was previously passed?

MR. HENRY

No, sir.

[Previous Question ordered on the entire subject matter.]

Closing

MR. PUGH

I move the adoption.

MR. HENRY

Mr. Pugh, that was a beautiful speech.

[Resolution adopted: 108-14. Motion to reconsider tabled. Motion to take up Reports of Committees adopted without objection.]

Report of the Secretary

[II Journal 1403-1405]

REPORTS OF COMMITTEES

[II Journal 1405-1406]

[Motion to suspend the rules to consider the proposal contained in the report adopted without objection.]

PROPOSALS ON THE CALENDAR FOR APPROVAL OF FINAL STYLING

Committee Proposal No. 38

MR. POYNTER

The amendments are being passed out at this time. As I appreciate it, they go up through Part III but do not include Part IV; is that correct?

MR. TATE

Of Article XIV.

MR. POYNTER

Of Article XIV.

Amendments Nos. 1 through 14

MR. TATE

Mr. Chairman and fellow delegates, while the amendments are being passed out, I will try to explain very briefly something that I hope will take little time for your consideration and approval. The Committee on Style and Drafting approved these recommendations unanimously. The Chairman of the Committee on Legislative Liaison has checked with the subcommittee of her committee; they find no objection. As you may remember last night, we reached agreement on the rearrangement of all the provisions we have adopted up through what would be Article XIII of our new proposed constitution. We're now talking about the transitional measures...provisions that will appear in Article XIV. If you have your outline, it's the last article, the one we did not get to last night. We had transferred before--in last night's action--about twelve provisions that had earlier been adopted as part of the constitution, and they in the main form Part I, Part I of your new Article XIV. This morning we had circulated, thinking we would reach it about ten and had no time to retype...(That's a funny, supposedly) what up here says "Committee Proposal No. 38, First Enrollment". We cut and pasted it to show the general changes in ink that we

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had added to these proposals. We are right now circulating... They are mostly, as you notice, renumbering--renumbering and changing certain language and certain numbers to conform with the previous renumbering we've just gone through. Attached to the back of that as it was circulated is a yellow page, which is the one caveat amendment which involves the deletion of some language that was thought to be unnecessary. I'll explain that. Then, subsequently, circulated to you was a corrected yellow page, which, if you want to follow the instructions, you go "Presto!" throw the first sheet away, take the second one, and so on. Now, without explanation--and Senator Rayburn says he figures I get by with this because nobody figures a fellow who talks this dumb can be slick. Now, with that little preface, these amendments, Amendments 1 through 15, that you see there...that you see before you on the front and back of that page, they are to the final enrolled copy or the first enrolled copy of Committee Proposal No. 38, which you may have. But you may also use if you want the xeroxed copy.

I'll yield to a question, Mr. Chairman.

Question

MR. O'NEILL

Judge Tate, I was wondering if you thought it would be possible that we could adopt Amendments Nos. 1 through 14 all at once together?

MR. TATE

Well, Mr. O'Neill, that would deprive me of the chance to waste your time, but I think simply speaking...simply yes because it's simply renumbering and a reordering that has been checked throughout. I would, Mr. Chairman, in the absence of objection, then, move the adoption of Amendments 1 through 14. If there's even one objection, I'll go in a slower series, but in the absence of objection, I move the adoption of 1 through 14, subject to any...

[Amendments Nos. 1 through 14 adopted without objection.]

Amendment No. 15

MR. TATE

Mr. Chairman, Amendment No. 15 may require a brief moment of explanation. Amendment No. 15--now if you will look at page 13 of this dummy (not me, at the top of that page it says-- the former Section 24--it says "(A) Property Taxes. The provisions of Article X of the Constitution of 1921 relating to ad valorem taxes shall remain in effect until the provisions of the subject contained in Article VIII of this constitution take effect." However, if you will notice Section 13, which is on page 6 of your dummy which you have previously put there and taken out of the former Article VII of our constitution put here, has the exact transition schedule. It says the only things that don't come into effect on the effective date are the new statewide evaluation on the basis of fair market value and use value--that's Section 18--and the only thing that doesn't come into effect is a new and more generous homestead exemption on Section 20. It doesn't come into effect until we have the statewide readjustment within three years of this effective date. So, the inclusion of this language did not only duplicate what was held earlier but would create some confusion because there would be some confusion whether the old exemptions in Article X of the former constitution were continued in effect for three years, or whether they conflicted with the new exemptions under the new constitution which come into effect on the effective date. Now, after quite a great deal of experience, there was found to be no objection...

Questions

MR. TOBIAS

Judge, would you move the adoption so we can get on to Style and Drafting so we can get out of here tonight.

MR. HENRY

Take it easy, Mr. Tobias; you're going to live through this.

MR. THOMPSON

Judge Tate, do you mean that possibly for the next three years that we'll have a hundred percent evaluation of all the property in the state?

MR. TATE

I would say, Mr. Thompson, that under the provisions of the article that you've adopted--under either provision...of the

amendment that you're deleting or under the Revenue and Finance Article that we have adopted....no. The present situation continues until it's replaced.

MR. THOMPSON

I want your answer. I don't want all these that's telling you what to say to get out of here.

MR. TATE

I would say that under the intention of the new article, and of both provisions, was to not require the new schedules to come into effect until three years following the adoption of this constitution. Does that answer your question? It doesn't quite; does it?

MR. THOMPSON

No.

MR. TATE

Well, whether the present constitution requires a hundred percent assessment, of course, is a matter of some litigation at the present time. If it does, that will not end until... for three years. Yes, sir.

MR. DE BLIEUX

Judge Tate, isn't it the provision in the constitution that the new reevaluation, new schedules, will not take place until three years from the effective date of the constitution?

MR. TATE

Yes, sir.

MR. DE BLIEUX

Now, isn't this particular provision in order to take care of that and allow the 1921 Constitution to remain in effect until that particular time?

MR. TATE

Yes, sir.

MR. DE BLIEUX

And isn't it true that this also takes care of the veterans' exemption, make that particular portion stay in effect until the effective date of the new constitution.

MR. TATE

Yes, sir. Section 13 does do that.

MR. WINCHESTER

Don't you know that we're now assessed at one hundred percent?

MR. TATE

Yes, yes, Mr. Winchester.

[Amendment No. 15 adopted without objection.]

MR. TATE

Mr. Chairman, with that we have now concluded everything that has happened, and this is a new Part III of the Article XIV. We have only to recess--at least could we have leave for Style and Drafting to meet for about ten or fifteen minutes to report on what happened today and report back on that, Mr. Chairman? I would request that leave.

MR. HENRY

All right. If you'll give me just a minute. Let the Clerk get through talking with his mother here.

Point of Information

MR. O'NEILL

Mr. Chairman, I simply want a point of information if we didn't need a record vote on Amendment No. 15, since it was inserting a new section.

MR. HENRY

No, sir, we didn't. Thank you, sir.

MR. TATE

Mr. Chairman, I might say that it was just deleting a Section

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(A) out of that and renumbering (B) into what...but it's an old section with the renumberers. Thank you, Mr. O'Neill, though; we might have overlooked it. Thank you.

All right. Now, while we're adjourning, we're going to now pass out to you what a subcommittee has proposed to our committee for the minor stylistic changes in what was passed by way of Delegate Proposal No. 98. This morning we approved in principle the thought that this would probably form Sections in Part IV, but this is tentative. But, the internal portions you will wish to see because they just changed section references.

[Motion to revert to Introduction of Resolutions adopted without objection.]

INTRODUCTION OF RESOLUTIONS *[II Journal 1407]*

MR. POYNTER

To introduce a Delegate Resolution to be numbered Delegate Resolution No. 53.

A resolution relative to the printing and distribution of copies of the constitution throughout the state.

"BE IT RESOLVED by the Constitutional Convention of Louisiana that the publication of the constitution in the official journal of the state prior to election and the printing and distribution of copies of the constitution throughout the state prior to the election shall be accomplished and paid for by the convention. The Executive Committee is directed to do all things necessary and proper to accomplish the same."

[Motion to suspend the rules to consider the resolution adopted without objection.]

Explanation

MR. DENNERY

The purpose of this resolution is to obviate any possibility that we may run into difficulties in connection with the official publication in the printing and distribution. Normally, these are handled through the office of the secretary of state, and in order to avoid any question, we wanted this resolution so that the secretary of state would have an official authorization by this constitution that he did not have to do this, that we would do it. We've already arranged for it as you know through the Public Information Committee, and this is merely to get it into the convention record so there will be no question. I ask its adoption, please.

[Resolution adopted without objection.]

Announcements *[II Journal 1407]*

[Rules Suspended to allow the Committee on Style and Drafting and the Executive Committee to meet.]

Personal Privilege

MR. WILLIS

Mr. Chairman Henry, with unanimous consent to my last personal privilege here, I speak with a deep sense of humility on this occasion. With great personal satisfaction and pride and pleasure, I announce that I am fully mandated to voice the grateful sentiments of your colleagues regarding your chairmanship. Real gratitude, like joy, is a feeling that can neither be concealed, nor suppressed; it has to be expressed.

Words cannot be sufficient recompense, because words cannot pay the debt we and our state owe you for your gratuitous stewardship, but they are our most honest recompense.

You have opened the doors of courtesy to let in the fresh air of friendship, the garment of good will.

One of the treasures of our lives is that we were privileged to have served together here. The close friendships which resulted and exist among us, all of us will endure for us to cherish as our fondest memory and priceless possession.

We vividly realize the depth of our love for each other at this hour nearing final adjournment and cannot omit the mention of your contribution to our great confraternity and our pleasant, productive, and constructive relationship which were facilitated by your stewardship.

You have made us tolerant of variety in opinions.

Because your authority was well employed and never in the face of doubt, it was never resisted and cheerfully obeyed. Your rulings

made common sense, and common sense is as rare as genius. Your genius for leadership continually manifested itself strategically, directly, and forthrightly at the heart of the target. You were always in the arena. We have all looked to you for wise counsel, and rigid standards of integrity and conciliatory and mutually-just negotiations via the "Henry Huddle." Throughout the storms of one emergency after another, of some clinging to the status quo and others to imaginative measures, your counsel and firm guidance brought us through to reasonable achievement.

Our constitution, which will favorably alter the face of Louisiana, was hammered out under your gavel to its final form by the most democratic process under brilliant lights and while all the eyes and ears of Louisiana were upon us.

Under your capable guidance, we never lost the feeling of being in the presence of a tried, true, fair, and good commander, whether we had your agreement or opposition or whether you had ours. How wonderful it was to know that, whether you agreed with us or not, you had time for us. You knew the minority must be heard even if the majority must prevail, although God is not always on the side of the biggest squadrons.

You never manifested the arrogance of power and you are unsullied by pomp and bluster. The bare fact is that neither opportunity nor circumstance to the abuse of power ever tempted you.

Your spirit saw to that because your use of persuasion was more pronounced than your use of power. You adhered to my first prayer opening a day's session.

The benevolence of your love, guidance, and leadership is written in our document, and your shadow will reach across the length and breadth of our state as this document is contemplated by our people, because no man can detract or add from your accomplishments here. Your scales of decision were not altered to accommodate the majesty of any other power or prestige than righteousness under our rules.

Your decisions on questions of order were prompt and impartial. Our parliamentary inquiries received full and fair response; personal privilege was allowed to any to puff; you never prompted the previous question; so, your deportment toward the delegation was with patience, good temper, some levity, yet dignified, and for the dispatch of the business of the convention, allowing fair exhibition of every subject presented for consideration.

In moments of agitation, from which no deliberative assembly is exempt, and which, to our credit, never resulted in physical combat, you were unshaken and firm and fair amidst the storms of sharp exchanges and, with the learned assistance of our esteemed clerk, who also served gratuitously, you guarded our rules from being sacrificed to the transitory pride, passion, prejudice, or interest of any delegate. You need not look back or have misgivings of your rulings or conduct during the heat of conflicting ambitions. You have acquitted yourself royally, even though we have no royalty in America. If we had, you would be a prince.

Your outstanding parliamentary skill enhanced our image of dignity and tradition as a diligently-deliberative body, which entitles you to immeasurable respect, esteem, and affection, and which all of us who had the privilege and honor to have served with you hold for you tonight.

Mr. Chairman, this is an historic occasion. Louisiana history is being made here today and you have been our chief architect, because history-making is habitual with you. Generations yet unborn will reap the harvest of your faithful devotion to and capable discharge of duty.

In simplicity, but with deep sincerity, we all join in paying this deserved tribute to a great Louisianian, a great American, indeed an All-American!

My regret is that I cannot vote for you in your district, but my wish is that someday I might when, I hope, your sphere is enlarged. At the pace you grow in governmental -- and now constitutional -- stature, I believe I might, as I consider the distinction your colleagues in this House, and this convention, have bestowed the highest office it was its and our privilege to bestow on you -- the leadership of the people's chambers.

We need not sell this constitution to our people. A sale has three ingredients: the thing, the price, and the consent. The people have the thing, our document; they have paid the price; we now only need their consent.

Reckoning that we, of this generation, are a living link between the past and the future because we are the present, I, as one of "We, the people" again give my consent to it here and now. I did not sign my name to it to make it more ornate. As delegate, lawyer, and citizen, I recommend and will recommend it to all Louisianians with the least bit of reserve.

I express premonitions that those who are hesitant will do likewise when more reliably advised and sincerely informed and will raise their own hue and cry of advice and consent.

The prologue to this assembly, the second act of our legislature of 1972, the monologues at this podium opening the debates on proposals and amendments, and the dialogues between the podium and

the interrogations from the floor maturing the debates will, I trust, entitle us to an epilogue of praise from our people when we present them our precise printed plan of government.

It is not and was never expected to be perfect. It is not the ark of the covenant. It is a better if it is not the best constitution for our state and one which any unselfish Louisianian may embrace.

Finally, Mr. Chairman, and before I return to my chair, I seize this last opportunity at the podium to express our profound thanks for your stewardship, and bid you farewell, with bon voyage; and bid to our entire, intelligent and industrious staff, adieu; and bid to all of you, my fellow delegates, au revoir.

[Motion to insert Delegate Willis' remarks into the official Journal adopted without objection.]

MR. HENRY

Mr. Willis, I know that they will...I appreciate that, on your behalf, more than you know. A perfect comment would be after hearing something like that, I think about all you could do with me is save me for breeding purposes, I guess. My wife is here I heard.

MR. JENKINS

Mr. Chairman, I would like to move that your last remark also be included in the Journal.

MR. HENRY

Don't insert it in the record if you're not going to do anything about it.

We will stand at ease for just a minute.

Delegate Chehardy in the Chair

Personal Privilege

MR. RAYBURN

I don't know of much I can say after you have heard from our good friend and fine delegate, Burt Willis. But, I would like to say in passing, I've had a lot of ups and downs in my lifetime and probably will have some more if I remain here very much longer. I have met a lot of new people here in this convention. I've found a lot of new friends. I hope that our labors will be fruitful. It's awful hard to satisfy the yen, as you and I know. I hope that we have a timely product that will comply with the wishes of the people of our great state. There's been a lot of us that maybe hasn't worked as hard as we should have. There's been others that in some time I felt they worked a little harder than they should have. I stand at this microphone this evening to pay tribute to a man that in my opinion has worked longer and harder than any other delegate, in my opinion, in our midst. Maybe you haven't always agreed with him. I've heard it said sometimes that they would rather he would put it in writing than words. But, regardless of how he done it, he done it. In my opinion, he's done an outstanding job. He afforded us with counsel and guidance when we need it most. To a man like me that neither has no formal education, I had to reply on people like him. Sometimes I was caught in a bind. I've listened to Dr. Weiss in this ear and Dr. Stephenson in this one. If you listen to them long enough, both of them have a worthy cause, and in some cases both convinced me they were right. But, let that be what it may. I just feel like that I wanted to do something for this particular person I've been talking about. I wanted to do something because I realized after hearing him talk on many occasion at this microphone that there was one thing that was uppermost in his mind, and that was letting everyone take a little bacon home. At this time, Mr. Acting Chairman, with your permission, I would like to ask two of my colleagues in the Senate, Senator Brown and Senator Lambert, if they please, to escort the Honorable Justice Tate to the rostrum.

Judge Tate, I'm fixing to present to you...down in front, please...you might have to stand up in just a moment, or you might even have to run. Judge Tate, I'm going to present to you something that I know is close and dear to your heart. On behalf of the delegates of this convention. We've looked long and hard to secure this gift. We have tried to take every means to see that this gift was helping, and at this particular time, I'm going to ask Dr. Mauberrret to come forth and present you with a health certificate before I make the presentation of the initial gift. Dr. Mauberrret.

Personal Privilege

MR. MAUBERRET

Mr. Acting Chairman and fellow delegates, I have the adoption and the official health certificates. We certify this registered animal is free from any contagious and infectious disease. This certificate does not certify that the animal is free of any

malodors and does not guarantee to be calm and docile. It is signed by Dr. Stephenson, Doctor of Chiropractics; Dr. Frank Ullo, Doctor of Dental Surgery; Dr. Gerald Weiss, M.D.; and myself, Dr. Claude Mauberrret, Doctor of Veterinary Medicine. It's attested to and sworn to and subscribed before me this 19th day of January, 1974 by E.L."Bubba" Henry, Attorney-at-law, Representative, Delegate, Speaker of the House, Chairman of the Convention and sometime Notary Public in and for the State of Louisiana.

So, Judge, this is a fine little fellow you've got here. Take him home on Octavis Street, and I know he's going to do real good in New Orleans with us.

MR. RAYBURN

Now, Judge, knowing that you are a man that believe in doing everything right, and certainly don't believe in discrimination against creed or color, this particular animal is black and white, and it has a real, nice pedigree, and to be honest with you, it's double bred. We did not have a chance to run the pedigree back for nine or ten generations but we did chase the pedigree back for at least three generations. The father of this particular gift is named "Pa Bel." The mother of this particular gift is named "Ma Tel Bel." The grandfather is named "Grand Graham Bel." Grandmother is named "Grannie Sou Bel." The grandfather of the mother is named "I.N. Tel," and the grandmother is named "A. Mary Nickel Tel" who deceased in '73.

Now, Judge, with this health certificate and with this pedigree, it is an honor and a privilege for me to present this nice gift to you. Now, Judge, before presenting it to you, I would only like to say this--I want to get the correct name where you'll know how to call it because it answers to its name--with all this back pedigree, the animal I am now fixing to present to you is "Sou Tel Bel." We did not know whether you liked your bacon fat, lean or mediocre. So, therefore, we're presenting you with this little gift, where you can produce it in the manner that you like it. It is now a pleasure for me to present "Sou Tel Bel" to you.

MR. CHEHARDY

Judge Tate, everyone would like to see him a little bit better. Would you pick him up, please?

MR. TATE

Listen, Senator, all I can say is "Oink!"

MR. BLAIR

Does anyone have a shovel?

MR. CHEHARDY

I'm just passing on Senator Blair's request. Would anyone have a shovel or be connected with someone who has one? Senator Rayburn, could you use your connections to clean up the trail of the pig?

MR. DERBES

Mr. Acting Chairman, I'd just like to point out that apropos his new master, the little fellow has just filed his first dissent in one of the sales.

MR. CHEHARDY

Will the delegates please take their seats?
Mr. Justice, now sit down with your little pig.

Chairman Henry in the Chair

MR. HENRY

Judge, you can stay, but your little friend's got to go.

MR. LEBLEU

Mr. Chairman, I think one of our former governors was remembered in history for riding his horse up the front steps. I just wonder whether Judge Tate would be remembered for having this pig in here?

[Motion to revert to Introduction of Resolutions adopted without objection.]

INTRODUCTION OF RESOLUTIONS
[II Journal 1408-1414]

Reading of the Resolution

MR. POYNTER

Next resolution is Delegate Resolution No. 54, introduced by

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Delegates Henry, Abraham, and all other delegates to the convention have been so listed as authors of the resolution.

A resolution to commend and express its sincere gratitude and appreciation of the Constitutional Convention of 1973, to Norma M. Duncan, Director of Research and her staff for the invaluable services rendered the convention.

[Motion to suspend the rules to consider all resolutions adopted without objection.]

Explanation

MR. CASEY

Mr. Chairman and delegates, at the appropriate time we also wish to later on give further recognition to certain individuals who have worked with the convention, but I thought it would be appropriate at this time to specifically recognize the entire Research Staff. I have a memorandum here which was worked up today that I thought would be of general interest to the convention delegates. I had been informed that of the members of the Research Staff, which includes all of the senior research people and the secretaries, etc., that a total--now this is the total hours spent in working for the convention in the area of research alone--have a total of 95,000 hours of research time by the Research Staff and its employees has gone toward work with the Constitutional Convention. Of that 95,000 hours, 15,000 of those hours were overtime hours where these people worked above and beyond the call of duty and which is roughly about fifteen percent of the hours worked were overtime.

I had the privilege incidentally of being Chairman of the Subcommittee of the Executive Committee on personnel and staff, and when we interviewed many of the research people and the employees, we asked them and they thought we might have been frivolous at the time whether they like to work twenty-four hours a day and seven days a week. They didn't realize that that would become a reality, particularly in the early days of the convention when the committees were being serviced and particularly now in the closing weeks of the convention when they really have put in many, many hours. . . long hours of long hard work. The convention staff comprised. . . of the research staff comprised overall on an average of about sixty employees at any one time. So, you can imagine the job that it was that our committee had to assemble that many good, efficient people on such short notice. I just think the research staff has done a fantastically, outstanding job and I would like to ask at this time that all the members of the research staff come out from behind the closed doors and please stand, and I think they're certainly worthy and due a resounding standing ovation from this group.

MR. HENRY

Come on out, Norma and folks.

MR. CASEY

One of the reporters remarked he wanted to find out when do they file suit for their overtime, Mr. Chairman.

[Resolution adopted without objection.]

Reading of the Resolution

MR. POYNTER

Next resolution, Delegate Resolution No. 55 introduced by Delegate Henry, other delegates of this convention.

A resolution to commend and express the appreciation of the Constitutional Convention of 1973, David Poynter, Chief Clerk, and his staff for the services rendered the convention.

WHEREAS, David Poynter has provided the Constitutional Convention of 1973 with his excellent background and experience and has ably and faithfully served this convention --this is why it's nice to be Clerk, you can make sure they don't put anything bad in here-- in the capacity of Chief Clerk and parliamentarian. . .

[Motion to waive reading of the resolution adopted without objection.]

MR. POYNTER

I really would in particular like to read the portion that pays tribute to the people that made my life possible, notably my assistants, Mr. Edward Hardin, Assistant Chief Clerk, Mr. C. Wayne Hays, the Journal Clerk, Mr. Sam Bonnette, Jr., who's my Calendar Clerk, Mr. Richard Broussard, on my right, the Assistant Calendar Clerk, Mr. Eugene Limar, who's sitting on the far right, I believe right now, Assistant Endorsement Clerk, my secretary, Miss Julia LaBauve, Butch Speer, head page, and Jules Regard, assistant head page. Certainly,

for these people it made your life a little bit easier and I thank them.

MR. HENRY

Let's give the Clerk and his staff a big hand.

[Resolution adopted without objection.]

MR. CASEY

Mr. Chairman and delegates, proper recognition will be given at a later time to Mr. Poynter. However, I do wish to mention that the resolution does include not only his staff, but the many employees that Mr. Poynter had which includes, the pages which have serviced the convention and many of which . . . many of whom rather are in the office in the rear. So, those that are out on the floor at this time and those in the office-- Mr. Chairman with your permission-- I'd like to request that they stand. . .

MR. HENRY

You folks come on out here.

Let's give the pages a nice welcome hand, and that was to include, of course, the sergeant-at-arms as well.

Reading of the Resolution

MR. POYNTER

Next resolution is Delegate Resolution No. 56.

A resolution to commend and express the appreciation of the Constitutional Convention of 1973, Mrs. Jane Noble, Chief Clerk of the Enrolling Room and her staff for the valuable services rendered.

WHEREAS, the authenticity of all official proposals and resolutions introduced and the validity of all amendments thereto by the convention has been maintained largely due to the dedicated and skillful performance of Mrs. Noble, Chief Clerk, Enrolling Room and her staff; and

WHEREAS, Mrs. Noble's assistant, Mrs. Agnea Nooper, and the other members have labored diligently throughout the session of the convention and. . .

[Motion to waive reading of the resolution adopted without objection.]

MR. POYNTER

I wish that these ladies and one gentleman were here . . . for you to recognize them. They are, of course, along with a good percentage of the convention staff, over at the Treaty Room trying to prepare the final enrolled copy which you will sign and present to the governor tonight.

I couldn't convey to you the painstaking job they have and I think it is apparent that as this resolution indicates the ultimate validity and the ultimate authenticity of what you do must be incorporated in their diligent and careful work. Certainly, I think, you have had the benefit of what I consider to be without doubt some of the most professional people in the service of the State of Louisiana. I owe them and the entire convention does, a great debt of gratitude.

MR. HENRY

I ask that we give the Enrolling Room people a nice round of applause, although I don't think they're here.

[Resolution adopted without objection.]

Reading of the Resolution

MR. POYNTER

Next resolution is a resolution of commendation for the services of Mrs. Jane French, the Chief Clerk of the Transcript Service Office and her staff for their valuable services rendered to the convention.

[Motion to waive reading of the resolution adopted without objection.]

MR. POYNTER

Again, someone who has done and a group of women who have done an overwhelming job. You see one aspect of it daily with one of the ladies who monitors the tapes over here and logs everything, but upstairs on the second floor everyday you all have been in session, there have been women who have had to transcribe, proof, and reproof, and retype, every single wonderful word uttered in this convention and plenary session. It's my understanding that that transcript, full verbatim transcript runs well in excess of 20,000 pages at the present time. Contemplated to be bound in something like perhaps as many as twenty volumes. It's been an overwhelming task. I can tell you they're only about three days right now behind you in your sessions, and they have done a wonderful job and something that I know many of you people when you started were very desirous on will be available to the scholars, those who have legal

questions as to your intent will be made available to those people largely through the efforts of Mrs. French and her staff.

[Resolution adopted without objection.]

Reading of the Resolution

MR. POYNTER

Next resolution to commend and express appreciation of the convention to the legislature of the state.

WHEREAS, the enactment of Act No. 2. . .

[Motion to waive reading of the resolution adopted without objection.]

Explanation

MR. CASEY

Mr. Chairman and delegates, just briefly, it was thought it was appropriate to recognize the legislature first of all for Act No. 2 of 1972, and for their continued support particularly with the appropriations and funds necessary. We do hope that when the document is examined by them that we certainly solicit their wholehearted endorsement and approval. We do hope they will get behind the document with us to insure that it will be finally adopted whenever it is voted on by the people.

[Resolution adopted without objection.]

Reading of the Resolution

MR. POYNTER

Next resolution is Delegate Resolution No. 59 introduced by Delegates Henry and other members of the convention.

A resolution to commend and express the appreciation of the Constitutional Convention of the State of Louisiana 1973 to Richard L. Barrios, Jr., the Chief Sergeant-at-arms and his staff for the services rendered the convention.

[Motion to waive reading of the resolution adopted without objection.]

Explanation

MR. CASEY

Mr. Chairman and delegates, I don't know that Mr. Barrios is in the audience, but certainly many of the members --- is Mr. Barrios here-- I think it would be appropriate at this time to recognize Mr. Barrios and his sergeants-at-arms in their red and blue coats, and I think it would be appropriate to give them a very warm standing ovation.

MR. HENRY

You all have done an outstanding job.

Reading of the Resolution

MR. POYNTER

Next resolution is Delegate Resolution No. 60 introduced by Delegate Casey.

A resolution to commend and express the appreciation of the convention to the staff, personnel serving in office of the Chairman of the Convention and Treasurer of the Convention.

[Motion to waive reading of the resolution adopted without objection.]

Explanation

MR. CASEY

Mr. Chairman and delegates, I don't wish to take too much time of the convention with the various resolutions. We just wanted to make sure that we properly recognized everybody, that their names were properly inscribed in the final journal of the convention and these are the members of the convention that worked directly under the Chairman and hence a separate resolution for them.

I don't know if Mr. Fugler and the other members, Miss Weaver, who worked for Mr. Lowe as the assistant treasurer or chief accountant and other members of their staff-- I don't know if they're in the audience-- but they are certainly due an ovation from the delegates, if they're in the Chamber here.

Further Discussion

MR. DE BLIEUX

Mr. Chairman, I must just say in connection with Delegate Casey's remarks and I just talked to Mr. Lowe, and I think this is a good note to end this convention on. He informs me that we will have approximately a half million dollars left out of the appropriation that was appropriated to take care of this convention. I think it's good to let the public know that.

MR. HENRY

Point is well-taken, sir.

The last resolution there with respect to Gale Clausen who works for me and to Roy Fugler, and Mr. Lowe's staff. If Mr. Lowe's people have worked as hard as mine have and I know they have, they deserve a great deal of credit. Mr. Roy, in particular because of the outstanding work he did, details and putting things together that you didn't know about and I didn't either, but taking a lot of detail work away from those of you and I who would have had to do it otherwise.

Reading of the Resolution

MR. POYNTER

Next resolution is Delegate Resolution No. 61.

A resolution to express the appreciation to the officials, operators and messengers of South Central Bell Telephone for the telephone services provided.

[Motion to suspend the rule adopted without objection.]

Explanation

MR. CASEY

Mr. Chairman and delegates, in every legislative session and it also was true for the Constitutional Convention, the telephone company has always furnished messenger service at their cost to the legislature and they have to the Constitution Convention. I think their kindness and generosity is certainly worthy of recognition. I think those members of the telephone company here in the audience is certainly due an ovation for cooperating with the convention.

MR. HENRY

Let's give them a big hand here.

MR. JONES

Mr. Chairman, I think we should ask Judge Tate to take that suckling pig back to South Central Bell so they can be sure that they got their little bit of bacon out of this convention from their interested delegate. Thank you.

[Resolution adopted without objection.]

Reading of the Resolution

MR. POYNTER

Next resolution is Resolution No. 62 introduced by Mr. Henry and all other delegates.

A resolution to commend the members of the news media for their services to the public during the Constitutional Convention of 1973.

[Motion to waive reading of the resolution adopted without objection.]

Explanation

MR. CASEY

Mr. Chairman and delegates, the future of the Constitutional Convention of 1973 depends on that continued generosity and support and very strong support of the press and news media. We certainly appreciate those members of the news media for having so worked closely with the members of the Constitutional Convention. Many of those members of the press and the news media are our very close and personal friends. Those that are here present with us, I think, should be recognized. We would ask that they stand and that we give to them a very nice ovation.

MR. HENRY

Let's give them a big hand.
Gentleman moves the adoption of the resolution.

[Resolution adopted without objection.]

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Reading of the Resolution

MR. POYNTER

Next resolution is Resolution No. 63 introduced by Delegate Henry and all other delegates.

A resolution to commend and express the sincere gratitude and appreciation of Louisiana AFL-CIO for the use of their equipment and personnel.

MR. HENRY

In that connection, we used a lot of tape during the convention. The figures we got were we used 210 tapes, taped 630 hours which they say checks out to 756,000 feet of tape or a 143.2 miles of tape. The people who have handled that, Ralph Hicks, who's that big, tall, ugly fellow over there--Ralph, stand up-- we had T.J. Hughes, who I don't see. I don't see the other fellow, Tom Michelli. If you fellows understood, I've been looking for you, Red Bourg and Raymond Martinez. We appreciate more than you know your putting up with us. It was a hard job teaching T.J. to count to four over there, so he could identify the mikes.

Senator Rayburn.

MR. RAYBURN

Mr. Chairman, I'm for everything you said. I think you left a few things out. I would like to commend them for the time they've devoted to the delegates.

MR. HENRY

I think that was the general purpose of the resolution, Senator.

[Resolution adopted without objection.]

Reading of the Resolution

MR. POYNTER

Next resolution is Delegate Resolution No. 64.

A resolution to commend and express the appreciation of the Convention to Louisiana State University and the State University Law School, and its dean, faculty and staff for the use of its facilities.

Explanation

MR. CASEY

Mr. Chairman and delegates, the L.S.U. Law School and, of course, the administrators of the entire school itself was certainly very cooperative in working with us and furnishing free space for our research staff over at the L.S.U. law center. Ordinarily, in a large group of this size I would not particularly point out any one delegate for recognition, but one of the members of my Committee on Staff and Personnel, this just happened to follow under my responsibility took a really . . . picked up the ball, took the responsibility and used his architectural experience and professional experience and subdivided the fourth floor of the law center for our research staff, spent many, many hours on his own in using his architectural abilities. I think it would certainly be appropriate to recognize Mr. Perry Segura, for doing such a real fine job on the law center.

MR. HENRY

Stand up Mr. Segura.

MR. KELLY

Before we vote on this resolution I would like to be furnished with a copy of it though.

MR. HENRY

You want to know how it's going to be on the ballot. Mr. Kean has a question.

MR. KEAN

Mr. Chairman, I just want to say that this is probably the only commendation L.S.U. has gotten out of this convention.

[Resolution adopted without objection.]

MR. JENKINS

That's not correct Mr. Kean, remember we commended L.S.U. for loaing to Tulane.

MR. PUGH

Mr. Kean thinks he has a problem, I just got a wire from the Louisiana Trisl Lawyers' Association telling me I had an hour and a half still to do something about a public review of facts.

Reading of the Resolution

MR. POYNTER

Next resolution sent up, Delegate Henry and others commend and express the appreciation of the Convention to the individuals who have assisted the convention.

MR. RAYBURN

Mr. Chairmen, I just wanted to apologize for Mr. Segura, he just advised me he had left to sign the contract; he will be back immediately.

Explanation

MR. CASEY

Mr. Chairman and delegates, this is somewhat you might call an omnibus resolution to include just about everybody who in some small way assisted the convention in the success that we hope it will have. For instance, the Legislative Council that furnished some of its staff on many occasions in contributing to the many hours of research and work that we've had in many, many of the other state agencies. Also, the staff of the Speaker's offices incidentally put their shoulder to the wheel and worked with the Speaker in contributing much of their time in working with us. So, we would certainly appreciate your approval of this omnibus resolution.

[Resolution adopted without objection.]

Reading of the Resolution

MR. POYNTER

Next resolution, Delegate Resolution No. 66, by the Delegates of the Convention to commend and express the appreciation of the convention to the Honorable Edwin W. Edwards, governor of the state.

[Motion to waive reading of the resolution adopted without objection.]

MR. CASEY

Mr. Chairman and delegates, we thought it appropriate to recognize the efforts of Governor Edwards, first of all in promising to the people in his campaign that he would support the efforts for a Constitutional Convention and, after his election in living up to his campaign promise in supporting Act No. 2 of 1972, whereby the Constitutional Convention was created. We certainly appreciate his support and interest and I can say very, very strongly that we are depending on his support of the final document, which we will adopt tonight, and that we certainly expect that he will be behind the document with us when we go out to the people and sell the document to the people and hope for its final adoption.

[Resolution adopted without objection.]

MR. DUVAL

Mr. Chsirman, I just thought we ought to have a resolution thanking Mr. Caaey for thinking of all these resolutions.

MR. FULCO

I was reluctsnt to get up, but I think this really does deserve consideration. How about thanking the wives and the husbands of the delegates for their sacrifice?

MR. HENRY

I think that's vary appropriate. We've got a lot of wives back there; we ought to give them a big round of applause, and husbands. All right. We include "and husbands" in that by the way.

Personal Privilege

MR. LOWE

Sort of on a point of personal privilege Mr. Chairmen. You had performed very well all year up until this last month and I'm aggrieved thst when Senstor De Blieux stood up and made my treasurer's report you didn't rule him out of order, you complimented him instead. I just wanted the delegation to know that he is wrong again as usual. He said that there's a surplus of half a million dollars. There's really \$499,999.99, so if you're going to make my report, Senator De Blieux, I'd appreciate your doing it correctly. Seriously, Mr. Chairman, I think it would be wise if we went home on the note that we did spend two and half million dollars, there was two million, two hundred thousand up until the time that we gave the Public Information three hundred and twenty-five thousand for printing and mailing the

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tabloid. We did do some research today and find out that without a doubt Louisiana's Constitutional Convention has cost about half of what the average conventions that have been put on in the United States. So, it's a compliment to the Chairman and all of the delegates and staff and everyone involved that we were able to put on the type convention we did, and still spend about half the money that the average conventions have spent.

MR. HENRY

Thank you, Mr. Lowe.

MR. LANDRUM

Mr. Chairman, I was wondering if Mr. Casey included PAR in his report.

MR. HENRY

Who?

MR. LANDRUM

Just PAR, Mr. Steimel, the League of Women Voters and others in that group.

MR. HENRY

I'll let Mr. Casey answer it.

MR. CASEY

Mr. Chairman and delegates, in the omnibus resolution, I think we covered just about everybody who made some sort of contribution to the convention, including PAR, Reverend Landrum.

MR. STINSON

Mr. Chairman, I checked last week, and it was my understanding that there would be a resolution expressing appreciation and thanks to the Shreveport Journal for the paper they placed on our desk each day.

MR. CASEY

The Shreveport Journal was included in the omnibus resolution.

MR. STINSON

Thank you.

MR. HENRY

Thank you, Mr. Stinson.

MR. ANZALONE

Mr. Chairman, you haven't been looking to your right because since Reverend Landrum mentioned the name PAR, Mr. Chehardy has been trying to get recognized, and you just will not do it.

MR. HAYNES

Mr. Chairman, I think protocol would dictate that we would commend our very efficient treasurer, the one who is responsible for the delegates getting their checks on time and who saw to it that the accounting was accurate and that the savings were for the State of Louisiana. I'd like to ask Delegate Casey that he would include him other than in that broad resolution that we passed nearly last.

MR. HENRY

That was taken care of in one of the resolutions that was adopted awhile ago, Mr. Haynes.

We've got some business now that we're going to have to begin taking up here in just a minute--a resolution.

Reading of the Resolution

MR. POYNTER

The next resolution is a resolution introduced by Delegate Rayburn, of a business nature.

A resolution--and other coauthors--relative to distribution of public information concerning the proposed constitution of '74.

Be it resolved by the convention, that in their book, the Committee on Public Information determines that information shall be disseminated to the people of the state through the medium of newspapers. Said committee is hereby authorized and directed to take such necessary steps as are necessary to assure that where space is purchased, the information is printed at least in the official journal of each parish, and in all event shall make every effort to disseminate information relative to the proposed new constitution in the weekly newspapers throughout the state as well as in the daily newspapers.

[Motion to suspend the rules to consider the resolution adopted without objection.]

Explanation

MR. THOMPSON

Mr. Chairman, fellow delegates, as you've heard, we've got about \$499,999. The official journal of the state is the State Times, and I feel like that of all the publicity that has been given throughout the state to the dailies, to the weekly, to the television, to the radio and to all the other news media throughout the state that this resolution is necessary. That if we do have it put in any papers other than the State Times, that we not only put it in the dailies, but also in the weeklies, or if we don't, that we don't put it in any of them. This is what the purpose of this resolution is. As all of us know, we have a job selling this constitution. We need every paper, whether it's a weekly, or a monthly, or a daily, or what it is to help us get this constitution to the people. I think that this resolution is necessary, and I urge the adoption. Thank you, Mr. Chairman.

Questions

MR. WOMACK

Mr. Thompson, did you all include the Ladies' Birthday Almanac in this?

MR. THOMPSON

We will, if you would like it.

MR. JUNEAU

Mr. Thompson, I appreciate everybody taking care of their local problem, but I'm afraid you're going to create about a five hundred thousand dollar problem for me. I have objection to your language, Mr. Thompson. I don't have any particular objection to the resolution, but you say: "We are hereby authorized and directed to take such steps as are necessary." I don't have that money, Mr. Thompson. If you'll get it to me, I'll do it. Do you have any suggestions on how to solve that problem? I'm worried about the language, I really am. The intent of the resolution, I understand. . .no objection. But, I am concerned about this language, "hereby authorized and directed." What is the intent?

MR. THOMPSON

The intent is that if you use other than the State Times, you either use all of them or none of them and give all of the papers the same break and try to make it where all of them will be with us throughout.

MR. JUNEAU

Well, Mr. Thompson, let me just put it this way: as I say, I don't want to raise a problem like this, but it could be expensive. Are you aware of what we did pass?

MR. THOMPSON

That you're going to. . .all I'm asking is it be in the official. all this resolution is asking is it be in the official journal of each of the parish. . .parishes, if you use other than the State Times, which is the official journal of the state.

MR. JUNEAU

Well, maybe it would be appropriate if I told you what we did pass, Mr. Thompson. You can tell me, then, if I have any problems, 'cause I really don't know. The motion was passed and the appropriation has been approved by the Executive Committee that the distribution of this document would be via bulk mail to every rural box, every house box, and every home in the State of Louisiana; and that we would use, by legal requirement, the document would be published in the official state journal on one occasion as required by state law. We then have an appropriation to run notifications in all newspapers: the weeklies, dailies--at home we call them wipers, but that's not true--and then radio and television notifying the people when this would be done. You don't have. . . I wondered if I'm kind of having trouble with that. I just want to make sure intent wise so I. . .

MR. THOMPSON

This is where space is purchased, and if you purchased it in all the weeklies and the dailies here; you don't have any problem if you have done what we said. . .where space is purchased.

MR. CHATELAIN

Delegate Thompson, are you familiar with the fact that we

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have been authorized by a committee and approved by the Executive Committee that we could spend ten thousand dollars, a total amount of ten dollars in the newspapers throughout this state for an ad notifying the people that there is going to be in the mail in the next few days an official copy of the document? You know that you would probably be hamstringing this committee's work, which we've spent so much time on, in trying to force us to use every official journal, because in some parishes, some sections of the state, the official journal is not the leading paper, it is not the paper, necessarily, that would get the most mileage out of it for your money. I would certainly appreciate it if you'd consider withdrawing this resolution.

MR. THOMPSON

This merely says "where space is purchased." It doesn't say that. . . anything that you all are trying to read into this thing, and we're not trying to tell you what to do. We are spending the people's money and the taxpayer's money, and I feel like it should be spread out to all the papers and have all the papers supporting this document.

MR. RAYBURN

Mr. Thompson, if these people are concerned, well read the resolution--just read the resolution--in the beginning. It says, if the Committee on Public Information determines to use the news media and get information to the people of the state through the medium of newspapers--spells it out, newspapers-- said committee is hereby authorized and directed to be fair to all the papers whether they are daily, weekly, or anything else. That's to try to get it across in every hook, nook and crook of this state. Now, we're only talking here if they decide to use the newspapers as a media. Let's be fair with all of them. That's all this resolution says. If they decide to use some other media, that's up to them. This is strictly leaving it up to them. But, if. . . am I correct, Representative Thompson, in saying that all this says, if they decided to use and it spelled out--don't say news media, it says "newspapers"--that they try to be fair and to make every effort to disseminate information relative to the new constitution in the weeklies throughout the state, as well as the dailies? That's all it says. You try to get the information in all of them. It says no more than that.

MR. THOMPSON

You're exactly right, Senator.

MR. DENNERY

Mr. Thompson, in line 14, I can appreciate the problem Mr. Juneau has. You are having the convention direct this committee to do certain things. Would you be willing to change that "directed" to "requested"? It is possible that they may not be able to get every single newspaper in the state. This resolution, as I read it, says if you advertise at all, you have to advertise in every single paper in the state.

MR. THOMPSON

It doesn't. You haven't read it, as Senator told you. It says, "said committee is hereby authorized and directed to take such steps as are necessary to assure that where space is purchased, the information being printed at least in the official journal." So, you're not having to get every paper. They tell me here that you all are already doing that.

MR. JACK

I've been watching that clock, and if it's wrong with this daylight saving, we're in a mess. Remember what happened to Cinderella? We better get going.

[Previous Question ordered: 91-30.]

Closing

MR. RAYBURN

Mr. Chairman and fellow delegates, I just want to say that I don't think I've voted to move the previous question since I've been here. Where I come from, we believe in letting the people be heard. Some people don't believe in letting people be heard. I have had a tremendous amount of calls not only from my Senatorial District, or my so-called delegate district, but from other sections of this state from weekly newspapers. I discussed the matter no longer than today with the governor. He told me he had been bombarded because someone issued a statement somewhere, or something got in the news media that they thought they might only advertise in the larger daily papers. I did not see it; I do not

know whether it has foundation or not. All in the world this resolution says, it says that if the Committee on Public Information determines that that information shall be sent out through the news-- it does say media--through the media of newspapers, that they shall be directed--authorized and directed--and I didn't put the word "direct" in the original resolution. I want you to know that. But, it got in there after I got talked to. That they shall be fair and equal if they decide to do that--and I'm not standing here telling them how to handle their business--but if they do be fair and equal with all the newspapers in this state. Now, that's all this resolution says. I have got calls from about twenty parishes in this state. I don't have many weekly newspapers in my area, but I still do have a sense of fair play. I believe that that little man that's living in Dry Prong, or Sandy Loam or some other place in this state has got a chance to pick his paper up and read what's going on just the same as I think the people in New Orleans or Baton Rouge or Bogalusa has got a right to read the Picayune or the Morning Advocate like I read. Now, if I'm wrong, I'm just wrong. But, you've got some places in this state that the daily newspapers don't go to. You know that and I know it. Those people are entitled to any information that anybody else in any other section of this state gets. We are not asking them to do anything unless they decide to use the media of newspapers. If they decide to mail them out, good and well. But, if they do go to the news media through the papers of this state, just put a little something in all of them and particular, put it in the official journal of each parish. That's all this resolution is asking. If it's wrong, we poor folks have lost again.

Question

MR. WOMACK

Senator Rayburn, in the Executive Committee's action, we discussed this at length. I believe that we are required by law to publish the entire document--I may be wrong--in the official journal of the state, which is a legal requirement and is not public information as such; but it is a legal requirement. That's the first thing. Now, the second thing that we approved--I'm trying to get this clarified--the second thing we approved was the spending of money to do exactly what you say as far as public information on when the mail ballots would go out--and money was approved--it necessary to put this type of commercial in every newspaper in the state. What I want to know is this: putting the official journal advertisement in to meet the legal requirements in the state legal journal covers that part of it, officially. Then, the advertisement going out in each of the papers, or every paper in the state, telling them when the official documents will be mailed out as a mail ballot, wouldn't that qualify with the directive of this resolution?

MR. RAYBURN

Mr. Womack, if you do that, you're doing exactly what the contents of this resolution says--exactly what it says and nothing else.

[Record vote ordered. Resolution adopted: 70-30. Motion to reconsider tabled.]

MR. THOMPSON

Mr. Chairman, fellow delegates, thank you. The little people are still represented. Thank you very much.

[Motion to revert to Reports of Committees adopted without objection.]

REPORTS OF COMMITTEES
[II Journal 1414-1416]

MR. POYNTER

Judge Tate sends up three different reports as this time from Style and Drafting with respect to Delegate Proposal No. 98 returned by his committee with amendments to you.

Respectfully submitted by Judge Tate.

Just a second, please, Judge.

A supplemental report with respect to Delegate Proposal No. 98, returned with amendments, and also a supplemental report on Committee Proposal No. 38, returned with amendments.

Respectfully submitted by Judge Tate, Chairman of that committee.

[Motion to suspend the rules to consider the Amendments contained in the report adopted without objection.]

PROPOSALS ON THE CALENDAR
FOR APPROVAL OF FINAL STYLING

Delegate Proposal No. 98

Amendments Nos. 1, 2 and 3

MR. TATE

Mr. Chairman, fellow delegates, I'll try not to explain in too much detail and oink, I mean with. . .excuse me, with coherency. But, generally speaking, what we intend to do is when we finish with these series of amendments--and I'll explain the only one that is of somewhat nontechnical nature--what we intend to do is add to the transitional article the last two or three sections that deal with the alternative proposals.

The effect of what we're going to do is to take Delegate Proposal No. 98, the Henry resolution that first created the alternative proposition on education, and amend it to include the Jenkins' ballot as a part of the transitional article and section numbers. Then we are going to take the Leithman-Juneau transitional alternative on how to replace boards in case the transitional alternative article on education carries. Now, that. . . before you--and you need not look at it unless you really want to, and you probably won't--are the first and last pages of Delegate Proposal No. 98, before we did any amending of it. That's the Henry resolution, and it's just to show. . .it will be just to show you what we do, where we put the new ballot. This shows how it passed the floor with the old ballot on it. There is also what. . .it will say Section 40, what used to be Section 28, "Transition to Board of Regents." That's the Juneau-Leithman amendment on the transitional revisions, to replace boards in the event the alternative article on education passes. Now, with that in mind, I would move. . .and waiting. . .if you have any questions, I would move one by one for. . .these amendments.

On the first sheet which just has three amendments to the Delegate Proposal No. 98, I would move for the adoption of Amendment No. 3 because it changes a section number to conform with the section number that is now found in the constitution of the Executive Branch proposal permitting subsequent appointment by the superintendent of education instead of election. It's just a technical amendment. Amendments No. 1 and 2 on that page are concluded within Amendment No. 1 on the second page you have, of amendments. It just has four amendments on it. Now, if you will take my word--and you need not--I'll stop to tell you further it. . .are there any questions?

Amendment No. 3 on this page with Amendments No. 1, 2, 3 and 4, simply change section references--simply change section references--and within Delegate Proposal No. 98 to bring them into line with the numbering in the constitution that we. . .as we agreed on last night. If there's no objection, then, I would move for Amendment No. 3 on your first set of amendments to the Henry Proposal No. 98 and for the adoption of Amendments 1 through 4 on your second set of proposals, the supplemental report.

MR. HENRY

Well, now, you. . .we've got to adopt the first amendments, don't we, Judge? You said Amendment No. 3 and then Amendments 1 through 4.

MR. TATE

The first amendment on. . .Amendment No. 3 on the first report. All right. All three amendments. They're going to do the same. . .

[Amendments Nos. 1, 2 and 3 adopted
without objection.]

Delegate Proposal No. 98
Supplemental Report

Amendments Nos. 1 through 4

MR. TATE

Now, Amendments 1 through 4 to 98 on the supplemental report.

[Amendments Nos. 1, 2, 3 and 4
adopted without objection.]

Committee Proposal No. 38
Supplemental Report

Amendments Nos. 1 through 7

MR. TATE

Now, the third set of amendments which is on two sides is to take what we have just done and put them in the Zervigon Transitional Article as Part IV, including Amendment No. 8. The reverse side of the pages will show the form of the ballot as we recommended, which is essentially the Jenkins' amendment with the slight changes

shown in ink on this page.

Now, Mr. Chairman, Amendments 1 through 7 are of a technical nature to correct the section references. Unless there is. . .subject to questions, I move their adoption.

[Amendments Nos. 1 through 7 adopted
without objection.]

Amendment No. 8

MR. TATE

All right. Now, Amendment No. 8 which is on the reverse side includes the form of the official ballot, which is the Jenkins' proposal we adopted this afternoon, which will be found, then, as Section 38 of the Transitional Article and will replace the old Section 1 of the Henry amendment which set forth a different ballot on alternatives. There are no questions?

Question

MR. AERTKER

Judge Tate, the amendment is exactly as we passed it? There hasn't been any change in position on the ballot and so. . .

MR. TATE

No, no, Mr. Aertker, and I'm glad you asked the question. The slight change that is shown, it was shown as Alternative 2A as we passed it. As you. . .as it is renumbered, for this reason only: you adopted a resolution that said we had to show the propositions, number them--the propositions that will go to the people--by 1, 2, 3 and 4. So, you will see that these, if you look at it--you said you favor or oppose the adoption of the proposed 1974 Constitution. For the adoption of. . .that's one before the. . .where you put your ballot; against, two before where you make your mark. Then, the alternative proposition it said the first one was "A." You see, you eliminated the one and two. Have you got the ballot, Mr. Aertker? You just call it Alternative "A," Alternative "B."

[Amendment No. 8 adopted without
objection.]

Amendment No. 9

MR. TATE

The final amendment, Mr. Chairman, simply takes Section 28 of the Committee Proposal No. 38, that's the Zervigon transition amendment, and the Amendment No. 28 is the Juneau-Leithman transition article and takes it as amended and makes it Section 40, the final article in the transitional alternative provisions of Part IV of Article XIV of our constitution.

I move its adoption, Mr. Chairman.

[Amendment No. 9 adopted without
objection.]

Personal Privilege

MR. TATE

Yes, Mr. Chairman. May I say one note of personal appreciation, sir? Yes. . .may I. . .

Fellow delegates, I personally want to express deep appreciation to the members of our hardworking and able committee, strong characters of. . .who conscientiously devoted many extra hours to the work of this convention. Also, to our wonderful staff--Norma Duncan, Lee Hargrave and Jeannie Connors, C. E. Forgotaton who replaced Lee, and Connie McMannis. We all express our appreciation to each and everyone of you for your interest in the work of our committee, for your help to us, and we think. . .we hope. . .through your work, we think there has been produced a constitution for the people of this state which they will be proud of when they adopt it, as I know they will.

Thank you, Mr. Chairman.

MR. HENRY

Thank you, Judge Tate, and your committee for a well done job. I appreciate everything you've done.

Personal Privilege

MR. LANDRUM

Mr. Chairman and fellow delegates, indeed it is a pleasuring and a bit of sadness to come at this hour of the night, at this time of the year to say to you, I've enjoyed you, enjoyed working with you. I've enjoyed listening to the many things that I didn't know about country life. I enjoyed the things that Sixty Rayburn taught me about the watermelon--now you ask him about that, now. But, there are other things. I enjoyed many wonderful experiences here this year. Judge Tate, wherever you are, I want you to know that

that pig got more black in him than what you are believing. I have to leave you on that. . .telling you that, I mean, so, that's the way you styled me the first of the year, because I told you about blackness. I don't want to leave with you no other impression. . .yes, with one other impression. But, my little lady, Mrs. Zervigon, stand. I think that lady deserves a round of applause from everybody. She has worked as a coordinator, and some say she couldn't do it. But, I don't believe nobody, today, with this convention would say that Mrs. Audrey LeBlanc did not hold her on here with this convention. I would like to thank my wife and my children for allowing me to spend more than fifty percent of last year away from them, because I've been in Baton Rouge most of 1973. I gave each of you a card, and that card bore the message telling you about the Lord go with you. Now, I gave you that message because everyday when I talked with my mother from here, that's what my mother tells me--the Lord go with you. That's what I want you to do. I want you to take the Lord with you. Whatever we have done, praise God for it, and I am certain I have no reservation about it. Some of you might have doubts about the passage of this document; I have no reservation about it. I feel certain that together, we are going to get it to the people. When I say together, I'm talking about all these newsmen, the governors, and the mayors, and the sheriffs, and everybody, and all the delegates. We, altogether, are going to tell the people that this is a fine document. I want my little boys back there to know that their father stood here within these walls and helped to write this document, that they will tell it to their children and tell it on down to another generation that America is a great country, that Louisiana is a great state, regardless to what people say about it. We are a great people and especially if we know the Lord. As Mrs. Michelli wrote on a card of mine, using the word "horrende"--remember horrende--a Swahilian word means "let us all pull together." That's what I say to you tonight--let us all pull together. God bless you, God keep you.

Questions

MR. A. JACKSON

Rev, we've been having a little serious debate over you--me and Delegate Jackson. We just want to know if it is true or not. There's a rumor going around that you've been trying for two hundred years to get in this hall and for three months. . .this little pig made it tonight. Is that true?

MR. LANDRUM

That's true. Absolutely, totally true.

MR. A. JACKSON

Now, my question was, so you can appreciate it. . .

MR. HENRY

Wait, wait!

MR. A. JACKSON

We were just discussing a rumor going around that Delegate Landrum was been trying for two hundred years to get in this hall, and a pig made it in three months. . .

MR. LANDRUM

That's right, Johnny.

Personal Privilege

MR. BERGERON

Mr. Chairman, ladies and gentlemen, I feel honored to come before you as we proceed into our last hour as delegates of CC/'73. As the youngest delegate to the constitutional convention, you'll just have to take a little bit of your time. I'll be brief on it. You know, when I first came up to the convention I had wondered, being elected at eighteen, whether I would be as welcome, whether I would be considered as. . .by you, the delegates, as an equal, and respected by you, the delegates. Let me say that you've made me feel more than welcome. I've shared many experiences with you. I've argued with you; I've agreed with you. We've gotten along; we've had our differences. We've worked hard; we've played hard. I feel that we've come up with a good document. It's been the most enjoyable experience of my life. I would just like to relate on to you that you have taught me so very, very much in the past year. My good friend Burt Willis who served on committee with me, Mr. Harmon Drew who was also a committee member, Justice Tate who I admire and respect so much--each and everyone of you in your own way will always be and reserve a place in my memory, because each and everyone of you was a very special. . .to me. I would like to thank you for the welcome feeling that you have extended

to me throughout the past year, the way we have worked together, to know that each and everyone of us has contributed in his own way to the betterment of government in Louisiana. I say to you, we have done a very fine job. Thank you very much.

Personal Privilege

MR. SHANNON

Mr. Chairman and fellow delegates, including Mr. Anzalone, I felt compelled to make a statement because of the things that I have done in this convention. Whether they're good or bad, I'll let you decide. I, first, would like to express my appreciation to all of you for the friendship and courtesy shown me throughout this convention. This has been a highlight of my life. I've been associated with government matter in an elective capacity practically all my life, and I think this is a great climax for me, personally, to have served with you, the people of this convention. What I wanted to bring out, though, was the fact that I doubt if anyone more than I moved the previous question on the floor of this convention. I would call to your attention that it is now 11:20, by my watch. So, I think that you can see the reason that I had behind for doing this, because had it not been done, would we have finished at eleven--we aren't finished yet--but would we have finished by twelve o'clock tonight? So, I hope that you take those motions by me in the spirit that they were given; that I was not trying to cut off debate, but merely move us along, or get us to move along so we could finish the business at hand. If I offended anyone at any time by calling the previous question, well, I apologize. Thank you very much.

Personal Privilege

MR. BURSON

The only thing I can say about that tape is: I'm glad that we don't have to pay for the transcript according to the number of pages we've contributed to it. I think that it's time for you all to know one of the best kept secrets of this convention: that I didn't always go up to the mike as many times as I did because I wanted to talk. But, I sat right directly in front of Mr. Chehardy, and he kept hitting me with spitballs all during the convention, and it was more comfortable at the podium than it was in my chair.

Seriously, I'd just like to share a very few thoughts with you about the process that we've used to adopt this constitution. We're going to hear, in the weeks to come, that this was not the way to write a constitution, that we should have had a panel of experts sit up in an ivory tower and write some abstract ideal constitution, and we should have worked from that. Well, I submit to you that the American political process depends on our continuing faith that the best form of government is one in which the elected or appointed representatives of the people meet in a forum, each representing their own constituency, their own interest group, if you will; and that out of the clash of these particular interests, somehow, by some mystical process that maybe we don't fully understand, arises the common good. I submit to you that that is what has happened in this convention, and that what we have is not the best of all possible constitutions, because there's no Mt. Sinai in Baton Rouge from which anyone is handing down Ten Commandments. But, the world of divine providence works in history much more often one step at a time than it does by a lightning bolt. Whether this step that we take in presenting to the people of Louisiana this constitution is a giant step or only a good constructive single step forward, only time will tell. But it is a step forward, and this is the message that each one of us must leave here and bring to them. There is not a delegate here who has not fought very hard on a particular issue and lost. But, the sum of our total contribution is so much greater than any individual defeat that we may have suffered, that we must unite and go out and sell this thing from the grass roots up, because I'll guarantee you one thing, that anybody who writes a constitution in an ivory tower is going to have a hard time getting down to the grass roots that we've got the people in here that came from the grass roots, and we can bring it back. That's what we're going to do. I'd just like to leave you with one quote that I thought was appropriate from Edmond Burke, the British political philosopher who also happened to be the founder of political parties as we know them today. He told his constituents in Bristol, England, in 1780, about the parliamentary process: "Applaud us when we run, console us when we fall, cheer us when we recover, but let us pass on--for God's sake, let us pass on." Let's pass this constitution.

Personal Privilege

MR. JUNEAU

Mr. Chairman and fellow delegates, I think we would all be

remiss if we did not recognize two people that played a very important roll in this convention. During the course of this past year, we had an opportunity to ventilate our views on the Chairman and on the Clerk of this convention. They spent hours from early in the morning, as early as five, to as late as two o'clock the next morning on numerous occasions. I'm sure when they got frustrated, they hid those views and took them home. On many occasions, I know in the case of our Chairman the occasions when he was home was far and few in between. I'd like to pay a special tribute and a deep debt of gratitude to Jane Poynter, David Poynter's wife, and a special debt of gratitude not only from the convention, but the State of Louisiana, to the contribution she made in keeping the sanity of her husband and for giving up of her family time to the gentleman who served us so well, Mrs. Frances Heory. I'd like for us to give them a standing ovation, please.

MR. HENRY

Shoot, they're lucky just to get to live with me and David. I don't see why you'd do something like that.

Personal Privilege

MR. BURNS

Mr. Chairman and ladies and gentlemen of the convention, I speak to you at this late hour as the senior partner of this firm of a hundred and thirty-two members, Philip Bergeron having addressed you just a few moments ago as the youngest member of the firm. I doubt if I would come up here tonight if it were not for the fact that I think perhaps it might be the last time that I will ever have the honor and the privilege of being together with all of you in one gathering such as we have enjoyed, or I have enjoyed this past year. Most of you have not only your life, but your public lives and your political lives before you. But, of course, I doubt if--to use the old saying--"if I will ever pass this way again." But, I have enjoyed this year tremendously. It's been quite an experience with me having, I thought, retired from politics some thirteen years ago, to come up here and be associated with such an energetic, enthusiastic group of ladies and men such as composed this convention. I just wanted to take this last opportunity to tell you how much my association with you and the friendships, and the associations that I have made here this past year will ever be cherished in my memory, as long as I live. I hope, when we leave here tonight, that you and your family will enjoy the richest blessings of God and that everything that you want may be yours in the future. Thank you very much.

MR. HENRY

Thank you, Mr. Jim.

Personal Privilege

MR. WINCHESTER

Mr. Chairman and fellow delegates, I want to thank you for your kindnesses and your friendship during these long days that we've had here. I had many experiences--some new and some old. But, the experience that shook me up the most happened during the first day that we held the session in this chamber. Being a green and inexperienced delegate, I did not know about the loud-speaker system in the various rooms throughout this floor. I was in the men's . . . boys' room and Mrs. Ruth Miller's voice came through loud and clear. Right at my back she said, "Will the delegates stop playing and sit down."

Questions

MR. GUARISCO

I just want to explain to my cohort, Dan, that that's exactly what the Women's Lib. . . the women on the other side said would happen if we passed that in the Bill of Rights.

MR. HENRY

Mrs. Warren, I'm almost afraid to ask you if you have a question.

MR. WARREN

You know, it is always said that women are the ones that talk so much. Tonight, I've noticed nobody has been saying anything but men. So, now, I'm about to agree. They say, "if you want a secret told," say, "tell it to a woman." But, I'm going to change their story. You can just "tell it to a man."

Personal Privilege

MR. SCHMITT

I went to school for seven years of college, and I went and did some post graduate work in medicine afterwards. But, I can tell you, nothing that I learned there compares to my one year of

experience that I've had here. One of my greatest educators is a man who I really have a tremendous amount of respect for and as he said earlier, he has graduated from the school of hard knocks, and that's Senator 'Sixty' B. B. Rayburn. At this time, I'd really like to express my appreciation for his putting up with me during this entire period of time, 'cause I know he and Gordon Flory and Edwin Edwards sometimes have had problems with me. But, at the same time, I've had problems with them. I'd like to thank you all for your many wonderful experiences that I have, I guess, suffered through during this convention. I really appreciate the opportunity to serve with you. I really believe this is one of the greatest meetings of minds that have ever been accomplished in the history of the world. Thank you very much.

MR. RAYBURN

Mr. Chairman, coming from a Republican, that's the nicest words I've ever heard.

Personal Privilege

MR. A. JACKSON

I thought I'd had my moment a few minutes ago. I was talking to Johnny who said not only was that pig in here, but he was able to do things that he wasn't able to do. All right, on a serious note, though, I do think that this has been a great opportunity for all of us. I do believe that Louisiana is going to be a better place because all of you were able to come here and share in the magnificent opportunity to move this state and this country ahead. I believe that you came here because you wanted to reckon with the future. I think that this document will speak long after many of us are no longer here. It will attest not only to our faith in the people of this state, but it will attest to the hopes and dreams and aspirations of the people who sat here and the people who were without these walls. I think more than just a document was wrought here. I think of all the spirits that were fashioned here. I noticed not only among the delegates, but within myself, that we have all grown. I believe because we have grown we are going to usher in a whole new degree of humanity, and people will work together and live together and grow together, and this state will be better because all of us were here. Finally, on a rather serious, serious note, may I say that I know that some of you have doubts about this document; and while I will attest to all of the good things that are in it, I would like to remind you of the words uttered by Benjamin Franklin as he stood imploring the delegates to the constitutional convention that brought about this great country of ours when he said that he would urge the delegates there to doubt their infallibility, to know that it was not perfect. But, they had given of themselves and that their spirits were so much a part of the document that it was going to live on. So, I would implore you to know that we have great humanity in this document, and it will express itself in the years to come. So, know that you are not infallible, but know that you have wrought well, here, and that this document will serve the people of this state well. We will bring to generations yet unborn hope, humanity, and love, and the ability to fashion a great government.

MR. HENRY

Thank you, Alphonse.

Report of the Secretary
[II Journal 1417-1447]

MR. DENNERY

Mr. Chairman, delegates to the convention I am pleased to submit the following report that: the following document constitutes the proposed constitution, including alternative propositions of the Constitutional Convention of 1973 convened under the authority of Act 2 of the 1972 Regular Session of the Legislature, as amended, as that document is contained below the enacting clause of the several committee and delegate proposals heretofore adopted by the convention.

Respectfully submitted, Moise W. Dennery, Secretary.

Motion

MR. J. JACKSON

For a motion, Mr. Chairman.

Mr. Chairman, I move that the above document contain the report of the Secretary of the Convention, be accepted and adopted as the proposed constitution together with the proposed alternatives of the Constitutional Convention of 1973 convened under the authority of Act 2 of 1972 Regular Session of the Legislature, as amended.

122nd Days Proceedings—January 19, 1974

MR. HENRY

The gentleman has moved the adoption of the document.

[Motion to suspend the rules for a roll call vote in reverse alphabetical order on the final document adopted without objection.]

Point of Information

MR. BLAIR

Mr. Chairman, if everyone's in their seat, shouldn't they either vote yes or no?

MR. HENRY

Well, the rules of the convention don't compel you to vote; no, sir.

MR. ABRAHAM

Mr. Chairman, on this last vote of the convention, I would simply like to say that it was indeed a pleasure to surrender my position as first man under the gun to Mrs. Zervigon.

[Proposed Constitution adopted: 121-1. Motion to reconsider tabled.]

MR. POYNTER

Mr. Hardin is going to come down with the signature sheets.

MR. HENRY

Do you want to sign it down at the front at the rostrum?

MR. POYNTER

I think it would be appropriate if we signed it at the rostrum.

[Affixing of Signatures to the Proposed Constitution.]

DELIVERY OF PROPOSED DOCUMENT TO THE GOVERNOR

MR. HENRY

If you all don't mind, we don't think there is any problem with what the law says but if you all don't mind, I'm going to make the formal presentation to comply with the book to the governor's executive secretary right here because I've got six minutes till midnight. Mr. Fisher, if you will step over here, it will give me a great deal of pleasure to give you this document.

MR. POYNTER

Mr. Chairman, the signing of the Constitution of the State of Louisiana 1974 is complete.

MR. HENRY

Please take your seats, gentlemen and ladies.

There are a few people who wanted yet to be recognized on personal privilege. We have a couple of presentations to make. I know we're all tired and do as you will, but Mr. Singletary, I recognize you at this time on personal privilege.

Personal Privilege

MR. SINGLETARY

Mr. Chairman, ladies and gentlemen, on the front of our capitol are written some words, which though written on another hallmark in Louisiana history, I think they express the hope of us, the delegates to the Louisiana Constitutional Convention of 1973-74, for what our proposed constitution will eventually bring in the future to our state. "These instruments which we have just signed will cause no tears to be shed; they prepare ages of happiness for innumerable generations of human creatures." Robert R. Livingston, May 3, 1803, at the signing of the treaty of purchase of Louisiana from France.

Vice Chairman Miller in the Chair

Personal Privilege

MR. CASEY

Madam Chairman and delegates, I think it's appropriate at this time for the delegates to the Constitutional Convention

of 1973 to single out just a few individuals for their outstanding and dedicated, distinguished and unselfish contribution in their individual roles of responsibility and leadership to the constitutional convention. It's impossible to recognize and honor everybody who made a contribution. But, I think it's appropriate to single out certain individuals who contributed above and beyond the call of duty. In giving these individuals this recognition and memento, I would like to just momentarily deflate their egos, the egos of those recipients by saying to them that in honoring you here tonight, that it is our intention also to honor those people that you represent, and who worked under you so feverishly during this convention. I've already indicated I was Chairman of the Subcommittee on Staff and Personnel, and that committee, after many arduous days, weeks, and months, had the privilege of choosing to the position of leadership as director of research a lady that was well known in government for many years. We felt that through her knowledge and talents, and her extensive background in government, her experience in the position that she held as the number two person with the Louisiana Legislative Council, that she would be ideal to fill the position of director of research. So, we chose that person, and we feel that she has certainly been able to please the one hundred and thirty-two prima donnas that were delegates to this constitutional convention by making all of us believe that although we may have had some weird ideas, and some weird amendments, she made us believe that they certainly were not; however, she really tactfully tried to make some recommended changes in those many amendments that we wanted to present. I think she has performed fantastically well. On behalf of the one hundred and thirty-two delegates, it's our privilege to honor tonight, Norma M. Duncan, with a small token of our esteem and we'll ask the Chairman of the convention to give that presentation to Mrs. Duncan if she will come down here. Mrs. Duncan.

MRS. DUNCAN

Probably for the first time in eleven months, I am without words. Certainly let me reiterate what Mr. Casey said. I did nothing; I had so much help from all of you. I can't tell you thank you enough for me. I had so much help from a really outstanding, fantastic task force that was so interested in what you were doing, and wanted so much to help you succeed, as certainly you did. Thank you so much for them, as you say, you honor me. Thank you.

MR. CASEY

I'll ask the Chairman of the convention to make the next presentation. I would like to point out that the small plaques that are being given are certainly small and not ostentatious, but I might mention to the recipients that they are pure sterling silver plaques containing the crest of CC/73 with a small inscription. I'd like to now ask Mr. Henry to make the next presentation.

MR. HENRY

Madam Chairman and fellow delegates, the recipient of this plaque is a young man--and you know who it's going to go to--but, I've got to say a few words about David Poynter. An outstanding young man, a man who I trapped into working for this convention for free, a man who I got out of law school to come and handle all the hard work for the convention. I have had the privilege of knowing David for several years, and he never ceases to amaze me. David wanted to be a delegate to the convention, and thank God he wasn't because I don't think he could have been the Clerk and a voting delegate, too. You all think you all don't know what you would have done without him; and Lord knows what would have happened to me. Sometimes I feel like we are the Charlie McCarthy and Edgar Bergen team, and you're not unaware of that. But, David's made a great contribution to this state, not just in the convention, but particularly in the convention. David's going to make a great contribution to the state. I saw his wife, Jane, here a while ago, and she's got to be a good and a patient woman, because David is not inclined sometime to go home anyway; but, Jane, a lot of it's my fault; and he's in good company, I assure you. Those nights that he tells you that we've been working on amendments, or we've been working on hustling votes, or whatever it was we were hustling, I assure you it was legitimate. David, come down here and receive your plaque.

MR. POYNTER

Thank you much more than you'll ever know. Of course, Bubba, it's not the company I keep, but it's what my company does that I think concerns all of our wives. I really would like to say... I had to say it before; Norma mentioned it, and there's no way you can say it too many times. It sounds like the Emmy Awards, but without the people behind me and in the enrolling room and in the transcription room, the job that you wanted done

simply would not have been done. I say without reservation that I have had the assistance of some of the people that I consider to be the most talented professional people in the State of Louisiana. I'd like to also say that to a very great measure my job has been functionable, if you will, and possible because of each and every one of you in this room. I have never had anything but tremendous cooperation. When I've raved at you and wouldn't talk to you, you've understood that I was doing something. You've cooperated, assisted me in every way, and without that the job couldn't have been done, and at this late hour if you will permit me one other observation I'd like to make, that I'm not sure that many people in the State of Louisiana have ever realized—when Act 2 was passed, the thing that concerned me most about Act 2, quite frankly, there were no procedures, no forms prescribed in Act 2 limiting the way this convention would conduct itself, and make its decisions. Even after the fine set of rules that you adopted, proposed by Mr. Stagg and his fine committee, you could have done such things, as by sixty-seven people, or two-thirds vote suspending the rules, and having twenty people adopt a section. You could have chosen the low road, but invariably this convention chose the high road, and the people of the State of Louisiana should be proud of you, in my opinion. Your decisions were made in public; they were made in a way that the people of this state can know that its representatives express the deliberate sense of the people they represented. To me, without being required to by any constitution, you maintain the integrity of representative democracy, and I commend you to your constituents. Thank you.

MR. CASEY

Madam Chairman and delegates, after the close of the 1972 Legislative Session and after some of the ambitious legislators ran and were elected to the Constitutional Convention—and I was one of those so elected—I indicated to the speaker of the House of Representatives, who also was a delegate, that it was my personal hope that he would seek the position of Chairman of the Constitutional Convention. Of course, he indicated at that time that I started making him think about that position. Of course, he hadn't thought about it before I had mentioned it to him. But, you know and I know, that it takes one forceful person with a tremendous amount of energy, foresight, vision, leadership, integrity, and just about any good quality that you can think of in a real genuine person and a true leader—that is what we needed in order to put this effort successfully together, in order to achieve and complete what we have achieved and completed tonight. I think it's appropriate at this time for this convention to recognize the outstanding leadership that our Chairman has given to this convention, and let us leave no doubt in anyone's mind at any time in any place that he was certainly just the right person to put the whole thing together. I think it's appropriate that we recognize at this time our Chairman with this little memento that we have from all the delegates—that we give to E.L. "Bubba" Henry this memento. Mr. Henry.

MR. HENRY

Thank you, Tom, and ladies and gentlemen of the convention. I had initially thought I would make a few remarks in closing tonight, and it's gotten so late, I decided I wouldn't. Honestly, after those beautiful cuff links at Christmas, I didn't expect and certainly don't deserve anything else. I do appreciate it. I would like to say one or two things. I've waited here for thirteen months, and listened to you all talk, and if you'll just indulge me for a few moments, I would like to say one or two things before we get out on the road and start promoting this document. I thought a long time as to whether or not I should run for Chairman of the convention. I'm human; I'm ambitious and was desirous that the document not be jeopardized from its very inception. I made my decision finally, and I don't know how to say that I finally determined it; it was after I decided, I'm sure, that I wanted to, and after I had some encouragement. It was a great honor to have had you elect me as your Chairman. I didn't know what I was getting into, and had I known what I was getting into, I probably would not have fooled around with it at all. I'm glad now that I did, and it's been a real pleasure to have served with each and every one of you. In wrapping my part of this up tonight, I'm not going to tell you what a great document we've adopted, how much better it is than the present constitution because you know as much about that as I do. Lord knows we've had our critics in the past thirteen months; some of them fair, and some of them not so fair; some of them well informed, and some of them not informed at all. We've had our advisors; we've had those that we've sought advice from and those that just volunteered it. Sometimes I've wondered who annotated those people with all the information and knowledge that they had, sitting in the

balcony on the sidelines, clothed in their wisdom and righteousness, with us all the way—with us all the way, representing their special interest, so long as their special interest, their ox wasn't gored, or their sacred cow kicked in the fanny. We haven't really started getting the criticism yet, ladies and gentlemen. The fun's just fixing to start. But, you know, since we got into this convention, I have really, really become interested, more so than ever before, in American history. You can't help if you're interested in what we've done and what we're doing, and you're interested in government in this state and this country, to look back at the history, the adoption of the federal constitution. You think we've had dissenters? We've had them. That's right, but there's a bunch of those folks that were elected to serve as delegates to that convention that never even showed up. When they got through with that document, they were really in for the criticism because when they left there that day in September, after they had signed the document, everybody was shook and scared because they went there to redraft the Articles of Confederation and came out with a whole new plan of government. Partner, did they have some trouble! We think we're going to have critics with some high powered folks going against us. Wonder how Jefferson and Washington and those fellows felt running around Virginia trying to get that document ratified in Virginia when Patrick Henry was screaming and hollering from the hilltops that that federal constitution that we live under now was the most fatal plan that could possibly have been conceived to enslave a free people. That's a high powered campaign fodder, but they got it adopted, just like we're going to be able to get ours adopted if we want to and if we work at it because those folks that criticize what we've done, that criticize what we propose just amaze the daylight out of me because it appears to me they never reflect on what we're trying to exchange this for. Certainly, there are defects in the document that we've adopted, but what are we comparing it with? We're comparing it with an antiquated, outdated, outmoded document. I don't tell you that we've done a perfect job because we haven't, but I know, and I know in my heart that we've done a substantially better job. I'm going to wrap it up, and wrap it up with a compliment and with a comment. I have never, nor do I believe I'll ever be associated with a finer, more dedicated, more diligent group of people than those of you who've labored through this for the past thirteen months. You sacrificed, and probably you didn't know what you were getting into, but you've been up on the hilltops and down through the valleys with me, and that means a lot. I'm a part of you now, and you're a part of me, and we'll never be able to change that, and I'm proud to say you're my friends and that I've been associated with you. I love the House of Representatives, next to my family, I guess just about better than anything. But, I can stand before you tonight and tell you that I don't love the members of the House or the House of Representatives any more than I do you delegates because you've made a contribution and do you know what you've done? You've been Louisiana for the last thirteen months. We've sat here and we've washed the dirty linen of this state in public. That's what's caused the problem because it hasn't been nice, and it hasn't all been good because everything that's gone on for the past fifty years in this state hasn't been nice and it hasn't been good. Now, we think we're through, and this is the comment. We're not through. We've just begun to get in the situation to deal the cards. We've shuffled them; we've made them; we've cut them; and we're fixing to deal them; and we're fixing to get in the biggest gin game that you ever heard of because we're going to go out of here going to sell this document. Now, there may be those of you, and it's fine if that's the way you feel, that you can't or that you won't support this document because of one article or one section. If that's the way you really feel and you really believe, so mote it be. But, I ask you this: How long must we wait, how long must we wait in this state to get the opportunity to do the things that need to be done? I submit to you that two years ago when we had the election in this state that the people were saying something to us. I submit to you that what they're saying is one of the reasons we convened in this convention last January 5, because the people of this state were telling us that they wanted things to be different, that they were ready for a change, and they expected those of us in public life to make sure that things were changed. I don't say this critically of anything that's gone on in years before, but I say that I think the people had just become completely dissatisfied in the way our state's been run, and the basic organization of our state government. Now, I may be wrong, but I don't think so. I think that it's going to boil down to what you and I are willing to do, how much more you and I are willing to sacrifice to see that this document's adopted. People say we can't get it adopted if so and so doesn't help. That's a bunch of tommyrot. It's going

to take some hard work; it's going to take some organization, and it's going to mean that you and I are going to have to go back home in those districts and organize the people, organize them to the extent that we've got to tell them what's in this document. Don't kid them around that it's the best document that's ever been written because we know it's not, but show them where it's so superior to what we've got. We're going to have to take the lumps and those of us that are going to have to...the ones who want to be in politics in future years are going to have to take some chances but what in the world is the use of being in politics and getting elected and reelected if we're not going to take some chances? So, my challenge to you, and I would say to you tonight in closing, that if we take this to the people and if the people reject it, I won't be disappointed if I feel like they rejected it after we took it to them with a good fight, after we explained to them what is in it. I won't be disappointed then because I'll say, "I was wrong. The people are not ready for the changes I thought they were." But, I submit to you that while we have finished our work tonight, while we think we've completed our work, at least of drawing the document, that if you and I don't take advantage of the opportunity of going back to the folks at home and letting them know what's in the document, if we allow them to go in those voting booths and vote no because of ignorance, then we've failed, and we haven't fulfilled the obligation that you and I have made to the people of this state. I look forward to seeing the campaign develop. I plan to do everything that I can to see that the document's adopted. Everything that's legal and moral, I'm going to do. I hope you'll do the same. It's been a real pleasure working with you. Good luck and God's speed.

MRS. MILLER

You know, Mr. Henry, that's the quietest they have been for any ten-minute period in thirteen months. I don't know what you did tonight. Maybe we should have been using this all along.

Moise Dennery has a few words to say to us.

MR. DENNERY

That was wrong, Mrs. Miller. I have a few words to sing to you all, and you'll have to bear with my voice. I was asked to write a few verses to Auld Lang Syne. If you'd like to join with me, please feel free to do so.

"Should auld acquaintance be forgot
and never brought to min'
We should remember that we did
the Constitution sign.

So bang the gavel once again
and open the machine
While Bubba Henry stands aloft
with countenance serene.

When Wellborn Jack begins to speak
the members, to a man
Quiet down to hear the wisdom flow
from North Louisiana.

And then St. Martin's orator
spouts Bible and the Bard
As Mr. Perez argues with
his friends from St. Bernard.

Assessors all with bated breath
await Chehardy's joke
While Casey and Ms. Zervigon
are both about to choke.

Then Alphonse Jackson and Chris Roy
their civil rights things do
And E.J. Landry and Ambroise
discuss Lafourche Bayou.

Judge Albert Tate goes to the mike
to speak of draft and style
As Graham, Gravel and Robert Pugh
all visit in each aisle.

Then loud voiced Alvin from Slidell
asks questions from the floor
While Munson and Hernandez, Pete,
for timber do implore.

The sheriffs and the clerks of court
agree with the D.A.'s
And all the folks from Thibodaux
sing out La Marseillaise.

Then Flory and Avant arise
and both approach the Chair
They labor long and labor hard
their grievances to air.

The VET from Nouvelle Orleans
computes the rate of tax
While Sixty and the senators
give P.A.R. the axe.

The ladies--and we bless them all--
their liberation flout
As all the many ministers
come forth with prayers devout.

While Norma Duncan and the staff
work overtime galore
The pages and the sarg-st-arms
try order to restore.

I know I have forgotten some
but none did I malign
And ne'er will I forget you all
in days of Auld Lang Syne.

MR. HENRY

We're going to reconsider the way he sang that and let Mrs. Maybuce try it.

MRS. MAYBUCE

I don't know what the historians will write about the history we have made in Louisiana and in America. They're going to have to be extraordinary people to record and capture what really happened here on the east bank of the great Mississippi in beautiful downtown Baton Rouge because together we Southerners have capitalized on our differences and on our ethnic differences, our religious differences and our sectional differences. Certainly, none of us will ever be the same. Each of us in our own way has made our own mark on the annals of this century. We have shown to America that the South can rise again, and shall rise again, but this time together. I have tried to paraphrase for us in trying to capture some of the feelings which I felt in this convention, and I'm going to ask you that as we get to "Auld Lang Syne, my dear," that will you turn as we do in the Episcopal Church; we always say, "May the peace of God be with you." We answer, "and also with you." Will you turn to your neighbor and shake his hand like I am, and do that; and if our Chairman is not so tired, I'd like him to lead us and do that. To the right hand, fellowship as you do in your church, turn to your neighbor and just shake hands and say, "May the peace of God be with you," also or whatever you'd like to say. Some of us have already said it, but for effectiveness.

1. "Should auld acquaintance be forgot
and never brought to mind?
Though nerves were frayed
There were memories made
Pleasant thoughts our hearts can find.

For days of CC/73
Are coming to an end
We've done our best
Now the biggest test--
Will the voter be our friend?

2. We've come through many storms and trials
We have often disagreed.
Our work is done and our race is run
Though it can't be said "with speed".

For days of CC/73
We never more shall see
And as we part
We have saddened hearts
Leaving CC/73."

Now, will you shake your neighbor's hand?

"For auld lang syne, my dear
For auld lang syne
We'll take a cup of kindness yet
For CC/73.

For suld lang syne, my dear
 For auld lang syne
 We'll take a cup of kindness yet
 For CC/73."

God bless you.

MR. HENRY

Mr. O'Neill is recognized, and we're fixing to wind it down, gentlemen and ladies.

MR. O'NEILL

You know, friends, each day we open with a prayer, and it seems to be the most appropriate thing that we could do, and so I think it appropriate that we close. But, I'm going to close with a different kind of prayer, and I'm going to intersperse it with probably the greatest document that was ever written of all times, and that is the Bible. The book of Genesis tells of the creation of the world and how it came about in six days. I'd like to tell you about the creation of this convention, and how we ourselves came about in those six days. In the beginning, there was need for creation. The people of our great state were disillusioned and weary under the great weight of a document too old to meet the test of time, and too cumbersome to reflect the changing of those times. Thus, on the first day, God said, "Let there be light," and just as He said, "Let there be light," so we said on the first day, "The people of our state deserve more." So, we met on the first day, full of the uncertainty we reflected, borne from the people who sent us, cognizant of the need for creation, and hopeful that this, the first day, did mark the beginning of a new day for us all. Then, there was the evening of the first day. Then came the dawn of the second day. As we wandered and groped in the early break of dawn, we found organization and strength in and of ourselves. The open road lay before, and on that, the second day, we began our journey. The vehicle we used to travel that road was an organization put together of the best minds and brightest hopes. This system safeguarded the rights of each of us, and made us equal to one another only to be surpassed by the strength of reason and the force of persuasion. Such was the second day. Then came the third day of creation. Our world went into a period of incubation so that we might have a chance to put the pieces in place, just as the pieces of a small child are fitted before he is born. The third day provided us with knowledge, knowledge many of you possess, knowledge to be gained by many others. We divided ourselves into committees so that our efforts would not be duplicated. We did so so that we might return together and place the pieces into a whole. The third day was the shortest day, and when the dust settled on the third day, we knew our longest day lay ahead. The fourth day was before us, and this indeed was the longest day. Just as all the world was formed and fused by thought, our document was formed on this day. This day seemed an eternity. This, the fourth day, saw the men of mind put together the basic framework of our government. When the framework was finished, the individual rights of each citizen in relation to that government, were established and enshrined. This set of rights proclaim that individuality and equality was the basis of all rights. As that day lengthened, man was provided the means to govern himself at the most local levels. He was allowed the right to determine his own form of government, and to have a greater voice in his own destiny. So that our people could participate in life and in government, we provided education for them. We then provided for the rights of the individual to control the fruits of his endeavor, and encouraged him to own a home free of the heavy burdens of taxation. We provided that man would have bountiful resources with which to live. Looking back over the fourth day, we were all able to say it was, indeed, a very good day. The fifth day brought storms and agonizing soul-searching for all of us. The storm clouds which had been gathering on the horizon brought forth the full wrath of the one who had created us. He brought us ideas, suggestions, compromise and his message that if we did not consider some change, the people for whom we had so tirelessly labored would turn our work away, and continue to live with the burdens of the past. The fifth day was an agonizing day. The effects of the storm were to fill our minds with the torrential flood of thoughts and remind us that complacency is an evil saboteur lurking to raise our shield and destroy us. The fifth day was a cold and lonely day, but the sun would rise once more. The sixth day rose with a burst of glory and light that filled the day. We awoke to a conciliatory spirit that would provide compromise and not doom us to failure for shielding ourselves from the harsh light of day. As our minds sought to reach the other minds, some new and pervading force transcended us all; a force which made us realize that indeed we were sorry

to leave our friends of the year past; a force which made us realize that what we had done was just and good; a force which made us know that whatever the results of our efforts, it was in the interest of those who sent us here, created for their good and destined to be their future. The sixth day brought to our minds the awareness that there are those who would destroy our work for their selfish interests and seek to ridicule and slander us. Just as it brought this realization, it brought, too, the realization that we must withstand many more assaults. The end of the sixth day is now at this very, very moment. Now, we must, in the words of John Kennedy, "Let the word go forth from this time and place to friend and foe alike" that what we have created is good and noble, and the best that the minds of each and all of us could produce. We must use this bond that exists among us, and on this very last day to unite and carry forth this righteous work. Then we saw that which we had created was all very good, and so we contemplated; myself, the thoughts of the knowledge attained and the friendships bound; and you, the feeling of accomplishment and dominance over the things which were said would never be changed. After the sixth day, we rested. We surveyed all that we created and smiled upon it, confident that what we created was indeed very good.

MR. LANDRUM

Mr. Chairman, I would like to ask that you would allow Rev. Alexander or Rev. Stovall to close out with a prayer to God. I enjoyed Mr. O'Neill, but we didn't start on the Kennedy's, as much as my appreciation for them, nor on poems, but on the Lord. I think we should close that way.

MR. HENRY

I think your point's well taken.
 Rev. Alexander, would you lead us in our closing prayer, prior to adjournment?

PRAYER

MR. ALEXANDER

Oh, Lord God of our fathers, Thou who has gathered us from the four corners of the state, Thou who has brought us through the year 1973 and into 1974, Thou who has been with us in our deliberations, Thou who has guided us, Thou who has loved us and protected us, we pray, oh, God, that as we terminate our work and our toil on this document, that as we prepare to submit it, first to the governor of this state, and then to the people, that Your presence will go with us and with it, that You will guide us as we go back to meet our constituencies, to inform them of the handiwork of these Thy people and of Thine hand. Bless us both individually and collectively, and guide us in whatever we do, and may our actions be consistent with Your love, and Your mercy, and Your humility. Then, God, when we shall have terminated all that Thou hast assigned to our hands in this world to do, we pray that we will hear Your welcome voice inviting us to that everlasting rest by saying, "Servants of God, well done, well done, well done." Amen.

MR. HENRY

Amen.

MR. SEGURA

It's been over a year that this convention first began. Many times, many, many times during that year I considered submitting my resignation, as many of you must have. My family has suffered; my business has been neglected, as your family and your business has been neglected. But, today, I know, as you do, that it was all worthwhile. I've said many times throughout the convention that too much time was wasted in unnecessary debate. As the convention progressed, and as the constitution began to take form, I look back today, a much wiser person. I know that I was wrong because I now believe that every word in every talk, and every minute we spent here wasn't only necessary, but it was healthy for the preparation of this constitution. The document we have prepared is not perfect, by any sense of the imagination, but it is in my opinion the best document that we the delegates of this convention could have put together. It is far superior to the constitution we're now living under. You know, many of us represent special interests, and this convention has been criticized many times by so many special interest groups. But, without this special interest, this convention would not in my opinion have been representative of the people of this state. The governor and the legislature in its wisdom created us in that manner. Nothing else that I can think of, as I look back, could

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have been better for this convention. By spending the year with all of you I've learned to know you a lot better; I've learned to respect each and every one of you, and I'm grateful to all of you for having given me that opportunity because as we demonstrated here today, this delegation can be serious. It can be very serious, and it can fight to the bitter end, and on that very same day we can all join together for fun and laughter as we have today. But, after one week with you, I believed that every one of you was sincere, and wanted a good constitution. After one year with you, I know that you all are sincere, and that you did write a good constitution. For this, and I'm sure the people of the state also join me, in thanking you for this; and in conclusion, Mr. Chairman, and fellow delegates, I'd like to move that we adjourn, subject to recall.

MR. HENRY

The gentleman now moves that we adjourn subject to recall.
Is there objection?
Without objection, so ordered.











